PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 28 October 2008

(Extract from book 15)

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By authority of the Victorian Government Printer

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

Standing Committee on Finance and Public Administration — Mr Barber, Ms Broad, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips and Mr Viney.

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*): Mrs Coote, Mr Leane and Ms Mikakos. (*Assembly)*: Ms Beattie, Mr Delahunty, Mrs Maddigan and Mr Morris.

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

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

Electoral Matters Committee — (*Council*): Ms Broad, Mr P. Davis 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*): Mr Noonan, 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 Mr Foley.

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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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
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Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

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Tuesday, 28 October 2008

The PRESIDENT (Hon. R. F. Smith) took the chair at 2.05 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Abortion Law Reform Act
Energy Legislation Amendment (Retail Competition and Other Matters) Act
Major Crime (Investigative Powers) and Other Acts Amendment Act.

QUESTIONS WITHOUT NOTICE

Local government: codes of conduct

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Noting that the government's DAC (development assessment committee) policy is another way for the government to suppress local representatives voicing opinions on local developments, I ask: what requirements will be placed upon the appointed DAC members to follow the same codes of conduct that local representatives will be required to adhere to whilst on a DAC?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in these matters, particularly about the development assessment committees. As I have mentioned on a number of occasions, the critical aspect of these is to get a balanced approach that considers local issues as well as broader regional and state issues so that we can get a compatible resolution to many of the issues on which currently decisions need to be made at a local government level.

As I have mentioned before, we are working in collaboration with local government to ensure that the sort of controls local government is interested in can be delivered so that they are compatible not only with state policy but also with the respective interests of local government, local communities and the relevant stakeholders, particularly landowners or retailers in those activity centres. A critical component of this is the activity centre zone, which allows for new controls that give clarity and certainty to what can or cannot take place in any particular activity centre.

I appreciate that no doubt Mr Guy is interested in the local government bill and the issues surrounding it and the issues that are being debated in the amendments. All I can say about that bill and my expectations for development assessment committees in relation to those issues is that what is critical in both arrangements is good governance, best practice and clarity in issues about either perceived or actual conflicts of interest so that they are dealt with through appropriate good governance mechanisms.

I would expect the same or similar thresholds to apply to development assessment committees as those that currently stand for local government — on the supposition that the bill will pass the chamber — with the sort of controls that exist now for local government in conflict of interest and good governance arrangements.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for his question, although I remind him I asked about codes of conduct. After having had nearly eight months to work through the detail of the development assessment committee policy, can the minister further inform the house what are the requirements the government will place on the appointed DAC members to disclose any conflicts of interest, particularly financial conflicts of interest, on any developments on which they are making a decision, and will these disclosures be made public?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest. I omitted to congratulate Mr Guy on his achievements to date in domestic matters. I wish him and his family all the best.

Mr Jennings — Thank goodness he asked you a supplementary question!

Hon. J. M. MADDEN — That is right; I am glad about that. Can I also say that currently in any appointments government makes in relation to any positions of authority on any board or committee, occupants of those respective placements or appointments have to make a declaration in relation to their interests or matters which could be perceived as conflicts of interest. They have to declare all their respective interests.

If at any stage further detail of any matters comes before them or may influence their decisions, it is expected — as would be the case in any good governance arrangements — that, if they have a material, vested, perceived or actual conflict of interest, they would declare them.

I would expect that those matters, by their declaration will be made public, aside from any particular decision making in a particular area. I would expect that would

be the case and is currently the case under good governance arrangements, whether it be on boards or committees, whether it is in Parliament, whether it is in local government or whether it is in the decision-making process for any planning permit activity going into the future. My expectations are no different in relation to good governance and best practice at all levels. I would expect those to be adhered to in the cases of any decisions being made or decisions to be made by any committees or authorities now or in the future.

Innovation: biotechnology conference

Mr THORNLEY (Southern Metropolitan) — My question is to Minister for Innovation, Gavin Jennings. Can the minister inform the house of how the Brumby Labor government is working to make Victoria a global centre for biotechnology?

Mr JENNINGS (Minister for Innovation) — I thank Mr Thornley for his question and the opportunity to talk to the chamber about some very exciting things that are happening in Victoria this week. We are the home of the AusBiotech conference, which has brought together representatives from all over the globe to seek out biotechnology opportunities, to build on collaborations and to try to make sure that our research and development finds new potential, both in terms of what it might achieve in supporting some health issues, sustainability issues and climate change issues — to make sure that we have a healthy and productive community into the future.

Some 1400 delegates from around the globe have arrived in Melbourne and are currently engaged in that conference and that exhibition at the convention centre in Melbourne, and I had the good fortune of opening the event yesterday.

Mrs Coote — What is happening with stem cell research?

Mr JENNINGS — There are a lot of things happening with stem cell research. I am glad Mrs Coote is awake, because she might be the only opposition member in the chamber who is alive to the potential for biotechnology and stem cell activity.

Mr Finn — It's a con!

Mr JENNINGS — Mr Finn is actually seeking opportunities for us to talk about this important public policy matter. I am very keen for us to do so. I am very pleased that the conference has provided an opportunity for Alan Trounson to come back to our shores to discuss his important work.

In the company of these 1400 delegates from around the globe I took the opportunity yesterday when opening the conference to provide two new forms of policy frameworks and regulatory support for the sector in Victoria. We recognise that if people want to operate within the biotechnology industry in Victoria, they need to be clear about what underpins their research and development and what appropriate frameworks are in place.

Yesterday I took the opportunity to launch two frameworks. One covers biodiscovery and the policy that deals with the potential for research and development that will impact upon our biodiversity in Victoria in terms of what might lead to cures for many illnesses that bedevil our global community; and the other which deals with the way in which biodiversity can be regulated and protected into the future while also providing opportunities for that research to be undertaken with confidence. Whether it takes place on public or private land in Victoria, there are rules and regulations about the ways in which those aspects of our biodiversity can be taken and used for research purposes and what controls are in place to provide for the ongoing protection of biodiversity. But we recognise the potential of this research and where it may lead.

I took the opportunity to talk about, for instance, some important work that has been undertaken by the Monash Institute of Pharmaceutical Sciences. Researchers there have discovered a potential cure for malaria based on the compound artemisinin, which exists naturally in a wormwood species in Victoria. Researchers have taken that compound and applied it to a therapeutic intervention which may cure malaria — which is very exciting. That research would be of international standing and would come from a biological discovery in Victoria.

I took the opportunity yesterday to announce another framework on guidance in relation to intellectual property protection. Mr Thornley and other members of the chamber may be surprised to hear that many people engaged in research are not well versed in intellectual property (IP) law. Most of us understand that this is where Einstein started, but he went far beyond this in his scientific endeavour. We want to make sure our scientists are not bedevilled by IP protection in the future and that we know the process, the rules and the ways in which they can file and protect their intellectual property — and hopefully gain some commercial benefit from it.

The Victorian government has released the framework in cooperation with AusBiotech and the Spruson and

Ferguson law firm, which specialises in this field. We think it will be a very useful guide for practitioners in the field, providing greater certainty for the protection of intellectual property derived from research and potentially leading to greater commercialisation of the results of their research. We think this is a very significant contribution to the biotech sector, and it was certainly well received yesterday.

I have great confidence that the field will continue to find this framework useful beyond the investments that the Brumby government has embarked upon in terms of infrastructure and support to our medical research capabilities and our scientific community. I also have confidence that great results will be achieved in Victoria as a result of the biodiversity protection achieved through the biodiversity framework we have employed and the IP protection that will apply to research in the future.

Planning: Whitten Oval, Footscray

Ms HARTLAND (Western Metropolitan) — My question is for the Minister for Planning, and it relates to the Whitten Oval redevelopment and amendment C75 to the Maribyrnong planning scheme. The minister's 'Reasons for decision to exercise power of intervention' say:

> The Western Bulldogs Football Club has requested this intervention.

Was this request in writing, and was it addressed to the Minister for Planning?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Hartland's interest in this matter. I had requests from a number of parties involved in seeking the intervention in relation to Whitten Oval. Those requests came from the Western Bulldogs Football Club, the Australian Football League (AFL) and Victoria University. It is worth appreciating, as I have said on a number of occasions, that the critical component of this project was the ability of Victoria University to bring its money to the equation. Victoria University could only do that once a permit was issued for use of the Whitten Oval facility, ensuring that it could deliver courses at Whitten Oval — particularly in the physical education section of its course. Victoria University wanted to deliver that and associated courses on-site at Whitten Oval.

Had I not intervened to circuit-break the circumstances and ensure that a permit for use was granted on this occasion, or to at least give a guarantee that a permit for use would be granted, that money would not have been forthcoming. The project would have ground to a halt, and additional money would have been required for the project because of delays. It would have meant that Victoria University could not deliver its course at the beginning of next year because of delays. No doubt it will still be under a lot of pressure to make sure it can do so, given the time frame.

In addition, there was a critical level of investment from not only federal but also state government, as well as a commitment from the Maribyrnong City Council. So there were three levels of government committed to a significant project in the western suburbs of Melbourne that would ensure jobs, prosperity, services and amenity for what was no doubt a very dilapidated and run-down facility. Those requests were made of me. I did not take those requests for intervention lightly. I determined that I would intervene, and I am pleased to say that the project has proceeded. The only threat to the project is that, I understand, a motion to be moved by the Greens to not support that necessary planning scheme amendment will be debated tomorrow. I find it extraordinary that such a critical opportunity for the western suburbs, now and in the future, is being hamstrung and potentially scuttled by the Greens on the other side of the chamber.

Supplementary question

Ms HARTLAND (Western Metropolitan) — I thank the minister. I have seen his press release from this morning, which I found incredibly amusing. My supplementary question is: considering council would have dealt with this matter in September had it gone to a council meeting, why has it taken so long for his department to deal with it, gazette it and have it placed on the paper?

Hon. J. M. MADDEN (Minister for Planning) — I think Ms Hartland is a little bit confused around the arrangements and the critical needs of this project, and I would encourage her to go and investigate the site and speak to the relevant parties — Victoria University, the Western Bulldogs Football Club and even the AFL if she wishes — to get a sense of what this project means to the region and what it means in terms of opportunity for the west.

I am not laying blame with the council, the football club or anyone else involved in this project, but what was critical and what is always critical in a major redevelopment — and again let us recall that this is a major redevelopment which has really never been done before — was that the proponents were seeking a permit for the academic use of one of the portions of the building. Without that they could not get the money or the cash flow for the project to proceed. To get that

guarantee they needed my intervention, but the extension of that intervention occurred because of issues surrounding the planning process.

This is an issue that the Maribyrnong council no doubt has to grapple with during the course of considering the merits of any application. In this instance it was not only the planning authority, it was also the committee for management. Maybe from the council's point of view there needed to be an elongated process, but what that did was hamstring the project. The critical component was not only to obtain the permit for use but also to try to tidy up that situation, so a planning scheme amendment right across the project was needed. The critical issue was to ensure that Victoria University had a guaranteed permit for use and could provide its funds. The rest will occur, and is occurring, with certainty and confidence from all the parties to guarantee the future viability of this project and the viability of the operations of all those organisations going into the future.

Bushfires: preparedness

Ms DARVENIZA (Northern Victoria) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. I ask the minister to inform the house of how the Brumby government is working with Victorians to prepare for the upcoming bushfire season.

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Ms Darveniza for her question and welcome the opportunity to talk about Victoria's firefighting effort leading up to what will again be a major threat confronting the community this summer. Because this has been one of the driest years on record, with inflows to our rivers and streams as low as they have ever been, forecasts from the Bureau of Meteorology suggest this is going to be a very daunting summer in terms of its potential to be one of the worst seasons on record for the risk of fire.

Yesterday I joined the Premier, the Minister for Police and Emergency Services and representatives of the major firefighting agencies — the CFA (Country Fire Authority), the Metropolitan Fire and Emergency Services Board and officers of the Department of Sustainability and Environment to talk about our firefighting effort, particularly across public land in Victoria, going into the fire season. I can assure the house that not only has the Brumby government seen the value of the firefighting effort in those emergency services increase by more than 130 per cent during its time in government, but specifically this year DSE base funding has been increased by a further $30 million to assist in Victoria's firefighting effort. We will see a better level of preparation and resource allocation than we have ever seen before in terms of fighting fires — for example, the 160 000 hectares of fuel reduction burning that has been undertaken since the last fire season to try to reduce the fuel load across Victoria and the number of people we will be able to bring to bear, with the 60 000 CFA volunteers being augmented by something of the order of 2700 firefighting officials through government agencies, including DSE as the major one of those agencies. We have actually employed 650 permanent firefighters who will be added to our armoury to deal with — —

Mrs Coote — What about New Zealanders?

Mr JENNINGS — For the second time during my contributions today, Mrs Coote has woken the opposition up with her interjections, and I thank her for that. It is important that she keep opposition members on their toes, because they were nodding off. Regardless of the importance of the issues I am talking about and regardless of the threat of fire, there is particular disinterest being shown on the opposition benches.

Mrs Petrovich — That is not true.

Mr JENNINGS — Mrs Petrovich actually has some form in this regard. She demonstrated some interest, so good on her. I was going through the way in which we are allocating resources, including human resources, to our firefighting effort. We also have more equipment than we have had before. This season we are making sure that we have at least 34 aircraft that will be dedicated to assisting our firefighting effort; some 2072 tankers will be provided; 409 four-wheel drive vehicles with slip-on tank ability will support our effort; and 58 bulldozers will be added to our armoury of capability. We have established 67 lookouts across public land in Victoria to make sure people are well placed to see the fire threat on the horizon. We are making sure that we have the human resources, we have the technical resources, we have the machinery and we have the skill base — and overwhelmingly we have the spirit of our firefighters.

We are very grateful for the endeavour that is brought to protecting our environment and our community time and again. We do not take that spirit for granted. Indeed we rely upon it, and we want to make sure it is supported and encouraged. We also take the opportunity to remind our citizens, particularly those who live on the interface between rural areas and country towns or the metropolitan area, that they should be particularly mindful of developing their own approach to fire safety to reduce the risk around their

homes by having a plan in place so they know how to respond in an emergency. We take this as an appropriate reminder.

We are prepared to a better level than we have ever been before, but we want to make sure that all members of our community take stock, reflect and consider their plan and their response should an emergency come their way. We hope, through our collective efforts, that we will rise up to the challenge this summer is presenting to our community in relation to the fire risk.

Avalon Airport: Jetstar

Mr KOCH (Western Victoria) — My question is to the Acting Minister for Industry and Trade, Mr Lenders. Jetstar's most popular service into Avalon Airport, the daily return flight to Perth, has been relocated to Tullamarine. This service has been the cornerstone of Jetstar's success at Avalon. The Geelong region and western Victoria will now miss out on more tourism traffic and jobs. My question is: what strategy does the government have to ensure that the Geelong region and western Victoria do not lose out from this relocation, and will Avalon lose any more flights?

Mr LENDERS (Acting Minister for Industry and Trade) — I thank Mr Koch for his question and his interest in these matters. Firstly, for the record — and my colleague Mr Theophanous has raised this issue on a number of occasions — this government has an amazing record on attracting airlines for direct flights into Victoria, because we understand the importance of tourism. The government has made record investment in tourism because tourism is a great industry assisting the state of Victoria. We have gone a long way and there has been a cultural shift from the days when someone who wandered around looking at places was seen as an itinerant, a vagabond, to be feared to these days, when a person who wanders around looking at places is someone we as a community court, because we want them to come here and spend their money in our state.

I welcome an ongoing dialogue with Mr Koch on what we can do to assist further in bringing airlines and tourism into this state as a whole, particularly into that great region around Geelong. We will continue to work with the sector in delivering in both these areas. What I say to Mr Koch is: for us to achieve more jobs requires a sustained hands-on, heads-down approach by industry and government working together — and certainly not talking down the state in these difficult times.

Supplementary question

Mr KOCH (Western Victoria) — I thank the minister for his response. In doing so I should not let escape the opportunity of saying that some licence has certainly been taken in relation to the minister bringing all these airlines to Victoria. Much industry work was done. My supplementary question is: does the long-awaited manufacturing industry strategic plan, which has now been promised for some 677 days, take into account the future of Avalon Airport and its role in growing the economy and industries of Geelong and Western Victoria Region?

Mr LENDERS (Acting Minister for Industry and Trade) — Members of the opposition like counting days. They are waiting for a piece of paper. They seem to be oblivious to the fact that there is a tourism strategy, that there is a manufacturing strategy and that there is a services strategy. Members of the opposition have a case of severe myopia if they cannot see that.

What I would say to Mr Koch is: look at the runs on the board, at what this government has done in bringing tourism into all parts of the state of Victoria, as I outlined in the last sitting week in Lakes Entrance, talking about what we have done with taxation to assist manufacturing in this state, what we have done in the budget on land tax, payroll tax and WorkCover premiums; what we have done in investment in skills and infrastructure, which are an underpinning of any industry statement or strategy — in 2006 and 2008 there were significant statements that put us ahead of the rest of the country; and what we have done in investment in infrastructure to deliver that. The very fact that the investment in Avalon is in place and has been expanded upon is in itself a ringing endorsement, let alone what we are doing in working in conjunction with the commonwealth in these areas.

We will continue as a state to work with industry and the commonwealth to have ongoing solutions in all these areas. I suggest to opposition members that they do not obsess about a piece of paper but that they look to the runs on the board and evaluate them. That is what we need to make this state an even better place to live, to work, to invest and to raise a family.

Planning: government initiatives

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning, Minister Madden. Can the minister advise the house of the Brumby Labor government plans to deliver new urban communities closer to transport and local employment opportunities?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Tee's interest in these matters. They are ongoing and the opportunities in relation to planning for all of Melbourne are ongoing. We are planning not only for Melbourne but for all of Melbourne. It is also particularly important that the new communities in the new suburbs in the growth areas are well serviced and well located. It is particularly important that there is clarity not only around the planning process but also around the end result that people look for in relation to the sorts of communities that are established.

Recently I had the great pleasure of releasing the precinct structure planning guidelines for local government and development industry comment so that developments can be more responsive to local environmental conditions and be less reliant on cars. That is particularly important when it comes to jobs, because what is more prominent in people's minds, and even in the marketing of how these new suburbs take place — —

Mrs Coote interjected.

Hon. J. M. MADDEN — Mrs Coote might have a job, but there are people out there who are very worried about their jobs and worried about getting to their jobs. It is not only jobs, but the range, diversity and opportunity for those jobs. Traditionally jobs in some of these centres have been of a particular type or related to a specific industry. There needs to be a comprehensive range of jobs, whether they are blue collar, white collar, service, technical management or all sorts, and good planning makes that happen.

Part of it is to make sure we have communities that are more self-contained, localised, freestanding and close to shopping centres that provide not only retail outlets but in particular family services.

The new guidelines will cover all land earmarked for development in Melbourne's growth areas, and most importantly they will replace the interim guidelines issued in September 2006. They complement the urban growth zone announced by the Premier in March. They will also see developers accounting for the distances they expect new residents will have to travel, prescribe open space requirements and set out how schools, services and other infrastructure will be sequenced.

In particular they will also deal with housing options to make sure we have the provision of density around activity centres, especially for single people and elderly people who want different types of accommodation depending on the different stages of their lives in order for people to age in place. As well as that the guidelines deal with matters of cultural heritage and native vegetation which will be brought into the strategic planning process so they are done at the beginning rather than progressively through each of the various stages.

I encourage everyone, but I encourage the opposition parties in particular, because there is an opportunity here to make a submission around public consultation.

Mr Finn interjected.

Hon. J. M. MADDEN — If you feel strongly about the western suburbs, Mr Finn — —

The PRESIDENT — Order! The minister should speak through the Chair.

Hon. J. M. MADDEN — If members opposite feel strongly and if they have policies in these areas — —

The PRESIDENT — Order! I ask the minister to refrain from baiting the opposition.

Hon. J. M. MADDEN — I know they are easy fish to hook, President. If people across the community feel strongly about these matters, I suggest they should make decisions, make some policies, make up their minds and put their positions so they are out there and we all know what their policies are. In that way they can be considered on their merits, regardless of how ineffectual they may or may not be.

Mr Viney interjected.

Hon. J. M. MADDEN — That's right. There he is. Shark Fin Soup over there would make good eating with Mr Finn as bait. The growth areas, and this work — —

Interjections from gallery.

The PRESIDENT — Order! I ask security to remove the gentleman in the front row of the gallery.

Person escorted from gallery.

The PRESIDENT — Order! The minister, to continue — and he might like to consider not provoking the gallery, as well.

Hon. J. M. MADDEN — Can I say that people feel strongly about how growth areas should develop and about precinct structure planning, and particularly about these guidelines. They have the opportunity to make submissions. They have got up until 14 November this year to make submissions.

Mr D. Davis interjected.

Hon. J. M. MADDEN — I would recommend that Mr Davis attempt to do that and that he give it consideration for more than an hour or two before he makes that submission, so that we can make Victoria an even better place to live, work and raise a family.

Economy: global financial crisis

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Treasurer and Acting Minister for Industry and Trade. What briefings has he requested regarding the present health and status of Victoria's banking institutions, pension and super funds, financial brokers and investment banks, and venture capital and pooled development funds, and what were the outcomes of these briefings?

Mr LENDERS (Treasurer) — I thank Mr Dalla-Riva for his question. The presumption behind his question, of course, was that I had not, which I find quite extraordinary — the tone and the presumption.

Mr D. Davis — He asked what the outcome was.

Mr LENDERS — I can answer without help from Mr David Davis. The world, as we know, is in a very difficult economic circumstance. As I have said to the house before, the subprime contagion coming out of the United States has now spread — it has spread through financial markets across the world, and we have seen the stress that is causing businesses across the world. We are also seeing how it has now crossed our shores into Australia, where a lot of our financial services and our financial institutions are under stress because of the flow-on from the subprime crisis and the lack of international confidence that has come about since then.

Throughout this period I have been briefed by my department, I have been briefed by my new department in my capacity as Acting Minister for Industry and Trade, and of course I have spoken to financial leaders, whether they be from the United States Federal Reserve in New York or from our own Reserve Bank of Australia or our own federal regulators as well as all other state and territory treasurers. I have obviously briefed myself on these particular matters, and this government is backing our national government, which is acting internationally to seek to address these issues. Whether it be through the banks and central governments of the G20 countries trying to stabilise confidence in the banking sector, so that banks will actually lend to banks, which they were not doing some months ago, with the obvious consequent flow-on to industry, or whether it be through the G20 governments seeking to stabilise share markets — one example only, of course, being the freeze on short selling some weeks ago and the partial rollover of that onto the present — we will work with the commonwealth, which in turn is working with the G20 group of finance ministers across the world to deal with these matters. We will be acting locally as part of a global response to that.

In that environment of course I am being briefed by my departments; of course I am seeking to speak to whatever opinion leaders and decision-makers it is necessary for me to speak to on this; and of course I am speaking to business leaders in the state of Victoria so we can collectively try to address what is one of the most difficult periods this economy has faced.

I look forward to Mr Dalla-Riva's supplementary question, and I hope it is one that is seeking to be helpful and not trash the state.

The PRESIDENT — Order! Before I go to Mr Dalla-Riva's supplementary I would like to inform the gallery that the circumstance leading to my decision to remove that gentleman from the chamber was the fact that he was interfering with debate and in particular with the minister on his feet at the time. It is not appropriate for members of the gallery, who are most welcome here, to interfere in any way, shape or form with the proceedings on the floor.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — I thank the Treasurer for his answer, and I respect the fact that he has undertaken briefings. I also asked about the outcomes of those briefings. I put it in the light of the recent announcement of job cuts at GE Money, the four quarters of continual losses in super investments, the rumours of cuts to jobs in all four major banks and the continuing serious uncertainty in investment banks and property funds. In light of all that, when will we see the government's financial services industry strategy, which would go to addressing some of those matters, that was promised by the Minister for Industry and Trade 604 days ago?

Mr LENDERS (Treasurer) — I guess I will reiterate some of my response to Mr Dalla-Riva on the Wednesday of the last sitting week in Lakes Entrance, when he asked a similar question on manufacturing. Mr Dalla-Riva is focused on a piece of paper. In Lakes Entrance I went through with him the series of industry measures we had dealt with ranging from taxation and skills to infrastructure. As I said to him in Lakes Entrance, for the opposition to come in and say that an

international company like Ford laying off 40 000 workers worldwide is a consequence of a piece of paper not being delivered by this government is drawing a long bow.

What I will say to Mr Dalla-Riva is this: people in this state are losing their jobs. Every single person in this state losing their job is a person this government is concerned about, is a person this government will work with and is a person from an industry this government will work with. If we are talking about manufacturing or financial services, what this government has done and will continue to do is work with industry.

We have seen an 18 per cent increase in employment in financial services over the last several years. We will continue to work with companies to boost that, to increase that and to maintain jobs in that sector. What I say to the opposition is that what will achieve outcomes here is concrete working with individual companies and a plan across an entire sector.

The plan across the entire sector is as I outlined in question time in Lakes Entrance two weeks ago. Mr Dalla-Riva may not listen to what we have done in skills. He may not listen to what we are doing in infrastructure. He may not listen to what we are doing in taxation. He may not listen to what we are doing in WorkCover premiums. He may not listen to what the commonwealth government is doing on an automotive plan, on a textiles plan and others, and which we will dovetail behind it on. He may not listen to that, but I can assure Mr Dalla-Riva and through you, President, the house that we will continue to work, because long-term jobs for Victorians are our no. 1 priority. What we are seeing is jobs being created.

Mr D. Davis — There's no vision.

Mr LENDERS — I take up Mr David Davis's interjection, 'No vision'. We have averaged 1000 extra jobs a week in the state of Victoria for the past nine years — 1000 extra jobs a week! Members opposite talk about strategy. The strategy was investing in skills and human capital before the opposition even knew the words. It was investing in infrastructure before the opposition knew the word 'infrastructure'. We have had consistent development for nine years. It is little wonder in these difficult global economic times that the state of Victoria is better positioned than other states in this country to withstand these international ill winds — we are better positioned because of strategy.

However, there is more to be done. There are real people involved here. We will continue to work with the workers in these areas and their industries. We will not score political points over a piece of paper.

Energy: carbon trading

Mr LEANE (Eastern Metropolitan) — My question is to the Acting Minister for Industry and Trade, John Lenders. What is the Brumby Labor government doing to establish Melbourne as the hub of Australia's carbon trading market and create a green jobs industry for Victoria?

Mr LENDERS (Acting Minister for Industry and Trade) — I thank Mr Leane for his question. Mr Leane is very quick on his feet — it was a fantastic segue from the previous question. I congratulate Mr Leane for his question because what he effectively asks is exactly what are we doing to take advantage of new opportunities for new jobs in these challenging global economic times. Mr Leane has runs on the board in green jobs — he is one of the many parents of the great green plumbing training centre in the north of Melbourne. That is an area I know Mr Leane has a great and abiding interest in — the plumbing industry — and a growing interest in plumbing!

But what he has now asked — about the opportunities for a carbon trading market and green-collar jobs in Melbourne — is very seminal. With global trading the global carbon market will obviously be centred in London — that is where the global scene will be — and there will be a series of hubs that will be spread across the world. Victoria now has an extraordinary opportunity, whether it be in the regulatory functions, the exchange mechanisms, the research institutions or a range of other things that will come from the global carbon trading market, so I am delighted that I convened a round table in Melbourne just a week and a half ago for industry leaders to discuss how Victoria can position itself for new jobs.

It is obvious that members of the opposition are not interested in new jobs. I have a question here from a member of this house about what the government's strategy is to create new jobs in the financial services sector at this particular time, and members of the opposition are not interested. But I am interested and Mr Leane is interested, because these are opportunities.

If I recall correctly it was Bill Gates — I think it was Bill Gates, but I do not want to quote the wrong person — who said that half the jobs we will be doing in 10 years time have not even been invented today. It is niche opportunities like those in carbon trading markets — whether they be jobs in the regulatory functions, the exchange mechanisms or the research

institutions — that we as a government are interested in. These are the green-collar jobs of the future, and we want to be part of them. I am delighted to be able to say to Mr Leane and to the house that I have met with the industry and convened a round table. We are looking for an action plan to try to bring more of these jobs into Melbourne. This is where the future is, and I have great confidence in the future of Victoria. It is a great place to live, work, invest — particularly in carbon trading markets — and raise a family.

