PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

9 October 2002

(extract from Book 1)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Leader of the National Party:
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The Hon. E. J. POWELL from 20 March 2001
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WEDNESDAY, 9 OCTOBER 2002

Wednesday, 9 October 2002

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.04 a.m. and read the prayer.

WRONGS AND OTHER ACTS (PUBLIC LIABILITY INSURANCE REFORM) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

QUESTIONS WITHOUT NOTICE

Small business: confidence

Hon. W. I. SMITH (Silvan) — I refer the Minister for Small Business to an article in yesterday's *Australian Financial Review*. The minister is quoted as saying that she has no trouble relating to small business and indicating that she believes Labor best represents small business and that since 1999 she has listened to 1300 small businesses. If the minister is listening and relating to small business, why is it that small business has lost confidence in the Bracks government?

Hon. M. R. THOMSON (Minister for Small Business) — I think it is ironic that we get a question from the opposition on listening to small business. It has taken three shadow ministers and three years for it to get to the point of listening to small business after seven years of government where it totally ignored the needs of small business.

I am very proud of the Listening to Small Business program. I am very proud of the fact that not only I have listened to and acted on the needs of small business arising from the issues raised by small businesses at the sessions but that in fact the whole government has acted in response to the concerns raised by small business.

Let's look at some of the areas in which small business has been looked after by the Bracks government. Let's look at Workcover. A review is currently taking place into Workcover premiums, a system put in place by the now opposition when it was in government. Let's look at the fact that there has now been a freeze on the average Workcover premium rate of 2.2 per cent for the third year in a row. It makes ours the second lowest rate in Australia.

Let's look at payroll tax. On payroll tax opposition members are hypocrites. When in government they tried to deceive small business and the business community when they lowered payroll tax and put superannuation into the mix, which increased the amount of payroll tax paid by businesses. This government has reduced payroll tax from 5.45 per cent down to 5.35 per cent — one year ahead of time — and it will reduce it further to 5.25 per cent. It has also increased the threshold from $515 000 to $550 000.

Let's look at land tax and at the record of the opposition when in government. It lowered the threshold from $200 000 down to $85 000. This government has raised the threshold back to $150 000. This will see a number of small businesses and self-funded retirees — thousands — now taken out of the land tax net.

We are proud of our record in relation to small business: we are proud of the fact that we are actually listening to the needs of small business and we are acting on them.

Supplementary question

Hon. W. I. SMITH (Silvan) — Victorian small business has lost confidence in the Bracks government. The Yellow Pages index of small business — the latest one that has a just come out — shows that since the Bracks government's election the attitude of small business towards Labor policies has been negative in every quarter. Over the last 12 months small business confidence in the Bracks government has dropped. The reality is that currently we have the poorest confidence in a government by small business. The minister is not getting the message. She might be listening but she is not understanding. Why is she not understanding what small business is doing and why is she not doing something about the high taxes, the over-regulation, the compliance costs she is passing on to small business — —

The PRESIDENT — Order! The question is?

Hon. W. I. SMITH — The minister says she is listening but the reality is: how can she benchmark that she is actually listening when the — —

The PRESIDENT — Time!

Hon. M. R. THOMSON (Minister for Small Business) — Obviously the honourable member certainly was not listening to what I just said. We have had three years of the opposition providing no policies for small business — not one! We have the current shadow spokesperson on small business, the third in three years, admitting that she is finally starting to listen

to small business herself so that she can start looking at policy initiatives for the opposition — three years and seven years too late!

We are proud of our record on small business. We will continue to represent the needs of small business, and the record in relation to payroll tax, Workcover and business taxes, and the services we provide to small business all indicate that.

Freeza program

Hon. JENNY MIKAKOS (Jika Jika) — Can the Minister for Youth Affairs shed light on any misunderstanding opposition members might have with regard to security arrangements at Freeza events? Specifically, can the minister inform the house of any risk of Freeza events not being able to be held due to public liability insurance concerns?

Hon. M. M. GOULD (Minister for Youth Affairs) — I am happy to confirm that the future of the successful youth entertainment program, Freeza, has never looked brighter. Since coming to office we have doubled Freeza funding and extended Freeza events to more parts of Victoria than ever before.

It is sad that some members on the other side are willing to talk down the achievements of young people in a desperate attempt to try to get some attention. I refer to allegations made by the opposition in the *Herald Sun* on 2 September that Freeza events were at risk of not being held due to crowd controllers not being able to undertake public liability insurance. We know the Honourable Andrew Olexander stuffed it up yesterday, and he has stuffed it up again. All Freeza providers are required to engage crowd controllers who are registered by the private agents register with Victoria Police. Furthermore, I am advised that no Freeza events have been cancelled due to security agents having insufficient public liability insurance to provide crowd control.

I am also advised that no Freeza provider has been unable to obtain public liability insurance. Indeed, all Freeza providers are contractually obligated to show the government a certificate of currency for $10 million in public liability insurance before holding any event. What you have is the Honourable Andrew Olexander stuffing things up yesterday and trying to talk down young people and their achievements. I am sure there are thousands of young people in this state who attend Freeza programs, and all the opposition wants to do is talk them down.

We know these events are terrific for young people. We are committed to celebrating the achievements of young people. We are not like the opposition, which wants to talk them down. We have doubled Freeza funding, and young people should be encouraged by all members of Parliament, yet the opposition is talking them down. We know that the opposition stands for nothing and that it does not care about young people. We will continue to listen and act on the issues that are important to young people in this state.

Schools: security services

Hon. B. C. BOARDMAN (Chelsea) — I direct my question to the Minister for Education Services. Further to my question during the adjournment debate last night and the minister's flippant and dismissive response, is it not a fact that when a contracted security officer from a private security company responds to an incident on school premises the individual school concerned has the sole responsibility for payment of such a service from the school's global budget?

Hon. M. M. GOULD (Minister for Education Services) — As I have indicated to the house before, the security of schools is my responsibility. As I indicated to the honourable member last night in the adjournment debate, payment for these security services is by the Department of Education and Training through its various allocations of funds to schools.

Hon. B. C. Boardman — On a point of order, Mr President, that answer was completely non-responsive.

Hon. M. M. Gould — It was not. Where do you think they get the money from?

The PRESIDENT — Order! Is this a point of order or a supplementary question?

Hon. B. C. BOARDMAN — It is a point of order, Mr President. My question was: is it not a fact that the responsibility is borne by an individual school's global budget? I do not think the minister can get out of it by simply suggesting that it comes from the global departmental budget. I ask her to be responsive to the question.

The PRESIDENT — Order! The minister's answer was responsive. She said that the funds are available through the department to the schools. It is part of their operational budget. I do not uphold the point of order.

Supplementary question

Hon. B. C. BOARDMAN (Chelsea) — The minister might be aware that the Department of Education and Training global budget is, I think,

around $8 billion. I made a specific point that in relation to the security of schools where the response to such an incident is contracted by a private security company the fact is that it is the responsibility of the individual school to pay for such expenditure from its global budget. Why is the minister covering up this matter and being so selectively secret in regard to the security of schools in the state, which is a very serious community issue?

Hon. M. M. GOULD (Minister for Education Services) — This government takes the security of our schools very seriously, unlike what the opposition did. The opposition is well aware of school global budgets because it introduced them to give the schools the opportunity to manage their schools in an appropriate manner. The government allocates school global budgets to schools to give them the flexibility they need to deliver policies and provide security.

Commonwealth Games: Manchester

Hon. G. D. ROMANES (Melbourne) — I direct my question to the Minister for Commonwealth Games. Given the minister's responsibility for delivering the 2006 Commonwealth Games, will he advise the house as to the experience of Victorian athletes at Manchester in 2002, and in so doing advise of the role played by the Victorian Institute of Sport in preparing those athletes?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — Members of the house will be pleased to know that we had 87 Victorians represented in the total Australian Commonwealth Games team of 372 athletes that competed at Manchester, 67 of whom were from the Victorian Institute of Sport (VIS).

Members of the house would appreciate the outstanding work that the VIS does with these athletes, and on behalf of the Victorian government — and, I am sure, members of the house — I would like to congratulate the athletes who performed so admirably at the Commonwealth Games, but also congratulate the VIS for the tremendous work it does, in particular the chairman, who does fantastic work there.

Of the Commonwealth Games athletes who hold scholarships at the VIS, 42 won medals in 11 different sports at Manchester. Among those winners were several experienced VIS athletes such as Irina Lashko in diving, Damian Brown in weight-lifting, Sarah Fitz-Gerald in squash, Cathy Freeman in track and field, and Matt Welsh in swimming.

There were also a number of younger Victorian athletes such as Cadel Evans in cycling, Stephanie Moorhouse in gymnastics and Lauryn Ogilvie in shooting who succeeded in Manchester and have their careers well ahead of them.

One of the most impressive aspects about the team was that Damian Brown, a VIS scholarship holder since 1990, was given the honour of carrying the Australian flag at the opening ceremony. That was very touching for not only those involved in weight-lifting and for Victoria but also for those involved with the Victorian Institute of Sport. They felt very proud not only for Damian but for the fine work that is done by the VIS.

What has come to light from those experiences in Manchester is that as well as Victoria's exceptional performance — had Victoria fielded its own team as a country its results would have fitted in somewhere between those of Canada and India — what was also impressive was that the English team performed very successfully in its contribution to the games. It was outstanding in terms of its previous record. That shows the significant investment by the English Commonwealth Games association and the English institute of sport in relation to its team.

I suppose one of the surprising aspects was the poor performance of the Canadian team, but that also signifies that many of these countries are appreciating the greater value of sport to their communities and the opportunity that is provided through hosting the Commonwealth Games — and there are a number of countries vying for the 2010 Commonwealth Games, including Canada, Singapore and India — to showcase not only their cities and their countries but also the value of sport to the greater community as well as their elite performers.

We look forward to the Commonwealth Games and the success of Victorian athletes here at the Commonwealth Games in 2006 and to having the ability to reinforce and reinvigorate the investment in sport in our community, to showcase the state and the nation and to show to all Victorians and Australians the value of sport in the greater community.

Schools: student welfare coordinators

Hon. P. R. HALL (Gippsland) — Will the Minister for Education Services commit her government to the provision of welfare coordinators in Victorian primary schools?

Hon. M. M. GOULD (Minister for Education Services) — With respect to welfare officers the government has put more money into this concern about the issue of students in Victoria. The government has put 100 school nurses back into the education

system. It has put 200 social workers into the schools. It has put money into the regions, and that has been delivered across the regions, and that includes primary and secondary schools, to address the concerns of young people with difficulties within the education system.

This government is committed to ensuring that it delivers the best service for our young people at school, and we have significantly addressed the deficits of the now opposition when it was in government in cutting services and taking nurses out of the schools through putting welfare officers into the regions to address the social issues sometimes associated with our young students in schools.

This government has done more than the opposition has done. We believe that the services and increases in funding to schools are sufficient.

Supplementary question

Hon. P. R. HALL (Gippsland) — As usual, I am required to ask a supplementary question given that the minister did not specifically answer the question, which was specifically about the provision of welfare officers based in primary schools around this state. The minister has failed to answer that question.

Does the minister concede that student welfare is an important issue that comprises an inordinate amount of school principals' workload? If so, what does she intend to do to assist primary principals in particular in dealing with welfare issues in their schools?

Hon. M. M. GOULD (Minister for Education Services) — As I indicated, the government has put substantial resources into schools to address the concerns of young students. Last month the Minister for Community Services in the other place and I announced the Best Start initiative by the Department of Human Services and the Department of Education and Training, which will work collaboratively together for children aged 0 to 8 years of age. That is because we acknowledge that a lot of issues associated with young people also are relevant to the Department of Human Services and have aspects outside.

The Best Start pilot will connect early childhood, social health and education services to maximise development opportunities. We will be having early intervention for children before they even get into the education system. As I said, we have put nurses back in schools. We have put in an early years schooling strategy. We have reduced class sizes from prep to 12, which will assist teachers in dealing with young children.

The government is addressing the issue and some of the social issues that are associated with our young people in schools.

Electricity: supply

Hon. R. F. SMITH (Chelsea) — Will the Minister for Energy and Resources provide the house with an update on what recent action the Bracks government has taken to supplement Victoria's electricity supply?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for his question. I am happy to inform the house that recently the Premier announced the completion of cabling work on the SnoVic project. This project will upgrade the transmission link between the Snowy River region of New South Wales and Victoria and, as a result, allow more power to be imported into Victoria. The project is part of the Bracks government's continuing efforts to facilitate the additions to Victoria's electricity supply as required.

The SnoVic project will increase the maximum Victorian import capability from New South Wales during the critical summer months, when demand is at its peak by 400 megawatts. This is the largest single increase in Victoria's electricity reserves for more than six years and will increase reserves by around 5 per cent.

SPI Powernet, which owns, operates and maintains Victoria's extra high-voltage electricity transmission system following the privatisation under the previous government, has designed and is constructing the SnoVic project. I am pleased to also advise the house that the project is on track and on budget to be completed by December this year. I would like to take this opportunity to place on the record an acknowledgment of Vencorp's and SPI Powernet's efforts in this respect and to welcome the $44 million investment in this project.

The actions of the Bracks government in relation to the SnoVic project stand in marked contrast to the extraordinary announcement by the Liberal opposition yesterday to offer Victorian taxpayers' money to a private company, Basslink, to build a Tasmanian project. This comes from a party that privatised Victoria's electricity industry from top to bottom.

The Liberal opposition's announcement has been costed at between $95 million and $110 million by the independent panel, which simply adds to the more than $1 billion already racked up by the new Liberal opposition leader. Meanwhile Basslink has indicated its intention to proceed with the project in line with the

approvals granted by three governments, including the Liberal federal government, and in line with approvals which the Liberal opposition is going to vote in favour of.

The government and indeed all Victorians would like to know just where on earth the Liberal opposition stands on the security of Victoria's electricity supply following yesterday's totally discredited announcement, which has no credibility whatsoever and which is completely unimplementable.

Commonwealth Games: budget

Hon. I. J. COVER (Geelong) — My question without notice is to the Minister for Commonwealth Games. I remind the minister that earlier this year in the autumn sitting he advised the house that in respect of the budget for the Melbourne Commonwealth Games in 2006 the figures were being finetuned and were expected to be released not long after the Manchester Commonwealth Games. As it is now more than two months since the closing ceremony at the Manchester Commonwealth Games, will the minister advise the house when the budget for the Melbourne 2006 Commonwealth Games will be released?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the honourable member's question. Only recently a number of representatives from across a number of departments visited Manchester to sum up issues that had taken place in relation to the Commonwealth Games. As you would appreciate, the sum expenditure associated with the games and the resolution of many of those issues do not occur immediately after the closing ceremony. Many of those issues are in the process of being resolved. A number of our representatives visited Manchester to glean that information so that we can compile our information and finalise our budget allocation. I expect to be able to make announcements in relation to that budget very shortly.

Supplementary question

Hon. I. J. COVER (Geelong) — I appreciate the fact the minister has told us that the budget might be released very shortly, but if he is unable to inform the house of the specific date of the release of the budget for the Commonwealth Games in 2006, can I invite the minister to give an indication as to whether it will be before the Melbourne Cup or perhaps even before Christmas Day, or perhaps even before an election, whenever that might be?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — It is interesting, isn't it? I thank the honourable member for highlighting the fact that many days on the calendar still exist before the end of this year. I look forward to making those announcements shortly. Those announcements will not be determined on the basis of when the Melbourne Cup is and/or where Christmas is or when the opposition necessarily wants that budget. The dates will be determined when we resolve those issues. We have nothing to hide in relation to that budget.

The important thing is that when we set that budget it will be a true and accurate budget, not like those budgets that the opposition set in relation to a number of projects when it had no idea what the budgets would be. In the same way, opposition members have no idea what their budget would be if ever they came into government again.

Liquor: Moo Joose

Hon. T. C. THEOPHANOUS (Jika Jika) — There has recently been public concern surrounding the proposed sale of flavoured alcoholic milk. Can the Minister for Small Business inform the house of what policies are in place to allow the government to properly deal with this issue and what action it intends to take?

Hon. M. R. THOMSON (Minister for Small Business) — I would like to thank the honourable member for his question because it is one that is a concern in the community. The product that has been referred to by the honourable member is Moo Joose. I think it is important that we clarify some of the misconceptions that may be out there in the community about what this product actually is. This product is not a milk-based liqueur like Kahlua and milk or Baileys Irish Cream. That is not what it is. It is a product that is a mix of sugar, milk and pure alcohol. Quite understandably there has been a lot of public concern over this product.

Flavoured alcoholic milk could encourage the early uptake of drinking by young people. Also it could be inadvertently consumed by children in the misconception that it is just flavoured milk. I supported the decision of the Director of Liquor Licensing to reject the application for the pre-retail licence of Moo Joose on the basis that the licence could be conducive to or encourage the misuse or abuse of alcohol. However, the decision that was made by the Director of Liquor Licensing does not stop potential retail sale of flavoured alcoholic milk products.

A key objective of the Bracks government is to minimise the misuse or abuse of alcohol, particularly by

young people. That is why the government introduced the Liquor Control Reform (Prohibited Products) Act in 2001 — to provide the power to make regulations where it is in the interests of the community to prohibit the supply and sale of alcoholic products. This power was introduced in conjunction with the prohibition from retail sale of alcohol-based food essences in large containers. It followed the tragic death of a young person from the consumption of food essence.

In the second-reading speech of the bill I specifically identified alcoholic milk as an example of a product that could be expected to be subject to such regulations. That is why I can announce today to the house that on the recommendation of the Director of Liquor Licensing I have approved the preparation of a regulatory impact statement to prohibit the sale and supply of flavoured alcoholic milk. The opposition cannot say that it would have taken similar action because the previous government paid only lip-service to minimising alcohol abuse among young people. It did not allow for such power in its legislation.

However, this government is prepared to make these types of decisions. We are a government that has listened to the concerns of the community. We have listened, and we are acting on them. We will deliver a responsible alcohol policy for all Victorians. We are a government that is prepared to act when these circumstances arise and to deliver outcomes that are in the best interests of the community.

Electricity: special payment

Hon. C. A. FURLETTI (Templestowe) — I address my question to the Minister for Energy and Resources. I refer to the fact sheet issued by the Labor government at the time of the introduction of the special power payment late last year, when the government said:

> Structural options for addressing differentials between metropolitan and regional prices for small customers from 2003 onwards will be examined in 2002, in consultation with electricity industry and customers.

Given that this week both TXU and Origin have confirmed that they have heard nothing from the government, will the minister confirm that the government has done absolutely nothing to find the long-term solutions that she promised to have in place by the end of this year and that she will extend the special power payment beyond the 31 March next year?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am sure the *Weekly Times* will be very pleased that the shadow minister for natural resources and energy is such an avid reader of its articles and is so quick to quote it in this house. I am also interested to note that the shadow minister is dealing with an electricity issue, as opposed to another honourable member of the opposition frontbench who is not here at the moment.

As everyone in this house knows, the differential between country and metropolitan prices in Victoria came about as a direct result of the botched privatisation of Victoria's electricity supply system under the former Kennett Liberal government. This government has set about addressing the damage done by that government directly to country, regional and outer metropolitan consumers by addressing this issue.

The government has put in place a $118 million special power payment to directly address the issue. When this power payment was put in place the government clearly indicated that it would set about the task of examining and putting in place a structural solution to this problem caused by the former Kennett government in the way it divided up the distribution network in this state, lumbering country, regional and outer metropolitan consumers with much higher network charges as a result of the way the boundaries were drawn. The government has been undertaking that work.

The government is also waiting with great interest to see what proposals are brought forward by the electricity companies at the end of this year for electricity prices for 2003. The government has indicated that in light of falling wholesale electricity prices and reductions overall in average network charges the government's expectation is that there is no case for increases in electricity prices in 2003. However, it is important, and it is the responsible thing for the government to do, to not make any final decisions in relation to structural power payments or other mechanisms to address the country, regional and outer metropolitan divide with metropolitan Melbourne until we know what those prices are.

The government has clearly set out the processes which it intends to follow. The shadow minister might wish the government to change all of that to suit him but that will not be the case. I am sorry to disappoint him. The government will stick to the timetable it has set out for 2003 electricity prices in relation to what will replace the special power payment, which continues until March 2003.

Supplementary question

Hon. C. A. FURLETTI (Templestowe) — I thank the minister for her non-answer. Her failure, or refusal,

to answer directly indicates to me that she has given a directive.

Given the minister's answer, which is that it will be deferred until next year, is the minister then confirming the quote in the *Weekly Times*, which says that this will be put under the carpet until after the next election? Does the minister confirm that?

Hon. C. C. BROAD (Minister for Energy and Resources) — I have given a comprehensive answer. The shadow minister has once again resorted to simply quoting from a newspaper. That is the best he can do in this place. I have answered his question very comprehensively. This government will act to ensure that Victorians have affordable, secure electricity, unlike the former Liberal government, which set about open-slather pricing no protection for consumers and absolutely wrecked the situation for country, regional and outer metropolitan consumers in the way it privatised our electricity systems.

Aldercourt Primary School

Hon. E. C. CARBINES (Geelong) — I refer my question to the Minister for Education Services. The minister recently announced the outcomes of the review of education services for students with special educational needs at Aldercourt Primary School. Can the minister advise the house of the specific outcomes of the review and how these will help students in our schools?

Hon. M. M. GOULD (Minister for Education Services) — I thank the honourable member for her question. I was delighted to announce the outcomes of the review of educational services for students with special educational needs during the parliamentary break. The Bracks government is committed to addressing the needs of all students in our schools, including those with disabilities and impairments, unlike members of the previous government, who left a $17 million black hole in this program. They do not care — —

Honourable members interjecting.

The PRESIDENT — Order! The minister was asked a question; she is giving an answer. Let us hear it.

Hon. M. M. GOULD — They do not care about students in our schools, they never have and they never will. The Bracks government cares about students with disabilities and impairments. It promotes inclusive education and has a whole-of-government approach to supporting children with disabilities.

The outcomes of the review specifically include strengthening the program support groups, and these encourage parents' involvement in program planning and monitoring the progress of the student. The review also looks at coordinating a plan for professional development for all staff working with students with special educational needs, and improved support for students with language disorders through the provision of support material for classroom teachers and relevant professional development.

An analysis of support for students with hearing and vision impairment will be undertaken. This government wants to make sure the resources that have been allocated are providing the best outcome for students with these disabilities. The educational needs questionnaire will be updated so that it better reflects the needs of student learning profiles.

I am also pleased to advise the house that my parliamentary secretary, the Honourable Elaine Carbines, will be undertaking further discussions with the stakeholders. Further proposals for changes were put forward as a result of the consultation process, but this government wants to make sure — unlike the current opposition whilst in government when it just rammed stuff through — that we actually talk to all stakeholders and that all the new strategies it has proposed and put in place actually lead to improved education outcomes for students with special educational needs.

This government has again shown that it is prepared to listen and act. It has listened to the needs of students with disabilities and it is acting to ensure that their interests are looked after.

MOTIONS TO TAKE NOTE OF ANSWERS

Commonwealth Games: budget

Hon. I. J. COVER (Geelong) — I move:

> That the Council take note of the answer given by the Minister for Commonwealth Games to a question without notice asked by the Honourable I. J. Cover relating to the 2002 Commonwealth Games budget.

My question sought an indication from the minister as to when the budget for the Melbourne 2006 Commonwealth Games would be released. This has been the subject of much discussion over a lengthy period of time, as far back as the Public Accounts and Estimates Committee hearings of last year when the minister indicated he would be deferring an announcement on the budget. The minister appears to

be deferring his involvement in the take-note motion as well, as he prepares to leave and indeed leaves the house at this time when we are about to debate a very important, if not the most important, aspect of the preparations for the Melbourne 2006 Commonwealth Games.

The minister seems to be taking the line that the government has been taking on this budget issue, and that is putting it off, pushing it further and further away so that it does not have to address this important issue.

It is important to reiterate, and I cannot emphasise enough the Liberal Party's support, and I am sure this support is shared by the National Party, for the Melbourne 2006 Commonwealth Games. It is because it supports the Commonwealth Games and because it wants them to be an unqualified and outstanding success that it is raising the budget issue at this time, and I might add that this is not the first time. It is raising the question now because it is the first opportunity since the Manchester games concluded. It was indicated by the Minister for Commonwealth Games in April that he would be able to release the budget after the Manchester Commonwealth Games.

As I said in my question, it is now more than two months since the closing ceremony and we are looking to see whether the figures have been finetuned and the issues that needed to be addressed, as advised by the minister, have been dealt with so that the budget can be released. The only indication we got today from the minister is that it will occur very shortly. This appears to be slightly at odds with the view of the Treasurer.

Perhaps these important questions relating to the Commonwealth Games should be addressed directly to the Treasurer rather than the Minister for Commonwealth Games, because there are concerns about the minister's ability to understand the financial aspects of the games and their presentation. We need only recall the debates that occurred in this house about the $77 million that the government suddenly found to put into the Melbourne Cricket Ground redevelopment as part of the commonwealth games preparation.

In June the Honourable Roger Hallam put on notice question no. 3291 through this house to the Treasurer asking about provisions for supplementation of the 2002–03 budget in respect of the Melbourne Commonwealth Games in 2006. In his answer the Treasurer said:

> The whole-of-government Commonwealth Games budget review is due to be considered by the government later this year, following the Manchester games, for consideration as part of the 2003–04 budget process.

That seems to indicate to me that we will not hear anything about the Commonwealth Games budget until the 2003–04 budget. That is totally at odds with the Minister for Commonwealth Games saying today that he will be releasing it very shortly. There is a need for the government to give a clear indication and to come clean on where the budget preparations are at at this stage.

In answer to a question asked by the Honourable David Davis yesterday the minister again said that the Commonwealth Games would be delivered on time and on budget. I am intrigued that he can say they will be delivered on budget when he does not know what the budget is because the government has not completed its work on it.

The Commonwealth Games enjoys bipartisan support. We have reiterated that here today but yesterday the minister wanted to play politics and he questioned the ability of the opposition to deliver the Commonwealth Games if it were in government. He said the opposition would not have delivered any projects. The minister should look around at some of the venues which will be used during the Commonwealth Games which were delivered by the previous government. The State Netball and Hockey Centre, the Melbourne Sports and Aquatic Centre, and Vodafone Arena are three of the major venues for the Commonwealth Games and they were all developed by the previous government.

The minister wants to play politics and debate the issue of the opposition's ability to deliver things but the question is whether this government can deliver the Commonwealth Games and whether it can put a budget in front of the people of Victoria as soon as possible.

Hon. KAYE DARVENIZA (Melbourne West) — It is with pleasure that I rise to respond to this motion. The government is particularly proud of and pleased with the work it has done so far in its preparation for the Commonwealth Games.

Honourable members interjecting.

Hon. KAYE DARVENIZA — Mr Smith, I am happy to tell you what we have done. On a number of other occasions when Mr Cover and other members of the opposition have asked these questions the government has told the house exactly what it has done, including in terms of the budget. Honourable members would be aware that there was an announcement in the last state budget that the government would provide some funds for the 2006 Commonwealth Games

organising committee. This organising committee has been established to coordinate the Commonwealth Games to be held in just under four years, being scheduled to take place in March 2006. The total funding for the Commonwealth Games was increased from $13.2 million in 2001–02 to $13.8 million in 2002–03. This is information that the government has already made available to the opposition.

The government has also said that a number of major activities will be taking place. Funds were set aside to establish the organising committee and it will be involved in a range of activities. One of those activities was attending the Manchester games to have a look at what went on over there, what worked and what worked well to ensure that we are able to take advantage of their experience. A delegation which included government officials and people from the organising committee — —

Hon. B. C. Boardman — Did you go?

Hon. KAYE DARVENIZA — Unfortunately I did not; I wish I had had the opportunity but I did not and I was not able to get there. However, what I do know and I can tell Mr Boardman is that a government delegation and members of the organising committee attended the games. They observed a range of activities including issues to do with traffic and transport, health and medicine, venue development, finances and budgets, and ceremonies and cultural programs. They looked at tourism, the athletes village, city services, broadcasting and media, sponsorship, sporting programs, the environment and venue operations. This is just to name a few of the areas.

The delegation was there to gather information and observe how Manchester put on the games, what worked, what worked particularly well and what would be relevant to us in staging the Commonwealth Games here in Melbourne in 2006. They attended a range of committee meetings, daily briefings and a special two-day official observers program. They met and had discussions with service providers as well as a number of Australian sporting organisations. They also received a back-of-house venue tour. This was in addition to the formal duties carried out by the Minister for Commonwealth Games and the Premier which we saw in the media and of which we were very proud.

The Minister for Commonwealth Games said today that the budget will be finalised and delivered shortly. All the information the government has been able to ascertain from the Manchester games and its participation in them will be taken into careful consideration before the government finalises the budget. The organising committee participated in that delegation to Manchester and it is collating the information to be considered by the government. The budget will be delivered shortly.

Motion agreed to.

Schools: student welfare coordinators

Hon. P. R. HALL (Gippsland) — I move:

> That the Council take note of the answer given by the Minister for Education Services to a question without notice asked by the Honourable P. R. Hall relating to student welfare at primary schools.

I want to say first of all that teaching is a complex profession; not only is a teacher required to be an educator but they are also required to be a role model and mentor for students at times and in large part they are required to be a welfare worker. If you are going to enable students to achieve academically to the best of their ability you need to understand their emotions and needs and address those issues.

Young kids today are influenced by a range of welfare issues. Things such as family breakdown can have a significant effect on how a child progresses in the education system. Parental drug abuse, self-esteem, aggression, poverty, alienation and a number of other welfare-type issues impact on a student and his or her ability to learn. Those issues often manifest themselves as behavioural problems.

While secondary schools have a limited range of resources to cater for the welfare needs of students in terms of the welfare officers appointed in some secondary schools, the needs of primary schools in regard to this issue have been totally ignored. The Minister for Education Services confirmed that in her answers to the questions asked today. She could not give the house any commitment that the government has a will to provide resources to primary schools to assist with the welfare needs of students.

The minister rambled on about the fact that this government has provided a nurses in schools program. It has, and we from the National Party applaud that initiative, but the nurses have been stationed in secondary schools; there are none in primary schools. The minister spoke about welfare officers at a regional level. I am not too sure about that but if there are such officers we will give the minister credit for that and accept it, but none has been appointed directly to any primary school in this state. That is the whole issue — the needs of primary schools and primary principals to deal with student welfare and student behaviour issues. Primary schools have been ignored by this government.

I refer the house to an article in the *Age* of Thursday, 3 October headed 'Swamped principals bid for help'. It states:

> Victorian primary schools are struggling to cope with students' increasingly complex welfare needs, with principals frustrated by a lack of resources and proper training, a survey has found.

It mentions a survey undertaken by the Victorian Primary Principals Association. As part of the outcome of the survey, the article says:

> More than 30 per cent said welfare issues took up more than half their time, with another 17 per cent estimating welfare needs consumed more than 40 per cent of their time.

Principals are being left alone to deal with these important welfare and behavioural issues without any support from the government. In the article the response of the Minister for Education Services was:

> … schools could not be responsible for fixing all the welfare needs of students.

That is quite true. Schools are not responsible, and they cannot alone fix the problems, but the needs of those students cannot simply be ignored. The government must make some provision to assist schools in dealing with those important welfare issues that exist in primary, secondary, private and special schools in the state.

By comment I was asked about the National Party's policy on this. This morning I am happy to put the Vic Nats policy clearly on the public record. It recognises that student welfare is an important issue and further resources need to be put into primary schools, and in some cases secondary schools, to accommodate the welfare needs of students. I make a clear commitment that in its policy the Vic Nats supports the appointment of welfare officer positions in primary schools at a level proportional to that school's enrolment. Further the Vic Nats makes a commitment to ensure that not only primary but also secondary schools have adequate levels of welfare officer resources. The Vic Nats is also looking towards the needs of special schools, which are largely ignored by the government — we never hear it talking about special schools. Those schools also need some assistance with welfare coordination, as does the private sector. In terms of government grants to the private sector, recognition should be given of its welfare needs.

This is an important issue. Again I say very clearly that the Victorian National Party, under its banner of the Vic Nats, clearly supports the appointment of welfare officers in Victorian primary schools.

Hon. E. C. CARBINES (Geelong) — I am pleased to speak about state education, because it is the Bracks government's no. 1 priority and has been for the last three years.

I find it absolutely galling that the National Party talks this morning about welfare issues in primary schools. What absolute hypocrisy on the part of the National Party, which when it was in government in coalition with the Liberal Party for seven years from 1992 to 1999 had the no. 1 priority of running state education down to the point where 9000 teachers were removed from the state education system. The coalition government removed 9000 teachers from primary and secondary schools. It was an absolute disgrace!

A ramification of the last time the National Party was at the helm of education in this state, along with its Liberal Party colleagues, was that it removed 9000 teachers and class sizes in primary and secondary schools escalated throughout the state. The National Party cannot get away from the fact that when it was in charge of education its priority was running it down, removing teachers, closing schools and increasing class sizes. You cannot get anything more fundamental to a child's welfare than the number of children in his or her class. When one looks at what the National Party did in coalition with the Liberal Party and holds up its record on welfare, one sees it was an absolute disgrace!

I know from my own children's education at primary school under the Kennett government that the class sizes they experienced were disgraceful. In 1999, which was the last year of the Kennett and National Party government, my son's grade 3 class had 35 children. The following year his grade 4 class had 25 children. What happened in that year? His class size went down by 10, and the major reason for that was that there was a new government in Victoria which had education as its no. 1 priority.

Not only did the Kennett government in coalition with the National Party close schools, sack teachers and increase class sizes, it also reduced resources to schools. It is absolutely galling to have National Party members stand up in the house this morning and talk about their commitment to state education when their record in relation to it is so appalling. If they think people have forgotten about their record in education they are sadly mistaken.

The Bracks government's no. 1 priority is state education. It has committed $2.75 billion to state education since it attained office three years ago. I am proud of the Bracks government's record on state education.

The Department of Education and Training provides a range of resources to primary schools in the schools global budget and through other support services, such as visiting teachers, social workers, guidance officers and curriculum consultants. The wellbeing and self-esteem of students is closely associated with their success in developing literacy and numeracy skills. The Bracks government recognises that and has put significant funding into developing the early years of schooling strategy, which includes $50 million towards the early years literacy program. In this year's budget a further $34.6 million has been allocated over four years for the equivalent of an additional 150 early years numeracy teachers.

I have already talked about class sizes, comparing the National Party's record on class sizes with ours. Our government is committed to reducing class sizes in the early years of primary school from prep to grade 2, and the policy we have implemented — —

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

Motion agreed to.

Freeza program

Hon. A. P. OLEXANDER (Silvan) — I move:

That the Council take note of the answer given by the Minister for Youth Affairs to a question without notice asked by the Honourable Jenny Mikakos relating to the Freeza program.

I am absolutely delighted to have the opportunity to do so, given that the question Ms Mikakos asked the minister mirrors exactly a question the opposition wishes to ask the minister. It is a very welcome change that the government is being so helpful to the opposition in this regard.

How can we forget this government's record on the Freeza program? Ever since this government was elected just three short years ago it has taken a position of resentment towards this program because it is a valuable social program providing drug-and-alcohol-free entertainment for young people in this state, and it is a program that was conceived, initiated and created by a Liberal government. The Bracks Labor government has never been able to come to terms with the fact that it did not initiate this major social initiative.

Only 12 short months ago the entire future of the Freeza program was at stake due to a major funding shortfall in the state budget. We all remember that Freeza groups around the state were up in arms about the future of their program. They were unable to plan for the future and they were unable to take initiatives to expand or grow their program because they were literally facing a $1 million shortfall in the state budget.

What did the government tell us at that time? It told us it was doing a review — another review — to decide the future of the program. Honourable members know that that review was never released by the government but that it was obtained by the opposition under a freedom of information request. What did the review tell the government about Freeza? It told the government it was a good program, that it should remain in exactly the same form as it was and that it should be funded. This was not the news the government wanted to hear; hence it did not release the report.

This government has never been comfortable or happy with this program. Unfortunately for Freeza providers around the state, this has meant uncertainty for funding and planning. Thankfully, after prodding and prompting from the opposition over a period of two and a half years, the government has finally come forward with a commitment for recurrent funding for this program of $2 million a year over the next four years, amounting to $8 million. We applaud that commitment, but of course it came a little bit too late.

The opposition's commitment to this program is for $3 million per year and a total of $12 million over four years, and it did not arrive at that lightly. It was done in consultation with Freeza groups and providers around the state, and a very careful costing was done of their needs for the expansion of this very important program. Again the opposition says to the government, 'Too little, too late. If you are serious about the program at least match our commitment'.

The Minister for Youth Affairs talks about allegations — she names me — that I have made recently in the media and in other places regarding the public liability insurance issues surrounding the Freeza program, and I am delighted to be able to make some of those points again today. The minister has really washed her hands of public liability insurance issues surrounding this program, and as a result of that many of the companies that are hired to provide security services at Freeza events have been unable to obtain insurance or have obtained insurance in a rush which provides inappropriate cover. They do not have appropriate cover for crowd control; they only have it for security.

This raises a very important risk for these events, and it is not good enough for the minister to sidestep

responsibility for this issue and shove it on to local providers as she has done. 'It is not our responsibility', she says, 'we will leave it to them'. The Freeza program is now threatened because the government has failed to clarify who has final liability in the case of an accident that may occur at a Freeza event.

The Minister for Youth affairs is responsible for this because of her lack of action on auditing security providers and the type of cover they have obtained or not obtained. It is another example of Labor's do-nothing approach.

It is a fact that in the last three years since the election of the Bracks government the Office for Youth affairs has failed to audit all Freeza security providers. That means that the safety of young people is at risk, as is the financial future of the program should the government be sued by an accident victim, which is always a possibility. The Minister for Youth Affairs has a responsibility to act. She must conduct an audit now and clarify the future of the Freeza program.

Motion agreed to.

Electricity: special payment

Hon. C. A. FURLETTI (Templestowe) — I move:

That the Council take note of the answer given by the Minister for Energy and Resources to a question without notice asked by the Honourable C. A. Furletti relating to special power payments to country Victorians beyond 2003.

Hon. Bill Forwood — It is a good thing she is still here.

Hon. C. A. FURLETTI — It is great to see the minister. We see her so rarely that a photo might do better.

I indicated in my question that last December the minister and the government gave an unequivocal promise and commitment to find long-term solutions to the problems associated with higher off-peak and network costs in regional and country Victoria and to seek structural options for addressing those differentials by the end of this year. That was the commitment that was made and that was the promise that country and regional Victorians received. What we have today is an equivocation and an obfuscation on the part of the minister about that commitment and promise. It is yet another promise by the Bracks Labor government which has been broken, and broken badly.

The time for the blame game is well and truly over. It has now been three years and we are talking about a new election. This government has had a full parliamentary term in which to address an issue that was there when it was elected. What we have heard today is the minister retreating from the position that was announced as recently as last December and reaffirmed on a number of occasions since. That is typical of this government. This government has been retreating from a number of its commitments, and Victorians are becoming aware of that and becoming very conscious of the fact that this government cannot be trusted.

According to the minister's response to my question, we now have to wait until the end of this year and possibly into next year, when the Essential Services Commission determines the new price structure and price regime for the following year. That, of course, is an affirmation of the indication in my question that it will not happen this year. The minister has confirmed that the solution will not be available this year and that we need to wait until next year.

Country Victoria has been let down, but what concerns me more is that this is not a matter of justification of price by the retailers. What we are discussing here is an issue of fundamental structural development of the industry which leads to and will address a problem that exists in the differential in pricing.

It is the height of arrogance for the minister to seek to chastise me for referring to the article in today's *Weekly Times*. It may serve the minister well to read some of those comments, because what country Victoria is saying about the minister and the government's special power payment is something that I have been saying since it was introduced last year, and that is that it simply will not work. It is defective. It was short-term political expediency. Instead of taking the time to work through an issue and seek a solution to the problem, as the minister promised to do, she had a knee-jerk reaction which has drawn this sort of comment from consumers.

I am not being political about this. This is a comment from a Mr Englefield who is quoted in the *Weekly Times*, which I presume the minister has read. He says it is an ill-conceived and hasty political decision. He goes on to say that if the government wants to meddle in these things, the government should be ensuring that equity and fairness prevail. That is confirming the comment I made about the hastiness of the decision and the defects that exist in it.

This government has developed as a trademark in everything for which this minister is responsible — whether in the fishing industry, the mining industry, the electricity industry or gas reticulation — the great

uncertainty this state has gone through in the last three years. Wherever I have travelled in Victoria and whomever I have talked to I have found that the concern is singular — they do not know where Victoria is going and they do not know where they are going. I seek a commitment from the minister today to confirm that country Victorians will be adequately assisted next year with an extension of the special power payment.

