

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL  
FIFTY-SIXTH PARLIAMENT  
FIRST SESSION**

**Wednesday, 31 October 2007**

**(Extract from book 15)**

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Professor DAVID de KRETZER, AC

## **The Lieutenant-Governor**

The Honourable Justice MARILYN WARREN, AC

## **The ministry**

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Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians .....	The Hon. L. M. Neville, MP
Minister for Roads and Ports .....	The Hon. T. H. Pallas, MP
Minister for Education .....	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs .....	The Hon. A. G. Robinson, MP
Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects .....	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs .....	The Hon. R. W. Wynne, MP
Cabinet Secretary .....	Mr A. G. Lupton, MP

## Legislative Council committees

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

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

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

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

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

## Joint committees

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

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

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

**Education and Training Committee** — (*Council*): Mr Elasmarr 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 Elasmarr, Mr Guy and Ms Hartland. (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith.

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

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

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

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

## Heads of parliamentary departments

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

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

*Parliamentary Services* — Secretary: Dr S. O'Kane

**MEMBERS OF THE LEGISLATIVE COUNCIL**  
**FIFTY-SIXTH PARLIAMENT — FIRST SESSION**

**President:** The Hon. R. F. SMITH

**Deputy President:** Mr BRUCE ATKINSON

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**Deputy Leader of the Government:**

Mr GAVIN JENNINGS

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Mr PHILIP DAVIS

**Deputy Leader of the Opposition:**

Mrs ANDREA COOTE

**Leader of The Nationals:**

Mr PETER HALL

**Deputy Leader of The Nationals:**

Mr DAMIAN DRUM

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



# CONTENTS

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**WEDNESDAY, 31 OCTOBER 2007**

## PETITION

*Water: north-south pipeline* ..... 3225

## COUNCIL OF MAGISTRATES

*Report 2006-07* ..... 3225

## OFFICE OF THE PUBLIC ADVOCATE

*Report 2006-07* ..... 3225

## CONSUMER UTILITIES ADVOCACY CENTRE

*Report 2006-07* ..... 3225

## PARLIAMENTARY DEPARTMENTS

*Reports 2006-07* ..... 3225

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

*Report 2006-07* ..... 3225

PAPERS ..... 3227

## GAMING: PUBLIC LOTTERIES

LICENCE ..... 3229, 3234, 3238, 3255

## MEMBERS STATEMENTS

*Infrastructure: south-eastern suburbs* ..... 3229

*Youth: western network committee* ..... 3230

*Corangamite: federal Liberal candidate* ..... 3230

*Fiji Islamic and Cultural Society* ..... 3231

*EastLink: tunnels* ..... 3231

*Ballarat Cancer Research Centre: laboratories* ..... 3231

*Australian Education Union: campaign* ..... 3231

*Primary Industries: science awards* ..... 3232

*Consumer affairs: unlicensed brothels* ..... 3232

*Mustafa 'John' Ilhan* ..... 3232

## GOVERNOR'S SPEECH

*Address-in-reply* ..... 3232

## HEALTH (FLUORIDATION) AMENDMENT BILL

*Statement of compatibility* ..... 3233

*Second reading* ..... 3233

SUSPENSION OF MEMBERS ..... 3238, 3252, 3282

## QUESTIONS WITHOUT NOTICE

*Port Phillip Bay: channel deepening* ..... 3244, 3245

*Water: desalination plant* ..... 3247, 3250

*Water: catchments* ..... 3249

*Planning: Creating Better Places program* ..... 3251

*Coliban Water: board appointment* ..... 3252

*Economy: performance* ..... 3253

*Environment: greenhouse gas emissions* ..... 3253

*Drought: government assistance* ..... 3254

### *Supplementary questions*

*Port Phillip Bay: channel deepening* ..... 3245

*Water: desalination plant* ..... 3248, 3250

*Coliban Water: board appointment* ..... 3252

*Environment: greenhouse gas emissions* ..... 3254

## QUESTIONS ON NOTICE

*Answers* ..... 3255

## BUSINESS OF THE HOUSE

*Sessional orders* ..... 3278, 3282

## ADJOURNMENT

*Pest animals: control* ..... 3305

*Fishing: recreational regulations* ..... 3305

*West Gate punt: service* ..... 3306

*Small business: broadband access* ..... 3306

*Ballarat: councillors* ..... 3307

*Melbourne: motorcycle and scooter parking* ..... 3307

*Equine influenza: government assistance* ..... 3307

*Water: Brushy Creek treatment plant* ..... 3308

*Human Services: Kyabram drought counsellor* ..... 3308

*Maroondah Hospital: practices and procedures*

*review* ..... 3309

*Equine influenza: control* ..... 3309

*Domain Tunnel: vehicle damage* ..... 3310

*Parliament of the World's Religions:*

*government assistance* ..... 3310

*Planning: Mitcham neighbourhood centre* ..... 3311

*Vermont Secondary College: music program* ..... 3311

*Water: goldfields super-pipe* ..... 3312

*Responses* ..... 3312



**Wednesday, 31 October 2007**

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

**PETITION**

**Following petition presented to house:**

**Water: north–south pipeline**

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council of Victoria the proposal to develop a pipeline which would take water from the Goulburn River and pump it to Melbourne.

The petitioners are opposed to this project on the basis that it will effectively transfer the region’s wealth to Melbourne; have a negative impact on local environment; and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray–Darling Basin should remain in the basin.

Your petitioners therefore request that the state government abandons their proposal to pipe water from the Goulburn River to Melbourne and calls on the state government to address Melbourne’s water supply needs by investing in desalination, recycling and capturing stormwater.

**By Ms LOVELL (Northern Victoria)  
(10 signatures)**

**Laid on table.**

**COUNCIL OF MAGISTRATES**

**Report 2006–07**

**Hon. J. M. MADDEN (Minister for Planning)  
presented report by command of the Governor.**

**Laid on table.**

**OFFICE OF THE PUBLIC ADVOCATE**

**Report 2006–07**

**Hon. J. M. MADDEN (Minister for Planning), by  
leave, presented report.**

**Laid on table.**

**CONSUMER UTILITIES ADVOCACY  
CENTRE**

**Report 2006–07**

**Hon. J. M. MADDEN (Minister for Planning), by  
leave, presented report.**

**Laid on table.**

**PARLIAMENTARY DEPARTMENTS**

**Reports 2006–07**

**Mr ATKINSON (Eastern Metropolitan), by leave,  
presented reports of Department of the Legislative  
Council and Department of Parliamentary Services.**

**Laid on table.**

**PUBLIC ACCOUNTS AND ESTIMATES  
COMMITTEE**

**Report 2006–07**

**Mr BARBER (Northern Metropolitan) presented  
report.**

**Laid on table.**

**Ordered to be printed.**

**Mr BARBER (Northern Metropolitan) — I move:**

That the Council take note of the report.

I am keenly interested in the sorts of activities and processes that the PAEC (Public Accounts and Estimates Committee) undertakes. I have been on the committee only since I was elected, so I have not yet experienced the full yearly cycle of PAEC activities. As I said, I am keenly interested in its activities. When I learn a bit more about exactly the things we do and how the committee works, I will start to form some judgements about its future direction.

**Mr DALLA-RIVA (Eastern Metropolitan) — I also wish to place on the record the opposition’s support of the work that the committee has undertaken. In particular the committee supports the tireless work of the secretariat, which includes the executive officer, Valerie Cheong; the research officers, Ian Claessen and Joanne Marsh; and the business support officer, Jennifer Nathan. We recently formed a relationship with the Auditor-General’s office, from which we seconded Kristopher Waring. That is important for the**

relationship the committee has with the Auditor-General. I also welcome Anna Cheung the committee's new research officer. I am sure those people will provide good support to the Parliament.

**Mr PAKULA** (Western Metropolitan) — Like Mr Barber, I have been a member of the PAEC (Public Accounts and Estimates Committee) since the time I was elected to this chamber. I have certainly found the work of the committee to be interesting and enlightening. Like Mr Dalla-Riva I want to place on record my thanks to the secretariat of the committee. The work we do as a committee and the reports that are produced by it would not be possible without the work of Valerie Cheong and her team. Every member of the committee is very appreciative of their assistance.

In my estimation the committee has worked extremely well for most of the time that I have been on it. It is interesting to note that in the annual report itself, in terms of the government response to the PAEC report on the budget estimates for 2006–07, 45 per cent of the committee's recommendations have been accepted. This is almost a doubling of the acceptance of recommendations by the committee in its 2004–05 report. That is an indication that the executive arm of government takes the Public Accounts and Estimates Committee's work very seriously. That was demonstrated by the manner in which ministers attended the estimates hearings. It is a reflection of the seriousness with which the committee members treat the committee. It is eminently demonstrated on page 35 of the annual report how seriously all of the members of the committee treat PAEC, particularly in regard to attendance at hearings. The seriousness with which ministers treat PAEC is a reflection of how seriously PAEC treats itself. Certainly one would hope — —

**Mr D. Davis** interjected.

**Mr PAKULA** — I am well aware that Mr Davis has already indicated he is going to make a statement on part 3 of the budget estimates process tomorrow. He will have his chance to express his misgivings then. I for one have a very high regard for PAEC, its work and the seriousness with which it is treated by its members, and I hope that continues with reference to all members of the committee.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I join the debate this morning on the motion that the house take note of the Public Accounts and Estimates Committee's latest annual report. I note that the Public Accounts and Estimates Committee continues to be the only joint committee that tables a detailed annual report on its activities every year. One

of the reasons the committee undertakes that is to encourage the other joint committees of the Parliament to report in a similar manner to the Parliament on the activities they undertake.

It has been my privilege to be a member of the Public Accounts and Estimates Committee since 1999, through three parliaments, the 54th to the current Parliament, and under three different chairmen and two executive officers. Michele Cornwell was the executive officer for the vast amount of that time.

**Mr D. Davis** — A great loss!

**Mr RICH-PHILLIPS** — I take up David Davis's interjection. Michele Cornwell is a great loss from that committee. Her service was over a long period, including prior to my joining the committee. We now have Valerie Cheong as the incoming executive officer. I would like to take the opportunity to thank the Public Accounts and Estimates Committee's staff for their work over the last 12 months and the previous Parliament, some of which is covered by this report. In the 55th Parliament the committee produced 21 separate reports. As members of this place know, these are reports of substance. They are not minor reports on minor issues; they are substantial reports on issues of significant importance to government administration in this state. Since the commencement of this Parliament at the beginning of the year the committee has tabled a further four reports on the budget estimates and other matters. So the workload of the committee is substantial, and that is reflected in this report.

I look forward as we head through this Parliament to improving the work of the Public Accounts and Estimates Committee. Mr Pakula noted the increase in the rate of acceptance of the committee's recommendations by government. However, I note there is also still a large proportion of the committee's recommendations that are accepted in principle, which is government code for 'Yes, we agree with you because we cannot find a way to disagree, but we are not going to implement it anyway'. We would like to see the 40 per cent of recommendations that are accepted in principle but not implemented actually being adopted. This report is a good overview of the committee's work over the last 12 months. I commend it to members of the house, and I encourage other joint committees to implement a similar mechanism for reporting their activities to this Parliament.

**Motion agreed to.**

## PAPERS

**Laid on table by Clerk:**

2007 World Swimming Championships Corporation — Report, 2006–07.

Accident Compensation Conciliation Service — Report, 2006–07.

Adult Parole Board of Victoria — Report, 2006–07.

Auditor-General — Report on New Ticketing System Tender together with a good practice guide, Public Sector Procurement: Turning Principles into Practice.

Australian Grand Prix Corporation — Report, 2006–07.

Barwon Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

Barwon Region Water Authority — Report, 2006–07.

Building Commission — Report, 2006–07.

Calder Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

Central Gippsland Region Water Authority — Report, 2006–07.

Central Highlands Region Water Authority — Report, 2006–07.

Central Murray Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

City West Water Limited — Report, 2006–07.

Coliban Region Water Authority — Report, 2006–07.

Commissioner for Environmental Sustainability — Minister's report of receipt of 2006–07 report.

Confiscation Act 1997 — Asset Confiscation Operations, Report to the Attorney-General, 2006–07.

Corangamite Catchment Management Authority — Report, 2006–07.

Country Fire Authority — Report, 2006–07.

*Crimes (Assumed Identities) Act 2004* — Report under section 31 of the Act, 2006–07.

Desert Fringe Waste Management Group — Minister's report of receipt of 2006–07 report.

East Gippsland Catchment Management Authority — Report, 2006–07.

East Gippsland Region Water Authority — Report, 2006–07.

Education Department — Report, 2006–07.

Environment Protection Authority — Report, 2006–07.

Emerald Tourist Railway Board — Report, 2006–07.

Emergency Services Superannuation Board — Report, 2006–07.

Emergency Services Telecommunications Authority — Report, 2006–07.

Fed Square Pty Ltd — Report, 2006–07.

Film Victoria — Report, 2006–07.

First Mildura Irrigation Trust — Report, 2006–07.

Forensic Leave Panel — Report, 2006–07.

Gippsland and Southern Rural Water Authority — Report, 2006–07 (two papers).

Gippsland Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

Glennelg Hopkins Catchment Management Authority — Report, 2006–07 (two papers).

Goulburn Broken Catchment Management Authority — Report, 2006–07.

Goulburn-Murray Rural Water Authority — Report, 2006–07.

Goulburn Valley Region Water Authority — Report, 2006–07.

Goulburn Valley Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

Grampians Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

Grampians Wimmera Mallee Water Authority — Report, 2006–07.

Greyhound Racing Victoria — Report, 2006–07.

Growth Areas Authority — Minister's report of receipt of 2006–07 report.

Harness Racing Victoria — Report, 2006–07.

Heritage Council — Minister's report of receipt of 2006–07 report.

Highlands Regional Waste Management Group — Minister's report of receipt of 2006–07 report.

Infrastructure Department — Report, 2006–07.

Innovation, Industry and Regional Development Department — Report, 2006–07 (two papers).

Intellectual Disability Review Panel — Report, 2006–07.

Judicial College of Victoria — Report, 2006–07.

Legal Practitioners Liability Committee — Report, 2006–07.

Legal Services Board — Report, 2006–07.

Legal Services Commissioner — Report, 2006–07.

Lower Murray Urban and Rural Water Authority — Report, 2006–07.

- Mallee Catchment Management Authority — Report, 2006–07.
- Melbourne and Olympic Parks Trust — Report, 2006–07.
- Melbourne Convention and Exhibition Trust — Report, 2006–07.
- Melbourne Water Corporation — Report, 2006–07.
- Mental Health Review Board — Minister’s report of receipt of 2006–07 report.
- Metropolitan Fire and Emergency Services Board — Report, 2006–07 (two papers).
- Mildura Regional Waste Management Group — Minister’s report of receipt of 2006–07 report.
- Mornington Peninsula Regional Waste Management Group — Minister’s report of receipt of 2006–07 report.
- North Central Catchment Management Authority — Report, 2006–07 (two papers).
- North East Catchment Management Authority — Report, 2006–07.
- North East Region Water Authority — Report, 2006–07.
- North East Victorian Regional Waste Management Group — Minister’s report of receipt of 2006–07 report.
- Office of Police Integrity — Report on A Fair and Effective Victoria Police Discipline System.
- Parks Victoria — Report, 2006–07 (two papers).
- Parliamentary Contributory Superannuation Fund — Report, 2006–07.
- Phillip Island Nature Park Board of Management — Report, 2006–07 (three papers).
- Plumbing Industry Commission — Report, 2006–07.
- Police — Office of the Chief Commissioner — Report, 2006–07.
- Port of Hastings Corporation — Report, 2006–07.
- Port of Melbourne Corporation — Report, 2006–07.
- Port Phillip and Westernport Catchment Management Authority — Report, 2006–07.
- Premier and Cabinet Department — Report, 2006–07.
- Prince Henry’s Institute of Medical Research — Report, 2006–07.
- Professional Standards Council Victoria — Report, 2006–07.
- Public Prosecutions Office — Report, 2006–07.
- Regional Development Victoria — Report, 2006–07.
- Residential Tenancies Bond Authority — Report, 2006–07.
- Roads Corporation (VicRoads) — Report, 2006–07.
- Rolling Stock (VL-1) Pty Ltd — Report, 2006–07.
- Rolling Stock (VL-2) Pty Ltd — Report, 2006–07.
- Rolling Stock (VL-3) Pty Ltd — Report, 2006–07.
- Rolling Stock Holdings (Victoria) Pty Ltd — Report, 2006–07.
- Rolling Stock Holdings (Victoria-VL) Pty Ltd — Report, 2006–07.
- Royal Botanic Gardens Board — Report, 2006–07.
- Rural Finance Corporation of Victoria — Report, 2006–07.
- Sentencing Advisory Council — Report, 2006–07.
- South East Water Limited — Report, 2006–07.
- South Gippsland Region Water Authority — Report, 2006–07.
- South Western Regional Waste Management Group — Minister’s report of receipt of 2006–07 report.
- Southern and Eastern Integrated Transport Authority — Report, 2006–07.
- Southern Cross Station Authority — Report, 2006–07.
- Special Investigations Monitor’s Office — Report, 2006–07.
- State Electricity Commission of Victoria — Report, 2006–07.
- State Services Authority — Report, 2006–07.
- State Sport Centres Trust — Report, 2006–07.
- State Trustees Limited — Report, 2006–07.
- Statutory Rule under the Magistrates’ Court Act 1989 — No. 119.
- Surveillance Devices Act 1999* — Report under section 30L of the Act, 2006–07.
- Sustainability and Environment Department — Report, 2006–07.
- Sustainability Victoria — Report, 2006–07 (two papers).
- Terrorism (Community Protection) Act 2003 —  
     Report pursuant to section 13 of the Act, 2006–07.  
     Report pursuant to section 13ZR of the Act, 2006–07 (*in lieu of that tabled on 21 August 2007*).
- Tourism Victoria — Report, 2006–07.
- Transport Accident Commission — Report, 2006–07.
- Transport Ticketing Authority — Report, 2006–07.
- Treasury Corporation of Victoria — Report, 2006–07.
- Treasury and Finance Department — Report, 2006–07.
- Trust for Nature — Minister’s report of receipt of 2006–07 report.

VicForests — Report, 2006–07.

V/Line Passenger Corporation — Report, 2006–07.

V/Line Passenger Pty Ltd — Report, 2006–07.

Victims of Crime Assistance Tribunal — Report, 2006–07.

Victoria Grants Commission — Report, 2006–07.

Victoria Law Foundation — Report, 2006–07.

Victoria Legal Aid — Report, 2006–07.

Victoria State Emergency Service Authority — Report, 2006–07.

Victoria Trade and Investment Office Pty Ltd — Report, 2006–07.

Victorian Catchment Management Council —  
Report, 2006–07.  
Catchment Condition Report 2007.

Victorian Civil and Administrative Tribunal — Report, 2006–07.

Victorian Coastal Council — Report, 2006–07.

Victorian Communities Department — Report, 2006–07.

Victorian Curriculum and Assessment Authority — Report, 2006–07.

Victorian Electoral Commission — Report, 2006–07.

Victorian Environmental Assessment Council — Report, 2006–07.

Victorian Equal Opportunity and Human Rights Commission — Report, 2006–07.

Victorian Funds Management Corporation — Report, 2006–07.

Victorian Government Purchasing Board — Report, 2006–07.

Victorian Institute of Forensic Mental Health — Report, 2006–07.

Victorian Institute of Forensic Medicine — Report, 2006–07.

Victorian Institute of Teaching — Report, 2006–07.

Victorian Institute of Sport Trust — Report, 2006–07 (two papers).

Victorian Law Reform Commission — Report, 2006–07.

Victorian Learning and Employment Skills Commission — Report, 2006–07.

Victorian Multicultural Commission — Report, 2006–07.

Victorian Privacy Commissioner's Office — Report, 2006–07.

Victorian Qualifications Authority — Report, 2006–07.

Victorian Rail Track — Report, 2006–07.

Victorian Regional Channels Authority — Report, 2006–07.

Victorian WorkCover Authority — Report, 2006–07.

VITS LanguageLink — Report, 2006–07.

Wannon Region Water Authority — Report, 2006–07.

Water Industry Act 1994 — Report on water users using more than 50 million litres per year or more, 2006–07, for City West Water Limited, South East Water Limited and Yarra Valley Water Limited, pursuant to section 77A of the Act.

West Gippsland Catchment Management Authority — Report, 2006–07.

Western Region Water Authority — Report, 2006–07.

Westernport Region Water Authority — Report, 2006–07.

Wimmera Catchment Management Authority — Report, 2006–07.

Workplace Rights Advocate — Report for the period 1 March 2006 to 30 June 2007.

Yarra Bend Park Trust — Report, 2006–07.

Youth Parole Board and Youth Residential Board — Report, 2006–07.

Young Farmers' Finance Council — Report, 2006–07.

Yarra Valley Water Limited — Report, 2006–07 (three papers).

Zoological Parks and Gardens Board — Report, 2006–07 (three papers).

## GAMING: PUBLIC LOTTERIES LICENCE

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

That this house authorises and requires the President to permit notice of motion no. 1 standing in my name relating to the refusal by the Leader of the Government to comply with the resolution of the Council of 10 October 2007 to table certain documents relating to the public lotteries licence and the Leader of the Government's letter of 12 October 2007 relating to the same matter to be moved and debated concurrently.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Infrastructure: south-eastern suburbs

**Mrs PEULICH** (South Eastern Metropolitan) — I have in the past raised numerous concerns in relation to the lack of infrastructure in the south-east, which has

been an area of significant growth over recent years. I would like to use three examples. This morning it took me exactly 1 hour and 50 minutes to travel 26 kilometres from Dingley to Parliament, with 50 minutes of that time being devoted to the course down Punt Road from the corner of Brighton Road and Punt Road to Parliament House. I think that is deplorable, and I know Liberal members for Southern Metropolitan Region share my intense concern. I call on the government to fix our roads as a matter of priority.

A second matter, which was brought to the attention of the house yesterday by my colleague Gordon Rich-Phillips and which has been brought to my attention by a former Narre Warren South Liberal candidate, Michael Shepherdson, as well as by Ms Sue Ernsdoerfer, relates to the need for an additional school in the growth corridor. The corridor has been neglected in many ways, and I call on the government to ensure that the concerns of Casey families do not fall on deaf ears and that the school in Narre Warren South is built to honour an election promise.

The third matter concerns traffic in the area of the Keysborough Turkish Islamic and Cultural Centre in Greens Road, Keysborough, which I had the honour of attending for its post-Ramadan festival. The request for a right-hand-turn lane when travelling east along Greens Road to what is a very difficult entry to the centre has not been acceded to by VicRoads. I call on the government and responsible ministers to address these crucial infrastructure needs in the south-east.

### **Youth: western network committee**

**Ms HARTLAND** (Western Metropolitan) — Today I would like to read a letter from the Western Young People's Independent Network Youth Committee. The letter is titled 'We are also Australian' and states:

We are the people you do not hear about in the news; telling people what we do will not sell the newspaper or help politicians win an election.

We are a group of young people who volunteer in the community. We —

have arrived in Australia from around the world —

...

Even though we are from different backgrounds, we have found that we have many things in common. As volunteers, we work together to promote understanding of different cultural groups ...

Some of us came to Australia because we chose to live or study here. Some of us are refugees who came to Australia

because war forced us to leave our countries. If we told you what we have been through, you would cry.

It is true that some of us from African countries had very little formal education before coming here, and spent many years in camps —

but —

... we work ... and ... study —

and try to become Australians —

The African young people in our group are studying —

a range of different courses —

...

Sometimes we arrive here without family. We have responsibility to support the people we love who are still stuck in danger overseas and often we have many family responsibilities ...

...

We ask this question to the immigration minister — how would you feel if you were in our place, experiencing all the things that we go through? We only ask to be treated like you would like to be treated.

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

### **Corangamite: federal Liberal candidate**

**Ms TIERNEY** (Western Victoria) — I was astonished to read in last week's *Weekly Times* quotes from the federal Liberal member for Corangamite, Stewart McArthur, stating that he had not picked up resentment amongst voters in his electorate on interest rates or workplace reforms. In relating what the current issues are in the electorate Mr McArthur simply said, 'If we got an inch of rain it would change everything'.

On the other hand, the Labor candidate, Darren Cheeseman, was able to point to the diverse communities within Corangamite, acknowledging that the drought was continuing to be acutely felt in farming communities whilst also pointing to unfair workplace laws, climate change and housing affordability in other parts of Corangamite.

Could it be that after 23½ years as a politician, Mr McArthur has not even recognised the demographic shift and is refusing to listen to the genuine and valid concerns of voters?

It was Mr McArthur's 70th birthday last Saturday, and whilst I am not wanting to dissuade senior citizens from making serious contributions, it is time for fresh ideas and a generational shift in Corangamite. Whilst an inch

of rain is indeed important and rain is good, it is not the only issue affecting the population of Corangamite. Action is required. Sitting around, waiting and hoping for rain is not good government policy and certainly will not take Corangamite and other parts of this country forward.

### **Fiji Islamic and Cultural Society**

**Mr LEANE** (Eastern Metropolitan) — It was a pleasure to represent the Premier on Saturday night at the dinner of the Fiji Islamic and Cultural Society of Victoria at the Hungarian Community Centre. The society was also celebrating the 21st anniversary of its establishment.

I thank the president, Mohammed Hakim; the treasurer, Said Ali; and the secretary, Shan Ali, who did a great job as master of ceremonies. The entertainment and the speeches were fantastic. The entertainment involved a lot of young people who read poetry and sang songs, which was fantastic. The Australian mufti, Sheik Fehmi Naji El-Imam, was there — I am getting coaching on this from Mr Elasmarr! I must say it was a great honour to actually meet such a special person and listen to him speak. He spoke about how the Muslim community needs to keep working at getting strong links with other parts of the community.

### **EastLink: tunnels**

**Mr LEANE** — On another matter, briefly, it was a great pleasure to go down one of the EastLink tunnels with the Minister for Roads and Ports, Mr Pallas, and the member for Mitcham, who is the Minister for Gaming, Tony Robinson, both of whom are in the other place. The roads minister announced a competition to name the two tunnels. My idea would be to name them 'Bracks' and 'Thwaites' after a couple of great people, but it is open to the community.

### **Ballarat Cancer Research Centre: laboratories**

**Mr KOCH** (Western Victoria) — I was delighted to accept an invitation recently to attend an open day held in conjunction with the formal opening of the Ballarat Cancer Research Centre and the naming dedication of the new Bruce Stafford Cancer Research Laboratory. The Ballarat Cancer Research Centre, headed by Dr George Kannourakis and his team of four research scientists, is located in the grounds of St John of God Hospital in Ballarat.

Since the opening of the Fiona Elsey Cancer Research Laboratory in 1998, generous community support has culminated in the opening of the Ballarat Cancer

Research Centre. The centre also incorporates the Ainsley Dansick Laboratory, the Jack and Millie Borbidge Laboratory, the Robert Clemence Laboratory, along with the Bruce Stafford Cancer Research Laboratory which is named in honour of Bruce's tremendous contribution in promoting local cancer research. Although Bruce lost his battle with cancer, his wife, Julie, took up the challenge, and it is through her ongoing fundraising efforts and community support that this centre has become a reality.

With one in three men and one in four women affected by cancer before they reach 75 years of age, and with cancer as a leading cause of death that costs the community far more than just dollars, research into understanding and finding better ways to treat cancer will benefit many in our community. I wish Dr Kannourakis and the research team every success in their efforts to improve the lives of those affected by cancer.

### **Australian Education Union: campaign**

**Mr FINN** (Western Metropolitan) — I am sure we in this house all agree that teaching is a noble profession, based on imparting the truth to our next generation, and indeed our future very much depends on good teachers in our schools. As such, it is particularly distressing to see the Australian Education Union (AEU) indulging in a campaign of distortion and massive untruths in the lead-up to this federal election. If the hysterical campaign by the Australian Council of Trade Unions bosses, and backflipping and fudging by the federal Labor Party is not enough, the Australian Education Union has continued its despicable campaign against the Howard government.

If the teachers union has problems with public school funding as it claims, it should sheet the blame home to those who are squarely responsible — state Labor governments across Australia. State Labor governments are the ones who are responsible for the problems the AEU raises in this campaign. The Australian Education Union does the teaching profession no credit by dishonestly attacking the finest government this country has ever seen. We can only hope it will adopt the policy of real teachers, of fair dinkum teachers, and return to the truth, the whole truth and nothing but the truth. I am not holding my breath on that score, I have to say, but the AEU just may see the light of day at some stage. In the event — the unfortunate event I might say — of the election of a Labor government next month, which I think is increasingly unlikely, I fear for the future of our children with the Australian Education Union in charge of education and policy in this country, as it most surely will be.

### Primary Industries: science awards

**Mr EIDEH** (Western Metropolitan) — On 16 October I was delighted to attend the Brumby government's 2007 Department of Primary Industries science awards at the Melbourne Museum. I wish to congratulate the Minister for Agriculture in the other place, Joe Helper, for recognising Victorian scientists and innovators who developed new ideas in order to advance communities and businesses across regional Victoria. Recipients of the awards were recognised for their contributions in providing solutions to difficult problems in areas such as environmental management, and weeds and pest prevention. Their vision and ideas have already started making substantial improvement to the environment.

Among the winners was a farmer from Gippsland, Ms O'Sullivan, who received an award for developing an environmental management system, Enviromeat. She was given the award by the Governor of Victoria, Professor David de Kretser. A PhD student from Elwood, Ms Caron, received an award to continue her research on willow trees and their effect on waterways. Other winners were two government research teams led by Dr Kevin Powell and Helen Anderson for their innovative work in combating weeds and pests in the wine industry. They have worked out solutions to address grapevine pests. To complement their research, a new \$9 million initiative, Tackling Weeds on Private Land, was developed to educate the community about weed management.

I invite members to visit the display of the new research and development work at the Melbourne Museum. Congratulations and well done!

**Sitting suspended 10.00 a.m. until 11.33 a.m.**

**Business interrupted.**

### GOVERNOR'S SPEECH

#### Address-in-reply

**The PRESIDENT** — Order! I advise that, accompanied by members of the Council, I waited upon the Governor this day and presented to him the address of the Legislative Council, adopted on 21 August 2007, in reply to the Governor's speech on the opening of Parliament, and that he was pleased to make the following reply:

Mr President and honourable members of the Legislative Council:

In the name and on behalf of Her Majesty the Queen I thank you for your expressions of loyalty to our Most Gracious Sovereign contained in the address you have just presented to me.

I fully rely on your wisdom in deliberating upon the important measures to be brought under your consideration, and I earnestly hope that the results of your labours will be conducive to the advancement and prosperity of this state.

### MEMBERS STATEMENTS

**Debate resumed.**

#### Consumer affairs: unlicensed brothels

**Mr ATKINSON** (Eastern Metropolitan) — I note that the minister responsible for prostitution control, who is the Minister for Consumer Affairs in the other place, Mr Robinson, has suggested that he intends to crack down on illegal brothels and massage parlours operating around Melbourne. I welcome his attention to that issue following a considerable period of little action in that regard.

We have a control system for legal prostitution in Victoria, and until now the government has not seen fit to establish any method of policing illegal activity. I am perturbed that the minister now seems to be looking only at punitive measures for the policing of illegal brothels, because when you talk to local government authorities, they indicate that many massage parlours and illegal brothels involve women from ethnic communities, particularly young Asian women. It occurs to me that the government, as part of its process in tackling this issue, ought to be funding programs that provide for people to go out and talk to these young women, to offer them alternatives to the work they are doing and to make them aware of the laws relating to and obligations they might have in regard to services they are offering. This would be much more proactive and effective as a method of policing this issue than using punitive measures.

#### Mustafa 'John' Ilhan

**Mr SOMYUREK** (South Eastern Metropolitan) — It is with great sorrow that I rise today to pay tribute to the late John Ilhan, the founder of the Crazy John's empire. The outpouring of grief from every section of the Australian community, from the Prime Minister down, at the news of the death of John Ilhan last week demonstrated the achievements and generosity of a man who built a multimillion-dollar empire out of nothing.

Today I put on the record how much John Mustafa Ilhan meant to the local Turkish community. The

Turkish community is very much a working-class community in desperate need of local heroes and role models. To the Turkish community Mustafa Ilhan was an icon — living proof for any member of the community that there are no insurmountable barriers to achieving their hopes and aspirations. Every member of the Turkish community took pride in one of their own making it to the big end of town. It was a source of pride and comfort to every member of the Turkish community to see the ubiquitous Crazy John's logo as they went about their daily routine. For his part, Mustafa Ilhan was proud of his Turkish heritage. The financial assistance that he gave to Turkish community organisations and sporting clubs was an example of this.

On behalf of the Australian Turkish community I say, 'Rest in peace, Mustafa Ilhan. Your contribution to the Australian Turkish community will never be forgotten. You will forever live in the hearts and minds of the Australian Turkish community'. Allah rahmet eylesin.

## HEALTH (FLUORIDATION) AMENDMENT BILL

### *Statement of compatibility*

#### **Mr KAVANAGH (Western Victoria) 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 Act 2006, I make this statement of compatibility with respect to the Health (Fluoridation) Amendment Bill 2007.

In my opinion, the Health (Fluoridation) Amendment Bill 2007 is compatible with the human rights protected by the charter.

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 water supply of any previously unfluoridated area in Victoria.

There are at least two human rights that are possibly raised by the bill:

Section 17: protection of families and children; and

Section 18: taking part in public life.

Section 17(2) says, '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'. The Health (Fluoridation) Amendment Bill 2007 is premised on concerns over (when all of the health implications of fluoridation are considered), first, whether it amounts to 'protection' for children and others, and, second, whether it is in the 'best interests' of children or others. There is evidence that, overall, fluoridation may not 'protect' and

'may not be in the best interests' of children or others. The bill empowers parents and others to decide whether fluoride 'protects' and 'is in the best interests' of children and therefore the bill is not inconsistent with section 17(2) of the charter.

Under section 18(1) of the charter, 'Every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives'. The right for every person to participate is precisely what the Health (Fluoridation) Amendment Bill 2007 is proposing to achieve and therefore is not incompatible with section 18(1) of the charter.

Peter Kavanagh  
Member for Western Victoria Region

### *Second reading*

**Mr KAVANAGH (Western Victoria) — I move:**

That the bill be now read a second time.

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 water supply of any previously unfluoridated area.

I intend to very briefly outline some of the scientific concerns over fluoridation and to present the case that democratic principles and respect for human rights both demand that fluoridation of new areas should not proceed without the consent of local residents.

Some members of the community, and of this house, have expressed support for fluoridation on the basis of its endorsement by some leading bodies, including the World Health Organisation, an august body indeed. The WHO's endorsement is, however, conditional — it suggests fluoridation be subject to conditions which are unlikely to be met in new areas which the government wants to fluoridate, including parts of Western Victoria.

Fluoridation is promoted on the basis of improving dental health. There have without doubt been vast improvements in dental health in fluoridated areas in recent decades. There is also good evidence that there have been corresponding, equal rates of improvement in non-fluoridated areas. This is the case in Australia and in the United States. It is the opinion of a significant number of experts that the standard of dental health in a community depends not upon fluoride in the water but on the quality and availability of dental care. This is of course largely a function of affluence.

Excessive levels of fluoride which occur naturally in the water supply of some parts of the world are without doubt extremely harmful. There are also certainly some

people who are harmed by the levels of fluoride which are reached through the deliberate fluoridation of water supplies because of an unusual level of sensitivity.

In addition to the above there is very considerable, if tentative, evidence that fluoridation at the levels reached by the deliberate addition of fluoride to water supplies may be harmful to large numbers of people. Scientific studies suggest that fluoridation may damage the endocrinal system, which is possibly related to rising rates of type 2 diabetes for example. There is also some evidence of higher rates of bone cancer in fluoridated areas, a condition which disproportionately affects boys and young men. One study in China has shown a decrease in average IQ of 5 per cent in fluoridated areas.

Australia's political ideal is democracy. If democracy is to be genuine, then decisions should be made at the lowest level of government possible — where the political system is most responsive to public opinion. In other words, local people should decide local issues. This principle has long been expressed by the Democratic Labor Party — a party founded with much sacrifice in the defence of democracy.

Fluoridation is an excellent example of an issue which should be decided at the local level because differences of opinion can be accommodated. That is, it seems quite appropriate to fluoridate only those areas where people want it. The use of power contrary to the wishes of the governed is not an exercise in democracy, even if the wielder of that power has been elected.

On a related but not identical point, fluoridation raises questions of human rights. Even if fluoridation is of therapeutic value (an extremely questionable proposition), is it right to make people take a medication that they do not want? I submit that not only is it not right but it is something the government does not have a right to do.

In summary, the evidence for the efficacy of fluoridation in promoting dental health is dubious and the evidence that it may be harmful is significant. Principles of democracy and human rights demand that the decision over whether to fluoridate the water supplies of previously unfluoridated parts of Victoria should be made, not by bureaucrats or by politicians, but by those who will wash with, bathe in and drink that water.

The Health (Fluoridation) Amendment Bill 2007 seeks to do just that.

## Overview

Clause 1 sets out the purpose of the bill which is to prevent the addition of fluoride to a public water supply unless first approved by a poll of voters in each municipal district or, if the municipal district is subdivided, in each ward of the municipal district, within the relevant water supply district.

Clause 2 provides for the act to come into operation on the day after it receives the royal assent.

Clause 3 amends section 5 of the Health (Fluoridation) Act 1973 to prevent the fluoridation of a water supply except in compliance with section 5A.

Clause 4 inserts a new section 5A requiring approval by a poll of voters before fluoride is added to a public water supply.

Clause 5 provides for the automatic repeal of the act on the first anniversary of its commencement. As suggested by the Scrutiny of Acts and Regulations Committee, all amending acts now contain an automatic repeal provision, which will save the time and expense of having to repeal amending acts in statute law revision bills. The repeal of this act does not affect in any way the operation of the amendments made by this act (see section 15(1) of the Interpretation of Legislation Act 1984).

I commend the bill to the house.

**Debate adjourned on motion of Ms TIERNEY (Western Victoria).**

**Debate adjourned until Wednesday, 14 November.**

## GAMING: PUBLIC LOTTERIES LICENCE

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

That this house:

- (1) notes the refusal of the government to comply with the resolution of the Council of 19 September 2007 to table documents relating to the public lotteries licence specified in that resolution;
- (2) notes the refusal of the Leader of the Government to comply with the resolution of the Council of 10 October 2007 to table the documents relating to the public lotteries licence specified in that resolution;
- (3) is of the firm opinion that the Council is fully entitled to scrutinise the activities of the executive and demand accountability for all aspects of executive behaviour;

- (4) notes with great concern the government's apparent belief that it is not accountable to the Parliament of Victoria;
- (5) accordingly, censures the Leader of the Government as the representative of the government in the Council for the government's failure to comply with the Council's resolution of 10 October 2007; and
- (6) demands that the Leader of the Government comply with the resolution of the Council of 10 October 2007 and lodge the documents specified in that resolution with the Clerk by 5.00 pm on Monday, 5 November 2007.

I further move:

That the Council take note of the Leader of the Government's letter of 12 October 2007 in response to the resolution of the Council of 10 October 2007.

President, I quote:

The executive government is the servant of the Parliament and this house is one of the houses of the Parliament.