Land Victoria: electronic conveyancing

Mr D. DAVIS (Southern Metropolitan) — My question is to the Minister for Environment and Climate Change. What steps has the minister taken to ensure that the obvious conflict of interest in having Mr Dixon from Ajilon holding both a departmental decision-making role and also a contractor role — being contracted to deliver the Electronic Conveyancing Victoria project — will not allow further losses on top of the tens of millions of dollars already lost on this project?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr David Davis for his question. It has been quite a while coming. I know he has taken his lead from one of his preferred leadership members of the federal Parliament, Senator Brandis, in relation to this.

Mr D. Davis — I think it is the other way round in relation to this.

Mr JENNINGS — Is it? Thank you. Senator Brandis made an outstanding contribution in the federal Parliament last week on this matter — it was outstanding in a variety of ways. He showed himself to be a modern man by having a photo of himself in the *Australian* last week holding a book about Robert Menzies. Not even Peter Costello's book could be held in his hands in his office last week, which shows how contemporary he is.

The PRESIDENT — Order! I remind the opposition that we do not tolerate stunts in here. If it wants to engage in a stunt, I will respond accordingly.

Mr JENNINGS — The President gave me the benefit of the doubt because I was responding to a question from the other side. In fact it was not a premeditated engagement, I have to say.

I note that this is an issue Mr Davis has asked questions about before. In fact I have responded on a number of occasions, and my substantive answer continues to be that I deny the imputation within the question that we have wasted taxpayers money in relation to this important program. Whilst significant software and intellectual property has been developed to establish an e-conveyancing system that will support the processing of settlements, discharging of mortgages and other aspects of the settlement process for land transactions in the state of Victoria with the intention — and in fact there are very good prospects for it — of it becoming a national system, we dispute the notion that this investment on behalf of the people of Victoria is a sunk investment. We think this is intellectual property and a system that will be in a prime position to be adopted as a national model, and we are very happy for the model that has been established in Victoria to be considered through the Council of Australian Governments process. It will go through a variety of benchmarks and gateways in terms of decision-making processes, which include establishing a governance arrangement for a national system under the COAG model. The processes for reporting back have actually been established for this matter to come back and be considered next year.

In relation to the article Mr Davis is relying on — he can be very grateful that he shares the afterglow of Senator Brandis in relation to this; obviously they are a tag team act and he can be a beneficiary of it in his brief moment in the sun on this issue — and the question about whether this scheme is now being considered by the commonwealth and being prepared to be adopted by other jurisdictions across the nation, in fact attention was drawn to the contributions of various officers of the Department of Sustainability and Environment because of their standing in terms of the development of this program.

In relation to another aspect of his question, first of all it is very important to lay the foundation for where e-conveyancing is travelling nationally. Then I will deal with the last aspect of the question, which is in fact the probity considerations and the appropriateness of decision making that has actually occurred within the department.

I can assure Mr Davis and the house that I have had sustained conversations with my department about the matter Mr Davis has raised in relation to the contractual arrangements that have led to the development of this system. I continue to be advised by the department that it has satisfied probity considerations through its probity control group, which has considered the relevant aspects of the department's structure and decision-making processes in relation to contracting arrangements. I continue to be advised that the department is well satisfied with the probity processes that have been in place, that a conflict as alleged does not exist and that in fact there is great confidence within

the department on this matter. That continues to be the advice I have sought to verify and to validate, and I continue to be provided with that advice by my department in relation to this matter.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — I thank the minister for his answer, but I do not think it clears up some of the issues involved, and therefore I ask: have all tender processes involving the Department of Sustainability and Environment that have awarded a contract to Ajilon Pty Ltd met conflict of interest provisions and been subject to full reports by probity auditors, and if so, will he publicly release the probity audits for those contracts between the DSE and Ajilon?

Mr JENNINGS (Minister for Environment and Climate Change) — The answer that I gave was a pretty fulsome answer, despite the interjections from Mr Guy, who just wanted to ping me on one word; in fact I gave the complete answer. In the first instance I gave the complete answer. Mr Davis has is very good at certain contrivances and the manipulation of the phrasing of certain questions or propositions he puts to the Parliament — and I will not go beyond describing him as being very good at manipulating phrasing. He impugns the probity process I have described and includes a range of activities that he has now roped in as if they were standard practice, and he knows them not to be.

In fact, in terms of the advice that I rely on in relation to the probity controls and tendering arrangements, they satisfy the standard procedures that would be expected across the government, and the additional requirements that are embedded in the question have not been undertaken — and Mr Davis would have accepted that and understood that to be the case before he asked the question.

Water: north–south pipeline

Mr DRUM (Northern Victoria) — My question without notice is to the Treasurer. With Victoria Police now charging a fee for service for many of its duties that were previously covered in its day-to-day operations, can the Treasurer inform the house as to whether Melbourne Water will be expected to repay the government for the cost of the significant police presence required to build the north–south pipeline?

Mr LENDERS (Treasurer) — I thank Mr Drum for his question. It is a technical question regarding an instrumentality inside the portfolio of the Minister for Water, so I will take that on notice.

Supplementary question

Mr DRUM (Northern Victoria) — This is a Treasury issue, President. I have prepared positive and negative supplementary questions, but I did not have one ready for a non-answer. In relation to the Treasurer's answer, how is it, then, that if a local community event such as a race day, a football final or a bike race can warrant a community being forced to pay for a police presence at that event, a government authority such as Melbourne Water can effectively call upon 20 to 30 police to arrest landowners on their properties at effectively no cost?

Mr LENDERS (Treasurer) — I answered Mr Drum's supplementary question in my answer to his substantive question.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 1341 (in lieu of answer tabled on 8 April 2008), 3111, 3112.

PETITIONS

Following petitions presented to house:

Clearways: Melbourne

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the proposed extension of clearways in Melbourne.

The petitioners therefore request that the proposed extension of clearways in Melbourne be withdrawn and abandoned.

By Mrs COOTE (Southern Metropolitan) (798 signatures)

Laid on table.

Water: north–south pipeline

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council its opposition to the proposed building of the north–south pipeline by the Brumby Labor government which will steal water from country Victorians farmers and communities and pipe this water to Melbourne. We believe there are better alternatives to increase Melbourne's water supply such as recycled water and stormwater capture for industry, parks and gardens, and

therefore call on the Legislative Council to oppose the construction of the proposed pipeline.

And your petitioners, as in duty bound, will ever pray.

By Ms LOVELL (Northern Victoria)
(153 signatures)

Laid on table.

Driver Education Centre of Australia: Careful Cobber program

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council its opposition to the Brumby Labor government's decision to cease funding for the Careful Cobber program which has been delivered at the Driver Education Centre of Australia (DECA) in Shepparton for 30 years.

We believe the government should immediately reinstate funding for this crucial road safety education program for Victorian primary school students, and therefore call on the Legislative Council to support the reinstatement of funding for the Careful Cobber program.

By Ms LOVELL (Northern Victoria)
(585 signatures)

Laid on table.

Rail: Lakeside station

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the urgent need for the construction of a Lakeside-Cardinia road railway station to allow residents of the rapidly growing Cardinia shire to easily access public transport.

The petitioners therefore respectfully request that the Legislative Council of Victoria demand the Brumby Labor government to:

1. Begin the construction of a railway station for the Lakeside-Cardinia road precinct now.

2. Improve the provision of vital infrastructure services to the people of Lakeside and Cardinia shire by creating a public transport service that is readily accessible, reliable and user friendly.

By Mr O'DONOHUE (Eastern Victoria)
(64 signatures)

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 13

Mr EIDEH (Western Metropolitan) presented *Alert Digest* No. 13 of 2008, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Agriculture Victoria Services Pty Ltd — Report, 2007–08.

Alpine Resorts Co-ordinating Council — Minister's report of receipt of 2007–08 report.

Crown Land (Reserves) Act 1978 — Minister's Order of 26 September 2008 giving approval to the granting of a lease at Elsternwick Park Reserve.

Energy Safe Victoria — Report, 2007–08.

Fisheries Act 1995 — Report on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2007–08.

Fisheries Co-Management Council — Report, 2007–08.

Harness Racing Victoria — Report, 2007–08.

Melbourne Market Authority — Report, 2007–08.

Murray Valley Citrus Board Minister's report of receipt of 2007–08 report.

Murray Valley Wine Grape Industry Development Committee — Minister's report of receipt of 2007–08 report.

Northern Victorian Fresh Tomato Industry Development Committee — Minister's report of receipt of 2007–08 report.

Phytogene Pty Ltd — Minister's report of receipt of 2007–08 report.

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

Bass Coast Planning Scheme — Amendment C72.

Baw Baw Planning Scheme — Amendments C51 and C63.

Brimbank Planning Scheme — Amendment Cl07.

Colac Otway Planning Scheme — Amendment C49.

Darebin Planning Scheme — Amendment C88.

Glen Eira Planning Scheme — Amendment C62.

Golden Plains Planning Scheme — Amendment C35.

Manningham Planning Scheme — Amendment C76.

Mitchell Planning Scheme — Amendments C40 and C58.

Pyrenees Planning Scheme — Amendment C17.

Surf Coast Planning Scheme — Amendment C34.

Wangaratta Planning Scheme — Amendment C30.

Warrnambool Planning Scheme — Amendment C64.

Statutory Rules under the following Acts of Parliament:

Children's Services Act 1996— No. 120.

County Court Act 1958— No. 119.

Environment Protection Act 1970— No. 121.

Planning and Environment Act 1987— No. 122.

Transport Act 1983— No. 123.

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rule Nos. 119 and 122.

Minister's exemption certificates under section 9(6) in respect of Statutory Rule No. 123.

Trust for Nature — Minister's report of receipt of 2007–08 report.

Veterinary Practitioners Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

Victorian Energy Networks Corporation — Report, 2007–08.

Victorian Law Reform Commission — Report, 2007–08.

Victorian Multicultural Commission — Report, 2007–08.

Victorian Strawberry Industry Development Committee — Minister's report of receipt of 2007–08 report.

BUSINESS OF THE HOUSE

General business

Mr D. DAVIS (Southern Metropolitan) — I move, by leave:

That precedence be given to the following general business on Wednesday, 29 October 2008:

(1) notice of motion 39 standing in the name of Ms Hartland relating to the revocation of amendment C75 to the Maribyrnong planning scheme;

(2) notice of motion 29 standing in my name relating to ministerial briefing documents; and

(3) notice of motion 40 standing in the name of Mr Dalla-Riva relating to the proposed closure of Essendon Airport.

Motion agreed to.

MEMBERS STATEMENTS

Shepparton: Relay for Life

Ms LOVELL (Northern Victoria) — Over the weekend of 18–19 October I had the honour of participating in Shepparton's seventh annual Relay for Life. The Relay for Life is a team event in which challengers compete in a relay-style overnight walk to raise much-needed money for cancer research. It is a global event held in more than 20 countries. This year Shepparton's Relay for Life raised more than $205 000. Since its inception, about 574 teams and 9612 participants have taken part in the Shepparton Relay for Life, which has raised in excess of $1.8 million.

Each competitor has their own special reason for participating in the Relay for Life. Many are motivated by their personal experience with cancer, and others are encouraged by the experience of, or the loss of, a family member or friend. However, every participant shares a common goal — the goal of living in a cancer-free world.

I would like to thank everyone who participated in this year's Relay for Life as well as those who contributed to its organisation. Special thanks go to the volunteer organising committee, led by Richard Maxwell. Most of the money raised from the Shepparton Relay for Life will go towards cancer research, in the hope of bringing us closer to a cancer-free world. Money from this year's event will also directly help locals through the funding of anti-cancer education programs, including SunSmart and Quit, as well as supporting programs run by the Cancer Council Victoria.

Parliament: Lord's Prayer

Ms PENNICUIK (Southern Metropolitan) — The Speaker of the House of Representatives, Mr Harry Jenkins, has called for public debate about whether the Lord's Prayer, which is read daily at the opening of federal Parliament, should be rewritten or replaced. He has said it is the most controversial aspect of parliamentary procedures and that the issue has been raised with him by MPs and members of the public. Mr Jenkins questioned whether the prayer, inserted into the standing orders in 1901, was relevant to the 21st century. I agree with the Speaker that there needs to be debate about this issue, and it applies equally to the Victorian Parliament and to this chamber.

My first concern is that the reading of a prayer is not consistent with the separation of church and state. It has always surprised me that something religious is read out each day in a secular parliament. The use of the

Anglican version of the prayer is also questionable when so many people in our community and in this Parliament are not Christian and either adhere to another religion or do not adhere to any religion.

Mr Jenkins suggested that the prayer be replaced by an acknowledgement of the traditional owners of the land on which the Parliament stands, as that would be consistent with the formal apology to indigenous Australians. This is a good suggestion. Perhaps it could be done at the start of each sitting week rather than every day.

A caller to ABC talkback radio suggested that starting the day with quiet reflection or meditation may not be a bad thing. In any case I believe it is way beyond time that the morning prayer reading was abandoned. What, if anything, replaces it is a matter for much wider discussion.

Heywood: Fitzroy River precinct

Ms TIERNEY (Western Victoria) — Last Friday I had the pleasure of officially opening the improvements to Heywood's Fitzroy River precinct, made possible with the help of $63 000 from the Small Towns Development Fund grant from the Brumby Labor government. The improvements included a new footbridge over the Fitzroy River to provide a pedestrian link between both sides of the reserve; new boardwalks and multi-use tracks; a pioneer display shelter for historic log wagons, tools and associated timber-milling memorabilia; and tree planting, paving, outdoor seating and picnic furniture. As well as improving access to local recreational and sporting facilities, this upgrade will provide new marketing opportunities, particularly the expansion of opportunities for Heywood's Wood, Wine and Roses Festival.

I would like to acknowledge the Glenelg shire and the Promoting Heywood and District Committee, which are extremely active in boosting local tourism, social amenity and business development. I would like to make particular mention of Eugene Rose, the project manager, who has returned to Heywood to retire but who works tirelessly for the Heywood community. This was a very well attended function full of optimism, town pride, history and ownership. Congratulations to all.

Dorris Trainor

Ms TIERNEY — On another note — a sad note — I would like to mention the recent passing of Dorris Trainor at the astonishing age of 104. I recently spoke in this place about Dorris, who was a resident of the Allambi Elderly People's Home in Dimboola, and I would like to extend my sympathy to Dorris's family and friends at this difficult time.

Youth: alcohol abuse

Mr VOGELS (Western Victoria) — Last week many thousands of year 12 students celebrated their final days of secondary school prior to the all-important exam period. The majority of year 12 students celebrated appropriately, but unfortunately the activities of a minority of year 12 students attracted much publicity as a consequence of their misbehaviour. The order of the day is of course to have fun.

I would like to share with you the wise words of Ms Julie Myers, principal of Brauer College in Warrnambool, to her year 12 graduates:

> Twenty years from now, you will be more disappointed by the things that you did not do than the things you did do. Explore. Dream. Discover.

I take this opportunity to thank seven accomplished, mature Ballarat students who participated in a youth and alcohol forum which I hosted in Ballarat recently along with Mary Wooldridge, the member for Doncaster in the Assembly and shadow minister for drug abuse. The forum provided valuable insight into the challenges our youth face in handling peer pressure and learning about the responsible consumption of alcohol. The participating students were: Keegan Fitzgerald from Ballarat High School; Amy Fell, Nathan Markio and Brittany Curtis from Sebastopol College; and Kathleen Dean, Vanessa Hillgrove and Brodie King from Ballarat Grammar.

The cooperation and support of teachers from these schools is also to be noted, and I thank Ms Michelle Shaw and Ms Patrice O'Shea from Ballarat Grammar, Mr Jamie Greenwood from Ballarat High School and Mr Robert Bourke-Finn from Sebastopol College. The coalition has been hosting youth and alcohol forums across the state as a way of reaching out to our youth and interacting with them and as a way of gaining a better understanding of the current culture and trends in relation to alcohol use amongst our youth. I commend these fine young Victorians, and I look forward to supporting Mary Wooldridge in developing a policy in this area for the long-term benefit of the youth of Victoria.

Learning support programs: homework clubs

Ms MIKAKOS (Northern Metropolitan) — On 4 September I had the pleasure of visiting Meadowbank Primary School in Broadmeadows for the launch by the Minister for Education, Bronwyn Pike, of Melbourne Citymission's report entitled *Learning Support*

Programs — A Chance to Experience Success. The report is an evaluation of four of Melbourne Citymission's learning support programs around Melbourne. Of the four programs, three were operated for the benefit of children and young people in my electorate, including the Brunswick Learning Club, the Broadmeadows Learning Club and the Connect-Ed Tutoring Program run in the city of Melbourne area.

The research found that homework clubs give disadvantaged students, such as those from refugee backgrounds, a major boost to their educational performance, self-confidence and social skills. This was recognised by the Brumby Labor government in this year's budget, which has for the first time provided $4.4 million in funding for activities such as homework clubs to support thousands of refugee students across Victoria. As was recognised in the Blueprint for Education and Early Childhood Development, the Brumby Labor government recognises that there is an important role for community groups in supporting their local schools and local children.

I want to acknowledge that, in addition to the work of Melbourne Citymission, other groups such as the Salvation Army, St Vincent de Paul, Anglicare, some local councils and libraries, and ethnic-specific groups are also running learning support programs for an estimated 3000 to 4000 students across metropolitan Melbourne, and there has been significant growth in such programs in the last few years. I want to commend Melbourne Citymission for its commitment to providing support for disadvantaged children to help them remain engaged in education and for its important research report. I hope the report proves to be a source of encouragement for government and community organisations to give more support to such programs in the future.

Parliamentary services: information technology

Mrs COOTE (Southern Metropolitan) — This members statement will come as a great surprise, because I am on the record in this chamber as having been exceedingly critical of the computer system in this place. However, upon receiving my computer upgrade I took the opportunity to visit IT manager John Lovell and to see what had been done in our IT section. It made me feel particularly proud to think that we are now a parliament that is seen to be ahead of the field in a world sense, particularly in the provision of low-energy desktops across the state. This has resulted in 57 per cent less power consumption per workstation and a reduction of 165 tonnes in carbon dioxide emissions per year, which is equivalent to taking 1528 cars off the road.

As I said, members in this chamber will be astonished to think I am now putting on the record my praise for everyone involved in this process and expressing how pleasing it is to know that not only do we have a computer system that is now first class but we also have an IT department that is looking into energy savings. I commend all those involved.

Legislative Council: Lakes Entrance sitting

Mr ELASMAR (Northern Metropolitan) — I rise to speak about the recent regional Council sitting held in Lakes Entrance. I want to say a big thankyou to the people of Lakes Entrance for making us all feel very welcome. I think it is a marvellous idea for members of Parliament to go to the regions and see the people there. I also thank the staff of the Parliament for looking after the proceedings under difficult circumstances. Well done.

Victoria Police: Darebin community day

Mr ELASMAR — On another matter, I, together with my local parliamentary colleagues, attended the Darebin police open day held recently at the Preston station. I was pleasantly surprised by the genuine interaction between the residents and the police men and women of Darebin. The event was enjoyed by the community.

Victorian Multicultural Commission: community grants

Mr ELASMAR — Last week I was pleased, with Robin Scott, the member for Preston in the Assembly, to present cheques from the Victorian Multicultural Commission to several not-for-profit community organisations in my electorate. While the cash amounts were small, they represent recognition by the government of the good works these organisations do for their respective communities.

Croydon Secondary College: chaplaincy program

Mrs KRONBERG (Eastern Metropolitan) — Today I rise to commend the Croydon Secondary College chaplaincy committee on its fine work over the past 31 years. Prior to the federal government introducing its funding program, any school participating in the chaplaincy program was required to contribute to a quota, and the balance was raised by the chaplaincy committees. Such committees derived funds from local churches, local government grants and fundraising.

The federal government now requires the actual school, not the chaplaincy committee, to apply for funding, so we find that this money at Croydon Secondary College has been allocated to areas outside the chaplaincy program. This leaves the program at the Croydon Secondary College more reliant on funding from its municipal council, the Maroondah City Council.

Chaplains have a unique role in supporting school communities through pastoral care of students, teachers, families and the wider community. Amongst this country's most important youth-focused ministries, school chaplains are active in promoting student wellbeing whilst encouraging reflection on the spiritual dimensions of life. They play an educative role in the areas of values, morals and ethics as well as respecting a range of religious views and cultural traditions in the school community.

After council elections next month I ask that the freshly sworn in councillors of the Maroondah City Council urgently reconsider the council's position on funding of the chaplaincy program at the Croydon Secondary College and ensure that the program is conducted in 2009 and beyond.

Glen Park community centre

Mr LEANE (Eastern Metropolitan) — I would like to congratulate the hardworking people at the Glen Park community centre in Bayswater North for recently saving their much-loved cafe, and in so doing I would like to commend the Minister for Community Development in the other place, Peter Batchelor, who visited the centre and announced a package of $35 000 from the Brumby Labor government. The package includes $15 000 from Mr Batchelor's portfolio through the Department of Planning and Community Development's community enterprise program and a further $20 000 from the community renewable flexible fund, which comes under the portfolio of the Minister for Local Government in the other place, Richard Wynne, so I would like to commend him as well.

I understand that this cafe has been very important to the centre for a long time. It is a not-for-profit cafe which has been a training facility for unemployed people, and the people there do a great job. I know that everyone involved with Glen Park is delighted with this outcome. They are also delighted that the Pratt Foundation has been involved physically and financially to make sure that this cafe, which is in a very important community centre in the electorate I represent, maintains its high level of service to the community.

Water: north–south pipeline

Mrs PETROVICH (Northern Victoria) — When Parliament last sat I raised the issue of bullyboy tactics as Melbourne Water officers, with the blessing of Mr Brumby and his yes-ministers, broke into premises and invaded properties along the route of the proposed north–south pipeline. We all know that farmers, many of whom have owned this land for generations, are unhappy about the pipeline and about the way this government has rammed its way into their properties. But it is not only the landowners who have grave reservations. If the Brumby government had done its homework, it would know that there are real and justifiable concerns across a wide spectrum of the Victorian community. Last week a Taungurung elder asked Aboriginal Affairs Victoria to step in and stop the pipeline construction because potential areas of significance had been carelessly bulldozed despite being stipulated under the 2006 Aboriginal Heritage Act as cultural heritage-sensitive areas. This is unimaginable negligence.

At a totally different level, recently I visited some major horse studs on the outskirts of Seymour. These international organisations have invested millions of dollars in this area and have a hugely positive impact on the local community. At the moment they are receiving only 15 per cent of their water allocation. What happens to their investment if this dries up? It is no wonder the government's own party, the Labor Party, is beginning to break ranks and voice opposition against this ill-conceived idea. The Mansfield branch of the Labor Party has shown more vision and common sense and a better understanding than the Premier of the state of Victoria. I plead with Mr Brumby and his government to swallow their pride and plug the pipe.

Geelong: Royal show and Geelong Cup

Mr KOCH (Western Victoria) — Over the last couple of weeks Geelong has been in the spotlight, hosting both the 2008 Royal Geelong Show and the prestigious 2008 Geelong Cup. East Geelong came alive with well over 100 000 patrons enjoying the excitement and activities at the Geelong Show. This four-day major community event has been hosted by the Royal Geelong Agricultural and Pastoral Society for over 150 years. Under president David Heath and chief executive officer Sharolyn Taylor some 200 volunteers worked tirelessly in promoting and preparing the show that again brought together those involved in agriculture, business and cultural and community activities from throughout the Geelong district and beyond. The return of horse events, which were cancelled last year due to the outbreak of

equine flu, has again shown Geelong's prominence on the equestrian calendar.

Last Wednesday I also joined over 15 000 racegoers enjoying the spring weather at the Geelong Cup to watch a strong field compete in the 2400-metre race. I extend my congratulations to the connections of the $200 000 Geelong Cup winner for 2008, English import Bauer, and to jockey Damien Oliver, and I look forward to Bauer starting in the Melbourne Cup next month. My congratulations also go to Geelong Racing Club chief executive Paul Carroll, the committee and all those involved in making this a great day on the city's racing calendar as well as to the Royal Geelong Agricultural and Pastoral Society for conducting a very successful 2008 Royal Geelong Show.

LOCAL GOVERNMENT AMENDMENT (COUNCILLOR CONDUCT AND OTHER MATTERS) BILL

Second reading

Debate resumed from 10 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr BARBER (Northern Metropolitan) — This bill proposes to do a couple of more or less novel things, and, leaving out those small administrative matters — the important ones of which are being picked up in relation to councillor allowances — the two core issues here are a rewriting of the conflict of interest provisions for local councillors and a new set of mechanisms in relation to councillor conduct amendments.

In relation to the former and the proposal that has been put by the government, I must say that I have always been a little lukewarm about this approach. I know from talking to the local government sector that some councillors are backing it and some are sceptical about it, while others are fatalistic about it and are waiting to see how it will play out.

There are two parts to the councillor conduct amendments provisions in the bill; firstly, the requirements for what such codes of conduct must contain, and secondly, the approach that will be used when a councillor is alleged to have breached that code. To put it simply, there will be a set of panels and reviews involving in particular the Municipal Association of Victoria (MAV) in a kind of peer review panel. Maybe it will be a little like the Australian Football League tribunal in that respect: that is apparently what we are in for.

When it comes to the code of conduct, the first thing most people have said to me about it, and it is quite obvious, is that there will be now a much higher and more detailed set of standards than there are for state MPs. The principles that will be contained in the councillor code of conduct are conflicting interests; acting honestly; respect for persons; care and diligence; public resources; acting lawfully; and leadership by example. That goes beyond simple matters of probity and into behavioural norms as to how we would like to see councillors behaving as individuals.

In that respect the bill goes far beyond the requirements that we as state MPs have so far been prepared to put on ourselves. In the Members of Parliament (Register of Interests) Act, section 3(1), referring to the code of conduct, covers matters such as the following:

> (a) Members shall —
>
> (i) accept that their prime responsibility is to the performance of their public duty …
>
> (ii) ensure that their conduct as Members must not be such as to bring discredit upon the Parliament;
>
> (b) Members shall not advance their private interests by use of confidential information …
>
> (c) A Member shall not receive any fee, payment, retainer or reward …

Apart from that, the only requirements are to disclose pecuniary interests and the names of any associations that one may be a member of, or whether one owns shares and so forth. The bill is setting up a much higher bar for councillors than has yet been set for state MPs, which may turn out to be a good thing and may help to lift the bar for state MPs. We are also setting up a kind of peer tribunal for people who are seen to have breached the code of conduct. In some ways it is an administrative review.

So far state MPs have not been particularly interested in having their ethics, behaviour or even personal norms reviewed. That is an experiment the government is undertaking. I know some people in the local government sector are more or less going along with the proposed legislation under sufferance and others are more enthusiastic backers of it. We will see. That alone is certainly not enough reason for me to vote against the bill, because it will only be in the operation of it that we will find out how this system will truly influence government.

The second area that the bill addresses is the more specific and direct issues of conflict of interest. I am a former councillor and familiar with this area of the Local Government Act. I have had cause in my own

case and in the cases of other people to sit down with the act and consider what is the appropriate thing to do. The fact that the government has decided to rewrite the act to make it clearer is to be commended, because the form and layout of the act made it hard to follow, and the bill will make it easier to read and follow.

The government has also picked up as a form of conflict of interest a particular issue that I have championed. In fact it was the subject of the private members bill I introduced some months ago, which was that when a councillor has received donations towards their election campaign and the donor becomes an interested party to the councillor's vote the councillor automatically has a conflict of interest. That is entirely appropriate.

Should the bill be passed today, the new act will set out in a more readable format the direct and indirect interests; the species of direct interest; the nature of an indirect interest by close association with various family members or with domestic partners; an indirect financial interest; an indirect interest because of conflicting duties where a person may be in a responsible position on two different organisations — I have certainly been through that issue because councillors are often appointed by their councils to boards such as waste management groups or committees of management — indirect interest because of receipt of an applicable gift, which was the aforementioned issue that I raised in my private members bill; and the requirement that this would apply not only in a normal deliberative formal voting meeting of a council but also in relation to an assembly of councillors defined as those briefings that often occur outside the main council meeting.

This was an issue specifically raised by the Ombudsman in his report on conflict of interest. He pointed out, and to some extent I agreed with him, that these briefings provided by staff for groups of councillors could be in danger of becoming quasi-decision-making forums or caucuses of groups of councillors, and that someone's influence at that time could also be a conflict of interest, which would not have been previously caught by the act because it was only occurring in formal decision-making meetings.