Motion agreed to.

QUESTIONS ON NOTICE

Answers

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I seek an explanation with respect to question 2757, which is on notice for the attention of the Minister for Sport and Recreation. It was put on notice on 26 March. In June I wrote to the minister requesting that an answer be provided. Given that six months have elapsed since the question was put on notice I now seek an explanation of why the answer has not been provided and when it will be provided.

The PRESIDENT — The practice is to direct that to the minister responsible. Mr Rich-Phillips has done that, but the minister is not here. I will clarify whether the house may give leave to the minister to respond to that later on during today's proceedings at an appropriate break to respond to that.

Hon. C. C. BROAD (Minister for Energy and Resources) — Mr President, I will take that matter up with the responsible minister and seek a response as soon as is practicable.

Hon. Bill Forwood — Will that be later this day?

Hon. C. C. BROAD — I do not know.

Hon. Bill Forwood — On a point of order, Mr President, I thank the minister for her undertaking that she will get an answer as soon as practicable. As Mr Rich-Phillips points out, this matter has been on the notice paper for over six months, and we are on just the second day back after a break that went from June through to September. One would have thought that in that period of time the minister would have been able to answer the question according to the rules of the house. It is not too much to ask that if the minister is not in the chamber when the matter is legitimately raised under the standing orders and practices of the chamber, we could at least get a response to indicate that he will answer it today.

I seek an undertaking that the minister either now joins us in the chamber and answers the question, or at least finds another opportunity — perhaps before the adjournment tonight might be an appropriate time — to answer the question that was put to him by Mr Rich-Phillips.

The PRESIDENT — For clarification, is this a question for which the minister is directly responsible or for which he is the agent for another minister?

Hon. G. K. Rich-Phillips — It is for the Minister for Police and Emergency Services in the other chamber, through the Minister for Sport and Recreation.

The PRESIDENT — The Minister for Energy and Resources has undertaken to take up the matter with the Minister for Sport and Recreation. Obviously it is not directly in his hands. The Minister for Sport and Recreation may care to communicate with Mr Rich-Phillips later in the day about the status of that answer. Is the honourable member comfortable with that?

Hon. Bill Forwood — Yes, that is terrific.

Hon. E. G. STONEY (Central Highlands) — I seek answers to questions on notice 2842 to 2880, which I lodged in April this year. There were 39 questions on notice. On 30 May I handed each minister a letter — and the questions involve every minister in this house.

On 4 June I raised the matter in the house and asked for a response. On 5, 6, 11 and 12 June I raised the matter in the house, and on 12 June I moved a motion asking the government to respond. It is now October, and there has been absolutely no response to these questions. Mr President, I seek your assistance to somehow get responses out of ministers in this and the other place.

The PRESIDENT — This matter comes flooding back now. The house has taken the step, I think for the first time, of requiring the minister to table the answer. Now that is a fairly serious step for the house to take. The house expects its directions to any of its members, which are made in accordance with the rules of the house, to be honoured. The responsible minister was?

Hon. E. G. STONEY — They are all ministers in the other place and this place.

The PRESIDENT — There is a series of them?

Hon. E. G. STONEY — There are 39 questions, Mr President, including questions to the ministers here.

The PRESIDENT — I am advised that standing order 71AA really exhausts the process. The house has made the direction; whether any further action is taken is a matter for a motion before the house. In other words, it would be competent for Mr Stoney or any other member in a similar situation to think of a motion to put before the house. That might be a matter for Mr Stoney to work out for himself. But we have gone through the process for requiring answers to questions on notice and have taken it as far as it goes. Now it is a question of whatever strategy the member desires to utilise.

Hon. E. G. STONEY — Does taking that step in this process where we have reached this point absolve the ministers from now answering the questions?

The PRESIDENT — The form of motion is under section 71AA, which states that if the question is not answered, members can call for an explanation, going through the process the member has gone through. Then subsection (b) says:

> (b) In the event that a minister does not provide an explanation, notice may forthwith be given of a motion regarding the minister's failure to provide either an answer or an explanation and precedence shall be given to such a motion … under standing order no. 86.

The honourable member has taken that step and the house has made an order requiring the answers to be tabled. That is as far as this provision goes. But it is now competent for the house, on the motion of a member in the usual way, to take further action against the minister for failing to comply with the direction of the house. That could be a censure motion or a suspension motion. It is a matter for the individual member to decide what course of action they want to take. In the meantime I suggest that the minister who has undertaken to take this matter up, take this matter up, because it is pretty serious. We have gone past the usual stage.

Hon. Bill Forwood — We have never done this before.

The PRESIDENT — No, and with due respect the house should not have to go past this point. In other words, we would expect that the directions of the house be complied with. Perhaps the Minister for Energy and Resources might like to talk to the appropriate ministers about that issue. Does that answer Mr Stoney's question?

Hon. E. G. STONEY — Thank you.

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. M. GOULD (Minister for Education Services) — By leave, I move:

> That so much of the sessional orders be suspended as would prevent new business being taken after 9.00 p.m. during the sitting of the Council this day.

Motion agreed to.

PAPER

Laid on table by Clerk:

> Auditor-General's Office — Report, 2001–02.

HIGHWAY AUTHORITY PROTECTION BILL

Second reading

Hon. P. R. HALL (Gippsland) — I move:

> That this bill be now read a second time.

The cost of maintaining roads and bridges is a very significant drain upon the financial resources of those authorities at local, state and federal levels of government who have responsibility for them. This is certainly the case with local government councils which have responsibility for local roads within their jurisdiction. The problem is exacerbated in those municipalities throughout country Victoria where it is common for councils to have to maintain thousands of kilometres of roads and in some instances literally hundreds of bridges.

An already difficult financial situation was compounded when the High Court of Australia (HCA) delivered its judgment on 31 May 2002 in the proceeding of *Brodie v. Singleton Shire Council*. There, Mr Brodie suffered injuries on 19 August 1992 when he drove a loaded truck weighing 22 tonnes over a 50-year-old bridge which collapsed, thereby causing his vehicle to crash through to the creek bed below. The accident occurred in the Shire of Singleton in New South Wales. The HCA, by a majority of four to three, ultimately determined to abolish the longstanding common law rule exempting highway authorities from liability for non-repair of roads and bridges. This is commonly being termed the immunity in the highway rule. In essence, that rule was founded on the principle that while responsible authorities could be found liable for negligently performing work on roads and bridges

(misfeasance), such liability could not apply where they failed to perform any work at all (non-misfeasance)

In Mr Brodie, the majority of the court decided that even if the risk posed by the state of a roadway was unknown to the authority, or latent and only discoverable by inspection, then to discharge its duty of care the authority would need to take reasonable steps to identify the dangers which might exist and to then deal with them appropriately.

In practical terms, this substantive change in the law has imposed very significant additional burdens upon authorities having responsibility for roads and bridges. Certainly that applies to local government councils and more particularly to those in country Victoria. Because of the increased exposure to legal liability, councils have regularly imposed extreme load limits upon many of their bridges, therefore seriously impeding traffic movements across them. In the result, many country communities have been thrown into chaos because of the inability to use their usual traffic routes. In other instances, school buses and even emergency vehicles such as fire trucks and ambulances are now unable to operate expeditiously because artificially low bridge load limits prevent their being able to cross; all of this in circumstances where these dramatic changes have arisen because of Mr Brodie's misfortune in 1992.

The additional impact has been that country councils have had to devote substantial additional components of their budgets to bridge inspections and repairs at the expense of other programs.

Again it must be emphasised that the necessity for the recasting of council budgets in this way has arisen from the artificial pressure of the Brodie decision. It has nothing to do with any demonstrated necessity such as a rash of accidents in the nature of that in which Mr Brodie was involved over 10 years ago.

A further point of emphasis is that country councils in particular have historically maintained appropriate levels of funding within their budgets to accommodate the needs of repair and maintenance of roads and bridges. This is highlighted by the fact that there are remarkably few instances within Victoria where accidents occur in the nature of the circumstances giving rise to the accident in which Mr Brodie was involved. That is not to say that governments at all levels — federal, state and local — would not like to devote additional resources to this vital task. Rather, it is the ever-present problem of managing budgets in the face of ever-increasing pressure for financial support from many and varied sources. The judgment in Brodie has added significantly to that pressure in a way that should be and will be resolved by the passage of this bill.

The Brodie judgment arose from an accident in New South Wales. The HCA determined the matter on the basis of an interpretation of New South Wales legislation; however, the general principles of the judgment are of application in all Australian jurisdictions.

In Victoria, section 205(2)(c) of the Local Government Act 1989 expressly provides that the council having the care and management of a road is not obliged to do any particular work on the road and in particular is not obliged to carry out any surface drainage work on an unmade road.

On a literal reading, this provision would seem to preserve the immunity in the highway rule. However, legal opinion is to the effect that Brodie will prevail unless the effect of that judgment is precluded by legislation from having application. This bill will achieve that end.

The National Party has circulated the bill to 47 municipalities within country and regional Victoria. We have received overwhelming support for this initiative from those municipalities. The Municipal Association of Victoria has also indicated its support.

An additional feature of relevance is that unless it is addressed, the Brodie decision will impact very significantly upon insurance premium levels for local government. Many councils have already commented to that effect. With the ramifications of the current insurance crisis already causing chaos and distress throughout most country communities, this further threat to an already difficult situation can and should be removed. This bill will serve that purpose.

The bill

Clause 1 sets out the purpose of the bill, which is to protect highway authorities from liability for nonfeasance.

Clause 2 establishes the commencement date.

Clause 3 incorporates relevant definitions. Note that there are various authorities having responsibility for the care and maintenance of roads and bridges, with local government but one of them. It is for this reason that this bill is necessary to enable the relevant protection across those various authorities. While amendments reflecting this bill could have been incorporated in the Local Government Act, the result would have been to leave other authorities at federal

and state level exposed to the impact of Brodie in those situations where they have responsibility for roads within the borders of Victoria.

Clause 4 defines the immunity from action for which the bill is designed. Specifically, it restores the defence of nonfeasance while preserving a right of action in cases of misfeasance.

Clause 5 provides for a limitation upon the jurisdiction of the Supreme Court. I wish to make a statement pursuant to the provisions of section 85 of the Constitution Act 1975. The fundamental purpose of this bill is to prevent the application within Victoria of the principles arising from the judgment of the HCA in the matter of *Brodie v. Singleton Shire Council*. The deliberate intention is to preclude any person suffering injuries or loss as a result of the nonfeasance of a highway authority from being able to recover compensation from that authority by the institution of court proceedings. For the reasons set out in the second-reading speech, the rationale for that purpose is appropriate.

Conclusion

The National Party believes this bill to be vital to the good governance of Victoria, country Victoria in particular. The judgment of the High Court of Australia in the proceeding of *Brodie v. Singleton Shire Council* has imposed a significant impost upon road authorities generally and resources of local government authorities, in particular with the main burden falling on country councils. That impost is completely artificial. The fact is that councils have historically made sensible and responsible provisions within their respective budgets for the care and maintenance of their roads and bridges. The same can be said for highway authorities generally. This is reflected by the facts. The reality is that the misfortune which befell Mr Brodie in 1992 was a singularly unusual event, the result of which has had a consequential impact far beyond the very narrow scope of the somewhat extraordinary factual circumstances in which Mr Brodie was unfortunately involved. This bill will address the issues and return the state of the law to one of practical reality.

I commend the bill to the house.

Debate adjourned on motion of Hon. JENNY MIKAKOS (Jika Jika).

Debate adjourned until next day.

SELECT COMMITTEE ON THE SEAL ROCKS PROJECT

Establishment

Hon. BILL FORWOOD (Templestowe) — I move:

That —

(a) a select committee of five members be appointed to inquire into and report on:

(i) the involvement of the Victorian government, its various agents and agencies or any person or persons in the development and management of the Seal Rocks project and of all matters leading up to and culminating in the notice of termination dated 9 August 2002 and the transfer of the Seal Rocks centre to the Victorian government on 19 August 2002, including its effect on staff employed at Seal Rocks; and

(ii) the circumstances surrounding the break-in at the Seal Rocks centre on 5 July 1998 and the subsequent investigation of that event.

(b) The committee shall consist of two members nominated by the Leader of the Government, and three members nominated by the Leader of the Opposition.

(c) The members shall be appointed by lodgment of the names with the President by the leaders no later than 4.00 p.m. on Thursday, 10 October 2002.

(d) The first meeting of the committee shall be held at 10.30 a.m. on Friday, 11 October 2002.

(e) The committee may proceed to the dispatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.

(f) The committee shall elect a deputy chairman to act as a chairman at any time when the chairman is not present at a meeting of the committee.

(g) Three members of the committee shall constitute a quorum.

(h) The committee may send for persons, papers and records.

(i) The committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at any time if it so decides.

(j) The committee may authorise the publication of any evidence taken by it in public and any documents presented to it.

(k) Reports of the committee may be presented to the Council from time to time and that the committee present its final report to the Council on or before 1 May 2003.

(l) The presentation of a report or interim report of the committee shall not be deemed to terminate the committee's appointment, powers or functions.

(m) The committee shall include with any of its reports to the Council minority reports submitted to it by a member or members of the committee.

(n) The foregoing provisions of this resolution, so far as they are inconsistent with the standing orders and practice of the Council, shall have effect notwithstanding anything contained in the standing orders.

This is a matter of grave importance to the people of Victoria. This is another case where the Bracks government is to be held to account. This is another case where the Bracks government's commitment to open, honest, transparent and accountable government will come to the fore because we will discover whether or not the government is open, honest, transparent and accountable or whether again it will try to hide the facts from the people of Victoria.

The facts in this case are stark; however, what we do not know are reasons. It has become apparent over the last three years that the Seal Rocks fiasco is a matter of grave public importance. You only need to look at recent media coverage — not the media coverage that has covered the last three years but recent media coverage — to confirm that.

To quote newspaper headlines, the *Sunday Age* of 4 August said 'Bracks faces flip over Seal Rocks', the *Herald Sun* of 7 August said 'Demand to quit over leak to MP', the *Age* of 9 August said 'Cabinet missed chance on seal site', the *Australian* of 10 August said 'Signed, seals and livid over shutdown', the *Herald Sun* of 10 August said 'Rocks fury at Bracks', the *Age* of 12 August said 'Seal Rocks: how Labor blew it', the *Age* of 13 August said 'Seal Rocks chief threatens to sue Garbutt and Davies', and the *Herald Sun* of 3 September said 'Rocks staff left in limbo'. That is just a snippet of the articles about this fiasco that have been put before the people of Victoria in just one short period. I remind the house that this issue of the government's treatment of and the government's behaviour towards Seal Rocks, which has been described by some as vindictive and by others as incompetent, is a matter of grave importance.

What we need in circumstances such as this is the capacity for the people of Victoria to know what happened — to know why we have ended up where we have in a situation where an arbitrator, agreed on by the government with Seal Rocks, has found so comprehensively against this government. This is a matter of grave public importance.

Hon. T. C. Theophanous — Your contract.

Hon. BILL FORWOOD — Let me pick up Mr Theophanous's interjection about the contract. I am happy to demonstrate throughout my brief contribution this morning — and I am sure the committee will have the capacity to do this as well — that the lawyers that are being accused of producing this dodgy contract are in fact the same lawyers — —

Hon. T. C. Theophanous — The dodgy contract.

Hon. BILL FORWOOD — The contract that you refer to as a dodgy contract, Mr Theophanous, was produced by the legal firm which the government has continued to use the whole way through. The issue is not about the contract. The issue is about how this government has behaved in the face of the contract and throughout this whole performance.

At the outset I refer to the interim award of the arbitrator dated 2 August 2002 in the matter of an arbitration between Seal Rocks Victoria Australia Pty Ltd and the state of Victoria. I need to read the first paragraph because it refers to documents, including the state documents, the most important of which is the development and concession agreement (DCA). There is also the Crown lease and the cooperation, operation and maintenance agreement (COMA).

On pages 2, 3 and 4 the arbitrator found breaches by the government. I need to put on record what he found. In paragraph 4 on page 3, he found:

> That, by reason of the findings made by me in paragraph 3 of this my interim award, I find that the claimant is entitled to declaratory relief in the following terms and it be ordered:
>
> (A) Declaration that the state by its conduct, as found and adjudged by the arbitrator, has breached DCA —

in other words, it has breached the development and concession agreement —

> and, in doing so, has repudiated fundamental obligations under DCA.

That is not about the contract, that is about government behaviour.

I refer the house to paragraph (B), in which the arbitrator declares:

> … the state by its conduct … has breached the lease and, in so doing, repudiated fundamental obligations under the lease.

Again he finds a breach by the state not about the lease but about the behaviour of the government in relation to the lease.

Let me turn to (C). He defines again:

> … that the state by its conduct —

by its conduct, Mr Theophanous! —

> … has breached the COMA (cooperation, operation and maintenance agreement), and, in doing so, has repudiated fundamental obligations under COMA.

And then he finds under (D):

> … that the state by its conduct … has failed to comply with obligations under DCA (development and concession agreement), and, in so doing, effectuated 'state defaults', which constitute 'material defaults' within the meaning of that expression …

He goes on and makes the same finding in relation to the lease and the same finding again in relation to the COMA and the same finding under (G) in relation to:

> … in its notice of … default … served upon the state, has specified the occurrence of state defaults which constitute 'material state defaults' within the meaning of that expression …

This is not about the contract. This is about behaviour. This is about probity. This is about the way this government has behaved. It is open to people to speculate why this government behaved in this way. It is open to people to speculate this particular question: was there or was there not a conspiracy between Susan Davies, the honourable member for Gippsland West in another place, and the Bracks government to drive Seal Rocks out of business? What we know is that it is only by having an inquiry like this that we will get anywhere near answering that fundamental question. Was there or was there not a conspiracy between Susan Davies and the Bracks government to drive Seal Rocks out of business?

Hon. T. C. Theophanous — On a point of order, Mr President, I seek your ruling in relation to the comments that have just been made by the Leader of the Opposition. The motion before the house does not mention Susan Davies. As you are aware, Mr President, if there is to be an attack on a member of this or the other house which is of the nature suggested by the Leader of the Opposition — that is, that there was a conspiracy involved — that is a substantial allegation against a member in another place, and it should form the basis of a substantive motion in this house and not be debated via the back door in the same way that this grubby Leader of the Opposition attempts to do every time he puts this sort of motion up. He does not have the guts to put up the motion in the way that he wants to say it and instead tries to do it via the back door.

The PRESIDENT — Order! The general proposition that the honourable member puts is correct — in other words allegations of impropriety cannot be made against a member of another house. In this case it was put — and I think I have got the words — 'Was there or was there not a conspiracy between Susan Davies and the government to drive Seal Rocks out of business?' Have I quoted Mr Forwood correctly?

Hon. BILL FORWOOD — That's exactly what I said. A simple question.

The PRESIDENT — And it was put very clearly as a question, so I do not uphold the point of order.

Hon. BILL FORWOOD — Thank you very much, Mr President. This is a simple proposition: that the committee that will be established, I hope, by the house today will have the capacity to get to the bottom of the issues that deal with this matter. That is why (a) of this motion is as broad as it is. It gives the opportunity for the committee as so established to go to the heart of the issues involved. I have demonstrated already that the arbitrator has found material breaches of conduct by the state. The question we need to ask is: why and how did this occur? I do not propose to go through every issue here today. That is more appropriately a matter for the committee itself. The committee has absolute unfettered capacity to call witnesses. If it wishes, it can call Ray Leivers from the Phillip Island Nature Park. It can certainly call Michonne van Rees from the department. It can certainly, if it so desires, call officers from the Department of Treasury and Finance and officers from the department of tourism and the Department of Natural Resources and Environment. It has the capacity to call for papers and to call for witnesses. It certainly has the capacity to talk to Seal Rocks and its advisers if it so desires.

The terms of the resolution before the house enable the committee to call for people to give evidence and absolutely to send for persons, papers and records. I am very confident that it will be able to go through this in the manner which it needs to do so.

Let me turn briefly to some of the things that the committee may, if it so desires, turn to. Susan Davies is on the record as having long-term opposition to the Seal Rocks project from 1996 — she was the candidate for the Labor Party, I think, at that time. She was opposed to it down there. What we notice now about what we can discover from documents that are available and from newspaper clippings that have been also made available is that there is no doubt that she attended a meeting with the Premier on this issue. There is no

doubt that she was present at Seal Rocks when Mr Leivers said to the minister that he had some confidential documents which he would like to show to the minister. The minister took the documents. Susan Davies asked if she could see them and they were handed over to Susan Davies, in breach, and this was a finding by the arbitrator. The arbitrator himself found in relation to this:

> … that the state breached the confidentiality provisions in DCA (development and concession agreement) and COMA (cooperation, operation and management system) by authorising officers of PINP [Phillip Island National Park] to disclose to a member of Parliament confidential information concerning the operations of the centre, the financial arrangements between the claimant …

There is a whole stack in relation to that particular breach.

Why would the government involve Susan Davies in this way? What an interesting question. I recollect reading some evidence given by Michonne van Rees on this where she said that before a submission went to the cabinet she and Peter Keage from Tourism Victoria met and briefed the Independent member for Gippsland West. The evidence shows that it was anticipated this information would then go to the minister. It was asked whether they had discussions with members of the Legislative Council for that area but they did not, just with Susan Davies. The question was asked why not if local members were important? The answer was that Susan Davies was the most important one. This is a bureaucrat from Department of Natural Resources and Environment.

When the question was asked why, the answer was that it was because she was independent. So it is possible to demonstrate that Susan Davies had long-term opposition to this. She attended various meetings with the department and on 15 May 2000 attended a meeting with the Premier of Victoria, the Minister for Environment and Conservation and the executive director of Department of Natural Resources and Environment. One could suggest that Ms Davies was — to put it politely — in this up to her eyebrows. But what role did she play and why was she playing it? The committee has the capacity to ask those questions and to find the answers.

There is another issue that is important to turn to and that is the role of Mr Ray Leivers in relation to this. One of the key issues in relation to Seal Rocks Victoria and the problems it had was a decision made to close the road. Apparently Mr Leivers, on the instruction I understand — and the committee can find out if this is true or not — of Labor, that is the government, had said that Seal Rocks had to close its business operations at any time during the day at the discretion of the general manager.

This is another finding of the arbitrator. The arbitrator has found that this closing of the road caused significant problems for Seal Rocks and that it was one of the key reasons for the findings of the arbitrator in relation to this matter. Paragraph 228 of the arbitrator's report states:

> In view of my ruling as to what is the proper interpretation of the definition 'dusk' … in my opinion, it was the intention of the parties that the claimant should be able to operate its business up to 90 minutes after sunset. The parties assumed and correctly so, in my opinion, that the claimant could carry on its business without endangering penguins.

Paragraph 234 states:

> The closure times notified by the penguin parade manager have gravely curtailed the claimant in the conduct of its business during periods of the day which should have been very busy and lucrative for it.

In fact the issue was that Seal Rocks wanted to get people down there 2 hours before the penguin parade so they could come to Seal Rocks and then go on to the penguin parade. The manager used his discretion — and we do not know and the committee has the capacity to find out whether or not this was an instruction given by anybody — about the road being closed and a substantial amount of the business was put at risk. That led to some of the significant problems Seal Rocks had which it was trying to work through. The issue is that the contract had in it a clause, as I understand it, that required the government to act in good faith. One of the things the committee could concern itself with is whether or not on the evidence — the facts — the government behaved in good faith towards the proponents. That is a very open question the committee could at least look at.

In the end this matter was of such concern that some settlements were negotiated. I refer to a document from Michonne van Rees dated as being received on 18 July 2000 which I understand is a briefing note that went to the Minister for Environment and Conservation. In it she states in relation to the closing times:

> This is an area where Seal Rocks might be able to mount a reasonable case. They will argue that it is not unreasonable to expect that, when you sign a contract that says that you can stay open 90 minutes after sunset that in fact you are permitted to do so.

She is a good sensible straightforward bureaucrat it seems to me. That is not a bad comment to make to the minister. It continues:

> It is not clear how the provision for 90 minutes after sunset was included in the agreement, however, Seal Rocks advise it was included at a time when there was to be no car parking …

She goes on to say:

> It is possible that the arbitrator will determine that the Seal Rocks expectation is a fair and reasonable one and that the state should pay compensation for the revenue lost as a result of early closing.

Before this went to arbitration, advice went to the minister that suggests there is a case. It goes on to suggest that the cost would amount to about $1.46 million. It then outlines some of the arguments against it. The end of the previous paragraph says:

> Attitude of the Phillip Island Nature Park. Seal Rocks has made a number of allegations about what they consider to be an adversarial attitude on the part of Phillip Island Nature Park.

I remind the house that this is Michonne van Rees saying this:

> Seal Rocks will be able to table some evidence of actions that might be considered uncooperative.

This the government speaking — a bureaucrat speaking to the minister. She continues:

> We will argue that these are isolated incidents and have not had a material impact on the commercial performance of the centre.

The arbitrator's report speaks for itself.

She goes on, and in paragraph 10 she says:

> We cannot rule out the possibility that we may lose part or all of the arbitration with resulting financial and political consequences.

Crystal ball gazing of the first order! What have we now discovered? The arbitrator did, of course, find in favour of Seal Rocks in the material way that I outlined at the start of my contribution. We now have estimates of up to $60 million in costs to the Victorian taxpayer — maybe even more.

Eventually the issue went to arbitration. I need to put on the record the worth of the word of the Premier of this state. We know that this is a man who cannot be trusted. We know that this is a man who will say anything, do anything and forget about the truth. I shall read to the house what the Premier said on Radio 3AW on 27 June 2000:

> … It is going to arbitration, which is a facility under the contract where an agreed-on arbitrator can be appointed and decisions made about whether or not they should pay the revenue owed to the state. Now we will abide by that … we will abide by that arbitration, whatever it decides.

The Premier went on to say:

> If it decides against it, we'll still abide by it.

'We will abide by that arbitration', said the Premier of Victoria, 'whatever it decides. If it decides against it, we'll still abide by it'. He left out the words, 'whenever it suits us'. This is like the Reeves inquiry — as long as it suits us we will accept the umpire's decision. If it does not we will throw it out. This pontificating Premier of ours goes on and says:

> I implore and ask Seal Rocks to also abide by it.

'I implore'. What a hide that man has got! He goes on:

> The indication I have from public comments from Mr Armstrong and others is that if the arbitration goes against him he will not abide by it.

Guess who did not abide by it? The Premier of the state of Victoria.

The Deputy Leader of the Government can smile about the fact that the Premier walks away from his own word — —

An honourable member interjected.

Hon. BILL FORWOOD — All right, 'lied', I don't care. What did he do? He walked away from his own word; repudiated his own comment, made in public on radio. The Premier:

> … in good faith, if in the arbitration process it shows that we should take a course of action, withhold any revenue that was accrued to the state, we'll do that.

I mean —

meaning, 'I, the Premier' —

> I'll abide by the decision of the umpire in this case.

What did he do?

Honourable members interjecting.

Hon. BILL FORWOOD — Let me finish on this note: 'I will abide'. He gave his personal word. We now know the worth of the word of the Premier of Victoria — absolutely zip! Means nothing at all!

One of the reasons that this inquiry has been established is that we wanted the government to establish a judicial inquiry, and of course it would not do it. Not only is it hiding from judicial inquiries, it is hiding from FOI. I have a letter here dated 2 October which is addressed to a colleague of mine, Mr Ron Wilson, and it is about a

freedom of information application for Seal Rocks. It says:

> I refer to your request received on 7 August under the Freedom of Information Act … concerning documents written authorised or approved by the Executive Director Parks, Flora and Fauna between 20 October 1999 and 30 June 2001 about contractual disputes …
>
> I write to advise that the 45-day statutory response time … has expired.

It then goes on to say:

> NRE has received 64 FOI requests in July and August, which is three times the normal amount of 22 requests for a two-month period. Thirty-one of these … requests are from members of Parliament. Given this unexpected peak in the workload, I am unable to give you any firm time frame as to when your request may be finalised. I thank you for your understanding.

In other words, forget about the act, forget about responsibility, this is an issue that we do not want people to know about so we will just delay the FOI process. It reminds me very much of Mr Stoney's issue in question time today. Mr Stoney has issues that the government finds uncomfortable. They are to do with Shannon's Way. Despite the rulings of this house, despite the way this house behaves, we are now waiting and waiting because the government refuses to come clean. There is no probity in this government. Where is the transparency and accountability? There is absolutely none!

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — This is a government totally, completely and absolutely without standards. There is documentary evidence that the Minister for Environment and Conservation breached her ministerial oath in handing confidential information to another member of Parliament. This is a government without standards. It goes as much to its behaviour in relation to FOI or questions or the treatment of this Parliament as it does to its behaviour in relation to Seal Rocks.

What I say is, 'Do not give us the FOI documents if you do not want to — the committee has the capacity to send for them!'. I am sure that once it is appointed the committee may well consider that.

I will finish on two brief points. I am sorry that the members of the National Party are unable to serve on this committee. I understand the reasons the National Party members do not wish to serve and I am sure Mr Hall can speak for himself. I want to make it very clear that I am sorry they are unable to serve on this inquiry.

The second issue I wish to raise is that paragraph (d) of the motion states that the first meeting of the committee shall be held at 10.30 a.m. on Friday, 11 October. By agreement with the Deputy Leader of the Government, my colleague the Honourable Ken Smith will move an amendment to the motion so the first meeting of the committee will be held at 2.00 p.m. on Friday. Apparently that suits some possible members of the committee better than others.

I will finish on this note: yesterday we received the final report of the Reeves inquiry and it demonstrated once again inappropriate behaviour by this government. No-one knows what result this particular inquiry will come to. However, we know that it has the capacity to get to the bottom of another very stinky mess.

Hon. GAVIN JENNINGS (Melbourne) — The government will participate in the select committee to be established by resolution of the Legislative Council today. Government members will do that if for no other reason than we believe it is incumbent on us to provide adequate checks and balances and to scrutinise the operation of the select committee.

A clear indication of the value of participation in the procedures and considerations of a select committee is the evidence tabled in the Parliament last night in relation to the select committee known as the Reeves inquiry. If members of the Parliament or the Victorian community drill down and read the evidence in that report and consider the findings in the majority report and the minority report, they will soon discover that there are two sides to the story being told and that each has some degree of legitimacy and validity.

I would contest that the major difference between the minority and majority reports is there are a small number of findings in the majority report that cannot be proven on the basis of the evidence put before the committee and which therefore fall into the realm of conjecture and interpretation. As a member of the select committee, that is where I would differ from the findings of the majority report.

However, in terms of the calibre of the investigation, the calibre of the procedures of the committee itself and its consideration of the evidence, I have some degree of confidence that even though the government had minority status on the committee, a balance was almost obtained.

Hon. B. C. Boardman — You aren't endorsing it, are you?

Hon. GAVIN JENNINGS — To respond to Mr Boardman's interjection, I have clearly indicated to

the house that a number of the findings in the majority report clearly can not be established on the basis of the evidence presented to the committee. I have already made that clear to the house.

The government will participate in this exercise. When I heard the Leader of the Opposition foreshadow this motion in the chamber last night I was stunned to say the least by the scope of the inquiry. In my view it will clearly sheet home the blame to the Kennett government which was responsible for the establishment of the contracts underpinning the Seal Rocks development.

Hon. Bill Forwood — So you actually know the result before you start?

Hon. GAVIN JENNINGS — To respond to the Leader of the Opposition, he clearly has an expectation of what the committee may find. I come from a position of saying that the Liberal Party is absolutely hoping that the time frame laid down for this committee investigation will be interrupted by an election because it knows that before the committee concludes such an investigation it will find that the instability of the Seal Rocks development and the insecurity caused by the financial exposure of the state of Victoria stem directly from the nature of the contracts entered into and the unviable nature of the development proposals for the vicinity known as Seal Rocks.

I am comfortable with the scope of the terms of reference and believe they will clearly lay the blame with the previous administration. However, I have some concerns about the method and relative standing of the select committee vis-a-vis a number of important legal proceedings which are taking place as we speak. Members of the Victorian community who have followed this issue would be aware that there are appeals pending in the Supreme Court of Victoria relating to the decisions of an arbitrator appointed to determine the outcomes of conflict relating to the contractual and leasing arrangements underpinning Seal Rocks.

Under normal circumstances the Parliament might have said that being extremely mindful of those proceedings, it would not enter the field. The Parliament should also be mindful that the Auditor-General, who has a responsibility to the Parliament of Victoria to independently assess the validity of these matters and make determinations and recommendations in relation to them, has said that he is interested in investigating the nature of the contracts but he will not intervene until the appeal proceedings have been determined by the courts.

In my view that is an appropriate response by the Auditor-General. I believe it is more appropriate than the mechanism to be adopted by the house today. Proper independent scrutiny is more likely with the Auditor-General than with the partisan consideration of a select committee of the upper house which is formed along party lines.

Another concern I have about the way the committee may operate and its intent, purpose and method was touched on by the Leader of the Opposition in his contribution to this debate. He indicated that there is an agenda to cast light on the alleged actions of a member in the other place. In listening to his contribution I was particularly mindful that the Leader of the Opposition was going down a path of erring on the wrong side of matters relating to privilege in this house. Through intervention the Leader of the Opposition was pulled up, but I would be very worried if the select committee was not very clear about its obligations in relation to privilege matters. In my view, this issue bedevilled the considerations of the select committee which reported yesterday.

Hon. Bill Forwood — You are just trying to hide.

Hon. GAVIN JENNINGS — The Leader of the Opposition has introduced the concept of wanting to hide from this issue. I have nothing to hide from this issue but I am often lectured by members of this place about appropriate protocols and procedures of this place and the standing of the Parliament and this chamber and the proper values that underpin them.

I remind the Leader of the Opposition that we should be particularly mindful of matters that relate to privilege and the separation between the houses. That was something that bedevilled the previous select committee and has the potential to create difficulty for the houses in the investigation that may be considered under the scope of the select committee that is envisaged today. That is not to say that the Parliament does not have the right to investigate matters; I do not dispute that at all.

In summary, there are serious concerns because of the current appeals before the Supreme Court and the already foreshadowed independent scrutiny of the Auditor-General who is accountable to Parliament, and who has indicated that he will not intervene and investigate this matter until the Supreme Court matters have been resolved. Given the foreshadowed intent of the Leader of the Opposition to find some evidence about the actions and involvement of honourable members in the other place, there must be some concerns.

I have some reservations about whether the select committee will be able to get through the appropriate legal framework, statutory obligations and obligations to the Parliament and ensure we do not shy away from any of the important principles that underpin this investigation.

The current matter before the Supreme Court stems from an interim decision by the arbitrator and while I am alive to the allegations of the Leader of the Opposition that the actions of the government may fall foul of some statements made by the Premier in relation to abiding by the arbitrator's decision, I draw to the house's attention the fact that that has not failed as yet because the arbitrator has only made an interim decision. Before the arbitrator's final decision was made, an appeal was made to the Supreme Court on the basis of legal advice obtained by the government that the arbitrator's interim decision was incorrect in law. The Supreme Court will have the opportunity to provide advice either to allow the arbitrator to proceed to a final conclusion or rather to find an alternative appeal mechanism, or to provide other legal recourse. That is what the Supreme Court of Victoria is going to do.

In terms of the standing of the commitment made by the Premier, the government has not fallen foul of that undertaking because it may well be subject to decisions and recommendations of the Supreme Court that the arbitrator may proceed to a final report and recommendation. Then will be the time for the Premier's statement to be appropriately scrutinised in terms of whether or not that undertaking has been satisfied.

It is important to place on record the nature of the undertaking at Seal Rocks and the proposal, which has been the subject of much scrutiny and debate by the Victorian public. People should understand what is at the heart of the proposal as it was intended to be and the way it was established in the first instance. It is reasonable for me to provide a snapshot of the scope of the development and outline some of the issues that have bedevilled its establishment and have prevented it obtaining a viable status within the Victorian tourism and environmental tourism sector.

With the indulgence of the house I would like to read extracts from a feature article by Ewin Hannan that appeared in the *Age* of 10 August. In quite a visual way it provides an appraisal of what this development is all about.

Hon. Bill Forwood — Are you going to read the headline?

Hon. GAVIN JENNINGS — The headline is 'No seals, no tourists, no money'.

Hon. Bill Forwood — Not 'Seal Rocks. How Labor blew it'?

Hon. GAVIN JENNINGS — No it is not. The article captures it quite nicely. It states:

> You've waited three years for this moment …

It continues:

> And finally it's your turn. The family are squeezed into a lift for a journey deep underground. Arriving at the subterranean station you're ushered aboard a bullet train with 120 other excited tourists and whisked along a 2 kilometre track under the seabed.
>
> Disembarking from the train, you are directed to another lift. The first stop is an underwater viewing chamber. Through the windows you gape at the seals performing just beyond the windows.
>
> Back in the lift, you're transported 9 metres above the water to a huge, enclosed viewing platform. It looms over the waves like a semi-submerged Sydney Centrepoint Tower. From here there's a sensational view of seals lazing on the rocks below.
>
> And then you wake up. It was all a dream. It was Ken Armstrong's dream — a flash of inspiration that famously came to him on a Phillip Island fishing trip with a mate back in 1993.

The article continues:

> Then Premier Jeff Kennett shared his vision, signing off on voluminous contracts pledging the state of Victoria's cooperation and support. That was back in 1996. By early 1998, the $17 million stage one was a reality. Kennett opened the flash new Sea Life Centre, replacing the old Nobbies kiosk, with the declaration that it marked the beginning of a new era in tourism. What eventuated wasn't quite what he had in mind.
>
> Inside the centre, tourists could take a seat at the panoramic theatre and watch live footage of the residents of Australia's largest seal colony — they're enticingly close, so close you can smell them when the wind is right, but they're just out of sight. And therein lies the problem.
>
> A constant feed of reality TV live from Seal Rocks was supposed to be enough to keep visitors entertained until the tunnel and the viewing platform were in place. Well, that was the idea — but the laser-beam camera system went on the blink several months ago. It hasn't been fixed, so visitors have had to settle for a constant loop of old video footage of the seals.
>
> …
>
> … that most elusive creature of all, the international tourist, is rarely sighted …
>
> The inability to offer access to live seals is cited by the centre's operators, Seal Rocks Victoria Australia, as a key reason for the venture's failure …

> …
>
> … it all relied on that crucial, $65 million second stage of the development — the underground train and the futuristic viewing tower — and …
>
> There were other problems … Before the new Seal Rocks centre opened, the people running the penguin parade decided they did not want to be part of a joint ticket with the centre. Many residents were concerned about the development, particularly the decision to block road access to the popular Nobbies and potential dangers to fairy penguins.
>
> The former government, caught in a by-election campaign against Independent candidate Susan Davies, forced the operators to modify the centre's design and construct a car park they never intended building.
>
> Inside the centre, more problems brewed: six unfair dismissal cases, a sexual harassment case, breakdowns and problems with an indoor boat ride, an Environment Protection Authority investigation into the pumping of allegedly contaminated water into the penguin habitat and financial shortfalls caused by the lack of tourists.
>
> Monthly gross revenue had been forecast to reach $720 000, but the centre incurred a $3.7 million trading loss in its first year. The operators had reckoned on 70 per cent of the penguin parade's international visitors opting for a side trip to Seal Rocks. But only 3 per cent came. Many of those who did come left disappointed — they expected to see live seals …

I thank the house for allowing me the indulgence of reading the extract from that article. It may have appeared somewhat indulgent to rely so heavily on one article, but that article took a balanced approach to the vision splendid and the problems that bedevilled the development. In fact, it said that this was a highly adventurous, highly speculative and in some ways very futuristic and visionary proposal, but in my view it was also a fundamentally flawed proposal.

Hon. Bill Forwood — Is that the view you are taking to the committee?

Hon. GAVIN JENNINGS — I am just about to outline it. I have not outlined it yet. In my view the proposal was fundamentally flawed because there were a number of serious environmental concerns about it. Indeed, I indicated that concerns were expressed in the article about water discharge and the Environment Protection Authority's scrutiny. So there were serious concerns about the existing operation and the way the centre operated. I have serious reservations about the validity of the proposal environmentally.

I also have serious reservations about the financial projections that underpinned this proposal. As I indicated to the house, $17 million had been spent on the centre, and according to the business plan the only way to make the proposal financially viable was to sink a further $65 million investment into the centre. The centre was attracting only 3 per cent of the international tourists who were going to the penguin parade, and it was not going to attract a significant number of further tourists unless $65 million was invested on top of that $17 million.

We have perhaps created one of the largest viewing windows in any restaurant in the Southern Hemisphere, but the great tragedy of the vision splendid is that the very attractions that are supposed to draw people to the window to look out and gaze at them in awe cannot be seen.