Those were the words uttered by the then Leader of the Opposition in the New South Wales Legislative Council, the Honourable John Hannaford, on 1 May 1996. It was those words which in effect were tested as a consequence of decisions made subsequently in regard to matters before the High Court and the Court of Appeal in New South Wales concerning the obligation of government to be accountable to the Parliament.

I would like to put this debate into some context so that members may understand the significance of what we are dealing with today. I firstly refer to an extract from *State Constitutional Landmarks*, edited by George Winterton and published by Federation Press in 2006. The extract comes from a piece contributed by Gerard Carney, professor of law at Bond University and a visiting professor at the University of Western Australia, who wrote:

The constitutional significance of *Evan v. Willis*, a decision of the High Court in 1998, and *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.

In giving that introductory summary, I think it is also useful to set out some chronology to again put in perspective the matters before us.

In summary, the Select Committee on Gaming Licensing subpoenaed documents from the government relevant to the inquiry on lotteries licensing. The government refused to provide those documents, and indeed there has been debate in this house about the interference in that inquiry process by the Attorney-General. That refusal to provide those documents was provided as information to the house in the first interim report of the gaming inquiry on 17 July.

Prior to that, the house had already received the first of two separate opinions provided to it through the President by Bret Walker, SC. Indeed, on 6 June this year the opinion provided by Bret Walker through the President was tabled. Why did we have that opinion? In fact it had been a request of the President made by the Leader of the Government. Regrettably history relates that the Leader of the Government has declined to accept that the opinion provided to the house by Bret Walker has relevance.

On 19 September the chair of the Select Committee on Gaming Licensing moved a motion requiring that the government provide certain documents to the house. That motion was agreed to; under the motion and according to the rules in relation to the production of documents, which I will come to in a moment, that resolution was transmitted to the government.

The Secretary of the Department of Premier and Cabinet, who was to provide those documents, did not respond. Instead, the Attorney-General again interfered in the processes of this place by responding and subverting the order of the house that required the secretary of the DPC to provide the documents; the Attorney-General indicated that the government would not be responding to the order of the house. Therefore, on 10 October a motion was moved by me, expressly upholding the rights of this place to demand that the government provide papers to the Council as requested and requiring that the Leader of the Government be the responsible person to ensure that that order was observed.

Regrettably, that order has not been observed, and the consequence therefore is that before the house now is a motion which, I am sure, all members of this place, on whatever side of the house they sit, would prefer was not before it. The reason for that is that this is not about one individual — it is not about a person; it is about the relationship between the Parliament and the executive. At the end of the day ministers, in this case the Leader

of the Government in this place, must be accountable and be made accountable to the Parliament. It is quite clear that as at 11 October the public lotteries licences had been awarded. The Premier made an announcement on behalf of the government at that time, and therefore the matters which the government was relying on with regard to the production of documents prejudicing the lotteries licensing process no longer apply. That defence of the government's refusal to provide those documents is entirely defunct, not that I think there was ever a case to support that proposal.

Having said that, let me go to what I think is an important issue for us all to focus on — that is, the principle of accountability of government. In the context of my preamble this week coincidentally we have seen the *Australian* and the *Herald Sun* take issue with the reluctance of the government to be transparent. I quote from the editorial of Tuesday, 30 October, in the *Herald Sun*:

Let us hope John Brumby's professed commitment to open government is not a hollow one.

Months after his elevation, his promise of accountability is yet to be realised.

Thus, Victorians' right to know what the government is up to is being frustrated.

Frustrating the will of the people to know what governments are on about is something that all governments are often criticised for from time to time. More apposite is the article in the *Australian* of Tuesday, 30 October, which comments on the lines being run by the federal Labor leader at the present time about honesty and transparency in government when observations are made about the Victorian government's lack of transparency. It states:

Whatever the Brumby government's legal advice justifying its position, defying Parliament on an issue involving lucrative gaming licences and the social fallout gambling generates throughout much of the community is a look that governments professing respect for the importance of accountability would do best to avoid. Even if there is a technical basis on which to ignore Parliament, does it raise a principle worth defending?

I am concerned more about the principle than the appearance of it. That is a matter for the government. The government is quite clearly wishing to hide something from the Parliament — whatever that is will be revealed in the fullness of time — but at this point we have come to a place where we need to consider the actual constitutional position. I want to come back to that specifically to remind members, as they have been reminded before, that section 19(1) of the Constitution Act states:

The Council and the Assembly respectively and the committees and members thereof respectively shall hold enjoy and exercise such and the like privileges immunities and powers as at the 21st day of July, 1855 were held enjoyed and exercised by the House of Commons of Great Britain and Ireland and by the committees and members thereof, so far as the same are not inconsistent with any Act of the Parliament of Victoria, whether such privileges immunities or powers were so held possessed or enjoyed by custom statute or otherwise.

Further, just so that we know in this context what those powers were, the 1855 third edition of *Erskine May's Parliamentary Practice*, chapter XX states:

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

There is absolutely no question about the constitutional basis for the claims made by the Legislative Council upon the executive in relation to the production of documents. The constitutional basis is clear. How is that transmitted into the way the house operates? Certainly the house itself has the power to call for documents, but so, under our standing orders, do select committees. I remind members that standing order 24(10) refers specifically to a select committee sending for persons, documents and other things. There is absolutely no question about the transmission of that power inherent in our constitutional arrangements to the select committee process, which the government has defied.

I come back to something that occurred earlier this year. To regularise and make clear and certain the arrangements which would lead to an orderly process for tabling of relevant documents the house adopted on 14 March this year a sessional order in relation to the production of documents which goes to the process that the house would use as a matter of course for documents to be laid before it, including providing an arrangement where a claim of executive privilege was raised that a process could, if you like, mediate independently of a status of any documents which were claimed to be exempt under executive privilege. Such was the willingness of the house to recognise the concern that the government had expressed about confidentiality that it agreed to not allow all members to sight those contested documents but to restrict access to only the mover of the motion seeking the documents, and therefore there is clear accountability as to confidentiality in the event that there is a breach of confidence as a result of any document being sighted and the contents therefore repeated elsewhere.

I turn to the Bret Walker opinion, which has been referred to in this place previously. It is useful to

remind ourselves of the advice Mr Walker provided to the house. Indeed his opinion contains the following quote from *May's Parliamentary Practice*:

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 ...

Why am I quoting that? I am quoting it because it contains the procedures of the House of Commons upon which Mr Walker relied. But Mr Walker also said in his opinion:

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.

And further he said:

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.

In effect in his opinion Mr Walker affirmed the procedures which have been incorporated into our sessional orders to ensure that where there is some doubt as to the release of a document, it is handled appropriately and sensitively.

I refer to the Leader of the Government's response to the order of 10 October, which was tabled yesterday by the Clerk. It says:

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.

The executive government can claim whatever it likes, but I go back to my starting point, where I say that the executive is the servant of the Parliament. It is indeed my view that the executive holds this house of Parliament in contempt, and that has been repeatedly and amply demonstrated over a period of months. However, I do not think that members of this house are willing to accept that that should be a position that is tolerable and they will therefore consider their oath of office and their obligation to represent the community.

Representation of the community includes not just the notion of providing a forum or a debating society for the consideration of matters that the government deems appropriate for the house to consider but the examining of all matters to do with public administration in this state and the holding to account of the government in the form of ministers of the Crown, government departments and statutory authorities. I think it is useful to turn to a text I have previously cited in this place

entitled *The Constitution of Victoria*. The author is Greg Taylor, and it was published earlier this year by Federation Press. I refer to the issue of responsibility, about which it says:

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

We will all have views about what accountability is, but one view is expressed in a paper which was produced by Donald P. Gracey in September of 1981 and which was tabled in this place. It is a report on ministerial responsibility in public bodies in Victoria which was produced for the Public Bodies Review Committee. In listing definitions, Mr Gracey said:

'Accountability' ... is taken to mean the duty that ministers, officials and public bodies have to inform the legislature about the conduct of the duties and responsibilities which have been vested in them.

I submit that the government of the day is failing in its obligation in terms of its responsibility to be accountable to Parliament. It is clear that the government collectively has a view that it is responsible only to the Legislative Assembly and that the Legislative Council is simply a chamber that is an impediment to the implementation of its policy agenda by way of legislation. The government's view is that the Council's primary task is simply to pass bills that the government presents to it. I know that many members here will think that that is a slight on them and the standing of this house, and — —

**Mr Viney** — It's true, if he ever said it.

**Mr P. DAVIS** — Thank you for the interjection, Mr Viney, because I will allow that to inform me about a further related matter. As I have said in this place before, while it is true that the changes to the electoral franchise in the upper house have changed the nature of it, and the Bracks government must take some responsibility for that, it is clear that previously the Bracks government and now the Brumby government have been disposed to object to and oppose every proposal advanced by the Legislative Council to improve the transparency and scrutiny of government. Every proposal has been opposed by the government.

**Mr Viney** interjected.

**Mr P. DAVIS** — Every proposal that has been advanced by this house, Mr Viney, the government has voted against.

I turn back to Greg Taylor's comments in the *Constitution of Victoria*, which says:

The *Constitution Act* 1975 also makes the point that each house shares one characteristic which is an important component in the moral authority lying behind its constitutional power. Each consists of 'representatives of' the electors ...

The basis of the case that I am putting today is that this house has an obligation to stand in place of those electors between elections. It is our obligation to ensure that there is good government in Victoria, and we can only do that by asserting our proper moral authority to examine the performance of the government. If the government is obdurate in its refusal to provide information to the Council, it therefore cannot discharge that high obligation of proper scrutiny.

**Mr Leane** — What about commercial in confidence? Do you want to sabotage —

**The PRESIDENT** — Order!

**Mr Leane** — Do you want to sabotage the tender?

**The PRESIDENT** — Order! Mr Leane!

**Mr P. DAVIS** — Mr Leane fails to grasp the issues of high principle that are before the house.

**Mr Leane** interjected.

**The PRESIDENT** — Order! Mr Leane's continual interjection is disrupting the business of the house. I warn him.

**Mr P. DAVIS** — The issues of principle that are before the house are the nature of responsible government in Victoria and the accountability of ministers to Parliament.

**Mr Leane** interjected.

**Debate interrupted.**

### SUSPENSION OF MEMBER

**The PRESIDENT** — Order! Mr Leane tests my patience. Under standing order 13.02 I ask him to vacate the chamber for 30 minutes.

**Mr Leane withdrew from chamber.**

**Debate resumed.**

**Mr P. DAVIS** (Eastern Victoria) — I think it is critically important for us to remember that the issue we have before us is not about personalities. It is not

appropriate for members to be hurling abuse across the chamber at one another, and I thank the President for his protection.

I want to focus very much on the role of this chamber as a house of review and the necessary responsibility that all members in this house have to ensure there is proper accountability, responsible government and, importantly, the discharge of the government's administrative and policy function in accordance with what I would describe as the conventional sense of justice, equality, honesty, transparency and integrity. I do not use those words lightly.

Having given all of that background, the next thing that I come to is the substance of the motion that is before the house. What I say is that the government has refused to comply with an order of the house, the consequence of which has been that it has placed the Leader of the Government in a position where he has not tabled the documents ordered by this house — ordered not lightly; ordered twice by this house and sought by a select committee — to be provided to the house in accordance with a procedure which was adopted by this house in March of this year specifically to ensure that there was the capacity for the house to deal with these matters in a way that would reduce, if you like, the concern about the risk of release of any material which ought to remain confidential. Therefore it is that, without doubt, the Leader of the Government representing the government as a whole has to wear that responsibility, and I am sure he will do so with great dignity.

Secondly, the motion deals with our persistent determination to require that those documents which we have previously ordered be tabled. It restates an order that the documents be tabled by 5.00 p.m. on Monday, 5 November, this year, and it demands that the Leader of the Government comply with the resolution. It is a matter for the Leader of the Government to determine whether he will or not, but I am confident in saying that he will give this serious consideration, because were he to fail to comply with the order, inevitably the house would have to make a judgement about what further action to take. Clearly we are in that position now. We are considering what action to take in relation to the motion before the house, which is a motion of censure — it is a motion of reprimand, and it is a motion saying that the house is not satisfied with the performance of the Leader of the Government representing the government in this place — and reasonably, I put it to members, our obligation is to assert our right to hold responsible ministers to account in this chamber. Therefore I urge all members to support the motion.

**Mr JENNINGS** (Minister for Environment and Climate Change) — This is a bit of a return to a role that I have played with respect to general business motions that I have not played for a number of terms. In the first term of the Bracks government it used to be my regular pattern to be the lead government speaker in relation to general business each and every Wednesday. It was a price that I was prepared to pay in the name of accountability and standing up to the rigours of parliamentary scrutiny, and I did it at great length.

It has been a while since it has fallen to me to respond to general business motions, but I do so today with some degree of concern about the nature of the motion that is before us. I have some concern about the wellbeing of my colleague the Leader of the Government in terms of the part of this motion that relates to him in a very personal fashion. I want to do my best to support his integrity, his standing and his understanding of what ministerial responsibility is, and I will be arguing in the chamber that he is acting in accordance with his understanding of ministerial responsibility and that in fact this motion goes beyond what is the interpretation that he has as a minister of the government of Victoria and indeed that I have. I will be trying to go through that in a dispassionate way in relation to the specific motion before us.

There will be reference to a number of pieces of previous correspondence and arguments that have actually been put to the chamber previously in relation to resolutions that have led us to the motion here today. There have been a number of disclosures made by witnesses to select committee hearings in the gaming inquiry and there have been a number of documents tabled as recently as yesterday by the Leader of the Government in relation to the matters which are the subject of this motion. I believe there will be a cogent set of arguments to suggest that the motion before the house does not warrant being supported by members of this chamber, certainly that it goes beyond the appropriate course of action for this chamber in terms of calling to account a minister for matters beyond his ministerial responsibility and beyond the scope of the practical application of that responsibility, and indeed that it would lead to the inappropriate censuring of a minister in the chamber.

As a starting point I would actually like to refer to the various elements within the motion before us, because I think the logic that runs through the proposition in the motion has not perhaps been outlined in a way that creates a cogent and logical framework, but in fact has been drawn for a specific purpose in relation to trying to restate the value of a select committee process and an engagement within the mechanisms of that select

committee process wherein the assumption lies that that select committee is well informed and well armed, has the moral authority to direct certain actions by the government and direct certain actions by members of the government, and provides the chamber with the opportunity to apply sanctions to ministers in accordance with the view of the select committee.

I think there is a series of false assumptions within that logical structure of the motion, so I want to start by talking about what I view to be the logical construction of this motion. That means that first of all I will be considering paragraph 4 of the motion, which is based upon the assumption that this chamber has the view that the government has the apparent belief that it is not accountable to the Parliament of Victoria. I contest that from my particular vantage point. I have a clear understanding of the way in which I was introduced to the concept of ministerial responsibility. I am certainly very well minded of the induction program that the Parliament of Victoria gives to all incoming members, and there are some elements of that induction that I hold very dearly and very firmly in relation to my take-home message about how, if and when I were to become a minister, I should relate to this Parliament and how I could satisfy my ministerial responsibility.

On a number of occasions I have actually talked about that message in the public domain. For instance, on any number of occasions I have described it to schoolchildren who might be interested in how this institution — sometimes viewed as arcane — works. I have in fact been quite defensive about how the Parliament works in terms of its internal merit and contribution to public life. Once ministers have received a commission — and let us leave aside whether in fact they have gone through a party selection process and whether in fact they have got a commission as individuals or through party structures at the behest of the Premier of the day confirmed by the Governor — what do they do as a minister and what is the scope of ministerial responsibility?

Ministers become responsible for the appropriate implementation of the statutes that sit on the table in this and the other chamber. We are formally assigned responsibility for compliance with the laws of the state of Victoria. We are formally charged with responsibility in terms of modifying those laws — adding to or subtracting from them — and the way in which those laws are administered. That is the form of ministerial responsibility. Beyond that we are responsible for programs and administrative functions that may be assigned to us — for budget allocations, for the appropriate administration of those, for the calibre and the performance of the public sector and for our

relationship with the Victorian community in the context of those portfolio responsibilities.

Each and every time we come into this place and each and every time we go into question time we have the full expectation that we will be asked questions such as, ‘How well are you administering the laws which you are responsible for?’, ‘How well are you administering the programs and policies and administrative arrangements that you are responsible for?’, ‘What are the quality-assurance mechanisms and how do you ensure the appropriate delivery of either the legislative intent or the programmatic intent of what you have committed to in the public domain?’, ‘How do you provide certainty within this chamber and within the Victorian community that you know what you are doing, you know the scope of your responsibilities and you are complying with them?’. That expectation is something that steers my daily involvement in public life very clearly and very forcefully, and I feel an obligation to comply with that each and every time I am in this chamber and each and every time I exercise any of my responsibilities, and I believe that is the understanding of my colleague the Leader of the Government.

Beyond that, in terms of how this translates to the crossover between parliamentary accountability and the functioning of executive government, that is an area that perhaps lies at the heart of the concerns and agitation that the select committee has grappled with, this chamber has grappled with and indeed the Victorian government has grappled with. It is part of the contestability of the issues between the various people who have contributed to the debate today. It is very important for us to understand that the common-sense processes and engagement involved in the way executive government works — and governments operating under the Westminster system virtually all operate on a cabinet system — are not features of parliamentary accountability.

Cabinet is subject to certain rules of integration, coordination, cross-pollination, portfolio responsibilities and the provision of a cogent framework by which all the ministers come together and share their responsibilities, but these are not features of parliamentary accountability. There is no reference in *Erskine May*, which sits on the table with our statute books, to the way cabinet works.

Clearly common sense says that when we apply scrutiny to the executive we are questioning the way in which government does its business and questioning the way that cabinet does its business, but *Erskine May* is silent on that question. In more than 700 pages it is

not mentioned once; the question of cabinet in confidence is not there. When this becomes an issue of constitutional law tested by the courts, the courts will express their views about the common-sense application of these concepts — what it means in a contemporary setting about what our constitution should be read down to mean now and what it means in terms of the crossover between parliamentary scrutiny and the way cabinet works now — and it is nothing more than a common-sense construction of how those connections should work. Not surprisingly there is conflicting constitutional advice about the crossover point between parliamentary scrutiny, ministerial responsibility and the way in which cabinet government works. That is an issue that is actually contested between us.

When paragraph 3 of the motion before the house today talks about the Council being fully entitled to scrutinise the activities of the executive and demand accountability for all aspects of executive behaviour, that falls short of an understanding of how cabinet executive government works. It is not mindful of the history not only in this jurisdiction but in other jurisdictions that apply the Westminster system. It also displays blissful ignorance of the oath or affirmation of office taken by every member of the executive council.

Everybody who becomes a minister in the state of Victoria in taking on the obligations of being an executive councillor affirms or takes the oath. If you boil it down, it is an oath of secrecy that in practice means what happens in cabinet stays in cabinet. Members of the executive council, of which I am one, take an oath — I was in the minority, I affirmed — to say they will not disclose the internal considerations and conversations, the secrets and information they are privy to because they are a member of the cabinet and a member of the executive council.

They swore not to say certain things. That is not to say they should not be able to describe the processes which were undertaken, the range of considerations and the scoping of issues which may have been considered. They should be able to describe the way this chamber and the community should have confidence in the degree of rigour that is applied to any decision and be able to account for an appropriate rigour in that decision-making process. But people are sworn to secrecy about what they are able to talk about in terms of those internal considerations.

Paragraph 3 of the motion says that this Council has the unfettered right — the motion says ‘the fully entitled’ right — to scrutinise the activities of the executive and demand accountability for all aspects of executive

behaviour. This motion has been drafted by someone who has never been a member of the executive council, does not understand what the scope of being an executive councillor may mean and, from my vantage point, hopefully will never become an executive councillor if this is their level of understanding about what it means to be a member of a government.

Clearly the logic of this motion is not mindful or respectful of the appropriate relationship between the legislature and the executive government in terms of how cabinets work and in terms of the oaths and affirmations of office of executive councillors and is not mindful of what I believe from my induction into this place are the fundamental building blocks of ministerial accountability and responsibility. Whilst it is implied and makes common sense that you might have the privilege and opportunity to go beyond the scope of your responsibility — and on many occasions I personally err on the side of providing more insight into the considerations of government or reflecting upon the ministerial responsibilities of others — you are not formally obliged to. There is nothing in *May* to say that I should do so. In fact if members read *May*, they will see that there is quite the opposite suggestion.

The fifth and sixth paragraphs of this motion repeat the error in the construction of that sort of logic, thinking and understanding of ministerial responsibility. They repeat a request for a minister to provide information on issues which they are not responsible for and to censure them for not doing so. Again, based on what we have seen in other jurisdictions, we believe that this is a forerunner to further propositions which will lead to greater sanctions that this Council may be contemplating applying to the Leader of the Government.

Going again to the specific motion that is before us today, if members look at paragraph (2), they will see that it is not a particularly contemporary motion given that the Leader of the Government tabled a number of documents by leave yesterday. The first paragraph of the motion relates to specified documents and the second paragraph relates to public lottery licences. As recently as yesterday documents were tabled by the Leader of the Government which actually reflect upon the core building blocks of the process and the key decision-making gateways of the public lotteries issue. I will let members know what those documents are by reading a list, which is not exhaustive.

The documents he tabled which are on the list include the gambling licenses review from the Office of Gaming and Racing entitled *Probity Plan for the Public Lottery Licensing Application for a Licence Stage* and

the legal sign-off from legal advisers to the gambling licenses review and the Lotteries Licence Review Steering Committee in relation to the lottery licence review dated 4 October 2007. The Leader of the Government also provided the final audit certification of the probity auditor, Pitcher Partners, of 8 October 2007. He reminded the house that the report of the review panel chaired by Ron Merkel, QC, into the current public lotteries licensing process was tabled in the house on 11 October 2007 under section 10.2A.11 of the Gambling Regulation Act 2003.

The Leader of the Government provided those documents while being mindful of not erring on the side of providing information that would conflict with his obligations as an executive councillor and his obligations in respect of his ministerial responsibility and recognising that he is not a person who is registered in accordance with the Gambling Regulation Act 2003, which specifies the range of people who are able to hold information about gaming licences, let alone disclose them. He furnished the chamber with a variety of documents which outlined the way in which the probity plan was going to be designed and implemented, the sign-off by the legal advisers to indicate from their vantage point the integrity of the process, and certification by the probity auditor in terms of satisfying the probity requirements contained within that process.

He also reminded the house that an independent review, commissioned in accordance with the Gambling Regulation Act and undertaken by Ron Merkel, QC — who was prepared to sign off on the document, which was tabled in the Parliament — verified the nature of the process; it indicated it had validity and integrity and had not been compromised. Those four and other pieces of documentary evidence from independent sources which the Leader of the Government provided to the house at the very least validate the position of the Minister for Gaming, who is the responsible minister in relation to this issue — that is, that the process stood up to scrutiny, an independent probity assessment, legal assessment and external review and was in accordance with the act.

The Leader of the Government has provided the house with very pertinent, relevant documents in relation to the public lotteries licence, as specified in the resolution. I contend that paragraph (2) of the motion before the house today is not a contemporary reason to censure the Leader of the Government, because he has furnished the house with information.

**Mr Rich-Phillips** — Even if it was not the information sought?

**Mr JENNINGS** — I will go back to that point now. Mr Rich-Phillips wants me to reflect on paragraph (1) of the motion, which relates to tabling documents specified in the resolution. The letter that was tabled by the Leader of the Government yesterday, in conjunction with his tabling of the documents to which I have just been referring, outlines for the chamber a variety of reasons why the Leader of the Government, Minister Lenders, was not able to provide the specified documents. In that letter he runs through a range of arguments why this is the case. His argument contained in this letter, of which I will give a précis, is consistent with what has been my substantive argument in the debate this morning.

Mr Lenders, in his letter to the Clerk tabled yesterday, relied on advice from the Attorney-General. It is the Attorney-General's view that section 19(1) of the Constitution Act 1975 prevents the Council making an assumption that it has unfettered access to all documents relating to cabinet-in-confidence processes, commercial-in-confidence processes or probity issues in accordance with the Gaming Regulation Act 2003. I can understand that common sense and a sense of decency might lead all of us to want that to be the case; it would all be made easier if that were the case.

From what I have been informed through the various documents tabled in the house and from what I have read in terms of the independent assessment and scrutiny of the process, there is no smoking gun in relation to this issue. I am very disappointed that there is an ongoing perception that there is one; that there is actually something to hide and that there is something that cannot be disclosed. I am very disappointed that that myth or perception cannot be debunked by the disclosure of this information.

The trouble is that nobody in this debate or in the select committee has been able to refer to anything in *May* or anything else in any jurisdiction which says that chambers such as ours have unfettered access to all cabinet material. No-one is going to say it. That advice is not going to come from anywhere. No-one can say that. No-one who has ever been a minister would be able to draft such a motion, because they would know that they are sworn to secrecy. Hopefully we will have the maturity and wisdom to be able to get past this current impasse and work out how we can share information appropriately; how we can provide for that degree of confidence within the chamber and the community.

But we are not going to do that through a motion such as this. We are not going to do it through this draconian mechanism, this blunt instrument, or by what I

understand to be the intention of the proponents of this motion to take this further. The assumption embedded in paragraph (6) of today's motion indicates that we are going to revisit it. We are going to keep on asking for exactly the same information as Minister Lenders has already said to the house he will not be able to furnish, because, firstly, it is not his information. He is not responsible as the minister for the information being sought. Beyond that he has also indicated that there is no parliamentary convention or opportunity, within his understanding of the Victorian constitution, that would allow him to go and procure this information and provide it. There is none.

**Mr Hall** — So how do we resolve the impasse?

**Mr JENNINGS** — It is a reasonable question from Mr Hall, because that is the challenge for us. In the correspondence that Mr Lenders tabled in the house yesterday he effectively indicates that — beyond the legal impediments and beyond the impediments in terms of the ministerial responsibility he feels constrained by — he is also worried about the way in which any material that may be provided by him or by other members of the government, such as that the Minister for Gaming might be prepared to share with this chamber and select committees, may be used.

Up until this point in time the government has been very wary about sharing any information which had the capacity to contaminate the final determination. The mere design of the internal probity processes may have meant that the process had been contaminated after that had been completed. Now at least we have the good fortune and capacity to analyse a variety of documents that we did not have previously. They outline how the system was designed and include an independent assessment of the legal requirements, the probity requirements and the various marketing and other assessments, as well as the evidence that Mr Merkel, QC, has put before the chamber. That is the body of evidence that the select committee has not sat down and considered since it has been tabled.

**Mr Rich-Phillips** — How do you know that?

**Mr JENNINGS** — I do not know that.

**Mr Rich-Phillips** interjected.

**Mr JENNINGS** — Do you know that it has?

**Mr Rich-Phillips** — I am the chairman; I do know what the committee has considered.

**Mr JENNINGS** — Well, has it?

**Mr Rich-Phillips** — I am not about to tell you. I am surprised you think you know about it.

**Mr JENNINGS** — I was just responding to Mr Hall's proposition in terms of what the committee may or may not do. I do not know — —

**Mr Rich-Phillips** interjected.

**Mr JENNINGS** — Clearly I am not well-informed, because — —

**Mr Viney** interjected.

**The DEPUTY PRESIDENT** — Order! The minister is making a speech, but he is also having a conversation with respective members of the chamber. The minister, to continue making his speech.

**Mr JENNINGS** — I was trying to respond to the proposition Mr Hall quite rightly put to me — that is, how do we get beyond the impasse? I do not think it will help one iota if this motion is passed by the chamber today. In fact on balance on the argument I have put to the chamber, I do not think it is a fair motion. I think the notion that it censures my colleague the Leader of the Government is totally inappropriate. I believe he has acted totally in accordance with what he understands are his ministerial responsibilities, with the legal advice he has been provided by the Attorney-General and with his understanding of what is required under the Gambling Regulation Act 2003. He has acted totally in accordance with that, so what has he done wrong? He does not warrant being censured by this motion.

What we need to do is to find a way in which we can use the evidence that is now available to us. Whether the select committee has or has not met — I do not care if it has or has not met in the last 24 hours — if it has the wit and wherewithal to consider that information and find out whether that has taken its considerations further, I would be grateful for that. I would appreciate a reasonable reflection upon whether in fact we are better armed and better informed and whether we can now try to do any appropriate infill of the additional information that may be appropriate rather than the blanket assumption that the select committee is omnipotent and extremely wise in its understanding of parliamentary procedures.

I think if anybody who is associated with the select committee has drafted this motion, they are not too clear about that, even though they have the legitimate expectation that the government is subject to the appropriate degree of scrutiny and is accountable to this chamber. At no point in my contribution today have I

shirked what I believe is the obligation of the government to come in here and eyeball anybody who asks its ministers questions about what they are doing, about how they are accountable for what they are responsible for as ministers and about how they share their responsibility within cabinet structures of government, but ministers cannot be pinged on the responsibility of others.

This motion censures my colleague the Leader of the Government in this place for something that is beyond his responsibility. He is acting in accordance with his best advice and his best understanding of ministerial responsibility. There is nothing in *May* that indicates he warrants being censured. There is nothing in any legal advice that suggests that that is the case. No-one has actually indicated that if he provided information specified in the motion, he would not fall short of the Gambling Regulation Act 2003. If you cannot do that, if you cannot satisfy those tests, you should not be able to vote in favour of this motion. That is the argument that I put to the chamber and that certainly the reason I will be voting against it.

**Mr HALL** (Eastern Victoria) — I want to start by saying that I derive no joy in having to participate in this debate this morning. I have listened to the Leader of the Opposition and the Deputy Leader of the Government and their contributions and I do not think they experienced any joy at all in having to speak to this motion. But it is an important motion to try to further progress this debate we are having about the rights of this house, the Legislative Council, to scrutinise the executive government and, in particular, its ability to access certain documents.

Without having to go through every single scrap of detail of the history of this debate, I want to try and distil it into some very simple principles because I think the public of Victoria needs to understand what has transpired in the most simplistic terms without the complicated legal jargon. As I understand it, these events have occurred. First of all, the house by resolution called for the tabling of certain documents, and I think that is a matter of fact.

The second matter of fact is that legal opinion was obtained from Mr Bret Walker, SC. Essentially what that legal opinion said was that the request of the Legislative Council for certain documents was a lawful action in the view of Mr Walker.

The third point in distilling this whole argument is the fact that the government has a different view from that obtained by the house and depicted by Mr Walker — that is, as I have previously stated, but it was again

repeated by Mr Lenders in the letter tabled in Parliament yesterday, that the government does not believe that particular request from the Legislative Council for those documents is a lawful request. In the letter that was tabled in the chamber yesterday, which is addressed to the Clerk of the Legislative Council and signed by the Leader of the Government, John Lenders, the government's defence is based on two grounds: firstly, that there are matters concerning executive privilege; and secondly, that the documents requested breach certain confidentiality provisions of the Gambling Regulation Act 2003.

So what we have in a nutshell is this: we have two different legal opinions as to the appropriateness and lawfulness of the Legislative Council to request certain documentation. We have an impasse, and I interjected during the contribution of the Deputy Leader of the Government because I am interested in trying to resolve that impasse. I am not interested in making this a personal issue with any member of this chamber. I am just interested in resolving the impasse, looking for a way forward, and at least this motion brings this subject to a head again and allows us to talk about essentially how we are going to progress. It is an important point, and we need to determine one way or another whether the Council was rightful in its request for the tabling of certain documentation.

What happens if there is an impasse out there in the general community? We have a legal system established in this country that allows people to take matters to court to have the court adjudicate who is right and who is wrong. In the atmosphere or theatre of a court legal arguments from each side are put and an adjudication is made — and given the respect we have for the judicial system in this country, the judge's verdict is final. Sure, there are appeal mechanisms, but ultimately we go to the highest court in the land, and we cannot take those matters any further.

It seems to me that the only way we are going to resolve this impasse is to seek some adjudication from outside of this chamber, and that is through a court of law. It surprises me that it seems apparent there is no easy way to get a court decision or judgement on this particular matter of whether it is appropriate that the documents requested by the Legislative Council tabled or not. So I suppose in response to Mr Jennings's contribution, I implore the government to look to a way of resolving this impasse by using an outside body like a court of law. Why is it not possible to get a court judgement on this matter? I do not want to have to come back in future weeks and go through this same debate time and again. I think it is important that we try to have this matter resolved, and it seems to me we are

going to have to rely on someone or something other than our own debating skills to resolve this matter for us.

As I said, I do not want to make this a personal issue, and I am sure that Mr Jennings was earnest in his contribution when he said that Mr Lenders, and indeed all ministers of this government and previous governments, adhere to what they believe are their statutory responsibilities as ministers of the Crown, so I am making no criticism in respect of that. It is simply a matter this time of our having different interpretations of both the Constitution Act and the Gambling Regulation Act, so we have different interpretations of whether this has been a lawful request of this house to present those certain documents.

For the purposes of making a decision on this let us get it adjudicated. This is a censure motion. I understand it is a serious accusation to make against a minister, but I want to make the point again that it is not personal, it is purely a matter of trying to progress this issue further. I simply want to repeat — and I do not want to go on any longer because I think it is a fairly simple matter when you break it down into its basic terms — that it is an issue of two different legal opinions being held by two different parties. I implore the government to look to some alternative resources outside of this chamber so that we can have a definitive decision on this matter so that this Parliament will know clearly where it stands in future matters of this nature.

It is with some reluctance and regret that I will be supporting this motion. I will do so purely to ensure that the government takes its responsibility to resolve this impasse seriously and looks to assist the Council by doing that using means other than debating backwards and forwards in this chamber.

**Sitting suspended 12.54 p.m. until 2.03 p.m.**

**Business interrupted pursuant to standing orders.**

## QUESTIONS WITHOUT NOTICE

### Port Phillip Bay: channel deepening

**Mr GUY** (Northern Metropolitan) — My question is to the Minister for Planning. I refer to the failure of the Minister for Planning to publicly release the full report of the inquiry into the supplementary environment effects statement on the channel deepening project which he received on 1 October, and I ask: why is this important report being withheld from Victorian communities, and will the minister now immediately release it?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome the member's question in relation to this matter, as I always welcome questions from the opposition in relation to planning. I welcome it because I know that at some stage in asking questions opposition members will put a proposition to us about policy, so I look forward to that. I look forward to hearing some policy implication from the opposition.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I am always happy to answer questions when there is substance to the question. I am happy to announce to Mr Guy that I have made announcements today in relation to the channel deepening project. They are quite extensive, and I am happy to take further questions in relation to that matter.

*Supplementary question*

**Mr GUY** (Northern Metropolitan) — In light of the minister's total failure to answer my question, I shall ask a further question. I note his press release on this issue states that the government would create an independent environmental monitor to oversee an environmental management plan, and I ask: will the government now seek the withdrawal of the Port Services Amendment Bill so as to redraft it and put into law this independent environmental monitoring process so that Victorians can be confident of its full independence?

**Hon. J. M. MADDEN** (Minister for Planning) — In relation to Mr Guy's question, again, it is interesting how he tends to frame his questions. There is always a degree of scepticism. There is always a degree of cynicism.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I know the opposition wants me to respond openly, and accordingly I am always happy to do that. I seek to do that at every opportunity.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — And I will. I have made a substantial number of announcements in relation to my assessment of the panel's report on the channel deepening project. I am very pleased with those announcements. I am also very pleased with what those announcements mean and the fact that they can give the community across Victoria a great deal of confidence in the channel deepening project, should it take place. I make the point that it is now up to the Minister for

Roads and Ports to determine whether the project will take place, in accordance with the rest of the government. I have made my assessment — —

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I make this clarification for Mr Guy, too, so that he understands the planning process. I have made an assessment and in making that assessment I have asked for a number of qualifications to be made in relation to the proposition of the project. But what is important about that is that now a number of other decisions are required before the project can proceed. One of the most significant is that the federal Minister for the Environment and Water Resources must make a determination or decision in relation to this project.

I know Mr Guy presents a degree of scepticism about any plan or project that comes to this chamber. I look forward to his coming to this chamber with a proposition about how a project should proceed or how a policy should be implemented, but until that takes place, I will continue to do my job. My job today has been to release the assessment. I am very pleased with the outcome, and I am also pleased with the qualifications I have been able to apply to this project to give the community full confidence in it, if and when it takes place.

### **Port Phillip Bay: channel deepening**

**Ms MIKAKOS** (Northern Metropolitan) — I also have a question for the Minister for Planning, but mine is one of substance. The Brumby government has been steadfast in its commitment to the channel deepening of Port Phillip Bay, provided the project receives relevant state and federal environmental approvals. The project would have substantial economic benefits for Victoria. I ask the minister to inform the house whether the assessment of the environmental effects of the project has been completed, and I ask that he outline the conclusion of that assessment.

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Ms Mikakos's question because it is a substantial question, and I always enjoy answering a substantial question. I also enjoy answering a substantial question from somebody of substance. That is the other thing — a substantial question from a person of substance, as opposed to vacuous questions from vacuous personalities. Can I just say — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! It appears that we need a refresher course on answering questions, and in particular criticisms of the opposition and whatever.

**Hon. J. M. MADDEN** — I was not criticising the opposition.

**The PRESIDENT** — Order! The minister may want to be a little cute this afternoon in answering his questions, but that is unacceptable to me. I advise him to confine his answers to the questions being asked.

**Hon. J. M. MADDEN** — The finalising of the environment effects statement assessment for the proposed channel deepening project has been a long time in the making. I need to put this into context. This is a very important matter, and I wish to give the chamber full and thorough detail about it. Consideration of the environmental impacts began in the year 2000. In 2002 it was confirmed that an environment effects statement for the proposed channel deepening project was needed. In the same year the project was deemed by the federal government to be a controlled action under the Environment Protection and Biodiversity Conservation Act 1999.

In 2005, following a report from the inquiry into the environment effects statement, the then planning minister concluded that it was premature to make an assessment and outlined an intended further assessment process, this being the supplementary environment effects statement. At the time the minister also suggested that a small trial dredging program be conducted. This was completed by the Port of Melbourne Corporation in the same year. After the supplementary environment effects statement was completed, it was exhibited for public comment for a period of six weeks earlier this year. It was followed by public hearings conducted by an independent panel. The supplementary environment effects statement is the culmination of more than two years of investigation, including taking into account more than 40 technical studies and about 15 000 pages of research and data.

On 1 October I received the report from the independent panel inquiring into the supplementary environment effects statement of the proposed channel deepening project. The exhaustive assessment process for the channel deepening project has provided the public and stakeholders with a full and fair opportunity to express their views and provide their input. In summary, the inquiry found that the proposed channel deepening project design is safe, suitable and technically feasible. In fact the panel concluded that the technology selected for the project is best practice. The likely environmental effects of the proposed channel

deepening project dredging activities and subsequent operation of the deepened shipping channels have been appropriately addressed in the supplementary environment effects statement, and the proposed project design and approach to project implementation are suitable to ensure acceptable environmental outcomes are achieved subject to various other approvals and conditions.

I have now completed an assessment of the outcomes of the environmental effects of the channel deepening project. I am delighted to advise the house today that my assessment of the project is that the project can proceed subject to the implementation of a number of environmental management measures and, importantly, subject to other approvals that are required. It is now a matter for the government, for the relevant ministers to decide whether to seek approvals for the project. The assessment will inform government in making decisions about whether the project should proceed. The panel has made a number of recommendations, most of which I have accepted. In this context I have identified the need for the refinement of the proposed environmental management plan for the implementation of the channel deepening project to ensure effective protection of bay assets.