Personally, when as mayor I chaired those briefings of councillors outside formal council meetings, I was always careful to ensure that they did not turn into quasi-debates or quasi-decision-making forums. They were there only for the information of councillors, who could ask questions of the staff but were not to be sounding out each other's positions and so forth. I agree with the proposal the government has brought forward. I think the definition that has been created is workable, and I hope it stands.

However, there is an aspect of this bill in which I think the government has just gone too far; it has overreached. I do not know how this has come about. To me it jars with all the other provisions of the bill, and in the past week or so it has been the subject of a white-hot controversy. The provision says that a councillor could have an indirect interest as a result of either initiating or becoming a party to civil proceedings in relation to a matter or as a result of exercising a right under the common law, an act or regulation to either lodge an appeal in relation to the matter or make an objection or submission in relation to the matter.

In relation to the first bit, I think that is fine and appropriate. I think it is common sense, as you are automatically interested in a matter if you have taken someone to court to get them to do something or to stop them from doing something. There may not be financial matters involved — there may be other sorts of relief or remedy or you could be injuncting or doing a whole range of things — but clearly at that point you are an interested party.

Paragraph (b), which is about exercising a right under the common law, an act or regulation to lodge an appeal, looks very much like a subset of civil proceedings. The first thing I thought when I saw that was that it is rather redundant, but to the extent to which it is unclear I am not particularly keen that it should be in there at the moment. I am even more troubled by the second proposal — that is, that someone could have an indirect interest and therefore be unable to vote on a matter before the council — if they exercised a right under the common law, an act or regulation to make an objection or submission in relation to the matter.

I believe this provision arises out of a particular court case known as Winky Pop. It has a funny name, so people are always talking about Winky Pop and then having a bit of a chuckle. It had nothing to do with the famous surfing spot; it is the name of a company that made a planning scheme amendment application and ran into a disagreement with a councillor. That decision arose out of common law, and the findings of the court were reasonably common sense. They obviously applied in the specific instances on which the court was ruling. While those findings have certainly caused some confusion and anxiety, I think they are still a workable proposition for the government to continue with.

In response to that original issue, just recently in 2008 the state government published a guide for councillors called *Ensuring Unbiased Democratic Council Decision Making — Principles to Guide Good Practice*. It can be downloaded from the internet. It is signed off by the Minister for Local Government, Mr Richard Wynne. In his foreword he says:

> This guide provides valuable assistance to councillors in understanding the common-law rule relating to bias and identifying whether the rule may apply to them when making decisions in particular instances.

The last time I spoke to the minister about this issue I thought we agreed that it was pretty common sense and provided you minded your p's and q's and were aware of the decision you would be able to continue as a councillor. What I think the government is doing here is attempting to codify the Winky Pop decision, but to my mind it is going massively further and in some ways even reversing the logic in Winky Pop.

In simple terms what the judge found in November 2007 in the case of Winky Pop Pty Ltd and Others v. Hobsons Bay City Council was that when as a councillor you are making a quasi-judicial decision, a decision about how things are to be interpreted under a particular act of Parliament that you are responsible for, you should not have an apprehension of bias. You should have neither a bias in your mind nor an apprehension of bias — that is, that others would believe you are biased. As far as it goes, that is a reasonable proposition. However, what the government has put forward in this bill is, as I said, almost the opposite. The tests under the Winky Pop decision would be 'Do you have a bias or an apprehension of bias?' and 'Is this a quasi-judicial matter?'. The government's bill proposes that the content of a submission or an objection you have made in a matter is actually irrelevant. There is not a test of what is in your mind — that is, whether you are biased or unbiased — but simply whether you wrote on a piece of paper your view on a matter and sent it in as a submission. If so, you are out. The content is irrelevant. A submission could say that you are in favour of a development or against it or neutral or aware of it. Likewise with objections under the Planning and Environment Act. Everybody who provides input into the decision making is an objector, even though in some cases — not often — you get people writing in and saying, 'I actually support this particular development'.

I have been involved in determining planning permits which were controversial and about which I had a particularly strong view and wished that the thing had never landed on my desk. I opposed it, but the policy did not necessarily give me the tools needed to knock off that development. In some cases I managed to convince the objectors that the best thing to do was to approve the development with some limited conditions, because that would be the best deal for everybody. Under this bill, if I had simply written a submission drawing attention to any view on that particular matter, I would have to step out because of a conflict of interest. On my reading of the bill I also believe that, if that same property ever came up again because of an application for a further change to the property, I would still be out.

The government seems to have made a fundamental mistake by conflating two things: where I have a conflict of interest, looking at what is the benefit or disbenefit to me, and where I may have a bias — that is, I have formed a strong and unshakeable view that is completely impervious to any argument or evidence. To me writing a submission does not indicate that you are impervious to any argument. It simply shows that at one time you expressed a view, however mild. To bring in the common-law concepts from Winky Pop and drop them into that part of a bill that is about conflict of interest was a fatal mistake by the government. I do not believe any amended version of this provision that the government could come up with would necessarily repair that mistake.

If it is the government's intention to codify the common-law decision of Winky Pop, then it should by all means go ahead and do so. There will be a wide-ranging debate, and some of the questions I will be raising in the committee stage about how the mechanics of this proposal would work will go to why I do not consider it possible to do that in this framework.

I am not the only person who thinks this. My learned friend Mr Burnside has spoken up, and I respectfully agree with his conclusions, which are quoted in an article entitled '"Indirect interest" rule slap in face of democracy: Burnside' in the *Age* newspaper of 23 October. It says:

> If the mere fact of exercising your democratic right to make a submission disqualifies you from voting in a council proceeding then I think the democratic functions of local government are seriously impaired.
>
> Frankly, I don't think it does give you an indirect interest.

I take it that is an accurate quote. I do not know if he has given a considered opinion on the thing. I do know he was brought in as an adviser to the MAV on the subject of Winky Pop Pty Ltd and that he has run forums for councillors through that organisation, to explain what their rights are. I also know that at the time of the 2006 election, in a letter to the Minister for Local Government's electorate, he said that everybody should

vote for Dick Wynne. Without casting any aspersions on Mr Burnside, because I am sure his conclusions are strong, it is just not exactly clear who is briefing him in this matter, but I welcome his involvement.

If there is a conflict of interest in this matter, it relates to that of the president of the Municipal Association of Victoria, Cr Dick Gross, who has been all over the media claiming credit for this concept. I do not know whether that is true or not, but it is not at all clear to me, and it has not been clear to everybody else who has been involved in this debate, whether he is speaking as the head of the MAV or as a councillor up for re-election in a very short time with a number of high-profile and determined people running against him.

He is coming unstuck particularly on the issue of the St Kilda triangle site because it has already been alluded to by some promoting the development that anybody who gets elected from unChain St Kilda — the group opposing the triangle site — would not be able to vote anyway, so they should not bother running. That is a clear indication of the chilling effect that both the original decision and now the massive overreach — this grab for power — in this bill are having, leaving out intention or lack of it.

There is one other issue that I think needs to be brought to bear on this — that is, the constitutionality of this particular provision should it be passed. I know we are not here to do the High Court's job for it, and we could argue forever about whether a matter is or is not constitutional. That can only be determined through a court proceeding. But I believe this particular provision, as it has been put forward, is an attack on the implied requirement for freedom of political communication, which has been brought up in other High Court cases.

It has been brought up in the case of Theophanous, and it has been brought up in the issue of whether prisoners were found to have a vote under a law introduced by the Howard government. It is often mistakenly referred to as the implied right to political communication. The High Court is quite clear that it does not arise out of the constitution as a right. It arises as a requirement — something that would have to be in place for our constitution to operate correctly and as intended by the framers of the constitution.

To quote my favourite textbook, *Australian Constitutional Law — Materials and Commentary*, seventh edition:

> When a law of a state or federal Parliament or a territory legislature is alleged to infringe the requirement of freedom of communication imposed by ss 7, 24, 64 or 128 of the constitution, two questions must be answered before the validity of the law can be determined. First, does the law effectively burden freedom of communication about government or political matters either in its terms, operation or effect? Second, if the law effectively burdens that freedom, is the law reasonably appropriate and adapted to serve a legitimate end the fulfilment of which is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government and the procedure prescribed by s 128 for submitting a proposed amendment to the constitution to the informed decision of the people?

In my not-so-humble view, this one fails the test because right now it would have a chilling effect on any individual who wants to communicate about political matters with their peers. A communication in this form would be simply to write a submission to a government process where the government has called for submissions or legislated for the right to submissions, and in the process exchanged views with others including exchanging them with the government.

Leaving aside the retrospective nature of this, the problem we have here is basically that anybody who ever wants to run for council is barred to some extent from engaging in political communication, and if what the Minister for Local Government wants on his résumé is that he passed a law subsequently overturned by the High Court as breaching a fundamental basis of our democracy, then I say, 'Good on him'. But if this bill passes and one of my guys gets pinged with it, I will fund their action, and that is not an idle threat or any kind of bluff or bluster; I do not do that. It is a sneak preview of what is coming.

I had an amendment, which I circulated informally with the other parties at our sitting at Lakes Entrance, which would delete the offending part of proposed section 78D in clause 21. Subsequent to that the Liberal Party and The Nationals informed me that they would be moving an amendment to take out both provisions — that is, under 78D(b)(i) and (ii). I am perfectly happy to go along with that proposal, so I will withdraw my proposed amendment in relation to proposed section 78B(2) on the understanding that the coalition is moving a separate one which will take out all of 78D(b).

While I am on that, I have had circulated to me a draft amendment that the government may be considering introducing to its own bill. To paraphrase what it contains, because it has not been moved formally yet, it attempts to claw back some of the distance it went in its first ham-fisted grab to reduce local democracy, which so many people in Victoria value and want to see protected, and it is now suggesting merely that if a proceeding in the Victorian Civil and Administrative Tribunal (VCAT) alone was afoot, or that if someone had initiated another civil proceeding, or that if

someone had made an objection under section 57 of the Planning and Environment Act, then they would have an indirect conflict of interest.

Firstly, I do not really agree that section 57 or an objection under the Planning and Environment Act necessarily puts you in the same league as someone who has taken a civil proceeding. As an objector to a VCAT matter, if the applicant for the original planning permit takes that matter to VCAT, you as an objector do not really have the rights of an interested party; you are kind of along for the ride. You are not in a position to negotiate with that applicant, because that applicant is in fact appealing against the decision by the responsible authority — usually the local council — not to grant a permit. As an objector you are kind of joined to the action but you are not in the driver's seat. Clearly if it was the opposite and if you were taking a civil action, then you would be in the driver's seat.

Secondly, the government is proposing to make it non-retrospective. That is fine for those who had to get their nomination form in to council by 2.00 p.m. today — —

Mrs Peulich — They would have missed it.

Mr BARBER — Or by midday or whatever the time was. But in terms of breaching fundamental freedom of communication, it does not help anybody else from now on. I certainly have an objection to that. The latter part of the government's proposed amendment goes further and brings back in all the stuff about appeal, objection or submission. In effect it says, 'Look, the person has an interest; they have to disclose the interest but they can still vote on the issue provided in their mind they reckon they can be objective; they are non-biased'.

To me that is exactly the same problem that I have been talking about from the beginning. The apprehension of bias issue is unrelated to whether you have made a submission or not. Certainly the submission and its content could be one indicator of your bias, but quite simply if you do not ever write your opinions down you can be as biased as you want. It is conflating two things: firstly, what might be going on in someone's mind; and secondly, an act they have carried out — simply the act of lodging a submission. When we get to the committee stage I will ask the minister a series of questions about how this situation might arise — that is, of an objection or a submission in relation to a matter, the right to raise which has come out of an act or regulation or the common law. I believe there will be many cases where that could apply, and there will therefore be a great confusion about someone asking, 'Why am I declaring an interest if I am then saying, "But that's okay, I'm going to vote anyway", when I would argue it is not an interest?'.

It is not an interest. If I live next door to an apartment block that is being built, I have an interest, but if I simply make a submission in relation to that development or urban planning or the north–south pipeline or clearways or fluoride or whatever the matter may be and that matter turns itself into a council agenda item, I am in great difficulty. So in some ways the opening question for all this is: is the matter that I am considering on the council agenda the same matter that I wrote a submission on? If there is a risk that it is, it means I am at risk of being pinged by this particular provision.

For me the biggest problem is not what is in the law. If the law itself was quite clear, we would all be able to stay on one side or the other of it. The problem is that the law is not clear, and it is that lack of clarity that will have a chilling effect on people's participation and running for council and communicating. That confusion and distrust are already in evidence in the debate we have been having in the public domain over the last week, and with the phone calls and emails that have been coming in to MPs and to the two local government peak bodies. And all this is happening in a context where people are nominating for council.

There are, however, a couple of other parts of the bill that I seek to amend. They do not relate to the matters I have just covered, but I will explain them for the benefit of the house. The government will of course not vote for them but I hope the coalition parties and Mr Kavanagh will. I am happy for my set of amendments to be circulated now.

Greens amendments circulated by Mr BARBER (Northern Metropolitan) pursuant to standing orders.

Mr BARBER — I will explain what they are. They come back to some of the issues I raised previously in my private members bill and moved some time ago. One is that when councillors submit returns in relation to their interests and their electoral gifts from people who backed their election campaigns, that primary return, which is lodged with the council and is available for inspection, should be posted on the internet. It is on the internet at the website of the AEC — the Australian Electoral Commission — for all parties and independent candidates. They are all required to make those returns, which are then made available for inspection. Frankly, if the returns are not on the internet, they are fairly useless. Sure, an individual at the local council level who is involved in keeping —

am I allowed to say 'keeping the bastards honest', or is that unparliamentary, Acting President?

Mr Vogels — Mr Barber can say that.

Mr BARBER — It is a pretty clear colloquialism that has made its way into the Australian political discourse. Those annoying people who turn up to council meetings, ask questions, make submissions, continually harass their councillors and sometimes get so fed up that they end up running for council are certainly one of the checks and balances.

On the broader issues of integrity and, dare I say it, corruption in local council, we need more than just those people. Some of the bigger scandals that have erupted in other states — and I am thinking of, most recently, the ICAC (Independent Commission Against Corruption) report on Wollongong that I read — arose as a result of various kinds of tripwires or, in some cases, where people were just incredibly sloppy. It is not going to be practical for an individual to go to 79 different town halls, make an appointment and ask to sit down — as one of my staffers did with a number of councils — and look at those primary returns and be told, 'You can't actually make a copy but you can write the information down, and that is only during office hours. Who are you? Why are you here? Why are you asking for this?'. Whereas if the documents are published on the internet they are available for inspection by a range of people — people who may hold information in their hands that allows them to connect the dots, but who are not necessarily just the people who are interested in the local issue.

It might be somebody who has knowledge about a particular developer and their practices, which may be occurring at more than one council. Frankly, if it involves the amount of work that is needed in visiting all these council chambers and writing down everything on every document, it is as near to an almost complete barrier as you can get. If the returns are on the internet we understand that all sorts of people would inspect them — including people who possibly had knowledge that was not simply locally based. My amendment proposes that the documents go on the website, like the ones that people are familiar with on the Australian Electoral Commission website. Unfortunately at the Victorian level we do not have any donation disclosure requirements, and so we do not know how it would or should play out for the Victorian Electoral Commission.

My second proposal relates to one of the other requirements that this bill sets up — that is, that if you want to inspect these returns you cannot do so anonymously. A provision of this bill is that if you want to inspect a primary return of a councillor, the chief executive officer or the person enabling you to do that would have to write down your details on a register and that register would be available for inspection by any other person. I think that goes a little bit far, for the same reasons that the SARC — the Scrutiny of Acts and Regulations Committee — discussed in its review of this bill. What it said, in shorthand terms, or certainly the issue we should be addressing here, is that there is a right to privacy, but that is subsumed when a person decides to run for local office, and therefore asking someone about their financial interests and who donated to their campaign is reasonable. It goes against their privacy, but it is a reasonable provision.

What SARC seems to be silent on is whether it is a reasonable invasion of the privacy of an ordinary citizen who wants to inspect the register. I think it is completely obvious that it is not. If you simply want to engage in political activity by finding out who bankrolled certain councillors at the last election, there is no reason why your interest in that question should become a matter of public record. It seems to me that if it is too much for councillors, as some have argued, it is certainly too much for people who are just taking on their own private or public interest. My proposed amendment would delete those requirements.

If my first amendment alone, proposing that it be on the website, were to get up, obviously those provisions would be redundant. But if my amendment proposing to put the returns on the website were to fail, it would still be important that we deal with the issue of breach of privacy of an ordinary citizen.

I reiterate that the government has overreached on the bill. I do not know why or how, and I would be curious to know. If the bill passes, it will cause so much confusion and angst and so many problems that the government will be back here wanting us to tinker with the legislation again. Proposed section 78D should be blasted out of the airlock. The coalition's proposed amendment seems to do that adequately, so I will be supporting that amendment.

Debate interrupted.

PUBLIC TRANSPORT AND HEALTH: DOCUMENTS

The Clerk — I advise the Council that I have received the following letter from the Attorney-General dated 28 October 2008:

> I refer to the Legislative Council's resolutions of 15 October 2008, seeking the production of:

> 'the invitation to tender documents prepared by the Department of Transport, provided to those invited to tender for metropolitan rail and tram franchises'; and
>
> 'the report or reports detailing the outcomes of the deliverables and key performance indicators as stated in the 2007–08 statement of priorities for Barwon Health and for Melbourne Health as reported to the Minister for Health and the Department of Human Services'.
>
> There are long-established principles governing the release of government documents to a house of parliament. Similar principles apply in Victoria, the commonwealth, and other jurisdictions whose powers are based on historical transfer from the United Kingdom. Central to these principles is the protection of the public interest. The government is still in the process of considering the application of these principles to the documents sought.

The Attorney-General's letter concludes:

> These principles exist to protect the Westminster system, including the confidentiality of the cabinet process and the proper functioning of the public service, as well as to protect the interests of the state more broadly, including the integrity of its dealings with the private sector. They are not an unfettered power granted to the executive government — they are recognised, appropriate and limited exceptions to Parliament's ability to obtain documents.
>
> The government anticipates concluding its assessment of the documents sought by the Council against the factors listed —

in the letter —

> shortly. A final response will be provided to the Council as soon as possible and, in any event, by 11 November 2008.

The letter will be circulated to members now.

LOCAL GOVERNMENT AMENDMENT (COUNCILLOR CONDUCT AND OTHER MATTERS) BILL

Second reading

Debate resumed.

Mr VOGELS (Western Victoria) — I am pleased to speak on the debate on the Local Government Amendment (Councillor Conduct and Other Matters) Bill 2008. In starting my comments I congratulate the Greens — and in particular Mr Barber, who just spoke — on making sure local councils and communities understood the issues surrounding the bill. I have always had a good relationship with the Municipal Association of Victoria, but on this occasion I believe it has let down local governments across Victoria by not fully informing councillors and prospective councillors of what is in the bill. On this occasion the MAV failed to get the public — those who are interested — to understand the effects of this bill.

The purpose of the bill is to amend the Local Government Act 1989 and the City of Melbourne Act 2001 to support and enforce standards of conduct of local government councillors, reform conflict of interest requirements, provide for increased transparency of local government operations, alter provisions relating to councillor allowances, enhance the operation of the act and make amendments to the Victorian Civil and Administrative Tribunal Act 1998.

No-one could argue with the purposes of the bill, but carrying out these ideals is difficult. The main provision of the bill is the establishment of principles of councillor conduct, which will form the basis of each individual council's councillor code of conduct. These provisions already exist under the present act and depend on the willingness of the council and the minister to act when breaches occur, as they inevitably will.

I have brought with me a copy of the Local Government Act, to which local government is presently subject. It lists rules of conduct regarding a person performing the role of a councillor and prohibits such a person from attempting to gain, directly or indirectly, an advantage for themself. It is all already in the legislation. As Mr Barber said, it may be in plainer English in the bill, but basically all the provisions of the new bill are in the old act. If breaches occur — and they will — the councillors themselves or the minister needs to act.

At midday today nominations close for the elections of 79 Victorian councils. There are 635 elected councillors on these councils. After the election there will still be 635 councillors — some new, some old. Victorian councils are responsible for spending revenue of some $5 billion and for approximately $50 billion worth of assets. Let us remember that local government also employs some 50 000 people in Victoria.

There is no doubt the vast majority of people standing for election to local government do so because they want to make a difference — they want to improve their local communities — but some do so because they have an agenda that is not always in the best interests of their community. Sometimes it is a matter of self-interest — some may hope to eventually get into higher political office, such as state or federal parliament. They may want to get involved in planning decisions, and so on. As I said, the vast majority are standing for the right reason.

This leads me to the provisions regarding the power to establish a councillor conduct panel on an application from a council, councils or even a single councillor to have his or her case of alleged misconduct heard. The

legislation says each panel will consist of two people selected from a list maintained by the MAV. One of the panel members must have local government experience and the other must have legal experience. I believe it would have been much more sensible to appoint a retired Supreme Court judge with no local government experience at all to adjudicate on whether there has been a breach of a code of conduct or a conflict of interest. You do not have to be versed in the Local Government Act or have a background in local government to know what is right and wrong. In my opinion, because local government is so incestuous, it would be much better to have someone right out of the industry completely who would adjudicate if problems arose.

The gift disclosure threshold is being reduced from $500 to $200 in this bill. All that will do is make it more difficult for the honest candidates. Those who want to circumvent the $500, $200 or $1000 threshold will always find a way to do so; it is just one of those things. I do not have a problem with the change, but it is just about words.

I fully support the implementation of the amended remuneration package for councillors following the government's acceptance of the recommendations of the panel review in April 2008. When I say I fully support this, I remember when I was elected to Corangamite shire in 1996. Councillors could then claim up to $12 000, and that has not changed in 12 years, so I do not have a problem with that going up now. However, I do have a bit of a problem.

If you are a councillor at Buloke shire council, for example, in western Victoria, or in Hindmarsh or Moyne, your allowance ranges from $6500 to $15 000, while allowances in Corangamite or Glenelg range up to nearly $20 000. A lot of these rural councils are huge in size, and the councillors have to do a lot of travelling to get around their constituencies, especially as many councils are now not subdivided and do not have wards. I think many of my colleagues do not think councillors should be paid at all, but I think councillors should be paid. It is a very important role; if you want to get people to put their name forward, they need and deserve to be properly remunerated, because it does take a lot of time and effort.

This bill also says councils may elect a mayor for a period of two years rather than one. Who cares? Good mayors will be re-elected; they will get second or third terms. I do not think you need this prescribed in legislation. There would be nothing worse than electing a mayor for two years and finding out after six months that he or she was a dud — you would be stuck with them for two years.

The requirement to give at least seven days public notice of meetings needs to be supported, as this has been abused in the past. I fully support the requirement to maintain a website to publish local laws and public notices online.

The definition of an 'assembly of councillors' and the conflict of interest recording requirements in relation to an assembly — that is, a planned meeting of three or more councillors and a member of a council staff who considers matters intended or likely to be subject of a council decision — are interesting.

Mrs Peulich — Is that a caucus meeting?

Mr VOGELS — In many councils in the city, especially where we have many Labor councillors, they always caucus before they sit down and have their actual council meeting. However, in country Victoria we have the Camperdown races, for example, sometimes sponsored by the Corangamite shire, and there might be two, three or four councillors and an officer there — and you discuss things over a beer. You do not actually make decisions but you do have a bit of a discussion about what each person thinks; it is called freedom of speech. I do not have a problem with that.

Mr Barber — That is not caucusing.

Mr VOGELS — Okay. It concerns me when councils become too political and members of different parties run for council. I am a great believer that at local government level you should put aside your allegiances, whether they be Labor, Liberal, Greens or The Nationals, and you should look after the interests of your local community. It does not matter who the government of the day is, that is who you should be standing up for.

The coalition will seek to move an amendment in the committee stage. I would like it to be circulated now.

Opposition amendment circulated for Mr HALL (Eastern Victoria) by Mr Vogels pursuant to standing orders.

Mr VOGELS — We believe the amendment to proposed section 78D is very important. As we have heard today and regularly, councillors have opinions and biases, but if you could not vote on something because you had put in a submission or something like that on it previously, there would be no-one in this house. Basically everyone in this house has a bias or an opinion one way or the other, but that does not stop them standing up here and debating that very issue — —

Mrs Peulich — And being held accountable.

Mr VOGELS — And being held accountable. Of course if you have a pecuniary interest, you should leave the room and not vote. In the past you could still have your say but you had to stand up and say, 'I have a pecuniary interest', and everybody knew you had a pecuniary interest or a conflict of interest. We will be moving an amendment, and I am glad to hear the Greens will be supporting that amendment.

In finishing, I do not know how this bill got to this stage a month out from the council elections. The government has been talking about changing the Local Government Act for three or four years, but right on the death knell, with about a month to go, all of a sudden we have this bill in front of us. It is very lax of the government not to have brought this bill in at least 12 months ago so that we could have had much more time for discussion and people would have known what they were doing.

Candidates who have put their hands up for the local government elections, for which nominations closed at 12 o'clock today, have no idea whether this bill will go through. I think they are hoping it will not, but they have no idea. If the bill goes through in its current form, a lot of them will have to leave their council chambers when issues are debated. Like many of us, I could stand up here and read out 20, 30, 40 or probably 50 emails and letters I have received from all sorts of people right across my electorate asking me not to support this bill without amending it to take out that obnoxious clause.

I am glad that by the sound of the debate so far it seems that is what will to happen, with the support of the coalition, the Greens and hopefully the DLP member as well. I commend the amendment to the house.

Mr KAVANAGH (Western Victoria) — Like other speakers I am concerned about those parts of this bill which are aimed at preventing individuals who have assumed positions of leadership in the community on proposed developments and who are later elected to council from voting as councillors on these developments.

A person in the position I have described is deemed by this bill to have a conflict of interest. This represents a great enlargement of traditional concepts of conflict of interest. Traditionally this concept has meant a contradiction between a personal financial interest and responsibilities in a position such as that of local government councillor. In my opinion we must rely on people's judgement and honesty, and trust them as councillors to act in accordance with laws and regulations. In this respect it is worth noting that the decisions being made are subject to appeal to VCAT (Victorian Civil and Administrative Tribunal) in any case.

In an editorial in the *Age* of last Thursday, 23 October, suspicion was expressed by an *Age* editor that this provision may be an attempt to restrict the political activities of the Greens, sometimes known as the Greens political party in this house. I am quite often in profound disagreement with the Greens about particular matters. I also note my disappointment in the last sitting week at not having the support of the Greens for a motion I moved expressing concern about the state of services in Victoria.

However, I believe that it is improper for any Parliament to pass laws with the intention of restricting or nobbling any political party. On that basis I would be happy to support the amendment proposed by Mr Hall. In relation to the amendments proposed by Mr Barber, at this stage it seems that they will definitely improve the bill. They are quite useful and will add to the democratic process in Victoria, but I will listen carefully to the debate during the committee stage before making a decision on that aspect of the debate.

Mrs PEULICH (South Eastern Metropolitan) — I rise to make some comments on what is a very topical bill, given that, as other members have alluded to, the close of nominations for council elections was at 12.00 p.m. today. The ballot draws took place at 2.00 p.m., and I believe there are probably many households and computers working overtime to devise pamphlets — particularly because of the short time lines — for those who face postal vote elections as opposed to those who are subject to attendance elections. It is the first time that there will be a four-year term for councillors.

Let me say at the outset to the Acting President and members of the chamber what I think of this government's performance in the area of this vital sector of local government, which most of us who have come from or have had some experience of believe is the grassroots expression of democracy and provides an enormous opportunity for members of the community to participate in the local decision making that affects the community most directly.

Basically, as Mr Vogels said, it is a very large sector, with $5.7 billion in revenue collected annually. He has made mention of the number of people employed in the sector — it is something like 50 000 people, and there are 79 councils. He mentioned that 635 councillors will be elected, and all of those will be lucky. We have seen some very big fields. Just on rough calculations I

imagine that we could have something like 3500 candidates, each paying $250. Some, of course, are more serious than others.