The other great tragedy of this proposal is that the level of investment to make it viable was totally out of proportion with the level of support from the tourist community. A number of additional environmental factors meant that it was extremely dubious whether the business plan would ever be satisfied and whether the centre would ever be successful.

The nature of the contracts that underpin the centre has been the subject of much consideration by the arbitrator and will be the subject of consideration by the Supreme Court of Victoria, and I will not spend a lot of time discussing that matter.

Hon. C. A. Furletti — That is nonsense, and you know it. The Supreme Court matter is on a question of law and has nothing to do with that.

Hon. GAVIN JENNINGS — As a lawyer you would know absolutely that the contracts go to the heart of it. The arbitrator has made recommendations about his interpretation of law underpinning the contract, and the breaches that have been alleged by the arbitrator relate directly to provisions within the contract and go to the heart of what best endeavours are.

I do not want to predetermine the outcome of the Supreme Court consideration in any shape or form, but from where I sit they were extremely liberal interpretations of what 'best endeavours' means. In fact, they are interpretations of best endeavours in extremis, I would think.

Hon. C. A. Furletti — This is not relevant to the motion.

Hon. GAVIN JENNINGS — This is all relevant to the motion. If Mr Furletti chooses to live in a blissful state of denial about the importance of the contracts that underpin this inquiry, then he will have an awakening if and when this committee reports back to the Parliament in May of next year, as is currently envisaged.

The government would have greater confidence in the operation of the select committee if it had the capacity

to operate in a bipartisan or independent fashion. It believes there is clear doubt that any select committee in this place can operate independently because, as currently constituted, committees determine matters upon party lines.

The government notes with great interest that the National Party is not interested in touching this inquiry. There may be a whole variety of valid reasons why that is the case, but from a superficial political perspective you can understand why it may have serious reservations about the nature of this inquiry and the way in which it may operate.

I will be moving amendments to the motion moved by Mr Forwood which will attempt to introduce a degree of bipartisanship by increasing the membership of the committee to six, on the basis of three members being selected by the Leader of the Government and three members selected by the Leader of the Opposition, with the quorum being constituted by four members of the committee.

The amendments in my name are now being circulated. Firstly, I move:

> That the word 'five' be omitted in paragraph (a) with the view of inserting 'six'.

The effect of the variation would be that there would be six members of the committee — three selected by the Leader of the Opposition and three selected by the Leader of the Government, and that the quorum of the committee would be four rather than three.

I believe the people of Victoria, let alone the chamber, would have a greater sense of confidence about what we are trying to achieve here and where the balance of responsibility and the balance of blame — if there should be any blame apportioned in this matter — should fall.

The house has the opportunity to step up and say, 'Well, yes, we will take our chances about where the blame falls. We will take our chances, we will step up', but I doubt that that is likely to be the outcome. I would suggest that this exercise is for one purpose — that is, to create the opportunity to send some flak in the direction of a candidate in the other place in the envisaged election. Purely and simply, the Liberal Party intends to use this inquiry to drop out any information that may conveniently fall its way to cause embarrassment to members in the other place.

If that is not the case, it should step up to the challenge and make sure that this is a balanced committee. The courts will make a determination about whether or not the arbitrator has done a good job, and the Auditor-General will make a determination about whether or not the arbitrator has done a good job and the contracts have validity, and about the actions of the government in responding to the terms of the contract and the leases. Let us enter into our examination in a similar line.

As to responsibilities, after doing the lap of the last select committee I anticipate and have a sneaking suspicion that the responsibility and opportunity to be a participant in this future select committee may fall my way. At this point in time I would like to empathise with Iris Dixon, a cyclist who participated in the Masters Games and who, while doing a victory lap, unfortunately fell off her bike and damaged her hip. That is pretty much how I feel today. After the conclusion of the last select committee I am about to get back on the bike and do another lap. I empathise with Iris, who is in the John Fawkner Private Hospital. I send her my best wishes.

In the spirit of goodwill and cooperation I would also like to invite some members from the conservative side of the chamber to participate in the — —

Hon. Bill Forwood — Excuse me; Liberal.

An Honourable Member — We are not conservative.

Hon. GAVIN JENNINGS — No, the ultra-conservative side of the chamber! Perhaps three members could take up this opportunity for a swan song in their parliamentary career — three who played a pivotal role in the establishment of the Seal Rocks development and the contracts that underpin it. I refer to the former ministers of the Kennett government, Mr Craige, Mr Birrell and Mr Hallam. I issue a last-minute invitation for them to seize this opportunity. Just as I would see this as one of the pinnacles of my career, it would give them the opportunity to go out on a high note and make a valuable contribution to the Parliament about the nature of the decisions they may have participated in as members of the previous Kennett government about the establishment of the development.

I would be extremely interested to at some point in time hear the views of those former ministers about this proposal. Our sitting on the committee together would provide an excellent opportunity for us to share our views about whether it is an outstanding development, whether it was ever economically viable or environmentally responsible, and whether the conditions of the contract adequately provided

protection for either of those critical issues. If they decline the opportunity to participate in the select committee I would be happy to privately hear their views on the matter.

The government hopes the motion will be amended to enable the committee to be as bipartisan as possible and let the blame fall where it may. On this issue I think the responsibility and blame go back to the heart of the proposal and the contracts that underpin it. I think that will be clearly established by the select committee, whether there is a balance in the numbers or not.

The Liberal and National parties should support the amendment to the motion. One way or another — whether or not it is successful — the government will not oppose this motion and will participate in the select committee once it is established.

One more thing: I want to acknowledge the graciousness of the Leader of the Opposition on one item, which is his being accommodating with the timing of the first meeting. I appreciate that. I hope that is not the extent of the goodwill that is demonstrated during the course of the committee's deliberations.

Hon. P. R. HALL (Gippsland) — In consideration of the motion moved by the Leader of the Opposition I will firstly say what the National Party thinks about the role of this Parliament and the role it should take in its initial consideration of the motion moved today.

We support the right of either house of this Victorian Parliament to establish, either singly or jointly, a committee or committees to investigate matters of public importance. We believe that is an extremely important function of the Parliament of Victoria. Indeed, the custom and history of this Parliament have been that a number of committees have always been formed — some of them have been standing committees and joint committees involving members of both houses, and some have been singular committees where members of only one house have had membership. We believe they have played an important part in this Parliament being able to carry out its duties in inquiring into matters of public importance.

Other committees which we have spoken about are select committees, and this motion seeks to establish a further select committee of members of the Legislative Council to inquire into the matters framed within the motion moved by the Leader of the Opposition. This is the third of such select committees proposed to be formed in recent times. Of the previous two, the first related to an issue surrounding the Frankston central activity district development, and the other more recent one related to the managing director of the Urban and Regional Land Corporation. I believe both inquiries produced some valuable and worthwhile results.

The Frankston central activity district development inquiry report was the catalyst for some further government-initiated inquiries into matters raised in that report. The effectiveness and worth of the select committee formed by this house has been proved with the outcomes of that first report. Only yesterday the report of the select committee inquiring into the managing director of the Urban and Regional Land Corporation was tabled in this Parliament. Without yet having had the time to look through the contents of that report I will say that I am sure its explanations of issues surrounding the content of that inquiry will be equally valuable.

I think the previous two select committees established by this house in recent times have brought with them some significant benefits which have helped the Parliament discharge its duties in a responsible manner.

Today we are looking to establish a third select committee, and I am pleased to indicate that the National Party supports the motion moved by the Leader of the Opposition, for reasons of both the issue concerned and also the issue of principle — the ability for this house to establish select committees to inquire into matters that it believes are of significant public importance.

I thought this government would have been more enthusiastically supportive of this motion, given the fact that it is this government which wants to change the role of the Legislative Council to, to use its words, better reflect and take into account public opinion from time to time. Here is a significant issue, but the response from the government today was that, yes, it will participate, but that it will only participate — and essentially the words of the Honourable Gavin Jennings were — 'to add a level of protection to the criticism the government will invariably receive' as a result of this inquiry.

They do not agree with the principle of establishing the select committee; they only want to cover their own tracks in this particular issue. That is the only reason why they will participate. That is a poor and pathetic reason for participation when they are the government and party that claim they need to reform this house to make it more reflective of current public opinion. That is a pathetic response and reason given for their participation in this inquiry.

Hon. W. R. Baxter — Their intent is to stymie the committee's work, is it?

Hon. P. R. HALL — I will come back to that, Mr Baxter, with their amendments. While we support the principle of establishing a select committee, the question that the National Party needs to consider is, whether the issue is one of sufficient public importance to take this next step. I suggest the evidence that has been put to date in this chamber by the Honourable Bill Forwood and also publicly through the various media reports that the public of Victoria has received on the Seals Rocks project overwhelmingly supports that this is a matter of extreme public importance and well worth this house of Parliament establishing a committee to inquire further into it.

Today we have heard in the debate already about issues raised in the interim arbitrator's report, such as breaches of contract, breaches of lease provisions, and questions about the management of this contract between government and the Seal Rocks corporation. We have also heard that the government's internal documents suggest faults that were attributable to the government.

The compelling reason I believe this is a matter of public importance is that the taxpayers, the people of Victoria, will be liable for up to an estimated $60 million of their money because of the incompetence of the government in managing the contract over this Seal Rocks project. If $60 million of public money is about to be wasted then the people of Victoria are entitled to know why this has occurred. It is expected that the select committee will help us get to the bottom of this issue.

In terms of whether this is a matter of public importance sufficient to establish a select committee, we say yes. On the principle of the establishment of a select committee, we also say yes. That should always be an important function of this Parliament. On both of those accounts we are pleased to indicate our support for this motion.

I will now make mention of the National Party's involvement. Nobody would dispute that the National Party is keen to participate in a full range of functions and activities undertaken by the Legislative Council. We do participate. Despite being a small party we speak on every piece of legislation that comes before the Parliament. We participate in all debates that take place in this Parliament, and sometimes we even complain bitterly because we do not reckon we get a good enough go in terms of order or the number of speakers. We participate on all of the Legislative Council standing committees in this Parliament, and we participate on the vast majority of joint committees as well.

We have participated in the two previous recent select committees by being part of their membership, being represented by my colleague the Honourable Roger Hallam. I pay great tribute to him for his important participation and involvement in those two select committees. For us to attend special committee meetings in Melbourne involves invariably a full day out of our schedule. It is not only 2 hours for us as it might be for metropolitan-based MPs. It involves at least a full day travelling to Melbourne to attend committee meetings and returning back home.

In the case of the Honourable Roger Hallam, who lives at Hamilton, it often involves an overnight stay. The time commitment involved in participation on committees like this is immense for us in the National Party. We do it as often as we can. On this particular occasion we were invited to participate prior to the finalisation of the motion. I thank the Leader of the Opposition for the invitation to participate, but at this point because of the work commitments of the six members of the National Party in the Legislative Council we are unable to participate on this occasion. But I say 'on this occasion' only because we will be back on future committees. We have participated in those in the past, and we intend to continue with our tradition of participating in the full range of the activities undertaken by the Legislative Council. I hope that explains to the house why the National Party has not accepted the invitation to be part of this particular select committee.

The last thing I wish to go to is the issue of the amendments moved by the Honourable Gavin Jennings. The National Party will be voting against them for the following reasons. Firstly, it is our strong view that committees are always best able to manage their work and come to decisions if there is an odd number of people on the committees. It is a simple thing like that. With equal numbers on a committee even giving the chairman a casting vote imposes too much responsibility on the single member who is supposed to be chairing that committee. Committees always work best with odd numbers, where there will always be a clear-cut decision as to the views of the membership on particular matters.

Secondly, the primary reason why we in the National Party will oppose these amendments is the reason the Honourable Gavin Jennings gave at the outset of his speech for why the Labor Party is prepared to participate on this committee. He essentially said that it was only prepared to participate to protect the

government's position in the inquiry. What a cynical exercise it would be to have a membership of three members from each side if he says the only reason Labor will participate is to protect the government's position. All that means is that the amendments proposing a membership of three and three are only being moved to thwart the effective operation of the committee. What more could one conclude? Let us see this for what it is — a cynical exercise by the Labor Party to deflect any criticism whatsoever it might get out of this inquiry by trying to have a membership of three Labor Party members and three members of the opposition.

There is no way known that the National Party can bring itself to support the amendments moved by the Honourable Gavin Jennings. For the reasons I have outlined today, because overall we think it is an important principle that either or both houses of this Parliament should be able to establish select committees to inquire into matters of public importance. We support the motion. We believe that this being a significant matter involving a loss of up to $60 million of taxpayers money also ticks it off as a matter of public importance. Finally, we reject the amendments because of the cynical way in which they have been moved purely to deflect criticism of the government in this particular exercise.

The National Party will be supporting the motion and opposing the amendments moved by the Honourable Gavin Jennings.

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

House divided on omission (members in favour vote no):

Ayes, 25

Ashman, Mr (*Teller*)	Hallam, Mr
Atkinson, Mr	Katsambanis, Mr
Baxter, Mr	Lucas, Mr
Birrell, Mr	Luckins, Ms
Boardman, Mr (*Teller*)	Olexander, Mr
Bowden, Mr	Powell, Mrs
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs	Ross, Dr
Craige, Mr	Smith, Mr K. M.
Davis, Mr D. McL.	Smith, Ms
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr
Furletti, Mr	

Noes, 14

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! The division has tested the other two amendments circulated by the Honourable Gavin Jennings.

Hon. K. M. SMITH (South Eastern) — I reflect on the words of the Honourable Gavin Jennings. He spoke about a dream that Ken Armstrong had in regard to developing probably an Australian tourism e-icon, and maybe even a world tourism icon in regard to Seal Rocks. It was to be seen to be an ecotourism site that people would travel around the world to come and see.

I was one of the lucky people who saw a video of the proposed development down there at the Nobbies at Point Grant. To see the idea and the dream that Ken Armstrong had was, I thought, fantastic. I was a great supporter of that development and I was a great supporter of the people who had put their money in. It was all private sector money that went in towards the development of this particular ecotourism development. A lot money went into it, and a lot people's hopes and dreams were dashed by this government when it was not prepared to give support to the business. Never at any stage in this whole development have the developers of Seal Rocks, Victoria, Australia, ever asked for one cent to come from the government in support of their project.

I was extremely disappointed when this particular development went to the arbitrator. I thought, 'Why has it reached this stage? It should never, ever have happened'. And then I reflected back on some of the things that had occurred over a period of time. Some of the complaints that I had been made aware of in regard to the actions that were taken by the people from the Phillip Island Nature Park, including Ray Leivers, who I considered to be a good manager and a person I had a good rapport with in particular and a person who I had always been happy to work with. It disappointed me to find that he was closing the gates when buses full of tourists were arriving to go up to have dinner at Seal Rocks, to have a look at the display and then to go back down to the penguin parade to be able to see what is also a tourism icon for Australia, not just Victoria.

I raised the issue with our people from the government and spoke to them about the problems. It seemed to fall on deaf ears. I am talking deaf ears as far as the Department of Natural Resources and Environment was concerned. I am sure the committee will hear later of the lack of support that was given by Michonne van Rees in regard to this particular project and the complaints that were being lodged at the time.

We have to ask a little about why there was a lack of support. A lot of it goes back to local representation down there by Susan Davies, the independent member for Gippsland West. My very first contact with the honourable member was at the protest meeting that she had organised down at Point Grant before the building was ever started.

Rob Maclellan, a minister at the time, was there looking at the site which had been marked out with lime where it was going to be. Susan Davies was running the campaign down there and controlling everything that occurred down there. She had brought the bus loads of people in from Wilsons Promontory who had been protesting down there. She had brought them to Point Grant to protest about the proposed development.

They complained about the car parking. The story about the car parking was that it was never to be on that site. All the cars were to be parked at the penguin parade and the people were to be bussed up so that there would be fewer cars on the road. That decision was made not by the developer but by the Department of Natural Resources and Environment and the complaints should have been lodged against the department and not against the developer. That was part of the problem that occurred at Seal Rocks — some people could get car parking spaces after a decision had been made to put in on-site car parking following pressure from the public and the honourable member for Gippsland West, Susan Davies. Some people were able to get car parking and some people were not. You could imagine people going down to the reserve to have a look at the seals to find that they could not park. They did not want to drive back to the penguin parade to be bussed in. The developer at Seal Rocks had provided two buses for people to be moved backwards and forwards but they would go off in a huff and never want to go back to the place because they could not get there to see it and could not park nearby. That was part of the problem: the closing off of the gates by the rangers, at the direction of Ray Leivers, and the unpleasant attitude taken by the rangers.

Problems occurred further on regarding Susan Davies. Mr Jennings mentioned there would never be the development of the tunnel or the tower that was going to rise within about 50 metres of it. There was. It was going to be stage two of the development. There was no doubt about it. Tourism Victoria introduced the company called Macro which was prepared to put up $65 million towards that project and to become partners in the business. That was until the local member, Susan Davies, went to Macro and said, 'There will be no further development there. Don't waste your money. I have no confidence in Ken Armstrong to be able to manage that project properly. You'll be wasting your money'. So a company that had been introduced by Tourism Victoria had been told not to even consider being part of that development because it was not going to happen, and $65 million walked out the door. I hope the committee will look into the actions of Susan Davies in that matter because it is a concern to me.

I hope it also looks into the alleged break-in and the alleged involvement of the honourable member for Gippsland West, Susan Davies, her alleged involvement with Mark Forbes, the *Age* reporter, and the local police officer who was doing the investigation, and the possibility of Ms Davies's involvement in that police investigation and we would see it was there to discredit Ken Armstrong and the work he was trying to do.

I am very pleased that this upper house committee will be set up so that it can look at this concern. I hope it will look at some of the issues that have been raised such as why we, the taxpayers in the state of Victoria, have to pay up to $60 million and possibly in excess of $0.5 billion, as it is now possible a decision will be made for loss of future earnings. That is what the developers are now asking about. When it is set up I would like the committee to look at some of those things. Why should it be a burden on the taxpayers of Victoria? That money could have paid for two-thirds of the Pakenham bypass, the upgrade of the Bass Highway, or for gas to be distributed around the Gippsland West electorate. It could have paid for almost any development. The amount of $60 million could have been payment for 20 new schools to be built in the area, but no, this government blew $60 million.

Mr Jennings also mentioned a report in the *Age* of 12 August. By interjection my colleague and leader talked about the headline 'Seal Rocks: how Labor blew it' and talked a bit about the problems.

I quote from a report in the *Age* early in 2000 concerning Andrew Roger who was appointed by the government to monitor and report to the Department of Natural Resources and Environment on the project and its progress. It states:

> 'The company is wounded and bleeding seriously,' Mr Roger told the department's senior bureaucrats. He reported that the company was incurring ongoing financial losses and would have to find $750 000 to $1 million to remain solvent.

The article goes on to say:

> More significantly, Mr Roger reported that the government appeared to have breached its contract with the operators. He said the breaches were subject to legal redress, and that the company was likely to pursue 'expensive and publicly

> damaging action' against the government unless the dispute was resolved.

This was in early 2000. The government was warned.

> Mr Roger's report is dynamite. It shows that Labor was told three months after coming to office that the facility was in serious trouble, and that the state was in breach of the contract with Seal Rocks and faced costly legal action.

So the government had been warned. It had an opportunity to get out of the problem. An article in the *Age* of 9 August 2002 headed 'Cabinet blew its chance on seal site' states that:

> Draft advice prepared by the cabinet office shows that the government was warned of the prospect of litigation by the operators, but that the cost was forecast to be in the range of $1 million to $1.5 million.

It was $1 million to $1.5 million and finished up at nearly $60 million. You have to question the sense of some of these people. The article continues:

> One senior government source said yesterday that Ms Garbutt had been keen to reach a settlement at that time. 'She was recommending settlement in the order of $3 to $4 million but our legal advice was that the figure was smaller', the source said. 'In the months and years afterwards, we sat on our hands and watched our exposure go through the roof.'

All this could have been avoided. The arbitrator's decision could have been avoided, the $60-million payout could have been avoided and the fiasco of the remnants of Seal Rocks that are sitting at Point Grant could have been avoided. We could have had a business that was working. All it needed was for the government to actually do something to try to assist the developer. The shame of the whole situation is that it was an icon in world tourism development and we should have been very pleased that it was happening here in Victoria.

The Honourable Gavin Jennings raised the question of whether we could discuss this and set up a committee and whether we should be concerned about the rule of sub judice. We sought advice from the Clerk of the Legislative Council, and his reply reads in part:

> In my view, no case can be made out for the application of the rule in this instance. This is not a criminal matter and as far as I am aware it has not been listed for hearing in the civil jurisdiction of the Supreme Court. No rights of individuals are at stake and the matter is one which the house can quite reasonably consider in the public interest.

So we are doing what we believe and the independent Clerk of the Legislative Council believes is right and correct in order to set up this committee.

I have an amendment that I would like to move in a show of the Liberal Party's good faith in regard to the setting up of this particular committee and to try and assist the Labor people to ensure that they can participate in this inquiry to find out what went wrong at Seal Rocks. The Liberal Party would be prepared to work with them in making some small changes.

I move, as an amendment to the motion moved by Mr Forwood:

> That the expression "10.30 a.m." be omitted in paragraph (d) with the view of inserting in place thereof "2.00 p.m.".

Amendment agreed to.

Hon. JENNY MIKAKOS (Jika Jika) — I wish to speak to the motion that has been moved by the Leader of the Opposition this morning. The motion is indicative of the problems that we face in Victoria with an undemocratic and gerrymandered upper house. We have just seen very reasonable amendments put forward by the government to have a balanced committee for this inquiry voted down by members of the opposition because this is a grubby political exercise designed to get the honourable member for Gippsland West, Ms Susan Davies. It is having a go at an Independent member of this Parliament.

Hon. D. G. Hadden interjected.

Hon. JENNY MIKAKOS — It is a vindictive exercise. Opposition members cannot get over the fact that Ms Davies had confidence in supporting this government three years ago and they are using every means at their disposal, including this undemocratic chamber, to have a go at an Independent member of this Parliament.

Hon. K. M. Smith — On a point of order, Mr Deputy President, I just cannot believe that I heard the words that came out of the honourable member's mouth. 'This undemocratic chamber'? She is reflecting on this house; she is reflecting on you, Mr Deputy President, and on every member in this house by calling this chamber undemocratic. I would like her to apologise to the house for what she has just said.

Hon. JENNY MIKAKOS — On the point of order, expressions such as this have been used by members of this house on many occasions. We can refer back to *Hansard* if you like on the last time we debated the constitutional reform bills in this chamber. I certainly look forward to the debate we are about to have, perhaps next week. The facts clearly demonstrate, if Mr Smith cares to look at them, that the method by which honourable members are elected to this house is undemocratic, and that is something we are seeking to redress.

The DEPUTY PRESIDENT — Order! I find there is no point of order. It is part of the debate in this place, and I ask Ms Mikakos to continue.

Hon. JENNY MIKAKOS — I find the inquiry that is being established to be highly unusual in that legal proceedings currently on foot are yet to commence and we have in the motion, as part of the terms of reference of this inquiry, a reference to a break-in at the Seal Rocks centre that occurred back in 1998. Presumably the inquiry is intending to look at matters relating to the police investigation. I would be interested to hear what the Honourable Cameron Boardman had to say on this matter of having an upper house inquiring into the adequacy of a police investigation. I am sure that the Police Association might also have something to say on this issue.

It is highly unusual, and I would say it is without precedent in this Parliament. We have seen from the contributions we have had from members of the opposition that the only reason they have included this reference to the break-in and the subsequent police investigation is in an attempt to again besmirch the honourable member in the other house, Ms Susan Davies. This is quite clearly a witch-hunt. Members of the opposition intend to use this whole exercise as an attempt to cause political damage to Ms Davies. That is really quite appalling because the honourable member will not have the opportunity to clear her name in this inquiry other than by making an explanation in the other house.

We know that the whole issue of Seal Rocks and the way the opposition has gone about this inquiry is a pathetic attempt on the part of the opposition to hide the fact that a Kennett government contract entered into many years ago set off this train of events. I should point out that the terms of reference for this inquiry require the committee to investigate the involvement of the Victorian government. I note that 'Victorian government' includes the Kennett government, as the predecessor to this administration. The committee will have the ability to call former ministers of the Kennett government — for example, the former Premier, Jeff Kennett, and the former Treasurer, Alan Stockdale — and to seek information relating to the Kennett government's involvement in this contract and the circumstances which led to that contract being entered into.

The inquiry should look at issues such as the involvement of not only the current government but also the previous government in the development of the Seal Rocks concept. It should look at the expression of interest and tender processes of the Seal Rocks centre. If the committee is to do its job properly, it should look at the preparation of the original contract and the evaluation of the feasibility of the project, including the financial, business, planning and environmental feasibility of potential operations at the Seal Rocks site. In addition, the committee should consider the original operation and potential additional stages of the Seal Rocks concept. If this inquiry is to do its job properly, it also needs to look at the signing and monitoring of the Seal Rocks centre contract, the site rectification and other management issues.

In their eagerness to have a go at the honourable member for Gippsland West in the other place members of the opposition have set out on a process that will get to the heart of the matter — that is, a flawed contract entered into by the Kennett government and a commercially unviable concept. This concept was never going to be commercially viable: the financial projections on which it was based were obviously flawed, and the inquiry should address all of these issues.

Another issue the inquiry should consider is the contradictions and ambiguities in the contract entered into by the previous government which left the state and the people of Victoria exposed. The committee should look at the circumstances in which that contract was entered into.

Clearly the Seal Rocks contract was rushed to meet a Kennett government launch in 1998 and it was signed off without all appropriate due diligence having been completed. This made it extremely difficult, if not impossible, to manage the environmental requirements necessary to protect surrounding wildlife within the Phillip Island nature precinct.

In his contribution the Leader of the Opposition talked about breaches of contract. It would be very interesting for the inquiry to look at when these breaches began. It is my contention that the breaches which may have exposed the state of Victoria initially occurred under the Kennett government and related to the way the contract was set up and the unviable nature of this whole concept.

A range of issues need to be looked at here. If the opposition is committed to uncovering the truth — as its members claim — the committee should be prepared to investigate all of the facts, including the knowledge and concerns Kennett government ministers may have had about this contract. The Department of Treasury and Finance, the Department of Natural Resources and Environment and other departments had concerns about this whole concept and the inquiry should look at the

flawed nature of the concept and the contract entered into by the Kennett government.

The government has been prepared to participate in this inquiry; the Deputy Leader of the Government indicated that in his contribution earlier on. It was disappointing to hear from the Leader of the National Party that despite the fact that National Party members are supporting the motion, they do not consider this matter to be important enough for them to contribute by being part of the committee of inquiry. I repeat the challenge laid down by the Deputy Leader of the Government: members such as the Honourable Roger Hallam and the Honourable Mark Birrell — ministers in the Kennett government — should participate in this inquiry. I am sure they would offer an important historical perspective. I would be very interested to know what their views were on the commercial viability of this concept when the matter was first proposed to the Kennett government in 1996.

The opposition parties have raised some quite spurious arguments for rejecting the considered amendments put forward by the Deputy Leader of the Government which sought to bring a balanced approach to this inquiry. The Leader of the National Party indicated the difficulties that would be presented if we had six members on the committee and the potential problems that would present to the chairman of that inquiry. If that is a problem, then I am quite sure that a government member participating in the inquiry would have been very happy to chair the inquiry and to do so in a fair and impartial manner. Obviously that opportunity will not be afforded, based on previous inquiries and select committees established by this house where we have seen members of the opposition take the chair's position purely as a means of orchestrating their own political ends.

The Liberal and National parties should stand condemned for holding a witch-hunt on behalf of a failed operation that is now the subject of legal action. It is quite inappropriate for them to be seeking to hold an inquiry that may well assist an operator who is now suing the people of Victoria to wage a claim for compensation.

The opposition knows that the contract entered into by the former government is at fault here, yet it has the nerve to pretend that crucial evidence does not matter. The opposition knows that the operation was doomed from the start yet it is seeking to rewrite history in the contributions that opposition members are making to this house today. For example, the Honourable Ken Smith talked about how potentially the site was going to be a world icon in the tourism area, yet opposition members know that that site and that concept was never going to achieve the levels of international tourism that had been predicted. The whole concept was flawed from the outset, and they are now seeking to attribute blame to the current government.

The inquiry being established here today exposes the hypocrisy of this chamber that sets itself up as judge and jury yet is prepared to only canvas one perspective in this matter. I have indicated some of the issues that the inquiry should look at if it is to come up with findings that reveal the truth of the matter. I encourage all members of that inquiry to come to it with an open mind, to investigate all of the issues that are relevant to the matter, including the circumstances leading up to the entering into of the contract, and focusing in particular on the due diligence that occurred before the contract was signed and the financial and business feasibility studies conducted by the previous government before the contract was entered into.

On that basis the government will not oppose the establishment of the inquiry. I encourage all members of the committee to seriously look into all of the circumstances behind the situation that we have here today with the Seal Rocks centre and to do so in a manner that is not designed to inflict political damage on one member of this Parliament.

Amended motion agreed to.

DROUGHT: GOVERNMENT ASSISTANCE

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

> That this house acknowledges the seriousness of the drought currently ravaging much of Victoria and calls on the government to detail its drought preparedness strategies to assist farmers, small businesses and rural communities withstand the financial and psychological stresses which inevitably accompany severe dry times.

I am not moving this motion necessarily to be critical of the government. I move it to enable the Parliament — the people's forum — to have an opportunity to discuss a very important matter in much of Victoria which will seriously impact on metropolitan Melbourne in due course as well. It is quite appropriate that Parliament should turn its mind to the current very serious drought and examine ways of assisting both farmers and small businesses who rely on farmers for their cash flow, and the population at large, to manage their way through it until the seasons return to some normality.

I would be the first to acknowledge that drought is part of the Australian landscape. It is acknowledged that Australia is one of the driest continents in the world and

has a variable rainfall. All farmers would understand and acknowledge that drought is part of farming in this land and that we must plan for it and manage it. Most farmers do that. The drought proofing of farms and the preparing for drought — the storage of fodder for future droughts, the increasing water availability for stock and the like — have received great attention in the last decade or so.

One might say, 'This is just another drought. We know they are going to happen, why are we particularly concerned about it?'. There are a couple of differences on this occasion. In some respects the drought could be divided into two distinct components. In the dryland areas of Victoria, particularly in the traditional grain growing areas of the Wimmera and Mallee drought is to some extent a normal event. Periodically the Mallee has very dry times. To some extent this year, with crops on the verge of failure, the financial impact of this event is yet to hit. Grain growers do not receive their income over the year, they receive it in January and February following harvest, so at this time their cash flow is not particularly affected. But they know that come January and February they are going to be in serious trouble, and perhaps they have some time to prepare for it.

We have to start discussing and looking at what might be necessary next autumn in the way of crop planting assistance to help farmers. They will not be harvesting any seed this year and have paid out large amounts of money on fertilisers, crop sprays, diesel fuel, repairs and the like. How are they going to sow a crop next year?

I turn to 1983, which was the last time we had a serious event in the Mallee, particularly around the Sea Lake area, where the honourable member for Swan Hill in another place in particular and the then members for North Western Province, Mr Dunn and Mr Wright, did an extremely good job managing through that drought. The Labor government at that time made some provision for crop planting assistance for the following year. We should be beginning to work our way through that situation in the Mallee in readiness for next year.

The areas that are most afflicted and most ravaged by this drought are the irrigation areas of Victoria, particularly in the Goulburn Valley, and that is a very unusual circumstance. Most people would think that if you have irrigation, you are by and large quarantined from the ravages of drought. And, yes, that has largely been the situation since irrigation was provided to the Goulburn Valley 60 or 70 years ago, but it gives me no pleasure to report to the house that this is the first time ever that Goulburn Valley irrigators will not receive their full entitlement of water right.

Traditionally they have received 100 per cent of their water right; most years they have received something more than 100 per cent; and in good years they have had available up to double — 200 per cent — of their water right. This year, for the first time ever, there will be a shortfall in their water right because full water entitlement is simply not there in the dams and therefore cannot be delivered.

If one looks at the state of the storage levels one can see why that is. Lake Eildon, the major storage for the Goulburn Valley, is presently at only 24 per cent of capacity, and Lake Eppalock, which provides water down the Campaspe River, is only 25 per cent full. It is easy to see what a diabolical situation Goulburn Valley irrigators are now finding themselves in, and this comes in the fifth year in which things have been very, very tight indeed.

In the first year when it looked as if we were not going to get 100 per cent water right, which was four or five years ago, that was a really sobering event. As it turned out, we eventually got some late spring rains and scrambled to 100 per cent water right by February. We thought it was a one-off event — perhaps we hoped it was a one-off event — but we were too optimistic, because it happened again the following year, and again the next year, and this year — lo and behold — we are again in a diabolical situation.

I will refer to a press release from Goulburn-Murray Water, the main supplier of irrigation water to our great food producing districts in northern Victoria. It was issued on 18 September and is headed 'Worst drought on record'. It quotes Mr Hannan, Goulburn-Murray Water spokesman, as saying:

> This is an extended drought which is now entering its sixth year. The recent rains have made little difference to our water reserves and irrigation farms in the Goulburn system are facing the worst drought on record …

That is a pretty substantial claim to make. It goes on to say:

> The combined August inflows to Lake Eildon and to Goulburn Weir are the lowest since 1902 …

After 102 years of history and records, we now have the lowest inflows in that time. This is the sobering bit:

> 'The failure of the winter and early spring rains means the majority of the period in which high inflows usually occur is now behind us. Even with average inflows to the catchment during the remainder of spring, we would still be facing severe water shortages this season' said Mr Hannan.
>
> …
>
> This week we announced a 41 per cent water right allocation for growers on the Goulburn system which is the lowest

> September allocation on record. We also forecast only 2 chances in 10 of reaching 100 per cent water right allocation. This season is shaping up as having the most serious shortage of water in the current six-year sequence …

That is the circumstance that irrigators on the Goulburn system are now facing, and it is having all sorts of consequences.

We now have water trading. Water trading was introduced about a decade ago and it has been a very useful device for farmers to buy and sell water on the market. Water usually costs about $30 a megalitre when it is delivered to farm — that is what farmers pay Goulburn-Murray Water for it. In the past the water market has been somewhere around that figure in good years, and it has perhaps been up to $60 in tight years.

A Goulburn-Murray Water press release of 3 October stated that the Greater Goulburn zone traded a volume of 1350 megalitres at a price of $353.50. That is an extraordinary price to be paying for water, and what is more, there were unsuccessful buyers seeking a further 15 000 megalitres and they were willing to pay up to $357 a megalitre for some of it!

Hon. E. J. Powell — Water trading has been very helpful this year, Mr Baxter.

Hon. W. R. BAXTER — It has indeed. Water trading has been most helpful, but the price of that water is indicative of the desperate straits of many farmers in the Goulburn Valley, particularly dairy farmers. They are not just facing a decline in milk prices of some 30 per cent. Most members of the Labor bench, if they were here — it is disappointing that there is no-one here from the Labor Party to discuss drought except the Minister for Education Services — —

Hon. D. G. Hadden — I am here!

Hon. W. R. BAXTER — I beg your pardon. Ms Hadden is here. Anyone in the Labor Party who was on a weekly wage and who had a 30 per cent decline in their wage would believe their throat had been cut. That is what dairy farmers were facing in any event, even if the season had been good. However, they are now in the situation of having to decide what is the least cost option to work their way through. They know they are going to make a loss and they know they are in a very tight situation, but there are a number of management decisions they can make and a number of alternative actions they can take, and they are desperately trying to work out what is the least cost option for them.

One that comes to mind immediately is to reduce your herd, and that is going on. On the front page of today's *Weekly Times* there is an article headed 'Herd cull'. One only has to look at the picture of the several hundred cows waiting for slaughter at the Tongala abattoirs to see that they are not old chopper cows that have reached the end of their natural and useful lives, but that they are good quality younger stock which are being sent off to the abattoirs simply because they cannot be sustained on farms because there is no water to grow feed for them.

The tragedy of all this is that these cows will have to be replaced at great cost when the drought breaks, whether it be next year or whenever. It is very sad to see this good stock — this highly productive stock — being slaughtered, but it has to be done. That is one of the options that the dairy farmers can consider. The other option some dairy farmers have looked at is buying water, but given the figure I have just quoted, it would be a very brave dairy farmer indeed who thought he could carry his herd through to next year if he has to go out and pay $353 a megalitre for water. That might be an option for some very well established farmers, but clearly that is not an option for many people.

Farmers could go out and buy feed — that is another option — but the question arises: where can you buy hay? We had a couple of good hay seasons and a lot of hay was conserved in northern Victoria, but it has all been used up. You can go to Gippsland and buy some, yes, at a great price. It is no use going into New South Wales for it, because most of New South Wales is drought declared and there is no hay available there. You could buy grain, but again, we are seeing the cost of grain go through the roof, not only because our harvest in Australia is going to be slashed, but because of climatic circumstances elsewhere in the world.

The United States of America and Canada, the largest grain producers in the world, are also suffering dry times, so their crop yields are down and their prices are rising. In Europe it is the opposite circumstance; Europe has had big floods. Europe is a big producer of grain, but much of it has been damaged by floods this year. Europe's production is down and naturally the prices are under upwards pressure there as well. So it is not necessarily an option to buy grain, because the prices are just not economic.

Many of our dairy farmers are caught in this juxtaposition. Do they destock and sell their herds and sell their water, or do they try to manage their way through?

By and large most farmers are working their way through it fairly well, but some are not. I will come to that in a moment. The state's horticulturalists with

permanent plantings, which are mainly in the Goulburn Valley, are under great difficulty as well. If we look at what some of them are doing, for the first time they are hearing of concepts such as regulated deficit irrigation. This is a concept used to control the vigour of trees by reducing water use. Given less water the trees grow less and demand less water. It is not the best way to get production, of course, but it might help you get through.

One of my constituents, Mr Ian Bolitho of Invergordon, was reported in today's *Weekly Times* as saying:

> 'I elected to cut down a hectare of my least profitable pears to about 30 centimetres from the ground…

In other words, in language I understand, he has cut them off so they are now only a stump a foot high. He is also reported as saying:

> 'It will take them many years to grow back but at least I am conserving water.'

You can imagine the sort of stress you would be under if you were a horticulturalist and had to cut down your trees so they were only a stump a foot high. That is pretty dramatic action to take, but that is the sort of action people are being forced to take.

There is also a great deal of worry about the future of the stone fruit industry — and the Goulburn Valley is the premier stone fruit area — because the tree roots are so shallow and desperately need water. Even if the trees do not produce a crop you have to keep them alive for subsequent seasons.

Another of my constituents, Ray Poole, is reported as saying he has:

> … spent thousands on pruning and thinning to grow a crop with less water, but with fruit that is the appropriate size for the market.

In other words, he has heavily pruned the tree and has thinned the crop as much as he can so that what fruit he does get will be of a saleable size. That is an indication that farmers are taking the tough decisions. They are not sitting back crying for assistance and saying, 'Why won't someone come and rescue us?'. They are taking the good, tough management decisions and looking at all their options. I commend the farmers for doing that. I am very proud of the fact that they are taking these actions.

But one of the main issues I find as I move around my electorate is the impact on the small businesses in our country towns. It is those people who are now really bearing the brunt of this drought. They are seeing their cash flow evaporate as their sales decline. They rely so much on farming families, and a lot of expenditure can be discretionary. You can even put off buying a new pair of shoes, and you certainly do not paint the house or buy a new car. We are seeing that a lot in our country towns, where this contraction is occurring and people are beginning to wonder what the future is for their business. For example, look at the people involved in entertainment in country towns. That requires discretionary spending as well, and people have pulled back from that.

This of course has a multiplier effect. As businesses are forced to put people off the downward spiral gathers speed. If you look at some of the industries in country areas which rely on farm products — for example, at the dairy factories — you will see that they will get a lot less milk this year. They may well have to shed some staff. If you look at the crop-dusters, who have aeroplanes going around spraying, you will see that they have not sprayed for months. They have had to reduce staff. The multiplier effect is working its way through the economy, and of course will eventually hit the city as well. It will take a little longer; nevertheless, it will hit with a vengeance. I think we will see our gross state product very substantially diminished by the effect of this major drought we are having at the moment.

In the motion I mentioned not only financial but also psychological impacts. To me this is the greater problem we have to grapple with. Families out there are finding it very difficult indeed to come to grips with the emotion of the drought — the fact that their income has dried up, their crops are dying and they are having to let their herds they have built up over many years go by selling them off. They almost know the cows as personal friends, and in this circumstance they are having to sell them. That is a very severe psychological jolt for many people. It has not been helped — this is where I will be critical of the government — by the reluctance of the government, particularly the Minister for Agriculture, to acknowledge that we were in fact in a drought situation.