I have also determined that the independent expert group that has assisted in the preparation of the supplementary environment effects statement and the subsequent inquiry process should provide advice in relation to the environmental management plan. Further, to assist the transparent and successful implementation of the channel deepening project environmental management plan, I have supported the panel's recommendation for the appointment of an independent monitor to advise the port and relevant ministers. The assessment also outlines a series of offset payments to support environmental management. These are in the order of \$6.3 million.

I could continue to go on in great detail, but I will just touch upon the last few elements. An expansive consultation process has already been undertaken. I have also assessed that a community liaison officer should be appointed and that a community liaison group should be established. In conclusion, based on my assessment, the Minister for Roads and Ports must decide whether to proceed with the channel deepening project. The port will need to make an application to the Minister for Environment and Climate Change, my colleague here in the chamber, for the consent pursuant to the Coastal Management Act 1995 — —

**Mr Atkinson** — On a point of order, President, I am concerned that the minister in addressing this question

has, in my opinion, read out a ministerial statement rather than responded by way of substantive answer to the question. I ask that you perhaps provide a ruling on whether or not this does constitute an answer to the question or whether it is a ministerial statement. In the event that it is a ministerial statement, and I notice that the minister has studiously read from it, I request that the document be tabled.

**Hon. J. M. MADDEN** — On the point of order, President, I mentioned in my preceding comments that this is a quite substantial subject and that I wanted to inform the house of the substantial assessment made in relation to it. I have only a few more lines to conclude in relation to this project.

**The PRESIDENT** — Order! Mr Atkinson raised the initial point of order and my view is that in fact it is both an answer to a question and a ministerial statement, or very close to it. I appreciate that it is all but concluded; however, I remind the minister that questions should not ask for and answers should not be given to a question that asks for a statement or an announcement on government policy. I suggest that the minister might like to reflect on that. If he does want to make a ministerial statement, he can, but maybe question time is not the time to do it. The minister, to continue and wrap up.

**Hon. J. M. MADDEN** — This is probably one of the most substantial projects that the government has considered or will consider in relation to the state's future. The comprehensive assessment has included somewhere in the order of 40 technical reports and 15 000 pages in relation to the supplementary environment effects statement alone. I would like to thank the members of the panel who considered this matter for the work they have put in place to provide me with advice to assist me in forming my assessment. I would like to thank the chair, Alan Hawke, and members Kathy Mitchell and Dr Mike Lisle-Williams for their — —

**Mr Atkinson** — On a point of order, President, the minister clearly did not hear your ruling, because he has resorted very clearly to making a statement as distinct from answering a question. I formally seek, by leave, that the document from which the minister is reading be tabled.

**The PRESIDENT** — Order! The member may well be right, maybe the minister did not hear what I said earlier, but I recall him saying that he was wrapping up, and I assume he is doing just that.

In response to the member's point about tabling the document, the minister is not bound to table the document. The member has other options available to him in that area, and I am sure the member knows what they are. The minister, I assume, is wrapping up.

**Hon. J. M. MADDEN** — I have finished, President.

**Mr Guy** — On a point of order, President, I wish to move that the minister's answer to the question be taken into consideration on the next day of meeting.

**The PRESIDENT** — Order! That is not a point of order. However, Mr Guy has other options.

**Ordered that answer be considered next day on motion of Mr GUY (Northern Metropolitan).**

### **Water: desalination plant**

**Mr HALL** (Eastern Victoria) — My question is directed to the Leader of the Government in his capacity as the acting Minister for Water. I refer the minister to the government's proposed \$3 billion Wonthaggi desalination plant, which will produce 150 gigalitres of water per year at a cost of \$20 000 per megalitre. I ask the minister: has the government undertaken or commissioned an economic analysis of the extraordinarily high cost of augmenting Melbourne's water supply with a desalination plant compared with other options, including rainwater tanks, water recycling, stormwater harvesting or promoting further water efficiencies? If so, what was the outcome of that analysis?

**Mr LENDERS** (Treasurer) — I thank Mr Hall for his question, and I thank my colleague Mr Jennings for alerting the house yesterday to the fact that I am acting water minister. I am delighted to take questions at all times on any portfolio that I am sworn into or acting in, so I am delighted to take Mr Hall's question.

Mr Hall raises the question of whether we have done an economic analysis of the desalination plant. Mr Hall well knows that the state of Victoria is facing the effects of climate change. The Victorian community is also more aware than ever before of the need for a coherent response from government and the community in terms of how we deal with these issues.

This community has discussed and debated these issues, and daily we hear in this house discussion of the issues of the water grid, the food bowl, the north-south pipeline, whether we can better harness stormwater, whether we can reduce consumption and whether there are other ways. We have had election campaigns over whether more dams should be built. We have had one

party propose that they be built on the Maribyrnong River; I wonder whether Mr Hall is proposing that they be built on the Mitchell River. We have had a lot of discussion of this.

Desalination has been one of the cornerstones, as it would actually bring new water into the Victorian grid to be used for Melbourne, and obviously there is the potential further down the track — —

**Mr Drum** — What about using recycling? That would be new water.

**Mr LENDERS** — I take up Mr Drum's interjection about recycling. It is a bit rich for The Nationals to be talking of recycling when there was a proposal on the table to recycle some of Melbourne's water and use it for cooling towers in the Latrobe Valley, and The Nationals wound up a hysteria campaign about giving Melbourne's wastewater in exchange for Gippsland's clean water. I would have thought using recycled water in cooling towers is quite sensible.

The Nationals should change their name. The party went from the Country Party to the National Country Party to the National Party to the VicNats to The Nationals. They should change their name to the Nimby — not in my backyard — Party!

What we see at the moment is a holistic approach, like Mr Hall is suggesting. This approach means that you need to consider, as we did in *Our Water Our Future*, stormwater, aquifers, a water grid, dams, domestic consumption, industrial consumption and waste reduction. Our water proposal encompasses all of those.

*Honourable members interjecting.*

**Mr LENDERS** — Mr Koch said 'Taking up desalination', and this government has taken up desalination as an option in response to community needs. It is going through the correct process at the moment. The planning minister, the water minister in the other place and a range of other ministers are going through the correct process in looking at desalination options.

We as a government will go through the desalination options, but Mr Hall needs to understand that you cannot be all things to all people. This government is not that. We do not in one breath say, 'Let's recycle water' and then in the next cause hysteria in Gippsland; we do not in one breath say, 'Let's bring in a desalination plant' and then in the next cause hysteria in Gippsland; and we do not in one breath say, 'Let's build water infrastructure' and in the next cause hysteria in northern Victoria.

This government will consider and deal with every proposal. We are not the Nimby Party; we are the party for the whole of Victoria. We will consider all options, and we will make rational decisions in doing so. The most fundamental point is that desalination will boost by 150 gigalitres the amount of water available — —

**Mr Hall** — So would recycling.

**Mr LENDERS** — The city of Melbourne uses barely three times that amount of water, so we are exploring it. If Mr Hall truly believes in recycling, I urge him to revoke the scare campaign literature he inundated the Latrobe Valley with during the last election campaign.

The government will work to improve Victoria's water, bring in new water and use the water we have better so that Victoria becomes an even better place to live, work, farm and raise a family.

*Supplementary question*

**Mr HALL** (Eastern Victoria) — I am disappointed to learn that the government has conducted no cost-benefit analysis at all regarding the various options for augmenting Melbourne's water supply. By way of supplementary question, I ask the minister: what advice did the Minister for Water in the other place give the Treasurer in regard to the costs and benefits of a desalination plant prior to this government committing \$3.1 billion of taxpayers money to the most expensive option out for supplementing Melbourne's water supply?

**Mr LENDERS** (Treasurer) — I take up Mr Hall's concluding remark about desalination being the most expensive option possible to fix Melbourne's water supply. Again, it is unbelievably rich for The Nationals to lecture the government about water when they have not had a new idea about water since O'Connor built the Kalgoorlie pipe last millennium. They have not had a new idea about water this millennium.

This government will consider all options. We will consider desalination as a way of bringing in water, because we will not leave the people of Victoria standing high and dry — no pun intended — in a time of climate change and dismiss the option of bringing in 150 gigalitres of new water. We will go through the correct processes — —

**Mr Drum** — Just take it from somewhere else.

**Mr LENDERS** — I take up Mr Drum's interjection, 'Just take it from somewhere else'. The Nationals are happy to have Victorian water go to Adelaide as part of

their slavish devotion to the federal coalition's water policy of winning marginal seats in South Australia. The Nationals are prepared to support water going to Adelaide but they are not prepared to have water being used in Victoria. The Nationals stand by their record. The government stands by its record. We will explore all options. Being economically prudent, we will explore them all, but we are the Labor Party governing Victoria, not the Nimby Party being all things to all people and governing only for its own base.

**Water: catchments**

**Mr VINEY** (Eastern Victoria) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. Will the minister inform the house how the government is enhancing the health of Victoria's catchments?

**Mr JENNINGS** (Minister for Environment and Climate Change) — Mr Viney would be aware that yesterday in the chamber I referred to a very important program that was announced as part of last week's drought support package of the Brumby government for communities right throughout Victoria. That included \$10 million for a drought employment program. I am also very pleased to report to the house other significant investments that have been announced, or on which announcements are imminent, to respond to the needs of Victorian catchments. They will be responding to their health and wellbeing needs in terms of water quality, stream flows and the productive land capacity right across Victoria's catchments.

I put this in the context of the number of reports that have been tabled in the Parliament today. A number of important reports have been tabled by the Victorian catchment management authorities right across the state — —

**An honourable member** — How many?

**Mr JENNINGS** — Ten. An overriding report has been issued by the Victorian Catchment Management Council which provides an assessment of the calibre and integrity of those catchments at a time of drought and climate change. Those catchments right across the state are sorely stretched and require additional support, and I am pleased to say that the Brumby government is responding to that. That report shows the difference that is evident as you travel from east to west across Victoria. Whilst all catchments are stressed, the quality of the catchments in the eastern part of the state is in the range of good to satisfactory while in the west, as a general rule, the catchments deteriorate.

The standard right across western Victoria is poor, including — this is surprising to a number of people who have read that report — even the south-west catchment. That south-west region may look relatively green, but the moisture content there is very shallow in terms of its prospective longevity during the coming summer. Basically, whilst it might look green, with the imposition of hot weather that catchment will dry out very quickly and be as parched as other catchments across Victoria.

I want to draw the attention of the house today to \$35 million of funding I announced last Friday at Napoleons Primary School in the company of young Victorians participating in their local Landcare group within the Leigh catchment group of Landcare groups. These young children were very well versed in tree planting techniques and provided me with some very useful instructions. From now on I will be continuously improving in my ability to plant trees and be part of revegetation programs. The involvement of those children is an essential part of what we want to achieve with the \$35 million that was allocated last week, as is the engagement of community members.

People young and old, right across the spectrum, who live on the land and off the land, who live in rural communities where viable agriculture is an important part of community life, are participating in their thousands right across Victoria in the activities of the catchment management authorities and Landcare groups, and they have delivered great results. If it had not been for that collective wherewithal and effort the catchments would be in an even sorer state than they are shown to be in by the report issued today. Whether it be through the restoration of native vegetation programs, second generation Landcare programs or pest and weed eradication, this significant investment of \$35 million will go a long way to supporting those communities in enhancing their catchments.

Beyond that, in the days and months to come there will be further programs. The national action plan for salinity and water quality, jointly administered by me, the Minister for Agriculture in the other place and the relevant commonwealth minister, which is aimed at reducing salinity and weed eradication, will release significant funds to the catchment management authorities soon. Following the federal election, members in the Victorian community will also be anticipating the release of funds through the Natural Heritage Trust program, which again is jointly administered by the state and commonwealth governments. My colleague the Minister for Water in the other place will also be making additional

investments in relation to water quality issues within those catchments.

In total I would anticipate that close to \$150 million will be allocated to those programs collectively to support the quality of catchments and support the quality of the work undertaken by Victoria's citizens right across the breadth of Victoria to shore up the agricultural productive land, restore environmental values, protect the integrity of our streams and waterways and keep regional communities right across Victoria viable and vibrant. The Brumby government is absolutely determined to support the great people in the catchment management authorities and the great people engaged within their catchments and to support viable agriculture now and into the future.

### **Water: desalination plant**

**Mr O'DONOHUE** (Eastern Victoria) — My question without notice is to the Minister for Environment and Climate Change, Mr Jennings. Victorian government figures suggest that each Bass Coast little penguin generates \$50 000 in tourism revenue annually through the Phillip Island Nature Park penguin parade, with the Phillip Island Nature Park being one of Victoria's major international tourism destinations. Given the above, what research did the government undertake in determining the site of the proposed desalination plant in relation to its proximity to and potential impact on the penguin population along this coastline before this site was chosen, and did this research, if there was any, include consultation with the scientists at and associated with the Phillip Island nature reserve?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I did not quite hear the end of that question, but I assume it was about appropriate consideration and consultation with various scientific authorities in relation to the wellbeing of the penguin species, and, if that is the case, obviously it is a relevant consideration for the Victorian government to be alive to.

As Mr O'Donohue indicated, the penguin population in terms of its viability as a species is very important in its own right. Beyond that, in terms of its ability to attract local and international tourists to Phillip Island, it is a very important part of the Victorian tourism landscape and the viability of the tourist industry in that region. Beyond the biological values, which in their own right warrant examination and understanding, there is potential ongoing economic and social benefit to the Victorian community from this population.

Mr O'Donohue and other members of the chamber would probably be aware of this if, as laypeople, they watch *Catalyst* on television. Recently there was an exposé on this penguin population, including how they travel and feed.

**Mrs Coote** interjected.

**Mr JENNINGS** — As I am doing my paperwork at the end of the night I can actually have the television on to augment my scientific knowledge and my engagement. It is a very worthy program, and I was not at all surprised to see it on *Catalyst* on the ABC. It is a very good scientific program. In fact it showed that the penguin population is quite mobile, moving up and down along the coast and indeed into Port Phillip Bay — I was not surprised to see that either — in pursuing its feeding habits. It is quite a resilient and hardy population. It is capable of great speed in the water, and it travels great distances to ensure that it stays viable.

The reason I give this indication is obviously because Mr O'Donohue is reasonably interested to know how viable the population is, and the evidence suggests that it is a pretty viable population. It is fairly resilient. That does not mean that we should not be mindful of potential threats to it. In fact there should be an appropriate consideration of those environmental values and how we can protect that population as we move forward into major projects. We should make sure there is an appropriate environmental assessment undertaken in terms of the impact on any number of biological values, including this population. From where I sit I am very determined to ensure that there is an appropriate consideration of these matters going forward.

### *Supplementary question*

**Mr O'DONOHUE** (Eastern Victoria) — I note that the minister did not address the substantive part of my question. Can the minister guarantee to the Parliament, and the people of Victoria, that the penguin population, and through it the Phillip Island tourism industry, will not be adversely affected by the operation of the proposed desalination plant?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I do not think Mr O'Donohue was listening, because I talked pretty much exclusively about the range of issues that were in his substantive question and in his supplementary question. His supplementary question did not add any scope to the consideration of what was in his initial question and what was in my answer. It is quite extraordinary. If he reads my answer to his substantive and supplementary,

questions in *Hansard* and is not satisfied that I have answered the questions, he can come back tomorrow.

**Planning: Creating Better Places program**

**Ms TIERNEY** (Western Victoria) — My question is to the Minister for Planning. Can the minister advise the house how the Brumby government is committed to supporting the development of strong, vibrant local communities across Victoria through the Creating Better Places program?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome the question. I know the member is very interested in these programs at a local level, because they do make a significant difference to local communities.

One of the critical elements about people feeling safe, connected and developing a high morale in their community is to have good public open spaces. That is not just about green fields for people to play on and for kids to recreate and play sport on; it is important to have public open spaces of high quality, particularly in public areas like activity centres but also in the form of bike paths and street shopping centres. Those sorts of facilities are particularly important in improving the amenity and the livability of local communities.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I do not know how you can argue with that sort of proposition. It is not a proposition you can argue with. Is investment in local communities and public spaces a good thing? It is definitely a good thing, but obviously opposition members do not seem to appreciate that investment in local communities, in local infrastructure and in public spaces is a good thing. If they listened a bit more carefully, they might even access some of these funds, but obviously they are so bound up with their cynicism, their scepticism and their bitterness that they cannot actually act on behalf of their local communities. If they were to do that, they could apply to round 3 of the Creating Better Places program, which is a significant funding program.

Our government has committed \$13.5 million to the program, and I would encourage opposition members to work with their local communities to try and —

**Mr Jennings** — To meet their local communities!

**Hon. J. M. MADDEN** — To meet and interact with their local communities. I would encourage them, because in doing that they would be able to apply for these funds, and it is very likely that their communities

would get some funds. But of course that is not their priority.

In round 3 of the program, 17 councils will share a \$1.7 million grant allocation. As I mentioned, this is for a range of strategic works — design projects, physical improvement and place managers. This is how we can make a significant difference to public open space — community open space — where infrastructure is needed.

I will give a few examples by reading from a list. There is \$300 000 for Bendigo City Council to build a new ceremonial forecourt in front of the soldiers memorial institute hall and a new public plaza and pedestrian promenade. It is a great proposition. Who can argue with that? I encourage the opposition to apply for some of these funds and encourage their communities. There is \$90 000 for the Latrobe City Council to rejuvenate the Churchill town centre, and I am sure Mr Hall is interested in that, even though he does not seem to be at this moment. There is over \$105 000 for the Whittlesea City Council to develop a strategic plan for the redevelopment of the Epping railway station precinct. I am sure Mr Guy would welcome that.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — How could you argue with that?

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — Of course you will argue with it. Even good news is argued with from the other side of the chamber!

There is \$90 000, which has been particularly well received, for a place manager at the Manningham City Council. I congratulate Mr Tee on the incredible work that he has done with the Manningham City Council to facilitate a great community outcome. That is the contrast, is it not? Local members on this side of the chamber work hand in hand with their local communities in contrast to the cynical, sceptical attitude which we see on the other side of the chamber, which will never help local communities.

Since the establishment of the Creating Better Places program Victorian councils have benefited from 103 grants worth \$7 million for, as I said, bike lanes, wider footpaths, pedestrian crossings, street plantings, landscaping funding and place management to make communities vibrant, sustainable, attractive and safe centres. We are investing in local communities to make Victoria a better place to live, work and raise a family.

We are working with local communities. We know what the contrast is, and it is not a good contrast.

**Coliban Water: board appointment**

**Ms LOVELL** (Northern Victoria) — I direct my question to the Treasurer. I refer to the appointment of Mr Fabian Reid, a discharged bankrupt and Labor mate, to the position of chairman of the Coliban Water board — a multimillion dollar water authority — and his subsequent resignation in disgrace. Was the Treasurer consulted on Mr Reid’s appointment is envisaged in attachment C of the Premier’s guidelines for appointment and remuneration for members of state government boards, statutory bodies and advisory committees? If so, did he support Mr Reid’s appointment?

**Mr Atkinson** — On a point of order, President, I heard Mr Madden refer to the member who just posed that question by her Christian name.

**The PRESIDENT** — Order! I have to say that I did not hear it, but a number of people have suggested to me that the comment was made. I ask the minister if he made that comment?

**Hon. J. M. Madden** — I did, President, and if it assists you, I withdraw the comment.

**Questions interrupted.**

**SUSPENSION OF MEMBER**

**The PRESIDENT** — Order! The withdrawal of the comment does assist me to a certain extent. However, unfortunately it does not absolve the minister from my previous rulings, so I am going to be consistent and ask him to leave the chamber for 5 minutes.

**Hon. J. M. Madden withdrew from chamber.**

**Questions resumed.**

**Ms LOVELL** (Northern Victoria) — I had asked a question for the Treasurer to answer. Does the Treasurer want me to repeat the question?

**Mr LENDERS** (Treasurer) — Ms Lovell asked a question about Fabian Reid, the former chair of Coliban Water. Mr Reid, as Ms Lovell would well know from reading her dated media story, did resign as chair of Coliban Water. He submitted his resignation, and the government has acted and appointed a new chair and a new member of the board.

*Supplementary question*

**Ms LOVELL** (Northern Victoria) — Can the Treasurer explain why the Premier’s guidelines were bypassed in the appointment of the Premier’s mate? What improvements to the Treasury approval process will the Treasurer implement to ensure bankrupt Labor mates are not in a position to handle millions of dollars of public and ratepayers money?

**Mr LENDERS** (Treasurer) — It always amazes me that Ms Lovell likes to use hyperbole and rhetoric, but I find it disappointing that Ms Lovell — —

**Mr D. Davis** interjected.

**The PRESIDENT** — Order! Mr Davis!

**Mr LENDERS** — It is interesting that in the state of Victoria today there are tens of thousands of government appointments to boards. The government exercises the greatest probity, whether it be in relation to the thousands of sewerage authorities or cemetery trusts. Opposition members think they are extraordinarily clever baying like demented hounds on this particular issue, but I can assure the opposition that we have guidelines for those thousands of appointments and that we stick to those guidelines. Those guidelines involve both people filling in forms and a series of other things, and if those guidelines do not actually work on particular occasions, governments deal with them. But the significance here is that the chair resigned — —

**Mr D. Davis** interjected.

**The PRESIDENT** — Order! Mr Davis!

**Mr LENDERS** — The chair resigned and was replaced promptly, and there was a new member of the board appointed promptly. This government — —

**Mr D. Davis** interjected.

**The PRESIDENT** — Order! Mr Davis is warned a third time.

**Mr LENDERS** — Again, the government has dealt with and responded to the issue. If there are particular issues at any time about government procedure and government practice, the government responds to them. Again, I remind members that it was this side of the house that actually made the Auditor-General an officer of the Parliament with scrutiny over government and over every aspect of government, including cabinet papers. We set up an independent Auditor-General to monitor government. This government has put in place

more procedures than any government in this state to hold government accountable and to have independent scrutiny of government. We have set systems in place, and those systems mean we have a far more effective scrutiny of government appointments than ever before. In this particular instance the chair resigned and was replaced, and Coliban Water is under good management and is dealing with an important issue.

### **Economy: performance**

**Mr EIDEH** (Western Metropolitan) — My question is also for the Treasurer. Can the Treasurer update the house on the performance of the Victorian economy, specifically any new findings from Access Economics?

**Mr O'Donohue** — Oh, spare us!

**Mr LENDERS** (Treasurer) — I thank Mr Eideh for his question and take up Mr O'Donohue's interjection. When a question was asked about the Victorian economy and the strength of the economy, Mr O'Donohue said, 'Oh, spare us!'. It just goes to show that the misery-mongers opposite do nothing more than revel in disadvantage and in anything said by gloomsayers and doomsayers. I hope that Mr O'Donohue hangs his head in shame, because I think a strong economy in this state is something every Victorian should aspire to. Mr O'Donohue could take a leaf out of the book of Mr Eideh, who asked the question — a successful businessman who has created jobs in this state and who has not been a nay-sayer.

In response to Mr Eideh's question, the Victorian economy is going well. Our economy is going well.

**Mr D. Davis** interjected.

**Mr LENDERS** — I draw Mr Davis's attention to the *Australian Financial Review*, which ran a story on Monday, 22 October, headed 'Victoria surfs mining boom, New South Wales lags'.

**Mr Guy** interjected.

**Mr LENDERS** — It is a great article. I would actually advise Mr Guy and Mr Davis, and particularly Mr O'Donohue — who does not like anything good about Victoria — to read the article in the *Australian Financial Review*. The article is actually good. The article draws on the latest *Business Outlook* from Access Economics and notes that the resource-rich states of Western Australia, Queensland and the Northern Territory have contributed to the interest rate pressures and the strong Australian dollar. Chris Richardson, the director of Access Economics, is quoted as saying:

Victoria has done particularly well at a time when exchange and interest rate rises might have meant otherwise.

He pointed to government policies in Victoria as one of the key factors underpinning Victoria's economic success. Mr Eideh, as a successful businessman, knows this, and he relishes this and relishes the creation of jobs.

But there is more. Today the September building approval figures were released, and for the 75th month in a row building approvals were in excess of \$1 billion — for the 75th month in a row! Over the last 12 months Victoria had \$18 billion in building approvals — more than any other state.

**Mr Guy** interjected.

**Mr LENDERS** — Again, Mr Guy wants to contrast us with other states. There is no other state in this country that has had more building approvals in the last year than Victoria. It was not the resource state of Queensland, not the resource state of Western Australia and not the large economic giant of New South Wales with a third of the economy, but this state of Victoria. Through the strong policies of the Victorian government we have seen a more competitive tax regime so that companies can do business. I suggest that Mr O'Donohue should speak to Access Economics and go to some of the industry groups and ask, 'What are the drivers for business to come to Victoria? Is it our climate or is it our economy?'

We have business investment here at record levels. What I would also say is imagine how strong our economy could be if we had two extra things: firstly, the whole team rising with the strength, barracking for the state, talking it up and not talking it down at every opportunity; and secondly, a national government that actually provided a fair distribution of revenue to this state and that actually made an effort to deal with some of the infrastructure blockages and invested in human capital. Victoria is a great place to live, work and raise a family and to invest and build, but it could be even better if we had a national government that put its shoulder to the wheel and helped build this great state.

### **Environment: greenhouse gas emissions**

**Mr BARBER** (Northern Metropolitan) — My question is to the Treasurer and is in relation to the National Greenhouse and Energy Reporting Act. Can the Treasurer tell us which state government-owned and controlled entities are going to be required to report under this act?

**Mr P. Davis** — He didn't read that briefing note!

**Mr LENDERS** (Treasurer) — I take up the interjection that I did not read that briefing note. This is a house of Parliament where ministers are accountable, and if I do not immediately know an answer to a question, I will give a general response and take it on notice. I was seeking advice from my learned colleague Mr Jennings, who knows a lot about national emissions trading, and Mr Jennings did not need a briefing note because it is all in his head. He is a wise man.

I will take on notice the detail of Mr Barber's question, but the significance of course is that the more that we in this state are part of an integrated national response to carbon emissions and a national approach to carbon trading, the more effective we will be. This government will always be prepared to implement best practice. It is very keen to be part of that and looks forward incredibly to working in partnership with a Rudd national government, which will advance this cause far more significantly than the incumbent federal government has in the last 11 years.

*Supplementary question*

**Mr BARBER** (Northern Metropolitan) — I would appreciate it if I could get that information. Maybe the Treasurer can tell me now: is VicForests one of them, when will they need to report by, and what programs do they have in place to ensure that they will be ready to report?

**Mr LENDERS** (Treasurer) — VicForests is in my portfolio area. Obviously it is a creature that has arisen out of the Our Forests Our Future program, in which we tried to get the balance absolutely right between the sustainable use of our forests and the importance of jobs in regional communities and a sustainable industry that can provide those jobs. Of course VicForests is at the moment in a difficult position, primarily because 47 per cent of our forests in the Central Highlands and eastern Victoria have been burnt over the last five years.

VicForests is an organisation that clearly needs to look at its own operations, and clearly in consultation with my colleague the environment minister and other ministerial colleagues the government needs to look at the issue of what are sustainable levels of timber yield in an environment where 47 per cent of the forests in the central highlands and eastern Victoria have been burnt over the last five years. We will continue to look at best practice across all parts of the triple bottom line, as Mr Barber would expect.

**Drought: government assistance**

**Mr SCHEFFER** (Eastern Victoria) — My question is to the Treasurer. The prolonged drought is having a severe impact on rural Victoria. In light of this can the Treasurer update the house on any new initiatives that the Brumby government has announced to help ease the burden on Victorian farmers and communities affected by the drought.

**Mr LENDERS** (Treasurer) — I thank Mr Scheffer for his question and his ongoing interest in that critical part of Victoria, regional Victoria and its communities, which are doing it very tough in a time of climate change and drought associated with climate change. The Victorian government is acutely conscious that parts of the state are doing it tough, and what we have sought to do in this particular time of drought is get in place a response across Victoria that best fits the circumstances.

I will start by giving credit to the federal government on this. The federal government came out with a very good drought package, and we as a government wanted to look at its package to see if there were any gaps that we could logically fill. It is probably the largest federal package I can recall that has come forward. So we as a government have gone out and engaged with important stakeholders in regional Victoria.

We have engaged with our farming organisations, with our business organisations, with rural communities and with municipalities. We have had a number of ministers — the Premier, the water minister, the agriculture minister, the rural and regional affairs minister, the community services minister, me, the environment minister; virtually the whole cabinet — out there talking to communities to see what the Victorian government can do specifically to leverage off the commonwealth drought package, in particular in Mr Scheffer's area, to make a difference.

Firstly, we have sought to fill gaps. There have been a reasonable number of areas in farmer support where we have done that. We have been cognisant at every stage that there is a generous federal package and have considered how we as a state, with a far smaller financial base, can fill the gaps. There has been a very good dialogue with a lot of our rural communities on how that can be done.

Obviously state packages will always disappoint people, as will federal packages, in times of crisis like the one we are in, but we have gone out there, and last week the Premier announced a \$100 million program that covers some of those initiatives. In addition to

support for farmers there is support for communities. A lot of this goes to those core issues in a community under stress. What happens is more than economic; the economic times are tough and then the community finds it tough. There is support for farmers, and there are a number of programs. I will not outline them all because what some of those programs are is on the public record, but broadly they are over three areas — farmer support, community support and business support.

Mr Scheffer well knows, as he comes from the Eastern Victoria Region, that eastern Victoria has been hit harder than anywhere else. We had the drought last year, then we had the bushfires and then we had the floods. It just seems that wave after wave of misfortune hits that community. In those areas we know that rebuilding business is often as important as some of the other areas such as community support and farmer support.

We are all guilty of this in some ways: we see a crisis hit a community, for instance, the Gippsland Lakes have a flood, and a lot of well-meaning Melburnians will say, ‘We are not going to go down there and get in people’s way; we will stay away’, which after the initial disaster is in some ways the worst thing possible. It means that the economic opportunities in tourism and in the rest of the community are suddenly strangled because well-meaning people are actually avoiding the place.

Our package is threefold: it contains farmer support, community support and business support, and has been put together in the context of working in collaboration with the federal package. These are important initiatives to assist rural communities in a time of drought and the stress that goes with it, and they are critical to making those communities great places to live, work and raise a family.

**The PRESIDENT** — Order! Earlier in question time a point of order was raised by Mr Atkinson querying whether Minister Madden was in fact answering the question or using question time to make a ministerial statement, and I read to the house the relevant standing order on that matter.

I wish now to also read to the house a previous ruling — the most recent one — with regard to this issue. It is as follows:

The house cannot be deprived of its rights in debating an announcement of public importance just because the minister has chosen to make the announcement by way of an answer to a question without notice.

That ruling was made on 28 May 1991 by President Hunt, and it is still apposite.

## QUESTIONS ON NOTICE

### Answers

**Ms HARTLAND** (Western Metropolitan) — There are a number of questions on notice that are outstanding, including no. 400 regarding an issue in western Victoria; it was asked of Minister Lenders.

**Mr LENDERS** (Treasurer) — I am conscious that we are required to answer questions in 30 days. Normally if a member has an issue, the first procedure is to write to us; then they can raise the issue in the house. I am certainly happy to follow up Ms Hartland’s particular issue, but I was not aware that an answer was outstanding.

**The PRESIDENT** — Order! I inform the minister that Ms Hartland has in fact already informed me that she has both written to him and faxed her request to his office. In other words, she has complied with the procedures that she has to.

## GAMING: PUBLIC LOTTERIES LICENCE

### Debate resumed.

**Mr BARBER** (Northern Metropolitan) — The house should censure the Leader of the Government because of the gaming licences matter. By failing to provide information which the house has requested, the Leader of the Government is obstructing the business of the house. The business that the house is attempting to inquire about is extremely important and relates to a couple of matters.

One of the matters is the integrity of the VCGR (Victorian Commission for Gambling Regulation) processes when making decisions. In the Merkel report only one aspect has been looked at. That aspect relates to the special commission’s advice to the minister. According to my reading of the report, there has not been an examination of the advice given by the original commission before the minister replaced it after receiving its advice. Then the minister went ahead to appoint new commissioners and received a new second lot of advice which we now know, only from reading the Merkel report, gave a different conclusion than the first lot of advice.

This issue also raises a second important matter — that is, the independence of the VCGR. A former

Attorney-General, Mr Kennan, when speaking about previous legislation and the predecessors of the VCGR, said that an independent regulator was 'a cornerstone' — those were his words — of the entire gambling system. That is still the case. However, the problems with the functioning of that regulator and its inability to give advice that the minister can rely on are of great concern. Of equal concern is the lack of independence of the commission. The independence of the commission is also considered to be a cornerstone and is also in question. Conveniently the government is able to argue and to convince not only its own bureaucracy but the VCGR that the matters under discussion cannot be examined because of statutory secrecy. We know something happened; but we cannot discuss what happened due to statutory secrecy.

In the Merkel report — which I have had the chance to read twice and to think about since we last had a debate on this matter — there is no examination of the executive government itself and the role it played. The report examines several arms of the bureaucracy, but it never touches upon a minister, a minister's staff or, to any real extent, the involvement of the ministry and cabinet in the process.

There is a little hint about what might have gone wrong in the process. Mr Merkel addresses what he calls the 'repute issue'. In paragraph 212 of his report there is a reference to section 5.3.4(1) of the Gambling Regulation Act under which the commission effectively made its decision as to who is a reputable person or entity to be given a lotteries licence. He talks about the construction of that section in paragraph 213 of the report, which states:

As discussed above, in considering the question of repute under section 5.3.4(1)(a) in relation to associates who were natural persons, the special commission proceeded on the basis that it was required to balance findings made about the relevant person's character, honesty and integrity against findings made about the person's public repute. For example, in the case of Mr Kokkalis, the special commission's reasoning appears to have been that there was a considerable level of adverse information about Mr Kokkalis in the public arena but that there were many matters which went to support his good character and his repute as a successful businessman. Ultimately, the special commission concluded that Mr Kokkalis's reputation in the media should not outweigh his good character. Consequently, the special commission concluded that Mr Kokkalis was of good repute.

The issue here is that there seem to have been two different views within the VCGR — not to mention the government — as to what represents good repute for the purposes of the act. Mr Merkel has now provided us with another view. Mr Merkel talks about the construction of that view for four pages in his report. Is someone of good repute if they have a good public

reputation or are they of good repute, in this case Mr Kokkalis, because this body investigated him and found that despite whatever might be circulating in the public domain about him, the commission thought he was of good repute?

I would imagine both are important. Not only is it necessary to have people of good repute running gambling licences, but there are also very real and crucial reasons why they would also have to be people with a good public reputation for the confidence of the public in the entire process. It does not seem to me that that issue has been resolved. It is not stated, but it is hinted that that may have been the original source of the disagreement between the Victorian Commission for Gambling Regulation and the government, which led to the VCGR being replaced.

Earlier the Minister for Environment and Climate Change, Mr Jennings, adopted an approach, which it appears to me attempted to atomise the government back into its individual ministers, so that only an individual minister can be held responsible for their individual action. He said, 'What is the cabinet really? Have a look at these documents. You won't find any reference to it'. That is all true. You will not find a lot of reference to the cabinet anywhere in any section of the law, yet it is absolutely crucial to the functioning of our whole system, is it not?

You can go further. Mr Jennings said he is a member of a cabinet and therefore he ought to know. Members should check out the Greg Taylor book we have all been referring to constantly. There is an entire chapter on what constitutes the cabinet and how it works. I have certainly never been a member of a cabinet, but it is quite an interesting dissertation. It notes, of course, that the cabinet is not a legal entity. It also notes that the rules under which this cabinet may function are not published, and Mr Taylor looked around for various hints as to how the cabinet operates. Of crucial interest to me throughout this select committee was whether the decision to issue a gaming licence and the other steps made along the way were made by the minister, which is what the act says, or by a cabinet subcommittee, including, I would guess, the Premier and the Treasurer.

This brings us right back to the issue of collective responsibility. Why do we have a cabinet then? Mr Jennings tried to downgrade it, but why do we have a cabinet when anybody can read the Gambling Regulation Act to see that it is the minister who makes the decision? That would make for quite an interesting discussion. The shorthand version is that the Governor needs to have confidence that the minister coming to him is in fact speaking on behalf of the entire

government and is not going to be contradicted by some other minister somewhere along the line. For the Governor to be able to ensure that the process of government is going to continue it is essential that we have a cabinet, because without the confidence of the cabinet the minister would not be there. We all know that. If the Premier wanted to get rid of the minister, he would.

It is nowhere near as easy as Mr Jennings tried to make out to scrub out collective responsibility, and that is exactly the basis on which this motion has been put forward. The Treasurer is the representative of the government in this house for a whole range of matters, and there can be no question that this involves the collective decision of the government not to provide these documents. In fact he as much as hinted at that when he said he is operating on the Attorney-General's advice. He is already sharing responsibility with other ministers around the place.

Mr Hall made a plea for a resolution to this issue. He suggested that a resolution could be made through the court system. I think I have also said on a number of occasions in this house, and increasingly recently, that I also want a resolution to this matter. My preference is for a negotiated mechanism, perhaps an informal one, whereby the government is willing to offer more accountability than it has been willing to do so far in return for an avoidance of at least some of the negatives that the government points to. To my mind the only one that is of significance is the question of the public interest in disclosing these documents. If the government wants to have a discussion about the public interest in disclosing these documents versus keeping them secret as against the government being more accountable, then I would be happy to engage in that discussion. I have stood up here on my feet a couple of times and asked for that to occur. It certainly has not occurred with any member of the Greens, and it has not occurred throughout the processes of the select committee, but that is an additional way for the government to resolve this, and possibly the legal questions will be resolved at some other stage down the line. We have all got plenty of time.

A crucial issue for me is what was the issue with the VCGR's initial recommendation, with those commissioners having subsequently been replaced and a new recommendation having been brought forward, which resulted in a new conclusion. That is not at all clear from the Merkel report, as comprehensive as it is. I remind members that not only did the Greens support the establishment of a select committee, but they also established the creation of the Merkel special panel, as the members called themselves. Without our support it

would not have been created. What was the problem with the VCGR's initial application? Why did the second one vary from it? Is the act itself in a fit state to ensure that people awarded licences under the act are people of good repute and suitable? Who else had access to this information?

We now read in the Merkel report that dozens of individuals not just inside the commission but also across the ministers' offices — not just ministers but people in their offices — had access to the Solicitor-General's advice, which the Merkel report tells us contains elements of the recommendation. By my reading it seems that a large number of people outside the VCGR effectively knew what the recommendation was — the one that was supposedly only going to the minister for his decision. In fact it was contained in the legal advice that was circulating generally, subsequent to which the government somehow — we do not know who it was; perhaps the minister's cabinet subcommittee; we do not even know the names of the individuals — decided that we were going to start all over again to try to reach a different conclusion. That in essence is what happened. I have not seen any information to contradict that. In relation to so many areas I have not seen any information at all.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — This is the third time this house has had to consider the issue of the presentation of these documents, which Philip Davis's motion seeks today. I have to say I think it is regrettable that this is the third time we as a house are considering this matter following the initial order of the Council in September and the original order of the Secretary of the Department of Premier and Cabinet. The fact that this is the third time this house has considered this question is entirely the making of the government. It reflects the government's attitude to this process, being the request for documents, the operation of this select committee and the operation of the other select committee. Indeed it reflects the government's attitude to the operation of this house. We heard from the Deputy Leader of the Government in his contribution this morning some very lofty principles being espoused about the operation of cabinet and government, his obligation to the cabinet and the obligation of other ministers to the cabinet. What this issue is really about is the government's reluctance or reticence to cooperate with an inquiry that it does not control.