Dare I say my view is that this government's administration of local government for the past nine years has been very disappointing. In fact many of the significant changes have destroyed grassroots democracy, have discouraged participation and have made a political cesspool of local government. There is a reason for that. I will come back to why I think parts of this bill are imperative and to why it is obviously crucial to support the amendment proposed by Mr Hall on behalf of the opposition, which is supported by Greg Barber. I certainly hope the government accepts the proposed amendment.

There is significant community concern about this. Guess why? It is because the 3500 people who are contesting these supposedly democratic local council elections are all handing out pamphlets, making commitments, making statements and making pledges. They have an agenda and a platform. According to some of this government's documentation, those things may be construed as bias and an unwavering commitment.

I have an unwavering commitment to standards, ethics, disclosure and serving a community. I am not very fussed about people coming into local government on a single issue or out of self-interest as long as they do not breach those basic rules about political competition — that is, as long as they do not overstep the mark.

Two important principles have operated in local government. In 1992, when the Kennett government was first elected, 62 per cent of those who were part of the Kennett government had a local government background. So it is a very important sector from the point of view of allowing local people to be involved in local decisions and to pursuing that course further if they wish. I have no difficulty with that, because I think that if through the role of representing a community you are actually doing it in good faith, effectively and with commitment, it exposes you to a range of people from community organisations and to issues that often broaden that single issue agenda. I am not that averse to people having an agenda as long as it is up-front.

The two tests that have traditionally been applied are, firstly, pecuniary interest. The other one, which is common sense, is that you have to not only disclose that interest but be seen to not have a conflict of interest. That is a broader test. The basic advice that was given to me when I was first elected to — —

Mr Vogels — Acting President, it seems there is not one Labor MP interested in this bill. We have not heard any government speakers yet. The Minister for Environment and Climate Change is in the house, but I draw your attention to the state of the house.

Quorum formed.

Mrs PEULICH — I thank Mr Vogels for generating an audience for me. He considered that what I was saying was worthy of an audience. It was very generous of him.

These are the views held by people who are involved in local government, who are candidates and who are involved in various community organisations, some of whom may be involved in current elections. But let me say that the reforms that this government has presided over have actually diminished the level of democratic participation available to people who are ordinary members of the community.

Before I go on to talk about that issue, I was referring to the two tests which most people have applied in the past as to whether a direct financial pecuniary interest exists. Another one is: if you are not certain and are in doubt, get out. This, fortunately, has been a very strong rule in the past until this government came to office, the reason being — and Mr Vogels was absolutely spot on in questioning this — the unwillingness to act. The government is fully cognisant of the range of problems that plague this sector. We have had a number of reports and probably more paper than common sense, and more paper than any concrete sort of action in the area of local government administration.

We had the Ombudsman's inquiry into a conflict of interest in local government. Obviously some of those ideas have been picked up. It was long overdue, because the government is singular and one-eyed about how it administers the rules. If a councillor or a council is not friendly or supportive, or not a cheer squad for the government, it comes down on them like a tonne of bricks, but if they are the government's own people, it turns a blind eye. It becomes a cesspool of Labor Party politics where local communities are betrayed, deceived and lied to. To see that, all you have to do is look at some of the nomination statements that come out in the handbooks.

In some councils you have a field of it, and it is very disappointing that Labor is now opting for endorsing entire tickets for local governments. The City of Greater Dandenong had a number of meetings, and there was a real tussle between the Left and the Right when these meetings were being convened by my

colleague Mr Somyurek, probably to iron out who was going to be no. 1, no. 2 and no. 3. Unfortunately a lot of the time the Socialist Left candidates were left out of the configuration.

This has made a political cesspool of local government. It has been done by adopting multi-council wards and proportional representation. Some of those wards have anywhere between 16 000 and 20 000 households. Others have anywhere from 11 000 people to 24 000 or 25 000 people, or more. They are almost equivalent in size to a lower house seat, which has approximately 34 000 voters. Where would an ordinary person who wants to take part in the democratic process find the sort of money needed to be able to take advantage of postal vote ballots and have a pamphlet distributed in a very short time to every household? They cannot, and so local government has been politicised to the detriment of the sector.

That has gone further, and for the first time we are going to have four-year terms. Democracy can be messy, it can be a real pain in the butt, but this process takes away that little vent where local pressure, local issues and local views can be expressed as they were before the adoption of triennial elections of all councillors, which in hindsight, in my view — all out at the same time — was a retrograde step. The reason is that when there was an annual election and only one person was coming for election within a ward where you might have three councillors, the local community had muscle; it had a voice. Every year it could actually get its issues onto the political agenda.

Now the government and officers of the Office of Local Government — nicely ensconced in the box over there! — have to make sure local councils conduct community satisfaction surveys to find out what people think. They survey 200 people in a municipality. What a disgrace! The reason they need to have satisfaction surveys is because many of them do not have a clue and do not care. Moving to a four-year term will make them even more remote and is basically going to encourage complete politicisation of that level of government which is closest to the people. Who else can afford to take part?

The government's track record, as I said, was scathing. From the report on performance in local government conducted and tabled in June this year by the Auditor-General, it is clear that this government has failed to put in place performance indicators by allowing the focus for a number of years to be merely on key strategic activities. Basically no-one really knows what outputs have been achieved with the enormous amount of money that has been collected. In my region, the South Eastern Metropolitan Region, which is also served by the President, Bob Smith, Gavin Jennings, Adem Somyurek and my colleague Gordon Rich-Phillips, there has been a 100 per cent increase in rates since 1999. It is a disgraceful fact and a burden that is worn by families who can least afford it, and of course, by business as well.

What does this bill do? It continues the erosion of local democracy. Fortunately the means by which it was going to further or gut it have been exposed in sufficient time to allow this house to fulfil its duty as a house of review and expose this government's attempt to basically knobble local government. I concur with most of what Mr Barber said about the offending clauses, and I am delighted to hear that the Greens and the DLP are both supporting our amendment.

I do not necessarily disagree with further amendments, although the opposition does not yet have a position in relation to the publication of information on the internet. If you are a public figure, unfortunately if you put your hand up, you have to be accountable and you cannot hide. I certainly support that and all that has been said by the shadow Minister for Local Government in the Assembly, the member for Shepparton, Mrs Powell, who raised concerns about what objectors would face if they did make a written or even a verbal submission on any item. If you read the provision, it could apply to verbal submissions.

For example, ratepayers associations — and we have a lot of them — typically would make all sorts of submissions. Local government advertises and calls for submissions on, say, the budget as part of its consultation process. All those people would technically be disqualified if they found themselves elected to local government. It is deplorable, it is unjustifiable, and it has got to be excised, but it has got to be excised or agreed to in this chamber because the rest of the bill should proceed.

It should proceed because there is an enormous number of examples of where Labor councillors in particular — I will not say exclusively — have misbehaved. Very serious breaches of the various codes of conduct have occurred. The government has known about it, but has failed to take action.

I completely support the Ombudsman's recommendation that the provisions in relation to conflict of interest be clarified. In particular, given my earlier comments and my disappointment that the local government sector has been politicised, I think the important provision here is the concept of a conflict of duty. If you are a card-carrying member of a political

party and you are elected to local government, you have to make sure you understand what you are there for.

The Liberal Party does not endorse candidates for local government; we encourage people to take an active part in local government. We have had this debate at our conference on many occasions and we do not believe in endorsing Liberal candidates, because we believe local government should not be constrained by party-political allegiance. This is in stark contrast to the Labor Party, and I believe it gives a local representative much greater liberty to vote on issues as they see fit, without the requirement to caucus. The Labor Party's membership form states that members, if elected to local government and if there are two or more Labor Party members, have to caucus on key issues. That includes the budget and the appointment of the mayor and the chief executive officer. Let me tell you that all hell breaks loose when these caucus decisions are broken. We have an outstanding example of that in what in the past was a very solid council despite many of its challenges — that is, the City of Casey.

I have had enormous amounts of communication about some of the things that have been going on in Casey. I will not cite much of the material I have received. Over the weekend I received a full and comprehensive report, dated 17 October 2008, from Worklogic, a consultancy that has been investigating complaints made by a former staff member of the City of Casey against a Labor councillor from that council. This Labor councillor works for a Labor member of Parliament. The Labor member of Parliament is the parliamentary secretary to the Premier. It is a very serious breach that has been substantiated. The consultancy established the pattern of conduct, but I bet my bottom dollar that the report will go into the circular file and we will not hear anything about it. There has been a string of correspondence about information that has been breached. I will not cite further details of that, because I want to protect the confidentiality of the victim in this instance.

The more recent instance at Brookland Greens estate — the crisis involving methane gas leaking from an unlined pit in Stevensons Road — has crystallised how conflict of duty exists and operates to the detriment of the community. Cr Kevin Bradford, an employee of Luke Donnellan, the member for Narre Warren North in the Assembly, has been actively sabotaging any attempts to have an open and independent inquiry to establish who is responsible so that the affected residents can have some chance of forcing a negotiated settlement — to get some sort of compensation, if they are entitled to it, by finding out who is responsible. What we have had is an Ombudsman's inquiry. The Ombudsman is not obliged to conduct those inquiries publicly nor to table the report in Parliament, and he cannot investigate the roles of many of the agencies involved. Cr Bradford actually lives on the estate, yet he has moved and seconded motions in relation to actions the council needs to take on the matter. That is an absolute and unequivocal example of a conflict of duty. If he is going to go in there with the support of the party, these rules have to apply.

Unfortunately it is not just about having the rules in place; at the end of the day the government has to have the backbone, the integrity and the commitment to the sector and the community to act on information it has. And it has a lot of information. I received a copy of a letter from a former member of the Labor Party, Cr Paul Richardson, condemning the government for the manner in which it has handled the methane gas crisis at Brookland Greens estate and condemning the former Minister for Local Government, Candy Broad, for her efforts — or lack thereof — during her tenure.

Mrs Coote — Where is she?

Mrs PEULICH — She is certainly not here listening.

What does this do? We have a sector that has been neglected and politically manipulated. The councils' planning powers are going to be stripped away through the establishment of these development assessment committees that are going to be formed, with the minister responsible making determinations about where high-density development is going to occur in commercial strips — first in 5 commercial areas, and then in another 22. The government is stripping powers from councils.

The proposed new residential code will have three and five-storey developments in residential streets as a starting point. It is all under the radar; no-one is talking about it, because once the elections are over the government will whip it out and it will be policy. That will take away the right of a local government authority to make a decision as to where it believes these developments ought to occur. On one hand the government is stripping powers, while on the other hand it has the remuneration outcomes — it is going to give councillors more money for doing less work.

I disagree with Mr Vogels. I do not agree that the more you pay people, the better representation you get, because at the end of the day people look on it as just an alternative form of employment. If they do not get stuff printed by their political party and pump it out and

make sure they are there like bunnies, lifting up their hand when required — ho, ho, ho! — it takes them to the unemployment queue. I think it is a retrograde step. When I was elected to council we got $3000 a year.

Mrs Coote — Nearly enough for a plasma TV!

Mrs PEULICH — Especially at current prices. I am not saying I am against it, but I think it shows the government's hypocrisy in relation to the sector. I think the hallmark of the government over the last nine years has been total manipulation. I have talked about the structure and the way it has worked. I agree with Mr Barber that tests of conflict of interest need to be reasonably objective, and obviously the major focus should be on pecuniary interest. I support wholeheartedly the proposed introduction of a conflict of duties provision, given the politicisation of local government, and look forward to the government being able to report on the progress of this particular provision in the bill.

I support the coalition amendment, which will remove the offending clauses. I thought I would draw the attention of honourable members to another document if they want to have a good belly laugh: it is called *Better Local Governance — Consultation Paper 2007*. My favourite document is *Ensuring Unbiased Democratic Council Decision Making — September 2008*. I have had a flick through it and I would like to draw the attention of members to a few references. I found this entire document to be patronising, appalling and a waste of paper. On page 1, under the heading 'Decision making in a democratic context', the document says:

> Under our democratic system we entrust certain powers and privileges to our elected representatives, but in so doing we require that, as our representatives, they act differently to the way they would act as individuals.

Well, hello! Get out there and clean up your act. Do something about the misbehaviour. Do not write about it; do not talk about it. Do it — fix it up.

Again on page 2 you can have a real laugh if you are interested, and I quote:

> There are a number of aspects to these common-law rules.
>
> This document is aimed at assisting councillors to comply with one aspect of those rules — the rule that they bring an impartial and open mind to the task of making decisions that affect the rights and interests of others.

There is a requirement to caucus, and that is imposed because Cr Janet Halsall, who broke the rule, was sacked by Judith Graley, the member for Narre Warren South in the Assembly, for doing so. She was instructed to do so, and that is the reason the Labor Party is now waging a turf war at the City of Casey. Do something about it! Change the rules! You cannot have it both ways. I am absolutely appalled at the contempt with which the Labor government and the Labor Party have treated this sector.

The paper goes on with the heading 'Having an open mind does not mean having an empty mind'. If you are obliged to merely put your hand up as an instrument of a political party and are bound by caucus rules, I think you probably do have an empty mind. In my view, you have an empty mind if you are a member of a party that ties up your conscience and does not allow you to have a conscience vote. That is an empty mind. On page 4 under that heading the paper goes on to say:

> These views may make them predisposed to favour particular policy outcomes.

When I cast my vote in local government elections I want to know what people stand for. I want to know what their position is on rating policy and infrastructure, and I want them to advocate to other levels of government where they have been silent. There are so many of them that are silent on key issues that nine years later our communities are worse off. I want them to be local advocates. I want them to protect and deliver quality services to the community. I want them to consult and to have integrity, and I want local government customer services to treat their ratepayers, their clients and their constituents or whatever you want to call them with respect. The culture needs a definite shake-out.

I would like to close by saying that the sensible amendment that has been brought forward on behalf of the opposition by Mr Hall to do away with this ridiculous clause that will shut people up should be supported, but we proceed with the bill because, given the hands-off, arms-length approach that this government has taken to local government and the problems that it has allowed to fester, the sector needs something. If there is a legislative implement for forcing some of this through, the amended bill should be supported. I look forward to the government accepting without qualification the amendment that has been put forward.

Mr FINN (Western Metropolitan) — I can assure the house that I will be a little shorter in my speeches this week than I have been in weeks gone by. My throat is a little raspy so I will not push it today as I am sure it will — —

Mr Koch interjected.

Mr FINN — It is a bit rusty, as Mr Koch says, but I will endeavour to do what I can to give my view on this legislation. I come from the western suburbs, and in particular the north-western suburbs, so when I hear the Labor Party talking about how it stands for democracy in local government and how much it loves the ideals of local government and things like that I laugh. I usually laugh out very loudly because I was brought up in political terms with the shenanigans of, for example, the Broadmeadows council. Remember the old Broadie council? What a ripper that was! Members of the Labor Party would disappear the day before the election, pop down to the Fawkner Cemetery and pick up a couple of bags of votes. Back in those days in Broadie it was interesting to see that the Fawkner Cemetery booth always returned a 100 per cent Labor vote. We were always pretty impressed with that.

Mrs Coote interjected.

Mr FINN — Mrs Coote says, 'What about Richmond?'. If you really want me to go for 5 hours, we will get on to Richmond!

Mrs Coote — Didn't the dead vote there?

Mr FINN — The dead have been voting for the Labor Party for a long time, and my view is that you would probably have to be dead from the neck up to vote Labor. I think that is the only explanation that you could give.

Coming, as I do, from the western suburbs, and seeing, as I have seen over many years, how the Labor Party uses and abuses local government for its own purposes, I laugh loudly when I hear Labor members talking about how much they love local government and how much they stand for democracy in local government. It is a joke; it is a circus. The bottom line is that the only time Labor really cares about local government is when there is something in it for Labor.

We will all remember after the 1992 election when Labor was decimated as a result of the decade of darkness between 1982 and 1992 under premiers Cain and Kirner — —

Mr Guy — The first decade of darkness.

Mr FINN — The first decade of darkness; we are now going through the second one — that is very true, Mr Guy. After the first decade of darkness when the Labor Party was annihilated at the polls, it did not have much left, so it returned to rorting the local governments of this state. I have to say from what I saw during those times that Labor did it, to give it its credit, quite successfully. It did it to the point that when the Kennett government acted to rationalise local government throughout Victoria, I think the majority of people were very happy about that because Labor had got control of various councils throughout the state and was making a complete hash of it. It was using local government for political purposes — as it always has, always does and always will — but back in those days, it was making a hash of it.

When the councils were temporarily dismissed, the majority of people were very pleased that that had occurred, because quite frankly Labor was making such a mess that anything would have been better than what the people of Victoria were being subjected to at that point. I well remember, and I am sure Mr Guy will remember, that when the people of Melton were given the opportunity at a free vote to have their council back, they said no — it was a case of 'No, thank you; we want the commissioners to stay'. I cannot for the life of me remember why it was Melton that was given that particular joy of keeping their commissioners, but I am sure that if a vote had been taken in various other municipalities around the state, the vote would have been similar.

People right across Victoria would have remembered what the Labor Party had done in their local government areas and would have voted for the commissioners to stay. I well remember the commissioners in my area of Hume — I still live in Hume — and I think they at that time did an extremely good job.

As I say, the only time Labor is concerned about local government is when it wants something from local government, when it can use local government. And obedience to Labor in local government is rewarded. If you do as you are told, if you come up and you are a little lap-dog of the Labor Party in local government, it is generally rewarded. It is amazing the number of people — not necessarily in this house but certainly in the other one — who are members of Parliament today because they have sat down, they have shut up, they have done as they were told by the Labor Party in their various councils, and being elected to Parliament is the reward they have received. Unfortunately that is the way they are continuing to act in this Parliament, and as a result we have the sort of government that we have today.

I am sure members will remember a few years ago the Glen Eira council in the eastern suburbs, or it may even have been the south-eastern suburbs, of Melbourne. That council, from what I could see, had not done anything particularly — —

Mrs Peulich — Overspent on a phone bill by $8000, that's it.

Mr FINN — I am told by Mrs Peulich it overspent on a phone bill by $8000, and I am certainly in no position to argue with her on that one. I am sure she would know that only too well. The minister at the time, who I think was Ms Broad, moved in and dismissed the council.

Mr Koch — Acting Chair, I bring your attention to the state of the house.

Quorum formed.

Mr FINN — I welcome members to the house to hear my contribution; they will not be disappointed, I assure them. As I was recalling before the call for a quorum, the Glen Eira council was dismissed by the Labor government just a few short years ago for what was a trifling matter — something that could have been dealt with very easily in some other way and was certainly not a capital offence. I certainly would not have regarded it, and I do not think any reasonable person would have regarded what the Glen Eira council did, as a capital offence. But the government of the time, the minister of the time, decided 'Off with their heads!', and the Glen Eira council's head went rolling down — I think it would have been Nepean Highway at the time — —

Mrs Peulich — Hawthorn Road.

Mr FINN — Hawthorn Road? Mrs Peulich knows that part of the world far better than I do, so I will bow to her superior knowledge of the geography of the south-eastern suburbs. I raise that as an example of how the government uses local government for its own purposes. This year in my region there has been another council very much deserving of dismissal. That council has performed some remarkable feats in shysterism. It has been populated by people you would not invite around for dinner, and if you did, you would count the knives and forks after they left, because they are the sort of people who would take you for a ride in a fairly big way.

I am speaking of the City of Brimbank. The allegations and accusations that have been thrown around at Brimbank are endless. I raised these matters with the Minister for Local Government, Dick Wynne, a few months ago when Mr Guy and I attended a Brimbank council meeting. I am sure he will back me up when I say that this place is a circus populated by clowns and lunatics. I raised this matter with the minister and put in frank terms what the people of Brimbank were dealing with. What happened? Nothing — do-nothing-Dick was at it again. He sat on his hands. He did not want to know about it. Why? Because they were his Labor mates. This is the Labor Party in action — the Labor Party that had the City of Brimbank by the throat and was slowly, or perhaps not so slowly, strangling the entire municipality — but because the Labor Party controls Brimbank, the minister, do-nothing-Dick as they call him, did not want to know and still does not want to know. It is only the Ombudsman, who has stepped in with an inquiry, who might bring some justice for the people of Brimbank after this particular session.

I want to tell the house about something that occurred to me just a month or so ago. I use this as an example because perhaps it is more than a coincidence, but it is something that happens to people who criticise the Brimbank council. I left my office one afternoon and had forgotten an important piece of paper. I was parked in the car park at the rear of my office, a very large car park probably 200 meters away from the office, when I realised that the paper I wanted was not in my possession, so I rang my office and said, 'I'm going to be coming past in about 30 seconds; could you pop out and give it to me?'. That was organised, so I drove down and parked just outside my office where there is a little cement section on the side of the road. This cement section is used by people to park and have lunch or a bit of a snooze. It is done on a daily basis, quite often two, three or four times a day. It is more often occupied than not occupied. I pulled in there, awaiting one of my staff members to come out with the paper I needed. I estimate I had been parked for 6 to 7 seconds when a Brimbank parking officer appeared. She was a woman with whom I would have to say I would not argue, and she said to me, 'Move on', so I did. I had been parked there approximately 6 to 7 seconds, maybe 8 seconds at a push.

Mr Guy — Was it a Suleyman?

Mr FINN — I am not sure if it was a Suleyman, but it may well have been, because a couple of weeks later guess what I got in the mail? I got a parking ticket for the 7 or 8 seconds that I had dared to stop outside my office. I had not left the car; I had just pulled up waiting for a staff member to come out and give me a piece of paper. For that enormous error I was rewarded by the Brimbank council with a fine to the tune of $113, which is a fair whack if you ask me. I do not know what the council is doing with all its money, because it certainly cannot cry poor if that is what it is slugging people for a minor parking infringement.

I cannot imagine that stopping for 7 or 8 seconds and not leaving the car could even be described as a parking offence, but that is what happens to people when they

criticise the Brimbank council. I suppose I was very lucky that I got away with only a parking offence, because there are some in the past who have criticised councils in that part of the world, in the western suburbs, who have got more than parking fines. Perhaps they have received a bullet in the letterbox, a brick through the window or a death threat. That is the way the Labor Party operates in the western suburbs. I suppose I should pull my head in and be grateful that I received a $113 parking fine and not something much worse.

The Brimbank council is a total and complete disgrace; it is a disgrace to local government in the state. The way in which the minister has sat back and allowed the council to get away with what it has been doing to the people of Brimbank for so long is a disgrace. We talk about conflict of interest. How is that for a conflict of interest: the minister protecting his mates in the Brimbank council? He did not want to know about it, yet he did know about it. Everybody in the Labor Party knows what the Brimbank council is like, but not one of them would lift a finger to protect the people of Brimbank against the most disgraceful and appalling council imaginable.

We did get some good news just last week — celebrated by all sides of politics — that the Suleyman empire in Brimbank is gone. The former mayor — —

Mr Guy — A Brumby backer?

Mr FINN — The Premier may well have backed her, but the former mayor of the City of Brimbank, Natalie Suleyman, much to the joy of the people of Brimbank, has announced that she will not be recontesting the election next month, and she has taken a couple of her mates with her. If people get a bit excited about this sort of thing, you can imagine why. But I have to say I will reserve judgement on my excitement for a while, just to see who replaces her.

It seems to me that in this culture of corruption in the western suburbs that the Labor Party promotes, it does not seem to matter who the individuals are or what their names or faces are — they do the same things and they are still allowed to get away with them if Labor happens to be in government. That is clearly not good enough.

Another example of how Brimbank operates is that before the last election — and I understand it is happening again — a number of candidates who claimed to be Independent were put up. They were said to not be associated with or endorsed by any political party. They stood up there, hands on hearts, and declared themselves to be political Independents, seeking the votes of the people of Brimbank. Those people were duly democratically elected by the people of Brimbank. What was the first thing they did? They caucused as members of the Australian Labor Party. They had lied to the people of Brimbank.

Mrs Peulich — Are you surprised?

Mr FINN — No, I am not surprised, Mrs Peulich. Having seen these characters, these no-hopers, in action for so long, it does not surprise me one little bit. But you have to ask the question: when we are talking about the City of Brimbank, are we talking about conflict of interest or just a con? Because that is what that was. That was a deliberate attempt to hoodwink, to con, the people of Brimbank before the last council election.

Mrs Peulich — And it is not isolated.

Mr FINN — I am sure, as Mrs Peulich points out, it is not isolated. I have seen it happen — —

Mrs Peulich — In Frankston.

Mr FINN — I have not seen it happen in Frankston, but if Mrs Peulich tells me it does, I will certainly take her word for it. I have seen it happen in a few other councils nearby, because Labor members know that even in the western suburbs, they are on the nose. People do not want to vote for them, but if they have no knowledge — if they go into the polling booth without any knowledge of the political affiliations of the candidates who are seeking their vote — they cannot be blamed for putting Labor clods onto the council. Unfortunately that has happened, with one exception, in Brimbank. We have these Labor clowns who regard it as some sort of divine right to run the council and the people of Brimbank as they choose, and treat the people almost as their goods and chattels.

This bill attempts to stifle opposition to the government. It is as simple as that; that is what this bill is about. It is about once again using local government to advance Labor's agenda. This is about knocking on the head people who will stand up to Labor and say to the government, 'Excuse me, Premier. We don't think you're right there'. Whack! He will say, 'Yes, I am, and this bill proves it. Because if you have a different point of view, if you stand up in a council election and say you don't want the St Kilda triangle or you don't want the north–south pipeline or you don't want clearways in Richmond or Footscray or Moonee Ponds or wherever, and you're elected on that basis, well, you're out, because you just can't talk about it on council. We don't want to hear that sort of thing on council, because that would mean that you're disagreeing with me'. That is how the Premier thinks.

This bill is being used as a weapon to belt around the head opponents of various government policies. I am very pleased that it has been foreshadowed that Mr Hall will move an amendment which will neuter that move by the government. There are probably many sections of the government that should be neutered, but this particular part of the bill is one that desperately needs amendment, and I am delighted that others have foreshadowed that Mr Hall — he will get to it eventually — will be moving such an amendment.

This move by the government is a classic swiftie in Labor style. The way Labor members spin things, the way they like to tell you how things are not, the way they like to move and bend things to appear as if reality is some — —

Mrs Peulich — Contort.

Mr FINN — 'Contort' is a very good word, Mrs Peulich. 'Contort' is a great word, because it rhymes with 'distort' and that is another word that comes to mind immediately one mentions this government.

Mrs Peulich — Or 'rort'.

Mr FINN — Or 'rort', indeed. We could be here for quite some time; we might get to 5 hours after all. We are talking about things that come to mind immediately when one talks about Labor involvement in local government. We are talking about distort, we are talking contort and we are talking about rort. What we need is a party-political-free local government in this state. That is the only way we will clear up the sort of nonsense that we have seen over so many years in Brimbank and in so many other municipalities right across the state.

People run for council for much the same reason that people run for Parliament. They run for council because they believe in something. I would have thought that was a pretty reasonable proposition. You believe in something, you want to stop something, you want to start something, you want to fight for something — you stand for council. That is how it has always been.

If the bill is not amended, the government will be saying, 'No, you won't; no, you can't'. That is a sheer nonsense. That makes a mockery of local government, and it is something that this Parliament cannot under any circumstances support. People who run for council or for government must be allowed to actually believe in something. They must be allowed to stand up and speak on issues on which they were elected. They must be able to go out and tell those who are voting in elections what they believe in and what they will fight for. When they get there, they must be allowed to speak about it and fight for it.

That is what democracy is all about. In 2008 in Victoria under the Brumby government democracy is an alien theme. That is the sad fact of the matter. Premier Brumby might like to say to councillors across Victoria, 'Do as you're told; you are the slaves of the Labor government', but when it is amended, this bill will not allow that to happen.

I have many concerns about what may happen next month in the council elections, particularly in the northern and western suburbs of Melbourne.

Mrs Peulich — They're attacking everywhere.

Mr FINN — They're attacking everywhere, Mrs Peulich tells me. I will conclude my remarks at this point, in the hope that this legislation can be amended sufficiently to make it some sort of legislation that this Parliament can support. I make an appeal to members and the hierarchy of the Australian Labor Party to get the hell out of local government because the local government bodies of Victoria deserve far, far better than what the ALP can give them.

Mr GUY (Northern Metropolitan) — I would just like to make a couple of remarks on the Local Government Amendment (Councillor Conduct — —

Mrs Peulich — Acting President, I wish to draw your attention to the state of the house.

Quorum formed.