Mr Hamilton is a lovely bloke — you would have to say that about Keith Hamilton — but at the end of August I was with him at the Rutherglen research station, where he made some I thought appallingly insensitive comments about the seasonal conditions. I excused him on that occasion saying, 'Well it is just the end of August; we are just getting to the beginning of spring. We can still be rescued from this if we get an exceptional spring'. I gave him the benefit of the doubt. But I was appalled — absolutely disgusted — to hear him on the *Country Hour* on Friday, 27 September — a month had gone by and the drought had clearly tightened its grip right across northern Victoria very

substantially during those intervening four weeks — still refusing to label it a drought and still talking about having to get to next June before farmers would be entitled to any assistance.

It was such a contradiction. We have heard about $1 billion being spent on the Scoresby freeway, we have heard about what has been spent on the Melbourne Cricket Ground and the Commonwealth Games, and we see the sort of money this government can splash around to satisfy the unions and the like, yet there was a refusal to even acknowledge that country Victoria is in the grip of a very serious drought.

Hon. P. R. Hall — That shows where its priorities are.

Hon. W. R. BAXTER — It does show where its priorities are, Mr Hall. Metaphorically speaking, that Friday afternoon during the *Country Hour* I could just about hear people spluttering into their cups of tea at hundreds of kitchen tables in farmhouses around Victoria. It was just an appalling example of a government out of touch with reality in country Victoria.

Fortunately it was only five days later, at the Elmore field days, that the Premier acknowledged that we had a drought. He released a package the government has put together which will offer some assistance, at least to certain farmers. I would have to say that I think it is a reasonable start. The Leader of the National Party, Peter Ryan, was also at Elmore that same day. He welcomed the government's initiative and also characterised it as a reasonable start.

The eligibility is fairly tight. If honourable members look at the Rural Finance Commission's web site and go through the eligibility criteria — and I will not go through it in the house today — they will see they are tight, there is no doubt about that. A lot of farmers will fall just outside the eligibility criteria. There will be a bit of angst about that, and there may need to be some finetuning, but the basis is there for a reasonably good package.

However, I ask the government to look at the case of share farmers. As I read the eligibility criteria if you are a share farmer you will not fall within these guidelines at all, yet a number of share farmers out there — and I spoke to several myself at the Elmore field days — are in my view probably in a more difficult financial and stressful situation than the actual landowners. I think the criteria ought to be extended so that share farmers are at least considered for some assistance. I certainly make that request of the government today.

We might need to look at some other measures — for example, the Goulburn-Murray Water rates or what farmers pay for their water. In the past they have always received their full entitlement so there has been no question about paying for their water, but I think the Minister for Consumer Affairs would be the first to concede that if you do not receive something that has been contracted to be provided to you it is a bit rough if you have to pay for it. I am sure the immediate response by the Minister for Consumer Affairs would be, 'If you don't receive it, why should you pay for it?'.

This will be the circumstance in the Goulburn system. The Murray irrigators will be all right because they will get 100 per cent. They will pay their rates, not with glee or pleasure but with gratitude because they are receiving their entitlement, but the Goulburn Valley irrigators are not. The government has to give some consideration to bridging the gap by paying the difference to Goulburn-Murray Water between what irrigators receive in percentage terms and the full entitlement. Goulburn-Murray Water cannot be left to carry the debt because it is struggling financially as it is. It would be unfair to expect it to have to absorb it, but the government needs to give attention and consideration to its picking up the tab at least in part if not in whole.

If there were one thing that I got out of the Elmore field days where I manned the National Party marquee — I was pleased to have a visit from the Honourable Andrew Brideson at one stage — it was that amongst farmers, water entitlement was the no. 1 issue: 'How are we going to pay for the water we are not receiving? It's unfair; we haven't got the cash to do it, can you do something about it?'. I invite the government to give this matter serious consideration because that would be seen as of tremendous assistance to these farmers who are under this particular difficulty.

The other request I would make to the government is that as well as the drought assistance package it has announced we need much more to have the Department of Natural Resources and Environment reaching out to all farmers in the drought-declared areas. Most farmers are managing well, but a significant percentage feel isolated, who feel no-one wants to know about them, that there is nobody they can go to for help. The former Minister for Agriculture, Pat McNamara, took action in the Gippsland drought 3, 4 or 5 years ago when he had his department contact either personally by calling in or by telephoning every farmer in that drought-declared area.

Hon. P. R. Hall — It was greatly appreciated.

Hon. W. R. BAXTER — Yes, I have heard that many times: it was appreciated. Most people did not need the direct assistance or help, but they appreciated the contact and the offer. What it did was to identify those who were in desperate need and under a great deal of stress, whose families were perhaps beginning to disintegrate because of the financial pressure and stress that was on them, and it enabled the department to concentrate on delivering some support and assistance to them. I ask the government to repeat Pat McNamara's example because it worked. There was a similar example carried out by Barry Steggall, the honourable member for Swan Hill in the other place, on a much smaller scale, as I alluded to earlier, in the 1983 drought where personal contact was made, and that is what got people through. One thing the Parliament can say to the government today is, 'Get your people much more proactive out there in identifying those who are struggling and need a hand on the shoulder, identify them and help them — show that they are not forgotten'.

I commend the actions of big business and some of the media in recent times, the *Herald Sun* in particular, for its Farmhand appeal. It was not about how much money might be raised or what might be done with the money; it is the recognition factor, the demonstrating to farmers that they are not alone, that the cities do care for them and understand that they are going through tough times and they are prepared to offer some help. I think there is a reservoir of goodwill in the suburbs and cities towards farmers. There always has been. We tend sometimes to think that it is weakening, and it probably has weakened from what it was when most people had a direct relationship with someone who was living on a farm: that is gone but there is still a reservoir of goodwill out there that can be tapped.

One thing that this drought might do is again reinforce the fact that when people go into the supermarkets and buy that litre of fresh milk, the lettuce, the juicy orange or the succulent steak and look at that cheap, abundant, top-quality food that we have in our supermarkets, they realise that it was produced by a farmer. Sometimes we hear that kids no longer realise that. In some way this drought, oddly, might reinforce and re-establish the fact that Australians all enjoy the best quality and cheapest food in the world. Where did it all start? It was produced by a farmer. It will also get the message over that these farmers are under pressure and need some help to get through it.

Finally, the situation can be best summed up by a letter I received from the Echuca branch of the United Dairy Farmers of Victoria which went through much of what I have outlined today, particularly regarding dairy farmers and the shortage of water. It makes a couple of suggestions about how they might be helped and talks about those who might need to leave the industry. It is a well-put-together letter, and the final paragraph in capital letters states:

> We implore you and your colleagues to grasp the seriousness of this situation as time is of the essence.

If ever I have heard a cry from the heart from someone who is saying, 'Look, we're doing it tough, we need a bit of help', it is this letter. I have contacted this person and we will work this through. The Parliament has to act and show that it understands what the situation is in country Victoria in this unique circumstance in our irrigation areas for the first time ever of not having water entitlements available, and certainly what the prospect might be next year if we have another dry year — heaven forbid, but we do not control it: we might have another dry year next year and that will be horrendous, so we have to prepare for it. Parliament should be discussing that and thinking about what it should be doing about it in the future, and more than ever, the government must deliver on its rhetoric to help farmers. The package is a good start. More can be done and more personal contact must be undertaken. We all need to be in this to help our farmers manage their way through this particular very serious circumstance that is confronting us.

Hon. PHILIP DAVIS (Gippsland) — I am pleased to join in the debate today on this important motion because it formally recognises the Parliament's view about an important matter before rural Victorians affecting people not only in country Victoria but in the whole of the state. It is important to recognise that obviously the consequence of drought is to be felt firstly on farms, but secondly by the farming communities in terms of local impacts on employment opportunities and particularly on small businesses which are established to support those farming communities.

One of the consequences of drought is the inevitable impacts on cash flow for farmers, but in a real way the effects are felt just as quickly, and for many small businesses more quickly, by agricultural supply firms simply because not only is there the problem for the farmer managing his own circumstance but when a small business is involved — for example a fuel, fertiliser or tyre reseller who is supplying essentially a farming community — then all of the clients of that business share exactly the same cash-flow problem. The consequence is that it becomes dire for that small business.

For example, last Wednesday in Donald I spoke with a small businessman who services the farming district who informed me that his turnover had dropped by some 60 per cent in the last year.

At the end of the last financial year the business had a taxable profit of $189, which is the smallest profit it recorded for many years. More importantly, even since the end of the financial year cash flow has declined further significantly and clearly that business is now writing to its creditors about deferring repayment or payment of invoices and asking for increased credit terms. I simply use that as an illustration of how this prevailing drought will affect the whole economy, not just farmers but country towns, and, as the Honourable Mr Baxter pointed out, it will have a severe impact on the gross state product.

There is absolutely no doubt that this is a severe drought. Members of the house mature enough to recall will remember many severe droughts in the past. For many of us one of the most significant in eastern seaboard terms is the drought of 1982–83, but the consequences of the conditions we face today are much more severe than that, because that drought occurred after a period of relatively average rainfall whereas northern Victoria has been suffering for six years with extended dry conditions. Therefore, water conservation has been very low and there are very low levels in all the dams. More importantly, certainly in the dryland farming areas, there is absolutely no soil moisture whatever.

In joining this debate today I want to make a few observations. I do not perceive that there is an empathy, understanding or awareness of the significance of the problems facing rural Victoria because of this drought. Only a week ago yesterday the Premier did a fly-in, fly-out visit to Elmore to announce the declaration of a drought. He got there only by dint of being dragged kicking and screaming to make the announcement.

When one looks back at the last several months when representatives of farming communities have been pointing out to the Victorian government the need to make a drought declaration every prevarication or excuse that could be found was used to avoid making any commitment.

The most important response to a drought condition which has the endemic impact of the conditions we are experiencing is for people who are feeling under exceptional pressure to know that their circumstances are understood. The mere statement by government, community leaders and the Premier that a region is in drought provides an enormous fillip in terms of the attitude and outlook that that community experiences.

It is the case that while there is an expectation that governments assist farmers during the course of droughts, the most important assistance is the recognition of the plight just as inevitably following a fire or flood there is recognition that there has been such an event. Droughts sneak up on the community progressively and they get to a point when there is just no capacity in that community to respond further. That has been the case in many areas of northern Victoria for quite some time this year, particularly and especially in those areas that are very productive, irrigated districts where there are significant levels of horticulture and dairy production. We have to have sympathy for dairy farmers who have had their water allocations significantly reduced this year.

As has been pointed out, this year will be the first time in more than a century for many people in the Goulburn system when 100 per cent of water entitlements will not be received. From some perspectives that is simply a financial task to manage, but the reality is that it is beyond the financial capacity of most farmers to deal with such an unusual event.

It is a disappointment that the Victorian government failed for so long notwithstanding the representations which were being made to it to acknowledge the drought. It is interesting, for example, that on 4 September the Premier outlined his plan for action on the drought threat. His plan of action was to set up a committee — not even to declare that there was a drought — to look at dry seasonal conditions. It would have been much better had the Premier at that time said, 'Look, we are in a drought. We have to take advice. Let's get on with it', but he chose not to do that.

He established a committee of a number of members of the task force chaired by the Minister for Agriculture in the other place, but that committee of 11 people included only 1 farmer. That is amazing!

It was interesting that the urgings of opinion leaders such as the *Bendigo Advertiser* were ignored notwithstanding that even as recently as 14 September the editorial in that newspaper states:

> It is time for Steve Bracks to get real decision-makers up off their bums and out in the field, talking to real people about real farming and under real conditions.

That sums up the situation in Victoria at the moment. We have a slow-moving, non-empathetic government process that does not relate to the real needs of farmers. I was heartened to hear Mr Baxter's reflections on the

drought in Gippsland and the response in 1997. West Gippsland Department of Natural Resources and Environment officers were tasked to contact every family in that district by phone initially. Then there were follow-up contacts made in person as were required. References were made to a reinforced rural financial counselling service.

The result was that the conditions that were somewhat unique and certainly very difficult in west Gippsland at the time were managed much more effectively because of the recognition of the difficulty of the conditions for each of the farmers. Obviously these interface contacts are required in the current circumstances.

There is no reason whatever in our view that the government should not immediately undertake such a program. On 18 September the Liberal Party set out its response on the drought because the government was disinclined to make any statement. The first thing the Liberal Party proposed to do was recognise that there was a problem and to commit to providing genuine assistance. The major problem of course is to recognise the existence of drought.

We then proposed that the DNRE officers telephone every farmer in the drought-affected areas to ask what assistance was required, as was done by the coalition government in 1997 in west Gippsland.

The Liberal Party said departmental officers will visit each farm, on request. It proposed to expand on the existing rural financial counselling network to meet the needs of farmers. It proposes to provide relief for ratepayers affected by drought and in particular to deal with the reality of the inability of farmers to meet their charges from rural water authorities and cartage of their water entitlements. There is a matter of clear equity in respect of the failure by the water authority to deliver the full entitlement and then to require payment for 100 per cent of same in any event.

We also proposed that there should be immediate relief in terms of financial support along the same lines proposed and implemented in New South Wales. There has been support in New South Wales for drought-affected farmers for more than 12 months, and our view was that Victoria should be adopting similar measures. Notwithstanding that the Victorian Farmers Federation view is that cash grants are more flexible, it was certainly the case that the proven method of providing immediate assistance to farmers has been successful in the past and has been working well in New South Wales. Further, we propose that there should be assistance in relation to transport of full water in circumstances that was a problem both for domestic and livestock support.

We also recognise — and this a major issue for the dryland farming areas — that the cash flow problems due to crop failures will impact adversely on proper re-establishment for some grain growers. Therefore our view is that there needs to be support through access to loans for crop establishment, and our view was that the Rural Finance Corporation should facilitate the establishment of financing arrangements to assist crop establishment for next financial year. I guess that is going to be probably one of the biggest issues for north-western Victoria.

The most critical thing which yet remains to be done is for the Victorian government to sign on to the new national Exceptional Circumstances (EC) program, which will allow access to assistance from the commonwealth. As a matter of principle all the state and territory governments have agreed with the federal Minister for Agriculture that the existing arrangements for exceptional circumstances can be much improved, and at the primary industry ministers conference in May of this year agreement was reached on the new proposals. However, the Victorian government has refused to sign on to those new arrangements, which means that farmers, who might otherwise be eligible and/or become eligible for assistance under the new EC guidelines for cash grants of up to $60 000 per farm unit, will not be able to access those cash grants simply because the Victorian government has not signed off on those new arrangements.

The Victorian government has missed a significant opportunity to provide a new level of assistance to farmers that ought to be available. It is well recognised that the current EC arrangements narrowly restrict the access because farm business assistance is limited to interest subsidies for businesses which have, of course, a significant level of debt, being those that optimally receive the most support. It should not be the case that the business assistance is limited to interest subsidy. There are many other issues which assistance can be directed to, particularly, as I have alluded to, the need to feed and water livestock, and the need to have cash available to re-establish crops for the next year.

Of course the commonwealth government recognises the problem that exists in Victoria and it has unilaterally announced that in relation to the farm family welfare support, irrespective of the lack of interest by the Victorian government the federal government will, on receiving an application which prima facie meets the test before referring for a form assessment, automatically grant eligibility to farmers in the defined

areas within the application. This is an important step forward because, notwithstanding the delays being caused by the lack of agreement between the state and the commonwealth, farm family welfare support will be available in relation to applications for EC. Therefore I urge the Victorian government to get its act together, to identify those areas that prima facie will meet the new EC guideline requirements and to start to prepare applications, but importantly to fast-track those applications, and to sign off on the new arrangements to ensure that Victorian farmers are not prejudiced in their access to commonwealth assistance by the fact that there is bureaucratic delay, and that there can be expeditious application processes and that the farm business support package is adopted so that cash grants can be remitted from the new national EC arrangements to farmers in Victoria. That will be an enormous assistance.

It is clear that this government is out of touch with the needs of farmers and therefore I can only urge that the government listens to the advice members of this house have offered it.

Debate adjourned on motion of Hon. D. G. HADDEN (Ballarat).

Debate adjourned until next day.

MEMBERS STATEMENTS

Stonnington: liquor licences

Hon. ANDREA COOTE (Monash) — I raise the matter of the request from Stonnington City Council that the Minister for Planning and Minister for Small Business invoke a 12-month ban on the issuing of new liquor licences. The request for the ban comes in response to a community safety forum in Prahran where the residents raised concern about safety in and around licensed premises and the number of licences that are being granted in that area. Those honourable members who have been to the Chapel Street–Commercial Road area will have seen a number of drunken and high youths milling around at any given time, frequently causing disruption.

The forum was very well attended by local residents, traders, the council and local police as well as the honourable member for Prahran in the other place, Leonie Burke, who has been great in the job working with the council on these issues.

The ban, which will also prevent licensed venues from extending their hours and crowd capacity, will give the Stonnington council time to conduct a full review of entertainment policies and address concerns raised by the community.

I ask the ministers involved to support the wishes of the Stonnington council to ensure that it is able to address the safety problems that are a huge concern to the Prahran community.

Bill Shorten

Hon. R. F. SMITH (Chelsea) — I rise to congratulate Bill Shorten, the national secretary of the Australian Workers Union (AWU), on his call at the royal commission into the building industry that the commission take into account the largesse of major companies in the way they structure salary packages for senior executives.

Working men and women have had enough, and so have small shareholders. The federal government has done nothing. Why would it? It will not attack its mates. Bill Shorten has stated that when dealing with large companies the AWU will demand an audit of these salary packages and do what it can to ensure the interests of workers and small shareholders are protected. I wish him and the AWU well in this innovative approach.

John Arnold

Hon. B. W. BISHOP (North Western) — I congratulate local Mildura resident, Mr John Arnold, for his tireless work as Mildura Country Music Festival president.

Mr Arnold, along with the organising committee, hosted another fantastic festival for Mildura, which saw accommodation houses booked to capacity and clubs, pubs, shopping centres and other performing areas filled wall to wall with country music enthusiasts. This festival is only possible because of the work put in by people like John and the support of the Mildura Rural City Council and the community as a whole. The country music festival has grown over years, and this year's event had the best ever attendance, with a host of talent to keep fans entertained. It has firmly established Mildura as a country music centre. Each year the festival sees the emergence of talent locally, statewide, interstate and overseas of songwriters, singers and bands who come to Mildura to entertain residents and those who are prepared to travel to attend. The festival brings in many hundreds of thousands of dollars, with the money going on accommodation, meals, petrol, and people buying souvenirs and attending the many attractions the area has to offer.

I again congratulate John Arnold in his position of president of the Mildura Country Music Festival and for organising such a wonderful event for our area.

Italian Club Cavour

Hon. C. A. FURLETTI (Templestowe) — Today I would like the Parliament to join with me in congratulating the Italian Club Cavour on the occasion of the 85th anniversary of its foundation on 20 September 1917. The Italian Club Cavour was the first social club formed in Victoria for Italian migrants, who had been arriving here since settlement but in increasing numbers during the gold rush.

Over the weekend of the 20 and 22 September the club celebrated its milestone with an exhibition of memorabilia at the Italian Institute of Culture in South Yarra and a classic Italian style lunch at its Bulla clubrooms. The club's former headquarters in Cecil Street, South Melbourne, provided a meeting place and serviced the needs of members of the Italian community for many decades. Past presidents and committee of management who laid the sound base upon which the club developed are to be applauded for their commitment and dedication.

I acknowledge the work of Mr Renato Rigon, Mr Tony Iacovino, Mr Annito Raiolo and the committee of the club for their successful promotion of the activities commemorating the anniversary.

The Italo–Australian community is ageing rapidly, with much of its early history and records being lost or destroyed. The Cavour club is undertaking a project to collect and store articles, and to exhibit those articles in the interests of future generations of Italo–Australians. I am sure all members of Parliament join me in wishing the Italian Club Cavour ongoing success. We look forward to celebrating its centenary in 2017.

Westgate Migrant Resource Centre

Hon. S. M. NGUYEN (Melbourne West) — I rise to congratulate the Westgate Migrant Resource Centre, which is based in Altona North. The MRC has done many good jobs helping many community ethnic organisations made up of people from many parts of the world: Europe, Africa, Asia and Latin America. Many projects are funded by the Victorian Multicultural Commission, showing how the Bracks government is committed to supporting ethno-specific organisations, especially the newly arrived groups and groups for the elderly in Altona.

The centre has also conducted many specific programs in newly arrived migrant communities. The communities appreciate the help of the centre. The management committee has a strong relationship with the state government and the local council in assisting migrants to settle into their new country. I would like to acknowledge the good work of the Altona MRC.

Ross Collins

Hon. E. J. POWELL (North Eastern) — I pay tribute to Ross Collins, who rode around country Victoria during Parkinson's Awareness Week, which was the week of 8 to 14 September. Ross rode around mostly country Victoria to raise funds for and awareness of Parkinson's disease. Ross called his ride the Shake, Rattle and Roll Tour, so he has a sense of humour.

I had the opportunity to speak with Ross, and of course also to give him a donation, when he rode through Shepparton on his Harley-Davidson with his young son Jack and his support team, who were also on Harley-Davidsons. He met the Kyabram and Shepparton Parkinson's support groups and the Harley-Davidson group.

Ross is 41 years of age and was diagnosed with Parkinson's disease six years ago. It was devastating for his family. Parkinson's disease is a progressively debilitating neurological disease, and it has no cure. Michael J. Fox and Mohamed Ali are two of the people we know well who also suffer from the disease.

The funds raised by Ross will be used for special accommodation for young sufferers. They are usually accommodated in aged care facilities, which are totally inappropriate.

I commend Ross Collins for his commitment to raising awareness of this disease and for the impact he has on people's lives.

Eastern and Scoresby freeways

Hon. W. I. SMITH (Silvan) — I condemn the Bracks government for failing to deliver on the Eastern Freeway project and for retendering the extension of the Eastern Freeway in an attempt to hide another of its failures to deliver a major infrastructure project.

The Bracks government has had three years to make this project happen. The Kennett government left office in 1999, leaving a budget with the money to pay for the extension. The Bracks government promised it would do it. It promised it would extend this freeway but it has walked away from the outer eastern suburbs. It has broken its promise and ensured that massive time delays and increased costs will result because of this

decision. The project, which was scheduled to finish in 2005, under Labor will not be completed until 2007. It is also massively over budget. The original cost of the Eastern Freeway was $255 million. This has now blown out to $400 million.

The Scoresby freeway has also been delayed. Federal and state money was scheduled to start flowing to fund this project this financial year, but under the Labor government no work will commence until at least 2004. The cost has increased from $900 million to $1.4 billion.

The *Age* in an article reviewing the Bracks government's action, says:

> Potentially six weeks from a state election campaign, voters should be highly sceptical about the Bracks government decision to recast the Eastern Freeway extension and Scoresby freeway projects.

It has also cast uncertainty and question over tolls. I condemn the government for its broken promise.

Hellenic Writers Association of Australia

Hon. JENNY MIKAKOS (Jika Jika) — On 22 September 2002 I was pleased to attend the opening of the first photographic exhibition of the Hellenic Writers Association entitled 'Portraits of Greek-Australian writers' which was held in Northcote. The photographs were taken by Costas Athanassiou who has done a marvellous job capturing each of the talented writers included in the exhibition.

Writers have a special place in enriching our culture and society. In the past we have seen writers who have shaped public opinion, even brought governments down. We have seen that in the case of Mr Vaclav Havel, for example, a poet and human rights campaigner who became a political prisoner and ultimately president of his country. Writers show us the value and power of ideas and the written word.

Due to the Hellenic Writers Association being based in my electorate, I have had a long association with it. The association was founded in 1992 for the purpose of promoting literature and the arts within the Greek–Australian community. I have been very impressed at the number of publications produced by the association over the years and I want to take this opportunity to congratulate the Hellenic Writers Association on its 10 year anniversary and to wish the association and its members well for the future.

Basslink project

Hon. K. M. SMITH (South Eastern) — I would like to talk about the Basslink project and the decision that was made in the Liberal Party room yesterday in regard to its position on that much-needed project that is going to be implemented, $500 million worth of investment, to allow electricity to flow both ways from Tasmania to Victoria and into the national grid.

What does Labor do? The main concern of the people in the Gippsland area is the stringing across the paddocks of Gippsland and country Victoria of those powerlines. I think 180 towers are to be installed. What does the Labor Party do? It is prepared to go ahead on the basis of stringing the lines across.

The Liberal Party's position is that this is a much-needed project and it must go ahead. The National Party has said it must go underground. We want it to go underground but we at least have come up with a logical solution to the problem. When the Liberal Party is elected to government at the next election it will be prepared to sit down with the Basslink people and say, 'Right, let's negotiate a commercial outcome on this project'. To me this is the best and fairest way to do it. We are talking about $50 million or $60 million, the same amount of money that the current government wasted on Seal Rocks. We are prepared to have this project go ahead, underground the powerline — —

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! The honourable member's time has expired.

Baimbridge College, Hamilton

Hon. E. C. CARBINES (Geelong) — I recently attended a full day seminar for female students at Baimbridge College called 'It's a girl thing — positive futures for girls'. Close to 200 girls from 13 schools, both state and private, attended. They participated in workshops such as 'My brilliant career', 'Walking tall' and 'Making yourself heard'. Keynote speakers included female Deakin University engineering graduates, international aid agency workers and me as the only female member of Parliament between Geelong and the South Australian border.

It was a most successful and enjoyable day and I would like to congratulate Sue Smith and Rosemary Morgan of Baimbridge College for their wonderful work on behalf of young women in the Western District.

Asylum Seeker Welcome Centre

Hon. G. D. ROMANES (Melbourne) — I would like to commend the actions of many Moreland citizens who have banded together to establish a new welcome centre for asylum seekers. The Brunswick-based Asylum Seeker Welcome Centre was opened two weeks ago by the Minister assisting the Premier on Multicultural Affairs and has been established in a Uniting Church hall in Sydney Road, Brunswick. The centre aims to help potential refugees refused aid by the federal government and people on temporary protection visas.

The centre was established through community donations and painted by asylum seekers. It provides a range of assistance and services such as migration advice and links to welfare and community groups, but it is primarily a safe meeting place for those adjusting to life in Australia without support. What is most important about the Brunswick Asylum Seeker Welcome Centre is that it is a gesture of friendship from people in Brunswick and surrounding areas to those seeking a new home in that community.

I congratulate coordinator, Margaret Gibson, and the many volunteers involved in this initiative.

LOCAL GOVERNMENT (UPDATE) BILL

Second reading

Debate resumed from 16 May; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. N. B. LUCAS (Eumemmerring) — I am pleased to have the opportunity to speak on the Local Government (Update) Bill. Let me say at the outset how disappointed I am in the Minister for Local Government in another place. This bill was placed before us in this house for a first and second reading in the autumn sittings of this year. When that occurred the opposition noticed the size of the bill — in terms of the number of pages it is quite extensive. At that stage I spoke briefly to the Minister for Local Government about the bill. He said that once the bill had gone through the upper house it was the government's intention to defer it until the spring sittings.

I thought that was fair enough. It has happened before. It happened with local government bills when I was in local government, and that was for quite a few years. It was not unusual for a bill to lay over until the next sittings, which enabled local government councils — there were a lot more of them then — to look at the legislation and respond.

Given that the minister indicated to me that it was his intention that the bill lay over until the spring sittings, I spoke to the shadow Minister for Local Government, the honourable member for Prahran in another place. She went to see the minister, and he indicated the same thing to her as he had to me — that is, it was his intention to have the bill lay over until the spring. That was all fair enough, but the opposition members in this place wondered why this house should not also have the opportunity to consider what councils and people interested in local government thought about the bill before allowing it to go through. The opposition made the decision, supported by the National Party, to defer this bill in order that we could get some feedback from councils before we dealt with it in the spring sittings.

I am disappointed with the Minister for Local Government, because the following day he quite unfairly, untruthfully and improperly put out a press release saying that the upper house was obstructionist and that the Liberal and National party members were time wasters. The media release said:

> Mr Cameron said upper house obstructionism would mean local communities would have to wait at least four months before important reforms to strengthen local democracy … could be implemented.

In this press release the minister blamed the Liberal and National party members in this house for doing exactly what he told me and the shadow minister on different occasions he was going to do himself.

I could use a lot of adjectives but I like to be nice. This is politics, and it is said that politicians say all sorts of things. This is a very good example of a politician who has done the wrong thing. This is a good example of a politician who has used a situation to his own ends knowing that he was telling an untruth — that he was unfairly dealing with the truth. I am greatly disappointed with the Minister for Local Government in another place for taking this position. He should be ashamed of himself because he knew what he had said to me and what he had said to the shadow minister. Maybe the minister did not write the media release, maybe one of the senior minders in the Labor Party decided to use what had happened in this place as an excuse for some other reason — and we all know what that reason is.

I do not think the Minister for Local Government is living up to what he is suggesting councils should live up to. The second-reading speech that came from his

office, which I assume he will read when this bill goes to the other place, says:

> While we recognise the contribution made by people in public life, the community also expects a certain standard of behaviour from its elected councillors.

I expect a certain standard of behaviour from the Minister for Local Government, and I do not think the community has received it in this case.

The second thing to say is the Labor government began this project in November 2000. When it set out on this project the government put out briefing papers and had many meetings and discussions, yet it has taken two years to get anywhere. It is nearly November 2002 and the initial investigations and the project launch were nearly two years ago. That is a long time to end up with the bill we have before us today.

The government circulated a paper listing the issues and asked local government to tell it what it wanted and thought. It said. 'These are some of the proposals. Please respond to us'. The government was effusive in seeking responses from the local government community and anybody else who was interested. That was wonderful, but once the bill came out this year the government was less effusive, and it did not go to the same lengths to find out what local government thought about the bill. When Liberal Party members wanted and finally got a briefing on the bill, the adviser said the government had already briefed the Australian Services Union on a number of occasions and the Municipal Employees Union was happy too. As the Bracks government does, it had had the bill ticked off by the unions first, and then it went out to others to see what they thought. I think that is the typical order for this government: go to the unions and then to anybody else it thinks might be relevant.

In my opinion the consultation process has not been as effective as what was proposed by the government in its first paper. That is a bit of a shame because this is where the rubber hits the road. The bill contains the specifics which will apply to local government in the future if it passes through both houses. I would have thought that councils and others interested in local government should have had a better opportunity to make comment on the bill.

A whole lot of things are not included in the bill. There is nothing about fixing up a number of issues to which local government has referred in recent times. One classic case is the matter of adverse possession. That has affected a council quite severely lately but there is nothing about that in the bill.

I want to make some general comments about some of the issues in the bill. I look forward to the committee stage, when opposition members will be seeking some clarification of the issues in the bill. I foreshadow that we will wish to move a number of amendments, but more of that later.

The recognition of local government is an issue that is included in the bill. Frankly, that suits me fine. When I was in local council my council — and I agreed with it — did quite some work when there was the possibility of the Australian constitution being amended to recognise local government. Since that time various state governments in their own ways have tried to do their best to ensure that local government is satisfactorily and sufficiently recognised in the statutes as being a worthwhile, appropriate and needed level of government in the Australian system of government.

Again the government is putting its spin on the question and inserting a preamble in the bill which recognises local government. Interestingly on two occasions in the same clause — clause 3, proposed section 1(2) and (4) — are the words that a council should be accountable to the local community. I agree with those words. Importantly, that provision and the fact that it is proposed to include a local government charter in the bill is something with which the opposition has no problem. One of these days local government may get even stronger recognition, but changing the Australian constitution is not an easy thing, so I am not holding my breath in that respect.

The power to suspend councillors is referred to in clause 11. I note it provides that the minister can recommend to the Governor in Council that all councillors of a council be suspended. I do not have a problem with that. It is a bit narrower and less encompassing than it used to be, but sadly we have seen, particularly in respect to Australian Labor Party-dominated councils, the need to suspend councils from time to time because of their inability to effectively manage and operate local affairs.

Sadly there is a similar situation at the moment in another ALP-dominated council. In the City of Greater Dandenong it is not unusual for the council to be in total disarray. The ALP factions fight amongst themselves and find it difficult to conduct themselves in an appropriate manner. Cr John Kelly, who is not a member of the ALP, sits in bemusement sometimes at the carryings-on of this council. I noticed in the local press recently that Cr Kelly had called for a review of the City of Greater Dandenong council by the minister. Clause 11 gives the minister the power to suspend the councillors of the City of Greater Dandenong, and

maybe that is something he should give consideration to.

Clause 13 contains provisions for the oath of office. Again the Crown has disappeared from the affairs of local government. Fortuitously we still have the crown in this chamber — the Labor Party still has not attempted to remove it — but it has taken the Queen out of the system as much as it could, both in the logos on our letterheads and numberplates and all the literature that comes out from the government. In this case, as referred to in the *Herald Sun* way back in May — 'Loyal oath on the way out', the clause in the local government bill provides for an oath of office and the Queen has been taken out of it, and that is a bit of a shame. The Queen is the Queen of Australia and our system still has her as its head, and that should be recognised.

Turning now to the rules of conduct, the bill provides that each council will be required to have a code of conduct. Proposed section 76B in clause 18 is headed 'Rules of conduct'. The rules are pretty general. There is a penalty of 100 penalty units for anybody who steps out of line in relation to serious issues such as dishonesty or by not exercising reasonable care and diligence or making improper use of their position.

Each council will be required to have a code of conduct which must be prepared initially and then reviewed within six months after a general election. That is all right with the opposition. The trouble is that we could end up with 78 different codes of conduct across Victoria. The City of Greater Dandenong is next to the cities of Casey, Monash, Kingston and Frankston. The codes of each council in that ring could have different provisions — there is a possibility that they could all have exactly the same, but that is not what is proposed in the bill. I am not aware of any proposal by the minister or his office to put out a template for councils to follow. In fact the minister is saying that councils can do what they like so long as they have a code of conduct. The differences in codes that will occur are a problem. Some may say it is wonderful to have differences, but if all councils are dealing with codes of conduct, one wonders whether there needs to be too many differences. Maybe the government has been a bit lazy on this; I am not sure.

Proposed section 76C does not provide for any penalty, so if a council has a code of conduct and each councillor under that code has a set of rules by which he or she should abide, what is the penalty for not abiding by the rules? Is it a slap on the wrist or a resolution of the council saying they are a naughty girl or boy? A way of getting around that may well be — and some councils have done this — to get involved with conduct through a local law. Local laws certainly have the ability to provide penalties, but that is not provided in this bill.

I turn now to council plans. Part 4 is a significant part of the bill, and I note that clause 28 substitutes new part 6 in the act under the heading 'Planning and accountability reports'. In some ways these provisions are an update, and one should not be frightened of updating provisions. They represent a change in terminology to make it more relevant to today. We are losing the term 'corporate plan' and we will have instead the term 'council plan'. I wonder what is in a name, but the facts are that a council plan or a corporate plan will only be as good as the work the team that runs the council — that is, the management, all the staff and the council working together as a team — puts into preparing such a plan and then, in turn, implementing it. You might as well not have a plan if it is not a proper and appropriate one, and you might as well not have one if it is not going to be implemented and adhered to. The proof of the pudding in respect of a council plan or a strategic resource plan is how much work is put into it, what the quality of the plan is and whether or not the council follows it through.

I have been in various places in the past where corporate plans sit on the shelf and get dusted off occasionally but are not followed, adhered to or even considered. The challenge for local government is to really put some work into council plans to make sure councils get value from them.

Part 6 also contains some new provisions in relation to budgets, performance statements, audits and annual reports. This is a logical sequence. This series of requirements has come forward over more than a decade, and local government in Victoria is now up as far as it can be in relation to local government in Australia. In fact, as I have travelled around Australia looking at local government I have been extremely proud of the system we have in Victoria. In terms of what has been done in strategic planning, in management and in the administration of councils, Victoria does very well. I suppose in some way I say that because I am an ex-local government person, but it is a fact. The things that have occurred in other states make one's hair stand on end, but our record is extremely good, and we should be proud of that.

I hope that the changes the bill makes to resource accountability, which is a major part of the act, will take local government the next step towards staying in front of the Australian pack; and frankly, if you look at local government internationally, we are up there too.

Local government will have the opportunity to implement those new sections of the act, and we will see how it goes.

Part 5 of the bill, which deals with electoral matters, is where the opposition parts company with the government. The opposition will certainly not be supporting the proposal for proportional representation in local government. It will be voting against that, and it will be proposing that all of clause 56 be omitted from the bill. The opposition does not believe that proportional voting is a system of voting that should be implemented in local government. The system we have at the moment — preferential voting — is a system that has provided over the years an appropriate, fair and considered way of electing councillors. I have seen that system operate during my time in local government and since, and I have seen it apply to all sorts of councils and to all numbers of councillors in wards, and I believe it has worked very well and provides a fair and appropriate system of election of councillors.

The issue of triennial elections comes under the heading of electoral matters. I notice that the government is proposing that all councils have triennial elections. The opposition will not be opposing that measure. In fact, in a previous life I talked my council into the benefits of triennial elections. Some people will say of triennial elections that there are problems, and the main problem that they come up with is that in one election you could lose the whole council and get a whole bunch of new councillors. My mind boggles at that thought, frankly, but how often has it happened? When triennial elections first became a possibility in Victoria we collected information from around Australia and New Zealand, and the facts were that a total turnover in a council is extremely — extremely! — rare. A large turnaround does not happen very often.

One might say that we have had some turnarounds in Victorian local government in relation to councillors at elections. Maybe there was a reason for some of them to go — maybe there was a reason for all of them to go, I do not know — but the facts are that wherever this has occurred the council has got on with the job. The council officers adopt a professional approach and serve the new council — just like the officers of this Parliament do, whoever wins government — and the system just goes forward and away we go. Triennial elections will apply to local government, and that is fair enough.

I want to refer, too, to the issues relating to voting. I note that occupiers of property who are not entitled to go on to the electoral roll prepared by the commonwealth electoral commission — for instance, an occupier of a shop who lives out of the ward, or the occupier of some building, land or whatever — currently have an entitlement to go on the council roll. In other words, if the council knows of an occupier of such premises it has a responsibility to put that occupier on the roll. I note that under this bill such people will no longer have an automatic entitlement to go on the roll, but will instead have an entitlement to apply to go on the roll. That is a loss of an entitlement those people currently have, in that it will go from automatic enrolment to an application for enrolment.

The opposition notes that that will occur. It also notes that those people — and indeed nominees of corporations — will automatically go off the roll and at the following entitlement date will have to apply again. These occupiers who have an entitlement to be on the roll if they are known to the council will now have to reapply each year. If I am wrong in saying that, I am sure we will find out in the committee stage.

In relation to the changes in voting, I know that the state electoral commissioner did a lot of work in relation to state elections and that the rules have changed. They have been tweaked a little bit to make voting better, safer, more consistent and so on. I think a little bit of that is coming into the Local Government Act, and we will see how that goes.

You wonder what will happen with a lot of the provisions in this bill, and certainly the Liberal Party that I represent has some concerns along the way. Some of those concerns will come out in respect to some clauses at the committee stage. But I suppose this is the government's proposal, and we will not stand in the way of the changes to the electoral provisions coming into effect.

Finally, I turn to the issue of roads. This is an interesting area, and those from all sides of politics have received letters from various people with concerns about what has been implemented by some councils — particularly, it is not unfair to say, by the City of Whittlesea. A group of residents out there has concerns with the City of Whittlesea's schemes for collecting funding when roads are constructed. I am aware of other councils that do similar things, but with less upset, shall we say, than occurs at Whittlesea.

For instance, another council that undertakes road schemes is the Shire of Yarra Ranges. I have some documentation on what people do up there. It is fair to quote from a letter from John Ross, director, physical services, at the Shire of Yarra Ranges. I previously worked with this man; he is an excellent local

government officer, and I really respect what he has to say. In the letter he says:

> To ensure that projects are implemented in a fair and reasonable way, council's special rates and charge policy includes the following elements:
>
> > minimum council contribution of 20 per cent towards infrastructure improvements …
> >
> > assessment of through traffic impact on road improvement projects, where once the through traffic component exceeds 20 per cent of overall traffic, council's contribution increases by 2 per cent for every 3 per cent increase in through traffic.

So there is a 20 per cent contribution and another 2 per cent for every 3 per cent of increased through traffic. You can just build up that percentage if there is a lot of through traffic along a road. It goes on:

> > contributions ceiling provided to landowners involved in road improvement projects (capped at $11 000 for the 2002–03 financial year and reviewed on an annual basis), acknowledging that road improvement projects in rural areas where properties have large frontages have excessive road-making costs associated. This ceiling however is not available to commercial properties.

The letter goes on:

> During 2000, council introduced a further policy requiring 70 per cent of all landowners abutting a project to be in support of the project prior to it being proceeded with.