It is that underlying theme that has weaved its way through everything the government has sought to do in this place since the election last November. As regrettable as it is that we have to approach this question for a third time, I have to say that in my mind

it is not surprising because the government's position has been consistent. It does not want to cooperate with any process or investigation when it does not control the outcome. That flies completely in the face of the rhetoric of the former Premier, it flies completely in the face of the rhetoric of the current Premier and indeed it flies completely in the face of the rhetoric of the Leader of the Government, who is regrettably the subject of this motion this afternoon.

In his contribution the Deputy Leader of the Government spoke at some length about ministerial responsibility. He spoke about a minister's oath not to disclose certain matters discussed in cabinet and to act with collective responsibility in terms of decision making. Mr Jennings sought to use his view of ministerial responsibility and his obligation as a cabinet minister as the grounds on which these documents that are being sought under this motion should not be provided to this house. In response to that the key point I would like to make is that none of the documents which are sought by this motion today and which have been sought by the previous two orders of the Council are in any way cabinet documents and in none of the responses that the government — either the Leader of the Government or the Attorney-General — has made to this Council —

**Hon. T. C. Theophanous** interjected.

**Mr RICH-PHILLIPS** — No, they are not, Mr Theophanous. None of these documents that are sought by this motion is a cabinet document. They are all documents produced by the department and held in the department, and neither the Attorney-General nor the Leader of the Government has even sought to claim that they are cabinet documents. I think that is one of the things that both sides of this house are in agreement on, that this is not about cabinet documents, and while Mr Jennings talked about the obligations of ministers not to disclose cabinet deliberations and cabinet matters, that is not relevant to the consideration of this matter today or consideration of the previous two orders of the Council.

Another point the Deputy Leader of the Government made was that it is inappropriate for this motion to come forward today seeking to censure the Leader of the Government because the Leader of the Government is not responsible. I think Mr Jennings's proposition was that the Leader of the Government, although he did not spell it out like that, is not the Minister for Gaming and therefore cannot be held responsible for these gaming documents. I have to say that that flies in the face of Mr Jennings's earlier argument about the collective responsibility of the cabinet, which is a point

Mr Barber made in his contribution. Mr Jennings frankly cannot have it both ways. He cannot say, 'As ministers we have a collective responsibility to the cabinet not to disclose certain matters and not to do certain things, yet we are individually responsible and there is no collective responsibility'. So there can be collective responsibility for cabinet members when it suits the government and no collective responsibility when it does not.

That is an important point in this motion and in this debate, because Mr Davis's motion does not seek to censure John Lenders as an individual. It does not even seek to censure John Lenders as Treasurer. The reason this motion relates to the Leader of the Government is as the representative in this place of the government, because the failings in this matter — the refusal to comply with the order of this Council made in September and the refusal to comply with the order of this Council made earlier in October — are failings of the government, not failings of John Lenders. This motion seeks to hold the government accountable through its representative in this place, the Leader of the Government, and it is incidental that the person this censure motion attaches to is John Lenders. This is about the failure of the government and the collective responsibility of the ministers in this place, through their leader, the Leader of the Government, in failing to respond to that first order of the Council of 19 September and the subsequent order of 10 October.

I do not intend to go back over in detail the issue relating to the specific documents, having made the point that none of them is a cabinet document, but I will touch on the issue of the documents that were tabled by the Leader of the Government yesterday, because Mr Jennings in his contribution attempted to say, 'The government has been cooperative, the government has supplied some documents; they are not the documents that were ordered by the Council in its two previous resolutions, but it has provided the documents it can'. I have to say, having had the opportunity to consider those documents that were tabled yesterday — roughly 50 pages of documents — it is in my view a gross discourtesy to and a gross contempt of this house that the government would bring in the documents that were tabled by the Leader of the Government yesterday and attempt to suggest that the government had in some way been cooperative with the Council or cooperative with the select committee in providing documents of use to that select committee's deliberations.

What we have in this wad of documents that were tabled by Mr Lenders yesterday is a copy of the invitation to short-listed applicants to apply for a lotteries licence. It is a document that tells the

applicants what they need to put on their application form. It in no way provides the house or the committee with any insight into the deliberations of the government in arriving at the decision which was announced two weeks ago and which is the subject of the select committee's inquiries.

The second document that was presented by the Leader of the Government was a pro-forma application form — a blank form with spaces for an applicant to fill in their particulars relating to their lotteries licence application. Again, it in no way provides any insight into the deliberations of the government in arriving at its decision on the lotteries licence and in no way provides the committee with any assistance in its deliberations, and so it is with the other five or six documents that were presented by the Leader of the Government yesterday.

We have a copy of the probity plan that was prepared for the lotteries licence process. It is fantastic to have the probity plan, but unless you know how it was implemented in a practical sense, it is completely of no value to the inquiry's deliberations. We have what are described in Mr Lenders's letter to the Clerk as sign-offs by various advisers to the Lotteries Licence Review Steering Committee of the Lotteries Licence Review Steering Committee final selection report.

A reading of Mr Lenders's letter would suggest these are substantial documents commenting on the probity matters that those particular advisers considered. In reality they are pro forma statements, all of which read:

The information provided in the LLR Steering Committee final selection report is consistent with the analysis, findings and conclusions provided in our reports to the gambling licences review.

The statements are signed by the respective officers who are named in Mr Lenders's letter. There is absolutely nothing in those documents, each of which is regarded as a single document, that provides any insight into this process, that provides the committee with any insight into what occurred in arriving at the result announced two weeks ago. It is in my view an absolute contempt for the government to come in and say, 'We have given you all these documents. You should be satisfied with them', when not one of them gives any insight into the deliberations that took place in arriving at the decision that was announced two weeks ago to award the lotteries licences.

The other issue that I would like to touch on is that of the Merkel report and the sign-off by the probity auditor. It was submitted by the Minister for Environment and Climate Change, Mr Jennings, and,

by interjection, Mr Pakula, to the effect that the Merkel report has found this process to be clean. Mr Jennings said, 'The probity auditor has signed off on the process, and therefore the Legislative Council should be satisfied'. My response to the government on those points is that the requirement laid down by this Council to the Select Committee on Gaming Licensing was to inform itself as to various matters relating to the lotteries licence and to form its own view on the probity of the process.

We were not directed as a committee to go along with Merkel's decision or opinion. We were not directed as a committee to merely pick up on the Pitcher Partners assessment of the probity of the process. We were directed by the house to form our own view on the probity of this process of the lotteries licence allocation. It is not for the government to merely say, 'These other people have signed off. You should accept that'. If the committee did that it would be a derogation of its duty. The committee was charged with investigating these matters, and it has been the committee's intention to do that, despite the continuing frustration by the government.

These reports that Philip Davis's motion seeks this afternoon are absolutely central to determining what has occurred with the lotteries licence process. It is apparent to anybody who has read Mr Merkel's report that these reports are central to this process, including the fact that, as Mr Barber pointed out, recommendations were changed between the first set of reports and the second set of reports. They are absolutely fundamental to the inquiry that has been undertaken by the select committee. The government has failed to provide any sound argument as to why they should not be provided to the select committee.

On that point I would like to pick up a reference in the letter from the Leader of the Government, Mr Lenders, to the Clerk that was tabled yesterday. In it Mr Lenders argued a number of points as to why the government should not supply these documents. One of them, to quote the second paragraph on the second page, is:

To provide this information would send a clear message to business, individuals, law enforcement agencies and other regulatory bodies that the information they provide in confidence could be handed over to members of Parliament that are more than willing to use the information for their partisan political agenda rather than for genuine probity purposes.

You have to say, firstly, that reflects the government's attitude towards this Council and its committees; and secondly, it completely reflects a misunderstanding of how this process actually works. If these documents are

supplied to the Clerk of the Legislative Council in accordance with the order first made on 19 September, these documents are not public documents. The government has already indicated that it is claiming executive privilege with respect to all of these documents. If these documents were surrendered to the Council in accordance with the order, they would be in the custody of the Clerk and they could be inspected by only one member of the house, and that is me, as the person who moved the original motion on 19 September, and they would be subject to review by an independent judicial officer so as to test the government's claim of executive privilege. So in complying with the order these documents would not, as the government claims, be in the public domain.

I can only assume from Mr Lenders's letter that his reference to using them for a partisan political agenda rather than for genuine probity purposes is a personal reference to me, because I am the only person in this chamber who would have access to those documents, if they were surrendered under the order of 19 September.

**Hon. T. C. Theophanous** — You might accidentally tell David Davis something. Then all of us would have a problem!

**Mr RICH-PHILLIPS** — To pick up Mr Theophanous's interjection, I think that is highly unlikely.

**Hon. T. C. Theophanous** — What? You telling him or him making it public?

**Mr RICH-PHILLIPS** — I am sure Mr Theophanous does not intend to impugn me by suggesting I would tell Mr Davis the contents of these documents.

**Hon. T. C. Theophanous** — I said 'accidentally'.

**Mr RICH-PHILLIPS** — But, as a serious issue, only one person would have access to these documents, and they would be subject to a review by a judicial officer as to the government's claim of executive privilege.

I also make the point that in that paragraph Mr Lenders says that they could be handed over to members of Parliament, which technically is incorrect. But even if it were correct, it ignores the fact that these reports and the applications from which they are derived were prepared in the knowledge that they would be available for review by the Parliament. The documents that applicants were required to submit make it very clear that these documents may be subject to review by the Parliament or a committee of the Parliament. For that

reason we find it extraordinary that the government has spent so much time and effort attempting to prevent the presentation of these documents to the house when it clearly intended in the drawing up of the specifications for the applications that they be available or may be available for review by the Parliament. It clearly states in the bid document that all bidders were required to sign up to that their applications may be subject to review by this Parliament or its committees.

I return to the issue of collective responsibility and the point Mr Jennings made that it is inappropriate for this action to be taken against the Leader of the Government, Mr Lenders, because he is not responsible. At page 1 of his letter to the Clerk, Mr Lenders in fact seeks to rely upon his position as a member of the cabinet, where he states:

As a member of the executive government I am bound to act consistently with the claim of executive privilege.

So Mr Lenders makes it clear that he regards himself as having a collective responsibility for the government. He is not acting and he does not regard himself as acting as an independent minister, as the Treasurer only responsible for Treasury matters. He clearly indicates through his letter that he accepts he has collective responsibility for the decisions of the government. It is for that reason that it is Mr Lenders, the Leader of the Government, who is named in this censure motion today.

I will conclude where I started. It is regrettable that we actually have this motion before the house today. It is regrettable that this is the third time the Council has had to seek an order for the presentation of these documents. The Council has received legal advice that indicates it is acting within its capacity in seeking these documents. It has received legal advice that refutes the arguments claimed by the government with respect to these documents. But it is entirely appropriate that this Council seeks to hold the Leader of the Government accountable for the refusal of the government to respond to a likely third order with respect to these documents. I can only hope, if the government is as committed to its leader collectively as it suggests it is — the cabinet as a whole — that it will reconsider its position and reconsider its decision to repeatedly obstruct and fail to cooperate with the Council and its committee and supply the documents by 5 November, as requested in the motion.

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I rise to oppose this motion. In so doing I agree with one of the comments that was made by Mr Rich-Phillips — that is, it is unfortunate that this motion has come before the house. I believe it

is unfortunate because the motion has been ill-considered by its proponents and by those who seek to support it.

It is ill-considered because of a number of factors, which I will go through presently, but let me begin by saying that if you look at the structure of the motion, it specifically says that it seeks to bring the Leader of the Government to account for his refusal to comply with the Council's resolution to table documents relating to the public lotteries licence, as specified in that resolution.

Arguably, as the Leader of the Government indicated in his letter to the Clerk, he is not in any case the person who is responsible. I heard the argument from Mr Rich-Phillips about collective responsibility, who is responsible, and so forth, but the fact is that no matter which way you look at it, the particular documents that are being requested are not in the possession, custody or control of the Leader of the Government in the Legislative Council. They are not in his possession, he does not have the documents and they are not in his control, because these documents are not documents of a department or statutory body for which he is responsible, so he does not have the documents.

Somebody else within government, not the Leader of the Government in this instance, would have to make the decision to provide the documents; he does not directly have responsibility for or possession of the documents. In that sense the motion is ill-directed in the first instance. It is not good enough to say there is a kind of collective responsibility and therefore the Leader of the Government should somehow be brought to account, but I will come back to this.

The issue here is also partly addressed, and I noticed that Mr Rich-Phillips read from the first page of the Leader of the Government's letter in relation to executive privilege and him being consistent with executive privilege, which I do not think was the same point as the point that Mr Rich-Phillips was trying to make about combined responsibility; the point in the letter is more about his responsibility as a member of the executive, which is a different point altogether to the one that was made by Mr Rich-Phillips, who I think has misinterpreted that particular aspect of the letter.

I point out that the letter goes on to say one other thing immediately after that comment. It goes on to say:

... every document that would fall within the terms of the resolution was created or received in the performance of functions under the Gambling Regulation Act 2003, which is an act of Parliament passed by both houses of the Parliament

of Victoria and having received royal assent; those documents are in the possession or control of 'regulated persons' —

under the act. It states further:

Many of the documents that would fall within the terms of the resolution also contain 'protected information' —

under the same act.

If it is the case that there is an act of Parliament, and that act of Parliament was created by both houses of Parliament, and that act of Parliament has provisions within it which specify that there is something called 'protected information', and it has provisions within it which say that there is something called a 'regulated person', it is not possible or legal, I would contend, for one house of Parliament to seek to override a law created by both houses of Parliament. I would contend that that is outside the power of a particular house of Parliament.

What a house of Parliament could do, and what it would be open to Mr Rich-Phillips and everybody else in this chamber to do, would be to introduce an act of Parliament which sought somehow to annul the categories of regulated persons and protected information within the Gambling Regulation Act 2003. If an act of Parliament was introduced which abolished that section of the act and said that all documents that were produced as a result of that section of the act would now not be protected information and would not be under the control of the regulated person, then that would be different. That is where the two houses of Parliament then would have to agree about changing the law.

**Mr P. Davis** — Is this your legal advice or is it your opinion?

**Hon. T. C. THEOPHANOUS** — This is my speech. I know that logic is not something the Leader of the Opposition is especially interested in.

**Mr P. Davis** — Indeed, that is all I am interested in, and I will respond to you in due course.

**Hon. T. C. THEOPHANOUS** — But I am interested in logic as I am interested in process. For instance, let me put this to you by way of a hypothetical situation. If this house of Parliament, as one house of Parliament, decided to pass a motion, and in that motion it demanded that somebody act illegally with reference to an existing act of Parliament, and if it passed a motion saying, 'This house of Parliament wants you as an officer or as some other person to act illegally', it would not have the power. It could do it, it would certainly have the power to pass that motion.

However, I put it to you, Acting President, that the person to whom it is directed would equally have the power to say, 'You cannot as one house of Parliament direct me to act illegally, to act outside the law. You cannot do this. You can as a house of Parliament change the law if you get the consent of the other house of Parliament, but you cannot simply direct me to ignore the law'. Mr Barber should consider this very carefully, because I know he is concerned about accountability issues. If we allow this to happen, there will come a time when people could potentially be directed to break the law. This house can change the law. If you do not like the law, you have the opportunity to come in here, introduce a bill and change the law — but that requires both houses of Parliament to agree. This is a very important question of principle. I think this is something Mr Rich-Phillips would understand; he would understand that there is this line. The question is: has the committee crossed this line and does the motion cross it?

**Mr Rich-Phillips** — No, it does not.

**Hon. T. C. THEOPHANOUS** — It depends, Mr Rich-Phillips, on whether you think if the Leader of the Government were somehow to acquire this information against the wishes — understand this: against the wishes — of a regulated person — —

**Mr Rich-Phillips** — Not their wishes.

**Hon. T. C. THEOPHANOUS** — Well, a regulated person says, 'I do not want to give this information out and I have protection under an existing act of Parliament'.

**Mr Rich-Phillips** — Only if they have that protection, and that is where we differ.

**Hon. T. C. THEOPHANOUS** — Well, the act is clear that there are regulated persons and that there is protected information. Under either category you cannot have a house of Parliament saying, 'We do not care what an act of Parliament says; we want you to act irrespective of that'. That is the problem. I challenge Mr Rich-Phillips to come in here with a bill that says, 'We want to change the Gambling Regulation Act 2003 in order to allow that to happen'. That is what he should do, and then have the bill tested. It may well get past this house, but — guess what? — it has to get past both houses of Parliament. That is the whole point and basis of law-making. I contend that this motion moved by Philip Davis shows that the opposition has not thought through the implications of what is proposed here.

Beyond that I will make some additional points in relation to the work of the Victorian Commission for

Gambling Regulation and the type of information that might be at risk in this instance. The commission is required to do a number of different things in getting information. It is required to obtain the fullest information it can in order to identify and exclude persons, for example, of dubious character and reputation from the privilege of obtaining a licence to conduct gaming. Surely the information obtained about that person should not be allowed to be put out publicly.

In fact I contend that if such information were allowed to go out in that way, the commission would be severely constrained in its capacity to do its work. For example, the commission may use police informers in identifying and doing background checks on particular individuals and so forth. Will the identity of those police informers be protected? I do not know; I certainly would not want to try to find it. The act specifically says that the identity of police informers must be kept secret in the public interest.

**Mrs Coote** — Unless you have a law enforcement assistance program file.

**Mr Guy** — Or you are a Liberal candidate.

**Hon. T. C. THEOPHANOUS** — You can make light of it if you like, Mr Guy, but this is a serious issue. This is not about your preselection processes or the membership of the Liberal Party; this is about — —

**The ACTING PRESIDENT (Ms Pennicuik)** — Order! Mr Theophanous should direct his comments through the Chair.

**Hon. T. C. THEOPHANOUS** — This is very serious. Information — for example, information provided by the police — may come from sources that must be protected. There are documents that have only come to light because applicants have asked for privilege in order to provide that information to the commission. All these issues were taken into consideration in forming the legislation and in providing in that legislation for protected information. These are the issues that were taken into consideration by both houses of Parliament when they agreed to the concept of protected information and regulated persons. When you look at this from an accountability point of view, it is very clear that it was the wish of both houses of Parliament in passing the Gambling Regulation Act 2003 that this information not be made public in a way that is proposed by the motion before the house.

I strongly urge people who want to think about these matters a little bit deeper, rather than simply acting politically in relation to this committee, to consider the

implications of what is being proposed by the motion. The implications of the motion will not increase accountability at all.

Accountability is formed in this house by the passing of acts of Parliament, and an act of Parliament was passed which provided for protected information. It was passed by both houses of Parliament. You cannot then have one house of Parliament, which does not like an existing act of Parliament passed by both houses, simply coming along and saying, 'We do not care what an act of Parliament says. We do not care about the legal requirements for protected persons. We do not care about any of that. We are going to try to impose our will irrespective of accountability'.

I have to say in summing up my contribution to this particular debate that the Greens should really think about how they are acting in concert with the Liberal Party in relation to some of these matters. They are not considering adequately their responsibility in relation to thinking clearly through the issues in relation to these matters. This is not simply a matter of the upper house of a Parliament having the power to go and investigate things. These are powers the Senate does not seek to have. No other upper house of Parliament goes around trying to overcome existing acts of Parliament and forcing people to do things where they have protections — —

**Mr Rich-Phillips** — We do not accept that argument.

**Hon. T. C. THEOPHANOUS** — They have protections under an existing act of Parliament, Mr Rich-Phillips; that is the situation.

I would say to the Greens that they should think about the history of the Liberal Party and its record in these matters before they make decisions to go along with its plans. This is the political party that was prepared to go down the road of nobbling the most important person for accountability in this state — the Auditor-General. The Liberal Party had control of both houses of Parliament, so accountability and the capacity of anybody to say no to their propositions did not concern them. Liberal Party members came into the house and passed motions to nobble the Auditor-General.

**Mr Rich-Phillips** — Tell us about the last four years!

**Hon. T. C. THEOPHANOUS** — I remember the debates very well, Mr Rich-Phillips. I remember being on the public accounts committee and how appalled we all were, including the then chair, Bill Forwood, who was himself nobbled by then Premier Jeff Kennett in

relation to this issue. He wanted, and in his private moments certainly was honest enough to say — —

**Mr Rich-Phillips** — Let us keep them private.

**Hon. T. C. THEOPHANOUS** — 'Let us keep them private' — I will respect that as well, Mr Rich-Phillips, but I think nevertheless that people understood just how regressive and how much against the public interest it was to try to remove the Auditor-General as an officer of the Parliament and as the person who had the right to go and get documents, to look at all the documents he wanted to look at throughout government and so forth.

That is the record of the Liberal opposition. In government the Liberal Party was prepared to nobble the no. 1 person for accountability in the state, the person who has access to as many documents as he wants and can scrutinise whatever he wants — because everyone has confidence in the independence of the Auditor-General. The problem with this particular motion and this particular committee is that it is not an independent committee as such. It is a committee made up of individuals from political parties who have an interest — a party interest.

Mr Rich-Phillips seeks to paint himself as somehow a person who would put the public interest first, not his party's interest. That may well be the case; I am not going to denigrate Mr Rich-Phillips's integrity in this matter. However, this is also a question of precedents. It may not be Mr Rich-Phillips's concern. Just imagine the horrific circumstance where Mr Rich-Phillips for one reason or another was not able to take up his responsibilities within that committee, and suddenly the position we are talking about was held by David Davis! We all have to think about these contingencies! I do not know about Mr Barber but — —

**Mr Atkinson** — On a point of order, Acting President, I think the minister has reflected in a way that is inappropriate on Mr Davis, who is not in the chamber to hear and respond. On his behalf I believe that objectively the comment reflected on Mr Davis's integrity and ought to be withdrawn.

**The ACTING PRESIDENT (Ms Pennicuik)** — Order! I think I agree with that point of order, and I encourage the minister to withdraw the comment.

**Hon. T. C. THEOPHANOUS** — I was about to make a comment on the point of order, Acting President, and I ask you to hear that comment before you make your ruling. I would encourage you to consider carefully the comments I made. I had asked the house to consider the possibility that it may not be

always Mr Rich-Phillips holding this position. This was a legitimate point for me to make — that it may not be Mr Rich-Phillips. I am happy to say there could be any number of other people — —

**The ACTING PRESIDENT (Ms Pennicuik)** — Order! I did consider that, and I encourage Minister Theophanous to withdraw his comment.

**Hon. T. C. THEOPHANOUS** — In deference to you, Acting President, I will withdraw the comment, but I must say that I do not agree with the ruling that you have made.

**Mrs Peulich** — That is reflecting on the Chair and that is unparliamentary.

**Hon. T. C. THEOPHANOUS** — No, I have that right.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Ms Pennicuik)** — Order! I am advised that Mr Theophanous should not reflect on the Chair. I did consider it. I have asked him to withdraw it, and I will not have any further comment on it.

**Mr Atkinson** — On a point of order, Acting President, the minister should therefore withdraw the remark that he made that was a reflection on the Chair.

**The ACTING PRESIDENT (Ms Pennicuik)** — Order! I think we should just drop that matter. Mr Theophanous has withdrawn his comment, and we should continue.

**Hon. T. C. THEOPHANOUS** — In making the point that I wanted to make in relation to this issue I indicate that I did not want to reflect on Mr Rich-Phillips's integrity. The picture that Mr Rich-Phillips painted was that he would be the only one who would see these documents. If it were true that he would be the only one who would see them, my counterpoint to that first of all is that he may not be the person. He is asking the house to accept his integrity. That is what he is asking in the comments that he made, because he is saying, 'I am a person of integrity and therefore this should be allowed for that reason'.

The problem is that a precedent is set, and that is the point that I wanted to make. It would not be the case that on every occasion that this principle was applied we would then be able to come into the house and debate the integrity of the person to whom the documents might be applied. There are any number of other people to whom the documents might be given in

the future. We do not know who they are, and we therefore cannot judge whether they would be suitable persons of integrity to give these documents to.

But beyond that, let me put another point to Mr Rich-Phillips, and I am sure it is one that might have occurred to the Greens. I do not know how you have a circumstance where you have a committee and one person from that committee gets the right to look at documents but nobody else on that committee gets the right to look at the documents. I can tell you one thing, Acting President: if I were on that committee I would never agree to such a circumstance, because it would be an abrogation of the rights of the committee members themselves. What they are therefore doing is giving carte blanche to one member of the committee to go in and look at documents and make decisions on behalf of the whole committee.

I do not know how that would work in these circumstances, and I am sure there would be plenty of pressure on Mr Rich-Phillips as the person involved to go back and report to the committee and tell them exactly what he saw in those documents. It is at the committee level, where he goes back and tells people what was in the documents, that a whole lot of other people suddenly find out about things that may or may not have been in the documents. It is at that point that suddenly the circle opens up to a much larger group of people. I do not know whether Mr Rich-Phillips is prepared to give guarantees for every single person on that committee that he might tell something about the document that he sees. I do not know whether he is prepared to do that. Maybe he is.

You cannot put into that situation and at risk a whole lot of people who have provided confidential information under statutory requirements and who believed the information was protected information and who are regulated persons under the act. To put them into that kind of circumstance and that sort of danger is just patently and obviously inappropriate.

This motion is not about increased accountability of the government. This motion is about the failure of the people who have moved it to understand how it runs counter to the most important accountability that we all have — that is, the ability of the two houses of Parliament to pass acts of Parliament which apply to and must be abided by individuals in our community, by members of Parliament and by ministers themselves. On that basis, the government completely rejects this motion.

**Mr ATKINSON** (Eastern Metropolitan) — The Minister for Industry and Trade has led some interesting debate in his contribution.

**Hon. T. C. Theophanous** — I am worried about you.

**Mr ATKINSON** — I know why. Mr Theophanous's contribution certainly requires a response to some of the points that were raised, but I reject most of the assertions that he has made in the course of this debate. If one were to take some of his arguments to the full extent, then the absurdity of those arguments would be revealed. Just to take the final point that Mr Theophanous returned to of the importance of acts of Parliament in terms of determining an accountability within the Parliament, I suggest that is a rather extraordinary claim to make. That you achieve accountability by the mere fact that you pass an act of Parliament seems a rather extraordinary notion.

You can pass as many laws as you like and for as long as you like, but that does not in any real sense achieve accountability. You certainly need acts of Parliament that outline what the accountabilities of a minister or a member of Parliament ought to be, but the actual accountability is achieved only by scrutiny of the discharge of those responsibilities under an act of Parliament. Without any scrutiny of the discharge of responsibilities provided under an act of Parliament there is effectively no accountability at all. We would be relying entirely on one person — the person who was exercising their powers under legislation — to determine what the accountability level would be.

Mr Theophanous discussed the Auditor-General — and I might revisit history, because I note that the government is fond on frequent occasions of rewriting history — and I point out that one of the things the Kennett government did with the Auditor-General was ensure that he reported to the Parliament. Prior to that the Auditor-General's reports came through the Premier's office. On the subject of the accountability and protection of the Auditor-General, I understand the debate that was held at that time, which has raged since among people who enjoy the theory of these debates. It has been said that the Auditor-General was nobbled, but I would suggest to this Parliament that one of the real protections that was given to the Auditor-General that did not exist before the Kennett government made its changes was to allow the Auditor-General to report directly to Parliament. As I said, previously he had reported through the Premier's department.

We can argue about other aspects of the jurisdiction and resourcing of the Auditor-General and whether or not that achieved the level of independence that I think all members of Parliament would hope the Auditor-General would have had, but the reality is that that reporting to Parliament, I think, was a fundamental privilege afforded to the Auditor-General — and it is a significant protection. I acknowledge that the government has subsequently included him as an officer under the constitution, and that gives even greater protection to that office. I acknowledge that — it was an important move — but the reality is that that reporting mechanism ought not be lost in attempts to rewrite the history of Parliament to suit the Labor Party.

I was going to say that the minister actually referred to accountabilities, and I suppose in his introducing of the Auditor-General as part of his debate he would see that the Auditor-General clearly has a role in achieving that accountability under legislation, and I acknowledge that. But one of the interesting things about this government is that in its moves towards implementing proportional representation — in the last Parliament as much as in this Parliament — it has been very keen to polish and show off its medals in terms of its democratic principles, the restoration, if you like, of some vigour to this house and the provision of an opportunity for it to be a house of review in the truest sense. Therefore I find it rather extraordinary that on every occasion on which this house tries to exercise the privileges and responsibilities that the government says it has, there are roadblocks and attempts to stop this house achieving that result.

Before I comment on the argument put by Mr Theophanous, I hasten to add that I make no reflection personally on the minister named in this motion, the Leader of the Government. My point of view is that this minister is put in a very difficult position because he does have, particularly given his experience in both houses of Parliament, an understanding of this institution of Parliament, its workings and the importance of this house acting as a house of review. My view is that this minister has considerable personal integrity. The motion is not about him personally, but I think that it is very much at the core of the minister's responsibility as the representative of the government in this house and indeed as the Leader of the Government in this house.

I find it preposterous that Mr Theophanous would suggest that the government would try to hide behind the premise that because the documents sought by a select committee do not specifically reside in his department or under his specific jurisdiction, they are therefore for some reason quarantined. That proposition

was put to this house in Mr Theophanous's contribution to the debate, and I reject it utterly. That is a ridiculous notion. Whilst I appreciate that Mr Lenders does not have direct line responsibility for the documents that are sought by this select committee, as I understand them from the motions and debate that has been previously put to this house, there is no doubt that, in his responsibility as the Leader of the Government, he has carriage of those documents in terms of compliance with the requests or the recommendations of this house.

There was some contradiction in the argument put today by Mr Theophanous on the release of these documents. On the one hand he was saying that it was inappropriate that the documents should be provided by the government because they would become public documents. On the other hand he proposed that the documents would be in the hands of only one person, perhaps, or too few people, and that those people might in some way be inappropriate in their use of the information contained in those documents, or that that person or those people might certainly not be representative of all of the people on the committee and perhaps not discharge the full responsibility that might have been expected of committee members in the select committee. There was this contrast between on the one hand saying, 'We do not want to release them because they are public documents', and on the other hand saying, 'We do not want to release them because a particular person is going to get them or might get them'.

I think that proposition is wrong on both counts. What we need to understand is that we, as members of Parliament, and indeed those people who are elected and are fortunate and privileged enough to become members of the executive, all carry privileges and responsibilities, and those privileges and responsibilities relate first and foremost to the public interest. To suggest that MPs — particularly members of a select committee that has been duly constituted by this house — should be denied access to information that is relevant to the line of inquiry that has been established by this house because it is thought they may use information for political purposes is an unfair, unwarranted and inappropriate position for the government to put. Indeed one might well say that ministers of the Crown, parliamentary secretaries and government backbench MPs also have, in many cases, access to information which is not generally available to other members of the house, to members of the public or to the press and which is privileged information, and suggest that those people might also be in a position to misuse that information.

We need to establish the integrity — the high ground, if you like — of this Parliament and expect that our members will behave honourably and properly in the use of certain information that comes before them, in discerning the importance of that information and in respecting the confidentiality of that information. I do not think there is a conflict between their having that information and discharging the responsibilities that have been set for them by this house by way of the select committee. I certainly believe that if members, whoever they may be, misuse information that is available to them by virtue of their privileges and responsibilities as members of Parliament, then woe betide them. They should face the full censure of the Parliament, because that is inappropriate.

In many ways this debate is certainly about precedent. This house has never been a hung house — this is the first time that minor parties have had a role in this house. I acknowledge that that was brought about through the introduction of proportional representation, and as I have argued a number of times, including as late as yesterday, the government seems quite happy to press the fact that it introduced proportional representation and expects homage from the minor parties, whose members have had the opportunity to plant their backsides on these red velvet seats.

In other words, the government is saying to them, 'You are welcome here, and it is terrific that you are here, but please toe the line, please do not have an alternative opinion and please do not exercise the rights and responsibilities that you have under statute and under the constitution to scrutinise government and perform your duties as a member of the house of review'.

This is about precedent, because indeed we are talking about issues that will possibly go to the powers of this house on other matters in the future. Whilst there may be those who think that the gaming inquiry, as the one with a political dimension, is the one that needs to be seen off as far as the government is concerned on this occasion, the reality is that these powers are very important. They are central and they are core to the ability of this house to function as a house of review. There is no doubt that this government's behaviour needs to be considered very carefully in the context of this debate.

During the election campaign last year when the gaming issue started to unravel, the government started to feel the heat over gaming issues and its botched process of evaluation of the gaming licences and of the activities of lobbyists, two of them former Labor government ministers and one of them, it would seem from press reports, extraordinarily paid more than

\$350 000 for doing absolutely nothing. That is basically the premise that that man, David White, has put into the public arena: 'I did not do very much, but I did pocket \$350 000, thank you very much'.

The reality is that the government ran into strife during the election campaign, so it said, 'We'll have an inquiry into this. We'll deal with these gambling matters as part of an inquiry'. When this house was formed following the election, this house determined that it was appropriate and important in the interests of the public to establish the probity of the gaming licence process, and it established a select committee. Subsequently the government appointed Mr Merkel to conduct a separate inquiry. Mr Merkel was given extensive access, we are told, to documentation and an opportunity to examine a wide range of issues associated with the gaming licences process, and yet the select committee of this house has been treated with contempt to the extent that it has not had access to anywhere near that amount of information.

Judging by the debates that have been held in this house, it would seem to me that in most cases the evidence led by a number of witnesses has been totally unsatisfactory. When a witness refuses to even answer a question about which ministers they might have spoken to in the course of pursuing opportunities or discussions related to the gaming licences evaluation process, that is almost a contempt of this Parliament. It is certainly unsatisfactory in terms of the behaviour and conduct of those witnesses, and we have heard in the past the way in which some of those witnesses may have been encouraged to be less than forthcoming with their evidence by the Attorney-General in letters circulated to them by the Attorney-General in discussion of that process.

Mr Merkel produced a report. Extraordinarily, in the stage-managed fashion of this government, Mr Merkel's report came out and instantly a decision was made on the licences for lottery tickets, and Intralot, the Greek gaming company, was given an additional licence, so that there will be two licences in Victoria. That was a significant financial windfall to the government, but I think it was an unfortunate eventuality for the public, particularly given that this form of impulse gambling is now to be extended into a network of other retail outlets, including supermarkets.

The important issue here is not so much what the decisions were about, but the fact that the government stage-managed a process whereby it used an inquiry it established under Mr Merkel as a blind so that it was able to frustrate, ignore and stonewall the committee appointed by this house to investigate those matters.

That was done in the hope, I dare say, that this committee would simply pack it in and say, 'It's not worth pursuing. We can't go any further. We can't get the information, so we'll just report back to the house and say that we did our best but we weren't able to get any information'. I think that is the outcome the government is hoping for.

In any event the government is using the Merkel report to now say, 'You don't really need another inquiry. This inquiry really is superfluous because we have already done an inquiry, and that inquiry has given us a clean bill of health. There were a few recommendations in there that suggested we pinch and tuck a little bit here and there, but by and large we have been given a clean bill of health'. The government — flaunting the position to this house, again rather contemptuously — has said, 'Mr Merkel had access to documents and he has been able to come up with a clean bill of health, so why would the committee bother to continue, particularly when the committee itself is unable to have access to those same documents or anything like those documents to make its deliberations?'.

I was quoted yesterday as saying that I thought Mr Merkel's career might well be diminished by his having been involved with this inquiry, and frankly I stand by that position because I think — —

**Mr Viney** — It is outrageous.

**Mr ATKINSON** — It is not outrageous, because the reality is that Mr Merkel's report has got to stand with some controversy, if not question. I know Mr Merkel from many years ago — I knew him when he was a commercial barrister — and I know of his standing in the legal fraternity. In fact yesterday I was discussing with Mr Pakula the extensive legal background of Mr Merkel, and I have high regard for Mr Merkel as an individual, but what I say in terms of his report is that that report comes out as part of a process that has attempted to derail the processes of this Parliament and that has been deliberately set up to in fact create a blind and to get around the scrutiny of this Parliament. It is very hard to believe that this process is pristine when in fact Mr Merkel's report comes out one day and the next day out comes a licence granted to Intralot because the government was able to point to the Merkel report and say, 'Look, everything is terrific and kosher about this process'.

I regard this house's position as very important. I regard its responsibilities and its privileges as a house of review as sacrosanct. I believe the people we have appointed to that select committee to undertake scrutiny on behalf of the Victorian public — unlike

Mr Theophanous, I do not care who we appoint to these positions; every member ought to be taken on face value and their integrity ought to be regarded highly — are people whom we can trust and rely on to discharge those responsibilities honestly, judiciously, with due caution for commercial confidentiality and with due respect for the reputations and rights of individuals involved in the process, without necessarily resorting to political expediency or cheap shots.

This inquiry and the public land inquiry, which has also been set up by this Parliament and which effectively faces the same dilemma in terms of government cooperation with an inquiry duly established by this house, are entitled to pursue the scrutinising role that has been given to them by this house. A duly constituted committee elected by this house ought to be able to pursue those responsibilities.

The points that have been put about legislation, changing the constitution of Victoria and affording some different privilege or different rights to ministers than we would expect under the constitution are wrong. I would have thought that whilst there may be areas in which a minister's behaviour is prescribed by legislation, in fact overall the scrutiny of the executive is an area in which this house clearly has an opportunity to participate, where this house under the constitution clearly has a responsibility to participate.

It is unfortunate that the government has chosen to try to frustrate this exercise by the select committee in investigating these lotteries licences. Because of that I think, notwithstanding the Merkel inquiry, the reality is that there are significant questions in the public's mind as to the veracity of those processes, as to the honesty of some of the people who might have been involved in those processes, as to the government's integrity in terms of its management of a process which clearly was flawed, which was shown by its own officers to be flawed, but which it has refused to have opened to any form of scrutiny.

I think this motion ought to pass. As I said, this is not a motion that reflects on the personal integrity of the Leader of the Government, but it very much goes to his responsibilities as Leader of the Government, representing the government in this house and complying with this house's requirements through a duly appointed and properly appointed select committee. Up to this point of the process there has been a contemptuous attitude, and for the house to do less now than comply with the requirements set out in this motion before us today would continue that contempt of Parliament.

**Hon. J. M. MADDEN** (Minister for Planning) — I want to begin today by putting this debate in a context. I hope that putting it in an overall context will assist some of the minor parties today. Whilst I have not been a parliamentarian long in comparison with other members of this place or of the Parliament, I have seen three parliaments — this is the third — in my time in this chamber. What is interesting is that when I first came into this chamber it was dominated by the conservative parties. One of the things you have to recognise within the Westminster system and the way in which upper houses tend to operate generally is that they are the bastions of what was traditionally the ruling class — the landowners, the land-holders, the conservatives of their time — who want things to stay the same.

When Labor, in the last term of government, obtained control of this chamber it reformed it. We reformed it, I suspect, at a disadvantage to ourselves, but we reformed it to the great disadvantage of the conservative parties of this state. It hurt the conservatives, and it still hurts them today. Because this was their bastion of maintaining the status quo. This was their domain for maintaining their connections to the ruling class. What happened over the 150 years or so that, whether in opposition or government, they held this chamber in the palm of their hand is that they developed techniques, and those techniques were basically around trying to maintain the status quo. In the redefining this chamber, which we did in our previous term in government, the opposition lost control, so it had to form a different mechanism for working in opposition in this chamber because it had never really been in opposition here. Even when it had not been in government it had held the numbers in this chamber.