Mr GUY — I want to thank Mrs Peulich for her concern about keeping the house interested in my comments on the Local Government Amendment (Councillor Conduct and Other Matters) Bill. Indeed I want to thank the Minister for Planning for turning up to this part of the debate albeit I imagine he is probably on the roster to do so. There are some things for him to note in this debate; of course you would expect him to feature in it.

We should all be very clear from the start of any debate on this bill that there are elements in it which show that Labor's gag on local government is here. Labor is here with one thing in mind in relation to local government — that is, to gag not just councillors but also to put an unprecedented gag on council candidates. Never before anywhere in Australia have we seen legislation presented to a Parliament where a government actually sought to gag people before they were elected. You have to give the Labor Party a tick for trying. Have we ever seen a party as brazen, as open

or as brash that would come forward in such a particularly arrogant and out-of-touch way? It is a party that comes forward with legislation which says, 'We do not like what is happening in local government so we are going to gag it through a number of means. Indeed, we do not like what is happening with a number of people who want to stand for local government, so we are going to gag them as well'.

It is quite astounding. We have a party that was elected on a platform of being open, honest and accountable, and today we are reduced to legislation that gags people before they have even nominated for council. But that is where we are with the Australian Labor Party. As Mr Finn rightly pointed out on issues such as clearways, the St Kilda triangle, the north–south pipeline — and I would add Melbourne 2030 — new residential zones, development assessment committees — —

Mrs Coote — Nightclubs.

Mr GUY — Nightclub issues, as Mrs Coote points out. This government is seeking to put an unprecedented gag upon people who have not even completed a nomination form, and that is astounding.

Before I go on I want to refer to the prominence, or indeed the lack of prominence, of organisations such as the Municipal Association of Victoria (MAV).

Mrs Peulich — Another Labor club!

Mr GUY — Another Labor club, as Mrs Peulich says quite correctly. It is controlled like a factional fiefdom. It could be the Darebin City Council, it could even be part of the Brimbank City Council, controlled as a Labor factional fiefdom by Cr Dick Gross. It is controlled by Dick Gross in a manner that is complicit with the government's interests first and with local government second.

Mr D. Davis — He is reputed to be endorsed as a candidate there.

Mr GUY — As Mr Davis says probably quite correctly, we will find that he will again be a Labor candidate in the future. That is what we have from the people opposite; Labor first and the community second. We see it with this bill; we see it with the Labor-controlled MAV; we see it with the Labor control of the Brimbank City Council, and with the control of the councils in Wyndham, Hume, Darebin, Moreland, Whittlesea and of councils across the north and the west of Melbourne that government party members control and treat as factional fiefdoms.

As Mr Finn says quite rightly, the Labor Party's view is quite consistent. Democracy is fine so long as you are one of them, so long as you do not object, so long as you do not cause a ruction, or you do not disagree with the Labor factions, or with the government's policy of the day. Then everything is fine. But if you happen to disagree, then there is an issue, and that is where we find ourselves again today with this bill. The government just cannot handle criticism. Indeed the 19 members opposite and the 55 members in the other house collectively have the biggest glass jaw in the country. They cannot handle a single piece of criticism.

Mrs Coote — Mr Rudd's is pretty big.

Mr GUY — Mrs Coote is probably right. Nowadays it is probably usurped a little bit by the Prime Minister. The size of the glass jaw is amazing. On various pieces of legislation we have seen government members walk into the house and slander industry groups, individuals, councils, other parties or people who have just taken up their individual right to speak out against government policy. They have been slandered and slammed by this government because it cannot handle criticism.

I think all members of this chamber know that Melbourne 2030 is a dog of a policy, and it is very good that the planning minister has come into the chamber to hear that.

Mrs Kronberg — A mangy dog!

Mr GUY — It is not just a mangy dog, Mrs Kronberg; it is one that has been to the vet who recommended it be put down. It has gone back to the farm, run around the backyard a couple of times, been bitten by a tiger snake but still manages to live. The only people keeping it alive are its owners, the Labor Party. No-one else thinks it is a prized greyhound anymore. In fact, Melbourne 2030 is the most disastrous piece of planning policy to exist in Victoria's history, and we have a range of community groups forming against this policy that seek to destroy the urban character. What is the government's response? It is to attack them — —

Mrs Peulich — A reshuffle!

Mr GUY — I will get to that, don't worry. The government's response is to denigrate them and put them down. What is the problem? 'It is not the problem of the policy; it is the problem of the people', says Labor, and, 'Surely it cannot be our policy. It must be the 5.25 million Victorians who have it wrong'. According to this government the Australian Labor Party could not have it wrong. When we come to new residential zones we see for the first time ever a

planning policy that takes away third-party appeal rights for someone to be notified, as well as their right of appeal and their right to object to a policy.

The government says, 'Who is the problem? The problem must be these pesky people who do not want to live next door to a five-storey set of units. They should not have the right to object to living next door to a five-storey set of units. They should not have the right to be notified. The problem must be those pesky residents'. The government sought to nobble them and to take away their third-party appeal rights.

Mr Viney interjected.

Mr GUY — It is a policy that Mr Viney's party supports, advocates and is putting forward as a piece of planning policy for this state. I think we talked about the development assessment committees in question time. They are another move by the government. Again the government sees local government as the problem. The community must be a problem. A good example in my area is in Greensborough. There is a piece of urban renewal supported by the Banyule City Council. It is supported by the developer and broadly supported by the community, but opposed by the Labor members for Bundoora and Ivanhoe. It is supposedly supported by the planning minister. The only people who do not seem to be supporting it or coming on board are the government members.

The government came back to the community involved and said, 'We are going to take away your planning powers because you are the enemy'. It has looked around Victoria and Melbourne, and the metropolitan area, and said, 'The enemy of planning policy in this city must be councils because councils seek to undermine Labor policy'. It is too bad the policy is a dog; it is too bad it is dead; it is too bad no-one supports it. It is too bad industry openly questions its viability, and it is too bad its population statistics are 60 per cent inaccurate. It must be the people who are at fault; it cannot be Labor.

The government rolls up to this chamber with a view of development assessment committees to do over people, to do over communities and to do over councils, when indeed, as the opposition has said from the very start, the problem is the policy. The problem is the party advocating those policies; the problem is the Labor Party. If people want better outcomes there will be a choice in November 2010, and indeed they will get better outcomes.

Before I go on I would like to talk about the Statement of Planning Policy No. 8 that exists in the Macedon Ranges Shire Council, and I raised this matter the other week. I support the retention of that statement. It is an old policy. It was brought out in the time of Premier Hamer to protect the Macedon Ranges as a unique part of Victoria. It is like what is being done today with the Yarra Ranges or the Mornington Peninsula — seeking to establish their own urban character and their own character of country communities. That is all the statement of planning policy seeks to do, but the government wants to kill it.

Mr Finn — What is the local member doing?

Mr GUY — The local member appears to be missing in action; I do not know where she has gone. There were two local members up there at one stage. An ex-planning minister used to live up there as well but that did not seem to help the cause of the Macedon Ranges. I went and defended the right of the local community to defend that planning policy. I was opposed by the mayor of the Macedon Ranges Shire Council.

Mr Finn — What political party might he be a member of?

Mr GUY — Interestingly, Mr Finn, the planning minister walked into this chamber and used a press release drafted by the mayor of the Macedon Ranges Shire Council to oppose a newspaper article, which I have, in the Macedon Ranges edition of the *Free Press*.

Mrs Coote — What does it say?

Mr GUY — It says, 'Guy condemns urban sprawl' in the Macedon Ranges, Mrs Coote.

Mr Finn — Any guy in particular?

Mr GUY — Yes, this guy — me. It says, '"Outrageous" says mayor', and the mayor, Noel Harvey, 'Sheriff' Harvey, went on to rattle his spurs, being reported as saying:

> 'Mr Guy is suggesting that we should retain a planning policy that is 30 years old …

And then as saying:

> 'Macedon Ranges … is very mindful of what makes this the most livable rural municipality —

inviting me to come up there and see what makes it so, and he made a couple of other derogatory comments.

It was picked up by the planning minister in question time, which I found very interesting. One, 'Sheriff' Harvey has not actually given me an invitation to his saloon to wear some spurs and knock through the

counter. It is interesting that the planning minister used the comments of 'Sheriff' Noel Harvey of the Macedon Ranges shire in question time. It is amazing when someone comes into the chamber and self-assassinates themself.

I have been interested in politics for a long time. I remember coming into this Parliament — I know it is sad — as an 18-year-old, sitting in the chamber with two mates watching the proceedings, and ultimately I find myself sitting in here in Parliament. But in none of that time have I seen a minister assassinate himself politically, as I did in question time the other day when the planning minister walked in with a press release written by this 'Sheriff' Noel Harvey and started denigrating me for attacking the existence of planning policy no. 8 — because Noel Harvey is a member of the Kyneton branch of the Australian Labor Party!

Mr Finn — And has been for 30 years.

Mr GUY — And has been for a number of years. He is a failed preselection candidate for the Australian Labor Party. Today, the only third-party endorsements that exist at the local government level are the ones you write yourself. The Labor Party walks into the chamber, writes its own third-party endorsement and proceeds to read it out as an independent thought. It might be an independent thought, because he might be from a different faction to the minister.

Mr Finn — That is possible.

Mr GUY — So indeed, Mr Finn, maybe that is considered, in Labor Party terms, an independent thought.

Mr Finn — I think he's SL, actually.

Mr GUY — He might be Socialist Left; then it might be a different faction. He is not in the Suleyman faction; he is in the Socialist Left faction.

We are reduced to a situation in which the government says independent thought in local government means press releases written by members of the Australian Labor Party, which are then given to the minister to walk into the chamber with to try to do over people who are trying to protect councils. I say to the people of the Macedon Ranges that surely in November, with a mayor who cannot be bothered standing up for the urban and town character of his own community against a government that wants to enforce new residential zones on communities such as those in Woodend, Gisborne, Kyneton and up through the Macedon Ranges, they should question their own sheriff there and ask, 'Is this a man who is independent in thought? Is this a man who challenges the government where it needs to be challenged?'. I think the answer to that is quite clearly no. More to the point: the planning minister genuinely believed this was somehow independent thought by a member of his own political party.

An honourable member — A different faction.

Mr GUY — With this bill, this is where we have got to — in today's Australian Labor Party, independent thought is by another faction. It is by someone who is on a different side internally; it has nothing to do with the community. That is sad, because it means the government is completely and utterly dismissive of community views at large. It is hearing from its own small, internal circles, from the Hakki Suleymans of the world, to — the daughter — the Natalie Suleymans of the world.

Mr Finn interjected.

Mr GUY — Adviser to the minister he is, Mr Finn. Those factional warlords constitute independent thought. I simply say to the Labor Party that it has gone more than way too far in rejecting the amendments that the coalition, and ultimately the Greens, will put. If the removal we seek of certain elements from the bill is agreed to, the bill will be greatly improved. The fact that those elements are in there in the first place is a gross indictment on the Australian Labor Party. It is a gross indictment on a government that seeks to gag communities that do not agree with it on planning policies — policies such as those on clearways and pipelines. The fact that the government treats communities with such contempt is all the more reason to vote this government out in November 2010.

Mrs COOTE (Southern Metropolitan) — That was an excellent contribution to this debate by my colleague Mr Guy. I would suggest that he hit on some extremely salutary points, as the minister is looking particularly perturbed and very worried. My concern is that, again, only two people from the Labor Party are in this chamber. This goes to show the contempt this government has for local people — real people, the people out in the community, the people who perhaps once voted for them. But, believe me, the people will not vote for them again. We have seen it right across this state, and here today is another example of why people will not vote for the Labor Party in the future. This government has become complacent and arrogant, and it is taking people for granted.

As many of my colleagues have already said, it was quite a surprise to see that local government council

nominations closed this very day. It is no wonder that people have become cynical about governments. The people who were putting up their nominations did not know, because this bill had not been passed, exactly what was going to be imposed upon them. But it is people power — the people out there — that has forced us to look at the amendments that have been circulated in this chamber and that has forced the Minister for Local Government to reassess the bill. Once again we have seen a sloppy and inadequate piece of legislation presented to this Parliament in haste by the Brumby government. But it is more than that. It is now starting to show just how dismissive this government is of people — people whose lives are going to be changed and who go to local government because they know local government is the micro part of government. They can see how it is impacting on their lives, and they want to be part of it.

This Brumby government has now made it a habit. It made an announcement — Mr Brumby is really good at making announcements: he beats the community into submission and then turns around and asks them how they feel. People are not going to be beaten into submission over this issue — not this time, Mr Brumby. We in this place have received hundreds of letters and emails. Once people realise that the fundamental core of democracy is being threatened, they decide to make a difference. Across the state we have seen groups such as Plug the Pipe mobilise, and we have seen people mount a very long and sustained campaign against the desalination plant. We have seen how people are not going to take notice of this government. They are not going to be beaten into submission by Mr Brumby as he would like, they are not going to take notice of pieces of legislation such as this and they are going to continue in the lead-up to the 2010 elections, when we will see Mr Brumby having to eat his words in more ways than one.

Let us look more closely at this issue and the absurdities of this bill. Proposed section 78D, which deals with indirect interests as a consequence of becoming an interested party, has caused a major outcry from people right across Victoria. We have seen the amendments circulated by Mr Barber and the Greens, and we have seen the excellent amendment circulated by Mr Hall on behalf of the coalition parties. This once again shows — and the Democratic Labor Party will be supportive of these amendments — how people are working together because we respect democracy.

Let us look at some of the absurdities that would be enacted if this bill is passed. I have a letter here from a constituent, in which she says that some of the issues would mean:

> A parent who has submitted something in support for more child care to the federal/state/local government … would be unable to deal directly with children's services if elected to council
>
> A person who was on the local kinder or school committee —

will be —

> unable to vote on matters concerning schools and community kindergartens once elected to council
>
> …
>
> A resident who complains about parking —

will be —

> unable to review parking contracts once elected to council
>
> A councillor who sits on a community panel and actually listens to constructive feedback is also unable to vote on that matter when it comes to a best practice review
>
> A LIB/ALP councillor —

or a Green for that matter —

> … unable to vote on matters to do with the state, any partnership with any level of government, or anything submitted in a previous LIB/ALP policy.

In addition, presumably all ratepayers have a common interest in paying lower rates. That would mean any councillor elected under this ridiculous legislation would not be able to vote in council on anything to do with rating or finances dealing with rates. How absolutely absurd!

As I have said, this is quite ridiculous. The government has put up a piece of legislation that it has not thought through. The government is so arrogant that it believes it can bulldoze members into agreeing to this bill; then it can slide it under the carpet before people have an opportunity to look at it. That is not going to happen, as we have seen in the house.

The constituent who wrote to me on a number of these issues said:

> The real risk is that we end up with managers running council who have no community involvement or interest at all. What then happens to community services? All elected — —

Mr Koch — Acting President, I bring to your attention the state of the house.

Quorum formed.

Mrs COOTE — I am not certain how many quorums have been called throughout the debate on this bill, but there have been a significant number, more than I have seen for a long time. Labor members have come in because the bells were rung, not because they are

interested in what their constituents think or how this bill will impact on the voters whose votes they will be looking for in 2010. They do not care. As I have said before, this government does not care. Its representatives do not care — they have to be called in to listen to the debate on this bill. They come in because the bells are rung calling for a quorum, not because they want to be in here hearing how their legislation will impact on their constituents. It is absolutely shameful.

As I was saying before, the absurdity of this bill and its ramifications are making people stand up and say they will not be bullied by this government, that they will not be bullied by the Premier and his ministers any longer and that they will not be beaten into submission. If you look at my electorate, there are some very good lobbyists, and you can see how engaged they are with their local communities, how they represent their local communities, and how their local communities are standing up and listening to them.

I mention unChain St Kilda. Today we had a silent demonstration on the front steps of Parliament House. Many people were there with tape across their mouths because they are local people, local activists, who are concerned about an issue; some of them are going to be running for council but feel that under this piece of legislation they will be gagged. These are normal people engaged in something that is impacting upon their lives, and they will be gagged by this piece of legislation. Luckily the minor parties and the coalition will join together to make certain that these people will not be gagged but will have an opportunity to say what they think.

I would like to place on the record my praise of unChain St Kilda and in particular Serge Thomann, the chairman of the group. Its constant activities and its constant and sustained campaign have forced the local council and this government to stop and take note. I have been part of demonstrations on this issue — it is largely to do with the St Kilda triangle and the issues impacting on it.

In the past I have worked very constructively with Cr Dick Gross in the City of Port Phillip. However, I have to suggest that this time I am significantly disappointed in Dick Gross. Like many of the people he has represented, I feel that this time he has taken his position as head of the MAV (Municipal Association of Victoria) far too seriously. He has forgotten whom it is he is supposed to be representing. I have received many submissions from many people saying how disappointed they are in Cr Gross and that at this stage he is not representing them as they expected him to. I am particularly disappointed because I felt he was bigger than this. We have seen today that the government is trying to bail him out and keep him in his position. The government is saying that the MAV is responsible for some of these changes, but we know, the people in the cites of Port Phillip, Boroondara and Yarra know and all the constituencies around about know that the MAV was drawn kicking and screaming into this argument. It is not something the MAV promoted at all; it is supposed to be representing councils.

As Mr Guy alluded to, we have also seen the clearways issue in my electorate. The clearway issue is not just in the cities of Port Phillip, Stonnington and Yarra, it is also in Moreland and other areas. I attended a clearways demonstration on the front steps of Parliament House on Sunday. These are street traders and residents of these areas within a 10-kilometre radius of the city who are being told unilaterally by the Premier that they will have additional long clearway times imposed upon them — another case of being bullied into submission. These people will not be bullied.

Members know I presented a petition bearing 22 000 signatures to this place not so long ago. Those 22 000 people will not be beaten into submission, they will have their say. Many of them are putting their hands up for local council, and I wish them every one of them every bit of good luck.

Again, 4000 people put their signatures on a petition about nightclubs and the problem of alcohol-fuelled violence in and around the cities of Port Phillip and Stonnington. These people will not be bullied, their voices will not be silenced. They are going to stand up and be counted in local council and, despite what this government would like to do, they will make quite certain that they are the voice of the people. And they are to be encouraged to do just that.

Democracy is a fragile and tentative gift to a healthy community but it can be eroded incrementally. That is what this government has tried to do in this bill, but the people of Victoria have risen up. The Greens, the DLP and the coalition are representing the people of Victoria. This time the Premier's bullying has not worked.

Mrs PETROVICH (Northern Victoria) — I rise to speak with some strong reservations about the Local Government Amendment (Councillor Conduct and Other Matters) Bill. It has long been acknowledged that there are no real censures for councillors. In fact, the signing of councillor codes of conduct was a very positive step forward in improving councillor conduct and highlighting issues of inappropriate behaviour in councils. Nevertheless, there are always some

individuals in councils who for whatever reason step outside what is expected of our local government representatives.

I know this from personal experience. As a councillor in the Shire of Macedon Ranges I found that rules apply only to those who will follow them. I witnessed this personally. I saw a series of chief executives, mayors and other councillors battle on rare occasions with one individual who exhibited disruptive and unruly behaviour. There was no real censure for that behaviour. There was nothing to bring that councillor into line because that individual, like the other nine members of that council, was democratically elected by the community of the Macedon Ranges. Democracy is something that we in Victoria and Australia all have to hold in high esteem and respect.

The reason I am concerned about this bill is that I do not think it gives enough respect to those people who are democratically elected by their communities. Local government is the third tier of government. In some respects it would be more appropriate for the minister to be looking more closely into the issues that arise in local government and to accept ministerial responsibility for councillor behaviour and the checks and measures that go with that.

As I said, councils are democratically elected so it is difficult to censure them. I have witnessed, first hand in local government and since I have been elected to this place, an increasing number of allegations of bullying against councillors. I have concerns about that; it is most inappropriate behaviour but it also may be symptomatic of other things. The councillor is not being well enough equipped to perform their role or maybe there is not quite an understanding of the role of the councillor or the responsibilities that come with that.

I have come across at least one case where I am unsure whether there is some malice behind an allegation. There are internal reviews which are sent to a panel of individuals who have been selected from a range of local government forums, and it worries me whether they can be truly independent. If you look at local government in an objective manner, it can actually be considered to be like any other grouping — perhaps even one in industry. When looking at familiarity or people's knowledge of others, I have concerns there would not be a level of objectivity. It is hard in local government circles for people not to know of, either by association or reputation, either councils or councillors. My concerns relate to the transparency of the selection of panel members and perhaps a pre-existing prejudice which may impact on an individual who is before the panel. Prior knowledge is very worrying. We are dealing with quite a serious situation. Anyone can allege anything, and it is then up to the individual to prove themselves innocent. It worries me that we may end up with a panel that is not exactly impartial. I would hate to think we would have a kangaroo court judging the behaviour or conduct of our elected representatives at the local government level.

I would have felt much more comfortable had the minister performed his role properly and sorted out unruly councillors by more appropriate measures and processes already in place. I think Brimbank City Council is an example that springs to mind for many of us. It is an example of extreme behaviours and what can go wrong if a council is allowed to become a power unto itself. That most disreputable Labor council has been able to evolve and operate in an unhealthy and disgraceful way. One can only question whether that council has been allowed to develop for the benefit of the Labor Party, because it has certainly not assisted the community it was elected to represent.

I am concerned that this issue does not give enough credit to the democratically elected third tier of government, as I said earlier. I hope it does not undermine the democratic process that communities go through to elect local representatives. I would hate to think that a kangaroo court could act as a judge and jury for individuals. I can only imagine the sort of effect that would have, but when you have a situation like that in Brimbank, it is obviously a very serious case. It is one that I hoped would have been looked into earlier.

I would have been much happier were the minister the ultimate authority. I think it is indicative that we have come to this point and that local government has ended up in dire straits. As demonstrated by the Brimbank council, political parties have run candidates in elections. The Labor Party and the Greens are doing that currently. The Liberal Party does not run candidates in council elections.

I stood for election to the Macedon Ranges Shire Council on four occasions. I always disclosed in my literature that I was a member of the Liberal Party but I did not stand on a political ticket — I was not endorsed by the Liberal Party. I put my party membership on the literature so as to be open and transparent to my community, and I was elected on that basis. But if we are truly wanting to get non-political councillors elected, then there has to be a level of transparency.

I think it is time the community woke up to the fact that many councils have party-run campaigns happening now. Nominations for the November elections across

the state this year have now closed. I know that the Labor Party and the Greens have been working very hard to make sure they run candidates across the regions, but I also know there is a groundswell of good community members; many of them are members of the Liberal Party who will also be standing, not on a Liberal Party platform but on the basis of being good community members and representing their community.

I have concerns about paragraph 10 in particular of proposed schedule 5 inserted by clause 19. It relates to a selected person on a list who must excuse himself or herself from a councillor conduct panel and advise the MAV (Municipal Association of Victoria) in writing if he or she has been a councillor, employee, consultant or contractor of the council in the preceding five years, or has a close personal or professional relationship with any councillor of the council, or has a conflict of interest of any kind or has become ineligible to be on the list. It does not however, make any acknowledgement of whether the panel member is conflicted because of prior knowledge — or industry knowledge, I call it — of the council, or maybe their conduct by reputation, and I am concerned that we are in danger of causing individuals a great deal of grief because of that.

I also have some issues about where we are going with the definition of conflict of interest. I make it very clear that I take breaches of the code of conduct in this area with a great degree of seriousness. A non-declaration is an extraordinarily serious matter. Particularly in country communities, councillors wear a number of hats. They know a number of people, they are usually involved in a variety of community activities and, surprisingly enough, they can be community activists. That is also relevant to many people in metropolitan areas, but more so in country communities which work on the basis that there are usually a few dynamic official or unofficial leaders who are involved in a whole range of things. Those people may find themselves, having stood for council after objecting to a project, not being able to perform their role as a councillor because in a previous life they had an objection to a particular planning or environment issue.

Having served on a council, I know that nothing provokes passion in a community like planning and environmental issues, except perhaps a fencing issue, local laws or something that relates to cats and dogs or rubbish, which are also highly emotive issues, in my experience. Planning is a passion for many people, particularly with growth and lack of vision for growth in our communities, and councils are certainly feeling the heat about that. There are also people who feel passionate about their communities and would like to protect the way they are evolving.

Planning processes dictate that a formal process of objection is followed, and, as I said, local election nominations close today. Now councillors face the situation of not being able to vote on a planning issue for which they may have been community advocates. All of this makes becoming a councillor increasingly less attractive. I congratulate all those hardworking, honest, community-based councillors and wish them all the best in their endeavours for the upcoming election; but I urge the others to do something else. They should find something else to do with their time and allow those who are committed to their role in the closest level of government to the people to get on with their job.

I am an advocate for local government, and local government carries the can for state government in a number of areas. It is certainly under pressure with increasing cost shifting, which forces councils to impose rate increases that they might not be altogether comfortable with, but when they are providing services there needs to be some sustainability. This applies also to making decisions on state planning policy, because in many cases state planning policy hangs councils out to dry. The councils have to operate in very tight parameters which in many cases do not suit the area.

I have experienced that on many occasions, and it is a very difficult decision to make, knowing that you have in front of you an officer's report that complies with state planning policy giving you a notice of decision to approve, but you also know that it is clearly wrong. It does not fit the vibe of the community, it does not fit what is going on around it and it would certainly muck up the hopes and dreams of people who have invested time and effort into buying a property and hopefully building a home, then finding that can be threatened by state planning policy which is one size fits all and does not suit that community. In that situation the councillors carry the can every time at every council meeting, and I know that because I have been a councillor.

It is time to stop treating local government like the puppet of state government. This legislation will do nothing to strengthen local government standing; in fact it is very condescending. With local government elections upon us the legislation will do nothing to encourage good quality candidates — those candidates who are not Labor hacks — to get involved. It erodes democracy, and I hope the amendments being proposed today will be successful on that basis.

Mrs KRONBERG (Eastern Metropolitan) — It is a very interesting experience to rise to speak about this

bill. I am passionate about local government, and I was involved in a professional advisory role to local government for a number of years prior to becoming a member of this Parliament. We can all regale the chamber with stories of malfeasance, misappropriation and conflicts of interest. I can understand that it is very important, and I commend the government for bringing in a suggested framework for a code of conduct that individual councils can pick up. The element of having better means of communication and more information, public notices, and so forth, immediately available on the internet is worthy. Bringing gift disclosure thresholds into line with campaign disclosure requirements is quite reasonable.

I am not sure I am comfortable with the notion of enshrining the principle that mayors should be able to hold office for two years. I commend Mr Vogels' comments on that matter. In the tried and true method of the Labor Party, which caucuses on these matters, somebody could be delivered — and even the Labor Party might be surprised to find that that person was below par. We see a lot of below-par activity not only on the benches on the opposite side of this chamber but right throughout the length and breadth of local government, which unfortunately is awash with Labor Party cronies.

The Labor Party is running the risk of being totally inbred. If it stifles new input and if it limits its gene pool, it is going to end up with members like some of those people who were featured in the movie *Deliverance*. It will end up with people from a very small gene pool. It really needs some fresh ideas. It cannot keep everything locked in and support a particular narrow objective. It needs opposition, it needs a ginger group, it needs people who are going to stand up to the party.

The government has set out to stymie the involvement of people who are passionate about their community. It has stymied the whole spirit of local government that invites submissions from people and invites public comment. Nobody could know it all, and any council on any position at any time must seek public comment and advice to make sure that those people who are in a closeted and inbred setting have drawn on the best advice. The Labor Party is going across the most fundamental tenet. If people have expressed a desire to make a contribution to council decision making and feel passionate about a local issue, the government wants to deny them that opportunity. It ends up with a lot of like-minded, very compliant individuals participating in the process.

The amendments that have been put forward by Mr Hall are commendable. I urge the government to stop digging the hole it is in even deeper. The first rule of holes is that when you are in a hole, you stop digging. The government should have the manliness and pragmatism to embrace these amendments. There is a hue and cry out there; the community is awake to this government. This will have a cascading effect. People are on red alert about the government's approach to stifling input. We can see it as a way to skew the sorts of people who will be able to stand for council and to limit their contribution.

We can see the government feels it is prevailed upon and against the ropes insofar as this rise of erudite, articulate and passionate individuals and other opposition parties standing for local council is concerned. I commend the circulated amendments to proposed section 78D. I ask that the government climb down from its position, that it recognises what is inevitable, and acknowledges the weight of public opinion that supports these amendments and the four amendments brought forward by Mr Barber.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 20 agreed to.