We can all argue what percentage is appropriate. I am not saying that I believe the percentage he talks about is appropriate, but that is what they do. What I am saying is that the Shire of Yarra Ranges has looked at this carefully and the fact is that it has achieved a lot of success with this type of policy. It has had the council contributing, it has put in some ceiling figures, it has worked out some percentages, and in many ways, as I am aware, it has taken the community with it. I think the problem at the City of Whittlesea is that it has obviously not taken the community with it on its road-making schemes.

I also received a letter from Mike Tyler, another excellent local government officer, from the City of Casey. He referred to his concern that if a benchmark of 75 per cent support was implemented we could end up with councils not getting sufficient support to do anything. That is an issue. Where do you place a reasonable ceiling or level before you go ahead with these projects?

I believe the government is proposing to amend the bill. I do not think it is appropriate that we talk about the detail of that until the Minister for Sport and Recreation, who will be at the table, proposes those amendments, but it is certainly an area the Liberal Party has a keen interest in. We propose to amend the government's proposals to provide a little more certainty and fairness and at the same time ensure that councils are not locked out on some projects that are really needed.

I can think of things such as a special rate to construct car parking behind a shopping centre. Traditionally many councils have followed the line of either having the property owners both purchase the land and pay for the construction 100 per cent, or having some of them purchase the land and having the shop owners pay for the construction. Other councils have had a, shall I say, shandy system of working out who pays for what. But if you start implementing legislation that prevents those sorts of schemes from going ahead, then you have a problem. I will leave it at that point. We will certainly deal with that further at the committee stage.

Finally, I again say that although this bill has been two years in coming, the government has not done a very good job with it. It has not done a good job because it had a lot of consultation for a long time about general proposals and a lot less consultation on the bill. The opposition has circulated the bill to councils and has received a large number of replies. Interestingly, a lot of councils do not want proportional voting. A number of councils have a huge interest in the road special rate charge provisions. Some councils are very disappointed — and I can understand them — that a number of issues they sought to have included in the act have not been dealt with.

Yes, a lot of administrative things have been cleaned up and we have a new system of accountability, but given that the government has had two years to prepare and has been running around on this for two years, it is disappointing that the bill does not contain more provisions that respond to the needs which local government has articulated. If local government representatives have told the opposition about it, I am sure it has told the government about it.

I assume the government has a political problem with some of the issues. It may well be that for political reasons the government wants to deal with things to do with elections and proportional voting and that it has spent a disproportionate amount of time preparing the legislation in that area. It is a shame that that has happened, because local government deserves better than it is getting from this government. It deserves to have responses from the government on the issues which concern it. It certainly has not got that out of this government.

The government has some issues; we agree with some of them and we have concerns with others. We believe the bill could be improved. It certainly contains some provisions that the opposition will not be agreeing to and will vote against.

I believe we could have done a lot better, but we have what we have before us and we will have to deal with it — and that is what we will do, both in this debate and at the committee stage.

Hon. G. D. ROMANES (Melbourne) — I am pleased to have the opportunity to contribute to the debate on the Local Government (Update) Bill and commend the Minister for Local Government for the range of excellent measures and initiatives contained in it. The proposals which have been subject to widespread consultation across the state with all parties in local government enjoy widespread support and relate to issues of local democracy and measures to improve transparency and accountability of local governments, and through a range of minor technical details to bring about even more effective local government than we have in Victoria today.

Victoria stands to gain many benefits from the passage of the bill. The changes will bring the Local Government Act up to date and reflect contemporary thinking in regard to the roles and responsibilities of local government and the way in which it might be even more accountable to residents and ratepayers.

After 18 months of lengthy consultation which involved and engaged so many peak bodies, councils and community groups who were interested in effective and democratic local government, it was interesting to listen earlier to the Honourable Neil Lucas's justification and spin on why the opposition delayed passage of the bill at the end of the autumn sitting. He gave one version of why he and the shadow Minister for Local Government made the decision to defer the bill to the spring sitting, but my understanding is that the Minister for Local Government, the Honourable Bob Cameron, said to Mr Lucas and Ms Leonie Burke, the honourable member for Prahran in another place, that it was important that the Legislative Council dealt with the bill because even if the Legislative Assembly were not to have time to deal with it before the rising of the Parliament at the end of the autumn sitting, nevertheless a lot of councils would make decisions and changes to a range of administrative arrangements on the basis of getting a clear message from the Legislative Council whether the opposition would agree to the provisions of the bill.

Mr Lucas and the opposition have wasted many months in the time of local government and have embarrassed the shadow Minister for Local Government who had to explain to the sector why the opposition was delaying the legislation. It created a situation in which local government missed an opportunity for the sector to move to the new recording frameworks for this financial year.

I contend that this delay has been counterproductive for the opposition because it exposes again its fundamental antidemocratic nature and means that more councils and communities have had time to focus on the details of the bill. Contrary to what Mr Lucas has said, the feedback to the government has been that there is growing support, and most councils and communities support proportional representation. It is interesting that Mr Lucas was not prepared to name one of those councils that had expressed what he said was lack of support for proportional representation because that is certainly not the view the government and the peak bodies have gleaned from the feedback to the provisions in the bill for proportional representation.

For example, one rural council that is currently undertaking an internal review of its electoral structure, the Shire of Strathbogie, has surveyed its community, and 76 per cent of the community wanted proportional representation because they recognise that this is a fairer voting system that will deliver a much more inclusive and participatory system of government across the broader community.

It is disappointing that once again the Liberal opposition is making it clear that it is not prepared to support proportional representation for councils across the state as the standard system for election in multimember wards and unsubdivided councils. This exposes the Liberal opposition as being muddle-headed on proportional representation.

If one goes back to the period of the Kennett government, the Liberal government and the commissioners espoused some merit in unsubdivided municipalities with proportional representation voting during the post-amalgamation period. They put forward the arguments at that point that the system of unsubdivided municipalities equalled less parochial local government, less divided local government, more strategic local government and more diverse representation because you could see representatives voted on to a council to represent legitimate interests of small but significant sections of residents and ratepayers, but maybe not councillors who would be on the ticket of a particularly large mainstream group in that community.

The Liberal government in the 1990s put proportional representation voting and unsubdivided wards into the municipalities of Melbourne, Geelong and Nillumbik at the time and left the rest of the state with the existing system. Many communities requested and sought to have proportional representation extended to their municipalities. Mine was one of those where the local community of Moreland specifically asked the Kennett government if it could have multimember wards elected by proportional representation. We were turned down. In that post-amalgamation period we were offered either single-member wards or unsubdivided wards under exhaustive preferential voting. It means that unsubdivided wards under the exhaustive preferential system is an all-or-nothing system.

For example, in the Wellington Shire Council, John Jago, a well-known former mayor and active local government councillor, and others who were going for election a couple of years ago under this system, were not on a winning ticket although they polled substantial numbers of votes in that election.

The people who were elected to the Wellington Shire Council at that time were all on a winning ticket. It was a winner-take-all system. In rural areas that can often mean that regional centres will scoop the pool and therefore leave many other parts of the electorate without adequate representation.

I remind honourable members of a member's statement that I made in this house in March after the municipal elections earlier this year. I made reference to the difficulties presented by this electoral system in multimember wards. I referred to the Yarra municipal election and the result in McKillop ward, which highlighted once again the undemocratic nature of this voting system.

In that situation the Greens candidate, Greg Barber, achieved 50.29 per cent and therefore deserved to be elected. Annabel Barbara and Geoff Barbour, both representing Community Labor, polled 22 per cent and 16 per cent respectively. However, the second Greens candidate, Debra di Natale, polled 6 per cent of the primary vote but was duly elected as the second councillor for the ward after the distribution of Greg Barber's preferences.

Hon. W. R. Baxter — But more people voted against your two candidates than voted for them.

Hon. G. D. ROMANES — There is a difficulty in that the person who polled the least was voted in in that situation.

Hon. W. R. Baxter — But she had the majority, for heaven's sake!

Hon. G. D. ROMANES — Not of primary votes. The Liberal opposition has made it clear that again it wants to stick to the unfair, undemocratic exhaustive preferential system, which is a winner-take-all system whereby a winning ticket can get 50 per cent of the vote plus 1 vote and can scoop the pool. It is an unfair system, where communities often feel ostracised when they get done over by politically sophisticated tickets. The system does not make sense to a lot of people and alienates many people from the voting system.

I ask myself why the opposition doggedly sticks to that system. The answer I come up with is that the opposition cannot afford to admit a fairer, more-inclusive system could deliver a better range of candidates in an election because to admit that that is the case would highlight the fact that this system should also be applied to the upper house in the state of Victoria as well as to local government. That is not what the Liberal and National parties are prepared to wear in this jurisdiction. Unfortunately, local councils are left with that exhaustive preferential system which is not the best system for achieving involvement and diverse representation across a community.

Other important changes are reflected in the provisions of the bill before the house. One of those that also relates to council elections is the proposal that any reviews of electoral boundaries be independently conducted by an electoral commission appointed by a council, and that such reviews be conducted for every council before every second election. The commission would be given the task of considering the electoral structure and the location of ward boundaries, with consultation before and after the preparation of proposed options.

Other proposals in the bill relate to elections. Another important one is the proposal to establish clearly the principle of disclosure of election campaign donations. It is proposed that all candidates for local government elections be required to disclose within 60 days of the election any campaign donations above a specific value. Those donation returns would become public documents.

One of the very important parts of the bill relates to the place of local government in our democratic structures and within the tiers of government within our community. It is proposed — and it was a policy commitment of the Bracks Labor government — that the Victorian constitution be amended to formalise the role of local government in Victoria as a distinct and

essential tier of government consisting of democratically elected councils. It is proposed that then the constitution should describe each council as responsible for a municipal area, constituted by democratically elected councillors, accountable for its decisions and actions, responsible for the provision of good local governance, and including an administration that implements the decisions of the council.

This would constitute a more appropriate way of describing local government than we currently have in the legislation in Victoria. It would spell it out clearly. Also, a preamble is proposed for the Local Government Act that would also clearly spell out the important democratic fundamentals that go with local government in this state. The preamble would describe the place of local government in the Australian system of government, and there would be a charter in the act which clarified the purposes and functions of local government. This would not change the existing functions and powers of councils, but would be in plainer language. It would spell out clearly the place of local government in our democratic system. That sits well with the improved financial management and accounting provisions, which are designed to provide for greater accountability and more transparency in the way councils conduct their activities.

The reporting that will be required from councils under the amendments in the bill before the house make it clear there is a range of requirements for each council to provide an annual report, to report to the state government, to develop a council plan — not a corporate plan — in consultation with the community, and to make sure that those documents and the strategic thinking behind them links them with the practical proposals that come forward each year through the budget and through other plans and programs that are undertaken by councils. It is really pulling together a whole range of accountability requirements to the government and the community, thereby providing regular and useful mechanisms for councils to measure their performance and to convey that to those who are interested in and need to know how that council is going.

There are important provisions in the bill that relate to councillors' obligations, including a code of conduct which will adopt rules of conduct with some penalties, and provisions for the disclosure of interest and of any conflict of interest, not just a financial interest. There can be a whole range of interests because local councillors make decisions about facilities and priorities of spending in a local area which they may be very much involved in.

The amendments in the bill will assist to better define what confidential information is and how it will be outlined to the community and to councillors. The provisions make sure there is a balance between confidentiality when it is required and transparency to the community as well. That means if an item is declared confidential there is a limit on the time the council will have to deal with it before it is required to be explained to the community. There is that balance between the need sometimes for confidentiality, but also the need not to hide things away and to make sure transparency is maintained.

One of the most important provisions in the bill relates to delegations. I am sure the Honourable Neil Lucas would be well aware of the importance of delegations given his role previously as a senior officer in local government and the way that delegations to senior officers can be used sometimes against councillors to keep information from councillors who need to know fully the basis on which they are making decisions. Therefore the proposal that councils be required to formally review the powers they have delegated to officers at least following each general election is a vitally important one for the operation of a truly democratically led tier of government. Many councillors get elected without realising or without believing they are the ones who lead the council. There are many circumstances where the chief executive officer of a council continues to direct and lead the council whereas the power in our democratic system should rest with the councillors. Putting before new councillors the opportunity to review and to decide which powers will be delegated to senior officers and which powers will stay with the full council or subcommittees of council is a very important step to take for each new council that is elected.

There are provisions relating to council staff and there are also in this bill, as Mr Lucas has mentioned, references to issues relating to rates and charges and special rate and charge schemes. There has been a lot of controversy in this state, in particular in relation to the situation in Whittlesea and the controversy about who should pay for certain infrastructure. I am mindful of the fact that through my own experience in local government in Brunswick and Moreland councils there were occasions when special rate and charge schemes were particularly important and of particular benefit to certain sections of the community to provide the resources to initiate programs or invest in infrastructure that would not otherwise have happened. I am thinking here of the special rate the council struck with the Sydney Road traders to begin a Sydney Road development scheme for the promotion of the Sydney Road main street program to rejuvenate what was, back

in 1991–92, a very tired shopping strip. I can see over 10 years the enormous difference those resources in that program have made to economics and trading along that main street in that city.

While seeking ways forward to deal with what some communities feel are exceptionally heavy burdens that may be put on them by special rate and charge schemes, I certainly would not like to see that option of special rate and charge schemes and the benefit they can provide being taken from various local communities. I understand we have found a way forward in relation to the proposals on special rate and charge schemes that will be dealt with in the committee stage.

I believe this bill is a major step forward. As I said earlier, I congratulate the Minister for Local Government on a very thorough and comprehensive process in working with those councils and communities and peak bodies in local government that have wanted to see improvements and updating of the Local Government Act to bring it to reflect better where things are at today in Victoria. So with those comments and reiterating the great disappointment I feel because the option for councils to have proportional representation as a means of election in multimember and unsubdivided wards is a really important one. I urge the opposition to reconsider it as a better option than the one we currently have in place. With those comments and with that concern relating to the position taken by the opposition, I commend this bill to the house.

Hon. E. J. POWELL (North Eastern) — I am pleased to speak on the bill and put on record that the National Party does not oppose the bill but in the committee stage will vote to omit clause 56, which provides for the introduction of proportional representation to councils.

Before I go into detail about the bill I would like to comment on the way the bill has been handled. Mr Lucas made a number of comments in his presentation. I would like to comment on the remarks of the Minister for Local Government, who publicly criticised the Liberal and National parties when we deferred debate on the bill. I am sure the minister understands that debate on almost all local government bills is deferred, especially bills of this magnitude. It had been out in the community for 18 months but most of these sorts of bills are held over for the community and the public to have another look at in the form in which they go before the house. This bill is 116 pages long. After saying it consulted before bringing the bill into the house the government now wants to make amendments without the bill even being debated.

Yesterday at about 6 o'clock I received 22 amendments and new clauses. Obviously the government is still consulting with members of the community otherwise there would not be the amendments that are coming forward.

The honourable member for Wimmera in the other place and I had a briefing from the Department of Infrastructure. It was a substantial and worthwhile briefing and the staff were generous with their time. It went for about 2½ hours and was very detailed. It did not flag the amendments so maybe they were not available then, but we had experts on the legislation and were very fortunate to have those people. There was Bernie Dean, the adviser to the Minister for Local Government; John Watson, director of governance and legislation, local government regional services; and Jim Gifford, project manager of the Local Government Act update — three people who were able to answer our questions about the bill.

The purpose of the bill is to amend the Local Government Act 1989 to facilitate the recognition of the place of local government. It is also to improve the accountability and transparency of local government; to improve the electoral processes; and to improve the functioning of local government.

It amends a number of acts: the Constitution Act 1975 to further facilitate the recognition of local government, and the City of Melbourne Act 2001 in relation to consequential amendments to the Local Government Act. It also makes minor consequential amendments to the Docklands Authority Act 1991.

I believe the bill goes further than the intended purpose and further than the consultation paper which was put out by the government in June 2001. The consultation paper was extensive and I commend the government for putting it out. I quote from the document:

> The update is not an open-ended review of local government legislation. Its primary focus is on solving specific problems with the existing act and it aims to prepare new legislation for presentation to Parliament in 2002, that:
>
> > is logically structured, realistically brief and in clear language;
> >
> > corrects anomalies in the existing 1989 act; and
> >
> > reflects the government's partnership approach to local government.

As you can see by those comments, the provisions in the bill go further than what the consultation paper alluded to when it was sent out to the community.

I have had a number of letters addressed to my office saying the same thing — that people were disappointed they were not made aware of some of the provisions in the bill so they could have some discussion of them.

As well as circulating the consultation paper the government set up a web site to invite public submissions, and the deadline for submissions was 21 August 2001. We were informed at the briefing that about 170 formal submissions were received. The bill has been in the community a long time. We do not challenge that, but it was not out there quite so long in its current form.

I will do a bit of the background even though the Honourable Neil Lucas also went into the background of the bill. It was introduced into this house on 16 May 2002. After the second-reading speech the Honourable Bill Baxter raised a point of order protesting about the quality of the second-reading speech and the errors in it. The second-reading speech stated that the Senate introduced proportional representation in 1959 and Mr Baxter corrected that mistake, advising that the year was in fact 1949. The President then ruled that the minister should make a statement to the house providing the corrections before the debate could proceed. The Honourable Neil Lucas then moved an amendment that the debate be adjourned until Thursday 27 June. As he said in his contribution to the adjournment debate, most local government bills are held over to allow for adequate consultation. The house was informed by Mr Lucas that the Minister for Local Government had told him and the shadow Minister for Local Government, Leonie Burke, that he intended to defer the bill to the spring session.

The National Party supported the Liberal Party amendment and the bill was deferred. Members of the National Party had no intention of parking an important bill in the upper house. We wanted it to lie over into the spring session. We also wanted to go to our community and find out what the community and the local government sector thought about the bill before the Parliament rather than the one that had been in the community. The minister was probably annoyed because he wanted this bill in the Legislative Assembly at the same time as the upper house reform bill because then it would have been more politically advantageous to talk about proportional representation in the same sitting. It was probably good that one bill was kept here so we could give it the attention it deserves.

The National Party consulted widely on the bill. As spokesperson for local government I sent letters to the 47 rural councils right across country Victoria. I sent a letter to the Victorian Local Governance Association (VLGA) and the Municipal Association of Victoria (MAV) seeking comment. While I sent out the letters and copies of the bill I was waiting for some detailed consultation from the councils. It was disappointing that I only received nine responses, but they were good responses. I also received a response from the Municipal Association of Victoria on the day just before the bill came into the Parliament, and one from the VLGA.

I also met with 14 councils right across country Victoria. A number of councils in the western part of the state, and in particular in the electorate of the honourable member for Wimmera in another place, Hugh Delahunty, asked the National Party to have the bill deferred when it came into this house. We therefore felt comfortable knowing these councils had asked us to do that because they wanted consultation on this bill. They wanted to see it in its completed form and not just in the draft form which they had received.

In their responses the councils raised a number of issues which I hope the government took on board. I know the councils made some substantial responses and looking through some of the legislation I see that some of those concerns have been taken on board. I am not aware of all the recommendations that were addressed, but I hope that during its consultations the government took note of some of the issues that councils raised.

The Municipal Association of Victoria (MAV) also raised a number of issues. While it supported amendments to the Local Government Act 1989 that improved outcomes for this sector, it was concerned about amendments in the bill that were not canvassed within its sector. The MAV raised the issue of the possible impact of the changes that are markedly different to those in the consultation paper. That concern was also expressed by some councils that spoke to me; when they finally looked at the bill there were some areas that were quite different to those in the consultation paper. Some areas they had made responses to were omitted, some proposals had gone even further than they required and some were not even in the consultation paper. The MAV was also disappointed at the lack of opportunity to comment on the amendments proposed that also did not appear in the consultation paper.

I would like to talk about the specifics of the bill. The bill was intended to recognise local government. Clause 3 provides for the insertion of a preamble as a

new section 1 of the Local Government Act 1989. It recognises local government:

> … as a distinct and essential tier of Government that provides for the peace, order and good government of a municipal district …

It also provides:

> that a Council consists of its democratically elected councillors;
>
> that Councils provide governance and leadership for the local community; and
>
> that Councils are accountable to their local communities for the performance of their functions and the use of resources.

Clause 5 includes a charter. The charter:

> … defines the purposes, functions and powers of Councils.

Clause 10 is the amendment of the Constitution Act 1975 to recognise local government.

Councils have wanted this for a long time. I have served as a councillor and I know that whenever we were told that we were a creature of the state government, we did not like it. We thought that we were our own entity and in our own minds we were. Now that I am a member of the state Parliament, in my discussions with some of the local councils, I still do not believe they like to consider themselves a part or creature of the state government. They still firmly believe they should not work under the Local Government Act, but should be a third tier of government and that has not happened yet.

Clause 11, which has the power to suspend councillors, states that:

> (1) the minister may recommend to the Governor in Council that all of the Councillors of a council be suspended, if the Minister is satisfied on reasonable grounds …
>
> (a) … that there has been a serious failure to provide good government; or
>
> (b) that the Council has acted unlawfully in a serious respect.

I guess we need to establish the definition of a 'serious failure'. We will be bringing those issues up in the committee stage of this bill because that definition needs a strong prescription so that it is not interpreted differently in particular areas and the minister does not interpret it differently. I also ask the government to adhere to this part of the legislation.

I draw to the house's attention the case of the City of Melbourne which I do not believe met any of those criteria. I do not believe there was any serious failure of that council or that it acted unlawfully, yet the government moved in and the minister in effect sacked the council. He gave them a time limit of 12 months or so and then its term would expire. In effect it was sacked. If we are to include provision for powers to suspend a council, I ask that the minister respect those provisions and not make them up as he goes along, moving in to sack the council if he does not like what it is doing. I think the provisions of the legislation stating that where there has been a serious failure or the council has acted unlawfully the council can be sacked is appropriate.

Clause 18 covers the code of conduct. The bill states that:

> A council must develop and approve a Code of Conduct …

I know a number of councils already have codes of conduct, or as some are calling them, codes of good governance. I have a number of questions I would like to ask at the committee stage about penalties and issues relating to codes of conduct and local laws.

Clause 56 is the proportional representation (PR) clause. It provides that proportional representation can be used in unsubdivided and multimember councils. The National Party will be voting to have this clause omitted during the committee stage. The government has stated that there are concerns associated with the current exhaustive preferential voting system, but then also says there needs to be recognition that one system may not be the best for all municipalities. I agree with that, and the government has not put any evidence before the National Party to say that proportional representation is the best system for unsubdivided and multimember councils. We need to be convinced of that.

The National Party also believes that by introducing proportional representation into the councils at the same time as legislation before the Legislative Assembly to introduce PR into the upper house is a political stunt and it is the wrong environment to be debating the merits of PR for municipal councils. If PR were introduced into the upper house, rural representation would be severely eroded.

Hon. G. D. Romanes — Rubbish!

Hon. E. J. POWELL — PR also allows for minority groups.

Hon. G. D. Romanes — That's not correct!

Hon. E. J. POWELL — We will cover that when we talk about the upper house reform and I think you

will find that we will have some fairly relevant discussions about that very issue.

Proportional representation allows for minority groups to be elected. To be elected a candidate must achieve a certain quota. The total number of voters is worked out and divided by the number of councillors needed, plus one.

As Mr Baxter interjected during the contribution made by the Honourable Glenyys Romanes, this means that a majority of voters did not vote for that person. With exhaustive preferential voting, voters are able to vote for the candidate they want elected, and if that person does not win then the voter's next preference has an opportunity. The candidate must achieve 50 per cent and over. What we are saying is that the majority of the electors are electing those councillors. I have had responses from a number of councils. Some supported proportional representation and others did not, and yet others did not comment on PR.

The Honourable Glenyys Romanes also talked about the Shire of Strathbogie and its consultation with its community. I will talk about the Strathbogie shire and the consultation with its community. It consults quite well. The Minister for Local Government recently turned down a decision of the Strathbogie shire. On page 5 of the *Shepparton News* of 8 October there is an article headed 'Minister turns down division'. It says:

> Strathbogie Shire Council will seek an urgent meeting with Victorian local government minister, Bob Cameron, after losing a bid to divide the shire into three wards.
>
> Mr Cameron has ordered the council to have seven councillors representing seven wards from March 2003 despite council concerns the option did not provide sufficient representation.
>
> …
>
> Mayor Graeme Williams said he was disappointed with the decision.
>
> 'Whilst the Local Government Act provides the minister with the power to make such a determination, council is most concerned that he has made a decision contrary to the recommendation of council without appropriate consultation,' Cr Williams said.

I would like to turn now to clause 86, the temporary road schemes. This provision has been introduced to allow lower grade road construction with costs recovered from owners. It also allows council to recover the costs of a full construction later if it is found that that is needed. However, it needs to be subject to the written approval of 75 per cent of affected owners and owners representing 75 per cent of the cost of the scheme, which does not include council contributions.

I will give the house a number of examples of where this could be a good thing in rural Victoria. If there are residents abutting farmland who do not want a fully constructed road with drainage and nature strips council will be able to offer this as an alternative to constructing that road. Those people could have a lesser standard road under this amendment. A tomato grower on a dirt road could get a lower standard road or a light seal as long as he paid 75 per cent of the cost. If the grower wanted to get his fruit to market without going across a dirt road with potholes which would cause damage to the fruit, he could go to council and ask for that road to be lightly sealed. The cost to him would be 75 per cent and the council could put in 25 per cent. The provision allows council's to approve a road scheme that is not a fully constructed scheme.

My family waited years to go on a priority list in the Shepparton shire, as it used to be, to get a road sealed. There were five houses down a dirt track and we waited about eight years to get on a priority list. We would have been prepared to pay a portion of the costs divided by the number of houses. However, council waited until we had got up the priority list so it could pay the full cost. If this scheme had been in operation then we would have been able to raise 75 per cent of the cost from the beneficiaries, the council could have contributed the rest and the road would have been done quite a while ago.

The only problem is in the council having to determine beneficiaries. It is always difficult when you are trying to determine the beneficiary of any infrastructure. The present act prohibits councils from recovering road construction costs from adjoining owners of a private road if those costs have been recovered for a previous construction of that road. That makes it more cost-effective for a council to say it will fully construct a road. This amendment allows a council the alternative of constructing a road to a lower grade, which may be more appropriate and all the residents need.

The special rates and charges amendment ensures a council's use of special charge schemes is fair and appropriate. At the briefing we were informed of a number of councils which perhaps did not strike those rates appropriately. This amendment will ensure that councils are only allowed to levy special charges in proportion to the share of the benefits for the people who will pay those special charges. Councils will not be allowed to levy more than two-thirds, or 66 per cent, of the total cost of a project as a special charge unless they have prior written agreement from the majority — over 50 per cent — of the people who will be required to pay that special charge. Again, a council must

determine the beneficiary of the scheme, and sometimes it is not so straightforward.

The bill also includes an amendment to include further notification of a council's intention to declare a special rate or charge. This is quite a good inclusion. Councils will be required to notify all affected land owners of their intention to declare a special rate or charge as well as giving public notice. Not everybody reads the papers or lives in the municipality, and maybe they do not know that that special charge or rate has been levied. This is an additional way councils can make sure that people understand there is a rate or charge on a property or a piece of infrastructure.

While the National Party does not oppose this bill — with the exception of clause 56 — it is disappointed that after so much so-called consultation with the community, local government and local government peak bodies there was a need to bring in 22 amendments at the last minute. The National Party is also disappointed that the bill does not address important issues like concurrent elections. A number of councils which wrote to me said they had raised this matter a number of times in letters responding to the consultation paper. I am not sure why the issue of concurrent elections is not addressed in this bill.

One of the major omissions from this bill is the nonfeasance defence; it has not been reinstated. I know it was raised in the consultation paper which listed a number of options for handling either the reintroduction of nonfeasance or dealing with it in some other legislative way. This is a very important issue to local government at the moment. There is nothing in this legislation that appeases that. I know local government is still struggling to come to terms with the decision of the High Court judgment that removed that defence, which was used by local government.

I have a number of questions still about some parts of this bill, but I will raise them in the committee stage.

Hon. B. N. ATKINSON (Koonung) — This legislation seeks to clarify a number of provisions of the Local Government Act, particularly those referring to election processes and the accountability of councils in regard to their plans, budgets and some of the strategic documentation they prepare to run their municipalities. It also goes into a number of other issues in regard to the financial management provisions of councils.

It is a substantial bill, but nonetheless in many ways it incorporates many provisions or practices that most prudent municipalities have been using in many of their reporting systems and operations for quite some years. There is not a lot that is new in some of the provisions in the legislation. However, I think it is worth codifying these things in legislation because it gives some clarity and ensures some consistency across local government. That is very important.

One of the issues for people who live in a particular municipal district is to know that the range and quality of services and their effectiveness and efficiency is good value for the money they invest. It is hard-earned money from ratepayers and service users who use particular facilities and pay their way within a municipality, and it is important they know they are getting good value for money.

This legislation goes quite a way towards ensuring that by making sure that there is consistency across local government. It does this by codifying some of these practices that have been used by many municipalities and making sure that all municipalities meet that standard. Therefore there is a better opportunity for benchmarking across local government and a better opportunity, as benchmarking implies, for comparison by all parties. That includes local government officers and councillors with their decision-making responsibilities and the individual ratepayers and citizens of municipalities.

The legislation is good in that case, although many of the practices have been used for some time. The processes of finetuning and clarifying some of the aspects of the conduct of elections are also a valuable addition, and in most cases the provisions that the government is looking to bring in are both appropriate and sensible in ensuring fair conduct of elections into the future. Again many of the practices are commonsense ones and have been implemented by many municipalities in the way they have approached their responsibilities to hold fair and democratic elections. But again, for the sake of ensuring consistency of local government conduct across Victoria it is worth while to have some of these matters codified in legislation. Most of the provisions of the bill are valuable.

I will speak about one provision in particular which relates to information that councils in some areas have distributed in the past on behalf of candidates. That is now not permitted by this legislation and that is a backward step, but I will come to that shortly.

I take up the point, as did the Honourable Jeanette Powell, of the delay in the passage of the legislation from the government's perspective. The opposition parties sought to hold over the legislation to these sittings of the Parliament. I concur with the remarks

made by the Honourable Jeanette Powell. It has been a tradition in the conduct of changes to local government legislation that legislation is introduced in one sitting and then held over to the next. There have been departures from that tradition, some of which occurred in the time of the Kennett government. In many cases I felt rather rueful about that because as a person who had been involved with local government for a number of years at the former City of Nunawading, I was always conscious of the value of having that hold-over period.

It might well be said that the government felt that that level of consultation was not really necessary on this legislation — that it had a high degree of consensus from the municipal associations or representative organisations and most of the municipalities across Victoria and was therefore entitled to believe that the legislation night have proceeded earlier this year. The opposition believes that it was nevertheless worth while to pursue further consultation on its own behalf.

One of the concerns I have about the conduct of the Parliament is that very often when major legislation is brought in by government — the public does not understand this and it is a flaw in our system because it does not make for effective democracy; and I am not suggesting it is a partisan problem because it is inherent in the Westminster system — the minister is full bottle on the legislation, government members are fully briefed on it and the opposition usually has about a week to run around and try and find out as much as it can about it and what people think about it. That does not make for effective debate in this chamber or for effective democracy.

In the context of this bill the opposition felt it was incumbent on it to consult widely on the legislation, and by and large it concurs with the government's view that the legislation has general support from municipalities across Victoria, notwithstanding some concerns about individual provisions, and that is always going to happen. The opposition recognises that the legislation has general support and therefore, as was indicated by the Honourable Neil Lucas, the Liberal Party will not be opposing the legislation as such.

Some provisions were raised with opposition members in the course of their consultations, including some areas — as the Honourable Jeanette Powell mentioned — that perhaps ought to have been considered with the legislation now to address some of the contemporary needs of local government. The government has recognised some difficulties with the legislation that might have caused it problems in the operation of the act and is proposing to introduce a range of amendments that would not have been possible had the legislation been passed during the last sittings of Parliament. I would suggest that the lay-over period has been of benefit in that context.

The legislation will in most cases achieve the government's objective of introducing greater transparency and accountability in local government. I welcome that because a number of local government authorities have engaged in practices that have brought local government into disrepute as a tier of government. That is unfortunate. I am a former councillor, and the Honourable Jeanette Powell and the Honourable Glenyys Romanes, who have both spoken on the bill, have also been elected members of councils.

Hon. D. McL. Davis — What about the Honourable Sang Nguyen?

Hon. B. N. ATKINSON — He has not spoken yet. As I have often mentioned to my wife, I do not have the ability to forecast. I cannot see what is going to happen. But yes, the Honourable Sang Nguyen certainly has had local government experience as well. The Honourable Neil Lucas came from the administrative side of local government. We all have a genuine belief that local government is a significant, important and constructive level of government that achieves a great deal.

I look back very fondly on my days in local government because of the sorts of projects we were able to tackle as a unit of government of that size, working closely with the local people — as local government often reminds us — and certainly working very closely with a team. One of its attractions for me was that in the City of Nunawading it was not an adversarial Westminster system of administration: it was very much people from all sides of the political fence sitting down together and working on problems with a common community interest. I was particularly attracted to that model of approaching issues.

We have a genuine belief that local government has a very significant role to play and that by and large it is an extraordinarily successful level of government. It is therefore unfortunate when we see the blemish on local government of some unfortunate practices in certain municipalities, which in some cases has led to municipalities or their councillors having to be suspended or sacked by ministers. Those provisions have been revisited as part of the process of this legislation coming before the house, and indeed some people from industry organisations and municipalities are clearly trying to persuade the government to abandon those sorts of provisions except in the most dire circumstances, if at all.

The government has said no, that provision is necessary because there are some local governments whose practices at certain points in time may require the state government to intervene. The government does intervene, and in some cases local government might not like those interventions as a matter of principle, irrespective of their views on the particular set of events that have led to that intervention. However, I would argue that on many occasions when the state government steps in in dire circumstances when there is a problem with a local government, it does so in defence of the reputation of all the other local government authorities that are doing the right thing, delivering quality services to their citizens and being accountable back to those citizens.

That is important because the integrity of local government means a lot to me and to the other people who have spoken so far in this debate, and, no doubt, to those who will speak in the course of the debate to come.

Local government bills obviously come in every year. There is always a local government bill coming in and the government is always tinkering with this act. It is a very cumbersome and complex act, which is obviously in recognition of the very extensive role that local government plays and the range of responsibilities that local government undertakes on behalf of its citizens. There are some aspects of this review process and this bill that are particularly good in terms of bringing together some elements and making them simpler and easier to follow.

One of the things that I was pleased to see in this legislation was the charter at the front, which does not alter any of the roles or responsibilities of local government and which does not change any of the things that local government will undertake on behalf of its citizens, but it does clarify elements of the legislation and bring them together. That is appropriate because if people understand what an authority's responsibilities are, that takes the authority a long way towards accountability.

If you know what can be expected from an organisation and that it is not being delivered, then obviously you can start to address that issue. The simple initiative of just having that charter there to simplify responsibilities and bring them all into one place within the act is a big step towards achieving accountability.

The codes of conduct that are introduced by this legislation trouble me a little bit. I believe it is appropriate to have those codes of conduct and I believe that it is important to have guidelines for councillors — and for council officers, for that matter. We have moved away from having a rotational system of elections. Historically most councils used a system of a three-year cycle, in which a third of the council retired at each election, and that tended to deliver to local government an ongoing experience base and some continuity in the decision making. There would be some who would argue that that was unfortunate because new ideas were throttled at different times or because a change at a particular election was perhaps not reflected in the policies of the council subsequent to that election because of the group of councillors who were already there.

Under that system a greater body of knowledge, if you like, was retained in the elected officials than can potentially happen now. With elections in which everybody goes out at the one time, it can happen, and it already has happened in a number of areas, that a very large number of councillors — in fact in one case it was all but one councillor — will be defeated at the polls or leave the council, resulting in a total change of the elected members of the council.

That has many things to recommend it, but one of the things that it does not have to recommend it is the loss of knowledge of what the council has been doing and a lack of appreciation of its policies, procedures and opportunities.

Some of the provisions in the legislation before us today will improve the code of conduct of councillors and council officers and provide them and the broader community with an opportunity to better understand their responsibilities. It will also allow councillors to get in step with their responsibilities and to come up to speed with what is required of them.

What concerns me about the code of conduct provision that is proposed in this legislation is that it will be possible to have 78 different codes of conduct — in other words, every municipality could adopt its own code of conduct and they could all be quite different. There is a good case to say that the way you should behave as a councillor in the City of Whitehorse should not be much different from the way you ought to behave as a councillor in the City of Bendigo or in the City of Moreland.

The chances are that the representative bodies of local government — the Victorian Local Governance Association or the Municipal Association of Victoria — will have a tete-a-tete with the local government department or the Department of Infrastructure and talk about the way these codes of conduct might be developed and make

recommendations to councils, so we ought to get a consistency across the board. But it would have been preferable to have those codes of conduct made a little bit tighter than is provided for in this legislation, because when it comes to governance issues and the integrity of a council and the elected members of that council, then that code of conduct should be fairly consistent — if not entirely consistent — across local government.

The conflict of interest provisions are already in place. This legislation might seek to clarify them, but local government and people involved in councils have understood for many years, if not forever, that they ought not be involving themselves in situations that represent a conflict of interest. Perhaps the instances that led to the modest changes to the issue of conflict of interest by the bill relate more to the fact that people have sought to mount defences in courts or in other areas based on their ignorance of their responsibilities to apprise a council of a conflict they may have had when making a decision.

But really the issues are fairly black and white, and I think they have been well understood. I do not think this makes for a giant step forward, but it is obviously not something to oppose because clearly it is an important aspect of the integrity of local government.

I certainly believe the proposal to review the delegations within the 12 months following a general election is very important. I am surprised that a number of councils have not sought to review their delegations. If I were back in local government now I would not only be seeking it after an election, but 18 months out from when the delegations were given I would be asking for reports on how those delegations were going and doing a bit of an analysis to make sure I had made the right decision.

Those delegations are very significant — particularly some of the delegations in contentious areas, such as planning — and represent a significant area of confidence between the council, council officers and the community. It is important that those delegations be effective and be operated properly. I find having delegations lay over from some six years ago — I have encountered some municipalities with delegations they have not revisited since the commissioners were in the councils — absolutely extraordinary. In fact, I think it is a dereliction of those elected councillors' responsibilities. That would have been one of the first areas I would have sought to change. Perhaps they have been advised in some other manner by council officers on the necessity of that process.

Certainly delegations ought to be kept under fairly frequent surveillance by elected officials, obviously without intimidating officers in the discharge of those delegations, and without holding a big stick over them to achieve any outcome from those delegations other than what is clearly enunciated in council policies and is a proper and appropriate outcome. The process certainly ought to be one that councils visit from time to time, and this provision in the legislation is a prudent reminder to councils of what they ought to be doing in any event.

I am a little concerned about a trend I have noticed in local government. This is an observation without quantification and might not be true, but it seems to me that there is a greater tendency in local government today to make decisions away from public forums. It seems to me that there is less vigorous debate in council chambers than there has been historically. It seems to me that councils are relying more on processes they describe as having confidential requirements, sometimes because of individuals involved or because of council financial commitments or planning decisions they perhaps regard as not being ready to divulge to the community.

I must say that I tend to be a person who believes very much in a more open and accountable government. Certainly when I was at the Nunawading council the track record of that municipality and of most of — in fact, I would dare say all of — the municipalities around Nunawading was that the resort to closed meetings was something we avoided at all costs. We recognised that vigorous and robust debate produced the best outcomes for a community. Information being given to the community sometimes made our job easier because the community then understood some of the pressures and issues that we needed to confront as individuals to arrive at a policy or consensus decision as a council. I am concerned about the use of this provision and what I perceive as a bit of a trend away from some accountability.

Given that the thrust of the legislation is very much about trying to encourage greater accountability, I hope that the clause is not one which thwarts that objective of the government. All of us and all members of councils should be trying as much as possible to promote more open local government wherever possible.

In terms of accountability framework with council plans, budgets and strategic resource plans, as I indicated in my opening remarks, it is important to have those in place. I do not mind the tidy-up that has been achieved in the Local Government Act in discussing those and what has been introduced in this legislation

because I believe by and large it will bring greater consistency and ensure more accountability of local government, and probably arrive at documents that are more easily understood by the community.

When the Kennett government introduced a number of reporting requirements on local government a great deal of concern was expressed about some of those requirements. They were seen as being onerous, and umpteen different plans were required. Some were obviously to do with responsibilities as the local government authority itself, others were required because there was at the same time the overlay of many changes in the planning scheme and our planning system. Now that councils have become comfortable with the plans that were set out in that legislation under the Kennett government and that have been continued by the current government, there is a recognition that these plans are valuable tools for local government and valuable reference points for the community; that it was not simply a case of a state government trying to be the puppeteer with local government as the puppet, but the plans were very much about empowering local government and making local government start thinking in more strategic terms.