So the sands had shifted, the ground had shifted from under the opposition and it had to re-establish itself. The only way it could do that in this chamber was to in a sense corral the other minor parties into believing its circumstances. Its circumstances, or context, is that basically there is not a lot of policy that comes out of the Liberal Party, full stop. There is not a lot of policy. Traditionally conservative parties maintain the status quo and when they are in government they maintain the status quo through relatively good administration. The claim that they like to make is that they are good at administration, and that is predominantly how conservative parties ascend to government — by being, and making out that they are, good administrators, because they do not have to develop much policy.

When conservative parties find themselves in opposition and in a minority in this chamber, they find

it difficult because they cannot announce policy, and they cannot deliberate on change or effect because they do not have the ability to develop policy. So where do they have to go? They have to make out that they are competent administrators; how do they do that? They do not do it by working at a community level or by proposing good, strong and solid policy initiatives. Predominantly they make out that they are competent administrators by making the criticism, 'We are better at administration than the other mob.

That is the only place that conservative parties can go. That is the only thing that conservative parties can say when we are in government and they are in opposition. Then they have to corral the minor parties into believing that premise. They have to corral them into believing that the conservative parties are better administrators by pinpointing what they believe to be administrative errors or faults. There is no better way to do that than by moving this motion.

That is how they make the point that they are better administrators than those members from the other side of politics. It is the only place they can go, because when there is a government that is relatively popular and has, I understand, the second-largest majority in the history of the state — —

**Mr Guy** — No, it is your second-largest. What about 1992, 1976, 1973 and 1996?

**Hon. J. M. MADDEN** — I will take up Mr Guy's interjection. He obviously feels personally about this issue. I can understand why he may be bitter and twisted about this issue, and that only reinforces my argument. The only way that conservatives can make a point about their status, their relevance and their impact on the electorate is not by actively engaging the electorate and interacting with the community but by trying to prove that they are better at administration. But the trouble is that if that is the only premise and the only way you can make your case, it is hard for you to prove it when you are in opposition. This is what the conservative parties are trying to do at this point of time.

I will follow up on my colleagues' comments, particularly those made by Mr Jennings. Mr Jennings's proposition involved the opposition's tampering with executive government. That is really what this motion is about. This motion is not about seeking information or about probity; it is about tampering with the executive so that the conservative parties can undermine the administration of the government and thereby make their case that they are better at administration. Unfortunately in the course of the select

committee's witch-hunt and Spanish Inquisition, their main target, then Premier Bracks, retired. Their main target, the man they wanted to get, has gone. I congratulate the former Premier, but do members know what is great about that? The conservative parties will forever remain bitter and twisted about Steve Bracks.

**Mr Finn** interjected.

**Hon. J. M. MADDEN** — I can tell by Mr Finn's emotion that he is bitter and twisted about this issue. The fact that Steve Bracks retired with dignity in the way that he did and the fact that he was not beaten by the conservative parties and was not beaten about or over the head has made the conservatives even more bitter and twisted; they could not get him. That raises the former Premier to a new level.

Not only did the goal posts suddenly move because of Mr Bracks's departure, the conservatives have had to make a cause for going down this path — —

**Mr P. Davis** — On a point of order, Acting President, I note that the minister has been speaking for nearly 10 minutes. In that time I have not developed a sense that he is actually addressing the motion which is before the house. If the minister would like some help, I can tell him that we are dealing with motion 1 on the notice paper standing in my name. It is a censure motion regarding the Leader of the Government in this place. I ask you, Acting President, to draw the minister's attention back to the motion before the house.

**The ACTING PRESIDENT (Mr Leane)** — Order! I draw the minister's attention to the motion. I must say, however, that he has drawn attention to the executive during his address. He needs to refer more to the motion before the house.

**Hon. J. M. MADDEN** — Because the ground has shifted, the opposition has to make up a cause for the witch-hunt it has undertaken; it has to find a new target. The new target is the Leader of the Government in this chamber. What is quite remarkable is that if you try to line up a new target and choose to play the man and not the ball — where I come from there are a lot of sporting analogies, but I will not go into the detail of those analogies — it is normally because you do not have much talent in an area.

What is disappointing about this motion is that conservative parties in this chamber predominantly want to redefine what this chamber can do. They do not want this house to be a house of review, but they want this chamber to be a chamber that tampers with the executive. They want to govern, but they were not

elected to govern. They want to do that by surreptitiously manipulating the context in which the executive operates. They want to make it so difficult for the executive to operate either through the cabinet process or through what would normally be a commercial process involving commercial-in-confidence information that might come to the executive so as to prove that they would be better at administration. That really does not cut the mustard in the community, because — and I think it might have even been somebody in the federal Liberal Party who said this — all politics is local. At the end of the day you have to deliver for your community.

In this chamber The Nationals, the Greens and the Democratic Labor Party have asked questions about their local communities. They seek to represent their local communities. We may not agree on what they are asking for or what they would like as a response, but predominantly they make sense of politics being local. Unfortunately for the Liberal Party its only premise is that it is good at administration, but that does not ring true with its members' communities.

When their local communities seek somebody to provide for them or advocate for them, just being a good administrator alone is not enough. You have to be active; you have to be involved. At the end of the day what I can say is that the great disappointment about this motion for the Liberal Party is that it has taken its eyes off the ball and is now playing the man. Unfortunately we will see that it is really just flogging a dead horse, and it is not going to get it anywhere at the end of the day. It might get a few stories up, but is it going to change anything?

This is the critical question: is it going to make a difference for the people out there in the electorate who want to see them doing something for them? Is it going to have a direct impact on their lives and make a tangible difference? I suspect it will not.

**Mr P. Davis** interjected.

**Hon. J. M. MADDEN** — I take up Mr Davis's interjection. He is trying to prove a non-existent point. Liberal members can spend time and time again — they have spent months on this already — to prove absolutely nothing, and they are still witch-hunting and not getting anywhere. When the eyes of the electorate glaze over and the Liberal members go out into the electorate and try to explain this — when they are asked, 'What have you been doing in Parliament?', they will say, 'We have been chasing rabbits down holes'. That is about all they have been doing. The electorate is

going to be totally unconvinced by what they have set about achieving.

What that really says is that the conservatives have absolutely lost their way. In a redefined world, in a redefined chamber they are trying to find relevance, but they cannot find it. I suspect no matter where they go with this, no matter where it takes them, in the eyes of the electorate this will not be relevant in the terms that they think it will. They will try to mount a case, but will it make a discernible difference for the average householder in the community? I suspect it will not.

**Mr Finn** interjected.

**Hon. J. M. MADDEN** — I suspect it will not, Mr Finn, because they want to see policies implemented, programs delivered, good governance and good results. I suspect the conservatives in this chamber will not deliver any tangible result from any of this, but they will have spent their first 12 months in opposition in this Parliament flogging a dead horse and will be unable to prove they have delivered anything for their communities.

In summing up let me just say that this is an unconvincing proposition for anybody. It is also unconvincing because the proof of the pudding is in the eating, and that is what you do locally. The Liberals can try to prove all they want through this proposition, they can spend all their time in here chasing what they want, but if they do not make a difference in the local community, they will have no currency to convince their electorates that they have done something for them. The conservatives have learnt nothing from this chamber being redefined during the last Parliament. Now in this Parliament they are playing the same old tricks; again they have learnt nothing.

**Mr KAVANAGH** (Western Victoria) — The present debate is one more step in a very long process that this house has engaged in over most of the year. In previous debates I have made certain points, which I will very briefly recap today.

Firstly, it strikes me that what we are engaged in is a legal argument, for which the chamber is not particularly well suited. It seems to me that there is a deficiency in our legal constitutional system that we should be arguing points of law. It would be beneficial to our constitutional system if this house were able to refer questions of law to the Supreme Court for advisory opinions. Mr Hall pointed to this deficiency in his speech, recognising the difficulty in bringing a case to the courts for resolution and the frustration he feels

as a result of that. It has caused ongoing conflict between this house and the government.

Mr Theophanous argued that some of the documents may be privileged and need to be kept confidential. This strikes me as being quite possible, particularly in respect of police reports from other jurisdictions, which Mr Viney spoke about some weeks ago. However, the premise should be that a house of review, a house of scrutiny should have available to it the documents it needs to perform those functions. Indeed scrutiny or review of government is the primary role of this house.

As was noted before, the government has been obstructive and attempted to frustrate scrutiny of it by this house and its committees, which I have witnessed as a member of two of the committees that are investigating the government.

Earlier Mr Jennings argued against the motion on the basis of Mr Lenders's integrity as a person. However, such a defence strikes me as being quite off the point. The motion explicitly states that the censure be on 'the Leader of the Government as the representative of the government in the Council' and does not refer to any personal questions of integrity on the part of the Leader of the Government. I intend to support the motion.

**Mr GUY** (Northern Metropolitan) — I do not intend to speak for a long time, given that we have spent a number of hours on this motion. There is almost a sense of *deja vu* in that we are here talking about the government's production of documents and its respect for this chamber.

This motion today is not about policy, it is not about upper house reform, it is not about the formation of this chamber or how this chamber came to be formed, as some speakers, indeed Mr Madden, have referred to. This motion is about accountability, it is about integrity, it is about probity and it is about respect for Parliament, and that is in no way in question.

I listened with interest to a number of members opposite, particularly Minister Jennings and Minister Madden, and again was somewhat perplexed at the angle of their contributions to this debate saying that somehow probity, integrity and the respect of Parliament had no place to be discussed and had little place to be debated — and indeed that it was somehow alien or foreign to their thought that the motion that Philip Davis has put here today could possibly be debated. Indeed Mr Madden even said that the motion was all about tampering with the executive. I note that the first part of the motion is very simple, straightforward and to the point. It is about the

government's refusal to comply with a resolution of a majority of members of this chamber. There is no ambiguity in any of this. There is no possible sense of being mixed up. It is very clear cut as to what we are debating here today.

As Mr Kavanagh has said and Philip Davis has said previously, this is not a debate personally about Mr Lenders; it is about Mr Lenders's role as the Leader of the Government in this chamber. He is the head of the government. He represents the government's obstruction to obtaining these documents, and indeed I would say the government's recalcitrance when it has come to dealing with this issue, and he represents in my view the contempt of members of the government, particularly the Attorney-General in another place, for this chamber.

As has previously been stated, the gaming inquiry committee, of which I am a member, has had numerous pieces of correspondence and pieces of verbal evidence from witnesses, individuals or from the government, all of which relate to obstructing us in simply doing a job that has been asked of us by this chamber. We have not sought any material that has been outside the scope of the committee. The committee has not sought any material that has been improper. Everything we have sought has been within the scope of the terms of reference, and everything we have sought has been, as I said, proper, appropriate and what you would expect of this committee. However, at every opportunity we have been utterly frustrated by the government. We have been frustrated by ministers. We have been frustrated by witnesses who have had strong links back to the government. As I said, it comes back to accountability, integrity and respect for this chamber.

In a number of debates — I think this is about the third or the fourth time we have had a very similar debate — when it has come back to how the government respects this chamber it has always been drawn back to the fact that the government introduced proportional representation and that members of the minor parties and members in seats like mine should remember that. I state again that this debate has nothing to do with the constitution of this chamber. This motion has everything to do with the accountability of a government to the Parliament and the people, and we are again having this debate on the issue of probity.

Surely any person who is elected to any Parliament around the country understands that when you come to a Parliament you are answerable to the people of that jurisdiction; you are not answerable to the executive or in relation to a sworn oath or affirmation such as Mr Jennings has given. At the end of the day you are

answerable to the people of your jurisdiction, and for all of us that is to the people of Victoria via our individual electorates. The fact that Mr Jennings walked into this chamber and said that he has made an affirmation of allegiance and that as a member of the executive his allegiance is to his affirmation first and to the Parliament second, I think, with respect to Mr Jennings and his contribution, means he is actually mixing the two up.

It is very important that members and people who are in the privileged position of being members of the executive always remember that the affirmation they made after first being elected to Parliament was to the people of Victoria. Indeed the committees that have been established by this chamber as the representative of the people of Victoria should always come first, but that has been sought to be somehow explained away by a number of members who spoke before me.

I think all of us are certainly aware of material from the Attorney-General, sent either back to this chamber or back to the gaming licensing inquiry, in which he states very clearly that he believes the upper house has no right to seek documents in relation to that inquiry. In the Attorney-General's words we have no right. As everyone in this chamber knows, any committee formed of this chamber has every right to seek material from any government body on behalf of the people of Victoria. It is not appropriate for the Attorney-General to come to this Parliament and determine what committees formed from this chamber will and will not be able to inquire into and ask questions about. I simply say to members opposite who use the Attorney-General's argument that somehow the executive may be compromised by answering to the people of Victoria that they have their priorities exceptionally wrong.

I think Mr Atkinson pointed out quite correctly the behaviour of a number of people who have appeared before the parliamentary inquiries, and as a member of the committee of inquiry into gaming licensing I have found it quite astounding to see the contempt with which a number of people, some of them with strong links back to the government, have sat before those committees and denied the committee the information it needs to do its job properly. How can we be confident we have found a proper outcome or a proper answer or had a proper inquiry into the gaming licensing situation in Victoria when from its inception the committee has been constantly denied documents by the government and even by private companies?

To me the behaviour of a number of members of this chamber in relation to the Parliament expresses a form

of contempt and disrespect for the Parliament that is highly unwarranted and certainly improper. I do not think I have to explain to members again about the lack of answers that we get during the adjournment debate, when we have only one minister in this chamber as opposed to a full complement of ministers, which was certainly the practice in the past and certainly the practice with the previous government, or the lack of answers that we receive to questions, either questions on notice or questions without notice, and the farce that question time has become. To me it all comes back to one thing — that is, as I said from the start of this debate, the respect for this Parliament that is shown by members of the government, and while this motion today deals specifically in one part with the Leader of the Government, it deals only with the Leader of the Government as the head representative of the government in this chamber.

As I said, it is exceptionally important for there to be full accountability to this Parliament. As representatives of the people of Victoria, we have an absolute responsibility to ensure there is proper probity and full answers to questions which we pose to the government, yet it seems that the government believes the Parliament has no right to ask questions of it. Indeed it takes umbrage when the Parliament dares to establish legitimate committees to inquire into its functions. I would have thought that a government that prides itself, to use the government's rhetoric, on making this chamber representative — Mr Madden said beforehand it wanted to take this chamber off the ruling classes, which is quite bizarre — would have done everything possible to cooperate with this Parliament in making this chamber far more accountable and far more open to the people of Victoria, but it seems that is all just for show. It seems it has been for show from the minute we came back after the 2006 election.

I think it is very important for the government to take note that an executive does not override a Parliament. The executive of government has never overridden parliamentary democracy. The 5.25 million Victorians in this state are not governed by an executive. We are governed by a Parliament which forms a government, which then manages the day-to-day issues of the state via ministers, via a ministry obviously, and via an executive which is part of that. But at the end of the day, the Parliament, not the executive, is supreme.

Philip Davis's motion today clearly and very simply again reminds the government that Parliament, not the executive, is pre-eminent in this state. It comes down to the right of the Parliament to establish committees to inquire into the functions of government, as is the case

in other jurisdictions, particularly federally, and the government's contempt for them.

As I said, I do not want to spend a long time debating this motion, as we have seen a number of them before, but as a relatively new member of this Parliament I remain flabbergasted at the attitude of a number of members opposite — and I do not know whether they genuinely believe this — who walk into this chamber and say the executive overrides the 5.25 million Victorians in the upper house electorates that we represent in this chamber, that every one of our constituents who put us into Parliament have no right to ask questions of the executive of government, and that the executive of government has every right to hinder and obstruct parliamentary committees which have been established by this chamber to inquire into the functions of government for any specific purpose, which have been established democratically and correctly and with the majority of members in favour of those committees.

I simply ask all members to support this motion. I simply ask all members when voting on this motion today to remember again that we are voting about accountability, integrity and probity.

**Mr LENDERS** (Treasurer) — I rise to join this debate and to oppose the motion, but in doing so I will make some opening comments about some of the previous speakers' contributions.

The first is on the issue of respect. I say to everybody opposite in this chamber: if they seriously want to come in here and talk of respect, they should reflect firstly on these parliamentary committees. We on this side of the house have talked since the first sessional orders debate about the respect for proportionality and reflecting the will of the people in proportionality. I accept that people on the other side do not agree, as they have voted down on many occasions our basic premise from this side — I do not know how much clearer we have to make it — that proportionality is something that is the ultimate sign of respect. Gerrymander, rorting and stacking committees from four other parties — so that if one of the parties changes its mind the other three can still outweigh it, because they do not trust each other — is not respect.

I am happy to accept that there are different points of view on what is a legitimate way to structure a committee. But please do not come to me and talk about respect when we treat the democratic process with contempt in this place in the way we structure the committees on every single occasion. So let us not start with respect.

Secondly, if we are talking of respect and great institutions, let us not say it is not personalised either. The Minister for Environment and Climate Change, Mr Jennings, has said quite clearly that we have taken oaths of office, and if you accept our premise on this side of the house that Tony Robinson as Minister for Gaming in the other place makes a decision or that the Attorney-General, Rob Hulls, as chief law officer makes a decision, then do not give us the nonsense of respect and that there is nothing personal about it. It is a political stunt taken straight from the script from *Egan v. Chadwick* and *Egan v. Willis*, step by step. It has nothing to do with respect and nothing to do with personalities, but all to do with a political outcome. Let us just cut through that at the start.

But I will talk through the motion before the house and some of the big issues that are in place. If we are coming out on Mr Guy's part and talking of respect and of the powers of this Council, I would ask Mr Guy to reflect on the absolute basis of the Westminster system and liberal democracies as we know them, and that is actually called the separation of powers. If you take Mr Guy's logical conclusion, that if this house, by 21 votes to 19, demands anything, at that point what is to stop this house using that assumption to go into the Supreme Court and say, 'We represent 5.25 million people, hand over your documents', or to go into the jury room?

If you take it to the logical extension, that whatever this house asserts by 21 votes to 19, it can do what it likes because it claims it has a mandate, with no respect for the rule of law or for the separation of powers, then as I said in this last debate, we will be no different from the Zimbabwean House of Representatives, which asserts by majority — —

**Mr Guy** interjected.

**Mr LENDERS** — I know that is not what Mr Guy is actually saying, and I am not trying to say he is one of the ZANU-PF (Zimbabwe African National Union-Patriotic Front) people, President, but what I am saying is that if you make the underpinning assertion that if you vote 21 to 19, it is right and anyone who stands up to you is arrogant and has contempt, then you ignore the basic separation of powers. But the section 19(1) and 19(2) provisions of our Constitution Act, which we have talked about numerous in this place, specify the powers of the executive vis-a-vis a house of the legislature. There is a difference on both sides of this house on whether or not that is correct. There is a legitimate difference: I have a view, and 21 other members of this house have a different view.

But if we are talking of respect, there are two specific interpretations of that. I just think it crosses a line to say we on this side have shown no respect, when the other side, whenever they have the numbers, will use them; and they will not just use them but will use them to rig a system with select committees so that even if one of the four parties on the other side deviates, they are outvoted by the rest. Those are my issues on respect and on the separation of powers.

I go to some of the other points that have been put here and back to Mr Jennings' point — and others scoff at it — about the oaths we take. I have taken two oaths. I have taken one as a member of this house. I have also taken an oath as an executive councillor. Leaving aside the issues of section 19(1) and 19(2) of the Constitution Act and what those provisions mean for executive privilege, cabinet-in-confidence, commercial-in-confidence and legal professional privilege — and none of these is a light issue — and what they mean if we are talking of the gaming regime where police forces in other jurisdictions have actually handed over documents to the state of Victoria for licensing issues, we are talking here about doing it willy-nilly: 21 people say they want them, so we hand them over. Frankly, when is a Las Vegas police force ever going to hand over a document to the state of Victoria even if 21 people keep on saying, 'Hey, we are 21, we are legitimate, we are a majority. Hand it over'?

There is no respect for the rule of law and no respect for section 19 (1) and 19(2) of the Constitution Act, and the issues which I assert — cabinet-in-confidence, commercial-in-confidence, legal professional privilege and that issue of security authorities — are glibly passed over on the assertion that 21 people must be right and 19 must be wrong.

Let us go through this. What is the premise here? I would say the premise is that the legal advice the opposition parties have from *Egan v. Chadwick* and *Egan v. Willis* is that you have to go through this process: you have to pick yourself out a victim, you have to go through this whole charade and you do it, and then you go through all the steps and these things will happen. Let us not pretend for one nanosecond to use the word 'respect' in this. This is part of a strategy, it is obvious, and it is coming; so the opposition parties will hang everything around this strategy over what is happening.

Let us look at the facts before us. Mr Guy belittles the Attorney-General by saying things like 'Oh, that's Rob Hulls'. The Attorney-General is the chief law officer of this state; he advises ministers and seeks advice from his own advisers. He is the chief law officer of this

state. The Attorney-General's view actually means something in the corporate sector. It means something in the courts. It means something in the public sector. But it does not mean anything to Mr Guy. So if a minister is required to seek advice from the chief law officer of the state, are we meant to ignore it?

Let us just go to the starting point before I go to the six paragraphs in this motion. We talk of respect ad nauseam. There is very little that is respectful in this process. It is all to get a legal outcome from this, so let us not pretend it is respectful. It is not respectful to totally ignore the separation of powers, a doctrine that people have died for in a liberal democracy — died for the right to actually have this. So the suggestion is to ignore the separation of powers.

**Mr Guy** interjected.

**The PRESIDENT** — Order! Mr Guy!

**Mr LENDERS** — I say that in a democracy there is a rule of law. What distinguishes us from Zimbabwe is the rule of law. We have to be very careful on the slippery slope we go to, because if I as a minister am expected to breach my oath as an executive councillor, then where does the rule of law come?

Let us start going through what is being asked for here in the documents.

Paragraph (1) of the motion states:

notes the refusal of the government to comply with the resolution of the Council of 19 September 2007 to table documents ...

That is correct; there is a refusal to comply, although I would ask why the Council wants the documents? So that the gaming select committee ultimately can have information? Mr Merkel has given the most extraordinary report, and I would ask members opposite who doubt any of the questions or answers to read paragraphs 72 to 79 of Mr Merkel's report. They may find that this request for documents for information is actually quite redundant.

I tabled yesterday a series of documents in a respectful way in accordance with what the Council actually sought in its last resolution; so let us not talk about respect and contempt because respect and contempt would not have been in this chamber — —

**The PRESIDENT** — Order! I am sorry to interfere in the minister's significant contribution but I need to remind the house, and in particular members on my left, that I made a ruling earlier during the contribution of the Leader of the Liberal Party to ensure that he was

heard in relative silence on what I consider to be the most important debate we have had in this Parliament. I insist that the Leader of the Government be heard in a similar fashion. If that is not going to be the case, I will take action similar to the action I took earlier today.

**Mr LENDERS** — On the issue of respect for the house and the institution, this government has responded seriously to every debate. I, as a minister, have responded to debates on this issue, and I am responding today. We have tabled every document which, in my view, under my particular oath, I am able to.

Let me take it one step further. These documents under the gaming legislation are not mine to give; they are not cabinet documents to give. They are not documents that I, as the Leader of the Government in this house, or the Premier in the other house, are actually at liberty to give. These are documents that come under the purview of the Minister for Gaming in the other place. Let us just get something absolutely straight from here: I am not playing the victim here, but you might as well spin the bottle and say, ‘Who are you going to spin it at?’. The one person who has custody of these documents is the Minister for Gaming in the other house, so let us get that straight when we are talking of separation powers and a rule of law.

I am not about to breach an act of the Victorian Parliament or ask the Minister for Gaming to do that. Firstly, I do not have the documents. They are not mine, and I have no authority to have them. Secondly, the Minister for Gaming is obviously aware of the requests for these documents; I put that request to him. That is his decision to make. For the benefit of the house, let us get this straight: the nature of these documents is such that the reason the minister would not give them to me to give to this house is that, leaving aside cabinet-in-confidence issues which I will not touch on and leaving aside legal professional privilege which I will not touch on, there are issues of commercial in confidence and of security clearances that are given.

This is the first of a series of licensing arrangements in this state. We will have licensing arrangements presumably for a whole range of other things, whether they be wagering, whether they be the gaming machines, whether they be Club Keno or whatever other licensing arrangements are on the agenda of the Minister for Gaming in the next few months. Any release of documents, from the minister’s perspective, compromises any bidder. The documents get tabled — and what happens? Every other bidder has a knowledge of the intention, let alone the financials, let alone the

security clearances, so what is being tabled here is a range of things.

More to the point, Ron Merkel has gone through those documents and has reported on them through an act of Parliament that makes him an authorised person to do so on behalf of the Parliament. The information is there, and there are reasons why the minister has not disclosed it, but let us get it absolutely right. That is the minister’s decision, not a government decision. If any member in this house actually thinks that cabinet makes the decision on these issues, not the individual minister, they need to go back to legal studies 101 or politics 101 or introduction to the Legislative Council 101, because that is not how government works, and 21 people asserting that it is does not make that the case. People have taken oaths. That is why we have delivered a series of documents, but not the lot!

Paragraph (2) of the motion states:

notes the refusal of the Leader of the Government to comply with the resolution of the Council ... to table the documents relating to the public lotteries licence specified in that resolution.

Yes, *mea maxima culpa* — that is, guilty as charged. I have delivered what I have within my authority to deliver, but the rest of the documents for the reasons outlined have not been delivered.

Paragraph (3) states:

is of the firm opinion that the Council is fully entitled to scrutinise the activities of the executive and demand accountability of all aspects of executive behaviour;

There is not a person on this side who does not accept the premise that we are eligible to be scrutinised, should be scrutinised and held accountable. But the issue comes in here about all documents, and I go back to the basic premise. I am not trying to put words into Mr Guy’s mouth, but I am saying the logical extension of the argument that 21 votes in this Council can get any document in the state is just errant nonsense, with all respect.

Who is government accountable for? It falls on the confidence votes in the Assembly, so that is where government is, but the government is accountable to the scrutiny of this place absolutely. But it is accountable to the scrutiny under the rule of law, and I go back to the issue of all of the documents. If this motion were framed to the Attorney-General, to insist that the Chief Justice of the Supreme Court hand over every document under her possession, would I also be singled out and censured because we did not deliver on that? That is my rhetorical question, and people say, ‘Of

course not'. These are documents not under my authority to give, but even beyond that, there is a separation of powers.

If this house were to assert to me that I am required to hand over documents from a select committee to the Legislative Assembly, would I be censured? I can imagine what this house's response would be if suddenly the Assembly insisted that the documents of closed meetings of the Council were brought to the Assembly only because as a house of Parliament, it is entitled to have everything. We would laugh them out of the building.

Let us look at the words 'all aspects' of executive behaviour. Yes, we are accountable; we are subject to questioning in this place and we are subject to questioning in the committees of this place. There is always an argument about how suitable the scrutiny is and about the nature of the answers, and that is part of the art of politics, but I would say that the assumption here that 21 people should have access to everything defies the notion of the separation of powers in total.

Paragraph (4) states:

notes with great concern the government's apparent belief that it is not accountable to the Parliament of Victoria ...

I reiterate my words on this point, and I also make the obvious statement that, if there is ever any doubt in this place why members of the Assembly sometimes see this place as a joke, I invite the 21 members opposite to reflect on how they would justify to anybody but themselves that they set up a select committee where a party with 47.5 per cent gets 28.

If members of the Legislative Council are concerned about anybody taking them seriously in the court of public opinion or in the Legislative Assembly, they should look to themselves as a chamber and they might find the reason. Talking of respect does not work very well when you show none yourself. I further quote from the motion. Paragraph (5) says:

accordingly, censures the Leader of the Government as the representative of the government in the Council for the government's failure to comply with the Council's resolution of 10 October ...

It is true that the government did not comply in full with the Council's resolution. If the house wishes to censure me by 21 votes to 19 because I am applying the law of the state, please explain. If the house is trying to censure me because all the documents were not delivered and if there is any explanation other than that it is part of a strategy developed to deal with a range of other issues that have nothing to do with this, please

explain. Censuring me for that is in my view like censuring Philip Davis for something that Tony Abbott has done, or censuring Philip Davis for something that Mr Rich-Phillips did at a Liberal Party branch meeting in Narre Warren South. The logic applies equally. It would not be Mr Davis's responsibility, even though he is the leader of the parliamentary Liberal Party in this house and Mr Rich-Phillips may or may not have done whatever he is accused of doing in Narre Warren South. The logic is equally applicable.

Finally, paragraph (6) of the motion:

demands that the Leader of the Government comply with the resolution of the Council —

et cetera, by a certain time. The Council is, in effect, demanding that I do something unlawful. The documents that are sought are documents that, under the gaming legislation, only the Minister for Gaming in the other place has the prerogative to deal with. For reasons I have outlined he believes that releasing those documents is against the public interest — that is my view of what his reasoning is. The Council is saying, 'Okay, the minister has exercised his authority under the law' — I note it is the minister, not the government — 'so we will hold another minister accountable. We will find someone, knock them off, take it out on someone else'. And that is somehow supposed to be good public policy.

Starting from my initial points I say to the house that if we are talking about respect, it has to go two ways. It has to be respectful of the law, respectful of the oaths that executive councillors and ministers have taken and respectful of the fact that the majority is not always right. The majority can assert its right, but it is not always right, and I could spend hours going through the history of cases of the majority asserting that they are right. Fundamentally this motion is inappropriate. The government has delivered what it can. What the motion seeks to do is ultra vires. On that final point, we have had the discussion of sections 19(1) and 19(2) of the constitution. I respectfully urge the house to reject the motion.

**Mr P. DAVIS** (Eastern Victoria) — Before I begin responding in any detail, I express my sympathy at the obvious, deep agitation of the Leader of the Government. I can reasonably say that he has done his best to mount his own defence because of the inadequate defence that was mounted by his colleagues. It is obvious to me, at least, that the Leader of the Government in the upper house has been all but abandoned by his cabinet colleagues in the lower house. The matters that are before the house are apparent to those of us who have been here for some time and have

listened to and observed the attitude of the government over the last year.

I pick up on a comment that the Leader of the Government made about the use of numbers. In high dudgeon he suggested that members on this side of the house were prone to abuse their numbers. Between 1999 and 2002 the opposition parties, including The Nationals, had a majority of 30 to 14. Indeed the Liberal Party in its own right had an absolute majority — in other words, there were only 14 members of the government party. During that period the opposition so abused its power — I say it facetiously — that only 7 of 306 bills introduced into the place were rejected by the opposition. I suggest to the Leader of the Government that that demonstrates that the opposition is not inclined to abuse its numbers. If you want any starker evidence, it would be hard to find. We have consistently respected the mandate of government, notwithstanding the fact that it was a minority government at the time. We respected the fact that there was a government duly formed in the Assembly, where governments are formed and dissolved in this state. However, there remains an ongoing role for scrutiny of government.

Notwithstanding the claims about constraints of cabinet confidentiality that the Minister for Environment and Climate Change made today in his limited defence of the Leader of the Government and the claims of the Minister for Industry and Trade, who in effect alleged that every act of Parliament varies the constitution, which is a claim that the Leader of the Government led in his contribution, the truth is that if one took literally all the defences mounted by those three ministers — and I will leave Mr Madden apart because I do not think anything he had to say warrants a response — as being constraints on our capacity to ask for written information in the way of documents, then no documents could be sought. It is certainly the case that the government has not made any proposal at all to the Parliament of an alternative way of dealing with the production of documents to the Legislative Council so that it can perform its role of scrutinising government.

It is therefore my view that if we accepted the government's position, the only way members of Parliament could have access to any documents would be to do what we have done in recent times — to use what we have found to be a defective freedom of information process. In this process, by and large, document requests are rejected, and if we want to pursue the matter further we have to take it to the Victorian Civil and Administrative Tribunal, which involves considerable time and expense. Those matters run for months and by the time the documents are

produced the issue about which the members of Parliament concerned are pursuing documents is so stale that it hardly warrants the effort that is being made to obtain them.

There is always a criticism of governments of all persuasions about their transparency. The fact of the matter is that we in this place are doing nothing more than dealing with an important process, which is accepting that there is a different role for and expectation of this Parliament than there perhaps has been before.

In concluding, I say that that expectation is that we will operate as a house of review. Certainly the members on this side of the house are determined — absolutely determined — that notwithstanding the obstruction by the government and the fact that the government has opposed every reform we have proposed to introduce by way of transparency, we will persist with that agenda. This house will be a house of review.

The Leader of the Government, in his defence, suggested he was being singled out as another target. There were suggestions during the debate today that because Steve Bracks, the former Premier, had moved on, we had found another target. The fact is that this is about the government being accountable in the Legislative Council through the Leader of the Government. As far as I am concerned that is where the issue lies. I go back to where I started and say that I do have sympathy for the Leader of the Government at a personal level, because I think he has been broadly abandoned by the government to carry this on his own. However, the matter is about scrutiny of the government, and we expect the government to deliver documents to this chamber so that the chamber itself can form its own views about the transparency and probity of government. With that, I conclude and urge all members to support the motion.

**The PRESIDENT** — Order! The question is:

That this house:

- (1) notes the refusal of the government to comply with the resolution of the Council of 19 September 2007 to table documents relating to the public lotteries licence specified in that resolution;
- (2) notes the refusal of the Leader of the Government to comply with the resolution of the Council of 10 October 2007 to table the documents relating to the public lotteries licence specified in that resolution;
- (3) is of the firm opinion that the Council is fully entitled to scrutinise the activities of the executive and demand accountability for all aspects of executive behaviour;

- (4) notes with great concern the government's apparent belief that it is not accountable to the Parliament of Victoria;
- (5) accordingly, censures the Leader of the Government as the representative of the government in the Council for the government's failure to comply with the Council's resolution of 10 October 2007; and
- (6) demands that the Leader of the Government comply with the resolution of the Council of 10 October 2007 and lodge the documents specified in that resolution with the Clerk by 5.00 pm on Monday, 5 November 2007.

**House divided on question:**

*Ayes, 20*

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

*Noes, 18*

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

*Pair*

Coote, Mrs	Darveniza, Ms
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**Question agreed to.**

**The PRESIDENT** — Order! The question is:

That the Council take note of the Leader of the Government's letter of 12 October 2007 in response to the resolution of the Council of 10 October 2007.

**Question agreed to.**

**BUSINESS OF THE HOUSE**

**Sessional orders**

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

- (1) That the sessional orders adopted by the Council on 28 February 2007 and 14 March 2007 and amended on 9 August 2007 be further amended as follows with amendments nos. 1 to 7 inclusive to come into operation

on 1 January 2008 and amendment No. 8 to come into operation on 1 April 2008:

**DAYS AND HOURS OF MEETING**

- 1. In sessional order 1, after 'select' (where twice occurring) insert 'or standing'.

**DAILY ADJOURNMENT DEBATE**

- 2. Omit sessional order 3 and insert the following new sessional order:

- (1) Paragraphs (2) to (5) inclusive, of standing order 4.10 are suspended.

- (2) The paragraph in standing order 5.04 relating to the adjournment debate is suspended and the following will apply:

'Adjournment debate (standing order 4.10)

Total time no limit

Each member 3 minutes'

- 3. After sessional order 3, insert the following new sessional orders:

'Responses to matters raised on the daily adjournment debate

- (1) A response to a matter raised by a member must either be given at the time the matter is raised or provided in writing within 30 days.

- (2) When a response is provided in writing, before the daily adjournment debate is concluded, a minister will advise the Council of the responses being provided, including the date the matter was raised and the name of the member who raised the matter.

- (3) A copy of the response will be given to the member who raised the matter, and all responses will be incorporated in *Hansard*.

Procedure where responses to daily adjournment debate matters not provided

- (1) If a response is not provided within 30 days of the matter being raised and the relevant minister does not, within that period, provide to the member who raised the matter an explanation satisfactory to the member as to why a response has not been provided —

- (a) at the conclusion of the daily adjournment debate the member may ask the minister for an explanation; and

- (b) at the conclusion of any such explanation the member may move, without notice, 'That the Council take note of the explanation'.

- (2) If a minister does not provide an explanation, notice may forthwith be given of a motion regarding the minister's failure to provide

either a response or an explanation and precedence will be given to such a motion on the next day of meeting in accordance with sessional order 11.'

ORDER OF BUSINESS

4. Omit paragraphs (2) and (3) of sessional order 3 and sessional orders 4, 5 and 6 and insert the following new sessional order:

'Order of business — Tuesday

- (1) Paragraph (1) of standing order 5.02 is suspended and the order of business on Tuesday will be:

- (1) On Tuesday —

Messages  
 Questions  
 Answers to questions on notice  
 Formal business  
 Members statements (up to 15 members)  
 Government business  
 At 8.00 p.m. Legislation Committee (if ordered)  
 Adjournment.

- (2) Paragraph 1 of standing order 5.03 is suspended and the order of business on Tuesday in the final sitting week of the calendar year will be:

- (1) The order of business on a Tuesday will be —

Messages  
 Formal business  
 Government business  
 At 12 noon questions  
 Answers to questions on notice  
 Members statements (up to 15 members)  
 Government business  
 At 8.00 p.m. Legislation Committee (if ordered)  
 Adjournment.

Order of business — Wednesday

- (3) Paragraph (2) of standing order 5.02 is suspended and the order of business on Wednesday will be:

- (2) On Wednesday —

Messages

Formal business

Members statements (up to 15 members)

General business

At 12.00 noon questions

Answers to questions on notice

General business (continues)

Government business

At 8.00 p.m. Legislation Committee (if ordered)

Adjournment.

Order of Business — Thursday

- (4) Paragraph (3) of standing order 5.02 is suspended and the order of business on Thursday will be:

- (3) On Thursday —

- (a) if no meeting of a select committee is scheduled to occur —

Messages  
 Formal business  
 Members statements (up to 15 members)  
 Statements on reports and papers (60 minutes)

Government business

At 12 noon questions

Answers to questions on notice

Government business (continues)

At 8.00 p.m. Legislation Committee (if ordered)

Adjournment

- (b) if a select committee is meeting —

Messages  
 Formal business  
 Questions  
 Answers to questions on notice  
 Members statements (up to 15 members)  
 Government business

At 8.00 p.m. Legislation Committee (if ordered)

Adjournment.