Clause 21

The ACTING PRESIDENT (Ms Pennicuik) — Order! I call on Mr Madden to move his amendment no. 1. This proposed amendment is a test of Mr Hall's amendment and Mr Barber's amendment no. 1, which also relate to proposed section 78D.

Hon. J. M. MADDEN (Minister for Planning) — I will briefly speak on and give some background to the amendment. I will then move it.

The government's proposed amendment will address concerns that have been raised about proposed section 78D but without discarding important matters. I am also informed that it is proposed to restate section 78D so that an indirect interest as an interested party and therefore a conflict of interest will be specifically limited to where a person has initiated or been party to a Victorian Civil and Administrative Tribunal (VCAT) proceeding or any other civil proceeding in relation to a matter, or where a person has lodged an objection to a planning permit under

section 57 of the Planning and Environment Act in relation to the matter.

I am advised it is inappropriate for a councillor, a member of a council special committee or a member of council staff who has undertaken any of these actions to participate in a council decision on the matter. This supports a fundamental principle of conflict of interest, that a person must not be a judge in their own cause. In the case of a VCAT or civil proceeding, the person will have effectively been involved in formal dispute processes with the council or with another party to the matter. In the case of an objection to a planning permit, the person will have exercised a right that is by law only available to a person who may be affected by the granting of a relevant permit. The lodging of a planning objection is tantamount to a declaration that the person has a personal interest in a particular matter.

The government has also recognised that some people who are contesting the current round of council elections may be caught by this new provision as a result of previously lodged objections or VCAT appeals. The amendment includes a transitional provision to exclude previous objections in cases where people have previously become parties to VCAT proceedings.

The government amendment also proposes to insert new section 78E to address other appeals, objections and submissions that are made under an act or regulation. This new provision will require councillors and members of special committees to disclose these previous involvements in an issue as a matter of public transparency and to ensure that other members of the council committee are duly informed.

This is an important requirement that supports the need for councils and special committees to comply with the principles of natural justice. This includes conducting fair hearings and avoiding bias or prejudgement. It is important for other councillors to know whether or not a member may have prejudiced a matter as it is the council's responsibility to ensure that it makes decisions free of bias or prejudgment.

Aside from the basic fact that it is important to treat people fairly, a failure to provide a fair hearing on a matter where a person's right or legitimate expectations are affected can result in a council decision being overturned by the court. If a council or committee member does not believe that he or she can consider and vote on the matter fairly with an open mind, then they will be required to leave the meeting during the consideration and the vote. These are important matters that will assist good decision making by councils, support the rights of citizens and reinforce the public interest. It is supported by the Municipal Association of Victoria.

The ACTING PRESIDENT (Ms Pennicuik) — Order! I ask the minister to formally move the amendment standing in his name.

Hon. J. M. MADDEN — I move:

Clause 21, page 53, lines 14 to 28, omit section 78D and insert —

'78D Indirect interest as a consequence of becoming an interested party

(1) A person has an indirect interest in a matter if the person has become an interested party in the matter by —

(a) initiating a proceeding in VCAT in relation to the matter or becoming a party to a proceeding in VCAT in relation to the matter; or

(b) initiating any other civil proceedings in relation to the matter or becoming a party to any other civil proceedings in relation to the matter; or

(c) making an objection under section 57 of the **Planning and Environment Act 1987** in relation to the matter.

(2) A person does not have an indirect interest in a matter under subsection (1) if the person initiated the proceeding, became a party to the proceeding or lodged the objection before the commencement of section 21 of the **Local Government Amendment (Councillor Conduct and Other Matters) Act 2008**.

78E Disclosure of previous appeal, objection or submission

(1) This section applies to a person who has exercised a right under any Act or regulation to —

(a) lodge an appeal in relation to a matter; or

(b) make an objection or submission in relation to a matter.

(2) Subject to subsection (6), a Councillor or member of a special committee to whom this section applies, must disclose the circumstances and nature of that appeal, objection or submission in relation to the matter immediately before the matter is considered in a meeting of the Council or special committee.

Penalty: 50 penalty units.

(3) Subject to subsection (6), if the Councillor or member of a special committee considers that he or she is unable to consider or vote in relation to the

matter fairly and with an open mind, he or she must —

(a) leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and

(b) remain outside the room and any gallery or other area in view or hearing of the room.

(4) The Mayor or the Chairperson of the special committee must cause the Councillor or member of a special committee to be notified that he or she may return to the room after —

(a) consideration of the matter; and

(b) all votes on the matter.

(5) The Chief Executive Officer or the Chairperson must record in the minutes of the meeting —

(a) details of any disclosure made under subsection (3); and

(b) the name of the Councillor or member of a special committee who left the room after making the disclosure.

(6) A Councillor or member of a special committee is not required to comply with this section if he or she has a conflict of interest in the matter and has complied with the requirements of section 79 as to disclosure of the conflict of interest.”.’.

Mr BARBER (Northern Metropolitan) — I think I just heard the minister say at the end of his statement that this amendment is supported by the Municipal Association of Victoria. Can he confirm that the amendment he has moved to his bill has been shown to the Municipal Association of Victoria, and that it has stated it supports the amendment?

Hon. J. M. MADDEN (Minister for Planning) — I am informed that the MAV has not necessarily seen the text but it supports the principles behind the amendment.

Mr BARBER (Northern Metropolitan) — In relation to the minister’s amendment, at proposed section 78D(1)(c) it says that:

making an objection under section 57 of the Planning and Environment Act 1987 —

would lead to an indirect interest, which the minister has just said is an objection to a planning permit. Why is it then, if we are going down this road, that we are not putting section 21 of the Planning and Environment Act into this amendment? Submissions made under section 21 are to a planning scheme amendment, and it was a submission to a planning scheme amendment that started this entire fandango going back to Winky Pop.

Hon. J. M. MADDEN (Minister for Planning) — I understand the gist of Mr Barber’s question, but I ask him to paraphrase it so I can give him a concise answer to a concise question.

Mr BARBER (Northern Metropolitan) — Why has the minister created a provision saying section 57 objections become an indirect interest but not saying submissions under section 21 of the Planning and Environment Act form an indirect interest?

Hon. J. M. MADDEN (Minister for Planning) — The answer is a bit technical, but I am advised that basically an objector is, in a sense, only defined by the fact that they are contesting a permit whereas with a planning scheme amendment you do not contest a planning scheme amendment. You may not be excited about it, but you are not categorised as an objector because you are not a direct objector to the planning scheme amendment or the process of it, because there is no permit issued within that planning amendment per se.

Mr BARBER (Northern Metropolitan) — No, but there is a rezoning issue. If we go back to the Winky Pop case, we find that that is exactly the matter that was brought to bear.

I will move on. Under the minister’s amended section 78E — and for that matter in the bill’s existing section 78D — can the minister advise the definition of the word ‘person’? What does the definition of the word ‘person’ encompass?

Hon. J. M. MADDEN (Minister for Planning) — I have a sense it is relatively self-evident, unless the member wants to explain what he might perceive to be a possible definition of ‘person’ or ‘persons’ in relation to that matter. I would have thought it was relatively self-evident.

Mr BARBER (Northern Metropolitan) — Is the minister sure he does not want to check with his advisers on that one? That is a no.

Section 38 of the Interpretation of Legislation Act 1984 contains a series of definitions by which we interpret words in acts. The act states that the definition of ‘person’:

… includes a body politic or corporate as well as an individual …

Can the minister confirm that this section of the Interpretation of Legislation Act 1984 will be brought to bear in this legislation?

Hon. J. M. MADDEN (Minister for Planning) — I relate this to my answer today during question time. It is

about good governance and procedural fairness, and it is also about not being a judge of matters that involve yourself. If a person is an objector, is party to an objection or has a relationship to an objector — that is, has an interest, and I think the emphasis is on the word 'interest', whether that is through an organisation, a corporation or an association — then, as is good practice in terms of governance, those declarations must be made and must be considered accordingly, and any person who is in that position must ensure that they are not compromised by actual or perceived conflicts of interest.

Mr BARBER (Northern Metropolitan) — Before we get to the issue of interest, I refer to the Minister for Planning's proposed section 78E(1), which says:

> This section applies to a person who has exercised a right under any act or regulation ...

What I want to know is this: if I am the treasurer of the Montmorency naturalists club and therefore I am probably part of the body corporate, or body politic, and my incorporated local association has made a submission, and although I did not necessarily author the submission but I am the treasurer and therefore I form part of the body politic, would this apply to me?

Hon. J. M. MADDEN (Minister for Planning) — I expect that it would apply to someone who holds that position, either in that association or in local government — which is what is critical here. The declaration of these matters is particularly significant, as is the approach that the individual — Mr Barber in this example — takes in ensuring that there is no actual or perceived conflict of interest in any proceedings due to the relationship.

Mr BARBER (Northern Metropolitan) — It is reasonably clear in the case of my being an office-bearer in an incorporated body, but I am looking at the definition of 'body politic' as it applies to the bill. In the situation where I might have been a councillor on a council — let us say I am Peter McMullin, a councillor in Geelong, and then I get elected as Lord Mayor of Melbourne — and I am now a councillor on another council, is a council considered a body politic?

Hon. J. M. MADDEN (Minister for Planning) — I think the person's role in that organisation is more important. If they have a role or vested interest in that organisation and if there is the appearance of or potential for a conflict of interest, then there is no doubt that there is an issue that would have to be dealt with. They would either have to disavow themselves of those organisations or seek advice and ensure that they are not in conflict or taking part in proceedings in a way that allowed for bias or perceived bias. Again, this is not rocket science. If you have an interest — actual or perceived — then you have to make sure you can step away from that interest, either by not having that interest — jettisoning it — or by making sure you do not form part of deliberations within the council that relate to your organisation.

Mr BARBER (Northern Metropolitan) — I am glad the minister says it is not rocket science.

The word 'matter' is used in a number of cases. The thing that all these different provisions come to bear on is the matter before the council, and I want to understand a bit more about what a 'matter' is. For example, if I made an objection to a licensed premises on a particular site and let us say the council rejected that, then later I am a councillor and another application comes up for the same site from a different applicant who is also trying to start a bar there, is that likely to be captured as the same matter on both occasions? Would this act define that as the same matter, in which case my previous submission to the other application becomes an interest when I am dealing with another application on the same site?

Hon. J. M. MADDEN (Minister for Planning) — I think in all these instances what we are seeing is important in relation to government at all levels — that is, corporate, local, state and federal governance. If there is an interest that might be perceived as a conflict, or a vested interest, then err on the side of caution. I expect that no matter how prescriptive we are in this legislation, the responsibility falls on those members of council, or council officers, to ensure that they are free of any liability of perceived or actual conflicts in relation to such matters.

Mr BARBER (Northern Metropolitan) — 'When in doubt, step out' is a good rule, but the purpose of this legislation is to make things clearer. I am arguing that the amendment the minister has brought forward could make the situation a lot less clear.

In relation to the proposed amended section 78E(1)(b), which says:

> make an objection or submission in relation to a matter —

does a submission have to be written, or could it be an oral submission?

Hon. J. M. MADDEN (Minister for Planning) — It could be either. If there are forms in which submissions can be made on the matter, I would expect they would have to be considered in relation to the respective members and the undertakings they make in their roles within local government.

Mr BARBER (Northern Metropolitan) — Proposed section 78D, which could still be passed, states that a person has an indirect interest in a matter if they have become an interested party by:

> (b) exercising a right under the common law, an Act or regulation to —
>
> (i) lodge an appeal …; or
>
> (ii) make an objection or submission …

Can the minister give an example where the rights under common law to appeal, or particularly to make a submission, would arise?

Hon. J. M. MADDEN (Minister for Planning) — Will the member please rephrase the last part of his question? I was concentrating on something else.

Mr BARBER (Northern Metropolitan) — Proposed section 78D(b) as set out in the bill rather than the minister's amendment refers to:

> exercising a right under the common law, an Act or regulation …

When does the common law give me a right to make a submission?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that under the rules of natural justice, if a person is likely to be affected then they have the entitlement to be heard. I hope that assists the member in his consideration of matters. Normally they are prescribed or relatively self-evident.

Mr BARBER (Northern Metropolitan) — To give an example: if the government calls for submissions on the Sir Rod Eddington proposal for a road tunnel and an advertisement is put in the newspaper that says, 'We want your submissions', does that create a common-law right to make a submission? That is to say, has the government effectively brought us into the realm of contract law — offer, acceptance and consideration? You have offered to receive my submission; I have accepted by sending you a submission. The consideration is that I have to write a submission. Any time the government calls for submissions on something, regardless of whether there is a specific act or regulation to say that it must do it, does that set up the common-law right to make a submission?

Hon. J. M. MADDEN (Minister for Planning) — I am not entirely sure what Mr Barber's point is, because the matters we are dealing with are matters around conflict and the process of conflict and decision making. It depends who the decision-maker is in this process. If the decision-maker, the judge in this matter is the council — not in relation to a submission but in making an overall decision as to whether something occurs or does not occur in relation to a specific matter — then that is where the onus lies and clarification around the conflict is.

If it is just a submission to any concept or idea or policy development, it is not necessarily a council developing the policy or the program: it might be the state government. I am not sure what the point of the question is. If Mr Barber can clarify it I am happy to attempt to answer it, but the emphasis here is on dealing with good governance and good practice in relation to judgement and decision making at a local government level. Predominantly in this instance it is clarified through my amendment around those material matters either before the Victorian Civil and Administrative Tribunal or around planning issues and planning permits.

If the member has a different interpretation of what that might be I am happy to attempt to answer his question, but if someone is making a submission to somebody else who is the judge in this instance, it is a different concept entirely.

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

Mr BARBER (Northern Metropolitan) — Before the break I was asking the minister where the common-law right to make a submission or objection might arise, and he asked me, 'What difference does it make?'. It makes a hell of a difference, because if the common-law right to make a submission arises at any time and the government calls for submissions — —

Hon. J. M. Madden — I am not sure I actually used those words, but keep going.

Mr BARBER — There could be many people who have made many submissions, the subjects of which could later become matters for consideration during their time on council. I did not really get an answer.

But let us move on a bit. I am interested in the bill's proposed section 78D(b), which refers to 'exercising a right under … an act or regulation to ... make ... a submission'.

Does the minister — and I guess the government, in drafting this bill — have any indication of how many acts or regulations create the right to make a submission?

Hon. J. M. MADDEN (Minister for Planning) — I do not have that information before me, but I am happy to seek to have that information provided to Mr Barber through the minister in the other place.

Mr BARBER (Northern Metropolitan) — My concern is that I have seen a large number of acts that allow for or require the making of submissions. Some of those same acts require referrals to or even consultation with local councils. It could very well be that someone makes a submission on a matter that comes under a roads act, the Water Act or other act, and then the exact same matter appears before them as a councillor.

In relation to regulations, council local laws are regulations under the Local Government Act. Anybody who has ever made a submission about a council local law could find themselves unable to vote if they are elected to a council, where they will inevitably have to deal with that local law. On my reading of this clause, even if the vote was simply a decision about whether to review a local law, that councillor will have made a submission on it.

We are not getting very far with that one, so I will move on to another point. The minister's amendment proposes the insertion of section 78E(3), which provides that:

> … if the Councillor … considers that he or she is unable to consider or vote in relation to the matter fairly and with an open mind, he or she must —

step out.

Can the minister say where the expression 'fairly and with an open mind' arose from? Did it arise from some previous judgement or decision et cetera?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that it was on advice from Julian Burnside.

Mr BARBER (Northern Metropolitan) — Julian Burnside! I think a number of other expressions, such as the simple word 'unbiased', could have been used. Certainly 'open to persuasion' was a relevant term that came out of the Winky Pop decision.

For the benefit of all members and as an additional reason why I will not be supporting this amendment, this brings back into legislation the idea that councillors themselves must be the judge of their own conflict of interest. In the existing Local Government Act there are pecuniary interests and there are conflicts of interest. The existing provision states that if a councillor believes they have a conflict of interest, then they have a conflict of interest. One of the things this bill does is get rid of that provision. It was exactly that provision that came up in Winky Pop, where the judge said, 'We can't find that this person had a conflict of interest, because the law says they are the judge of their own conflict of interest'. This provision brings some of that uncertainty back into the Local Government Act, so that it is up to the councillors themselves to determine that they are unable to vote 'fairly and with an open mind'. I believe that is extremely problematic, because we will have a situation where a councillor more or less has to stand up and say, 'I can't vote on this because I'm biased'. I think that is a fairly poor position to put someone in. It does not seem to create any additional legal certainty, which this bill was supposedly all about.

With respect to clause 21 and the various amendments, I do not have any further questions or comments.

Mr HALL (Eastern Victoria) — I would like to make some comments on the minister's amendments which we are talking about at this point in the committee. The first thing I want to say is that they are about as clear as mud. I have sat through the minister's responses and listened to his comments and purported explanations of the provisions, and I am still unclear about the impact of many of them. As I understand it, they are designed to in some ways better define the certain circumstances in which an indirect interest may be held. In trying to simplify and clarify them, I think the minister, on behalf of the government, has posed more questions than he has given answers. During this committee it has been proven that all members are a bit hazy on these concepts. The minister was not able to answer some of the questions Mr Barber put to him.

If we are finding it hard to understand, then I am sure councillors, members of the public and interested people would find it equally difficult to do so. In respect of this amendment, I do not believe it addresses some of the views and opinions that have been expressed over the course of the last couple of weeks during which we have received correspondence from people, and indeed I do not think the amendment has anywhere near clarified what has turned out to be a very vexed issue of indirect interests in particular matters before councils.

The Liberal-Nationals coalition will not be supporting this amendment. We feel that the amendment we will move subsequently, if we get the opportunity, will be a much more simple and direct way of addressing the issues raised with us.

Hon. J. M. MADDEN (Minister for Planning) — I find the contradictions from the point of view of the Greens and also from the Liberal-Nationals coalition in opposition to be quite remarkable in terms of the matters they have raised here tonight. This is really about best practice and good governance. I do not think there is any confusion around these matters. As even Mr Barber presented in his remarks 'When in doubt, step out', this

gives clarity around those matters, particularly around VCAT matters and around the deliberations of councils in relation to planning matters where there may have been positions of councillors made independently of council, which relates back to the operation of good governance from a council position.

These matters are not new, but I believe the legislation gives clarity around the mechanisms, particularly around the planning system. It also allows for councils and councillors to err on the side of caution when it comes to these matters. While members of the opposition parties might suggest it is confusing, I do not believe it is. I think this is fairly straightforward. It is good practice — in fact, it is best practice — and also it allows for the process of erring on the side of caution. It is clearly defined that deliberations must be fair and done with a clear and open mind in relation to matters that are presented to the council and the recommendations and the advice from the respective officers in relation to those matters.

Mr GUY (Northern Metropolitan) — The minister has referred to best practice three times in his comments. I ask him: best practice in relation to what?

Hon. J. M. MADDEN (Minister for Planning) — I am happy to provide Mr Guy with some direction on this matter. It is about best practice in governance and in making decisions relating to that governance, and erring on the side of caution in matters of vested or pecuniary interests or other conflicts of interest. Those are matters that are and should be considered by individual councillors and may have an impact on the effect or the potential effect of the decisions or deliberations of the other councillors.

The onus of caution allows for those councillors who make a decision to make it knowing that it is not tarnished in any way or subject to any appeal on the basis of possible or perceived conflict. It allows for councillors to feel confident that the deliberations and decisions they make in relation to these matters can be undertaken with full confidence that not only have they been done with a clear and open mind but they are fair and reasonable. It allows for confidence not only in the deliberations but also in the outcome of those deliberations.

Mr GUY (Northern Metropolitan) — I ask the minister: if best practice and governance applies to the Planning and Environment Act, why does it not apply to the full suite of acts?

Hon. J. M. MADDEN (Minister for Planning) — I am amazed at the contradictions coming from the opposition. What is very obvious in relation to this matter is that the vast majority of decisions that councils make are on policy. It is very rare that they actually selectively make decisions about the implementation of those policies. In this sphere they do.

Most councillors or councils do not allow for councils to specifically nominate who can and who cannot be issued with a car parking ticket, or specifically whose dog can or cannot be impounded, but councils make specific decisions on their merits and on the advice they receive in relation to specific projects. That is the role of local councils, and it is very significant. But if councillors have a respective interest in relation to those matters that they stand in judgement on, then the onus is on those councillors, for the benefit of the rest of council, to err on the side of caution when it comes to their respective interests.

Mr GUY (Northern Metropolitan) — Local government presides over a range of acts, and I ask again: why has the government singled out the Planning and Environment Act if this amendment is supposedly about good governance?

Hon. J. M. MADDEN (Minister for Planning) — I think I have made it very clear about the differences. I suggest Mr Guy goes away and reads the acts — because I suggest he understands what the role of local government is although he has not made it clear tonight — specifically around the matters and the differences between implementation of policy and determining policy. If that is not clear to Mr Guy, then I suggest that in this instance he and his colleagues have no idea of what good governance is or the way in which planning decisions are made at a local government level.

Mr GUY (Northern Metropolitan) — I asked the minister a simple question, and I ask it again: why only the Planning and Environment Act?

Hon. J. M. MADDEN (Minister for Planning) — I think I have made it abundantly clear. I suggest members go away and read *Hansard* for the answers I have provided. I also suggest they go away and read the relevant acts in relation to this. That will give them all the clarity they need.

Committee divided on amendment:

Ayes, 17

Broad, Ms	Pulford, Ms
Darveniza, Ms	Scheffer, Mr
Eideh, Mr	Smith, Mr
Elasmar, Mr (*Teller*)	Somyurek, Mr
Jennings, Mr	Tee, Mr

Leane, Mr	Thornley, Mr
Lenders, Mr	Tierney, Ms (*Teller*)
Madden, Mr	Viney, Mr
Mikakos, Ms	

Noes, 20

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

Pair

Pakula, Mr	Atkinson, Mr

Amendment negatived.

The ACTING PRESIDENT (Ms Pennicuik) — Order! I call on Mr Hall to move his amendment.

Mr HALL (Eastern Victoria) — I move:

> Clause 21, page 53, omit lines 18 to 28 and insert "in the matter by initiating civil proceedings in relation to the matter or becoming a party to civil proceedings in relation to the matter.".

The impact and effect of this amendment is to remove those provisions which are contained in proposed section 78D(b). Those provisions have been the subject of commentary from many people who have made contact with members of Parliament over the past couple of weeks. They have also been the subject of commentary by many members who spoke in the second-reading debate today. The proposal for the removal of those words echoes the sentiment that has been expressed by a variety of sources to opposition members.

I want to thank Mr Barber for his raising the profile of this matter in the broader community. It think he was the first to embark upon bringing this matter to the attention of many people in the public, and for that he deserves credit. The coalition pays due credit to his efforts in raising the profile of this matter and is pleased to learn that he and his colleagues in the Greens are prepared to support the form of the amendment which has been moved in the house today.

One of the interesting comments I heard from members who contributed to the second-reading debate was that they want to have people who have some views and opinions about matters involved in local government. It seems to me ludicrous that somebody who has expressed a view about something in some form or another — they may have just signed a petition, made a casual comment, written a letter to the paper or whatever — would be disqualified from commenting on a matter if it comes before council because I think the quality of any elected representative is the enthusiasm and knowledge that person brings to the decision-making table.

We should be encouraging people to be involved in local government, particularly those who have opinions and are prepared to express them. From the coalition's point of view, it is ludicrous to suggest that people who make public comments, in the most benign forms, about matters would disqualify themselves from commenting further about that during the course of a council's deliberations.

The views that have been expressed by many people by way of email, by both existing councillors and potential councillors, have been listened to, and the Liberal-Nationals coalition is certainly prepared to stand up for their rights and vote for this amendment this evening.

The government has tried to fiddle around with this provision and do something about it, but it has been far from satisfactory. It now has the opportunity, and I encourage it to do what I think most people in our community want — that is, to support this amendment.

Mr VINEY (Eastern Victoria) — In nine years as a member of this Parliament I have heard lots of debates. I enjoy the theatre of this place, and I looked at Mr Finn's theatrics here today.

Mr Finn interjected.

Mr VINEY — I listened to the thunderous theatrics from Mr Finn — the thunderous indignation, the enormous defence, the defence of the great democracy of local government, if you like, but I have to say that I never heard Mr Finn defend the rights of councillors, as he has supposedly done here today, during the Kennett government, when he was a member of the other place. No, that government's 'rights' for local government were to sack the lot.

Also I did not hear Mr Hall, who has just talked about defending councillors, during that period defend the rights of local government. No, The Nationals took the white cars of office and let Mr Kennett run roughshod over local government in this state. It did what it liked.

Honourable members interjecting.

Mr VINEY — Let us just put a bit of a reality check into the debates.

The ACTING PRESIDENT (Ms Pennicuik) — Order! I ask Mr Viney to move to the subject of the amendment.

Mr VINEY — Acting President, I am happy to be on the subject — that is, the supposed defence that we have just heard from Mr Hall of local councillors and their rights. This is the point that I am making. I heard Mr Guy during his contribution to the second-reading debate talk about a mayor who he attacked, because he dared to be a member of the Labor Party. Let us put some reality into this debate, not have all the thunderous indignation we are getting from the other side, which is putting up a load of nonsense.

There is the fact that some legal decisions have said a councillor is required to deal with a matter in an appropriate way with an open mind. This is about making sure there is some security in the decision making of local government and that council decisions will not be subject to appeals later — at great cost to the applicant, to the council and to the community — that will overturn them because there will be a basis of rational decision making and good governance.

That is what the government has been trying to do, but the other side voted it down on the spurious grounds that it would restrict democracy in the state. It would never have done that — there was no restriction on councillors and council candidates campaigning on any issue at all. What the government was attempting to do was make sure that if a councillor involves themselves in a legal or civil process, they declare that fact and remove themselves from debates as appropriate. That is what this is about. The government would not have prevented people from running a campaign, testing themselves and winning an election on a particular issue. There was never a possibility that that would occur. The provision would only have applied when a councillor had been engaged in a civil or legal proceeding or had been an objector in relation to a matter.

The opposition voted down the government's attempt to provide security, guidance and a code for local councils on how to operate in this matter, and we now have an amendment from Mr Hall — —

Mr Guy — On a point of order, Acting Chair, I know Mr Viney is doing his best to backtrack and explain for the benefit of the media why the government's amendment has been defeated, but perhaps he has forgotten we are in the committee stage, not the second-reading debate.

The ACTING PRESIDENT (Ms Pennicuik) — Order! There is no point of order.

Mr VINEY — The opposition voted down the amendment the government proposed in relation to this, and now we have an amendment from Mr Hall that would do precisely what the opposition said it did not want to have happen.

Mr Hall's amendment does not include the time frame for the proclamation of the bill, unlike the government's amendment. Under Mr Hall's amendment if a person who has lodged an objection to the St Kilda triangle development is elected to the City of Port Phillip in the coming council elections, they will not be able to vote on that matter. Under Mr Hall's amendment — I am sure the Chair is interested, as is Mr Barber — the provision is retrospective. Under this amendment it does not matter when a person lodges an objection or involves themselves in a civil process — they cannot vote on a related matter. Under the government's amendment some protection was provided to a person who did these things before the proclamation of the bill — which I think was proposed for the first week of December — and who is elected in the current process of council elections, meaning they would not be subject to that provision, but now they will be.

We have seen the unholy alliance of the Greens, The Nationals and the Liberal Party emerge some 60 or 70 per cent of the time there are votes in this place. The Greens have put themselves in alliance with their great mates, The Nationals. Mr Hall did not think the Greens were such great mates in the last election, I can tell you; he thought they were a serious threat to the last spot. This great alliance is putting in provisions that will absolutely restrict local government operations in exactly the way its members have been objecting to.

Hon. J. M. MADDEN (Minister for Planning) — The government will not be supporting Mr Hall's amendment. Whilst we recognised that the original provisions in proposed section 78D required some refinement and we suggested amendments, the amendment now proposed does not deal adequately with these issues, as has already been pointed out by my colleague Mr Viney. It is important that the principle that a person should not be a judge in their own cause apply to local government decisions and be supported in the Local Government Act. In particular this includes cases where a person has been a party to a Victorian Civil and Administrative Tribunal appeal and where they have lodged a planning objection to the matter.

I note that the amendment proposed would allow a person who was an objector to a planning permit to vote on the matter.