I am mindful of some words that were once said to me by John Madden, a councillor of the City of Nunawading, a Labor candidate at several elections, including for the seat of Forest Hill in another place and the federal seat of Deakin, who would often mention at Nunawading that, 'We need to recognise that a budget is not the actual objective of the council. We should not be trying to achieve a budget as such: what we should be doing is using the budget as a tool to achieve our policies, objectives and visions as a municipality'.

Very often in the past many municipalities were too focused on their budgets and not focused on what they were trying to achieve with those budgets; not focused on the vision, the services, the objectives and the efficiencies that they needed to build into those services and programs they were developing to enrich their communities. Some of the reports that have been developed over recent years, particularly the ones that are continued in and referred to in the provisions of the legislation, are appropriate. They not only continue that accountability but also improve the access of local government practice to the community generally through those reporting systems.

I notice the financial management issues, which I will not go into in detail. I would be interested in learning in the course of the reporting or third-reading stage or even at the committee stage whether under the financial management provisions introduced in the legislation there is now the ability for local government to invest in community banks. That is an area that local government has not been able to invest in previously. It obviously requires Treasury approval. As I understand it, community banks previously have not met Treasury guidelines so far as investments are concerned.

Given the change in the banking system and the growth of community banks in many communities and the importance of those community banks to many communities, it is important that we now allow local government to participate as a customer of those banks. I am not necessarily suggesting it be as an investor or even as a shareholder, but certainly as a customer. Most of those community banks rely on a customer-base level rather than necessarily their shareholder profile.

In many cases more community banks could be established if local government were able to participate as a customer of those banks. It has been my understanding that that opportunity has certainly not been available to them up to this point, and I would be interested if, going forward, that it is now possible under the provisions outlined in the bill. If concern is expressed about that particular initiative I do not mind if it is curtailed. I would not be upset if Treasury said, 'Okay, you can only invest a certain percentage of your funds in a community bank', or whatever. I dare say that even a fairly small percentage of local government funds going into a particular community bank could well mean the difference in some cases of a bank establishing or not establishing, and could well provide significant benefits back to a community and would recognise a significant change in the banking industry and the needs of our communities today. I would be interested in that in that context, and thank the Leader of the Government for indicating that it will be addressed with comment in further debate.

I am a little concerned about some of the financial management issues; I am a little nervous about the deficit budget provisions being deleted. Maybe I do not have a full understanding of those provisions, and again that may be something that is well addressed in the debate, but I am certainly mindful that the City of Brimbank, the Surf Coast Shire and the City of Darebin in particular — no doubt others have had some struggles along the way — have had some particular question marks over their financial management. I am concerned that in the interests of the reputation and integrity of local government as a whole we do not see some councils using perhaps a less prescriptive financial management regime to pursue policies or procedures that cause problems and run up significant debt.

I accept that, given the accounting standards that local government is using today, some of the prescriptive aspects of the Local Government Act have been passed by — they are not as important as they were historically — but I hope we can be assured that some of the financial mismanagement that has occurred in some municipalities to the detriment of the citizens of those areas is not at issue because of some changes in the act.

I also make the point that I am relatively comfortable with entrepreneurial activities, although I have some interest in the definitions, and have read through the definitions in the Local Government Act. I can understand that if a council is to participate in a particular venture, particularly if it is a corporate one — obviously councils are becoming involved in waste management corporations, library corporations and a range of other service organisations that are very often a joint venture of a number of municipalities, or indeed might involve private sector partners — the entrepreneurial activities definition applies to those.

But I am not sure, and again would be interested to see that the way that provision is starting to move, that we are not now starting to take in perhaps a municipal swimming pool that a council might build, because clearly that is a financial undertaking of the council. It is a facility that has a user-pays element — that is, taking in admittance fees and so forth, and perhaps it is taking hiring fees from organisations. That is perhaps an entrepreneurial activity whereas historically it would have been seen as something that local government just did. I am interested in the extent to which some of those municipal undertakings — for example, basketball courts, netball pavilions, particular municipal swimming pools, theatre complexes or art centres — are caught within this entrepreneurial activities clause.

Having said that, I am not necessarily opposed to that. In some cases having them subject to the provisions outlined in this legislation may not be such a bad thing, but I wonder if we are catching them up in a way that was not necessarily intended and whether we understand that that may or may not be the case.

In terms of the election processes outlined in the legislation, I am a little ambivalent about having electoral reviews — that is, reviews of a district every second election. My concern is that I certainly do not want to see situations where we have lopsided electorates and where there is any possibility of a gerrymander. Clearly that is what this provision is designed to address — to make sure that elections are conducted on ward boundaries, if there are to be ward boundaries, that are fair and equate to a one vote, one value proposition.

I am concerned that in some areas there is very little movement in population and even in a six-year period there might not be a need for a substantial review. I am interested in the extent of the review — whether we are talking about a review that may affect perhaps the City of Whitehorse being quite different to the sort of review requirements in a Cranbourne or Melton situation. The latter are clearly growth suburbs where the need to finetune the representation of citizens of those municipalities needs to be kept under scrutiny on a fairly regular basis because of population growth.

I am looking for a process that I hope this legislation will deliver that has almost a preliminary review that looks to see if there is a need for a more comprehensive investigation rather than proceeding straight to a comprehensive investigation. I think that is important.

I note that the enrolment of occupiers is a change in the legislation. I can fully understand that change, but I am concerned that municipalities will be encouraged to make a vigorous attempt to enrol non-residential occupiers and that they will seek wherever possible to engage them in local government activities and decision making.

There is no doubt that non-residential occupiers in most municipalities contribute a very large proportion of rate revenue. I am a great believer in representation for taxation, and because of the amount of revenue they contribute to municipalities I believe it is very important that their interests are represented at the council table. That does not mean they need to have different councillors to those councillors who represent residents of an area, but it means the residents need to be cognisant of the issues, the problems, the needs and the aspirations of those non-residential ratepayers within their cities.

Many municipalities are doing a good job on this. A number of municipalities have quite active business units. I know the City of Whittlesea has had a number of very successful initiatives that it has undertaken as part of a business plan. The City of Whitehorse, the City of Monash and the City of Knox, all within my electorate, all have activities designed to try to ensure businesses are more involved in their local government affairs. That also is important.

I can understand why the provision is in the bill, but I hope the provision does not see those non-residential occupiers lost completely. I note the bill provides that there will be campaigns and so forth to involve or

register non-residential occupiers, but I hope that is a very rigorous and ongoing campaign, because it is an important part of the stewardship of municipalities.

I will not go through the bits and pieces of the electoral procedures because I think that by and large most make sense. However, the one I have real concern about is a prohibition that is now being introduced on councils circulating material on behalf of candidates. It is improper if a council is to circulate material on behalf of only some candidates. It is improper if a council were to circulate material that favoured some candidates by virtue of the way it was presented. Obviously this change to or clarification in the legislation seeks to avoid any proposition that a candidate could be favoured by council election material.

However, I am aware that in the City of Nunawading and, I believe, in a number of other municipalities over many, many years — and I am talking probably of two decades — the council has at election time in advising people of their responsibility to vote and of the location of polling places also included a sheet that gives each of the candidates an equal opportunity to describe themselves in a few words and perhaps to outline a couple of their policies.

In those cases every candidate has had the same opportunity to present their position and why they are standing for election, and so forth. Each has had a photograph included, and it has been a fair and balanced piece of information. I suggest that in the City of Nunawading — now, subsequently, in the City of Whitehorse — many voters relied on that piece of communication because in some cases not all candidates put out the same amount of information; some were not in a position to put out any information; and there was a significant disparity in the sort of information that was available to people upon which to base their decisions and their votes.

That council material is seen as being something that presented a fair representation of the candidates' positions and was something that was relied upon by many people. I am disappointed with that because there was some merit in that particular proposal. It would seem to me that that is now not possible under the new provisions. I do not believe that is a forward step.

In terms of election material — and I notice provisions relating to the authorisation for printing of materials and so forth — I find it interesting from the point of view of this side of the house that the printer's name no longer has to appear on the election material. I understand that and I wonder if it has come about because of confusion in the City of Darebin where you would have needed to have rival Labor MPs actually stating in writing that they had printed the material for different candidates on the photocopiers in their electorate offices. It is a good idea not to have to do that any more. Clearly, this legislation will be a big help to them!

The authorisation provisions so far as candidates are concerned do not concern me. What does concern me about local governments and the fair conduct of local government elections, however, is where material is being circulated in those elections by third-party organisations or purported organisations, very often sabotaging a particular candidate.

In many cases those materials are inadequately authorised. In many cases those pamphlets effectively are distributed without any fear of penalty. They are not picked up, and the people who are responsible for those are very often not penalised.

As part of our process in conducting these elections we need to start turning our minds more to ensuring that information that is put out by people other than the candidates themselves is also either subject to some registration process, or if it is material designed to sabotage a person and is not in any way constructive to debate and an informed voter decision, that we start looking at a much more severe penalty regime to discourage what are in some cases quite scurrilous attacks on people who offer themselves for election. We do need to address that. It is not addressed in this legislation but is something we ought to look at in the future.

There are just two other items I wish to comment on. One is the disclosure of election campaign donations. I think that was introduced in Western Australia several years ago. It is a good provision. I am not sure what the compliance level will be and how you actually ensure compliance, but it certainly is a step in the right direction. That provision is quite important.

I also think that the provision on municipal electoral tribunals, which limits recourse to such a body to people who are actually involved in elections rather than, again, entertaining vexatious claims, in some cases from persons who perhaps are not involved in the elections but who are seeking again to maintain some sort of attack on perhaps a successful candidate in an election without much foundation. That is an appropriate mechanism, and as has been pointed out by the government, there are other provisions for people to use if they feel that the conduct of an election was not

satisfactory in some other respect. But certainly challenges to the actual outcome of an election ought to be basically restricted to the people who were involved in that election. I believe that is a sensible proposal.

In closing I indicate, like the Honourable Jeanette Powell, that I was a little concerned about some matters that perhaps were not brought into this legislation. As she raised earlier in the debate, the nonfeasance issue is significant. The liability to ratepayers as a result of court determinations is of great concern to many municipalities. I again hark back to Nunawading. When you make these speeches you do not like to make it a good-old-days speech, but going back to the old days of Nunawading I was very mindful of it.

At one stage we were starting to look at children's playgrounds with a view to perhaps removing them simply because of the liability issues with them. Because you faced this liability and it was a problem to guarantee 100 per cent that no child was ever going to be injured on a system you actually started to take them out. I am aware of another municipality that used to have street furniture which it started to remove simply because it was starting to create some liability problems and so forth. That is a real issue, and local government does need to be afforded more reasonable protection in this in the discharge of its responsibilities. It is a pity that this legislation does not address that.

Another area that has been raised by a number of municipalities, certainly the municipality of Monash and neighbouring Knox, is the issue of adverse possession and the onerous provisions that apply to local government to ensure that there is no encroachment on the assets of a municipality under existing legislation. That is another area we need to look at very carefully which might well have been addressed in this legislation, because again it is a significant issue for many councils.

The issue of concurrent elections is another important issue. I clearly understand the reason why we have the staggered elections at this point in time, but we really ought to have taken the opportunity with this legislation to unite and hold all the local government elections on one day. That would have been very sensible. It would have reduced a lot of confusion for the community generally and would have been another step towards a more effective local government across the board. I am not suggesting that having different election times means we have lost a great deal, I just think it is an improvement that might well have been made at this time.

I think I am done! That covers most of things. The only other issue which I have not really addressed and which is perhaps of some interest is proportional representation. I heard what the Honourable Glenyys Romanes said about proportional representation. I guess I might have been more attracted to it had we looked at it and perhaps tested it in a number of municipalities rather than facing a unilateral and mandatory situation in local government right across the board. Certainly in some of the discussions that I had a number of councils were not enamoured with the idea of proportional representation. That is an area that does require more community discussion and a community consensus rather than perhaps achievement by a government philosophy. That is the only point that I would make on that, otherwise, Madam Acting President, you may call the next speaker.

Hon. S. M. NGUYEN (Melbourne West) — I would like to speak in favour of the Local Government (Update) Bill. The bill is very clear. It is about supporting and improving the situations of local councils. The government recognises how important local councils are to the community. The Bracks government and the Minister for Local Government want to make local councils more accountable to the community, and to do that we have to improve them from time to time.

Different councils have different experiences because of the way councillors and chief executive officers run them. Members of the community have a right to know what is happening at their council whether it is rural or urban and regardless of the politics. The community has a right to know and understand what is going on. The bill will improve councils, it will change them for the better. A lot of changes are introduced in the bill, and it is important to debate those matters. A lot of issues have been mentioned. Some previous speakers are happy with some things and not happy with others, but overall the bill will introduce a lot of change and will improve councils.

The bill talks about organisation, the role of chief executive officers, the election of councillors, and the duties of councillors and mayors. We cannot have good councils if councillors are not aware of all the things they need to do. Councillors have to learn what this bill is about. In March 2003, in about six months, local elections will be held and councillors and potential candidates who are interested in councils need to know how the rules will change so they can prepare themselves. The members of council staffs would also like to know what they have to change to improve their performances.

Conflict of interest is very important, because in the current situation councillors are required to declare a conflict of interest. If they have a conflict they participate in debating the issues but are not allowed to vote. Often councillors with a pecuniary interest have had to leave the room before the motion is put. As a result sometimes there is no quorum because the councils are small in number and some committees do not have many members. Being a councillor is a voluntary duty. People do not get paid to become councillors so they have jobs and can only come to committee meetings in their spare time. Councils have many committees so councillors have to spread their time, some on this committee and some on another committee. Councillors cannot attend all committee meetings because of their work commitments. If they leave the room and there is no quorum the committee will have to wait until the next monthly meeting or for another person to come and reschedule. It is a lot of inconvenience to the public because sometimes the council needs to vote. That is one point.

The bill allows councillors to declare a conflict of interest and still sit in the committee room, participate in the debate and vote on specified matters. However, they have to declare a conflict of interest, including any pecuniary interest. The matters being voted on may be important to the councillors so the government wants to encourage councillors to act honestly and to declare their interests in the committee before the vote is taken. It is not a big change but it is important because often councillors conduct business with councils and from time to time will have a conflict of interest.

The bill also provides for a code of conduct for councillors. It is clear we want these organisations to become professional and want councillors to act in the interests of their ratepayers and their councils. We have to avoid silly disputes which might divide councils and cause harm to ratepayers. People will not come to a municipality with business if they know the council is divided, the councillors do not know what they are doing and all they do is fight. We do not want to see that. We want all councillors elected by the people to bring their views to their councils and to act on behalf of the ratepayers and in the interests of the city rather than using the council as a power base to fight and divide, become aggressive and run the city down.

We must make sure that the minister and in turn his department keep an eye on councillors' behaviour. Importantly the chief executive officer must work together with the councillors so there is commitment and responsibility between management and the councillors.

We are also talking about confidential information. This is another important issue. Information can often be leaked out of the committee room by a councillor or by staff, so there will be a clear definition of what confidential information is. People participating in committee meetings will take responsibility and will know how to better use this information. Information designated confidential will have time limits, which will be important.

I would like to talk about democratic council elections. I know the Honourable Neil Lucas is concerned about proportional representation. When I was a member of Richmond council in 1988, the council was elected under that scheme. It was a test to see how it worked. It worked because people who did not belong to a large organisation or a big political party could run independently in a minority group and have a good chance of getting elected to the council. Proportional representation will allow many candidates to stand for election in a ward. The people who stand can be Independent, from a minority group, or can be a ratepayer who is interested in standing for council. Those people will have a good chance of getting into the council. We want to avoid councils becoming another political organisation for party people to be elected to. That is why we produced this legislation — any candidate has a chance to stand for election.

I am sure the opposition members would not be interested in supporting this because it is about upper house reform. They do not support proportional representation because it will affect the upper house; therefore they do not believe in it.

Sitting suspended 6.29 p.m. until 8.03 p.m.

Hon. S. M. NGUYEN — I would like to continue my comments on the conduct of council elections. I think we should support the proposal because it gives everyone a chance in the council elections. It is a Senate-style election. It will give minority parties a chance to come to the council.

The proportional system has worked in many places around Australia; it could be a first in Victoria but it has happened elsewhere in Australia. The system will give the community a chance to trial the system. If a council or community prefers proportional representation, it will be allowed to use that system. The bill is very clear — we are not forcing everyone to use it but at least they will have a chance to try or test it. Some councils might like it and some might not. They will have a chance to choose but they have to try it first.

The provisions in the bill allow the council to undertake community consultation. If a community finds it too confusing, if people do not understand and do not like it or it does not work, they can have a big meeting and get a petition signed to show that the community wants a change. The Minister for Local Government will look at it and see that that council wants to go back to the old system. If the council likes it, the minister will consider that.

The present act does not allow the community to have a choice — people have to use this system; there is no alternative. Proportional representation will be trialled. I am sure many councils will accept it. Some councils may not accept it, especially rural councils. Some of them will like it because it will give small groups a chance to participate in the council. At the moment, those community groups miss out and do not get to participate in council elections.

The bill also mentions the voter roll. It is important that we respect people's privacy in maintaining voter rolls. People can misuse the rolls so we need to have more control over them.

Hon. D. McL. Davis interjected.

Hon. S. M. NGUYEN — I support proportional representation but I think we have to try and give people in a community to chance to choose whether they like it or not.

Hon. D. McL. Davis — Do you support One Nation?

Hon. S. M. NGUYEN — I do not think One Nation has a chance.

Honourable members interjecting.

Hon. S. M. NGUYEN — I want to continue my remarks on voter rolls. People have to be careful in using the voter rolls or they can be misused.

I would like to mention election material. The election material must be very clear. It is like any election — we have to make it very clear that people cannot use leaflets to defame candidates in an election. It has happened before: people write things they should not in a leaflet about other candidates and distribute them. We need to ensure that the election is very clean and democratic.

The Victorian Electoral Commission will take responsibility for conducting electoral representation reviews every two elections. This will take into account demographic changes every four or five years. A lot of people move around and some places have bigger populations. Some places have smaller populations. There have been many changes including industrial changes. To be fair and to create balance in a city we need to make sure that there are the same number of voters in every ward. Some industrial land may become residential in a few years time. If the bill is not updated there will not be a balanced representation.

Turning to donations, councillors must now declare all donations over $200 to make sure that they receive 'clean' donations. They must not receive donations by way of someone doing a favour for someone else and getting a big favour in return. In community elections all donations must be declared so that every candidate that receives money can spend it according to the guidelines.

Many things have been mentioned during debate on the bill. I want to talk about special rates and charges which could be very important for some traders. For example, I know of some communities that organise festivals and would like to see the council levy a special rate on traders to help fund annual festivals. Seventy five per cent of traders must agree in order for the council to levy the special rate. It is not always the case that 100 per cent of ratepayers agree to the rate, but in order for a special project to happen, 75 per cent of people must agree. It is a good point that will show the commitment of traders in promoting their business districts. Some places may wish to fix a road, organise a festival or decorate a street. It depends on the need of individual places. It is important for people in suburbs to look at their needs and for local government to allow those things to happen.

In conclusion the bill highlights a range of issues from the power and function of councils, conflict of interest, confidential information, councillors' codes of conduct and the need to make council meetings more open to the public. It also covers financial management, voter roles, elections and by-elections. Those things are very important to council business and I am sure that in March next year a lot of people will want to stand for the council elections. Every council will have to provide an annual report and a review of the council at the beginning of each term. I support the bill before the house.

Hon. D. McL. DAVIS (East Yarra) — It is my pleasure to rise and make some comments on the Local Government (Update) Bill and in doing so to record that the opposition does not oppose it. It sees this as a very complex bill that has provisions that it both strongly supports and provisions that it treats with a measure of caution. The bill amends the Local

Government Act, the Constitution Act, the Docklands Authority Act and the City of Melbourne Act.

I note that consultation on this bill by opposition members has been very wide. I pay tribute to the work of Leonie Burke, the honourable member for Prahran in another place in particular, and the Honourable Neil Lucas for consulting widely with the local government community in developing the views of the opposition on this important bill. The bill contains a number of different aspects, some of which the opposition strongly supports and others it has far greater reservations about.

I will firstly turn to the purposes of the act and the preamble that is intended to be inserted. The purpose of the act is:

> (a) to amend the Local Government Act 1989 to —
>
> (i) facilitate the recognition of the system of local government in Victoria;
>
> (ii) improve the accountability of local government and the transparency of decision making;
>
> (iii) reform the electoral process;
>
> (iv) enhance the operation of the Act;

Those purposes are not things that the opposition has any concern about; indeed, it strongly supports them. In the context of those purposes the preamble that is proposed to be inserted is a very interesting preamble, and I will record it in *Hansard* and my views about it.

The preamble states:

> The Parliament recognises that local government is a distinct and essential tier of the Australian system of Government consisting of Councils working in partnership with the Governments of Victoria and Australia to provide for the peace, order and good government of each municipal district.

It talks about the democratic election of councils; it talks about the role of councils to provide governance and leadership for the local community through advocacy, decision making and action; it states that it is essential that there be a proper legislative framework that provides for councils to be accountable to their local communities; and it states that:

> The purpose of this Act is to establish a legislative scheme that supports the system of local government.

The debate about the position of local government is a longstanding one, and I will place on the record my personal view that local government is an absolutely essential tier of our system of government. Personally I am a very strong federalist. I believe in breaking up power in the best possible sense of that word, at both the state and federal levels, with the empowerment and positioning of significantly focused municipalities.

I believe that municipalities have huge strengths, in part because they are much closer to the people on many important local issues. I place on record my strong belief that a strong municipal level of government is a great foundation for the other levels of government, both state and federal, and I say that unashamedly and very proudly. I believe that local government provides an important grounding where people can learn about and understand our democratic system and from which they often move on to other levels of government to contribute very strongly to our community. There is a proud tradition in this country of people moving through local government to make a stronger contribution to our community both at the federal and state levels.

My saying all that does not mean that I support everything that every local government does. Of course I have many disagreements with local government and with specific decisions by local government, and I am very happy to place those on the record. The point I am making here is that although I may from time to time have disagreements with our local government bodies — and later in this contribution I will place on the record a number of current disagreements I have with local government bodies with which I feel a considerable affinity — that does not in any respect mean that I devalue the contribution made by local government as a tier of government or by those individuals who currently make up the local level of government for which I have great respect.

In my area the City of Boroondara, the City of Monash and the City of Whitehorse are the municipalities with which I deal regularly, and I have great respect for each of those municipalities. Notwithstanding that, as I said, I will make some comments later in this contribution about the broader context of local government and the importance of making sure there is a proper relationship between it and the other levels of government and that the overall impacts on and outcomes for our community are maximised by the system of governance that is put into place.

The opposition has some concerns with a number of clauses in this bill, and I will place those on the record too. They are specifically the new provisions in the bill for the recovery of the costs of new roads and the provision for individuals and property owners to be multiple-rated for new roads or roads that are upgraded, which is a provision that has previously not existed in that form and a provision that causes some level of concern to the opposition. I know that others in this

debate have commented on that, and it is not my intention at this point to add to the detailed comments that the Honourable Neil Lucas, the Honourable Bruce Atkinson and others have already made in their good contributions to this debate.

There are also some concerns about the changes to the method of election that are proposed in this bill. I place on record my concerns that this bill could introduce a system of largely compulsory proportional representation. I personally have a number of concerns about proportional representation as a mechanism of election in general, but with regard to local government specifically I place on record the concerns I expressed in my recent interchange with the Honourable Sang Nguyen about the impact of proportional representation.

In my view Mr Nguyen was not sufficiently able to answer my interjections about the prospect of proportional representation electing a range of candidates, who for many reasons may not broadly reflect the community. I mentioned to him — a person whom I know does not have a high level of respect for the One Nation party — the prospect that a party like One Nation could be elected under a system of proportional representation at the municipal level.

Under this bill there is a clear proposal to put proportional representation into every municipality. There would be a complex and difficult opting out mechanism, but almost every municipality in Victoria would end up with a system of proportional representation. That would see parties like One Nation being represented in many municipalities and having enormous power and influence, and on some occasions perhaps even having a controlling influence on significant budget and policy decisions. I place on record my personal concerns about that outcome.

Mr Nguyen made the point in his contribution that proportional representation was a system like the system we have in the Australian Senate. I made the point to him very strongly that the Australian Senate had returned to its ranks a number of individuals whose views I would find abhorrent. I mentioned to him the example of the One Nation party, the views of which I find abhorrent. It is my belief that we are a smart enough society not to move to a system that allows a group like One Nation to more easily enter positions of considerable influence in our politics.

I would be very concerned to see a group like One Nation overrepresented in our local government decision-making bodies. I would be very concerned to see the influence it could have on broader policy in Australia. For that reason, and for other reasons, I and others in the opposition have great concerns about the impact of the provisions in this bill that would virtually mandate systems of proportional representation.

There are many systems of election. We at the state level of Parliament in the Westminster system have traditionally favoured majoritarian systems, but there are strengths and weaknesses with all systems of election. We have seen that where there is a clear outcome and a decisive result, and where there is a clear majority of the community, we tend to get more moderate people elected — people who have broader representation in the community behind them and people who have the fairest representation in the community behind them.

Hon. T. C. Theophanous — Majoritarian?

Hon. D. McL. DAVIS — That is the word I used.

Hon. T. C. Theophanous — Is there such a word?

Hon. D. McL. DAVIS — There is, absolutely.

Hon. T. C. Theophanous — You just made it up.

Hon. D. McL. DAVIS — As a political philosopher, notwithstanding the fact that he is out of his place, I have no doubt that Mr Theophanous would know the word ‘majoritarianism’ quite well, and I challenge him to go and check that word out.

Hon. T. C. Theophanous — I will be interested to see if it is there.

Hon. D. McL. DAVIS — Go and check it in a political science book. I am sure Mr Theophanous, as a former teacher of sociology if I am not mistaken, would be very familiar with words of that nature.

Hon. T. C. Theophanous — Do you know what hegemony is?

Hon. D. McL. DAVIS — I know very well what hegemony is, but I am not sure that it is especially relevant to this debate at this point.

Hon. T. C. Theophanous — How about epistemology?

Hon. D. McL. DAVIS — I do know what epistemology is. I am a philosopher, Mr Theophanous; I have a philosophy background, strangely.

Hon. T. C. Theophanous — What has that got to do with the bill?

Hon. D. McL. DAVIS — Nothing.

The point I want to strongly reinforce — and I am sure Mr Theophanous would agree with me on this — is that we do not want to see any changes that would see minority groups whose views are significantly out of touch with the Australian people overrepresented in Parliament. There is a significant prospect of that with this bill.

I want to, in talking about the recognition of local government, mention the fact that we want a mature relationship between the levels of government. Proper arrangements exist between these different levels. It is naive to think that changes at one level of government will not have a significant impact at the other two levels. We know, for example, that taxation policies at one level of government impact significantly at other levels. I place on record the concerns I believe are felt by many in the opposition about the taxation policies of the Bracks government and the impact they are beginning to have on local government in particular.

Hon. T. C. Theophanous — You mean a $1-billion reduction in business taxes?

Hon. D. McL. DAVIS — I do not agree there has been a $1 billion reduction in business taxes; I believe there has been an increase in every form of tax. I am happy to take up Mr Theophanous's interjection and to deal with these increases, whether it is a payroll tax increase from $2.131 million in 1998 to $2.710 million in 1999 — a $578 million or 27 per cent increase — —

Hon. T. C. Theophanous — What has this got to do with majoritarianism?

Hon. D. McL. DAVIS — I picked up Mr Theophanous's interjection about the taxation issue and about the impact that would have on other levels of government.

Other examples are the land tax increases of 66 per cent, the gambling tax increases of nearly 30 per cent, the taxes on insurance of nearly 50 per cent, and other levels of taxation on many different things including motor vehicles and so forth. All of these have impacts on other levels of government, including local government. What we have seen is that as the Bracks government has placed greater responsibilities on and given greater tasks to local government, it has not provided sufficient funds to enable it to undertake many of the tasks it needs to.

Mr Theophanous and others in this place have not opposed those tax increases at the state level and have not opposed the cost shifting that has occurred between the state government and local government, the increase in burdens and reduction in the level of support that has taken place under this government. That has forced certain changes on local government which have not been entirely positive, changes that include increased rates and difficulty with discharging certain responsibilities of local government.

Hon. T. C. Theophanous — What's that got to do with the meaning of life?

Hon. D. McL. DAVIS — It has a great deal to do with the purpose of — and preamble to — this bill, which is to set up a proper system to facilitate the recognition of the system of local government in Victoria and recognise that local government is a distinct and essential tier.

The role of local government is to provide governance and leadership to the local community. What has occurred here is a shifting of costs and responsibilities to local government that has caused a number of significant outcomes.

I place on record that in my area, in the City of Boroondara, there is currently a significant debate raging about the level of rates that people are being asked to pay. Whilst the rate in the dollar has been reduced by about 13 per cent, the amount of rates paid by people in the City of Boroondara — the rate take — will increase by an average 15 per cent in one year.

I do not blame the City of Boroondara entirely for those rate increases. There are legitimate needs in terms of infrastructure that it has pointed to, and there are also significant examples of cost shifting which has meant that the state government has imposed significant burdens on Boroondara, whether it be with home and community care (HACC) programs and the care for the elderly and the sick that those programs entail, or whether it be maternal or child health, where there has been a winding back of state government support and an increase of responsibilities that have been placed on local government.

It is important that people understand that while the government says it recognises that local government is a distinct and essential tier of the Australian system of government and that it is about the recognition of the system of local government, it is using its rhetoric on the one hand but taking money from and increasing the responsibility of local government on the other hand. What is occurring is that the government's rhetoric is on one side and its actions are on the other side. The government might speak softly about the place of local government but by its actions it has ensured that local

government has been disadvantaged by increased responsibilities and lower levels of support.

It is important that the rhetoric is backed up by significant levels of financial and other support to ensure the rhetoric is acted on. I shall make points later about how that is manifested in the treatment of local government by the Bracks government, and I might add the Premier in particular, in the way they recognise local government and the general level of support they are prepared to offer.

To pick other examples, the shadow cabinet was recently in the City of Glen Eira and looked at the significant increase in rates there. I know the mayor, Peter Goudge voted against that rate rise and did so in the knowledge that in significant measure it had been imposed on that municipality by the Bracks government. Many Labor members at that municipality voted for the rate rise. This refers not only to these two municipalities because there are significant increases in other municipalities. While I do not want to dwell on rates alone, there is significant interaction between the different levels of government — federal, state and local — but in particular between the state and local levels, and the issues of cost shifting and responsibilities are very important.

I do not think this debate can be had in the abstract without grounding it in what is happening in terms of levels of support for local government and the actions of the Bracks government. I know there are provisions in the bill that look at appropriate controls for rate increases and mechanisms to attempt to control rate increases that are aberrant or unreasonable at a particular local government level. There is always a tension in this process with the purposes of the bill — that is, with the recognition of the system and independence of local government.

If one believes local councils are sovereign and are able to make their own decisions it is incumbent on one to allow local governments to face elections and the responsibilities of their policies, including their taxation or rating policies. However, I do not believe you can completely divorce that from the forces that are placed on local councils from outside. I hold the Bracks government directly accountable for a number of those measures — and they are considerable at the moment. Returning to my area of the City of Boroondara, I know that the current Labor member for Burwood, Bob Stensholt, has not been prepared to stand up and make his views on the rate increases known. He has not been prepared to stand up and make his views on increases in land taxes in our local area known publicly to members of the cabinet, including the Treasurer and the Premier.

I make the point that the land tax increases have been very significant in their impact in the City of Boroondara. The honourable member for Burwood has been silent publicly on those significant land tax increases. I hold him culpable and responsible in some measure for the impact on many local small businesses. If he were a genuine local member he would step forward and say to the Treasurer or the Premier publicly, 'You are wrong and you need to change these policies'. He should be prepared to say to the Burke Road traders, 'I will stand up publicly in the *Progress Leader* and say to the Treasurer that what you have done here, the levels of land tax that you are imposing on small businesses, owner-occupiers and others in the City of Boroondara, the City of Whitehorse and the City of Monash, are unfair and unreasonable'. As a local member he should be prepared to make such statements. He has never made those statements and never been prepared to tackle the Premier or the Treasurer. I hold him responsible in significant measure. He is the local advocate, the one who should be able to speak to the government.

The opposition has been prepared to place on record its concerns, and over the next period I will be prepared to hold the honourable member for Burwood directly accountable for not only his role in failing to prevent the government's policies that have led to significant rate increases in the City of Boroondara but to also hold him responsible directly for the taxation policies of the Bracks government and the impact they have had on local trader groups and individual traders.

The Honourable Bruce Atkinson spoke at some length about the introduction of codes of conduct provided for in the bill. I commend what he said to honourable members in this place and elsewhere and suggest they read it. He made a number of sensible points. The codes of conduct that will be introduced will not be uniform. There are pluses and minuses in the proposal, and divergent codes may have a role in different areas, but I urge people to examine what Mr Atkinson said. It was a reasonable discussion of the codes of conduct that the government plans to introduce in this bill.

The reporting requirements could be improved, and again I point to the contributions of other honourable members to this debate. A number of questions about the election mechanisms have been pointed to in other parts of the debate. A whole series of questions can be asked around that issue. I know the opposition wants to move amendments — I will leave those to the Honourable Neil Lucas to move — that relate principally to the proportional representation question, to special rates on roads, and so on.

I shall comment specifically about the Bracks government's relationship with local government as represented in the bill and manifested in the community. The government says through the purpose clause of the bill that it wants to:

> … facilitate the recognition of … local government in Victoria.

The preamble in clause 3 states that the government:

> … recognises that local government is a distinct and essential tier … working in partnership —

and I emphasise ' partnership' —

> … with the governments of Victoria and Australia to provide for the peace, order and good government of each municipal district.

One process that we have seen introduced by the Bracks government — not the process of visiting local municipalities because that has occurred under all governments, both Labor and Liberal, for a very long time, including under the last Kennett government, where there were many visits to municipalities — is a change with the so-called community cabinet process it has introduced.

I place on record concerns I have with that process, and more particularly with the abuse and misuse of that process, that is currently occurring under the Premier and his cabinet. The concept of visiting municipalities in a systematic way rather than an ad hoc way is a good one, and something I would encourage all members of Parliament at both the government and opposition levels to do. If they do they will learn a lot and build important links with people from areas of the state different from the area they represent as members of Parliament.

The Bracks government has begun to misuse this important community cabinet process and as we understand that systematic use of secret polling — polling that is done in each municipality before the community cabinet visits — I shall take the house through the way this sinister process has begun to operate.

In the month or two before the cabinet visits a municipality around $20 000 worth of polling is undertaken specific to that municipality. It seeks views about local services. It talks about people's views, and a quite sophisticated series of focus groups are undertaken by a small panel of companies, and I will come to the specifics of those companies in a moment. At this point I will talk about the general nature of that community cabinet process and the polling that occurs. The polling is then received by the Premier and the cabinet. They go out to these municipalities with the sophisticated polling and sit through the community cabinet process with the polling in front of them, unbeknown to the local municipality, to the local councillors, to the local council officers, to the local community groups — these are the groups that have been polled. Only one or two individuals who attended may have been polled, but usually it is just a tiny number. They would never piece together the fact that this was polling designed by the government to look at the community cabinet process and at the changes or activities in that municipality in a way that is of partisan political advantage rather than the broader advantage.

It is my strong contention that if you look at the objectives of this bill and the rhetoric of the Bracks government, the recognition of the system of local government and the system of councils working in partnership with the governments of Victoria and Australia to provide good government in each municipal district, that that polling ought to be made available to the local councils prior to those community cabinet visits.

The community cabinet may go to Geelong, and I note that the Honourable Ian Cover is in the chamber. When it next goes to Geelong there will very likely be polling done in the month or two prior to the visit. That polling ought properly be available to the council in Geelong so that if there are problems with services or if there are problems with the HACC program or service delivery or problems with transport, the council is made aware of them.

Hon. I. J. Cover — They would not want to go down there again. The Premier was heckled down there on Monday.

Hon. D. McL. DAVIS — I hear that the Premier got heckled. I note that Geelong is one of the few cities where early in the Bracks government cycle it did not undertake polling. It is one of the very few community cabinets where there appears to have been no prior polling undertaken. The community cabinet may have returned there very recently; if so, I would bet London to a brick that there has been sophisticated polling undertaken in that area.

Hon. I. J. Cover interjected.

Hon. D. McL. DAVIS — The newspaper poll might have put them behind on Monday, but the truth is that this is detailed polling. It amounts to $20 000 worth of polling that is undertaken in most municipalities. That

polling ought properly to be available to the councils at the time of the community cabinet visit.

It is wrong for the Premier to sit there over the council table with the secret polling in front of him and not share it with the council. This is taxpayer-funded polling; it is not Labor Party polling. It is taxpayer-funded polling that ought properly to be the province of governments that are working in that municipality.

Hon. I. J. Cover — They were going to work with them.

Hon. D. McL. DAVIS — The government said it was in partnership and this legislation says it aims to put itself in partnership with other governments. If it did and truly planned to be in partnership, it would share the secret polling with local government.

I know the Bracks community cabinet visited the City of Whitehorse on 15 June 2001. I know it spent $2893 on the reception. I know it spent almost $1000 on advertising. I know it spent $15 000 on research — and that is not at all unusual for Premier Bracks. On 17 July 2000 the Bracks government community cabinet visited the City of Greater Bendigo and spent $5300 on the reception. It spent money on advertising and spent $15 000 on polling.

In the Shire of Mitchell it spent $20 250 on polling and in the Mildura City Council $26 455. In the Rural City of Ararat it spent $17 886 and in the City of Ballarat, $17 886. In the Shire of Latrobe it spent $17 886 and in the Shire of Glenelg, $17 886. In the City of Knox it spent $16 498.

I only have the figures for part way through 2001, but the key point is that the government spent $183 000 on research and polling, and $241 000 — almost a quarter of a million dollars — on the community cabinet process. Nobody begrudges the cost of moving around Victoria and the legitimate costs of undertaking the community cabinet processes, but that enormous expenditure on polling and research is significant — and it is significant for a number of reasons.

On 30 October 2001 I raised in this house for the Premier my concern about the situation with the community cabinet visit to the City of Whitehorse. I asked him for a copy of the polling for the City of Whitehorse. The council wants that polling; it believes it would be useful. In a letter to me shortly after my request the Premier refused and said:

> In reply to your question regarding the local area research undertaken prior to the community cabinet meeting in the City of Whitehorse on the 15 June 2000 I advise … to ascertain issues of local importance …

He refused to make this community cabinet polling available. I think that is a slap in the face to local government. I can understand why the Premier would not want to make the community cabinet polling in the City of Whitehorse publicly known. Freedom of information has successfully been used by the opposition to obtain some information — not the actual polling, I might add — but the Premier, despite promising in opposition to be open and accountable and despite promising they would not abuse the cabinet processes and despite promising they would have an open cabinet, they have failed to provide that information.

But the actual financials — that is, the $15 000 spending on polling — was performed by a company called Auspoll, a Labor-linked company, with extreme Labor links to the honourable member for Frankston East in the other place, Matt Viney. He set up the Auspoll company and has a very shabby history in the way he has interacted with his polling company and the Victorian community. He has become very controversial for his links to polling and one could only regard him as having misused his position — —

Hon. J. M. Madden — On a point of order, Mr President, I know some liberty is given to the opening speaker when debating any bill and appreciate that a fair degree of licence is given to this honourable member's remarks, but I ask you to rule on whether the honourable member is speaking to the bill or just using this as an opportunity to air a whole lot of personal views about the government rather than sticking to the bill.

Hon. D. McL. DAVIS — On the point of order, Mr President, I was speaking very directly to the purpose of the act, which is to facilitate the recognition of local government in Victoria, and very closely to the preamble, which talks about government consisting of councils working in partnership with governments in Victoria and Australia to provide peace, order and good government of each municipal district. My contribution is very closely tied to that as very specific to municipal district and to the provision of good government in each of the municipal districts that I am discussing.

The PRESIDENT — Order! I do not uphold the point of order in relation to the specific issue raised by the minister. The honourable member obviously knows the rules about the limitations on references to other members of Parliament, but in relation to the general proposition I do not accept the point of order.

Hon. D. McL. DAVIS — With regard to the involvement of this company, the Auspoll company, the polling in the City of Whitehorse and the value of that polling, it is clearly valued by the government. The government has been prepared to spend taxpayers' money on that polling. That polling would reveal information about the views and understandings of people in the City of Whitehorse.

What concerns me is that the Auspoll company is also the Labor Party pollster — the pollster that undertakes the party political polling for the Labor Party. I have no confidence that the Auspoll company would not make this information available to the Labor Party. It is my strong belief that it has been used to improve Labor Party campaigns in the area and in the immediate period. We may very well have an election on any date from 30 November onwards. This polling may be used to assist the Labor Party's political and election campaigns. I believe this is a misuse of public money: it is a misuse of the resources of the state, and it is certainly not within the objectives and preamble of this bill. I place on record my great concern that some individuals, Labor Party members or their campaign teams and/or the central Labor Party campaign, will use this information inappropriately to improve, to strengthen or to refine their campaigns in the City of Whitehorse.