Order of Business — Friday

- (5) Paragraph (4) of Standing Order 5.02 and the subsequent paragraph are suspended and the order of business on Friday will be:

- ‘(4) On Friday —  
 Formal business  
 Government business  
 At 12 noon questions  
 Answers to questions on notice  
 Government business (continues).’
- BUSINESS WHEN COUNCIL MEETS AT  
 12 NOON ON THURSDAY
5. In sessional order 8, insert the following new paragraph after paragraph (d):  
 ‘(e) sessional order 5 (procedure when responses to daily adjournment debate matters not provided) is suspended.’
- SPECIAL BUSINESS
6. In sessional order 11, omit paragraph (e) and insert:  
 ‘(e) motions pursuant to sessional orders 5 and 15; and’
- MEETINGS OF SELECT OR STANDING COMMITTEES
7. In sessional order 20, after ‘select’ (where five times occurring) insert ‘or standing’.
- STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION
8. After sessional order 21 insert the following new sessional order:
- (1) A Standing Committee on Finance and Public Administration of seven members is appointed to inquire into any proposal, matter or thing concerned with public administration or public sector finances.
- (2) The committee will consist of two members from the government party nominated by the Leader of the Government, two members from the opposition nominated by the Leader of the Opposition, one member from The Nationals nominated by the Leader of The Nationals, one member from the Australian Greens nominated by the Australian Greens Whip and Mr Peter Kavanagh, MLC, from the Democratic Labor Party.
- (3) The members will be appointed by lodgement of the names with the President by the persons referred to in paragraph (2) no later than 4.00 p.m. on Monday, 31 December 2007.
- (4) The first meeting of the committee must be held no later than 4.00 p.m. on Monday, 7 April 2008.
- (5) The committee may proceed to the dispatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.
- (6) Four members of the committee will constitute a quorum of the committee.
- (7) The chair of the committee will be a non-government member and the deputy chair will be a government member.
- (8) The committee may inquire into any proposal, matter or thing that is relevant to its functions which is —  
 (a) referred to it by resolution of the Council; or  
 (b) determined by the committee.
- (9) The 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.
- (10) The committee may commission persons to investigate and report to the committee on any aspects of its inquiry.
- (11) The provisions of the standing orders relating to select committees apply to the committee as if it were a select committee.
- (12) 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.
- (2) That the Clerk be authorised to renumber the sessional orders and correct any internal references consequent upon these amendments.

I am delighted to speak to notice of motion 2 standing in my name. By way of explanation I shall speak to it in three parts. It proposes to achieve three things, and I will address the purposes of the motion in no particular order. The first issue I will speak to is dealing with the daily adjournment debate.

Members will be familiar with the process that is used for questions on notice — that is, that we have a capacity to provide a question on notice in writing for ministers to respond to, and that the question on notice is incorporated in *Hansard*, just as the response from the minister is incorporated in *Hansard*, and that therefore there is a public record, as it were, of the carriage of business — that is, the information transmitted to the member asking the question.

For many years we have had the capacity to raise issues on behalf of our constituents in regard to matters

affecting them personally or collectively — stakeholder groups and community groups — and other matters related to government administration through the adjournment debate at the end of the day. There was a time, which I remember fondly, when all ministers in the Council attended the Council and were able to give expansive answers in regard to the matters raised with them. Under the stewardship of the Bracks government, and now the Brumby government, that practice has demised, and now we only have a token minister in the chamber representing the whole of the government, and matters are put to the minister representing all other ministers and are transmitted to those ministers for response. Sometimes we get a response, but sometimes we get no response.

I have to say that the former Minister for Water, Environment and Climate Change in the other place, the Honourable John Thwaites, was probably the worst performing minister in my memory in Parliament in regard to responding to matters on the adjournment debate. I have to say that the only capacity I ever had to get a response from him was to write to him subsequently, and usually the response came some months later. In any event he has gone, and I am not going to worry too much about that.

The present issue is this: how could we better improve the adjournment debate to provide value-adding, if you like, for our constituents? Clearly a more public process of incorporating the minister's responses in *Hansard* so that there would be a formal record of those responses rather than the adhocery of a private response to a member coming from a minister or no response being given would ensure that ministers were subject to a greater degree of accountability in the way in which they are advised by their departments and therefore the way in which they respond to the Parliament. So in the daily adjournment debate the new sessional order will provide a process for incorporating those responses more formally into the business of the Parliament.

The second item that the proposed sessional orders deal with is to change the time that questions without notice are held on any sitting day, with the exception of the first sitting day of the week, which is Tuesday. In other words, if Parliament sits on Wednesday, Thursday or Friday in future, it is proposed that question time will be at midday rather than at 2.00 p.m., as it does now. I did some research into the times that question time has been conducted in the past, and I found that there is a high level of adhocery. There seems to have been no logic in the way those question time arrangements were conducted.

In 1976 questions without notice were held at various times between 4.00 p.m. and 4.55 p.m. on a Tuesday, on Wednesday at various times between 3.00 p.m. and 4.30 p.m. and on Thursday at 11.20 a.m. I could run through the chronology, but I will not. It would seem that question time has been held variously in the afternoon, in the morning and, from time to time, as the first item of business on the President assuming the chair. But in more recent times we have conventionally had question time after lunch — sometimes at 2.00 p.m., sometimes at 2.30 p.m. and most recently, as we all know, at 2.00 p.m.

In summation, it is a matter for the house to determine from time to time. As far as I am concerned, it is a matter for members collectively to judge what best suits them. I am of the view that there are some members of this place who would prefer that question time was the first item of business every day, so that ministers in particular would not have to worry about preparing for question time for the rest of the day and could get on and deal with other business. By and large the best time for questions is a matter of great speculation.

I would argue that midday as a regular time would suit members. Importantly it would be a convenient time for those who wished to attend both the Assembly and Council question times. They would have that opportunity, because the Council question time would be separated by the luncheon break from the Assembly question time on three of the four sitting days of each week.

I suspect the proposal in these sessional orders which will attract the most interest today is the concept of establishing a new committee of the Legislative Council, which I foreshadow will precede the further development of the committee structure of the Council. It is true that we have two select committees alive and well — they are, of course, the committee inquiring into gaming and the committee inquiring into public land. Both of those committees are doing an important task on behalf of the house, and my expectation is that they will run their course and conclude by making recommendations and findings in a report to the house in due course.

In proposing this sessional order I am presuming that the house's expectation about its review function will be that that review function will develop and that the possibility of moving from what I describe as transitional select committee inquiries, which are narrow in their purpose and deal with one item at a time, to a standing committee structure will give the role of the upper house as a forum for scrutiny a great deal more weight.

It is clearly my view, as I say, that a permanent standing committee will foreshadow the emergence over time of further committees, and I will not hide the desire of certainly the opposition parties to move in that direction, but I think that given the development of the understanding of the work that the committees I have referred to have done over the life of this Parliament so far, many members are now more comfortable with the idea that, rather than just creating ad hoc committees from time to time, the gradual development of a formal committee structure is appropriate. That does beg the question about the role of the joint committees, and I think there will be debate in time about whether or not in fact the joint committee system is still relevant, but that depends on the rate of progress of the development of the committee structure in the Council.

I thought it was interesting that in earlier debates we have had over the last two days great weight was being placed on the role of the Auditor-General in terms of scrutiny of government as opposed to the committee processes of this house. What I can say from my knowledge of the role of the Auditor-General is that the Auditor-General does play a very important role, because I suppose in a formal sense he signs off on the accounts and more recently the office of the Auditor-General has been developing the concept of performance auditing, which is an important function. But what is quite clear is that the Auditor-General does not report or comment on or review the issue of comparative value.

The Auditor-General's function is not to second-guess policy decisions of government. The Auditor-General does not comment on policy decisions of government. The development and implementation of policy is a matter exclusively in the domain of the cabinet of ministers. The Auditor-General has no role in judging whether a policy is appropriate or not, and therefore he does not play any scrutiny role in regard to policy and nor does the Auditor-General play any role in regard to value. For example, if the question were about public-private partnerships versus government-owned entities, the Auditor-General would play no role in assessing the respective benefits and reporting those to the Parliament. All he does is ensure that the advice going to the government is, if you like, factually correct and able to be judged against what are conventional accounting benchmarks. In that case I can see that there is a significant role for the committee system of the upper house to fill.

I am going to restrict my comments in introducing this debate pretty much to what I have said, because I think we all understand — given the lengthy debate we had yesterday on the government's motion in regard to the

formation of committees — the differences in views about committees across the chamber. But I do want to add that I see this debate and the motion before the house as a matter of principle. There may be some issues — what I would describe as machinery issues — in terms of functionality and the way members would see that the committee proposal before the house should be adjusted in future. I would certainly be open to further discussions during the debate today, and I would be happy to consider further amendments to this motion that deal with machinery issues, but I think that many of those machinery issues could be dealt with at a future time.

I just remind the house that the adoption of this motion will not implement any immediate change. What will occur in relation to this motion is that there will be a graduated implementation. The first two items will not come into play until Parliament resumes in the New Year and the third item, being the establishment of a standing committee, will not come into play until 1 April next year, so there is actually quite some considerable lead time to consider if there need to be any machinery changes to improve the operation of the committee. With that, I recommend the motion to the house and urge all members to support it.

**Debate interrupted.**

## SUSPENSION OF MEMBER

**The PRESIDENT** — Order! This is Mr Kavanagh's first time too. The ringing of mobile phones is a completely unacceptable disruption to the house. I ask Mr Kavanagh to vacate the chamber for 30 minutes.

**Mr Kavanagh withdrew from chamber.**

**Debate resumed.**

**Mr TEE** (Eastern Metropolitan) — This motion has the veneer or the cloak of accountability, but it is accountability in name only because, try as they will, opposition members just cannot get the hang of government accountability. They did not practise it when they were in government and they do not understand it now that they are in opposition.

Opposition members know that the electorate demands accountability, and they know that the electorate demands accountability because the electorate kicked Mr Kennett out when he failed to deliver on accountability. In stark contrast, we on this side of the house understand what accountability means. We believe in accountability, and we have indeed delivered

accountability in spades. We established the director of police integrity and the Office of Police Integrity. We gave them significant investigatory powers, including powers to coercively question, powers to search premises and powers to use surveillance devices and to intercept phone calls.

After 150 years we made this chamber democratic, with elections based on proportional representation, something that those opposite seem unable to understand. We have enacted the Charter of Human Rights and Responsibilities Act, which sets out our fundamental rights — a charter which benchmarks government legislation and actions against fundamental internationally recognised human rights, and a charter which is enforceable by the courts, if anyone thinks it has been routinely or otherwise flouted.

We restored the powers of the Auditor-General — again, a power taken away by those opposite. We ensured the independence of the Auditor-General's office by giving it power to conduct audits in its own right and we enshrined and protected its independence in the constitution. We restored the independence of the DPP (Director of Public Prosecutions) and enshrined its role in the constitution. We created the privacy commissioner and introduced protection for whistleblowers.

They are just a few of the measures that we took to restore transparency, decency and democracy to Victoria after the dark Kennett years. So when it comes to accountability, we on this side have a long and proud record. Unfortunately the same cannot be said of those opposite. While they try really hard to pretend to understand accountability, they did not deliver it in government, and they do not believe in it now.

This motion, while cloaked in the rhetoric of accountability, does nothing for accountability. The motion is about power, not accountability. The motion is the latest example demonstrating the inability of the opposition to understand what accountability means. Another example is the gaming inquiry fiasco that we have got running — an inquiry that has been going on since February, an inquiry that has wasted the time of some 18 witnesses, an inquiry that leaks like a sieve.

The gaming inquiry is a complete waste of time because the government has put in place a rock-solid independent process for overseeing gaming licences. The government has an independent probity auditor who has signed off on every single stage of the process, a process that was unheard of in the era of the previous government. In the previous government, accountability meant the Premier ringing up his rich

mates to find out who was going to get the next lucrative contract to fleece taxpayers. In addition the government has obtained for the gaming process the oversight of Mr Ron Merkel, a former judge, who has overseen and signed off on what has been a professional and independent process.

By contrast, the gaming select committee has behaved like an awkward amateur; it has been tripping all over the gaming process. As you would expect with the rich and rigorous independent process the government has put in place, there has not been any evidence of anything improper or illegal nor has the gaming inquiry provided or produced anything constructive. There has not been any constructive suggestion from the gaming select committee about how the gaming process can be improved. For all those concerned, the gaming select committee has been a colossal waste of time and money.

Then the select committee into land spent four days dealing with just 2 of 137 submissions.

**Mr D. Davis** — One hundred and forty now, I think.

**Mr TEE** — One hundred and forty submissions indeed. I am glad Mr Davis has returned to get an appreciation of how the committee is progressing. The committee's sole reason for existence seems to be to aimlessly swan about the countryside without any focus, direction or strategy. Just this week we had the Department of Treasury and Finance (DTF) witnesses give a very detailed overview of the government's land management policy. There were a number of exchanges with the witnesses which demonstrate the directionless inane nature of this inquiry. I want to give the house just one example, although there are many that I could refer to.

After the DTF witness, Ms Hart, spent nearly 40 minutes going through her detailed 21-page submission, we had an exchange with the witness about whether there were any draft submissions prior to her final submission, as if it was somehow a revelation that to find out that indeed there were a number of draft submissions. I will read an extract from the transcript which is very illustrative of the opposition's approach to accountability and indeed illustrative of where we are going with this motion. The chair, Mr Davis, who is in the house, started by saying:

**The CHAIR** — Okay. Was any material omitted from the submission that you are aware of?

**Ms HART** — No.

**The CHAIR** — No material was omitted. Was there an earlier draft, a larger submission than the one the government presented to the committee?

**Ms HART** — I think there would have been many drafts, as there always are of any document that gets developed.

**The CHAIR** — Was there a longer submission, though, that was a fairly well-established submission, that was reduced in size and scope?

**Ms HART** — There were a number of drafts of that submission.

**The CHAIR** — Was there a major length, longer submission prepared, which was later shortened pursuant to the —

**Ms HART** — I think I have answered that there were a number of drafts of that document.

**The CHAIR** — I am asking: was there a longer submission?

**Ms HART** — There may have been a longer, there may have been a shorter, version at different points in time.

**The CHAIR** — So you are answering that there was a longer one or there was not a longer one?

**Ms HART** — I am saying that there may have been a longer version; there may have been a shorter version.

The interrogation went on to reveal nothing. There was another riveting moment during the hearing when the department had to confess that it had someone coordinating the government and the department's various submissions. I spent approximately 2½ hours following this mindless, petty and irrelevant trail of inquiry which went nowhere. Now, 12 months after the election, there have been two select committees which have gone nowhere and delivered nothing.

The opposition has clearly worked out that those committees which it established were going nowhere. But instead of stepping back, having a look at where it failed and rethinking its failed strategy, it plunged further and put forward this motion we are considering this evening. This motion starkly reveals a contempt for accountability. It is a motion which demonstrates and exposes a complete disregard for process. When you look at the detail of this motion, you find that it fails to respect the principle that select committees, indeed all committees, should be, at the very least, accountable to this house. Even a cursory glance of this motion tells you that it is nothing more than a slap in the face in relation to the principles of accountability. It is almost as though the opposition, or at least the author of the motion, had a rush of blood and decided to throw away the rule book and pursue a naked grab for power. There is a catalogue of serious deficiencies in what has been proposed. The proposal is undemocratic, is unaccountable and has unreserved powers of inquiry.

The opposition is proposing a select committee which will operate more as a star chamber. Its deliberations will be secret; documents need never be released. There is no limit to the matters it can inquire into. It can investigate any matter; it can be a Victorian, national or international matter. There are no limits. It is not subject to parliamentary scrutiny, it is not subject to public scrutiny and it is not subject to any scrutiny. It is unaccountable in every way. It is unaccountable in terms of its references, it is unaccountable in terms of expenditure and it is unaccountable in terms of its conduct.

The powers of this select committee are so broad that they are ridiculous. Under the terms of this motion the committee can decide its own terms of reference and it can inquire into any issue, no matter how ill-considered, unfounded or untrue it is. According to its terms of reference, this committee does not have to report to Parliament about the nature of inquiries or their outcomes. Parliament as the supreme overseer of government accountability is completely sidelined by this motion. This is a complete subversion of the democratic process. Like other things which are unaccountable, this committee will, without a doubt, abuse its powers. In doing so, it will demean those who are on the committee and those who did not stand up to oppose the creation of this committee.

We, as parliamentarians, have a moral obligation to ensure that we do not support anything which will have such untrammelled, unrestricted and unaccountable powers. We cannot create this monster and then absolve ourselves from the responsibility of the actions of this committee. Whether we like it or not, unless we oppose the committee, we will be responsible for the excesses of those who will inevitably abuse the powers we have given them. I unequivocally oppose the motion before the house and I have a number of proposed amendments. I move:

1. In proposed new sessional order dealing with 'STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION', in subparagraph 8(1), after 'public sector finances' insert 'within the jurisdiction of the Victorian government'.
2. In proposed new sessional order dealing with 'STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION', omit subparagraph 8(2) and insert—

( ) The committee will consist of four members from the government party nominated by the Leader of the Government, two members from the opposition nominated by the Leader of the Opposition, one member from The Nationals nominated by the Leader of The Nationals, one member from the Australian Greens nominated by the Australian

Greens whip and Mr Kavanagh from the Democratic Labor Party.’

3. In proposed new sessional order dealing with ‘STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION’, after subparagraph 8(8) insert the following new subparagraphs —
  - ‘() Within seven days of deciding to inquire into any proposal, matter or thing the committee will refer the terms of reference to the Council for consideration and approval.
  - () The committee cannot commence any inquiry unless or until the committee has received the Council’s approval.’
4. In proposed new sessional order dealing with ‘STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION’, after subparagraph 8(11) insert the following new subparagraph —
  - ‘() The committee will report to the Council every three months on the conduct of its terms of reference. Once the report has been presented to the Council, the committee will not continue to deal with any inquiry unless approval is obtained from the Council. The Council can extend the time for the inquiry into a reference by no more than three months.’

The amendments will allow some modicum of decency to be added to the proposal of this committee. The first amendment tries to put some jurisdictional limit on the work of the select committee. Currently the limits, such as they are, are vague and ambiguous. The only requirement seems to be that the committee should consider public administration or public sector finances. According to the current definition, a committee can consider commonwealth government activities, the war in Iraq and a number of other commonwealth failures. As I indicated earlier, these powers are so broad that we could have an inquiry that encompasses the actions of the United Nations. The terms of reference are so broad they are breathtaking. Unless there are some reasonable constraints, we will all be exposed to ridicule. My amendment is a common-sense one. It seeks to limit the matters into which the committee can inquire to those matters that are within the jurisdiction of the Victorian government.

The second amendment tries to align the membership of this committee to more closely mirror that of the house. For the committee to have any credibility it has to do better than mirror the numerical representation of this house. The current provision which states that the government has only two members on the committee defies logic. This amendment seeks to increase the size of the committee from seven members to nine members

and increase the number of government members from two members to four members. If we are unable to better reflect a democratic representation on this committee, it will forever be politicised and written off as being nothing more than a political stunt, and its work, whether impressive or otherwise — and I suspect it will be otherwise — will forever be tainted by the stain of its unrepresentative character. So I urge support for the second amendment.

I turn to the third and fourth amendments, which I will address together. They provide that once the committee has determined its terms of reference for dealing with an issue — because members will recall that the committee can determine its own terms of reference — it should refer those terms of reference to the house for consideration and endorsement where appropriate. At the very least you would have thought that the work of this committee, if nothing else, has to be accountable to this house. It is completely unclear what harebrained inquiries will be dreamed up in secret by this unaccountable committee if it is left to its own devices. It appears that if the motion is passed there could be any number of ad hoc terms of reference being dreamed up in response to every newspaper article, headline or any other matter. There has to be some parliamentary oversight, and these amendments will achieve that outcome; otherwise Parliament will be subverted and sidelined.

It is important to recognise the political nature of this committee and to contrast it with the considered and responsible work of standing committees, which are at least required, unlike this proposed committee, to report to Parliament. There is no such accountability requirement for this committee. This committee could go on for years without reporting to Parliament. It could conduct public hearings on any matters without any concern for or reference to the wishes of this house. My amendments try to bring some accountability to this committee. Call me old-fashioned, but they try to bring some parliamentary scrutiny to this committee. They require that this unaccountable roving committee come back and report to this house on the progress of its terms of reference every three months. It is absolutely imperative that this house has some capacity to take control over any errant behaviour of those who control the activities of this ad hoc committee.

**Mr Atkinson** — It is not ad hoc.

**Mr TEE** — The terms of reference are ad hoc, and the committee is unaccountable in that its activities will be ad hoc and committed without recourse to this house. I understand Mr Rich-Phillips will be moving a number of further amendments, which I have briefly

had a look at. They seem to follow the pattern that has emerged in the drafting of the original notice of motion. One of the amendments proposes that the work of the committee, which, as we know, is not accountable to Parliament, does not have to be done by the whole committee; we could set up a subcommittee.

**Mr P. Davis** — On a point of order, President, Mr Tee is speaking about amendments which have not been put before the house. I ask that you suggest to him that something that has been circulated in private is not something that one should debate in the house during one's contribution.

*Honourable members interjecting.*

**The PRESIDENT** — Order! I know Mr Leane might like to be in the chair, but he must wait his turn. Mr Davis's point of order is in fact correct. It is not appropriate for Mr Tee to discuss amendments which may or may not come before the chamber. I uphold the point of order.

In addition, some members may have heard my phone go off. That being the case I am going to give myself 30 minutes, and Mr Leane can take the chair.

**Mr TEE** — As I have indicated, the motion is not about accountability; it is about power. It is about creating a body with significant inquisitorial powers that is not accountable to this house. It subverts democratic principles in every way. As we know, political history is dominated by examples of what goes wrong when people with the best intentions create powerful but unelected bodies.

If we approve this motion, we will create a terrible precedent — one which I have no doubt we will come to regret. I urge this house to separate from this motion an intention to improve accountability. We need to separate the issue of accountability from this motion; the two are completely unrelated. This motion is not about accountability. It uses the language of accountability to disguise the creation of something which is not accountable. The creation of a bad body and a bad structure to achieve what may be a noble end will never succeed. The body will inevitably become greedy, unbridled and unchecked. Unchecked and unbridled power, as we know, will corrupt no matter how good are the motivations of those who created the body. For these reasons I urge the house to support my amendments and to oppose this motion.

**The ACTING PRESIDENT (Mr Leane)** — Order! On calling Mr Hall, given that the President's phone went off, I want to flag to him that my wife is

coming in for dinner at 6.30, so I will be suggesting that we will adjourn at 6.30.

**Mr HALL** (Eastern Victoria) — I will certainly concede to that. Your wife is one that thou shalt not cross, so I will make sure that you are out in time and try to give you a couple of minutes grace in respect to this matter. I am also going home to have dinner with my wife, and she will not want me to be late either.

I start by saying that The Nationals have always been happy to try to work with all sides of the chamber to look at ways in which we can improve standing and sessional orders, so we are happy to look at what has been proposed here by way of motion and also by way of amendments. Although I cannot talk about them, I understand other amendments may be moved as well, so my final comments about many of the amendments will come towards the end of the debate when the house has ensured that all possibilities for amending this motion are available to us and we can make a fair judgement of those and comment on them.

This motion essentially proposes changes to sessional orders in three areas. The first of those is the daily adjournment debate, which in fact has not changed significantly over the years.

**Mr Finn** — It is not a debate any more.

**Mr HALL** — It is interpreted as not being a debate any more, but the only change to sessional orders in recent times as they relate to the adjournment has been a change in the number of times members can raise a matter per week. Now members are entitled to raise a matter on the adjournment every night of a sitting of Parliament if they choose to. I think that has worked well. I do not think there have been any extensive lists or time taken up by the fact that more members have been given the opportunity to raise adjournment items. Generally speaking it has worked well. What has not worked well is that it often takes an undue amount of time to receive a response to an adjournment item.

Although it was once the practice in this chamber that all ministers were present for the adjournment debate and therefore in a lot of cases a response was given immediately, that has certainly not been the case under the current government. That has been disappointing, so in trying to elicit more appropriate and thorough responses from government we are happy to support that component of the sessional orders changes which will require ministers to furnish responses to adjournment items within 30 days. I think that arrangement, being similar to the arrangement for

questions on notice, is a sensible one, and we are happy to support it.

The second area of change in these sessional orders concerns the order of business. Essentially that will bring forward question time on Wednesdays and Thursdays from 2 o'clock in the afternoon to 12 noon, before lunch. I do not think the changes to sessional orders with regard to questions without notice has worked all that well, particularly the dropping of time limits on the asking and answering of questions. I must say that I think that has been a retrograde step and question time in this chamber is now treated with too much flippancy, probably by both sides of the chamber but particularly by ministers who are answering the questions in the way they choose to and in what I think at times is a less than responsible manner. When we changed the sessional orders to take away the time limits for the asking and the answering of questions I was happy to give that a trial, but I am close to suggesting that the house should bring back those time limits, because I do not think the time used in answering questions is being used wisely by the house.

The bringing forward of question time to 12 noon, before lunch, might be a productive measure, rather than ministers waffling on knowing that they have unlimited time to complete questions without notice. Bringing it forward to before lunchtime might impose a discipline on ministers to at least get questions without notice finished by 1 o'clock, the designated lunchbreak time for this chamber. Hopefully that may expedite some of that part of the business of the house.

The third area I want to talk about is the establishment of select committees. By this motion we are talking about the establishment of a standing committee on finance and public administration. I have to make this comment about the way select committees are operating in this chamber at the moment: I do not think that the two select committees we have established are working all that well. I think in large part that is the fault of the government, which has been less than cooperative in providing information to those select committees. Equally I do not think the house has helped itself all that much by providing the terms of reference it has to those select committees.

My experience is that the terms of reference have been so broad in nature that it has been difficult for the committees to focus on key essential points. I know we try to accommodate the needs and wishes of most people when framing terms of reference, and I understand that we like to take into account what everybody would like an investigatory committee to inquire into, but providing broad terms of reference

makes the task at hand less focused and therefore more time consuming, such that the two select committees have become almost de facto all-party parliamentary committees in terms of the nature of the inquiries they have been asked to undertake. That is the case with the Select Committee into Public Land Development, of which I am a member. The terms of reference the house has given to that committee are so broad that, as Mr Tee said, the committee could spend literally years, if it so chose, on the many issues raised by various people.

I say with respect to the establishment of a standing committee on finance and public administration, as is proposed by this motion, that I would hope the Council, if it gives the committee a reference, and the committee, if it generates its own terms of reference, take into account the need to make the terms of reference more focused than has been the case so far. The work of that committee should be narrow and should produce outcomes rather than extending too broadly into a whole range of areas, making the task of reporting on time very difficult.

I will conclude with those comments. As I said, Acting President, you and I have commitments that we need to meet on time. I will be happy to take the proposed amendments into consideration when all of the amendments are brought before the chamber this evening. I indicate that generally speaking The Nationals support the principle of the motion, which seeks to change the sessional orders. They are sensible changes, but I think they only partly meet the need for an ongoing process of continually appraising the sessional orders to make sure they suit the needs of the house.

**Sitting suspended 6.28 p.m. until 8.03 p.m.**

**The PRESIDENT** — Order! Members will be aware that at 10 past 6 this evening I disrupted the business of the house and that consistent with my policies of dealing with members who do that I removed myself from the chamber for 30 minutes. I did that in an impetuous manner, without referring to the clock and not realising at the time that that would mean that I could not come back into the chamber until 10 past 8 this evening. However, I have decided to exercise my right to executive privilege and revise that decision to 20 minutes, so I am back.

**Ms PENNICUIK** (Southern Metropolitan) — First I will say that the Greens will be supporting Philip Davis's motion, which is in three parts. The first part is about the daily adjournment debate. I am sure Mr Davis will not mind if I admit to that being my idea. I had

been thinking about the adjournment matters that members raise here in the house, which are usually community matters — matters that are brought to us by members of the community that are of importance to them — on which they request an action of a minister.

Unlike the procedure for questions on notice, where members present ministers with questions that are placed on the notice paper and the ministers then get back to members with answers and those answers go into *Hansard* and become part of the public record, on the adjournment each member spends 3 minutes raising issues of importance to people in the community, and at some stage the ministers may write back with responses, which in my experience usually takes a while, and those responses do not appear in *Hansard*.

So far as members of the community are concerned, they have asked a member to raise a matter of importance to them, the member goes to some trouble to outline a matter and request an action, the minister may get back to the member and say, 'This is the action I am going to take', or, 'I am not able to take such and such an action', but members of the community do not see the response in its fullness. They are able to see the request and the background, which is available for the community to see in *Hansard*, so it seems strange to me that the answers are not incorporated in *Hansard* in the same way as answers to questions on notice are incorporated in *Hansard*.

I spoke to the Clerk and several members of Parliament about this, and they seemed to think it was a good idea. I heard that in the past when the adjournment debate was on all the ministers would be present in the chamber and they would either give an answer straightaway if they knew it or they would provide an answer later. That is actually the genesis of the change to the adjournment debate in this part of the sessional orders. What is behind my idea is that if a community matter has been raised, it is on the public record but whatever the minister's response to it might be is not on the public record. There is no good reason why the response should not be on the public record. That is the background to that sessional order.

After considering it further, I thought that if a question on notice is expected to get an answer within 30 days and that answer is then incorporated in *Hansard*, there is no real reason why the same time limit — 30 days — cannot apply to responses to adjournment matters. Thirty days seems to be a reasonable time limit for a minister to say whether he or she is able to respond to a request and furnish the member with that answer and to have that answer incorporated in *Hansard*. In that way members of the community can then follow what has

been asked or requested and later see what the response has been to the issue of importance to them. That is where that idea came from, and I think it is a good thing and an improvement to our sessional orders.

The second part of the proposed changes to sessional orders in Mr Davis's motion is the change to the commencement of question time from 2 o'clock on every sitting day except Tuesdays, because Parliament starts at 2.00 p.m. on Tuesdays. On every other day when we start in the morning question time will commence at 12 o'clock, before lunch. There is no real reason why it should be held at 2 o'clock. It is a good thing from my point of view to have question time in the Legislative Council at a different time from question time in the Legislative Assembly.

It means that members of the public and indeed members of the media can attend both question times, so they do not have to choose one or the other. It means that if members of the public want to come into question time, they can come in at 12 o'clock and hear question time in the Legislative Council, can have lunch and then hear question time in the Legislative Assembly at 2.00 p.m. I think that will be an improvement in public accessibility to question time in Parliament. We know that most people who come into the gallery to watch Parliament tend to come in at question time. I think that is also an improvement. Obviously that cannot occur on Tuesdays, because we do not start before 2.00 p.m., but on two days and sometimes three days of the sitting week the public will be able to be present for question time in both houses of Parliament and will not have to choose between them.

The more substantive part of Mr Davis's motion is the setting up of the Standing Committee on Finance and Public Administration, which the Greens will be supporting. We will be supporting the motion as put by Mr Davis.

I start by saying that the setting up of this committee is really only a first step in establishing the Victorian Legislative Council in such a way that it resembles more closely the other legislative councils around the country. The New South Wales Legislative Council has 10 standing committees, 5 of which are general purpose committees, and the general purpose committees have several portfolios attached to them. One of its general purpose committees, standing committee no. 1, has the following portfolios: the Premier, state development, citizenship, education and training, commerce, finance, industrial relations, Treasury, infrastructure, the Hunter region and the legislature. All matters regarding those portfolios or issues occurring in those portfolios would be referred to that committee. The Western Australian

Legislative Council has six standing committees. As we all know, there are eight general purpose and legislative committees in the Australian Senate.

In Victoria we have got a way to go before we look like parliaments around the country. Although we have our standing committees, they are not standing committees that look at legislation and general matters. Setting up a committee that has the same name as one of the Senate committees — that is, the Standing Committee on Finance and Public Administration, is a good start. Certainly finance and public administration is an area of great interest to the community and to all parliamentarians, as it should be. We are supporting the setting up of this standing committee and are supportive of the way it is to be constituted according to the motion by Mr Davis.

The government has moved some amendments through Mr Tee, and I will speak briefly to those amendments. The first amendment, which seeks to add the phrase ‘within the jurisdiction of the Victorian government’ after the actual terms of the committee, seems to me superfluous because there is no way that any committee in the Parliament of Victoria can be looking at anything that is outside the jurisdiction of Victoria or that is not within Victoria.

**Mr Pakula** interjected.

**Ms PENNICUIK** — There is no need because it is superfluous. The wording that sets up this committee under paragraph 8(1) is:

A Standing Committee on Finance and Public Administration ... is appointed to inquire into any proposal, matter or thing concerned with public administration or public sector finances.

These are exactly the same words by which the Public Accounts and Estimates Committee is set up, and it does not have the phrase following on about Victorian government jurisdiction because it is not needed. There is no capacity for any committee of this Parliament to inquire into things that are outside Victoria. That is a superfluous amendment; it is not needed.

We will not be supporting Mr Tee’s second amendment regarding the constitution of the committee. We had a 3-hour debate yesterday on the constitution of upper house committees. I do not propose to rehash that debate, but I indicate that we would support the constitution of the proposed committee as outlined in the motion by Mr Davis.

The third amendment proposed by Mr Tee would actually take away the function that exists in the motion by Mr Davis under paragraph 8(8), which states:

The committee may inquire into any proposal, matter or thing that is relevant to its functions which is —

- (a) referred to it by resolution of the Council; or
- (b) determined by the committee.

Certain government members have suggested to me that paragraph (b) is unusual. In fact it is not unusual because if you look around the country you find that other parliaments have similar terms of reference. In Western Australia committees of inquiry may inquire into matters that are the subject of business before the relevant house, or matters of public policy or of government. Legislative Council standing committees survive the dissolution of the Parliament. That is interesting, because it means they continue after the life of the Parliament. They have defined functions, and they may also initiate their own inquiries with their own terms of reference.

Committees in the Tasmanian Parliament can look at references from the minister, or they can decide which issues to look at. The same is the case in South Australia, where upper house committees can inquire into matters on a motion of the house, the committee’s own motion or, strangely, on a direction from the Governor.

Although New South Wales committees tend to inquire only into matters referred to by the house, there are three upper houses in this country that do look into matters of their own reference — that is, matters that a committee has decided it will refer to itself. On that subject, after the government’s amendments were drawn to my attention and because there was no mechanism in Mr Davis’s motion by which to acquaint the Council with matters which the committee itself may decide to investigate, I decided to propose amendments in my name.

I have two amendments. I propose to add with my second amendment that:

- ( ) Within seven days of deciding to inquire into any proposal, matter or thing, the committee will inform the Council of the terms of reference.’.

That is a mechanism whereby whenever a committee decides to inquire into something, it must inform the Council of that.

**The PRESIDENT** — Order! I am sorry to interrupt Ms Pennicuik, but I ask her whether she has formally moved her amendment.

**Ms PENNICUIK** — Thank you, President. I was just about to formally move amendment no. 2 standing

in my name. I am sorry for moving no. 2 first, but it comes before no. 1 in the flow.

**The PRESIDENT** — Order! I am advised that unfortunately, while the member might want to, she cannot in fact move amendment 2 before amendment 1. They have to be moved in the order in which they appear.

**Ms PENNICUIK** — Thank you for your assistance, President. I will then move both amendments standing in my name. I will return to my former topic in a moment, but first I will move to the topic of amendment 1. 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 member of the committee may be substituted by another member of the same party by notice from the member to the clerk of the committee.
  - ( ) the substitute member is a member of the committee for all purposes.’.

We are proposing to set up a standing committee of the Legislative Council. I have used the model of the Legislative Council’s Legislation Committee, where substitute members are allowed. If a matter is referred to the committee, or the committee wishes to look at particular matter, and a member of Parliament has expertise in that area, they could be substituted for the nominated committee member. I also move:

2. In proposed new sessional order dealing with ‘STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION’, after subparagraph 8(8) insert the following new subparagraph —
  - ( ) Within seven days of deciding to inquire into any proposal, matter or thing, the committee will inform the Council of the terms of reference.’.

That brings me back to Mr Tee’s third amendment, which we will not be supporting, because, as I said, many committees of other upper houses around Australia do exactly what this motion refers to — that is, they decide to inquire into a matter on their own volition. That is already accepted practice in other upper houses around the country. That is a good thing.

If you look at the rest of Australia, you will see that there are different ways of setting up committees and different numbers of people on committees, with some taking reference only from the house and some setting their own references. There is nothing untoward or out of order in a committee setting its own reference. We will therefore not be supporting amendment 3 standing

in Mr Tee’s name. In place of that I have moved my own amendment, amendment 2 standing in my name.

I am not sure of the purpose of Mr Tee’s amendment 4, which is about the committee reporting every three months, with an extension of three months if the Council approves it. I would have thought that the period a committee has to report in would depend on the matter before that committee. If it is a comprehensive, complicated matter, it might take six months or a year; but if it is a much more narrowly defined, specific matter, it might take three months. I do not think a committee should be constrained by always having to report in three months. Therefore I do not support that amendment — and Mr Tee’s amendments 3 and 4 really go together. With those comments, we will support the motion as moved by Philip Davis.

**Mr LEANE** (Eastern Metropolitan) — In speaking on this motion I embrace as a concept something that Philip Davis discussed yesterday in relation to Mr Viney’s motion. He posed the question: who is the government in this place? The point he was getting at was that ministers and parliamentary secretaries would be deemed to be the executive, and therefore, the government; other Labor members might support the executive, but could be deemed to be private members under the Westminster system. That was the proposal he put. In speaking to this motion I will embrace that concept, stand back and speak as a private member. As I said, I am only accepting this as a concept, but I would like to look at this motion in terms of the way ministers and parliamentary secretaries — the members of the executive — and the opposition interact under the daily orders we run by.

I start with paragraphs (2) and (3) of Mr Davis’s motion under the heading ‘Order of business’. A major aspect of these paragraphs is the moving of question time from 2.00 p.m. to 12 midday. As someone who is standing back and looking at it, I think this part of the motion is really a concession. As the opposition sees its purpose during question time as to try to expose the government and make it look bad — —

**Mrs Peulich** — Surprise, surprise! What a new concept!

**Mr LEANE** — As I was saying, I am looking at this as a private member. The opposition tries to make the government look bad, and I accept the concept.

**Mrs Peulich** — That is the adversarial system.

**Mr LEANE** — That is right, and I accept that concept. So what I would be saying is that the moving

of this motion is really a concession by the opposition that it is not performing that role well at all. It is clutching at straws by trying to change something, something needs to be changed.

As a private member just standing back and having a look at opposition members as they come in here, I think they must be frustrated and must be trying to find any way at all that might spur some sort of reaction and lift their game. They seem to be looking at changing the times — it is a bit like changing the furniture around — as a way of trying to lift their game.

And I must say, from where I sit back here, I think they have tried a few things to try to lift their game and perform better. I noticed that in the early days of this Parliament Mr Finn got the opportunity to ask a lot of questions of the ministers, and it is glaringly obvious that in recent months Mr Finn has been deprived of that opportunity. As a tactic by opposition members to try and lift their game, that probably was not a bad ploy, I have to say. You cannot really gauge the net value of it, but it probably was not a bad idea. As someone standing back and having a look, I am prepared make some concessions while I talk on this motion.

The other thing I noticed is that to try and stir things up, the members of the opposition promoted a member who had previously been a frontbencher, Mr Dalla-Riva, back to the front bench again. But they managed to neutralise that, because they did not actually moved him to the front bench.

**Mrs Peulich** — Totally irrelevant.

**Mr LEANE** — This is about question time, President. I say that it is relevant to moving the time when question time is held. We have the right to question why this motion is being pushed.

Mr Dalla-Riva — and this is a concession — at the start of this Parliament was an aggressive member of the opposition frontbench. He has really been neutralised. I suppose the idea of bringing him back but putting him back there leaves me a bit confused. I would say that the net value of that move to a frontbench position has been neutralised by his staying on the back bench and comes without a lot of net value.

Continuing on about question time, I noticed that in recent months the members of the opposition have introduced what seemed to be theme days. Yesterday's theme day, you could tell, was about red tape, but I think if they are going to embrace theme days —

**Mrs Peulich** — On a point of order, I do enjoy the humour of the member currently making a contribution,

but could I say that so far it has had virtually no relevance to the motion before the house.

**The PRESIDENT** — Order! Despite the protestations of members on my right I am inclined to agree that Mr Leane is starting to stray a little from the general concept of this motion. I am not going to argue with Mr Leane; I am saying to him that he might like to consider that in the rest of his contribution.