Mr Guy — Just table it; stop reading it.

Hon. J. M. MADDEN — From your place, please, Mr Guy.

This is inappropriate. In lodging a planning objection, a person effectively declares that they are affected by the proposed permit and that they have a strong position on the matter.

It is important to note that the bill will not prevent a councillor from exercising their statutory right as a citizen to make objections or lodge appeals. What it will do is ensure that there is no risk of conflict with their duties as a councillor. It is also important that councils act in accordance with the principles of natural justice. Applicants in planning or other matters before a council have a right for their matters to be considered fairly and without bias or prejudgement. The bill supports this principle by requiring disclosure of any appeals, objections or submissions that may indicate an inability to consider the matter with an open mind.

The changes proposed in the bill aim to improve overall government at the local level by setting high standards and addressing misbehaviour. The conflict of interest reforms are particularly important in setting standards because they will reduce the scope for conflict between the personal interests of councillors and their public duties as elected officials. As I said, I will not be supporting the amendment.

Mr BARBER (Northern Metropolitan) — I have a question for the minister that arises from an issue that has been raised. In relation to the St Kilda triangle development, I am aware that there is a planning scheme amendment process under way, or some sort of design guideline. To the minister's knowledge as Minister for Planning, has any planning permit for that development been advertised yet?

Hon. J. M. MADDEN (Minister for Planning) — The process is that you have to have an amendment before the permit can be issued. The amendment has not been dealt with yet; when the amendment is dealt with, the permit can either be issued at the time or through the amendment process.

I could not be absolutely sure about it, but I understand that a proponent has lodged an application for the permit and the amendment to be dealt with as one. However, I would be seeking advice to confirm that before I made any comment on that matter.

Mr BARBER (Northern Metropolitan) — For the information of the house, Mr Viney made the statement that as a result of the government's amendment not being passed, those who had lodged objections to the St Kilda triangle development would not be able to vote if they were elected as councillors. In fact the government's amendment only captured people who made objections under section 57 of the Planning and Environment Act, which is to a planning permit. It gave no relief if they made an objection under section 21 of that act, which is a planning scheme amendment. To be truly accurate about this, the government's amendment was not offering any particular release to that group of objectors should some of them get elected to council, and I for one hope that many of them do.

Hon. J. M. MADDEN (Minister for Planning) — I do not seek to make a comment on who should or should not be elected in this circumstance, but can I just make the comment that Mr Barber referred earlier to Winky Pop and the decision made by a judge, not by this place, that in future any councillor who had a previous position in relation to a project would have to consider that in light of decisions they might make and subsequent decisions in relation to matters in which they have either an interest or prospective interest, hence the presentation of this bill to give clarity to those circumstances and to try to assist in the orderly progression of these matters by councils. It has not been part of the debate tonight, but what we do not want is uncertainty in the planning system, because decisions may be made but then may be subject not only to appeals to the respective tribunals but also to further appeals on the basis of undeclared interests by the respective councillors.

While I know opposition members are very eager to seek amendments because of their views about the role of a councillor and the conduct of councillors and their ability to have opinions, they must bear in mind that the last thing we want is uncertainty within the planning system because of issues that have not been clarified because a bill has not been able to proceed through the house. The fallback position is to rely on the courts to determine these matters, which is not something councils want to have to go through or pay for. Proponents would not seek to have a mechanism unravel in relation to a planning permit because of perceived or potential conflicts that — in their judgement — have not been declared by the respective councillors.

Mr BARBER (Northern Metropolitan) — I said it in an earlier debate, but the problem with what the minister just said is that Winky Pop was about a planning scheme amendment under section 21 of the Planning and Environment Act, and nothing in the

government's amendment which has just failed addressed section 21 — it only addressed section 57. We have gone from a situation where we had a massive overreach to catch absolutely anybody who had ever made a submission under a range of processes to the Swiss cheese amendment the government put forward, and which has failed, which would have meant that its rules applied in certain cases and the Winky Pop common-law principles would have applied in the remaining relevant cases. I do not think the government has necessarily covered itself in glory today if it was seeking to codify the principles of Winky Pop — nothing we have had on offer has come close.

Committee divided on amendment:

Ayes, 19

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

Noes, 17

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

Pair

Atkinson, Mr	Pakula, Mr

Amendment agreed to.

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

Clause 25

Mr BARBER (Northern Metropolitan) — I move:

2. Clause 25, page 66, lines 29 to 33 and, page 67, lines 1 to 6, omit subclause (8).

I will speak briefly about what this amendment does. It refers to clause 25(8) on page 66 where anyone who inspects councillors' register of interests is required to provide their details; that then goes onto a register that can be inspected by the councillors they are inspecting. The Scrutiny of Acts and Regulations Committee made comments to the effect that there was an impingement on councillors' rights to privacy but that that was acceptable because they are running for political office. I have brought this issue forward because I do not think there is any particular justification why someone who wants to merely find out who their councillors are from a document that is required to be disclosed necessarily should have their name and details taken down. I could go on in some detail, but I think that is a pretty reasonable description of the aim of this amendment.

Hon. J. M. MADDEN (Minister for Planning) — The government will not support Mr Barber's amendment to this clause. Clause 25(8) simply ensures that a councillor, a member of the council of special committee or designated council officer basically has a right to know who has inspected their records. The record of persons who have examined the records is not a public document.

Whilst I appreciate Mr Barber's intentions, in many ways the clause might allow for a councillor to provide additional information or assistance to members of the community that might need clarification around any of these matters as well. Again, whilst I appreciate Mr Barber's sentiment, we will not be supporting his amendment.

Committee divided on amendment:

Ayes, 4

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

Noes, 33

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

Amendment negatived.

Clause agreed to; clauses 26 to 33 agreed to.

Clause 34

The ACTING PRESIDENT (Ms Pennicuik) — Order! I call on Mr Barber to move his amendment 3, which is a test for his amendment 4.

Mr BARBER (Northern Metropolitan) — I move:

3. Clause 34, page 72, line 26, omit "website." and insert "website;".

If members are still interested they will see — and I believe this is a first — that new section 82A inserted by clause 34 of the bill requires that a council must have a website. Most councils have a website, but they will now be required to have one. A range of public notices and local laws have to be published on the website in a consolidated and up-to-date form. Councils are also required to publish a list of the documents they are required to make available.

The purpose of my main amendment is to require that councillor returns which relate to the various disclosable interests that councillors may have and to donations they may receive at election time be put onto the website in a format that members will be familiar with if they have ever looked at the website of the Australian Electoral Commission.

Hon. J. M. MADDEN (Minister for Planning) — Again, we will not be supporting these amendments by Mr Barber. To be frank, they are ill considered and may be difficult to implement in practice. The proposal to publish the interest returns of councillors on the internet is particularly concerning. The purpose of these interest returns is to ensure that the personal interests of councillors that may affect decision making are available for public scrutiny. Returns are already available for inspection at the council office. It would be a significant and completely unnecessary step to require them to also be published on the internet.

The proposal would have the effect of making a range of personal information about councillors and other people, particularly family members, available for anyone who can access the internet, and there are some types of information that should not be made available in such an uncontrolled manner. For example, the amendments would result in the publication of many people's residential addresses with no capacity to control who has access to that information, and this raises concerns about personal safety for people involved in public life. In addition, with the changes being made in this bill, the interest returns of councillors are more likely to include information about members of their families who are not public figures and who have the right to privacy.

The proposal that election campaign donation returns be published on the internet also raises some problems. Donation returns are already available for inspection by any person at the relevant council office and it is not necessary that these be published on the internet. Even if it were considered necessary and appropriate for this information to be published on the internet, the amendments proposed by Mr Barber would be the wrong way to achieve that purpose. Firstly, it would result in the publication of the addresses of candidates and donors on the internet, which is arguably an unnecessary and indiscriminate disclosure of personal information. Secondly, the time frame proposed for the publication of documents on the internet is three days after lodgement, which is a very short time frame, particularly for councils that currently have quite limited resources. We will not be supporting these amendments.

Mr HALL (Eastern Victoria) — The Liberal-National coalition will not be supporting these amendments, either. This is the sort of issue that would benefit from a broader discussion and certainly from consultation with local government and those associated with local government before we make a decision on it. We have not had the opportunity to do so, given that the amendments have just come before the chamber, so we cannot support the concept contained within the amendment.

Mr BARBER (Northern Metropolitan) — It looks as if my amendment is going to fail, but unlike some other people I take my losses like a champ.

Amendment negatived; clause agreed to; clauses 35 to 94 agreed to.

Reported to house with amendment.

Report adopted.

Third reading

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a third time.

I thank members for their contributions.

Motion agreed to.

Read third time.

LABOUR AND INDUSTRY (REPEAL) BILL

Second reading

Debate resumed from 21 August; motion of Mr LENDERS (Treasurer).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The Labour and Industry (Repeal) Bill 2008 is a minor piece of legislation brought before the house to repeal the Labour and Industry Act, which is a piece of legislation the Parliament enacted 50 years ago at a time when the Parliament had a heavy hand in regulating the way in which industry and labour operated in Victoria. Since then many of the provisions of the Labour and Industry Act have been repealed, and there are now only a number of residual provisions that remain in that act.

The purpose of this bill is to repeal the principal act and to transfer the key provisions of that act into a more appropriate act — namely, the ANZAC Day Act 1958. The residual provision that remains in the Labour and Industry Act is the provision with respect to the closure of factories and warehouses on Anzac Day. It has long been a tradition that industry and commerce close down on Anzac Day to commemorate the traditions of Anzac Day that are held so strongly in Australia. The purpose of the bill is simply to transfer from that Labour and Industry Act into the ANZAC Day Act the provisions with respect to closures of factories and warehouses on Anzac Day.

In order to transfer these provisions into the ANZAC Day Act, the bill creates definitions of 'bread', 'factory', 'laundry', 'manufacturing process', 'occupier', 'special manufacturing process', 'trade', 'warehouse' and 'yeast-leavened dough', which indicates the type of provisions that existed in the Labour and Industry Act with respect to describing a factory and the operations of a factory and describing a warehouse and the operations of a warehouse.

It seems extraordinary that in 2008 we are enacting legislation that relies on a definition of 'bread' and a definition of 'yeast-leavened dough', but that is apparently what parliamentary counsel deems necessary to re-enact in the ANZAC Day Act, the provisions that are carried over from the Labour and Industry Act.

It was a function of the soon-to-be-repealed Labour and Industry Act that the definition of 'factory' was relied upon for a number of other pieces of legislation, including the Education and Training Reform Act 2006 and the Pipelines Act 2005. With respect to, in the first instance, the Education and Training Reform Act 2006, a consequential amendment is made to that act so that in future the definition of 'factory' will be taken from the new definition that is being inserted in the ANZAC Day Act 1958.

The treatment of the Pipelines Act is different. That act will omit the reference to the Labour and Industry Act, but it will not insert a new reference for a definition of 'factory'. With the passage of this bill, the definition of 'factory' in the Pipelines Act will be taken to be the definition of common use rather than the specific definition that is used in this act.

Although this bill does a relatively minor thing in repealing this act and transferring the relevant provision in the ANZAC Day Act, it is important in the sense that it arises from the government's claimed commitment to regulatory reform and to reducing red tape.

This bill arises from a recommendation by the Victorian Competition and Efficiency Commission which has a brief from the Treasurer to reduce red tape on the statute books in Victoria. The Treasurer has established a year-by-year target for the reduction in the cost of government red tape, but frankly this example before the house does not paint this process in a good light because it has taken nearly 18 months from the time the VCEC recommended the repeal of the Labour and Industry Act to this bill being debated this evening.

If that is the type of progress the government is making on red tape reduction, when the subject matter is as simple as repealing this largely irrelevant act, it does not send a good signal for how the government will proceed with more complex regulation reduction exercises that will be necessary if it is to meet the targets it has set for itself in terms of red tape reduction.

It is more important than ever that regulation reform takes place, now that we are seeing a slowing in the global, national and Victorian economies. We have not seen a lot of regulation reform over the last nine years, and it is of concern that this very minor example of regulation reform has taken so long to come before the house.

The bill departs from the VCEC recommendations with respect to the lack of a definition of 'factory' in the Pipelines Act. It was the recommendation of VCEC that the definition of 'factory' be retained and therefore carried over so that the Pipelines Act would refer to the definition in the ANZAC Day Act. That will not be the case. The government has indicated that the Department of Primary Industries has expressed the view that it is not necessary for that definition of

'factory' to be used rather than the common use definition. That is a minor departure from what VCEC has recommended.

The Liberal Party will support this minor repeal bill. However, I will reiterate my earlier comments: the time it has taken for this very minor repeal bill to come before the Parliament — some 15 to 18 months after the VCEC recommendation — does not bode well for the government's claim of being committed to regulation reform in Victoria.

Ms PULFORD (Western Victoria) — I am pleased to speak in support of the Labour and Industry (Repeal) Bill. From time to time we discuss bills that seek to repeal redundant legislation, and the Labour and Industry Act is a delightful piece of Victorian history, but these days that is pretty much its only purpose. It too will be repealed with the passage of this bill.

Among other things, the act requires that bread can only be sold in Victoria within 48.3 kilometres of the place where it was baked. Section 104(1) makes it an offence to deliver bread before 6 o'clock on a Sunday morning and section 104(5) enables the minister to issue an exemption certificate in some bread-delivering circumstances. I am not so sure of the purpose of these provisions in this day and age.

The government is committed to reducing red tape. The redundant legislation repeals assist in reducing the regulatory burden. There is an obligation on the part of organisations and individuals throughout Victoria to be aware of legislation that affects their operations or their activities. I think the requirement that people be familiar with provisions like the offence to deliver bread early on a Sunday morning is certainly an unnecessary burden.

The bill will repeal the Labour and Industry Act and make some consequential amendments to three other acts: the ANZAC Day Act, the Education and Training Reform Act, and the Pipelines Act. As Mr Rich-Phillips indicated, the Victorian Competition and Efficiency Commission reviewed the act and in doing so consulted broadly. The Education and Training Reform Act and the Pipelines Act rely on the definition of 'factory' in the Labour and Industry Act. This act will be amended to incorporate the definition that will be also incorporated in the ANZAC Day Act.

At the height of its legislative relevance, this act had over 200 sections but only about 14 of these have any ongoing relevance. Those sections are mainly those that relate to Anzac Day. The changes proposed in the bill will, for example, increase penalties for opening a factory on Anzac Day from $300 to 100 penalty units. Anzac Day is an incredibly special day in our history, and its commemoration is of utmost importance. Victorians have long held an expectation that many workplaces and factories, as defined in the legislation we are discussing this evening, be closed in proper observance of this important date.

While we are talking about the special importance of Anzac Day in our history, I welcome a recent decision of the Council of the Australian Federation announced by the Premier that Victorians will be receiving a substitute day for Anzac Day in 2010 and 2011. This is the result of a desire by the states to harmonise Anzac Day arrangements in circumstances where Anzac Day falls on a Sunday or other public holiday.

For Anzac Day 2010 a substitute public holiday will be provided to Victorians on the following Monday. In 2011 Anzac Day is also Easter Monday and a substitute date will be marked on the Tuesday of that week. All the important commemorations and official recognitions will be occurring on Anzac Day but there will be an additional recognition of the importance of the day.

Also, importantly, those anomalies will be addressed to provide consistency for employers and employees alike throughout Australia. Quaint as some of the provisions in the Labour and Industry Act are, this piece of legislation has certainly had its heyday. It once regulated Victorian workplaces and was a very important piece of legislation, but it was superseded in this role many years ago. This act served Victorian workplaces well for many years. I wish it well in its retirement and commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — The Labour and Industry Act 1958 is 50 years old and has been superseded by other acts, including acts of the commonwealth. Its few remaining active clauses have been written into other acts, are no longer enforced or are redundant due to changing industry or regulatory practices.

Changes to other acts include provision for the closure of workplaces on Anzac Day that have been written into the ANZAC Day Act 1958, with some changes to bring them into line with current practice. The act still contains provisions that regulate the delivery of bread which are no longer enforced and are contrary to Council of Australian Governments competition commitments. The Labour and Industry (Repeal) Bill also amends the Education and Training Reform Act 2006 and the Pipelines Act 2005 in relation to the

definition of 'factory'. With those brief comments, the Greens will be supporting the bill.

Ms TIERNEY (Western Victoria) — I am also pleased to make a contribution to debate on the Labour and Industry (Repeal) Bill 2008. This bill actually gives effect to an election commitment by this government to reduce the regulatory burden, by reviewing legislation and repealing any act or regulation that is assessed as being redundant. As part of this commitment, in 2007 the government asked the Victorian Competition and Efficiency Commission to review the Labour and Industry Act, known as the LI act.

The VCEC found that the act was in effect redundant on two grounds — firstly, it sought to regulate matters that were already regulated in other Victorian and commonwealth acts and regulations; secondly, no enforcement mechanisms were contained in the act. The VCEC also concluded that if the Labour and Industry Act were to be enforced, such enforcement would impose a regulatory burden on Victorian businesses.

In respect of its final report of June 2007 the VCEC conducted a thorough and extensive review. It took into account the views of employee organisations and industry and employer associations, as well as the relevant government departments.

The Labour and Industry Act 1958 was Victoria's primary source of workplace regulation when it was first enacted. Among other things, it played an important role in regulating the working conditions, wages and occupational health and safety of our workplaces. However, over time it has been significantly amended, and many of its original functions have now been replaced by other legislative tools.

The original act contained 207 sections when it was passed in 1958, of which 35 or approximately 17 per cent remain. The purpose of the review was to determine whether repealing the act would place an undue burden on any sections of the community or prevent the achievement of the Victorian government's policy objectives.

Although reviews such as this might seem quite straightforward, the amount of work is substantial, because it is necessary to ensure there will be no unintended consequences as a result of legislation being repealed. In this case the commission undertook a comprehensive exercise. As I said, it took submissions from industry participants, it looked at previous inquiries and reports and at government responses to those inquiries and reports, it researched relevant journals and academic resources, searched legislation and of course searched *Hansard* as well.

I found it quite interesting that the genesis of the current act of 1958 can be found in the Factories and Shops Act 1885. That was enacted following a royal commission on employees and shops conducted in 1882. The original act was actually designed to improve the conditions of a number of what were then called 'sweated trades'. However, over time the coverage and importance of the act increased as it came to regulate a wider range of matters and more workers.

We then had a series of reviews of the act, through the 1970s and 1980s, and as I previously mentioned, certain aspects of them evolved into a number of new acts. Four of these instantaneously come to mind: firstly, of course, the Industrial Relations Act 1979 and also the Industrial Safety, Health and Welfare Act 1981; the Occupational Health and Safety Act 1985; and the Accident Compensation Act 1985.

There were two further important reviews in the early 1980s, mainly related to shop trading hours in Victoria. The Shop Trading Act 1987 was subsequently enacted and the provisions of the Labour and Industry Act relating to shop trading hours were repealed. That act had its heyday at the beginning of last century, and then through the 1970s and 1980s it was written off into a whole range of other acts.

The Victorian Competition and Efficiency Commission found that all substantive provisions of the current act are redundant in the sense that they are either no longer enforced or they are replicated by other legislation. The government has accepted the recommendation of the VCEC, and that is why we have the bill before us this evening.

This is a straightforward response to the VCEC's inquiry, which deserves our support. It is another commitment to ensuring that we have reduced burdens and regulatory overhangs through the way we administer our acts as well as our businesses. I commend the Labour and Industry (Repeal) Bill to the house.

Ms DARVENIZA (Northern Victoria) — I rise to make a brief contribution to debate on the Labour and Industry (Repeal) Bill 2008, and in so doing support the bill. It gives effect to the Victorian government's 2006 election commitment policy, Reducing the Regulatory Burden, to review legislation and repeal any act or regulation that it assessed as redundant. The Victorian government recognised that redundant legislation can impose an unnecessary cost as well as creating an unnecessary burden on business and the community,

and that is why it made an election commitment to repeal outdated legislation. The government is actively pursuing ways that will reduce the regulatory overlap and duplication that can exist and thus cut red tape for business and within the community.

Because the government made an election commitment and wanted to cut red tape and duplication it directed the Victorian Competition and Efficiency Commission (VCEC) to review the Labour and Industry Act of 1958. That act was once the primary source of workplace regulation in Victoria but, as we all know, that is no longer the case because there have been many changes to the way our workplaces and work practices are regulated in Victoria and across Australia.

The current 1958 version replaced the 1953 Labour and Industry Act, which itself brought together a number of earlier pieces of legislation. The Labour and Industry Act also contained provisions that related to registration of shops and factories, workplace conditions, safety requirements and control of particular trades. Of course other legislation now regulates all these areas within a workplace, such as regulations around shops and factories, particularly workplace conditions, pay and conditions of employment, and safety requirements.

Over time many of these powers have been removed from the act through amendments, and the act has been amended as these workplace changes have come into being. Whether the changes have been initiated through the federal or the state government, the act has been amended to introduce workplace changes. The remaining provisions are concerned with such things as conditions in factories, restrictions on the delivery of bread and appointment of inspectors, although it has been many years since any inspectors have been appointed or have exercised any functions in accordance with the act.

The purpose of the review was to determine whether repealing the act would place any undue burdens or restrictions on the community. The VCEC was also asked to consider alternative means of dealing with any non-redundant provisions in the act and to comment on any implications. The review was completed in June 2007, and the government welcomes the final report from the VCEC, which provided a very clear and comprehensive examination of the impact of repealing the act. The VCEC found that all substantive provisions of the act are redundant — they are either no longer enforced or replicated in other legislation.

The bill puts in place the recommendations made by the VCEC in reviewing the legislation, and therefore the government has introduced this bill to have it repealed. The bill is necessary: it brings into effect commitments the government gave in the 2006 election campaign and is in line with the review that was completed by the VCEC. It is a good bill that deserves the support of all members of the chamber, and I commend it to the house.

Motion agreed to.

Read second time.

Third reading

Hon. J. M. MADDEN (Minister for Planning) — By leave, I move:

That the bill be now read a third time.

In so doing I thank respective members for their contributions.

Motion agreed to.

Read third time.

VICTORIA LAW FOUNDATION BILL

Second reading

Debate resumed from 21 August; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to speak on the Victoria Law Foundation Bill 2008. This bill re-enacts the existing Victoria Law Foundation Act 1978. It repeals the current legislation, which in 1978 established that foundation in its current form, and puts in place a new framework for the Victoria Law Foundation. The foundation is a body drawn largely from the legal profession, and its objects are to promote understanding and knowledge of the law profession in Victoria, to promote education about the law in Victoria, to undertake research about the law in Victoria, and to ensure Victorians are informed about how the legal system in this state operates.

As I said, the foundation in its current form has operated since 1978, so it is in its 30th year of operation in Victoria under the existing legislation, which provides that the foundation is governed by a board of up to 16 members, of whom three are nominated by the Attorney-General and the balance are drawn from and on the recommendation of the legal profession. With this bill the government is seeking to dramatically alter the way the law foundation is governed. The intent of the bill is to put in place a board whose members are

appointed by the Attorney-General only in consultation with other legal representatives such as the Chief Justice of the Supreme Court, the Law Institute of Victoria and the Victorian Bar Council. We have from the government a proposal that would shift the emphasis of the law foundation from a body whose members are appointed by the profession and whose objects are to promote the interests of the profession and knowledge of the law in Victoria to one in which the Attorney-General has a much greater role, with a much heavier hand, in deciding how that foundation operates. This is a matter of concern to members on this side of the house.

The bill will also reduce the length of term of a board member from five years to three years. It replaces the Chief Justice — or her nominee — who currently is the chairman of the board with somebody appointed by the Attorney-General and it changes the function of the foundation. It reduces the emphasis on the education functions of the foundation.

Members on this side of the house are concerned that the bill makes two substantial changes to the foundation. One is to the structure of and appointment to the board, making it the gift of the Attorney-General, and, with respect to the functions, narrowing the education functions of the foundation. The opposition has received feedback from the legal profession, including from the Law Institute of Victoria. Its president, Tony Burke, indicates that the law institute is concerned at the proposal that the Attorney-General be entitled to appoint members to the board of the foundation on the recommendation of the Chief Justice, the president of the law institute and the chairman of the Victorian bar. The concern of the law institute is that the Attorney-General is not bound to appoint those people recommended to him, that there is nothing to compel him to accept those recommendations. To that extent, the law institute is concerned about the independence of the law foundation and notes particularly:

> We maintain the view that it is fundamental to the continual role of the foundation that the board is not only independent but perceived to be so. To date this has been achieved because the VLF has had an independent chair in the Chief Justice and has been made of members representing the three arms of the legal profession (the judiciary, the bar, and the solicitors) and in addition to those representing the Attorney-General.

That sets out the law institute's view on the need for the independence of the foundation. It is a view that members on this side of the house have some sympathy with. It is proposed that when this bill is committed the Liberal Party will move some amendments. I ask that those amendments be circulated for the purposes of this debate.

Opposition amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders.

Mr RICH-PHILLIPS — The other area where members of the Liberal Party have concerns relates to the issue of the education role of the foundation. One of the roles of the foundation is to promote knowledge of the law within the Victorian community. It is the view of members on this side of the house that that should be included as one of the key functions of the foundation. When the bill is committed we propose to move an amendment to clause 5 to insert among the functions of the foundation community and professional education about the law and the legal system, and the administration of justice. We see this is as an essential role of the foundation, to promote both community and professional knowledge of the legal profession and, obviously, the administration of justice. It seems to us on this side of the house that those are sensible inclusions in the functions of the foundation. We look to the house for support for that amendment.

Going back to the issue of independence, the opposition has also received from Joh Kirby, the executive director of the foundation, a letter indicating the foundation's support for a number of proposals in the legislation put forward by the government but pointing out that it has concerns about the independence of the foundation as a consequence of the proposed changes that give the Attorney-General a greater role in selecting the board. The letter from Joh Kirby notes:

> As executive director of the foundation I see many of the proposed changes as being positive for the future of the foundation and aligning it better with modern governance practice. However, that said, the foundation is keen to maintain its independent role within the sector which historically has allowed it to better meet the changing demands of the community.

That is a further view in support of our contention that it is not appropriate that the Attorney-General be responsible for appointing the board of the foundation, and accordingly when the bill is committed we propose inviting the committee to omit clause 7, which provides the Attorney-General with the capacity to appoint the members of the board of the foundation, with a view to having those appointments made by the Governor in Council rather than directly by the Attorney-General and putting in place a mechanism that will provide that the Chief Justice of the Supreme Court will continue as chairman of the foundation and that not fewer than five and not more than seven other members be appointed by the Governor in Council rather than by the Attorney-General, that at least three of those members be lawyers and that, of the members of the board, two

be appointed on the nomination of the Chief Justice, two appointed on the nomination of the law institute and one appointed on the nomination of the Victorian bar.

We see it as critical that this amendment be supported so that we retain the independence of the foundation by its being representative of the legal profession through having members of the board appointed on the recommendation of the profession and not simply by choice of the Attorney-General, who may or may not accept nominations put to him. We understand from debate in the other place that the government has argued that this is about getting a skills-based board rather than a representative board, but no argument has been made as to why the government's desire for a skills-based board should outweigh the need for the various arms of the legal profession to be represented on the foundation. It is our contention that the argument for a skills-based board does not outweigh the need for the board to be representative of the profession, and accordingly we believe it is appropriate that the Chief Justice remains as chair of the board of the foundation, and that the branches of the profession continue to nominate representatives to that board.

The Liberal Party reserves its position with respect to voting on this legislation. It is our intention not to oppose the bill on the second reading with a view to having our amendments tested in committee. If we are unsuccessful in our amendment to retain the proposed structure of the board with the Chief Justice and the other nominees, then it would be our view that we should oppose the legislation. However, if both our amendments, which refer to the board structure as well as to the education proposal under the functions of the board, are successful, we would support the bill. But at this stage for the purposes of the second-reading debate the opposition will not oppose the bill pending the outcome of the committee's deliberations.

Mr TEE (Eastern Metropolitan) — I rise to support the bill. The foundation has been in place for over 40 years, and it has played an important role in the legal landscape. It is an independent public benefit organisation, and it brings together stakeholders from the Victorian justice system. It has a budget of about $1.88 million derived primarily from the surplus income from investments of solicitor trust accounts. Since 1967 the foundation has used that money wisely and has made a number of significant achievements. These include things like Rural Law Online which ensures that Victorians living in regional and rural Victoria have access to the law and are not disadvantaged. We have seen the establishment of the Mental Health Legal Centre, the establishment of funding for centres such as the Victoria Immigrant and Refugee Centre and the Environment Defenders office.