I specifically refer to the misuse of this information in the electorates of Burwood and Forest Hill and potentially in the electorate of Box Hill as well — and very likely Mitcham. I am very concerned that in an electorate like Burwood the Labor Party will be using this polling. I strongly believe this polling should be made available to the council to assist its services, but it should not be kept secret for Labor Party members or Labor Party campaign teams to gain an unfair advantage in a campaign at the expense of the Victorian taxpayer. That would be quite inappropriate and quite wrong. I cannot strongly enough record my great concern.

This is not the first time this has happened. I wish to draw the Council's attention to another example: the City of Knox. In my view this is a tragic and very unfortunate example of the misuse of the community cabinet process. I am happy to table this information if anyone in this chamber felt that it was of interest, or wished to see it. The truth is that the community cabinet that was held in the City of Knox on 21 May 2001 was one where some significant changes occurred in the context of a federal by-election. A set of media advertisements was planned, and I have the invoices and the placement dates for those media orders for local community placements. I know that what happened at the time of the Honourable Peter Nugent's untimely and very unfortunate death was that within a week the Labor Party had turned around and ramped up the advertising and ramped up the spend for the Knox community cabinet in the area that was overlapped by the federal electorate of Aston.

I believe this is not respecting the processes of other parts of our governance system. This bill claims to want to improve relationships between the different levels of government, including the federal government, and this was an important federal by-election, a tense and difficult federal by-election which the various political groups and political parties were contesting quite strongly. What we saw is that Premier Bracks himself and his department ordered that the community cabinet process be ramped up, and that the spend be ramped up. I note that in terms of advertising on community cabinet visits the City of Knox spend of $9079 was four times more than the spend on any other community cabinet advertising that was undertaken in the list I have, which goes through to the end of June 2001.

I still await the results of further freedom of information requests for further community cabinet spends but, as I said, the spend in the City of Knox was more than four times greater than the spend in any other municipality that I have figures for, and that was ordered after the untimely and unfortunate death of Peter Nugent. In fact on 30 April, within a week of the untimely death of Peter Nugent, a very unfortunate document, the revised schedule, appeared. The Bracks Labor government revised its advertising schedule on that day and placed advertisements in the *Herald Sun* and the *Age*, very uncharacteristically for a community cabinet, in my view. A community cabinet is meant to be focused on local municipalities. But Premier Bracks's own department that runs the community cabinet processes ramped up the advertising and placed advertisements in the major daily newspapers forcing the spend on this to exceed by four times the spend on any other community cabinet process of advertising.

There is a role for some advertising. You do want community groups to be able to attend and interact with MPs. I do not have a problem with that, but I do have a problem where there is a misuse of the system for party political advantage. Again, the Auspoll group is often involved in these community cabinet processes. The community cabinet process is devalued when that occurs, when groups that have clear Labor Party links and connections are able to be slung into the position and misuse the position for partisan political advantage.

I want to make the point that the councils are often unaware of the nature of this process. I know this

because as I have moved around country Victoria and the city too I have talked to many councillors and council officers about this community cabinet process. Even as recently as last Monday in Glen Eira I sat with a number of councillors and council officers and asked them a simple question: when the Premier came with his cabinet just a month or so ago did he give you a copy of the secret polling that he had undertaken in your municipality in the month or two before his visit? Did he tell you about this polling? Was he prepared to share the information with your council in the spirit of this act which is about partnerships? Did he share the information with your municipality? Did he provide that information?

The answer on every occasion has been no. He has refused despite some councils, after being informed about the process, directly requesting it. The City of Knox has requested the information and has met with a rebuff from the Premier. A number of other councils have requested this information and been rebuffed by the Premier directly and told they would not be given this secret information and that the Premier intends to retain it for his own purposes and those of his government, which I think is a disgrace.

I want to make some points regarding this process in particular in the municipality of Delatite, a municipality which is going in a slightly different direction at the moment. The Labor member there was quite unaware of the community cabinet process. I guess that is a good illustration of the esteem in which she is held — or not held — by her colleagues.

I wrote to the municipality and to a number of local papers about the community cabinet process indicating that the polling ought to be released to the shire. Many of the councillors and council officers also believe the polling ought to have been released to the shire before the visit or at least, at this later stage — but not Denise Allen. She believes the polling ought to remain secret, that it ought not be shared with the shire — —

Hon. N. B. Lucas — Shame, shame!

Hon. D. McL. DAVIS — As Mr Lucas says, this is a shame and it reflects a poor relationship between her and the council in that respect. As the local Labor member she should be prepared to negotiate with the Bracks government, and with the Premier directly if necessary, and say this polling, usually to the value of about $20 000 undertaken in the municipality before the so-called community cabinet visit, ought to be made available to the shire.

Why will Denise Allen not step forward and say to the Premier, 'Release that community cabinet polling to the Delatite shire.' If there are issues in the polling concerning, for example, council service, service delivery or transport that information ought to be properly known to the Shire of Delatite. This was taxpayer-funded polling undertaken in the Shire of Delatite a month or so before the visit of the Premier and his cabinet. In my view Denise Allen ought to have the strength, gumption and resilience to stand up to the Premier and say, 'Release that secret polling and make it available to the municipality.' It is wrong to retain that information unless the Premier and his cabinet plan to use it about the Shire of Delatite in the Benalla electorate in the next few months. If they propose to misuse that information I would understand why they would want to keep it secret and away from the municipality. If they want to misuse that information purchased with taxpayers' money for partisan political advantage that is a disgrace and it is quite wrong of the Premier to misuse the money in that way. If Denise Allen is supporting that sort of process she ought to hang her head in shame.

Hon. G. D. Romanes — On a point of order, Mr President, the honourable member has been speaking for some time and rambling on about the so-called community cabinet polling. I ask him to come back to the details of the bill before the house.

The PRESIDENT — Order! I am not sure if the honourable member was in the chamber when the minister raised a similar objection. At that stage the honourable member read relevant general provisions from the bill justifying why he was on that line. The bill is a local government bill and that generally provides scope for a member to go over a whole range of local government and associated issues. It is not for me to say that a member should give more or less weight to a particular aspect that concerns the member. I do not uphold the point of order.

Hon. D. McL. DAVIS — I think I have made my point on this important aspect. I want to make other points before I finish my contribution on this bill and some of those relate to the electoral system that the government proposes to put in place with the bill and the provision for an independent commission to draw council boundaries. That is a provision in the bill that I strongly support.

It is my view that this has been an area of local government administration — let's call it that — that has not been tight enough and in my view there is every reason to have a truly independent group draw ward boundaries and assist with the provision of a fair

electoral system within each municipality. It is not clear to me — and I look forward to some explanation from the minister and will ask some questions of the minister — how that set of provisions will work. Will the Victorian Electoral Commission operate these aspects of the bill? Will a local municipality be able to choose its own commission? I look forward to an explanation from the minister on this point. I place on record my concern with some other activities of the Bracks government in terms of electoral processes.

It is important that the drawing up of electoral boundaries and the processes of elections are conducted with absolute independence. At the state level we have a system where the Electoral Boundaries Commission consists of a judge, the Electoral Commissioner and the Surveyor-General. At the federal level the boundaries committee, the redistribution committee, consists of the Australian Electoral Officer and the most senior electoral officer in the Australian Electoral Commission in Victoria. It consists of the Victorian Auditor-General and the Surveyor-General: four people, three at the state level, four at the federal level.

I am interested to know how this will be constructed with regard to local council boundaries. Will those same officials in some manner have an involvement and, if so, I seek from the minister some assurances as to how that will be undertaken. How will the Victorian Electoral Commission be involved and who will represent it? Will there be some judicial input into the process? Will the Surveyor-General have a role? I place on record my concern with regard to electoral processes and the activities of the Bracks government in recent times.

The government has conducted a program of attack and vilification with regard to the Surveyor-General and that has extended to direct, and in my view improper, influence on the Surveyor-General during the process of the federal electoral boundary redraw. This has taken the form of bureaucratic steps inside the department of which the Surveyor-General is an employee under the normal public service arrangements. I also place on record my concern that that process appears to be continuing, in view of recent happenings inside that department: I refer to the direct pressure that has been placed through a series of private investigators on the office of the Survey-General.

I also place on record my concern about the government's contractual arrangements with the Electoral Commissioner, who was due for reappointment on 22 August this year. During the federal boundaries redraw the government refused, for a period, to reappoint him and then reappointed him for only a six-month period. What I want to see is that whoever draws up these local government boundaries is truly independent and not able to be unreasonably influenced.

Hon. Kaye Darveniza interjected.

Hon. D. McL. DAVIS — They do not improve things for you, Ms Darveniza, I must say.

I place on record my concerns and I want to make sure that these are not replicated into this set of provisions in this Local Government Act.

In conclusion, I want to reiterate that the opposition does not oppose this bill. It strongly supports many provisions of it and at the start of my contribution I placed on record my strong support for local government and its place within our system of governance and placed on record my strong view that it was in many ways our most important level of government. I am quite unashamed in my support for local government.

It does not always mean that I agree with every policy that every local councillor advocates, but at the same time the closeness of local government to the community is something that should be protected, fostered and encouraged. I hope that the good words in the early part of this act, the preamble and the objectives, are actually replicated in practice by the government.

Hon. C. A. STRONG (Higinbotham) — Rising to speak in debate on the Local Government (Update) Bill is a bit like having come from an enjoyable dinner. This bill is a bit like a cherry pie: you bite on it and sometimes you hit a pip and it is not very nice and other times there is something very nice and sweet in it. There are some things in this bill that are unfortunate, that are not very positive. These have been dealt with by some of the other speakers and I am sure will be dealt with in the committee stage.

However, there is one item in this bill that is extremely good and I want to deal with that. It is the reason I rise to speak on the bill. It is clause 88 which empowers the minister to give direction concerning rates and charges. The previous Local Government Act empowered the minister to direct and use his power with regard to rate rises across the whole of the local government area. The minister could give directions on rate rises and on the capping of rates, but only to local government. This amendment in the bill allows the minister to target councils that are excessive in imposing their rate rises. This provision is highly desirable because in general terms local government does its best to represent its

constituencies, but in any area there are recalcitrants and the minister needs to be given the power to deal with them.

I have urged the minister on several occasions to use his powers to cap rates in areas that are relevant to my province, particularly in relation to the Bayside council, which at one stage was considering a rate rise of something like 21.5 per cent this year, which was absolutely ridiculous. I came in here and urged the Minister for Local Government to use his powers to do something to protect those ratepayers in the bayside area from this outrageous rate rise.

The Glen Eira council is also in the area I represent. It has put its rates up by something like 26 per cent this year. That is absolutely unbelievable and outrageous, and there is no justification for it. I think it is highly appropriate that this amendment to the principal act gives the minister the power to intervene in the small number of recalcitrant councils which do not do the right thing, which are not able to budget properly and which for whatever reason decide that some sort of outrageous rate rise is needed.

Hon. D. McL. Davis — The mayor voted against it. He is a good man.

Hon. C. A. STRONG — As the Honourable David Davis has reminded me, in the case of Glen Eira, where the rate rise was something like 26 per cent — quite an outrageous rise — even the mayor voted against it. That is an unusual situation — a situation where it would have been appropriate for the Minister for Local Government to intervene and cap the rates at some sort of average over that local government area.

This is a very productive, worthwhile and appropriate amendment. I wanted to rise and say that although I find some parts of this bill difficult — you find that in legislation that contains so many amendments — I congratulate the government on this amendment. I further hope that when this bill is passed the minister will use this clause in an expeditious and appropriate way and that through the department he will set up some sort of baseline or performance measure to look at the various rate rises in councils in a particular area with particular characteristics and says that if one council is so far out of sync with the rate rises in a similar cohort of councils he will use his power with care to protect the ratepayers of that council in which the representatives have got carried away for whatever reason and gone for unreasonable rate rises.

With those few comments, I wind up my contribution to the debate on the bill. As I said, I commend the particular amendment contained in clause 88.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. In order that I may ascertain whether the required majority has been obtained, I ask those members who are in favour of the question to stand where they are.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1

Hon. N. B. LUCAS (Eumemmerring) — Clause 1(a)(ii) states that the purpose of the bill is to improve the accountability of local government. I ask the minister: why does the accountability need to be improved?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The relevant remark there that runs parallel to accountability in that line is the transparency aspect that can ensure there is sufficient understanding of local government's decision making through transparency, thereby providing accountability through that process.

Hon. N. B. LUCAS (Eumemmerring) — Given that transparency and accountability are two different things, I ask the minister why accountability needs to be improved.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Basically transparency is a principle that assists accountability. Accountability is certainly there in the means of all those who hold public office; that they are accountable. The purpose of this bill is to provide transparency and thereby ongoing

accountability in relation to the work of those in public office, particularly at the local government level.

Hon. N. B. LUCAS (Eumemmerring) — The minister does not know the difference between accountability and transparency, and that is basic to the whole bill. The bill has been put before us today, saying that its purpose is to facilitate recognition, to improve accountability and transparency and do a few other things. The minister keeps on saying that the improvement of accountability totally revolves around improving the transparency. I think this will make extremely interesting reading for the local government community.

Still under this clause, I ask the minister: in what way will accountability be improved?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the comments I made previously were fairly accurate. Transparency will provide ongoing accountability in relation to the operations and dealings of those in the public office of local government. I am also advised that, as all honourable members in this place would appreciate, accountability is recognised as a key principle to public office and bears fruit at the time of elections, particularly local government elections. That is the ultimate accountability for anybody in public office, but the transparency throughout the conduct of that office ensures that there is ongoing accountability in relation to decisions made by those in public office.

Clause agreed to.

Clause 2

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to clause 2, I appreciate that often on these occasions the responsible minister can speak at great length about issues either related to the bill or having arisen out of the debate. Opposition members have raised a number of issues and it is probably easier for processing the amendments at this time that I relate answers to those questions as we get to those specific clauses, and move on with the process of moving amendments. The government has amendments, the opposition has amendments and there are also amendments proposed to amendments. So at this point it would probably be easier to just move through the bill and make those amendments and I am happy to answer honourable members' questions as they occur.

Hon. N. B. LUCAS (Eumemmerring) — Is it proposed that part 5 of the bill when enacted will come into effect prior to the council elections in March next year?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that elements of the bill would come into application at that time but some would not. If the proportional representation elements of the bill were to be passed at this time, then they would come into being in time for those elections.

Hon. N. B. LUCAS (Eumemmerring) — If proportional representation (PR) is not adopted, given that the opposition is proposing to omit that section from the bill, I ask the minister whether the other provisions for proposed changes to elections in part 5 would come into effect prior to the next council elections in March next year.

Hon. J. M. Madden — I ask Mr Lucas to restate that question in more concise terms.

Hon. N. B. LUCAS — Part 5 of the bill contains a number of changes in relation to electoral provisions, including the preparation of rolls, proportional representation and who can go on the roll. Part 5 commences on page 52 and goes right through, referring to tribunals and a number of other issues to do with advertising, the printing of how-to-vote cards, and voting centres. I could read them all out, but my question is simply: proportional representation is a specific proposed section within that part, and if that is taken out on the vote of this chamber, would all those other provisions to do with elections apply to council elections in March next year?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the vast majority would not apply to council elections in March. There may be some specific issues that might, but without going into the detail of that part it is a bit difficult at this point in time to indicate which are the relevant ones that might apply, but the vast majority would not apply.

Hon. N. B. LUCAS (Eumemmerring) — It seems to me extraordinary that the government would have done all this work, sought advice from the electoral commissioner about how to better run elections in the state of Victoria, put them all into a bill, gone through a two-year process in doing so, and then have the minister in this chamber say, 'Having done all of that' — to use his words — 'the vast majority of provisions might not come into effect when we next have a council election'.

That seems extraordinary to me, but that is what we are being told. We are being told that the government has gone through all this process of reviewing electoral

matters, and if one part of it — that is, the system of how somebody is determined to be elected or not — is not brought in, all the others will not come into effect. There is a myriad of them, starting at page 52 and going up to pages 77 and 80 and right through to — —

An honourable member interjected.

Hon. N. B. LUCAS — Up to page 104, I am advised. They range from page 52 to page 104, and there is a page and a half on proportional voting. The minister is saying, 'If you are take out that page and a half of provisions, the vast majority of those other electoral provisions will not come in for the elections next year'. And yet the government has trumpeted around that the whole reason for this bill is to improve local government, to fix issues up, to do a better job and to make elections better. The minister has just fumbled around with transparency and accountability, but it will all result in nothing happening.

That seems extraordinary to me. I ask the minister if I am on the right wavelength in understanding from him that out of all these provisions — from page 52 to 104 — if that page and a half on proportional voting is taken out, the vast majority of the other provisions will not be implemented for the elections next year?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the vast majority of provisions referred to will not actually be available for implementation. As I mentioned previously the vast majority will not be able to come into being because of the deferral of the bill from the previous sitting of Parliament. Because of that delay, the implementation of the bill will be delayed, and it will not necessarily correspond with the dates to which Mr Lucas referred.

Hon. W. R. BAXTER (North Eastern) — The answer we have just had from the minister is in direct contradiction to what the Minister for Local Government was saying before. My understanding was that the Minister for Local Government had no intention whatsoever of passing this bill in the last sitting, regardless of what might have been the case. As Mr Lucas explained to the chamber earlier today, the idea was to pass it through here and then have it hang over before it was passed by the Assembly in this spring sitting. So the answer given by the minister just now cannot have any bearing on that aspect at all.

My concern goes to the original question asked by Mr Lucas, which was that surely the committee is entitled to know in terms of part 5, in particular, which proposed sections hinge on proportional representation. If proportional representation is not subsequently adopted by the committee, which proposed sections would fall by the wayside, because they turn on proportional representation, and which parts of part 5 would continue to be viable and therefore come into play? When would they come into play — in time for the next election or subsequently?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Two matters were raised by Mr Baxter, the first one being where the cause of or blame for the deferral of the bill lies. I know that was part of the debate earlier today and that point has been made. I do not think the issue has been resolved as to where the blame does or does not lie, and I do not intend to be drawn into that argument. That is part of the debate. The point was made earlier in the day and I do not think it is relevant to the technical issues relating to the clauses that we are discussing at the present time.

Regarding the specifics about what proposed sections under part 5 will or will not be implemented, I am happy to provide further detail as we get to those sections, but as we are talking about the general intent of the bill because we are presently discussing clause 2, it is not easy for me to refer to those provisions without drawing upon the specifics of those sections.

It would be preferable for the house if we could move through the bill and move beyond clause 2. I am happy to answer questions in relation to any technical specifics of any particular clauses as we move through the bill.

Hon. N. B. LUCAS (Eumemmerring) — I am outraged by what we have heard here. It is a fact — the minister knows it, I know it and everybody knows it — that the minister was not going to adopt this legislation until the spring sitting. Everybody knows that. The minister told me to my face that that would happen. The minister told Leonie Burke, the honourable member for Prahran in the other place, that that would happen. Now we have the minister being advised that a four-month delay is the reason for the electoral provisions of this bill not coming into force next year.

That is outrageous. The minister has said to people, 'We are amending the bill. We are changing things for the better', and the minister knew all along that this would not be adopted until the spring sitting, and now the delay until the spring sitting — which was the minister's idea — is being used as the reason why parts of this bill will not come into force for March next year!

That is not good enough. It is not good enough to blame the opposition, to blame the National Party or to blame anybody else, when it was the minister himself who

said it would be deferred until the spring. For the Minister for Sport and Recreation to use that as an excuse for not being able to provide detail on my question is just extraordinary. The minister thinks it is funny; he is smiling; I do not think it is funny!

The Minister for Local Government should have known better. There are electoral provisions in this bill which could be readily implemented prior to March next year, and yet the minister is hedging on telling us which ones there are. But I want the local government community to know that the Minister for Sport and Recreation, who is at the table, has given this advice and has not been able to indicate to us what is going to happen in relation to the sections coming into force and when they will do so as a result of the bill passing this house, if it does. Maybe the government does not know. Maybe the government is in disarray. No doubt we will find out in due course. But I think this whole matter is totally unsatisfactory and that the minister has been very badly advised in relation to this section.

Hon. E. J. POWELL (North Eastern) — I would like to support Mr Lucas's comments and say that during the consultation phase, which has been about two years or 18 months, councils would have let the minister know that this is important for the elections in March next year. The minister brought the bill into the house in the last two weeks of the last sitting. It is the ordinary practice of the house to hold local government bills over, and the government has had 18 months in which to work out what clauses could go through to the election in March. It is not good enough to say that it does not know now, or that these will not come in until after the March election, because councils were expecting some of these clauses to be able to be used during the next election. For the minister to blame both the Liberal Party and National Party for holding it up is extraordinary.

The CHAIRMAN — Order! It appears to the Chair that this debate could go round and round. I suspect there is no other way to manage it than to individually address each matter as it goes through and try to work through it that way, otherwise we will probably get nowhere.

Hon. W. R. Baxter — We could report progress and come back tomorrow.

The CHAIRMAN — Order! That is up to the committee. I invite the minister to move his amendments 1 and 2 on clause 2.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

1. Clause 2, line 16, after this line insert —

"(2) Part 4 comes into operation on 1 April 2003.".

2. Clause 2, line 17, omit "(3)" and insert "(4)".

Amendments agreed to; amended clause agreed to.

Clause 3

Hon. N. B. LUCAS (Eumemmerring) — Clause 3 provides a preamble, and I am interested to know why it is necessary in both proposed sections 1(2) and 1(4) to repeat that local government has to be:

> … accountable to the local community.

I do not disagree with that, obviously, but I wonder why it needs to be in twice.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I think you can never reinforce these things too much, and it is appropriate, based on some of the earlier discussions about accountability and transparency, that they be reinforced accordingly.

Hon. N. B. LUCAS (Eumemmerring) — I am flabbergasted. I would have thought the minister could do better than that. Maybe with advice he could. We assume it is necessary to put that in twice; we are not going to die in a ditch over that, because we on this side of the house believe in accountability. The fact is that it is in twice to reinforce it, as the minister says — fair enough.

Clause agreed to.

Clause 4

Hon. N. B. LUCAS (Eumemmerring) — The proposed definition of 'local community' states:

> (c) people and bodies who conduct activities in the municipal district

I am wondering how the government interprets what 'conduct activities' means. I can think of a few examples I could ask the minister, but does he have any detail on what that means?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it refers to businesses, charitable activities and those sorts of activities — there would be more than I could name I am sure — that relate to those mentioned who 'conduct activities in the municipal district'.

Hon. N. B. LUCAS (Eumemmerring) — Would it include students who do not live in the municipal district coming along to a tertiary institution?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is anybody who does not necessarily fit into new section 1A(4)(a) or (b) but who uses municipal facilities on a regular basis.

Hon. N. B. LUCAS (Eumemmerring) — The minister has not answered my question, a yes or a no would do. I point out that a tertiary institution would not be a municipal facility. Do I assume that the answer is no?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they may be entitled to.

Hon. N. B. LUCAS (Eumemmerring) — May be entitled to what?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — To be regarded as part of the local community within those definitions.

Clause agreed to; clauses 5 and 6 agreed to.

Clause 7

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

3. Clause 7, line 24, after this line insert —

'(1) In section 3(1) of the **Local Government Act 1989**, in the definition of "municipal enterprise" **omit** "under clause 9 of item 7 of Schedule 1".'.

Amendment agreed to; amended clause agreed to; clauses 8 and 9 agreed to.

Clause 10

Hon. N. B. LUCAS (Eumemmerring) — I refer to new section 1(A), which in turn is subject to section 74B of the Constitution Act. It refers to each council and provides three paragraphs. Currently, the Constitution Act says that councils have to be 'significantly populated', and those words will be taken out of the Constitution Act. Do I assume that in the future all areas of Victoria, whether they are significantly populated, will be under a local government authority?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is no.

Hon. N. B. LUCAS (Eumemmerring) — I assume then that areas such as French Island and other islands along the Gippsland coast — they are the only areas I am aware of but there may be others — will not be brought into local council areas as is currently the case?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that is the case, unless the government decides to incorporate those areas into the Local Government Act.

Clause agreed to.

Clause 11

Hon. E. J. POWELL (North Eastern) — Clause 11 says that the minister may suspend councils on a number of grounds, one of which is serious failure. Are there any provisions or guidelines as to what constitutes serious failure?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised there will be no guidelines, but I refer the member to proposed subsection (1A) which says that:

> … the minister must consider what steps the council has taken to address and remedy the difficulties underlying the failure.

It is relevant as to whether the council takes appropriate action to remedy those noticeable failures.

Hon. E. J. POWELL (North Eastern) — Will the minister give me one example of what would constitute serious failure?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that examples might be corruption, illegality or absence of a quorum.

Hon. E. J. POWELL (North Eastern) — That would be under new paragraph (b), which says:

> … the Council has acted unlawfully …

I am asking for an example of serious failure. The 'acted unlawfully' condition is already permitted under new paragraph (b).

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I suppose in that case I refer to the lack of a quorum. That would probably be the most obvious underlying failure but there may also be other aspects that may be deemed to be a failure of the council to function appropriately or conduct itself in an appropriate manner.

Hon. E. J. POWELL (North Eastern) — Is the minister saying that if the council cannot get a quorum the minister may be able to dismiss the council?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that is the case.

Hon. D. McL. DAVIS (East Yarra) — On this matter of a serious failure, would a serious failure include an example where the council had a view or a policy that was directly counter to government policy?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that is not the case.

Hon. D. McL. DAVIS (East Yarra) — That means if a council had a very clear policy to wilfully flout a government policy, that that would not constitute a serious failure?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In terms of the intention of the question, could the honourable member highlight an example that may help clarify his question?

Hon. D. McL. DAVIS (East Yarra) — Let me give some examples. From time to time councils have taken views on matters of foreign policy, on things like East Timor. It is not my place to judge those positions; I understand why they might take those positions in some cases. I think councils in historical times have taken positions on the Baltic Republics and a whole range of other positions like that. I will not pick a precise example, but from time to time councils might have a view that does not fit with the government's view, for example in relationships with other states or other provinces in another country. How would that fit with the term 'serious failure'?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised failure would be deemed to be a lack of function or the dysfunction of a council; not necessarily policy positions or philosophical positions per se but the actual pragmatic, practical operation of the council and thereby maintaining its appropriate function. Should it be deemed to be in dysfunction that would seem to be an underlying failure.

Hon. D. McL. DAVIS (East Yarra) — That being so, I am interested to know on practical grounds too. For example, I come from a municipality called Boroondara. I have lived there for a number of years. We had a predecessor council known as the Camberwell City Council. I am picking an historical example where the council got itself into a $50 million law suit with a large property developer and got sacked. In such a case, where in my view a council acted inappropriately, in the view of many of the community it acted inappropriately and in the view of the government of the time it acted inappropriately, would the activities of such a council that wasted $50 million but was still operational constitute a serious failure to provide good government?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I appreciate there is such an example, but without the complete details, in this situation I would prefer not to comment on that particular instance. While there may be other examples, surely they will be hypotheticals.

Hon. R. M. Hallam — Camberwell was hardly hypothetical.

Hon. J. M. MADDEN — I appreciate the circumstances to which the honourable member refers, but what is important here is the ability of the council to function. Whatever might constitute it — and it may well have been the case in the instance Mr Davis presented as an example — the underlying failure may be in relation to a council's ability to manage its affairs, but it might also be the inherent dysfunction that brings that about. That may be either inappropriate governance or management by the councillors in the way the conduct of the council takes place or the business under which the council is required to conduct itself.

Hon. D. McL. DAVIS (East Yarra) — I am still not clear. In an example like that, or in that specific example, it is not clear whether the minister regards that as a serious failure to provide good governance — the loss of $50 million and a significant Supreme Court judgment against the council but the council is still functioning and solvent. Would the minister regard that as a serious failure to provide good governance?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I appreciate the relevance of the question. I am advised that the circumstances would have to be considered accordingly, each instance on its merits, and that it would be at the discretion of the minister, as I understand has been the case previously.

Hon. E. J. POWELL (North Eastern) — To enable us to move on, would it be possible for the minister to provide us with a written response of some examples of serious failure while the bill is between the two houses?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I will seek to undertake that.

Clause agreed to; clause 12 agreed to.

Clause 13

Hon. E. J. POWELL (North Eastern) — I have a query on clause 13. It provides that new sections 63 and 64 are to be substituted for sections 63, 64 and 65,

which are the clauses dealing with oaths of office. When I looked at the Local Government Act I noticed that section 64 deals with the oath of allegiance. Is that what this section does? Does this provision remove the oath of allegiance, because the minister told councils they could choose either an oath of office or an oath of allegiance? New section 63(1) says that a person elected to be a councillor is not capable of acting as a councillor unless he or she has taken the oath of office. In this subsection there is no requirement for anybody to take an oath of allegiance, if they so choose.

Hon. W. R. Baxter — No provision?

Hon. E. J. POWELL — No provision.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the wording of the new oath of office is substantially the same as the existing declaration of office, and the change will not prevent councillors swearing an oath of allegiance as the oath may still be taken at the councillor's discretion. I am advised that it only removes it as a statutory requirement.

To elaborate further on that, the existing provision is not specific about the nature of the oath of allegiance and there have been differing legal opinions about whether or not this needs to be an oath of allegiance to the monarch, as a failure to make the oath results in a councillor's position being declared vacant. It is important to clarify this matter. The proposed change recognises that not all councillors are comfortable declaring an oath of allegiance to the monarch and it is consistent with the practice in most other states of Australia. Western Australia is the only other state that requires an oath of allegiance.

Hon. E. J. POWELL (North Eastern) — Does that mean the councillor has to take an oath of office as well as an oath of allegiance? If that person wants to take an oath of allegiance there are no provisions under this to allow the councillor, if they choose, to take an oath of allegiance rather than an oath of office. That provision has been taken away.

Hon. W. R. Baxter — Is it either, or are they going to do both?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they must do an oath of office, and I am also advised that the oath of allegiance is optional.

Hon. W. R. BAXTER (North Eastern) — That is the point Mrs Powell has been trying to make, and the minister has been denying it up to this point. This change proposes that there is no option. You cannot take the oath of allegiance to the monarch as the only oath. This change is saying, 'You will swear this oath that is contained in this bill or you do not become a councillor. If you want to swear an oath of allegiance to the monarch as well, you can do so'. In other words it is dispensing with the oath of allegiance to the monarch as being the oath you can swear to become a councillor. The government should come clean. It should explain this to councils and the people of Victoria and not go around circulating misleading documents, as it has done to councils, which suggest on any fair reading by any layperson that there is going to be an option.

The minister has just disclosed that there is no option. I might say from my experience at the Elmore field days that a number of issues were raised. The issue that was raised most was the drought and its implications. The second most raised issue at Elmore was the concern of people that this bill was going to take away the option to swear an oath or the requirement or option to be the only oath one needs to swear to the monarch to become a councillor. At the time I was somewhat doubting what people were telling me because I did not believe it to be so. I now have it from the minister's mouth that it is so and I am most disturbed about it.

Hon. N. B. LUCAS (Eumemmerring) — I am aware that in the current act there is both a declaration of office and an oath of allegiance. The government has cleverly changed the name of the declaration of office to the oath of office to confuse the issue. It is a fact that members of the commonwealth Parliament and members of this Parliament, including the Minister for Sport and Recreation and me, under section 23 of The Constitution Act have to swear an oath of allegiance before we can take our places in this chamber. Members of the commonwealth Parliament have to do so before they can take their places in the commonwealth Parliament. My question is simply: given the requirement that is retained by the commonwealth Parliament and the requirement that is still a requirement of this state Parliament that members swear an oath of allegiance to Her Majesty the Queen, why is it that the government has deleted a requirement to swear an oath of allegiance to the Queen from the act?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is in response to overwhelming public support.

Hon. N. B. LUCAS (Eumemmerring) — 'Republicanism by stealth' I hear whispered around the chamber. As I was mentioning in my speech, the Crown has gone from our numberplates and from our

stationery. It is still in this chamber — long may it remain so. Certainly the Queen no longer appears in our act. Do I assume from the minister that if a councillor wishes to take an oath of allegiance he or she may do so? That is what I understand from the answer to Mrs Powell's questions, but what is the procedure for that? Is there any standard process?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again I am advised the oath of office is prescribed and the oath of allegiance is discretionary.

Hon. E. J. POWELL (North Eastern) — In the attachment the government sent out — an outline of detailed legislation proposals for the local government act update — it says about the oath of allegiance under 'Issues':

> There is considerable confusion about the requirements for the oath of allegiance at present, with some legal opinion suggesting that the oath need not to be made to the monarch.

I do not know where the confusion is because it is well and truly in the act. But it goes on to say that the proposal to be brought in is:

> That the mandatory requirement for an oath of allegiance be removed from the act, and the declaration of office be upgraded to an oath of office.

In brackets afterwards it says:

> This will not prevent councillors from taking an oath of allegiance, but it will be at their individual discretion.

I do not believe that view is reflected in this bill.

Hon. W. R. Baxter — That suggests an option when in fact there is no option.

Hon. E. J. POWELL — That's right.

Hon. C. A. FURLETTI (Templestowe) — Just to clarify because it is significant, whilst it may very well be at the discretion of the councillor, the issue remains that the procedure to be followed for exercising that discretion remains very much, in my view, at the discretion of the fellow councillors, so if one were to exercise the discretion, what does the government propose that will allow that discretion to be exercised procedurally?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised because it is discretionary it would be at the councillors' request.

Hon. C. A. FURLETTI (Templestowe) — When the minister says 'councillors' I wonder if there is an apostrophe. That is, is it at the discretion of the members of council to accept a request by a councillor or will it be compulsory? I am raising the issue for the record because it is something that will undoubtedly arise in the future. If a councillor so chooses, am I to understand it will be obligatory upon the council to accept that discretion being exercised and permit the councillor to take the oath?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that is the case.

Clause agreed to.

Clause 14

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

4. Clause 14, line 16, after this line insert —

'(3) In section 81(2) of the **Local Government Act 1989**, for "declaration of office" **substitute** "oath of office".'.

Amendment agreed to; amended clause agreed to.

Clause 15

Hon. N. B. LUCAS (Eumemmerring) — Under proposed section 74(1) would a council which reviews and determines a new councillor or mayoral allowance be deemed to be varying the allowance if it is in a subsequent year?

I think I might have asked that question wrongly, given that it talks about the first adoption of the allowance, but I am interested to know whether under this section, when a council reviews the allowance, when it sets the allowance and then subsequently comes back to set a further allowance or to change it, is it deemed to be varying it?

Hon. J. M. Madden — Can I ask the honourable member to repeat that?

Hon. N. B. LUCAS (Eumemmerring) — If the council has already had councillor and mayoral allowances adopted and subsequently comes back to change those allowances is it deemed under this section to be varying those allowances?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that new section 74 specifies the requirements for a council to set councillor and mayoral allowances in line with the outcomes of the review. The new section requires each council to review and set its allowances for the next three years within three months after its general election; specifies that public consultation be conducted before allowances are set by the council; and limits variations in

allowances between triennial reviews to occasions where there has been an order in council to set new allowances — this might relate to the honourable member's question. A change also requires a further review and public consultation process.

Hon. N. B. LUCAS (Eumemmerring) — I am assisted by that answer. Proposed subsection (3) states that:

> A Council can only vary the allowances …

The minister used the words, 'between triennial elections' in his last statement. Do I assume that is an explanation of proposed subsection (3) which does not actually say, 'in between triennial elections'? I assume from what the minister is saying that a variance is something that the council can propose between triennial election setting of fees, which obviously happens every three years.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — If I repeat my answer it may clarify the honourable member's request. I am advised that it limits variations in allowances between triennial reviews to occasions where there has been an order in council to set the new allowance. Hence if you follow where I have been so far, new allowances must be set within three months after the general election and there is a limit to variations in allowances between those that come within the three months after the general election to occasions where there has been an order in council to seek new allowances. So there is a limit. It has to be within three months after the general election and anything other than that, I am advised, is limited to where there has been an order in council to set new allowances.

Hon. N. B. LUCAS (Eumemmerring) — I am with the minister but I just want to check one thing. If on a review of allowances within three months of a general election the council changes the amount of the allowance, do I assume that that is not deemed to be a variation?

Hon. J. M. Madden — Could Mr Lucas repeat the question, please?

Hon. N. B. LUCAS — Do I assume from what the minister has said that where a council within three months of a general election sets the mayor's or the council's allowance at a different figure that that is not deemed to be a variation?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the outcome of that review then sets the allowances for the next three years. I hope that assists Mr Lucas.

Hon. N. B. LUCAS (Eumemmerring) — No, my question was: is that deemed to be a variation?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is no.

Hon. E. J. POWELL (North Eastern) — New section 74A(3) says:

> A Council does not have to pay an allowance under section 74 to a Councillor or Mayor who does not want to receive an allowance.

I was questioning the legality of a council not paying, and whether if the mayor was paid they could donate their money if they did not want to receive an allowance?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised it is a current provision that means that a councillor or mayor does not have to take an allowance.

Hon. N. B. LUCAS (Eumemmerring) — In the same section it says under new section 74A(2) that a council must pay a councillor or mayoral allowance, and in new section 74A(3) that it does not have to pay an allowance. On the one hand under new section 74A(2) it must pay it and under the following subsection (3) it does not have to pay it. I wonder whether the minister can explain which subsection prevails. Do they have to or don't they have to pay?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the council must offer to pay that allowance, but it is at the discretion of the councillor or the mayor as to whether they receive that allowance.

Hon. N. B. LUCAS (Eumemmerring) — My response to that is that it does not actually say that it must offer, it says it must pay. The minister is suggesting that new subsection (2) really means that a council must offer to pay a councillor's allowance, but it does not say that. The strict interpretation of that subsection is that the council must pay it. The following subsection says they do not have to. It does not say to offer it and the person can knock it back, it says it must be paid. That seems strange to me, and I wonder whether somebody has left out the word 'offer'.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I think the issue there is that there must be that allowance. It must be deemed to be on offer as payment as an allowance, but new subsection (3) then

requalifies new subsection (2) to say that that allowance has to be there but the councillor or the mayor does not necessarily have to receive it, at their own discretion, not the council's discretion. It is at the discretion of the councillor or the mayor, at the individual's discretion, as to whether they take up that allowance. Hence new subsection (3) is in fact a qualification as to whether the individual takes up the option of receiving that allowance. The discretion is not the council's, it is at the discretion of the individual mayor or councillor.

Clause agreed to; clauses 16 and 17 agreed to.

Clause 18

Hon. N. B. LUCAS (Eumemmerring) — I referred to codes of conduct in my speech earlier. I am wondering how the government proposes to see these complied with by councillors. It does not appear to me, although I may have missed it, that there is any penalty or any requirement on councillors to comply with codes of conduct. There is no requirement that it be in the form of a local law, and it appears on the face of it to be a bit of a toothless tiger. Could the minister advise how it is proposed to ensure that councillors comply with the code of conduct adopted by their respective councils?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the rules of conduct state standards that are expected by the community. Similar provisions exist in some other states' local government acts and in acts establishing other bodies. The rule relating to not making improper use of a position, proposed section 76B(1)(c), is an important support to the new conflict of interest provisions contained in clauses 20 and 21.

The last rule, proposed section 76B(1)(d), relating to the misuse of information restates an existing requirement in section 77 of the principal act.

Hon. N. B. LUCAS (Eumemmerring) — I wonder if I can get an answer to my question. My question simply was: how does the government see the councils enforcing codes of conduct? The minister's answer has all been to do with enforcement of other clauses in the bill. I want to know how the government sees a council ensuring that a code of conduct is complied with.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the codes of conduct would be incorporated into local laws. I am also advised that during the consultation stage the vast majority of councils requested that that be part of local law provision rather than be deemed by the state. It is a requirement of local government to ensure that it implements that through its own local provisions.

Hon. N. B. LUCAS (Eumemmerring) — Would the minister confirm that there is no requirement in the bill for councils to provide a local law for a code of conduct?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is correct.

Clause agreed to; clause 19 agreed to.

Clause 20

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

5. Clause 20, page 18, omit lines 1 to 25, and insert —

'(2) For the purposes of this section, information is "confidential information" if —

(a) the information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or

(b) the information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or

(c) subject to sub-section (3), the information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that that information is not confidential.

(3) Confidential information referred to in sub-section (2)(c) ceases to be confidential at the expiry of the period of 50 days after the designation is made unless sub-section (2)(a) or (2)(b) applies to the information.'.

Hon. N. B. Lucas — On a point of order, Mr Chairman, am I able to talk about this clause after the amendment is carried?