**Mr LEANE** — Thank you, President.

**Mrs Peulich** — Blow him a kiss; go on.

**Mr LEANE** — I will have something for you later, President — that we spoke about! But I respect —

**The PRESIDENT** — Order! Seeing that we are entering into the area of frivolity, I might remind the ex-union official of the Electrical Trades Union that he has got nothing for me. Nothing!

**Mr LEANE** — On relevance, I would like to continue to talk on paragraphs 2 and 3 of the motion regarding the moving of question time. If you are a firm and you are not going too well and things get a bit desperate, maybe things like just moving the furniture might encourage you to cheer up and feel a bit better about life. This move from 2 o'clock to 12 o'clock on those two days might be some sort of feng shui thing, in that you might get the positive chi from it, as you might by moving from one side of the chamber to the other. When you are in desperate times, you do try things such as theme days and the like. I think that is very relevant.

As I say, I am embracing Philip Davis's concept — I am not a minister, I am not a parliamentary secretary and I am standing back as a private member and looking at why you would change these times on these two days. I think it probably must be a bit frustrating for members of the opposition to come in and have to take turns standing up with their questions and basically just bowl slow full tosses at the government and watch the ministers smack them out of the park. I can understand why they would want to change things. I would think that they must dread the minutes just before 2 o'clock. They must have this feeling that they have to drag themselves —

**Mrs Coote** — On a point of order, President, we have now been going for nearly 10 minutes on this diatribe of rubbish, and it is demeaning to this chamber. We have had our mirth. It is absolutely derogatory and disrespectful to everybody in here. Mr Leane is right off the line about the main motion, and I ask you to call him to order.

**The PRESIDENT** — Order! Whilst I accept that Mrs Coote is entitled to her opinion and she may have a very genuine view about the contribution being made by Mr Leane, I have listened very carefully in the last 5 or so minutes since I suggested to Mr Leane that he come back to the actual subject, and I think he has done that. Although it might be a little different and maybe even unique, I do not think he is offensive in any way. I do not think he is off track in putting his view as to the rationale for the motion moved. I disagree, and there is no point of order.

**Mr LEANE** — I suppose I could think of a rationale to move from 2 o'clock to 12 o'clock as a psychological mindset thing. As I was about to say, at a few minutes to 2 o'clock the opposition must have a dread about coming into this place. The only analogy I can think of is that opposition members have to drag themselves up the Faraway Tree and spend over an hour in the Land of Spanking.

Far be it from me to advise the opposition, but standing back as a private member and looking at the way things operate, the reality is that moving the furniture, moving the times and looking for some positive chi are not the answer. The reality is that to lift your game in any way involves hard work and a united team. Anyone can work harder. It is just about ability, and if you want to do it, you should be able to do it.

So far as a united team is concerned, I can see, standing back as a private member, that the opposition would have problems with having a united team in this area. We have all heard the grumbings about moving and shaking — people moving in the shadows and looking to promote Mr Guy into a leadership position, probably not in this house. Standing back and looking at that I can honestly understand it, and I want to put this on the record: I believe Mr Matthew Guy has the potential of being one of the longest serving opposition leaders this state has ever had.

**Mrs Coote** — This is an absolute disgrace. We are talking about the formal operations of this chamber.

**Mr LEANE** — It is your motion and I would like to keep talking on it. If it is a disgrace, then maybe you should not have moved this type of motion. It is not just a one-way street sort of thing.

I would like to touch on paragraph 8(2), which relates to the proportional relativity of the numbers of the members of committees.

**Mrs Coote** interjected.

**The PRESIDENT** — Order! I warn Mrs Coote. I do have to listen, and I listen. If Mrs Coote wants to continue down that road, she is warned.

**Mr LEANE** — As far as paragraph 8(2) is concerned, the government has been arguing with the opposition that its figures are not proportional. I was interested to hear Mr Kavanagh speak about how he was a bit frustrated over the years. He believed the Democratic Labor Party — and I am sure it did — had a certain percentage of the vote and for years the Liberal Party promised to deliver some sort of proportion relevant to that vote, but it never delivered.

**Mrs Peulich** interjected.

**Mr LEANE** — I am only referring to what Mr Kavanagh spoke about. He seemed a bit disappointed about it. He stood up yesterday and said that his belief is that any future committees should be made up of the government members, with half minus one. I would not hold my breath if I were Mr Kavanagh. I respect his view, but I do not think the parties that are sponsoring this motion will grant that, because that is not what this motion is about. It is not about fairness, and I know Mr Kavanagh is a very fair man. It is about politics, and that is what we do. I would be advising Mr Kavanagh not to hold his breath on that.

I want to touch on subparagraph (9) of the proposed amendments to the sessional orders.

**Mr D. Davis** — Can you count that far?

**Mr LEANE** — Mr Davis, you need to get with the program with your Prime Minister. He has come out and said that a trade is equivalent to a university degree. You do not want to be doing a Malcolm Turnbull and breaking ranks on policy now.

On the documents — and we had this debate in the last motion — there are no boundaries about the documents. It just says:

- (9) The 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.

Then they want to call for documents, as they have done in their recent committees in which they have searched but found nothing. I think this is a very irresponsible part of this motion. People from around the world tender for important services in this state, and we want those tender processes to be as competitive as possible.

**Mr D. Davis** — Open and transparent!

**Mr LEANE** — As competitive as possible. When people tender, protection of commercial-in-confidence information is very important. When people table documents in a tender that pertain to their company — their business plans and their template business plans — the last thing they want is for those documents to be made public so that their competitors can access them.

If you were a worldwide company, why would you be attracted to tender for one of our important services if you knew there was potential for your commercial-in-confidence documents to be made public — as Mr Lenders said before — at the whim of 21 people in this state? I have a concern about that. They should be looking at actually representing the people they are supposed to be representing in this state and not sabotaging the commercial tender process which we have in this state.

I will go to subparagraph (8) now.

**The PRESIDENT** — Order! I think that I have been extremely tolerant of Mr Leane's contribution to date and that he is struggling to maintain relevance. I ask him to listen to what I am saying about relevance to the particular matter at hand and give consideration to that. If he cannot, then I will. The member, to continue.

**Mr LEANE** — Thank you, President. I do respect your ruling. I want to speak on subparagraph (8) of paragraph 8 of the motion. It states that a reference can be:

- (a) referred to it by resolution of the Council; or
- (b) determined by the committee.

The proposal is that representation on a committee will not be proportional, and there is a movable feast about references. The committee will be able to pluck references from anywhere. The problem that opposition members have had is that they have helped put in place two select committees which have tried to find things with which to embarrass the government or make the government look bad, but they have failed. Both select committees have gone on fishing trips, but they have not had a bite and have been disappointed. They have decided that they will throw in a net. They say, 'We have not had a bite on these couple of controversial issues, so we will just throw in a net with any reference we can, to clutch anything we can'.

Again, as a private member, I just want to — —

**Mrs Peulich** — You are not a private member; you are ALP!

**Mr LEANE** — I am using Mr Davis's concept; I was very interested in it and found it very interesting.

**Mr D. Davis** — You could just sit down and save the chamber a lot of time.

**Mr LEANE** — The real concern I have as a private member is that I see this committee — —

**The PRESIDENT** — Order! I want to help Mr Leane. The reality is that he is not a private member in this context. He is a member, and his constant reference to being a private member is starting to agitate the gravel, so I ask him to please refer to himself as a member.

**An honourable member** — Mr Leane is breaking free!

**Mr LEANE** — Thanks! It is nice to feel free from time to time. I appreciate your ruling again, President, and if my speech is doing to you whatever you said it was doing, I will cease from doing that.

A concern I have — and I hope the Greens share it — is that any new committee may just be another Spanish Inquisition, and I would hope the Greens would see that. The concern I have is that any new committee formed will be just a new Spanish Inquisition, another Star Chamber. We have a very good example of this. Time and again Liberal members on committees — especially the current select committees and with this new committee — like to drag in people who work for government departments. They like to drag in and bully people who are on wages, as Mr Tee has pointed out. They like to harass them and use parliamentary privilege to insult them.

Liberal members of these committees use parliamentary privilege to call them liars because the witnesses tell the truth and do not give the Liberal members of the committee the answers they are looking for. When these departmental employees state that everything is above board, opposition members of the committee do not want to hear about it.

*Honourable members interjecting.*

**Mr LEANE** — They want to get the answers they are looking for, so they bully and cajole these people. I am honestly appealing to the Greens. Yesterday, in his interjections, Mr Barber was spruiking that the Greens are the real left party. Honestly, I cannot think of anything more to the right than voting for a Spanish

Inquisition that gives the Liberals their born-to-rule — —

*Honourable members interjecting.*

**Mr LEANE** — All their feelings come up and they attack workers on wages. We are talking about workers in government departments who are on wages. I have to say that I cannot think — —

**Mr Atkinson** — On a point of order, President, I have been in my office; I have heard your rulings and I have heard your guidance to the member. I would have to say that he continues to flout your rulings and continues to stray into areas that have absolutely nothing to do with the motion before the house. I do not know whether he is trying to be vexatious or whether it is a problem of his dinner, but the member ought to be asked to complete his contribution being relevant to the motion or finish his contribution.

*Honourable members interjecting.*

**An honourable member** — On a further point of order — —

**The PRESIDENT** — Order! I might rule on this one first. Mr Atkinson raised a point of order about relevance and even asked whether Mr Leane's contribution could be vexatious, which I do not think could be asked at this particular point. This is a very wide-ranging debate. It includes three matters — —

**Mr D. Davis** interjected.

**The PRESIDENT** — Order! If Mr Davis thinks this is funny, that is okay. He might like to make a comment about that. I welcome his making a comment about the humour of my ruling, and we will see how we go.

As I say, it is a very wide-ranging debate dealing with three issues, including the adjournment, the timing of question time et cetera, which allows for a great deal of flexibility. As I said earlier in response to Mrs Coote's point of order, whilst you might not like the answer or the contribution that is being made, there is a bit of flexibility being offered.

I have said to the member that I am concerned about relevance; I have said it on two occasions, and I think I have said it for the last time. The member has been going for quite some time now. There is no limit on how far the member can go or how long he wants to continue to talk on the three particular matters, but there is such a thing as tedious repetition. I am not saying the

member is there right now, but I am asking him to be aware of that and to be conscious of what I am saying.

**Mr O'Donohue** — On a further point of order, President, whilst Mr Atkinson was on his feet making the point of order to the Chair, I heard Mr Leane address Mr Atkinson by his first name.

**Hon. J. M. Madden** — Further on the point of order, President, if I heard anything I think it was 'Mr Bruce Atkinson'. I do not think it was a single name.

**The PRESIDENT** — Order! I remind the minister that he has a very serious responsibility in the house, and he would want to be very confident that that is what he heard. In this instance the claim has been made. I ask the member if he addressed Mr Atkinson in that manner.

**Mr LEANE** — President, the honest answer is that in the argy-bargy since Mr Atkinson stood up, I honestly cannot remember if I did call him Bruce.

**The PRESIDENT** — Order! That will do. The member, to continue.

**Mr LEANE** — If you are happy with that, President, then that is all right. I just want to say that I do work with Mr Atkinson from time to time out in the electorate, so I might have — —

**The PRESIDENT** — Order! The member, to continue.

**Mr LEANE** — Just to move on, through the Chair I make a plea to the Greens. I am interested that the Liberal Party members jump up in defence and outrage when I make a plea to the Greens, and that is obviously their right, but I do find that a point of interest. What I am saying is that I cannot think of anything more far right than agreeing to some sort of Star Chamber or committee that drags in people who work on wages. There have been such instances in the recent select committee hearings, and I hazard a guess that Ms Pennicuik and Mr Barber would have felt uncomfortable seeing workers treated that way and called liars.

We had Mr Barber saying, 'We are the real left party'. As far as being that far left is concerned, I must say that they probably live and die by the ethos of Karl Marx, and one of the main characteristics of his ethos is that action changes the world. Obviously you are judged by your actions. If the Greens vote for this Spanish Inquisition, the mirage of being the real left party will

be waved away. I would like them to think about what they are actually doing.

I know part of their strategy, as far as proving they are the left party is concerned, is to move amendments to already progressive pieces of legislation. They move amendments that they believe are far left. They know that the government already has a program and a strategy in place for the greater good, and they know that it will not accept those amendments, and so therefore they can argue, 'We are the far left'. It is not a bad strategy, and they are playing to their crowd. I accept that, but I would have to say that we are all judged on our actions, and this particular motion will be Judgement Day for the Greens.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I listened to the debates on this motion and on the previous motion, and I have to say I had thought the contribution of the Minister for Planning on the previous motion was the worst contribution we have heard in the chamber today, but having listened to Mr Leane shift between being a private member and a government member for the last 32 minutes, I think we have reached a new low.

I will pick up one of Mr Leane's points — that is, his argument on commercial in confidence. At the times when Mr Leane was being coherent he made a point about commercial in confidence. His point was that if we have the committee proposed by the Leader of the Opposition consistent with the existing select committees, private sector organisations bidding for government work will be reluctant to submit tenders because they all want commercial in confidence. I am happy to inform Mr Leane in relation to the issue of commercial in confidence that in 1999 the Public Accounts and Estimates Committee published a report which stated that the committee had found with respect to the issue of commercial in confidence in relation to government contracts that it was the government that always sought commercial in confidence rather than the private sector bidders. It was a consistent theme through that report that, where entities were bidding for government work, the party that wanted commercial-in-confidence provisions in contracts was the government, not the private sector bidders. Mr Leane's argument that a committee with the power to request documents somehow jeopardises the private sector bidding for government contracts is nonsense.

**Mr Thornley** interjected.

**Mr RICH-PHILLIPS** — I suggest that Mr Thornley read the Public Accounts and Estimates Committee report on commercial in confidence. There

is a theme emerging as to the government's response on this issue, on the issue raised earlier today and on all the other issues where matters of accountability have been raised in this house. The theme emerging in the government's position on matters of accountability that come before this house is that the government does not accept as legitimate any form of accountability that it does not control. That is a theme we saw with previous changes to the sessional orders in this place, it is a theme that we saw with the establishment of the Select Committee on Gaming Licensing and it is a theme that was repeated with the establishment of the Select Committee on Public Land Development. We saw it again today in the motion of censure in relation to the documents that have been previously ordered by the Council, and we saw it on the two previous occasions when this Council ordered the production of those documents.

Every time there is an accountability mechanism that the government is not going to control, it objects to it. Mr Tee, as lead speaker for the government, came in here and indicated that the government would oppose this, and he used his speech to denigrate the two select committees — he called them Star Chambers, witch-hunts and so forth. He said that the committee proposed by Mr Davis's motion would be in a similar vein. The real issue is that the government does not control it. That is the issue which is repeated every time we debate accountability in the house.

The motion put forward by Mr Davis makes some important changes and improvements to the sessional orders of this place. The first of those relates to the adjournment debate. I have to say this is a particularly welcome proposed amendment to sessional orders because it would close a loophole. It would close the loophole on the way in which ministers respond to matters raised in the adjournment debate. Ms Pennicuik, in her contribution, spoke about the need to have a response to a matter that is raised on the adjournment.

As it stands, the adjournment debate is really the only item of business on the parliamentary program where issues are raised and are not responded to in a formal manner. At the moment it is an ad hoc system. If the minister with responsibility for an issue is in the chamber at the time, they will give a response on that particular issue and it is recorded in *Hansard*. However, if an issue is raised for a minister who is not in the chamber or indeed a minister who is located in the other house, there is no formal response to the matter raised.

So the first amendment proposed by Mr Davis is important in closing that loophole and ensuring that responses to matters that are raised on the adjournment are recorded in *Hansard*. The method Mr Davis is employing is consistent with that used for questions on notice and the requirement for ministers to table responses to those within a reasonable time. I would have thought that was a change the government would endorse. It is an opportunity for ministers to put their side of issues that are raised on the adjournment. I am surprised that the government has decided, with its vitriolic approach to the proposal to establish the standing committee, to reject all of the other provisions contained in Mr Davis's motion.

The next provision in the motion relates to changing the time of question time. As other speakers have highlighted, the proposal is that question time on days other than Tuesdays would be at midday. This is an opportunity to stagger the question times of the houses. Members of each place would have the opportunity to view question time in the other place. It was interesting to see the objection raised by Mr Leane in his contribution, where he referred to it as 'shifting the furniture' and 'the actions of a desperate opposition' — I think they were the phrases he used. All I would say to Mr Leane is that if that is what he truly believes, why is he so vehemently opposing it? If he thinks that this is a desperate last act of an opposition, I am surprised that he would be opposing it as strongly as he apparently is.

The real crux of this motion in terms of the area of dispute is the final provision, which would establish the Standing Committee on Finance and Public Administration. The mechanism that the motion proposes is consistent with the mechanism that was used to establish the existing select committees. It is consistent with the mechanism that was used to establish select committees in the 54th Parliament.

The government is proposing, through Mr Tee's amendments of to Mr Davis's motion to make four changes, and I would like to address those in turn. The first of Mr Tee's — or the government's — amendments is to qualify the range of issues which the standing committee would be able to investigate, and it is the government's intention to insert a requirement that they be within the jurisdiction of the Victorian government. As Ms Pennicuik pointed out, if this amendment were accepted, it would mean the provisions of this committee would be inconsistent with the provisions of the Public Accounts and Estimates Committee, on which the outline is based.

The provisions of this committee are already constrained by the provisions of the Victorian

constitution and, importantly inserting an amendment as proposed by Mr Tee would unduly limit the scope of matters that the committee could investigate. If the committee wanted to investigate a matter relating to an industry sector within the Victorian community, Mr Tee's amendment would restrict that, because that is not strictly a matter of government jurisdiction. If the committee wanted to inquire into, for example, the equine industry in Victoria, in view of the issue of equine influenza, it would not be able to do that because it is not a matter of government administration as defined by Mr Tee's amendment. So we believe Mr Tee's amendment 1 is unduly restrictive in terms of limiting what the committee can inquire into, and we will not be supporting it.

The second amendment proposed by Mr Tee expands the committee from seven members to nine and — surprise, surprise! — it doubles the number of government members that would be on that committee. In many respects this is a debate that was had yesterday with Mr Viney's motion on appointing committees by proportional representation. When Mr Tee spoke to his amendment earlier today he said the government's intent in moving this amendment was to have the proportions on the committee reflect more closely the proportions in the house. What Mr Tee should have said is that it was the intention for this amendment to make the proportions on the committee represent the proportions in the house for the government party, because what the amendment actually would do is increase — double — the government representation on this committee, so that the government would have 44 per cent of members on the committee versus their 47.5 per cent in the chamber. But it would significantly reduce the representation of the Liberal Party, which has 37 per cent of the chamber and, under Mr Tee's proposal, it would have only 22 per cent representation on the committee — —

**Mr Barber** interjected.

**Mr RICH-PHILLIPS** — I will pick up on Mr Barber's interjection. It is not proportional; but it is not the government's intention to be proportional. It is only the government's intention to better its own situation. If the government were genuine in wanting proportionality in the committee as opposed to the house, it would have come up with a broader base than what Mr Tee is proposing.

In regard to that point, I am reminded by a comment made by Philip Davis, the Leader of the Opposition, earlier today. He referred to the proportions which existed in this house in the 54th Parliament. The government made up 14 of 44 members; at that time

the government's proportion in this house was only 32 per cent; the Liberal Party had 55 per cent. We did not pursue this issue of proportionality that the government is currently arguing for then because in the 54th Parliament, when this chamber had a standing committee, the Economic Development Committee of the Legislative Council, the government members made up 44 per cent, despite making up only 32 per cent in this chamber, and the Liberal Party had a 43 per cent representation on that committee, despite making up 55 per cent of members of the chamber. The government had in fact equal representation on that committee at that time.

I have to say that we did not hear the Labor Party calling for proportional representation then. There was no proposal from the government to cut its representation on that committee to only one-third in accordance with only making up one-third of the members of the chamber at the time. The government's current argument is not about proportional representation; it is about what is convenient for the government. This has been the case the whole way through the debate about accountability. For that reason, the opposition will not support Mr Tee's amendment 2.

The third amendment proposed by Mr Tee relates to a requirement for the committee to advise the house of its terms of reference. Ms Pennicuik's amendment 2 includes an alternative which is far more straightforward than that proposed by Mr Tee. I note Mr Tee's argument — if the committee refers the matters it intends to investigate back to the Council for approval, it would be the only committee which is required to do that. Other self-referencing committees in this Parliament, such as the Public Accounts and Estimates Committee, do not refer their decisions back to the house for ratification. Ms Pennicuik's amendment 2 is a far simpler way for the committee to operate and to still keep the house informed, as the government expressed is its desire.

The government's third amendment proposes that the committee be required to report to the Council every three months and that after reporting to the Council the committee would not be able to continue its investigation. That would effectively end the practice of interim reports, because once the committee tabled its report, it would no longer be able to undertake its investigations without seeking and obtaining a further reference from the house.

I will put to the house an example regarding the Select Committee on Gaming Licensing. This committee has tabled two interim reports; the first was a substantial

report on matters which the committee had investigated and had received government responses to. It then sought to inform the house of that. Under the amendment the committee could not proceed with its other business. The second interim report of that select committee was to merely present to this house legal advice that had been obtained by the committee; it was for the information of the house. Under Mr Tee's amendment, if that second interim report had been presented, the committee would be prevented from further exploring its terms of reference. The fourth of the government's proposed amendments is completely unworkable and will not be supported by the Liberal Party.

Ms Pennicuik has moved two amendments; I have spoken about the second of them. The first would allow for members of the same party to be substituted for members of that party who have resigned from the committee. That is a sensible proposal and an addition to the primary motion before the house; it is one that the Liberal Party will support. It will smooth the operation of the committee and allow for members to be switched as required.

As foreshadowed earlier in the debate, I have a amendment for the consideration of the house. I move:

1. In proposed new sessional order dealing with 'STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION', after subparagraph (10) insert the following new subparagraphs —
  - ( ) The committee may appoint a subcommittee of at least four members, of whom one is appointed by the committee as chair of the subcommittee.
  - ( ) The quorum of a subcommittee is the majority of the members appointed to it.
  - ( ) Business may only be transacted at a meeting of a subcommittee if a quorum is present.
  - ( ) A question arising at a meeting of a subcommittee must be determined by a majority of votes of members present and voting on that question.
  - ( ) Each member of a subcommittee has a deliberative vote.
  - ( ) In the event of an equality of votes on any question, the chair of the subcommittee has a casting vote in addition to a deliberative vote.
  - ( ) The committee may empower a specified member or members of the subcommittee to send for persons, documents and other things and to take evidence with respect to any proposal, matter or thing which is referred to the subcommittee for consideration and report if the committee

unanimously agrees so to empower the member or members.

- ( ) When taking evidence under the preceding subparagraph, a member of a subcommittee has all the privileges, immunities and powers of the committee.
- ( ) A subcommittee, in relation to any proposal, matter or thing referred to it by the committee for consideration and report has all the privileges, immunities and powers (except the powers specified in subparagraph (10)) of the committee.
- ( ) A subcommittee must report to the committee which may adopt a report of the subcommittee or reject its report or adopt its report with variations.’

**Mr Pakula** interjected.

**Mr RICH-PHILLIPS** — I am amazed at the cynicism of Mr Pakula this evening. My amendment expands the flexibility of the standing committee. It does so by allowing for the appointment of subcommittees of the standing committee in a similar way to the way joint committees are allowed to appoint subcommittees. This allows for the flexibility of investigating multiple terms of reference. It is practice which has been employed by a number of joint committees. After eight years on the Public Accounts and Estimates Committee, I can say that the practice is used frequently by that committee in order to discharge its various responsibilities — —

**Mr Pakula** interjected.

**Mr RICH-PHILLIPS** — I am not a member. The structure laid out in my amendment covers all of the operable matters which are required by a committee and a subcommittee. If it is adopted by the house as an amendment to Mr Davis’s motion, it will allow for further flexibility in the operation of the standing committee should it wish to investigate matters through the use of subcommittees.

President, the three proposals that are before the house this evening are important and progressive changes to the sessional orders of this place. They close the loophole on the issue of the adjournment debate, they allow more flexibility at question time, and with the establishment of the standing committee as proposed, they will allow for a far more flexible and smoother operation of the investigative process than currently exists through the establishment of individual select committees.

As Philip Davis’s motion notes, the standing committee will be self-referencing, but it will also be able to receive references from this house. Rather than having the same debate every time the Council wishes to

establish a committee in terms of numbers, operations et cetera, once the Council has decided to move forward with this structure, the mechanics of the committee will be determined and the Council will be able to debate on an issue-by-issue basis those matters it wishes to refer to the standing committee.

In my view this a sensible progression from the Council’s sessional orders. It is a sensible enhancement of the accountability mechanisms that this house has available to it to hold the government to account, and I urge members to support the proposal this evening.

**Mr SCHEFFER** (Eastern Victoria) — In my contribution to the debate on Philip Davis’s motion I would like to focus on paragraph (8) of the motion, which outlines the proposal to establish a new standing committee on finance and public administration. The first thing to be said about this is that the committee will have seven members. This will mean that it will have the same non-proportional membership as the select committees the non-government parties have established.

This issue was debated fully yesterday. It is disappointing that the majority in the Council resolved to maintain the non-proportional representation on parliamentary select committees. Mr Tee’s amendment attempts to remedy that part of the motion. I support his efforts to provide some balance to the committee by suggesting that it consist of four members from the government and that the rest of the motion be followed. That would give the government a reasonable and proportionate voice in the deliberations of that committee.

The second thing to be said is that the committee has been provided with virtually unlimited power of inquiry. It can inquire into any proposal, matter or thing concerned with public administration or public sector finances. It can also look into any proposal, matter or thing which is relevant to its functions and which is either referred to it by a resolution of the Council or — and this is the problem — determined by the committee itself. This effectively hands to the committee, without the need for reference to the Council, unlimited power to pursue its own agenda, and I believe that agenda is to facilitate opposition fishing expeditions. Amendments 1, 3 and 4 all deal with this part of the motion.

In particular paragraph (3) focuses on setting up a new sessional order that would require the terms of reference to be returned to the house within seven days in order to have those terms of reference cleared. There is a difference between the amendment proposed by

Ms Pennicuik, which says that within seven days of deciding to inquire into any proposal, matter or thing the committee will inform the Council of the terms of reference — how fantastic, it must inform the Council of its terms of reference! — and Mr Tee's amendment, which says quite clearly that the Council must consider those terms of reference and provide its approval, thereby bringing the mandate of this house and its proportionality to bear on the terms of reference of the committee.

Mr Tee's amendment 4 proposes that the committee report back to the Council on the conduct of its terms of reference every three months and that once the report has been presented to the Council the committee will not continue to deal with any inquiry unless further approval is obtained from the Council. That would also tie in the work of this committee much more closely with the wishes, desires and responsibilities of a proportionately elected Council. In the circumstances we should welcome the fact that the committee will, in line with standing order 9.09, table its report to Council. That is fabulous! At least that will give the house as a whole the opportunity to publicly scrutinise the tabled reports.

The third issue I have with the motion is that the orders that govern the operation of the proposed committee would override Council's standing orders and sessional orders where there was an inconsistency. That is an outrageous motion and a trampling of the powers of the Council. The opposition, through this standing committee, would unshackle itself from the procedural orders of the Legislative Council. One has to ask what the reason is for this part of the motion. Are there insufficient opportunities for those opposite to be heard and to influence the work of the Parliament? Is there a shortage of ways to bring the executive to account? The Parliament has 11 joint investigatory committees, and taken together they cover almost every conceivable area into which the Parliament would wish to inquire. Members should just take a look at them. They deal with drugs and crime prevention, economic development and infrastructure — —

**Mr Rich-Phillips** interjected.

**Mr SCHEFFER** — I will come to that. Others deal with education and training, electoral matters, the environment and natural resources, family and community development, law reform, outer suburban interface services and development, public accounts and estimates, road safety, rural and regional development, the scrutiny of acts et cetera. That is a comprehensive purview of almost anything that one could imagine would fit into one of those joint standing

committees. I wish to focus on the Public Accounts and Estimates Committee as that probably has functions that are closest to those of the proposed committee, as its title suggests. As Ms Pennicuik indicated, the terms of reference of the proposed Standing Committee on Finance and Public Administration are almost exactly the same as those of PAEC.

The purpose of PAEC is, on behalf of the Parliament, to scrutinise and assess the financial administration of the public sector and to promote improvements where necessary. PAEC has three functions: reviewing financial and performance documents, reviewing budget documents and an auditing function. PAEC has 10 members — 5 ALP, 3 Liberal, 1 Greens and 1 Nationals — including the opposition's Treasury spokesman. This is a powerful and high-level committee of the Parliament. The committee's website — and I want to go into this in a little bit of detail; even though many members are familiar with it, it is worth putting on the record in the context of this motion — describes the role of PAEC in the following way. On the first function, in relation to public accounts, it says:

The committee undertakes a review process in October-November with the committee seeking information from departments on the outcomes of the previous financial year. This process involves a review of the annual reports of departments, the government's annual financial report, the Auditor-General's report on the annual finances of the state of Victoria, and a review of departments' corporate and business plans. After analysing all this information, a questionnaire is forwarded to all departments. After responses are received, the secretariat prepares a draft report. The report on the budget outcomes is usually tabled in March.

It goes on to say:

This review process focuses on the operation and performance of departments over the previous financial year and complements the estimates process.

And I emphasise that it says:

This process enhances the accountability of departments/agencies and gives the Parliament more meaningful information about results achieved compared to the results expected by agencies.

There is also an undertaking that PAEC can perform general inquiries relating to some aspect or other of financial administration or public sector management. These can arise from issues raised by the Auditor-General, for example. It can look into a range of things — it can look at the estimates process and at the Department of Human Services agreements for community health and welfare services and so on.

On other occasions the website tells us that inquiries have arisen from the government's reform program — for example, the review of capital assets charges or from emerging public policy issues.

In relation to the estimates function, which is the next area, here is how PAEC functions:

This is one of the committee's most important functions. Effectively the committee, on behalf of the Parliament, undertakes a detailed review of the government's budget. The secretariat seeks information from departments — —

**The PRESIDENT** — Order! Mr Scheffer would be aware, as would the rest of the house, of my ruling last week with regard to reading set speeches. I have given him a great deal of latitude tonight. I ask him to reflect on that and to think about my ruling. Copious notes are fine, but slavishly reading from set speeches is not acceptable, and I just remind him of that.

**Mr SCHEFFER** — If I could respond briefly, President, I have taken to heart your advice earlier on and I have in fact been working from notes. But the bit I am referring to at the moment is from the website which describes PAEC, and in my view it is appropriate to read that into *Hansard*.

To summarise that, basically it says that public hearings are then held in May and June, with all ministers and senior departmental officers attending. So when you look at that website, it gives a very comprehensive account of the work of PAEC, and I would challenge anyone in this house to say that the responsibilities that the whole Parliament invests in PAEC cannot best the new standing committee that the opposition is proposing.

In addition to the range of committees that I have alluded to, the house has already established two select committees — one into gaming licensing and the other into public land development. Previous speakers have referred in detail to the current operations of those two standing select committees up to now, and I think a fair-minded person would agree that those committees have been less than effective and have not really lived up to the aspirations of those members who have put forward the establishment of those select committees.

The proposed orders of the Standing Committee on Finance and Public Administration establish a committee whose membership is, as I said earlier, disproportionate to the elected representation of the Council. It has an unlimited power to inquire into anything, and I believe that is an inappropriate use of a committee and an inappropriate structure for a committee.

So what is the reason, as I said earlier, behind the establishment of the new standing committee — a committee whose members, including those opposite, already have so much opportunity to hold the government to account? Holding the executive accountable is, of course, the face or rhetorical reason that the opposition gives for establishing the new committee. The real reason is, I suspect, that those opposite cannot accept the fact that Labor holds 58 per cent of the total seats in the Parliament, and 63 per cent of the seats in the Assembly. This reflects the will of the voters as expressed at the election in November 2006, and that majority is expressed in the various committees that I have taken the time to explore in my contribution. On the one hand while that is one responsibility to make sure that the committees of the Parliament are reflective of the majorities and the proportions of members that are held in the Parliament as a whole, on the other hand the orders of the Parliament quite rightly protect the rights of any individual member to represent their constituencies and to prosecute the policy positions of their parties.

The orders that govern the operation of the various existing committees protect the rights of non-government members so that they can participate fully in committee work, just as the standing orders and the sessional orders ensure that a balance is struck between the rights that belong to those who have a majority mandate and the rights of those who are a minority in the Parliament. But this is not good enough for those opposite. They run an argument that the government side is abusing its power and stifling democratic participation to avoid scrutiny and accountability and that something has to be done to correct the balance and to compel the government to be accountable.

Fundamentally this motion, in my view, takes the easy way out. Rather than using the parliamentary avenues already available through the existing committees, those opposite propose to turn their backs on PAEC, for example, because it is too much hard work. It is much easier to use the narrow majority in this house to inflate their membership on a new standing committee and give themselves unconstrained power to conduct witch-hunts that they would not get away with in the larger forum of either the Council or the Assembly.

**Mr D. DAVIS** (Southern Metropolitan) — I am pleased to rise and make a contribution to this debate today and in doing so I compliment Philip Davis on bringing this motion to the chamber. It is an important motion. It makes a number of changes to the adjournment debate. It makes a number of changes to the business of the house, particularly the question time

changes. These are modest, sensible, practical changes that will assist the chamber in its business of scrutiny, in its business of holding government to account and in its business of supporting Victorians.

At the same time the changes in the adjournment debate I think again are modest, practical and sensible. They are changes that will improve government response to individual members, and that is an important change in itself. But I wish particularly today to talk about the Standing Committee on Finance and Public Administration. I think it will be an important standing committee. I am a strong supporter of this chamber taking the steps to build a standing committee structure, and I see this as a significant step, an incremental step, in building a better structure in terms of committees. The standing committees — both the public land committee and the gaming committee — have done good work and have much more work to do, and they are valuable committees, but I think that the committee on finance and public administration is an important committee that adds to a central role of this chamber which is as a house of review, a house of scrutiny, a house that is designed to keep the government accountable.

The Parliament changed the method of election to this chamber, but the government introduced changes to this chamber and the Parliament, which saw the method of election change and which has delivered a certain result in this chamber. In the debate we had in this chamber yesterday, the shape of these committees was discussed at length, and that was an appropriate discussion. I think the motion then introduced by Mr Viney missed the point that the participation of individual members and members of parties and party representatives was an important aspect in this chamber, and this motion deals with that adequately.

But there are other important aspects of this motion and the Standing Committee on Finance and Public Administration. It is important to take a step back into history and to understand the changes in the Victorian parliamentary committee structure. Not everyone has been in this chamber as long as some of us have. We actually remember the developments and changes in the parliamentary committee structure, the strengths and weaknesses of those changes and some of the better ideas.

In particular I draw the house's attention to the *Improving Victoria's Parliamentary Committee System* report by the Scrutiny of Acts and Regulations Committee of May 2002. That bipartisan committee of this Parliament made a series of recommendations that were supported by all sides of politics, including the

Labor Party. It is important to place on record that the members of the Labor Party supported self-referencing committees prior to 2002.

The Liberal Party, in its scrutiny of government policy of 2002, which I think was a generous policy, supported those recommendations of SARC at that time. Those recommendations included a number of important changes to the parliamentary committee system. They included self-referencing committees.

Today we have heard self-referencing committees described in various ways, none of which appears to be favourable to the Labor side. I do not understand how Labor members can have such visceral and vicious antagonism to the concept of self-referencing committees when their own party supported self-referencing in a report prior to 2002. It was a generous, thoughtful and bipartisan report; it was a report that said Victoria's parliamentary committee system could be improved by the introduction of self-referencing committees. Mr Leane's contribution and Mr Tee's extraordinary contribution are swiftly and simply undermined by the fact that their party has supported the concept of self-referencing committees.

We have to get a reality check in the chamber and to understand that across Australia and elsewhere in the world parliamentary committees have self-referencing powers. They are, of course, always accountable to the chamber. The chamber can always take a view that a parliamentary committee has done something that is not within its purview or is not within the ambit that the Parliament or the chamber desires and can thereby make whatever changes it seeks to make.

At the same time not only were self-referencing committees recommended by this report, but importantly, the idea that parliamentary committees should shadow or follow government departments — that there should be a series of parliamentary committees that follow individual departments — was recommended by the committee. I note that Minister Madden was a member of that Parliament. He seems to have forgotten that at the time his party supported the idea that a committee would follow an area of government, that members on that committee would develop expertise and knowledge on those areas and that this would thereby strengthen the idea of government scrutiny and enable those committees to self-reference on occasions. It is a shocking idea, according to Labor members today, but it was supported by Labor members prior to 2002. That is an extraordinary point that I think the chamber needs to fully understand.

The idea that the Standing Committee on Finance and Public Administration would have a role in scrutinising finance and public administration in that way fits closely with the model that was supported by Labor prior to 2002. The Labor Party ought to go back, take a trip down memory lane and understand the sorts of steps that its people strongly supported at that time in a bipartisan way. Indeed the Liberal Party supported them, and its members have been consistent in these steps all the way through. The point I essentially wanted to make tonight was that these are modest, sensible changes to be made. The changes to the adjournment debate are thoughtful, sensible and practical. The order-of-business changes that are to be made to question time are thoughtful and sensible changes that will increase scrutiny of government in a way that is to the advantage of Victorians and this chamber.

At the same time the Standing Committee on Finance and Public Administration will enable better scrutiny of government activity. It is a fair committee, one that is shaped in a reasonable way that will lead to a better outcome for Victorians. In that context and with those comments, I commend this motion to the chamber.

**Ms TIERNEY** (Western Victoria) — I rise to make a contribution to this debate and in particular I focus my comments on the proposed standing committee. I have looked at the proposal in every way possible, I think, and the only description I can give it is of a group of people attempting to flex some political muscle and ignoring the basic tenets of proportional representation when it comes to a standing committee of this house.

It is quite unfortunate and it does the other parties some disservice that they are relying on a proportional representation arrangement that is, firstly, not used at a federal level — yesterday we heard about the Senate — but it is rarely used, in fact it is never used unless it is for some particular ulterior purpose. That is what we have here today, where the minor parties have created an alliance that delivers the flexing of political muscle to a committee with a blank cheque, where there are no terms of reference, no time lines — —

**Mr D. Davis** — Your party supported self-referencing committees.

**Ms TIERNEY** — We will get to that. It is a system that is based on, ‘Give us a wink, give us a bit of a shove on the elbow. Trust us, we will be able to go with the flow’. But of course that will not be the case, particularly when you look at a scenario where 50 per cent of members less one would be considered in anyone’s view as an appropriate bottom line for a

functioning standing committee and would be the basis of some sort of compromise so that all political parties in this house could move forward, but unfortunately we do not have that sort of situation.

In fact, if the other parties in this chamber were really serious about accountability, investigation and examination, then they would need to stand up and demonstrate that integrity. Unfortunately the proposal before us tonight does none of that. The opposition parties are more interested in banding together to stage-manage the operation of this house. I think everyone, regardless of their political party, supports appropriate fiscal behaviour and proper checks and balances. But this proposition gives the minority parties, the minor parties, an absolutely unfair leg-up.