The functions of the foundation also include providing grants to community legal centres for community legal education programs. The foundation has also been involved in the production of pamphlets, studies, videos and other materials which have been used to educate both the legal and the broader community about the law. But obviously, after some 40 years, it was time to review the foundation to ensure it continued to meet the needs of the community and to make sure it continues to meet those legal needs for the next 40 years. In January a review of the objectives and the structure of the foundation was undertaken, and that review consulted extensively with the foundation but also with other stakeholders. The recommendations of that review, which are on the government's website, form the basis of this bill.

The review found that the current charter of the foundation was very wide; indeed it was too wide, and the breadth of the functions covered meant there were excessive costs for the coordination and management of these functions. The functions are very diverse. They include the promotion and conduct of legal research, the promotion of legal education, the maintenance and improvement of law libraries, the investigation of proposals to improve the investigation of law in Victoria, and so on. The review found that over the last 40 or so years a number of other organisations that were doing the same work the foundation was originally entrusted to do had emerged; there was a duplication of roles. That was particularly the case when you considered the information, advice and support provided to the legal professional. The review recommended that the focus of the foundation be sharpened and should have a community education role. This meant that the primary focus of the foundation should be about identifying and filling gaps in the legal information and advice available to the community. The review recommended a change to the structure of the board. Instead of representing interest groups, the board appointments should be made on the basis of the skills sets of various individuals.

I will quote from the Mann Judd Consulting report, which as I said, is available on the government's website. Basically the recommendations in the report were that the skills needed for board members should include a capacity to reflect the views of the community and providers and users of legal services. They should have an understanding of the broader policy context of the delivery of legal services, and experience in consultation and collaboration with a diverse range of stakeholders.

The recommendation was that the membership of the board be opened up. The report went on to say that:

> People should not be appointed directors simply because they 'represent' a particular community interest group.

The concern that was expressed was that a board that delivers grants should have people on it who have expertise — that is, a skill — rather than having a group that represents particular organisations, because you want these individuals to be able to see beyond the organisations that they represent in deciding where grants should be allocated. Otherwise you would have an ongoing conflict of interest.

Clause 7 reflects the skill requirements suggested in the review. There is a requirement that in making the selection the minister:

> … must have regard to the need for the Foundation collectively to have experience and skills in, and knowledge of, the following areas —
>
> (a) the law, legal research or community legal education;
>
> (b) management of community organisations, not-for-profit organisations or bodies corporate;
>
> (c) financial management;
>
> (d) grants administration;
>
> (e) marketing, communications and publishing.

What we really have in the recommendation and then in the bill is the broadening of the skills, experience and background of the board that is to manage the foundation. As the report says:

> Diversity of background, as well as of skills, is a source of strength to a board. Men and women with a diversity of social, cultural and ethnic backgrounds should be encouraged to apply.

The model that was set out from that review, which has really been incorporated in the bill before the house, was to promote that diversity. The foreshadowed amendment seeks to take out that diversity and instead replace it with a board that consists of the Chief Justice Chief Justice of the Supreme Court, a lawyer; two nominees of the Chief Justice — which is a matter for the Chief Justice, obviously, but would more likely than not be people of a legal background; two lawyers appointed on the nomination of the Law Institute of Victoria; and one lawyer appointed on the nomination of the Victorian Bar.

If we accept the foreshadowed amendment, we will be trading off a diversity of backgrounds and instead get a sort of in-house club of lawyers without the requisite background and skill set. What we will get is a board that does not have any community organisation representation, does not have any not-for-profit organisation representation and does not have any groupings with grants administration. It would be a poorer board for that lack of diversity and that lack of experience in managing organisations, in the making of grants and in publishing.

The recommendations of the review ought to be accepted rather than the more narrow focus which has been put forward by the amendment. The bill in its current form will ensure a more focused and streamlined organisation that is better targeted to ensuring that the foundation meets the unmet need of the community to get information on the law. In doing so, the bill will ensure that the law will become more accessible for Victorians rather than there being another in-house club for lawyers, which is really the outcome being promoted by the amendment. I oppose the amendment and support the bill.

Ms PENNICUIK (Southern Metropolitan) — I have in front of me the *40 Years Victoria Law Foundation 1967–2007* pamphlet, which outlines some of the achievements of the Victoria Law Foundation since its establishment in 1967. For example, in 1973 the VLF provided core funding and a library for the Victorian Law Reform Commission; in 1980 it funded the inaugural Law Week; in 1986 it produced an instructional video — which is now a DVD — for jury pools, which is now in its fourth edition; in 1994 it established funding for the Public Interest Law Clearing House, which is an excellent organisation; in 1986 it provided funding for community legal centres in high need of computers and new technology; in 1987 it established the Mental Health Legal Centre grant for community lawyer and education officer; in 1990 it established funding for the Environmental Defenders Office; in 1994 the *Facing the Future Gender Study* was produced by foundation staff; and in 1996 it established legal reporting awards promoting accuracy in law journalism.

The Victoria Law Foundation has had a great role in educating the community about the law and our legal system. It is now in its 41st year. The bill, as Mr Tee outlined, is a result of a report into the Victoria Law Foundation and its operation and membership. The Greens are supportive of the bill generally, but, along with Mr Rich-Phillips, have some concerns about the constitution and membership of the foundation as proposed particularly in clause 7. Mr Rich-Phillips referred to and circulated an amendment he has drawn up to that clause.

I have also looked at amendments to that clause. I do not have the amendments to circulate at the moment, but I will talk briefly about them. The first one would seek to amend clause 7(1) by adding the Federation of Community Legal Centres to the group of people the minister would consult when appointing a board — if that was the road we go down, and I will return to whether that is appropriate or not in a moment — which at the moment includes the Chief Justice of the Supreme Court, the Law Institute of Victoria and the Victorian Bar. It seems to me that that is a gap in terms of organisations with expertise in the law that are to be consulted and are to be part of the constitution of the Victoria Law Foundation. If you look at the aims and objectives of the Victoria Law Foundation — —

Business interrupted pursuant to standing orders.

WATER (COMMONWEALTH POWERS) BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Minister for Environment and Climate Change) on motion of Hon. J. M. Madden.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Verney Road School: early education program

Ms LOVELL (Northern Victoria) — The matter I raise is for the attention of the Minister for Children and Early Childhood Development regarding the funding of the Verney Road School's early education program. My request of the minister is for the minister to provide an assurance that the government will continue to fund the school's much-needed early education program, which assists special needs children.

Verney Road School is concerned that it may be at risk of losing funding for the program given the current reorganisation of early childhood services into the Department of Education and Early Childhood Development. The school is one of six schools in Victoria that have historically been funded to run an early education program. Only two of these schools are in regional Victoria — Verney Road School and another in Ballarat — whilst the remainder are in metropolitan areas. The Verney Road School is in Shepparton.

Parents in regional areas are already disadvantaged in accessing specialised services for children with special needs, as they cannot access the variety of programs that are offered in the city. Verney Road School's early education program assists in addressing that disadvantage by connecting children in need to services through a centre-based program around which other specialist services can be included. The program offers specialised programs for children who find or will find preschool challenging — for example, children with autism spectrum disorders. It also offers intensive programs for school readiness for children the year prior to their commencing school.

Verney Road School has attempted to gain assurance that Victoria's early childhood programs, such as the vital program it delivers, will be maintained, but the government has failed to provide any assurances. This has created uncertainty amongst the school's staff and school council, as well as the parents of young children with special needs. I call on the minister to provide an immediate assurance that Verney Road School's early education program will continue to receive state government funding in future years. This will enable the school to do what it does best — assist special needs children — and stop worrying about threats to its much-needed early education program.

Royal Women's Hospital: maternity services

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is for the Minister for Health, Mr Andrews. On 7 May 2008 the Treasurer, John Lenders, referred to the baby boom in Victoria as a delightful and pleasant problem. I quote Mr Lenders from *Hansard*:

> How to deal with the baby boom is a delightful challenge for Victoria to face. It is an extraordinary baby boom.

Four months later an article in the *Age* headed 'Women's hospital "dangerously overloaded"' detailed the alarming risk that women and babies are subjected to in the newly built Royal Women's Hospital. Reading that article was disturbing. The key source the article quoted was an internal report that warned about a lack of resources which is placing women and babies in danger. According to the internal report, hospital employees are exhausted and morale is very low. The internal report revealed that there were a number of serious clinical events under review. These included stillborn twins, a baby's death during labour from lack of oxygen, a newborn being given incorrect medication, and an ambulance being diverted at the last minute

which resulted in a woman giving birth to a baby at 26 weeks gestation before arrival at the hospital.

I understand that building a new hospital is a good thing for the Victorian community, but when you do not increase the size and capacity of that hospital you are failing to plan ahead. The article said that the new hospital, which was opened in June, experienced a 20 per cent increase in demand in July and a 36 per cent rise in requests for care. I will quote the chief executive of the Royal Women's Hospital, who said, 'Clearly that is not sustainable'.

The shine has quickly faded on the 'delightful and pleasant problem' of May 2008 and it is now officially a crisis. My request for Minister Andrews is that he commit to a further upgrade of the Royal Women's Hospital so that it can cope with current and future capacity.

Regional and rural Victoria: business excellence awards

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Regional and Rural Development, Jacinta Allan. My issue pertains to the business excellence awards announced in Bendigo on Friday, 17 October. It was an amazing night with nearly 600 people present to receive due recognition for running their businesses in various states of excellence and hopefully to be awarded that status. Individuals and businesses were honoured and given due recognition in some seven or eight different categories. The event was held at the All Seasons Resort in Bendigo and run by the Bendigo Sandhurst Rotary Club. I congratulate the chairman of that club, Bruce Fraser, who was chairman of the organising committee. The committee certainly put together a great night.

Many of the categories were sponsored by various other businesses. Powercor takes the lead role in sponsoring these business excellence awards right across the state. However, one of the glaring omissions was the state government. This would be an outstanding opportunity for the government to get behind businesses in regional Victoria. These awards are held right across the state. Powercor is the predominant sponsor, but the other sponsors include a whole range of smaller companies throughout the state, most of which have a link to the regions hosting the business excellence awards. All of the profits from the evening go back into the communities, and this is an ideal opportunity for the government to get behind these business excellence awards. I call on the government and the minister to investigate the amount of sponsorship the government is currently investing in regional Victoria, and to look at the potential for it to get behind the business excellence awards throughout regional Victoria with a view to becoming a substantial sponsor of these events in the years ahead.

This year's major award was won by the Strategem Financial Group, a financial advisory group located in Bendigo. I congratulate all the finalists on the night. It was a great night, and I hope the government can look into this issue and become a major sponsor of these awards in future years.

The PRESIDENT — Order! I remind the house about making speeches during the adjournment.

Victoria University: campus closures

Mr VOGELS (Western Victoria) — I raise an issue for the Minister for Education, Bronwyn Pike. It concerns the threatened closure of Victoria University campuses, including the Melton campus in my electorate. This campus provides higher education and training in the outer west and gives the people of the Melton, Wyndham and Moorabool shires the opportunity to improve their lives through education and skills development.

In an email circulated by Dr James Doughney, a Victoria University council member and lecturer in the faculty of business and law, it is claimed not only that a number of campuses will close, including Melton in my electorate, but that the university intends to sack 300 staff. The action I seek from the minister is that she ensure that if Victoria University is not prepared to provide higher education and training places in the western suburbs, another provider like Ballarat University be adequately resourced to take over these campuses.

Clearways: extension

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is directed to the Minister for Roads and Ports, Mr Pallas. The government announced on 29 April this year that clearways within a 10-kilometre radius of Melbourne would have their designated times of 7.00 a.m. to 9.00 a.m. extended to 6.30 a.m. to 10.00 a.m., and from 4.00 p.m. to 6.00 p.m. to 3.00 p.m. to 7.00 p.m. from 1 July. The announcement angered many local traders and the four inner Melbourne councils of Stonnington, Boroondara, Yarra and Moreland, which have not been properly consulted about the plan as required by the Road Management Act 2004. The councils believe the government's proposal will have a negative impact on local trade and significantly diminish the amenity of

many local communities. Independent studies by various councils indicate that the extended times are not needed as most people need to be at work by 9.00 a.m.

The four inner city councils recently released a joint media release calling on the state government to enter into dispute resolution before the implementation of the clearway extensions. All four councils are united in their opposition to the government's proposal. During the week beginning 6 October 2008 they passed a motion which states, in part:

> That VicRoads be advised that council will not authorise alterations to parking signage that prescribes changes to clearway times.
>
> That council expresses its continuing concern to both the state government and VicRoads that, despite numerous efforts by council and Stonnington traders, consultation has not been consistent with that prescribed in the Road Management Act 2004.
>
> That council seeks to resolve this dispute with VicRoads in accordance with the dispute resolution provision under section 125 of the Road Management Act 2004 by referring the dispute to the minister for roads.

Eugene Notermans, chairman of the Inner City Business Association, estimates that traders in High Street, Armadale, will lose business worth in the order of $6 million per year. This amount would increase to an accumulated amount of $100 million to $200 million if taken over all the shopping strips within a 10-kilometre radius of Melbourne. This will in turn result in significant job losses. He pointed out that safety is being jeopardised as cars are travelling faster and closer to footpaths, which will change the outdoor character of the shopping strips. As I have raised before, this will make it more dangerous to get on and off trams.

The *Age* on 1 October reported that Mr Pallas said that the changes would improve journey times for motorists and public transport patrons. I have written a letter to the minister seeking clarification and evidence on which his statements are based; I have not received a response from him yet.

There is a growing willingness of people to use public transport, and an increase in its use. In the last three to four years patronage on trams has increased by 14 per cent, and new trams are travelling faster. Clearways will not mean trams do not have to stop at tram stops, especially at busy times.

My request of the minister is that he abandon the government's plan of clearway extensions and return all roads affected by the policy to their previous clearway times. Any funding for this plan should be redirected into improving and extending public transport, which is the best option for combating traffic congestion in the city of Melbourne.

Rail: seniors travel

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the Minister for Senior Victorians. It concerns discrimination against country Victorians or, in particular, seniors located in country Victoria. I would like to cite the discrimination relating to public transport in relation to rail travel. I note that during seniors week, travel on the suburban rail network is free for seniors; however, country Victorians must pay a fare, regardless.

To support my case, I refer to correspondence from Mr Oliver Raymond, who is the president of the Victorian council of the Over 50s Association of the Australian Retired Persons Association. He writes:

> Last Friday I travelled on a V/Line service from Warragul to Melbourne. It being Seniors Week, I presumed the trip would be free. However, country seniors have to pay for their fare on Friday of Seniors Week, so my wife and I had to buy a ticket. Once we reached Melbourne, however, things changed. We could travel anywhere in the metro area on public transport by just producing our seniors card.
>
> Another example of blatant discrimination against country people by our city-centric state government.

I raise the matter for the attention of the minister and ask that she take appropriate action to remove this blatant form of discrimination against country Victorians.

Consumer affairs: olive oil marketing

Mrs COOTE (Southern Metropolitan) — This evening my adjournment matter is for the Minister for Consumer Affairs. At the outset of my contribution I would like to declare my interests in this issue: my husband has an interest in the Boundary Bend olive oil company.

I would like to refer the minister to an article by Leslie White in the *Weekly Times* of 15 October 2008. It says:

> Australia is being used as a dumping ground for poor-quality and rancid olive oil.
>
> NSW government tests, paid for by the Australian olive industry, show imported oil is sold as extra virgin olive oil when in fact it is often poorer quality oil which in some cases even contains other products such as canola oil.
>
> …
>
> The test results show all of nine imported oils failed to live up to the standards imposed by law in Germany, which the Australian industry wants adopted here.

> Products made by Moro, Carbonell, Isabella, Bertolli and Paese Mio failed tests while the results indicated Woolworths home brand olive oil spray was at least partly canola oil.

This is actually an indictment of advertising and mislabelling. I suggest to the people of this chamber they have a look at Bertolli light oil — it is indeed light, but it is light on olives. It is basically canola oil. I suggest that everybody have a good look at the labels and make quite certain they know what they are actually getting.

Australian olive oil is seen throughout the world as one of the very best products that there is. Most of the olive oil produced in this country is exported in large quantities to countries such as Greece and Spain. Australian olive oil has been known to win prizes in Spain because it is seen to be so pure. It is made in Victoria on the Murray River at a place called Boundary Bend. I encourage members, if they are heading in that direction, to go and have a look at the manufacturing plant. I request the minister as a matter of urgency to investigate fraudulent olive oil marketing practices in Victoria and implement appropriate regulations.

Bushfires: western Victoria restrictions

Mr KOCH (Western Victoria) — I raise a matter for the Minister for Police and Emergency Services concerning the irregular declaration of fire restrictions across western Victoria. Under the provisions of the Country Fire Authority Act, the CFA is responsible for declaring fire danger periods after consultation with relevant government agencies following an assessment of prevailing climatic conditions forecast for the coming summer. During the declared fire danger period, restrictions are enforced prohibiting the use of fire for fuel reduction purposes without a permit, and those who do not comply face severe penalties.

The beginning and end dates of the fire danger period often differ between municipalities and in some cases within municipalities. Fire restrictions are intended to be applied as fire danger approaches, but in high-risk regions restrictions can commence in early November and continue well into autumn. Across western Victoria fire restrictions historically have commenced in mid to late December, usually just before Christmas, but in recent years this has been brought forward to as early as 1 November for some areas, which limits the opportunity for farm managers and land-holders in particular to undertake fuel reduction burns.

Fire restrictions are set to come into force from 1 November in the Colac Otway and Corangamite shires, but in the neighbouring Surf Coast and Golden Plains shires fire restrictions will not start that early; in Moyne, Ararat and Pyrenees the fire danger period will not be enforced until much later.

A farmer in the Corangamite shire has contacted my office concerning the inconsistencies of how and when fire restriction periods are declared. It is hard to understand why fire restrictions are put in place in Colac and Corangamite before they are put in place in more northerly neighbouring municipalities that experience lower rainfall. Where grassland and forest floors dry out earlier, such as in the Grampians, fire restrictions still do not commence until much later.

Although there are predictions of a hotter and drier summer, the early enforcement of fire restrictions in these higher rainfall areas means that land managers are unable to complete fire reduction burn-offs of grass, scrub and other vegetation before the declared fire danger period commences, necessitating the procurement of permits to burn.

My request is for the minister to direct that there be consistency in the way the CFA fire restrictions are declared across western Victoria and that there be direct consultation with all parties on a region-by-region basis.

Gas: Macedon Ranges supply

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the attention of the Minister for Regional and Rural Development, Minister Allan, and it concerns the government's unfinished business of rolling out natural gas for regional Victoria. This week I will present a petition to Parliament from residents of Macedon Ranges asking for natural gas to be made available to all residents of Macedon Ranges. I also recently attended a public meeting in Macedon organised by a group of angry local residents who are missing out on natural gas.

The Premier, his ministers and local MPs have sought to gain a lot of mileage out of the natural gas extension program, but what they have failed to mention in all their media releases and other propaganda is that not all residents are equal. If you are among the chosen few, you can have natural gas and reap the benefits. However, if you live in the wrong place or on the wrong street, you cannot reap those benefits unless you are prepared to pay thousands of dollars. One Macedon resident was quoted the staggering price of $31 000 to have natural gas connected. It is wrong for the Premier, the minister and the local member for Macedon in the Assembly to claim that Macedon Ranges is connected to natural gas when — —

An honourable member — She is!

Mrs PETROVICH — She is. Only some of Macedon Ranges is connected. Mount Macedon, for example, has not been connected. If you live in Keating Street, McBean Avenue or the wrong part of Bruce Street in Macedon, then bad luck — you miss out. Likewise in Woodend, my own town, if you live in Browning or Patterson streets, you miss out as well. I could go on. Through each township there are pockets that miss out on natural gas connection, and yet the government has gone to great pains to point out the benefits of natural gas.

It is still bewildering to me that holiday homes in Portarlington, which are only occupied part of the year — and mostly in summer — have access to natural gas, whereas people living in Mount Macedon where, as most members know, it can get very cold, do not have natural gas.

Mrs Coote interjected.

Mrs PETROVICH — Mrs Coote knows it can get very cold. With the recent escalating prices of oil and the current economic turmoil, the cost of heating these homes has risen manyfold, and yet this government believes its job is done.

I might add that this is not only about Macedon Ranges; there are many other parts of regional Victoria that have been expecting to be able to access natural gas — including, for example, Avenel residents who have the Melbourne–Albury gas pipeline running right by them. They were promised natural gas in 1999 by Mr Bracks and Mr Brumby, and they are still waiting.

The action I seek is for the minister to outline the government's plans and timetable for future natural gas rollouts in regional Victoria, so that there is some surety of supply for those residents I have mentioned.

Police: Craigieburn station

Mr FINN (Western Metropolitan) — I raise a matter for the attention of the Minister for Police and Emergency Services. Last Saturday afternoon I answered my mobile phone. It was a call from a very distressed constituent living in Craigieburn. He told me that the night before he had been the victim of a home invasion at about 11.30 p.m. He had just finished watching the football and was having a cup of tea when there was a very loud knock on the door. Four men burst through the door assaulting his wife and beating up his son, before one of them fell to the ground as a result of the actions of my constituent in defence of his home and his family. You can only imagine how any of us would feel if the same thing happened to us.

As I said, he managed to hit one of the intruders and knock him down for the count. He called the Craigieburn police station to ask for help, as you would do if you lived in Craigieburn. He was told by the Craigieburn police that there were only three officers at the police station at the time and that two were needed at all times at the station, so they were sorry but they could not help him. He was told to ring 000. You can imagine how he felt then.

He rang 000 and eventually two police officers came from Broadmeadows, which is a fair hike from Craigieburn, along with two others who were on highway patrol around Fawkner. All in all, it was some 21 minutes between the phone call and the arrival of the police. We are not talking about the beginning of the incident; we are talking about 21 minutes between this very distressed man dialling 000 and the police actually arriving. It is clear to anybody with even a passing interest that police resources in Craigieburn do not meet the needs of the locals. To have a man unconscious and bleeding on your carpet and to not have police attend as quickly as they obviously should is something I do not believe anybody should have to put up with. I am certainly not going to stand back and allow people who live in the Western Metropolitan Region to suffer as a result of the fact that there are not the necessary police resources.

I ask the minister to do whatever is necessary to ensure that proper police numbers are provided to give full protection to the Craigieburn community. It is a great community, and it deserves the support of the minister.

Rail: Lakeside station

Mr O'DONOHUE (Eastern Victoria) — My matter is for the attention of the Minister for Public Transport, Minister Kosky, and it relates to the Cardinia Road railway station, which I have raised in this place previously. Under the *Meeting Our Transport Challenges* policy document released by the government, the government identified three additional railway stations to be built on the existing suburban network. One of those is at Cardinia Road, or what is commonly known as the Lakeside railway station site.

After having raised this matter with the minister previously, it has become clear that the government has no intention of commencing construction on this railway station until after the next election — in fact, potentially not until the election after that, some time between 2011 and 2016. This railway line is in a

greenfield area, where the population is rapidly growing. The Delfin Lakeside estate already has in excess of 4000 residents, and it is growing every day. On completion next year, or by 2010, it will have 6000 residents. The Arena estate, which the Minister for Planning, who is at the table, launched several months ago, has roads constructed and kerbs and channels built; no doubt titles will be released shortly, and houses will soon follow. Additional residents will be within easy walking distance of the proposed railway station site.

The Shire of Cardinia has done extensive work developing the employment precinct along the Pakenham bypass, and the proposed Cardinia Road railway station will be a public transport feeder for workers in that precinct. That precinct is about to take off. We understand the benefits of public transport are many: it takes cars off our roads and its use has a smaller environmental footprint. The railway stations in the vicinity — at Pakenham, Beaconsfield, Berwick and Officer — are either substandard or at maximum capacity already with regard to car parking and other facilities.

A Cardinia railway station is urgently needed. Public transport infrastructure should be built in the early stages of a community's development so that people adopt public transport usage rather than buying a second or third car for a household; once that happens, it is very difficult to get them back onto public transport.

Building this railway station at some ill-defined stage between 2011 and 2016 is not good enough. I ask the minister to do everything that is required to allow the construction of the Lakeside, Cardinia Road, railway station to commence as soon as possible.

Adjournment: responses

Mr P. DAVIS (Eastern Victoria) — I raise a matter under sessional order 5, which allows members to indicate their concern at the delinquency of the responses on adjournment matters by ministers of the government. I raise for the attention of the house a number of items — five in relation to the Treasurer; two for the Minister for Environment and Climate Change; two for the Minister for Public Transport; two for the Minister for Regional and Rural Development; one for the Minister for Education; and one for the Minister for Tourism and Major Events.

Specifically, the adjournment matters were on 5 February for the Minister for Public Transport regarding Gippsland railway line; on 6 February for the Treasurer regarding Vicforests firewood contractors; on 10 June for the Minister for Environment and Climate Change on the Mallacoota aged-care facility; on 11 June for the Minister for Regional and Rural Development about the Mallacoota community centre; on 12 June for the Minister for Regional and Rural Development about regional and rural Victoria tourism initiatives; on 24 June for the Minister for Tourism and Major Events dealing with coastal wilderness tourism; on 25 June for the Treasurer about Vicforests firewood contracts; and on 31 July, 19 August and 20 August for the Treasurer on Vicforests harvesting and haulage contracts and on its performance.

A matter raised on 9 September for the Minister for Public Transport was the Lindenow South level crossing. On 10 September there was a matter for the Minister for Environment and Climate Change concerning Genoa River weed control, and on 11 September there was a matter for the Minister for Education with regard to the Japanese program at Sale Primary School.

Taken in all, this is a fairly damning indictment of the administrative capacity of those ministers' offices. I would not put blame at the feet of the ministers themselves. However, I would like them to provide explanations — that is, I would like the ministers to provide explanation forthwith, but what I am really after is for the responses to be tabled in the house.

Responses

Hon. J. M. MADDEN (Minister for Planning) — I might respond to Mr Philip Davis first. I have 13 responses here before me dating from 6 February to 10 September 2008. There are a number for Mr Davis. The one from 6 February is for Mr Davis. There is also a response for Mr Davis dated 24 June. There are a number for Mr Davis on 31 July and 19 August. No doubt there are a few that he is seeking responses for.

I will seek to convey his inquiries to the ministers who have yet to respond to Mr Davis. He will appreciate that if those ministers are in the other place, I can only do so much in seeking to provide a response to him, but I will undertake to relay that to my respective colleagues. I have 13 responses before me and I have already noted those which Mr Davis is seeking, but there are others for other members of the opposition in this chamber.

Wendy Lovell raised the matter of funding for Verney Road School in Shepparton. I will refer that to the Minister for Children and Early Childhood Development.

Colleen Hartland raised the matter of the Royal Women's Hospital. I will refer that to the Minister for Health.

Damian Drum raised the matter of the business excellence award sponsorship for rural and regional Victoria. I will refer this to the Minister for Regional and Rural Development.

John Vogels raised the matter of the provision of the Melton campus of Victoria University. I will refer this to the Minister for Education.

Sue Pennicuik raised the matter of clearways and congestion. I will refer that to the Minister for Roads and Ports. I just want to remind Ms Pennicuik that one of the best ways to get trams to run efficiently and in a timely manner is to have sufficient clear space on the roadways to allow for both the integration of road and tram transport. I suspect the response that she might receive from the Minister for Roads and Ports might reflect some of that as well.

Philip Davis raised the matter of public transport and senior Victorians. I will refer that to the Minister for Senior Victorians.

Andrea Coote raised the matter of olive oil quality. I will refer this matter to the Minister for Consumer Affairs.

David Koch raised the matter of fire danger declarations. I will refer this to the Minister for Police and Emergency Services.

Donna Petrovich raised the matter of the rollout of natural gas in regional Victoria. I will refer this matter to the Minister for Regional and Rural Development.

Bernie Finn raised the matter of police resourcing in the Craigieburn area. I will refer this to the Minister for Police and Emergency Services.

Edward O'Donohue raised the matter of the provision of Cardinia Road railway station. I will refer this to the Minister for Public Transport.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 10.34 p.m.