*Honourable members interjecting.*

**Ms TIERNEY** — The opposition talked about support for scrutiny, but the government cannot even get close to 50 per cent membership of a standing committee of the upper house. The government is barely given the status of a minor party under this proposal. You need to wonder why this proposition is before us tonight.

I really have had a think about it, when you look at the political heritage that each political party on the opposition side of the chamber comes from, because there are a range of different histories there. I am particularly interested in how the Greens have arrived at this proposal, because it bears no resemblance to having any moral commitment to proportional representation.

When you think about why this proposition is before us, the only things I can think of is that somehow people just want to strut their stuff, that somehow they want to get some fix on some opiate, or that they are starting to think in their own minds that they can smell some sort of level of power. Is it because they want to try to get some media headlines because they cannot do it any other way? Is it because we have just got rampant testosterone running around in certain minor parties? I do not know. I do know that I really think it is about political parties that have their own little internal disputes and whose members can get up and say what they like, carry on and try to be heroes about what they are doing. At the end of the day it is their business.

I do not know what this really is about and, to be quite frank, I do not care. What I care about is that political parties might want to think about the sorts of changes that are being brought to this house, or indeed governments that might want to contemplate the restructuring of their upper houses, their houses of

review. They will be pointing to this situation and telling students, whether they be in kindergarten, primary school, secondary school or be students of politics at universities, 'Do not do it, because it does not deliver proper functioning democracy in any house of review'. That is what I am very concerned about.

When you see this proposal and witness this type of opportunistic manoeuvring, you can only shake your head in disgust, to be quite frank. In November 2006, when members of the Victorian population went to the polls, they did know a few things. They knew that the Bracks government at that time was bringing about a change in the upper house. They knew about it and were supportive of proportional representation. They also believed then and continue to believe that it is very important to have a very vigorous regime of scrutiny. They also know that the Labor government was the government that was elected, regardless of whether they had voted for the ALP or not. Those three things are fact, and they continue to be with us today.

I would challenge any fair Victorian tonight who knew about what was before us to say whether they would consider it to be a fair situation for the elected government to be reduced to two people out of seven on the major standing committee of this house. I am sure they would not agree to that. I am sure they would not consider that to be giving the government a fair go. I think it is absolutely disgusting that those on the other side cannot even come to terms with the amendment that is before them tonight.

I call on all members of this house to actively reject this proposal. I believe it completely undermines the very flavour and the intent of the upper house reforms. Let us not throw sand in the eyes of those people who actually came up with proposals, people who were brave enough to modernise and democratise this place. If this motion is passed tonight it will only reinforce my developing view that political maturity of political parties needs to be a prerequisite before there is upper house reform so that we cannot be subjected to manipulation by those with opportunistic intent and scant regard for democracy.

**Mr GUY** (Northern Metropolitan) — I rise to speak in favour of the very sensible and good motion put forward by the Leader of the Opposition in this chamber. It is a motion that I support wholeheartedly and fervently. It has my absolute 100 per cent backing. It has been quite amazing to me as a new member of this chamber to see how the government has reacted to this motion and to hear some of the extraordinary speeches that have featured in opposition business today. There have been some absolutely extraordinary

contributions from members who have talked about issues including class warfare. I think the Minister for Planning talked about class warfare when we discussed the previous motion to this one. Mr Leane had two points and managed to talk for 35 minutes on them, despite having a number of points of order raised against him.

It really has been an exercise in watching the government use the Parliament's time in a pretty disingenuous and ridiculous way. It tried to waste time, to filibuster and try to talk at a debate on a serious motion. The motion goes to the heart of the operation of this chamber. It goes to the heart of accountability, probity and really making this chamber operate in a far more efficient manner. It is interesting to see that members opposite have had no regard for that. In fact they have treated the motion with disdain. They have come into this chamber and treated the Parliament with disdain by talking this motion through for the rest of the night without actually debating it properly and making serious and genuine contributions, as they could have done. As Mr Atkinson said of a previous contribution — I think it was Mr Leane's — the member will probably regret some of the comments he made yesterday in his speech. I hope he does regret it, because it was a bizarre contribution, as some others have been. However, that reflects on the members who made those speeches.

I really wonder what members opposite have against accountability, probity and honesty in government. In my short time in this chamber we have debated a number of substantive motions, and I am starting to lose track of how many times we have had to come into this chamber to debate issues of probity, honesty and government accountability. In every one of those debates, when it has come to the vote members opposite have chosen to vote against those motions. If members opposite — who were elected on a platform of open, honest and accountable government, I might add — actually believed in their spin in 1999, if they believed the rhetoric they took to the people in 1999, they would have supported those motions and would be supporting the motion that was moved by Mr Davis today.

I note that a lot of the criticism expressed about the non-government parties, the minor parties, has been about the number of times they have voted against the Labor Party in this chamber. I point out to members opposite, and they should keep this in mind —

**The PRESIDENT** — Order! I point out to Mr Koch that it is not appropriate to engage with people in the gallery, as he knows full well.

**Mr GUY** — As I was saying, members opposite have criticised quite comprehensively and unfairly some of the minor parties — smaller in numbers, that is — in this chamber. The Liberal Party, The Nationals, the Greens and the Democratic Labor Party have voted together on a number of occasions over one issue — that is, probity, which is openness and transparency in government. If the Labor Party wants to take out the record of this chamber and say, ‘The non-government parties have a history of voting together on some issues’ — and it is only some — it is very important to consider what issues we have come together on, and they are issues of probity, of government accountability. Labor members need to keep that in mind when they come into the chamber yet again and rail against — in quite an undignified manner in the case of some speakers — members on my side of the house. The non-government parties are coming together over the issue of probity and government accountability.

The motion that has been moved by Philip Davis today is all about ensuring that the upper house continues to have the tools to do the job of a genuine house of review. Today and yesterday we debated the issue of the formation of committees, the formation of the house and how the house came to have the representation it does. At the end of the day it comes down to this house and whether people in this house believe it is a genuine house of review for any government. People on my side of the chamber in the Liberal Party genuinely believe that this house is a house of review. We are operating fairly, sensibly and constructively in the committees of which we are members.

Despite much criticism — I have heard the gaming licensing committee being called a number of names, and I have heard members opposite rail against the public land committee that David Davis chairs as well — those committees are not operating as a zoo or in a mess. They are operating fairly and constructively in keeping with their terms of reference, which are the parameters of the committees as they were set up. For Labor Party members to say that those committees, which were set up by this Parliament, are a fraud is a reflection upon them and not upon the committees or their operation.

The motion before us comes down to a couple of points. One in particular is about modernising this chamber. If the Minister for Planning, who does not speak on many issues that are outside his portfolio — and I think we have all realised why — wants to talk about class warfare and the specifics and the seriousness of the motion, he should understand that it is about modernising this chamber, as members

opposite should understand. It is not about modernising it full stop; it is about contemporising the processes of this chamber.

The motion is about making question time more relevant to all of us in the chamber, having it at a time when there will be more members around, when there will be a lot more interest in what happens in the chamber. Surely members opposite want Victorians to see the benefits of this chamber — to see that this chamber operates in a different, far more individualistic manner than the other chamber of this Parliament.

The motion moved today certainly does this in respect of question time. It legitimises this chamber as a genuine house of review and sets us apart as an independent chamber where debate can take place without the other chamber looking over our shoulder, if you like. It says to Victorians, ‘This chamber is here. It is a modern chamber full of a number of parties — five parties now — and it should be viewed with some seriousness into the future’.

However, as I think all members know, question time has become quite absurd. We had the absurd situation today of a minister making a ministerial statement in question time. If ministers want to make ministerial statements, they are able to do so. Fundamentally ministers either do not understand or not care how they present themselves and their answers to questions without notice. Some of them fall asleep or nod off during questions to other ministers. Some display a raucous attitude, flaring up the whole of the chamber as question time continues. Some look at the clock or look around the chamber. They are not addressing the questions.

The motion before us makes question time more accountable. It puts the spotlight right back on this chamber. Mr Viney nods his head, but at the end of the day he knows this is true. It puts the focus on this chamber, and it is exceptionally important for us all to do that.

I turn to the parts of the motion that relate to the adjournment debate. How could any member of this chamber say that responses to issues raised in the adjournment date should not be placed into *Hansard*? It is very simple: if you raise the matter with the minister, why should the response not be put in *Hansard*? Why should you not have the ability to go back to your constituents and say, ‘Here is the response to the issue I raised for the appropriate minister’. There is nothing radical, bizarre or underhanded about this simple idea contained in this motion.

Ministers need to take into account the suggested 30-day period for responding to adjournment matters raised with them. Why would ministers debate the implementation of a process that would make the adjournment debate far more open, relevant and useful to any local member, be they a member of the Greens, a member of the Democratic Labor Party, a member of The Nationals, a member of the Liberal Party or even a government backbencher? Why would they vote against a motion that would make the adjournment debate far more relevant to their own constituents?

I will quickly deal with points that have been raised about the establishment of the finance and public administration committee, which is part of this motion. I noted that Mr Tee said in his contribution that it was a subversion of democracy.

**Business interrupted pursuant to standing orders.**

## ADJOURNMENT

**The PRESIDENT** — Order! The question is:

That the house do now adjourn.

### **Pest animals: control**

**Mrs COOTE** (Southern Metropolitan) — My issue is for the Minister for the Environment and Climate Change, Gavin Jennings, and is to do with vermin in suburban Melbourne. We know that the parks in Victoria are full of noxious weeds and feral animals and that due to the bad management of Parks Victoria vermin on public lands are at an unacceptably high level. However, what we do not expect to see is a serious problem with vermin in our suburbs.

I have a major concern with this, particularly in Caulfield, where there are a number of foxes and rats — but foxes particularly. I am not certain of the numbers of urban foxes —

**Mr Jennings** — That surprises me.

**Mrs COOTE** — It may surprise you, Minister. Perhaps the minister could actually get some research done to find out about it, because the foxes are a major problem. They are a major problem in terms of people's pets, and more importantly, the concern of my constituents is about their children. A constituent was recently quoted in the local *Caulfield Glen Eira Leader* in an article by Paul Riordan. The article says:

A large number of sightings of the pests have left some parents questioning whether to let their children play alone in their backyards. Resident Karen Kacser, who has seen foxes

on the roof of her house, said she was sure numbers were increasing.

The minister may laugh, but his department has taken the issue a little more seriously. The article quotes a spokesperson from the Department of Sustainability and Environment called Gill Cooper. It says:

... increased sightings of foxes were common during the breeding season in September and October and drought conditions had driven foxes to new habitat to find new food sources.

'Foxes thrive in urban areas because our suburban residential areas and park environments offer rich sources of food and shelter,' Ms Cooper said.

So there are people within the minister's department who are concerned — but not concerned enough. It is important that we understand exactly what we are dealing with, and it is important to ensure that we have significant research into this. It does not relate just to children; it relates to people's pets too. Pets are very important to a lot of elderly people in our community; they do not want their pets to be attacked by foxes and other vermin. It is up to the minister's department to do something about this.

A document from the federal Invasive Animals Cooperative Research Centre puts the annual cost of wild foxes in Australia at \$227.5 million, which includes the economic and environmental impact of these animals. I am very pleased to see that the federal government is putting up funding to address this issue. I call on the minister's government to implement stronger eradication programs as a matter of urgency, and I also urge him to explain to the people of Victoria how much these vermin are costing the state annually and why more is not being done to address this issue. I am sure the minister will do this as a matter of urgency.

### **Fishing: recreational regulations**

**Mr HALL** (Eastern Victoria) — Tonight I wish to raise a matter for the Minister for Agriculture in the other place concerning recreational fishing regulations. These regulations establish things like bag limits for recreational fishers, minimum and maximum sizes, closed seasons, fishing equipment and the like — a whole range of issues about which it is important recreational anglers know.

The current regulations are due to expire in March 2008, and I understand that a draft of the new regulations was scheduled to be publicly available at the start of August in order that recreational anglers and recreational angling clubs could have some input into the final form of those regulations. Those draft regulations have not yet been released, and it has been

suggested by some that the draft may well be released over the Christmas period, when it would be difficult to reach anglers, giving them only a limited opportunity to make comment on the draft.

The release of the draft regulations is well overdue, and I call on the Minister for Agriculture to expedite the release of those draft regulations in order that all recreational anglers around the state have sufficient and proper time to have a look at the drafts and give input back to the government about their final form in time to meet the deadline of March 2008. I would be grateful if the Minister for Agriculture could advise me exactly what the proposed time line is for the release of the drafts and the finalisation of those regulations.

### **West Gate punt: service**

**Ms HARTLAND** (Western Metropolitan) — My adjournment matter tonight is for the Minister for Roads and Ports in the other place. On National Ride to Work Day, Wednesday, 17 October, I helped out at the West Gate punt, which is a bike and pedestrian punt across the Yarra River near the West Gate Bridge. The punt normally only operates on weekends, but it ran on National Ride to Work Day as a special service during the peak commuter periods.

It attracted a record number of riders, despite having almost no advertising. This year the punt service took 256 cyclists across the river, compared to 215 in 2006 and 104 in 2005. Almost all the cyclists were on their way to or from work. The trip across the river takes about 5 minutes, and it is a really interesting way to get to and from work. If those cyclists had not been on the punt, they would have been on the dangerous detour through Yarraville and Footscray before attempting to cross the hazardous Shepherd Bridge over the Maribyrnong River.

A few years ago the government funded a trial of operating the punt during weekdays. There was not enough community awareness, advertising or consultation, the pilot was not successful and the operation did not continue. However, since then the number of people cycling has increased, so much that the government should fund another trial. For example, in January 2007, 53 per cent more people used the Footscray Road bike path in the morning peak period than in January 2006. The average January–March peak period cycling figures for Footscray Road this year were more than 30 per cent higher than for the same period last year.

National Ride to Work Day proves that this is a viable link and it should be seen as an average way of getting

to work. I call upon the transport minister to work with the operators of the punt and the local group, the Punters, to restore a seven-day service to the West Gate punt.

### **Small business: broadband access**

**Ms TIERNEY** (Western Victoria) — I raise a matter for the Minister for Small Business in the other place. I ask the minister to pursue the federal government to get much better broadband services for small businesses in regional and rural Victoria. The lack of decent broadband services for Australians is detrimental to small businesses right across this state. After 11 years of the Howard government our small businesses have had to put up with pitiful internet services, and yet during that time the Prime Minister has made 18 announcements, starting with the telecommunications action plan for remote indigenous communities in 2002, about which I could go on, and more recently the Australian broadband guarantee this year, and finally — —

**Mr O'Donohue** — On a point of order, President, I seek your clarification or ruling. If I heard correctly, Ms Tierney asked that a state government minister take action by approaching a federal government minister about a federal government matter that is within the jurisdiction of the federal government solely.

**The PRESIDENT** — Order! Mr O'Donohue has pre-empted my intervention. I was allowing the member to continue to see where she was going, but I am concerned that she is asking a federal minister about broadband, which is a telecommunications matter. I need to remind the member of the need to deal with matters that are state government responsibilities. I will listen to what else the member has to say to see if she can get back to that, but at the moment I have to say that she is on shaky ground.

**Ms TIERNEY** — Essentially the Victorian Labor government as well as the federal opposition have put together a package, not just for Victoria but for Australia. It is a new national broadband network that I consider will be of enormous benefit to small businesses across rural — —

**The PRESIDENT** — Order! Ms Tierney has failed the test. That does not cut with the guidelines in terms of the state government's responsibility or the minister's responsibility. It is a federal matter, pure and simple.

### Ballarat: councillors

**Mr VOGELS** (Western Victoria) — I raise a matter for the Minister for Local Government in another place. It concerns the ongoing infighting and personal conflicts at Ballarat City Council. Ballarat is one of Victoria's largest regional centres with a proud history, but this city council has become dysfunctional.

When I was shadow Minister for Local Government I very rarely criticised councils, because councillors are democratically elected by their ratepayers and have to face the voters every four years. However, the complaints that I am receiving from ratepayers in Ballarat have become a chorus. This month the *Ballarat Courier* has headlined what has become an ongoing saga over the last couple of weeks. One article says:

Ballarat city councillor Wayne Rigg will quit as deputy mayor at the next mayoral election.

And he has called on Mayor Cr David Vendy not to contest the mayoral post when it is put to a vote later this year.

Cr Rigg, under attack this week over travel expense claims, said with the impending departure of chief executive officer Richard Hancock the city had an opportunity to install a fresh leadership team.

The paper goes on to say in its editorial:

Ongoing bickering and backstabbing within Ballarat City Council has now spilled into the public arena and is threatening the stability of the council.

Another headline on the front page of the *Courier* of 19 October says 'Council infighting comes to a head', and states:

It is no secret there is little love lost between some of the nine councillors, elected to govern in the best interests of the local community.

One of the major concerns I have had expressed to me on a regular basis is that the council is just another branch of the Labor Party. When a senior position becomes available it is advertised for only one week, with only mates getting the opportunity to apply. I do not believe this is good enough, and neither do the ratepayers of Ballarat. The action I seek from the minister is to investigate this dysfunctional council so that all questions being raised by the local community can either be put to rest or dealt with. As the *Ballarat Courier* reports, personality clashes are thwarting any genuine attempts by individual councillors to work as a body. Ballarat deserves better leadership.

### Melbourne: motorcycle and scooter parking

**Mr PAKULA** (Western Metropolitan) — I raise a matter for the Minister for Local Government in another place. It relates to a meeting of the Melbourne City Council held last night at which the council — I believe on the motion of Cr Clarke — resolved to review whether motorbikes and scooters should be banned from parking on city footpaths. Obviously the council is entitled to conduct such a review — and I know it plans to do so — but I have to say that I think the basis for it is misguided.

As many members would know, motorcycles and scooters are a clean, cheap and efficient form of transport. They are environmentally friendly, and they play a role in reducing congestion, particularly inner-urban congestion. With scooters in particular, I think we have only scratched the surface in a policy sense of the role they could play in reducing CBD (central business district) congestion. As a result I am concerned about any measure taken by Melbourne City Council which might be a disincentive to riders of motorcycles and scooters from entering the CBD.

I went for a walk down Bourke Street today at lunchtime — I think I ran into Philip Davis on that walk — and I saw somewhere between 5 and 10 motorbikes and scooters parked on the footpath on Bourke, Russell or Exhibition streets. They were unobtrusive and they impacted on the amenity of the CBD not one jot. In fact footpaths strike me as sensible places to park motorbikes and scooters, and there were many more bicycles on the footpath, and I note that the council has no plans to review whether that should be allowed.

I note the council plans to consult with motorcycle groups, presumably with the Motorcycle Riders Association of Australia, the Royal Automobile Club of Victoria and VicRoads, and I would certainly indicate my opposition to any plans to bar motorcycles and scooters from parking on city footpaths. But I am also aware that the minister has regular consultations with the Melbourne City Council. My request to him is that, as part of those regular consultations, he raise this issue with the council and the particular concerns that I have raised in the chamber tonight. I ask that he and impress upon the council the environmental and congestion benefits of two-wheel vehicles and report back to me on the progress of those representations.

### Equine influenza: government assistance

**Mr O'DONOHUE** (Eastern Victoria) — I raise a matter for the Minister for Agriculture in the other

place. We have heard a lot in the media and from the government about equine influenza and its impact on the racing industry and the assistance measures that have been outlined for that industry. But horseracing is only one part of the whole horse-related industry. Pony clubs, agricultural shows and other groups rely on the horse industry for income, as do communities. Eastern Victoria Region has numerous agricultural shows, pony clubs, farriers, vets and a range of other professionals who rely on this industry for their income. They are struggling as much, if not more than, the racing industry. Unfortunately this government has done very little to assist them.

At the last election the government had a policy of allocating \$4 million over four years and providing money to rural showgrounds for agricultural shows. Unfortunately nearly 12 months after the election not a cent of that money has been released at a time when this industry is on its knees. Furthermore, at this stage the government has provided only \$500 000 to these non-racing industries. It is an absolute slap in the face, a disgrace and it is not enough. The government needs to do more.

The action I seek from the minister is twofold. Firstly, I ask him to expedite the release of the \$4 million that was promised at the last election to assist. The policy states:

To further assist in the renewal of these important venues, Labor will establish a \$4 million Rural Showgrounds Infrastructure Renewal Fund ...

I call on the minister to release those funds and release them quickly, so that investment into these rural showgrounds can take place.

The second action I seek from the minister is to provide additional funding to the non-racing horse industries to assist them to cope with the crisis that has developed as a result of equine influenza and to take action to assist these groups as quickly as possible.

### **Water: Brushy Creek treatment plant**

**Mr LEANE** (Eastern Metropolitan) — My adjournment matter is for the Minister for Water in the other place, Tim Holding. The minister has recently been involved in an important announcement that the Brushy Creek water treatment plant, which is located in Chirnside Park, will be upgraded from a plant that currently treats water to B-class standard to a plant that will produce A-class water some time early in December.

The great news around this announcement is that the three councils that share a boundary just about at the point of this treatment plant will have A-class recycled water available for use on sporting grounds and for other purposes for which they might otherwise have utilised mains water. This also means they will be able to maintain more sporting grounds if there is a problem with the availability of mains water due to the drought this summer. This has come about because the Brumby government holds in high regard junior sport and the social benefits it delivers.

The action I seek from the minister is that he ensure measures have been taken to alert all the outdoor sporting groups in that area that this water will be available in early December and to advise them to contact the council about their potential to utilise that water.

### **Human Services: Kyabram drought counsellor**

**Ms LOVELL** (Northern Victoria) — My adjournment debate matter tonight is for the Premier in his role as the chairman of the drought recovery task force and concerns funding for the drought counsellor at Kyabram. Naturally my request to the Premier is going to be for additional funding for this position. The name of the drought counsellor at Kyabram is Allannah Jenkins. Allannah provides farm-gate support, counselling and information on lines of support. She helps farmers deal with a whole range of issues that may arise as a result of the drought. Ms Jenkins also deals with referrals from the police, from the Victorian Farmers Federation and from drought support hotlines. She also organises coffee meetings in town to try to retain a sense of community for people who are living in the Kyabram region.

Ms Jenkins's position has been funded by the Department of Human Services. Originally it was for a six-month term from February 2007 to June 2007 for a 0.7 position, which saw her working Tuesday, Wednesday and Thursday of every week and Monday of every second week. Earlier in the year there was a request from the Kyabram Community and Learning Centre for Ms Jenkins's position to be funded further. It was funded but only as a 0.4 position or for two days a week compared to the previous 0.7 position that she was funded for. This is not quite enough for the Kyabram region. It needs additional funds, and the Kyabram Club has very generously donated \$10 000 to assist with the running of the drought relief program. It was hoped that money could have been spent on community activities, but instead it has gone towards paying Ms Jenkins's wages for one day a week. The government funding that has been provided is not

enough, and we hope the government will provide more.

Ms Jenkins is terribly disappointed that she is unable to do all of the drought support work that is needed to be done in the region. The number of queries that are coming into the Kyabram Community and Learning Centre has increased tenfold since this time last year. People are waiting to meet with Ms Jenkins, and the waiting time is almost two weeks. My request is for the Premier to increase funding for Ms Jenkins's position to a level that will enable her to adequately service the Kyabram area, an area that has suffered greatly due to the effects of the drought, and also to provide additional funding for the community for drought recovery activities.

### **Maroondah Hospital: practices and procedures review**

**Mrs KRONBERG** (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Health in the other place. On 22 May a constituent of mine, who is now deceased, was admitted to the Maroondah Hospital for bowel surgery. He later spent two days in the coronary care unit, where he developed a blood clot in his arm. Despite this setback he was ambulatory and progressing. Only his sutures prevented him from going into rehabilitation. Amazingly pressure was applied to remove his sutures, in spite of advice to the contrary. After a coughing bout he found his wound had opened up to reveal his bowel. Neither the family nor the patient received an explanation, despite his being rushed to emergency surgery. His wound became infected. A family member was alarmed to hear a hospital staff member say, sotto voce, 'Don't mention golden staph'. Until that point, no-one knew about the infection.

The patient's condition deteriorated. A warning regarding the medication regimen affecting his kidneys was issued, but no-one told the family why the poor man was now coughing up blood. He was placed in an induced coma. Questions now of the deepest concern were answered thus: 'How long is a piece of string?', and, 'We just take every day as it comes'.

The lack of professionalism and the paucity of information provided by the medical staff at the Maroondah Hospital has affronted this man's grieving family. My constituent's earlier sputum test revealed that he may have had tuberculosis. He was removed to an isolation room with a notice specifying barrier precautions to be taken. Of course nursing staff adhered to these precautions, but those cleaning the room and serving the meals took no such precautions.

By 20 July the Maroondah Hospital patient had lost the will to live and requested that a medical power of attorney be appointed. The patient liaison officer who assisted was robbed up when in contact. The isolation room's warning signs were removed prior to the final diagnosis coming through. The actual final results for tuberculosis came through a week after the patient passed away. They confirmed he had had active tuberculosis.

This very painful episode for my late constituent and his horrified family is further testimony of the appalling conditions people face once they actually get into our public hospitals. I now ask the minister to report back to this house upon his review of the practices and the procedures at the Maroondah Hospital and its isolation wards. This review should be underpinned by a thorough analysis of patient liaison procedures and standards.

### **Equine influenza: control**

**Mrs PETROVICH** (Northern Victoria) — My matter on the adjournment is for the Minister for Agriculture in the other place. I would once again like to raise the serious issue of equine influenza (EI) — I commend my colleague Mr O'Donohue on doing the same — and the effect it has had on the non-racing and equestrian professionals who have been in lockdown since 29 August. Whilst Victoria remains EI free because of the goodwill of non-racing bodies and pure good luck, it is clear that there is no real acknowledgement by this government of the financial hardship that is being experienced by those outside the racing industry. All the state government has done is undertake a belated advertising campaign encouraging a lockdown and offering a \$500 000 relief fund for non-profit organisations — barely a ripple in this multimillion-dollar industry. No consideration or compensation has been given to those who are now suffering economic loss as a result of going into voluntary lockdown to ensure the Victorian Spring Racing Carnival can proceed.

Unlike their counterparts in New South Wales and Queensland, individuals are not receiving any financial compensation. Our elite athletes such as Mary Hanna, Becky Allen and Laurie Lever, who will be representing us at the Beijing Olympics equestrian events, have had to fight for recognition to gain vaccines for their horses. Both Laurie Lever and Mary Hanna have been forced overseas to compete because of competitions being cancelled here. Becky Allen, who would normally be running clinics and winning prize money from show jumping, has had her income stream cut and remains in Australia. Where is our

support for and our acknowledgement of these Victorian athletes and future Olympians? This government owes these people a huge debt and should repay it. As a result of the voluntary shutdown of the leisure industry, the Victorian Spring Racing Carnival is now in full swing. It is estimated that this year the carnival will generate more than \$621 million for Victoria.

The action I seek of the minister as a matter of urgency is to provide funding from these moneys to match the \$20-per-day payment per horse that non-racing professionals in New South Wales and Queensland are currently being paid. This is an opportunity to support these people in their time of financial hardship and preserve a failing industry worth millions to the state of Victoria.

### **Domain Tunnel: vehicle damage**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Ports in the other place. It relates to an incident that took place in the Domain Tunnel on 22 October at 10.06 a.m. involving a constituent of mine, Mr Wheeler. Mr Wheeler was driving his light truck and was approximately 500 metres into the tunnel in the left-hand lane when he struck a cable, which he described as the size of a human arm in diameter, that was hanging from the roof. Mr Wheeler was able to bring his vehicle to a stop safely, but it sustained substantial damage. There was around \$6000 worth of damage to the door, mirror and roof of the vehicle. Upon contacting CityLink, he was advised by CityLink that it had observed the incident and that a vehicle that was over the vehicle size limitations that had been through the tunnel immediately prior to him had dislodged the cable.

CityLink has been either unable or unwilling to provide Mr Wheeler with footage of that incident from its internal surveillance mechanisms. There has been media speculation that in fact the cable that damaged Mr Wheeler's vehicle was installed through CityLink maintenance only a number of days before the incident, which gives rise to the question whether the cable was dangling in the tunnel because of defective installation rather than the oversize vehicle, as suggested by CityLink.

CityLink has said that it is unable to provide footage of the incident despite the fact that it says it saw the incident on its surveillance system. Its internal ombudsman, Mr Michael Arnold, in a report on unrelated matters earlier this year, made it very clear

that CityLink has a substantial sophisticated surveillance system in the tunnel, which in all probability would have been able to pick up this incident and provide enough information to identify the vehicle that was involved.

The issue is: if the incident damage was caused as a consequence of this other vehicle, then Mr Wheeler would like that other vehicle identified so that he can seek compensation, because CityLink itself is not liable. Under the Melbourne City Link Act the Minister for Roads and Ports in the other place is empowered to require CityLink to provide him or an appropriate police officer with the footage that would identify the vehicle that allegedly caused the damage to the cable that subsequently damaged Mr Wheeler's vehicle. What I seek from the Minister for Roads and Ports is an undertaking that he will require CityLink to provide that footage either to himself, as the responsible minister, or to the police, so that that vehicle can be identified and Mr Wheeler can seek compensation from its owner.

### **Parliament of the World's Religions: government assistance**

**Mrs PEULICH** (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Multicultural Affairs in another place. It is in relation to a letter that I have received from a Mr Milan Vucic, who has been approached by Fr Ivan Zlatunic of the Croatian Church. Gordon Rich-Phillips and I had the pleasure of being at a service there a few months ago. What they have approached me about is to help in securing a statue honouring all religions to mark an important event, the Parliament of the World's Religions, scheduled to be held in Melbourne from 3–9 December 2009.

Looking at some background information, I note that this event has been convened every five years since 1993 in a major international city and has been sponsored by the Council for a Parliament of the World's Religions. Melbourne is particularly suited to the event, being a multi-religious, multilingual and multicultural city. I think Melbourne is an ideal location, and in particular I believe that South Eastern Metropolitan Region would be an ideal location, given its multicultural diversity.

As an indicator of that, I would like to mention three events that I attended recently. One was the Buddhist festival in Narre Warren North's Yun Yang temple, which hosted the visit of the Venerable Zen master Bai Yun. That was attended by some 2000 people, and I

had the honour of sitting with the executive and learning about Buddhism.

In addition to that, last Sunday I attended the Diwali festival at the Sandown Racecourse, which was organised by a wonderful group of people, including Neeraj Nanda, Babu Akula, Yogen Lakshman, Geraldine Gosalvez, Sudha Saini, Pandit Patil and Moti Visa. The Leader of the Opposition also attended the event. It was absolutely outstanding; the diversity, the excitement and the performances were just amazing.

Further to that, as I mentioned during members statements, recently I attended the post-Ramadan function at the Keysborough Turkish Islamic and Cultural Centre, which was organised by Mr Ekrem Ozyurek, Nadir Yildiz and Halime Yenilmez, and catered for some 2500 people — all volunteers putting on a great show.

Can I say that South Eastern Metropolitan Region, perhaps even the city of Greater Dandenong, would be an ideal location for this event. Perhaps a course of action could be for the Minister for Multicultural Affairs to approach the Victorian Multicultural Commission for special funding for it. I hope all members of Parliament across the south-eastern region would support such an initiative to commemorate a very important event which will be celebrated in 2009.

### **Planning: Mitcham neighbourhood centre**

**Mr ATKINSON** (Eastern Metropolitan) — My matter is for the Minister for Planning, who is in this place but unfortunately is not in his place. I raise with him the matter of planning amendment C67, which is an interim height control over the Mitcham neighbourhood activity centre. On 16 October the minister issued a letter to the City of Whitehorse indicating that he had approved this amendment as an interim control on height limits in Mitcham, effectively establishing a 9-metre height limit throughout that district centre.

The minister, however, did not comply with a request by the council, supported by the community, for a site at 1-19 Colombo Street, Mitcham, to have a 12-metre building height limit. Members of this place will recall that that particular site was the location of a proposed 17-storey building in Mitcham, which was a very controversial project, vehemently opposed by the local community as a totally inappropriate development and indeed all that was bad about Melbourne 2030.

The minister seems wedded to this project, because interestingly enough his approval, on 16 October, came

a month after the permit for Colombo Street ran out, and in fact the owners of that site have been attempting to sell the block since November last year. There is currently no valid permit for that site, and the discussions on its future have basically involved potential retail developments of late.

The reality is that even if there were a permit for this site, height control as a part of planning amendment C67 would not pre-empt the existing rights of a person or entity holding a valid permit at that time. So the minister's decision is wrong; it does not recognise the local needs of people in the community. Therefore I ask the minister if he can advise me and the Whitehorse City Council of any meetings or communications that he has had with the owners of the land at 1-19 Colombo Street that would maintain the development rights regarding that land after the existing permit lapses and which would prevent the adoption of the council's proposed 12-metre height limit for that site. If there is no undertaking by the minister or other impediment to the adoption of the 12-metre height limit, I ask him to vary the amendment in accordance with the views of the council and community.

### **Vermont Secondary College: music program**

**Mr DALLA-RIVA** (Eastern Metropolitan) — I rise to raise a matter for the attention of the Minister for Education in the other place. My issue relates to the music program that is currently in operation at Vermont Secondary College. The college is highly valued and supported by the local community because it has a strong school culture; it has a program that is supported by Vermont and surrounding areas.

The school encourages a high level of participation in classroom music and co-curricular instrumental programs through an ensemble culture. The program features numerous local community performers. I understand it is also a part of Arts Nunawading. The strong commitment that the community has to the program means that the community is benefited in a range of different ways. The program provides support to the community in terms of cultural and social harmony. It provides a good education base in the environment in which the students live.

I raise my adjournment matter because there seems to be an understanding at Vermont Secondary College that the music faculty of the school that provides this valuable music program will be eroded by funding cuts. The faculty is supported by a vocal parent support group and a music support group. They are seeking from the opposition some guidance as to where the

program is heading in the future. That is why I am raising this adjournment matter.

Despite the success of the program being built on the dedication and the excellent work of the music faculty and the resources and support which have already been provided by what was the Victorian Department of Education and Training over many years, I am seeking that the minister report to me and Vermont Secondary College that there will be no funding cuts to the school's music program in the immediate future.

### **Water: goldfields super-pipe**

**Mr KAVANAGH** (Western Victoria) — My adjournment matter is for the acting Minister for Water, Mr Lenders, and it relates to the laying of the goldfields super-pipe. The super-pipe is presently being laid around Clarks Hill, which is about 10 or 15 kilometres from Ballarat. There are grave concerns about the way the pipe is being laid. Affected farmers are angry.

A problem is that equipment is not always being washed down before it is transported to different properties. Last week machinery smothered in dirt and dried mud was taken onto farms. The soil was obviously of a different type than the soil types of the local area. It had clearly come from far away. That act was contrary to many undertakings — it would not happen elsewhere. This failure brings with it very significant risks including the spread of weeds and other contaminants. Farmers could even lose their licences as certified seed growers as a result of this negligence.

Soil which has been removed is being replaced by topsoil, which is being placed on the top of soil like it should be. However, there is a challenge in joining the topsoil to the land underneath it, which is normally compacted during the pipe's construction. In the last day one farmer has been told that this would be his problem to solve, and another farmer has been told that the problem would be fixed by the contractor. Oil has also been spilled on farmland during the installation of the pipe. The contractor's response has been to discuss remedies. This emphasises that the full environmental management plan setting out in advance the procedures for dealing with environmental accidents should be provided to farmers. Also, farmers cannot find anyone in charge. Farmers say that the 1800 number provided by the contractor is always on message bank.

By damaging farmland surely we are degrading Australia itself. I ask the acting minister to urgently intervene and take action to see that the pipe is laid properly. In particular I ask the acting minister to see

that the environmental management plan is publicly released, that equipment is washed down prior to its being moved between properties and that an independent clerk of works be appointed to oversee the project and provide a point of liaison for landowners to resolve further issues as they arise.

### **Responses**

**Mr JENNINGS** (Minister for Environment and Climate Change) — Thank you, President, for giving me one more chance to respond to the rich diversity of issues raised by my colleagues in the Legislative Council, which I will pass on to my ministerial colleagues for their responses.

Andrea Coote raised a matter for my attention on behalf of concerned Department of Sustainability and Environment officers, whom she acknowledged. The matter is about the impact of foxes and rats — vermin, as she classified them — within the metropolitan area. She asked that resources be dedicated to and research and effort be undertaken on the eradication of vermin within the metropolitan area.

Peter Hall raised a matter for the attention of the Minister for Agriculture in the other place. He sought undertakings from the minister about the release of the draft new recreational fishing regulations and information on the timetable for the process by which they could be concluded in a timely way to enable them to be efficiently enacted in 2008.

Colleen Hartland raised a matter for the attention of the Minister for Roads and Ports in the other place. I think she might have been trying to do her best to get additional resources for the West Gate punt beyond the realms of Parks Victoria, which I think might run the punt. That might be my responsibility. I will see what I can do, and I will certainly see what the Minister for Roads and Ports might be able to do in terms of providing a more regular service in relation to that.

John Vogels raised a matter for the attention of the Minister for Local Government in the other place. If Mr Vogels were here, I would let him know that I am sure the Minister for Local Government will say that any investigation into any municipality will be undertaken upon his receiving formal advice of the evidence of the matters warranting investigation. Mr Vogels would be well advised to provide that advice.

Mr Pakula also raised a matter for the attention of the Minister for Local Government in the other place

seeking his support in terms of trying to provide guidance — —

**Mrs Coote** — If he were here, you would tell him too!

**Mr JENNINGS** — I might get to that. He asked that the minister have a conversation with Melbourne City Council about parking arrangements in the metropolitan area, particularly as they relate to scooters.

Mr O'Donohue raised a matter for the Minister for Agriculture in the other place seeking that he release information relating to the commitment of the government to provide \$4 million in support for rural communities in relation to rural showgrounds redevelopment and the non-racing horse industry in the state of Victoria. He acknowledged the \$500 000 that is currently being offered by the government to provide relief and support.

Donna Petrovich also raised a matter for the same minister's attention, referring to a similar set of issues requiring his intervention and support.

Wendy Lovell raised a matter for the attention of the Premier, seeking his support for the drought counselling program within Kyabram to build upon the commitments of our government in relation to drought relief.

Jan Kronberg raised a matter for the attention of the Minister for Health in the other place, drawing attention to the very sad and tragic circumstance of a constituent who died in the Maroondah Hospital and seeking the Minister for Health's examination of the issues involving the treatment of that patient.

Gordon Rich-Phillips raised a matter for the Minister for Roads and Ports in the other place and referred in great forensic detail to a matter that occurred within the Domain Tunnel. He asked for the minister's assistance to provide documentary evidence or audio-visual material that may assist his constituent Mr Wheeler in obtaining a remedy.

Inga Peulich raised a matter for the Minister for Multicultural Affairs in the other place. Although she was not specific about the size and dimensions of the statue and where it may be located, she certainly made representations on behalf of the Croatian church in the name of a multifaith statue.

**Mrs Peulich** — And hopefully your support.

**Mr JENNINGS** — Only time will tell!

Bruce Atkinson raised a matter for the attention of the Minister for Planning seeking information relating to a development site in Mitcham.

Mr Dalla-Riva asked the Minister for Education in the other place to provide ongoing support for the music program at Vermont Secondary College.

Mr Kavanagh raised a matter for the Minister for Water in the other place in trying to ensure that the super-pipe project is undertaken in a way which is consistent with a well-publicised and understood environment management plan and which does not lead to soil contamination.

**The PRESIDENT** — Order! The house stands adjourned.

**House adjourned at 10.46 p.m.**