The CHAIRMAN — Order! You may. It will be clause 20 as amended, Mr Lucas.

Amendment agreed to.

Hon. N. B. LUCAS (Eumemmerring) — New section 77A(2) uses the term 'closely associated'. I want to find out from the minister what that means.

How would the government define a person who is closely associated with a councillor or a member?

Hon. J. M. Madden — Could you highlight which section it is?

Hon. N. B. LUCAS — New section 77A(2).

The CHAIRMAN — Order! It is at the bottom of page 18.

Hon. J. M. Madden — Could you repeat that?

Hon. N. B. LUCAS — The top two lines of page 19.

Hon. J. M. Madden — I have located the clause. Mr Lucas may like to make that request again.

Hon. N. B. LUCAS — I would like the minister to explain to me what the term 'closely associated' means in terms of a person with whom a councillor or member is closely associated.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is not specifically defined because the onus should be on the councillor to ensure there is transparency in relation to any association with any individual or organisations with whom he should reasonably and openly declare an association.

Hon. N. B. LUCAS (Eumemmerring) — Would it include a fellow member of the Lions club that the councillor belonged to?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it would depend on how closely the councillor knew that person. I am also advised that the councillor or member should ensure transparency in relation to that association by being proactive in terms of declaration from the outset in respect of any deliberations.

Hon. N. B. LUCAS (Eumemmerring) — I assume from the minister's answer that each case will be treated on its merits and it will be up to a court to determine the matter so we will see what happens in the future. Is that what is going to happen?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that this clause is promoting openness and transparency but, as is the case with most legislation, the definitive nature of that is often established through the courts.

Hon. N. B. LUCAS (Eumemmerring) — New section 77A(3) refers to a situation where the interests of the councillor arise solely from being a voter, resident or ratepayer. Do I assume that if it is a planning case and the property concerned is next door to the councillor, the councillor would not be deemed to have an interest in such a matter because he has an interest solely arising from being a resident or ratepayer who owns the property next door?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I think I understand the gist of the question, but I might ask Mr Lucas to put it in a more succinct way.

Hon. N. B. LUCAS (Eumemmerring) — I am asking, if a councillor owns and occupies a property and next door there is a property subject to a planning application which, if approved, is going to either improve or make the councillor's property less valuable, are we saying that that councillor does not have an interest in that issue as a result of this clause, which says that if it arises solely as a result of being a resident, a voter or a ratepayer this person would not have an interest?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is not necessarily the case. Again, as would be the case with disclosure of interest in line with any good governance procedures, those relevant interests should be disclosed in the appropriate manner in the conduct of that governance.

Amended clause agreed to; clauses 21 to 27 agreed to.

Clause 28

Hon. N. B. LUCAS (Eumemmerring) — Clause 28 refers to proposed section 125, and section 125(2) talks about the next three years. Does that mean financial years starting on 1 July?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised it certainly intends to.

Hon. N. B. LUCAS (Eumemmerring) — So if it is the financial year and a council adopts the plan after 1 July — given it has nine months to adopt it after a general election — would that mean that the plan would not then apply until 15 months after the council was elected, and would actually apply for years 2 and 3 and the following year after the next general election?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that could well be the case.

Hon. N. B. LUCAS (Eumemmerring) — Proposed section 125(8) contains the term 'district offices'. I am

wondering what that means. I am not aware of a definition of a district office. There may well be one that I am not aware of but I would be grateful if the minister could point out where it is in the act or the bill, or if it is not in there, explain what it means.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it refers to the general notion of other council offices around the community. Given the size of some councils, they may have other administrative bases or areas allocated around the council area in which the public may gather or be assisted with information.

Hon. N. B. LUCAS (Eumemmerring) — Referring to proposed section 128(1), I am wondering whether there is a definition of 'material change'.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that refers to the precise definition within Australian Accounting Standards.

Hon. N. B. LUCAS (Eumemmerring) — Does it actually say that anywhere in the bill or the legislation?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that on the advice of parliamentary counsel it was deemed not necessary to overtly define or express that.

Hon. N. B. LUCAS (Eumemmerring) — Proposed section 141(2)(b) contains the term 'reasonable degree'. Would the minister please define what that means?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised the definition is drawn directly from the Financial Management Act.

Hon. N. B. LUCAS (Eumemmerring) — There is no reference to the Financial Management Act in the bill to ensure that people are aware of that.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is part of the word usage within the Financial Management Act.

Clause agreed to.

Clause 29

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

6. Clause 29, page 45, line 8, after this line insert —

'(a) for the definitions of "accounting records" and "accounts" **substitute** —

""**accounts and records**" includes —

(a) the standard statements; and

(b) notes attached to, or intended to be read with, the standard statements; and

(c) any working papers and other documents which are necessary to explain the standard statements; and

(d) invoices, receipts, orders for the payment of money, bills of exchange, promissory notes, vouchers and other documents of prime entry,';'.

Amendment agreed to.

Hon. N. B. LUCAS (Eumemmerring) — Do we assume that under clause 29(4) the repeal of section 197A(a) of the Local Government Act will mean that regional libraries will no longer need the approval of the Treasurer to borrow money?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the libraries cannot borrow money and that the councils do that on their behalf.

Hon. N. B. LUCAS (Eumemmerring) — The minister is saying that libraries can no longer borrow money, full stop?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the library corporations cannot borrow the money and that the councils borrow the money on their behalf.

Amended clause agreed to; clauses 30 to 34 agreed to.

Clause 35

Hon. N. B. LUCAS (Eumemmerring) — New section 10A(3), at the top of page 53 of the bill, says:

> Unless section 20 applies, enrolment under an application referred to in sub-section 1(b) or (1)(c) continues in force until the next exhibition roll date for a general election.

Given that the date for an election roll is around 100 days before the election, if someone applies to be put on the roll as a non-resident occupier or owner or as a nominee of a company, say 105 days before the election, do I assume that when the exhibition roll date rolls around five days later they will all be cut off the roll?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised — and this may or may not assist Mr Lucas — that new subsection (3) specifies that people enrolled by application or appointment

continue to be enrolled until the exhibition roll date for the next general election. People who are entitled to enrol and want to enrol would need to reapply for enrolment at the next election. New subsection (3) amends the existing process, where an enrolment application remains in force until the council is advised of a change. As councils are rarely, if ever, advised of such changes it is common for voter rolls to be outdated and inaccurate. A new section 23A, to be inserted by clause 44, will specify notification arrangements in regard to these electors. I am not sure if that clarifies the question.

Hon. N. B. LUCAS (Eumemmerring) — It does not. If somebody advises the council that they wish to go on the roll a year before the entitlement date and then the exhibition roll date rolls around, do I assume, given that it is the next exhibition roll date, that they will then go off the roll?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they would go off the roll but that they would get a letter of notification for renewal from the council.

Hon. N. B. LUCAS (Eumemmerring) — There are three years in between elections, and the minister has just confirmed my fear that everybody who says they want to go on the roll by applying to go on it, including every company nominee whom a company nominates and who sends these forms in over a period of say two and a half years, will get the slice. They are all going to be cut off the roll when the next exhibition roll date rolls around. Based on the minister's answer we will end up with no owners who are not resident, no occupiers who are not resident, and no nominees on the roll when they have actually applied to go on the roll, because they will all be automatically cut off, which seems self-defeating. The minister has just confirmed that this is the case. He may wish to have another go at that one.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I think I highlighted that there would be notification of that being the case, and a re-enrolment application would also be part of that notification.

Hon. N. B. LUCAS (Eumemmerring) — That means that two and a half years worth of people who have nominated or applied to go on the roll will get cut off and every one of them will get a letter saying, 'You have been cut off the roll and you will have to apply to go on it again'. Two and a half years worth of people — nearly three years worth of people — will all automatically be cut off the roll and have to apply to go on it again. That is just ludicrous.

If you apply to go on the roll it means you will never get on the roll until you get cut off and apply again — in other words, everybody who wants to go on the roll as a non-occupying owner, a non-resident occupier or a nominee of a company, and who applies to get on the roll that way, will be cut off the roll and will have to reapply before the election. That is what the minister is saying, is it? The minister has said that twice. I assume it is a bit of a problem.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that we are talking about a quarter of 1 per cent of the rolls, and I am also advised that practically no-one applies except when an election is due.

Hon. N. B. LUCAS (Eumemmerring) — That is a smart way of putting it, but the facts are that we are changing the act so that every company that occupies or owns land has to nominate somebody, and there are a whole lot of provisions ensuring that they do. We are also saying that occupiers who are not residents of the municipality no longer have an entitlement to go on the roll and that they will have to reapply, which is a new situation.

This government is saying, and the minister is confirming it, that when it comes around to that time of the year when the roll is prepared they will all be cut off. They are all going to have to be sent a latter saying, 'You have been cut off', and they will all have to reapply.

If the ones who are nominees of companies do not reapply I think there is a provision saying there is a bit of a problem. There are a whole lot of provisions about company nominees, about putting on the secretary and all that sort of thing. This is a whole lot of work for no reason — this is ludicrous.

The answer that it only applies to a very small figure may well be the case under current rolls, but the government is trying to get every company to get a nominee — it could be two — on the roll, and is changing the situation so that occupiers and owners who are not residents have to apply. Yet they are all going to be put through this mill of having to reapply because everybody who applies this way is going to be automatically cut off by this section.

Clause 35 agreed to; clauses 36 to 44 agreed to.

Clause 45

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

7. Clause 45, page 68, line 18, omit "36" and insert "31".

8. Clause 45, page 69, lines 31 and 32, omit "clause 3(2) of".

Amendments agreed to; amended clause agreed to; clauses 46 to 55 agreed to.

Clause 56

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

1. Clause 56, omit this clause.

I covered this in my speech in the second-reading debate. The Liberal Party does not support the application of proportional representation in local government. We believe the existing system of preferential voting is a tried and true method. This method has applied in local council elections for many years. Many local councils do not want proportional representation.

In my papers I have one letter where the City of Manningham says that the exhaustive preferential system is currently the tried and proven standard method to count votes in multimember wards. It does not want proportional representation. It indicates that once a system is settled on it should not be able to be changed at the local level and says that if there are compelling reasons to introduce proportional representation it is curious that the exhaustive preferential system is to be maintained as an option.

We heard the Labor government speakers say, 'Look, proportional representation is the only way to go, this is the fairest thing' et cetera, but the bill says that it is an option. How can you on the one hand say that this is the fairest, best and only method to use and then on the other hand say, 'If you want preferential voting that is all right too'? It does not make sense.

The facts are that this method of voting works and is how councils have been elected for years, from Labor-dominated councils to councils that have only independent members. It has been used in rural and regional Victoria and throughout the metropolitan area, and it works. It is democracy. Under the preferential system the winner is the person with the most votes once they have 50 per cent plus one of the votes by either first preferences or second and down-the-card preferences distributed. That system is democratic and works, and the Liberal Party is very happy to leave it the way it is at the moment.

I put to the committee that clause 56, which proposes the introduction of proportional representation, be omitted from the bill.

Hon. E. J. POWELL (North Eastern) — The National Party also wishes to omit this clause from the bill. I spoke about it in my presentation earlier today, but we believe the exhaustive preferential voting system that is currently in use, which gives the electorate the majority of voters for that person — 50 per cent plus one before that person is elected — works well. In some areas the community may not like the councillor who is there, but that is not necessarily the system; it is the person who has put himself or herself forward.

Under proportional representation people vote on the basis of a quota of the population. You get an election of minority groups, which means that a majority of people did not vote for that person. That would also mean councils would not be representative of the majority of the people. It only applies to unsubdivided or multimember councils, and the National Party would not wish to see it introduced as the required voting system.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — No doubt this is a point of dispute between the opposition and the government. I am advised that a council may apply to the minister for an order in council to remove the requirement to use proportional representation. This is subject to the conduct of a prior public consultation process under section 223 of the Local Government Act. If the minister approves an application from the council an order in council can be made directing that votes be counted according to the exhaustive preferential system.

This proposal has been introduced because of the results in many elections under the current accounting system, and the most significant difficulties arise for rural voters in unsubdivided municipalities. These voters may be completely unrepresented on the council because the current winner-take-all system allows the votes cast in the main regional centre to dominate to the extent of filling all vacancies. Proportional representation is generally recognised as the most democratic way to fill multiple vacancies in a single ward or electorate.

I am also advised that community responses during the act update consultation process indicated strong public support for this change.

Hon. W. R. BAXTER (North Eastern) — The minister has just said that proportional representation (PR) is the most democratic way of electing candidates for council office. I would have thought that a fundamental tenet of democracy in our election

procedure is that one has to gain a majority. By definition a majority is 50 per cent plus one. Under the PR system you can be elected, as Mrs Powell has so eloquently pointed out, with a lot more people voting against you than for you. I hardly think that that sits easily with the minister's definition of democracy.

I am one of those who has agonised quite a bit over this over the years. Going back to the time of the previous government when this matter received a bit of attention some suggestion was made from one or two of my own councils that the current system was not working particularly satisfactorily in multimember and unsubdivided councils and that we should look at going to PR.

I have to say that at the time I was somewhat convinced that perhaps the current system was less than ideal. I was not particularly enamoured of PR, and I would have liked to come up with a different mechanism. I was not able to do that and was thinking that maybe PR was our only alternative. I have thought more and more about it and believe the current system does at the end of the day deliver what democracy is all about. You cannot get elected under the current system unless at the end of the count you have achieved 50 per cent plus one, and that surely has to be the basis of a democratic system.

The minister has just said, 'Oh, well, it mightn't work too well in rural areas because a ticket in the major regional town may get up and therefore people from more isolated districts are unrepresented'. I know that view is held by some. On the other hand, it is a bit odd for the minister to be advancing that argument with all the talk we have had about councils being accountable, codes of ethics and their oath of office and so on. If you are elected to the council, you are, I would have thought, duty bound to represent the whole of the council area that is within your particular riding. If it is unsubdivided you have a duty to be accountable to and to represent the whole of that area — all the electors in that area — therefore there is some pressure and obligation upon the councillors to ensure that they represent the more remote areas of that municipality.

I am of the view that going to PR is not a solution to the perceived problems of the current election procedure. That is a simplistic notion. We have also just had the minister attempt to suggest to the committee that somehow or other there is an option in this, that the council can decide that it does not want PR and can retain the current system.

As I understand it — I am not suggesting for one minute that the minister is attempting to mislead the committee — there is no guaranteed option in this. The council can apply to the minister if it has gone through a process of consultation with its electors and it has been decided that they should make the application for exemption, but there is no onus or obligation upon the minister to grant that exemption. Knowing how this particular government and this minister seem so enamoured of PR, one cannot believe that the exemption would be granted. To that extent it is a meaningless section which says, 'Yes, somehow or other the councils can exempt themselves from PR'. They obviously cannot. The minister has to agree. He has not given any indication that he would so agree, and I believe the committee is justified in voting against the clause.

Committee divided on omission (members in favour vote no):

Ayes, 13

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

Noes, 27

Ashman, Mr	Furletti, Mr
Atkinson, Mr	Hall, Mr
Baxter, Mr	Hallam, Mr
Best, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms
Bowden, Mr	Olexander, Mr
Brideson, Mr (*Teller*)	Powell, Mrs
Coote, Mrs	Rich-Phillips, Mr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr D. McL.	Stoney, Mr (*Teller*)
Davis, Mr P. R.	Strong, Mr
Forwood, Mr	

Pair

Madden, Mr	Ross, Dr

Amendment agreed to.

Clause negatived.

Clause 57 agreed to.

Clause 58

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

9. Clause 58, omit this clause.

Amendment agreed to.

Clause negatived.

Hon. N. B. Lucas — On a point of order, Mr Chairman, can we have some clarification?

The CHAIRMAN — Order! The clarification is that the clause has been removed from the bill.

Clause 59 agreed to.

Clause 60

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

10. Clause 60, page 84, line 28, after "election" insert "but does not include any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election".

Amendment agreed to; amended clause agreed to; clauses 61 and 62 agreed to.

Clause 63

Hon. E. J. POWELL (North Eastern) — Page 87 of the bill is a bit confusing. It has clause 63 at the top, but then it follows with:

62. ***Return by candidate***

(1) Within 60 days after election day, a person who was a candidate in the election must give an election campaign donation return to the Chief Executive Officer.

I have two questions which relate to each other. The first is: does that mean successful candidate? And if there is an unsuccessful candidate how will the penalty, which is over the page, be recovered? The penalty is 50 penalty units.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that also relates to unsuccessful candidates. That is because there is a potential for a group ticket to hide donations in one form or another, and the unsuccessful candidate would potentially be liable for a fine on that basis.

Clause agreed to; clauses 64 to 77 agreed to.

Clause 78

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

11. Clause 78, page 105, line 3, after "Part" insert "by the use of electronic counting equipment and systems".

Amendment agreed to.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

12. Clause 78, page 105, line 4, omit "apply." and insert —

"apply; and

(c) the returning officer may vary the process applying under clauses 11 to 16 to enable the use of electronic counting equipment and systems.".

Amendment agreed to; amended clause agreed to; clauses 79 to 82 agreed to.

Clause 83

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

13. Clause 83, lines 26 and 27, omit "this section" and insert "waiving rates or charges on the grounds of financial hardship".

Amendment agreed to; amended clause agreed to.

Clause 84

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

14. Clause 84, line 16, after this line insert —

"(3) The Council may grant an application if the Council is satisfied that the applicant is a person who is suffering financial hardship if that person paid the full amount of the rate or charge for which he or she is liable.".

15. Clause 84, line 17, omit "(3)" and insert "(4)".

Amendments agreed to; amended clause agreed to; clause 85 agreed to.

Clause 86

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

2. Clause 86, omit this clause.

Amendment agreed to.

Clause negatived.

Clause 87

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

3. Clause 87, omit this clause.

Amendment agreed to.

Clause negatived.

Clause 88 agreed to.

Clause 89

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As a consequence of the committee agreeing to delete a number of clauses and the committee having to consider adopting a number of new clauses at a later stage of the consideration of this bill, the outcome of those later amendments will affect amendment 16 standing in my name and amendment 4 standing in the name of Mr Lucas.

Clause postponed.

Clause 90

Hon. N. B. LUCAS (Eumemmerring) — Do I assume when this clause is adopted that both the vendor and the purchaser of a property will be required to respectively give notice to the council that they have sold or purchased the same parcel of land?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised the answer is yes.

Hon. N. B. LUCAS (Eumemmerring) — So the council will receive two notices, one from a vendor and one from a purchaser, for every property transaction occurring in the municipality. That seems an extraordinary duplication. How does the minister explain the need for the duplication?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that this is likely to be a transitional arrangement.

Hon. N. B. LUCAS (Eumemmerring) — Can I ask the minister what we are transiting into?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that currently it is the seller who advises. This provision will ensure that the seller and the buyer advise, but it is the intention to gradually phase out the seller as having to notify.

Hon. N. B. LUCAS (Eumemmerring) — When will this gradual phasing out of the requirement upon the vendor be completed?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is yet to be determined, but it will be given consideration and be reviewed over time.

Hon. N. B. LUCAS (Eumemmerring) — It might not happen for years or it might be the next amendment to the Local Government Act in another two years time?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised the answer is yes.

Clause agreed to; clauses 91 and 92 agreed to.

Clause 93

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

17. Clause 93, page 114, line 27, after this line insert —

'(c) in section 185AB, for "185A" **substitute** "185AA";'.

Amendment agreed to; amended clause agreed to; clause 94 agreed to.

New clause AA

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

18. Insert the following new clause to follow clause 57:

'AA. ***Change in terminology***

In the **Local Government Act 1989** —

(a) in section 52 and clauses 6(2), 6(3), 6(4), 6(5), 6(6), 6(6A),7(1) and 9(1) of Schedule 2, for "notice of candidature" (wherever occurring) **substitute** "nomination";

(b) in clause 3(2) of Schedule 2, for "notice of candidature" **substitute** "nominations";

(c) in clauses 5, 6(1), 6(7), 7(3), 8 and 9(3) of Schedule 2, for "notice of candidature" (wherever occurring) **substitute** "nomination form".'.

New clause agreed to.

New clause BB

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

19. Insert the following new clause to precede clause 79:

'BB. ***New section 84A inserted — First meeting after a general election***

After section 84 of the **Local Government Act 1989 insert** —

"84A. ***First meeting after a general election***

The Chief Executive Officer may summon a special meeting of the Council within 14 days after the day the returning officer for a general election publicly declares the result of the election.".'.

New clause agreed to.

New clause CC

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

20. Insert the following new clause to follow clause 81:

'CC. Criteria for special rates and special charges

(1) For section 163(2) of the **Local Government Act 1989 substitute** —

"(2) Before making a declaration under sub-section (1), the Council must determine —

(a) the total amount of the special rates and special charges to be levied; and

(b) the criteria to be used as the basis for declaring the special rates and special charges.

(2A) For the purpose of sub-section (2)(a) the total amount of the special rates and special charges to be levied must not exceed the amount calculated in accordance with the formula —

R x C = S

where —

R is the benefit ratio determined by the Council in accordance with sub-section (2B);

C is the total cost of the performance of the function or the exercise of the power under sub-section (1);

S is the maximum total amount that may be levied from all the persons who are liable to pay the special rates or special charges.

(2B) The benefit ratio is the estimated proportion of the total benefits of the scheme to which the performance of the function or the exercise of the power relates, including special benefits and community benefits, that will accrue as special benefits to all the persons who are liable to pay the special rates or special charges.

(2C) The Minister may make guidelines for the purposes of sub-sections (2), (2A) and (2B).

(2D) Guidelines made under sub-section (2C) must be published in the Government Gazette.".

(2) In section 163(3) of the **Local Government Act 1989**, after "must specify" **insert** "in the declaration".

(3) After section 163(3)(a) of the **Local Government Act 1989 insert** —

"(ab) a description of the function to be performed or the power to be exercised; and

(ac) the total cost of the performance of the function or the exercise of the power; and

(ad) the total amount of the special rates and special charges to be levied; and".

(4) After section 163(3) of the **Local Government Act 1989 insert** —

"(3A) Subject to sub-section (3C), before a Council can levy a special rate or special charge under sub-section (4) to recover an amount that exceeds two thirds of the total cost of the performance of the function or the exercise of the power, the Council must obtain the approval of a majority of the number of persons required to pay the special rate or special charge to a written agreement complying with sub-section (3B).

(3B) A written agreement must —

(a) describe the scheme to which the performance of the function or the exercise of the power relates; and

(b) specify the amount of the special rate or special charge that the person is liable to pay; and

(c) include the matters specified in sub-section (3).

(3C) Sub-section 3(a) does not apply if the scheme to which the performance of the function or the exercise of the power relates is —

(a) a drainage scheme that the Council has declared is required for reasons of public health; or

(b) a scheme of a type prescribed by the regulations as being a scheme to which sub-section (3A) does not apply.".'.

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

1. In proposed sub-section (4), in proposed section 163(3A) of the **Local Government Act 1989**, omit "Subject to sub-section (3C), before" and insert "Before".

Amendment agreed to.

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

2. In proposed sub-section (4), in proposed section 163(3A) of the **Local Government Act 1989**, after "power" insert "in relation to the construction of an existing road".

Amendment agreed to.

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

3. In proposed sub-section (4), omit proposed section 163(3C) of the **Local Government Act 1989**.

By way of explanation can I say that it is the opinion of the Liberal Party that the provisions in relation to

special rates and charges being proposed by the minister in his new clause CC should apply only to existing roads. One can see from the proposals put to this place by the minister that if the change that the minister proposes is carried councils will be in a difficult position with potentially important capital works that they want to undertake by way of special rates or special charges.

I note that the minister now proposes a situation where a maximum amount can be levied under a formula which is based on the special benefit proportion multiplied by the total cost of the proposed works. The Liberal opposition is happy to go along with that proposal but believes it should only apply to existing roads.

There are many other works that councils wish to get involved with. For instance, where a car park needs to be constructed behind a row of shops councils have traditionally provided the land and then charged the owners of shops for the construction of a car park. I know of many cases where the shop proprietors have had to provide the land as well as pay for the construction. In the opinion of the Liberal Party this situation proposed by the minister should not be applied to such works.

There are a number of issues which, with more time, we could have questioned the minister about, such as the meaning of some of the phrases and words in proposed amendment 20. However, time is on the wing, and no doubt we will see in due course the application of this amendment in real life. At that time we will find out just how it works for existing roads. It may be that in the future further changes will be made.

Hon. E. J. POWELL (North Eastern) — The National Party also supports this amendment, with the Liberal Party. We support the special rates and charges but we include it for existing roads. The Honourable Neil Lucas talked about the other issues that it could impact on such as car parks, and we think at the moment the provision should only be for existing roads. The National Party supports this amendment.

Amendment agreed to; amended new clause agreed to.

Amended new clause DD

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

21. Insert the following new clause to follow clause 82:

'DD. ***Amendment of section 169 — rebates and concession***

(1) After section 169(1) of the **Local Government Act 1989 insert** —

"(1A) A Council resolution granting a rebate or concession must specify the benefit to the community as a whole resulting from the rebate or concession.

(1B) A Council may only grant a rebate or concession —

(a) to owners of specified rateable properties not exceeding one third of the rateable properties in the municipal district; or

(b) to owners of rateable properties who undertake to satisfy terms that directly relate to the community benefit as are specified by the Council.

(1C) If sub-section (1B)(a) applies, a person may make a submission under section 223.".

(2) In section 169(2) of the **Local Government Act 1989** for "Council may" **substitute** "Council must".'.

New clause agreed to.

New clause EE

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

22. Insert the following new clause to follow clause 90:

'EE. ***Section 251 substituted***

For section 251 of the **Local Government Act 1958 substitute** —

"251. ***Future elections***

(1) The next general election of Councillors for the Council must be held on the third Saturday in March 2004.

(2) Subsequent general elections of Councillors for the Council must be held in accordance with section 31.".'.

New clause agreed to.

Postponed clause 89

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I propose to move my amendment 16.

Hon. N. B. Lucas — On a point of order, Mr Chairman, I assume that this amendment being proposed by the minister covers what I was proposing to cover in my amendment no. 4.

The CHAIRMAN — Yes, Mr Lucas, but there is no need to move amendment 16. Postponed clause 89 can stand part of the bill.

Clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a third time.

I wish to thank honourable members of the house for their contributions and the rigorous assistance they provided in the committee stage.

The PRESIDENT — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority of the whole of the number of the members of the house. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! I ask honourable members supporting the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Education Services) — I move:

That the house do now adjourn.

Mornington Peninsula: helicopter refuelling

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Local Government on a matter which I believe is quite serious and requires government action. There was a report on page 3 of the *Frankston–Hastings Leader* of 27 May headed 'Chopper fuel row'. The heading referred to the fact that on 6 May the Mornington Peninsula Shire Council slapped a ban on media helicopters being refuelled at the Sorrento helicopter base. This means that the helicopter crews from channels 2, 7, 9 and 10 are exposed to serious potential for danger when their helicopters need refuelling.

The council, through its arrogance, has engaged in considerable correspondence but the net result is that the ban that was slapped on the media by the Mornington Peninsula Shire Council on 6 May continues to expose the crews of news helicopters and other helicopters to risk. There is also a potential for the service provided to the Victorian community by the news media to be significantly reduced.

There has been interaction between the councillors, me and the news media to try to get this ban reasonably negotiated. I understand that the news organisations have attempted to get approval from the council for the lifting of this ban and agreement for approximately 20 landings per annum. The council has been recalcitrant and arrogant, and in my opinion it has exceeded its authority.

I do not believe the people of Victoria should have their news-gathering resources diminished in this way. I do not believe the Mornington Peninsula Shire Council is qualified to talk about aviation safety or provide what in its opinion are adequate alternatives. It is well known that the long-established base at Sorrento is not only technically suitable but is safe for arrivals and departures because they are over water. This matter is quite serious because the people of the peninsula and the state depend on the news media. Many events take place on the southern peninsula, which is a considerable distance by helicopter from the normal transit and refuelling points.

I ask the Minister for Local Government to give this matter his urgent consideration. I ask the Mornington Peninsula Shire Council to reconsider its arrogant stance on this matter. As a member for the area I am not prepared to rest until this matter has been satisfactory resolved.

Family violence: behaviour counselling

Hon. D. G. HADDEN (Ballarat) — I wish to raise an important issue for the attention of the Minister for Women's Affairs in the other place. This issue concerns family violence in our community, and how best it can be targeted with a view to changing what is a culture of violence in some families.

The Grampians Victims Assistance program provides services to victims of crime in the Ballarat and Grampians regions. It saw 529 new clients in 2001, 394

of whom were women. The service says that the majority of its clients are victims of family violence and that the second-largest group is children under 14 years of age who have been victims of sexual assault.

As part of the conditions of an intervention order issued under section 5(1)(g) of the Crimes (Family Violence) Act 1987, a court may direct a defendant who is a perpetrator of family violence to participate in prescribed counselling. Provided that an order is made and the defendant attends an appropriate program, such behaviour-change counselling may go a long way towards curbing the cycle of violence.

I therefore ask the minister what assistance the government proposes to provide to assist perpetrators of family violence to participate in these crucial behaviour-change counselling programs.

Ambulance services: Red Cliffs station

Hon. B. W. BISHOP (North Western) — My adjournment issue this evening is directed to the Minister for Health in the other place. While I welcome a new Rural Ambulance Victoria station in the Mildura area, I would far prefer it to be in Red Cliffs rather than Irymple, where I understand it is to be placed. This is an urgent request as the Minister for Health is expected to announce the decision in Mildura this Friday.

Irymple is quite close to the Mildura ambulance service — about 8 kilometres in fact — whereas Red Cliffs is much further out and would create a wider spread of services in a rapidly growing area if it were the preferred site. Red Cliffs is a thriving, progressive community that is expanding. Some good examples of this expansion include housing developments starting to move quite strongly; it is much easier to service Nangiloc and Colignan, which are both growing at a remarkable rate with intensive high-tech horticulture leading the way; there are a number of big wineries in the area with strong employment numbers; and the large mineral sands separation plant is very close to Red Cliffs, which will almost certainly expand employment opportunities.

There is no doubt that population numbers in and around Red Cliffs make it an ideal site for the new ambulance service. I have been told that one reason the service will not be based at Red Cliffs is that there is no suitable site. I find that very difficult to understand. I am sure that the worthy residents of Red Cliffs would quickly come up with an appropriate site if consulted. It appears there has been little or no consultation with the community.

Finally, the most telling argument to place the site at Red Cliffs is that it presently has a nursing home and hostel that has 75 beds with future plans to relocate the two together to contain 100 beds.

Also the road between Irymple and Red Cliffs is not conducive to emergency travel, so the extra time taken to travel from Irymple to Red Cliffs could be critical. I urgently request the minister to give serious consideration to Red Cliffs as the site for the new ambulance station.

Eastern Freeway: extension

Hon. G. B. ASHMAN (Koonung) — I direct a matter for the attention of the Minister for Transport in the other place. I draw the attention of the house to the government's rebadging of the Eastern Freeway extension and Scoresby freeway as the Mitcham–Frankston Freeway. My concern tonight is with the Eastern Freeway extension from Springvale Road to Ringwood and in particular the tunnel which is proposed for this section of freeway.

The government is now indicating that the total project from Mitcham to Frankston will be completed by 2008 and will be constructed in stages. What is of concern to the residents of Mitcham, Forest Hill, Evelyn, Mooroolbark, Bayswater and Warrandyte is the time frame for the section from Springvale Road through to Ringwood.

I seek from the minister a firm date for the completion of this section of road. I am assuming that it will not be built in stages but that it will all open at one time. I seek a clear indication of when we can expect the Eastern Freeway extension to Ringwood to be completed and operational.

Rail: Nunawading station

Hon. B. N. ATKINSON (Koonung) — My adjournment matter is also for the Minister for Transport in the other place. I refer him to an announcement by the Leader of the Opposition in another place, the Honourable Robert Doyle, that the Liberal Party, were it to win government at the next election, would proceed with a project involving the undergrounding of the railway line at the Nunawading railway station where it intersects with Springvale Road.

The interesting thing about this project is that the honourable member for Mitcham in another place has indicated that it is undercosted in the opposition's statement. It is an interesting position for the honourable member for Mitcham because this was a

project that he advocated in opposition but has done absolutely nothing about in government. He has made no efforts at all to pursue this project and yet it is a vital project for people who are using Springvale Road, because there is a significant bottleneck in the north–south transport network.

I am interested in how the honourable member for Mitcham arrives at his assertion because it is my understanding that the government has not undertaken any economic feasibility or scoping projects on this project of undergrounding the railway at Springvale Road. The City of Whitehorse has developed engineering plans and cost estimates which have been available to the government.

On a number of occasions the government has indicated that it was looking at the project, but on each occasion that I have raised it in the house it has been indicated to me that there has been absolutely no work done on feasibility studies. On this occasion, given the latest remarks of the honourable member for Mitcham and given the commitment of the opposition when in government to complete this project and fix the bottleneck, I ask the Minister for Transport in another place to provide me with any details of evaluation studies that might involve a costing for that project, a timing for the project or other economic or engineering feasibility works that might have been considered by the government or consultants.

Telephone marketing: guidelines

Hon. E. J. POWELL (North Eastern) — I raise an issue with the Minister for Small Business. A constituent phoned me recently and was quite angry. He told me that about a month ago a marketing or advertising company had phoned him and started to talk to him about holidays in Bright and what a great place it is to go on holiday.

When my constituent, who was interested, asked if they catered for disabled people, the man quite rudely hung up. My constituent's wife is disabled and he was upset because they were thinking of going to Bright for a holiday: they thought it sounded like a good deal.

I asked him if he got the name of the person or the company and he said no. So I ask the minister: are there any checks on people doing telephone marketing or any guidelines for companies who employ people to make calls on their behalf?

Berwick Village market

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter for the attention of the Minister for Small Business. I have been approached by Mr Bruce Shaw, who is the president of the Berwick Village Chamber of Commerce, regarding a project that the chamber is working on to establish a weekly market in the centre of Berwick Village in order to attract retail business to the village.

Mr Shaw explained it to me as similar to the concept that operates in Mornington on a weekly basis — I do not know if the minister is familiar with that. The chamber has been through a long and extensive planning process and has obtained council approval to have the weekly market in Berwick Village. It was granted a permit which came into effect on 1 July for 12 months.

Unfortunately at this time the chamber is yet to establish the market in Berwick Village because it is in need of seed funding. I have been advised by Mr Shaw that initial seed funding in the order of $20 000 is required to set up the market and it is expected that once the market is established it will be self-sustaining.

I seek the minister's assistance in obtaining through Small Business Victoria seed funding for the Berwick Village Chamber of Commerce to establish its weekly market for the benefit of all small businesses in Berwick Village.

Graytown national park

Hon. P. R. HALL (Gippsland) — I wish to raise a matter for the Minister for Energy and Resources concerning a mineral exploration licence in the proposed Graytown national park.

I raise this matter on behalf of Mr Neil Motton, who is the managing director of a company called Flitegold Pty Ltd. Flitegold has exploration licence no. 3316 which allows it to explore an area which will be included — if the box-ironbark national park legislation currently before the Parliament is passed — in the proposed Graytown national park. The early results of the exploration are very positive, and it is probable that in the near future Flitegold will apply for a mining licence.

I am seeking some advice and clarification from the minister on this matter. If legislation is passed and Graytown national park comes into being, I ask the minister, as this is an existing exploration licence will it be restricted in any way? Further, can the minister give a guarantee that national park status will not affect in any way the ultimate granting of the mining licence?

I raise this matter with a specific application to Flitegold's circumstances, but I acknowledge that it

applies equally to any exploration or mining licence-holders whose licences cover areas proposed to be in the network of new box-ironbark national parks.

Land tax: small business

Hon. D. McL. DAVIS (East Yarra) — I raise a matter for the attention of the Treasurer in the other place. It relates to a submission regarding land tax and its impact on the Camberwell Centre Association. Over a period I will deal with a number of matters raised by this submission, but tonight I want to raise one particular matter, which is again the level of land tax and the impact of that land tax in the City of Boroondara and in other areas within the City of Whitehorse and the City of Monash in my electorate.

The Camberwell Centre Association sets out a number of examples, which I will come to in a moment. It says:

> While the Victorian government has adjusted the threshold amounts —

that is for land tax —

> this has not been sufficient to overcome the great increases in the Camberwell land valuations without a corresponding adjustment to the rate scales upon which these assessments are calculated.

I turn to some examples that are provided in this submission. I will not identify the individual properties, but they are taken from actual information provided to the association. One example is a 184 per cent increase across the last two years. Another is of a 1191 per cent increase across the last two years, and another is a 336 per cent increase. These are the properties in and around the Camberwell area. They are significant properties, no doubt, but properties that house small businesses and traders of various types. These will certainly be impacted on by these enormous increases in land tax. Another example is a 251 per cent increase, and yet another is a 292 per cent increase. There are actual cases that are suffering from the impact of the government's land tax increases.

I ask the Treasurer to look at how he can deal with this matter. It seems to be very clear from what the Camberwell Centre Association is saying that while there are a number of aspects beyond this one that I am pointing to tonight, this is a very significant impact and needs to be dealt with.

ICT: Massachusetts Institute of Technology

Hon. P. A. KATSAMBANIS (Monash) — I raise an issue with the Minister for Information and Communication Technology. Given that it is an issue in that capacity I would expect a fairly full answer. The matter relates to recent publicity that the prestigious Massachusetts Institute of Technology (MIT) is considering the establishment of a media laboratory campus here in Australia.

This campus would conduct high-level research into the effects of technology on society and would build on existing research and development in the information and communications technology (ICT) sector in Australia.

MIT is establishing these sorts of laboratories across the world. It has already established the very successful Media Lab Europe in Dublin, Ireland, which employs 55 researchers as well as ancillary staff, and it is looking at establishing a Media Lab Asia in India.

MIT is in high-level discussions with various Australian governments with a view to establishing its Media Lab Australia. Unfortunately for Victoria and the residents of Victoria, it appears that at this stage we are not in the race to obtain this very prestigious campus of an important international university. It appears that currently Media Lab Australia will be located at the Australian Technology Park in Sydney, and that is unfortunate coming on the back of the recent announcement of Ericsson's disinvestment in this state as well as a whole series of other ICT investments that have either left this state or have chosen to set up in other places.

It would be remiss of this government if it did not make attempts, even at this late stage, to ensure that MIT is made fully aware of Victoria's capability and to ensure that this laboratory could be established in Victoria.

I ask the minister what action she has taken in her capacity as Minister for Information and Communication Technology to meet with representatives of MIT and ensure that MIT will give full consideration to establishing its Media Lab Australia here in Melbourne. If she has not done anything up to date, what will she do in the future before the final decision is made to make sure that Melbourne does not miss out on another ICT investment?

Major events: economic impact

Hon. ANDREA COOTE (Monash) — I refer the Premier to the announcement made over two years ago that the government would develop a standard methodology to estimate the economic impact of new major events held in Victoria. This standard methodology would assess the employment and industry impacts and the tourism benefits of each major

event and assess the opportunity to profile Melbourne and Victoria internationally.

My electorate of Monash Province is home to some of Victoria's most important major events, including the grand prix and many events in the current World Masters Games, which have been very successful. I hope it will continue to hold other major events which are also important to Victoria's economy. It is important to ensure that major events offer a real benefit for Victoria, and I applaud the Premier for his idea. However, that was two years ago, and it appears that the development of this methodology is just that — an idea. We have seen nothing about it. I ask the Premier: what is the current status of the development of a standard methodology for assessment of new major events in Victoria?

Small business: home based

Hon. W. I. SMITH (Silvan) — The matter I wish to raise is for the attention of the Minister for Small Business. It is in regard to the development of policy in the last three years. At the last state election in 1999 the minister gave a commitment that she would develop policies in regard to home-based businesses. She acknowledged that there was a growing industry of home-based businesses and that she would be developing significant policies at a state level. In the past three years I have only seen — and recently — press releases in regard to grants being given to some home-based businesses, and I just wondered how the minister's development has gone in the past three years and what state initiatives and policies she has established for home-based businesses.

Bayside: housing density

Hon. C. A. STRONG (Higinbotham) — I raise a matter for the attention of the Minister for Planning in the other place. It deals with two interrelated issues — that is, the government's metropolitan strategy and its call for an extra 620 000 dwellings across Melbourne, while prohibiting any increase in the area available for such development, thereby targeting all this increased population density into established areas, particularly into the Bayside council area.

Some 70 per cent of this expansion in dwellings is planned to happen in established areas like Bayside, and the regional target in the strategy plan indicates a dwelling density increase in Bayside of some 63 per cent. The second interrelated issue deals with Bayside City Council's planning scheme amendment C2. C2 is Bayside council's proposed amendment to the planning scheme developed over some two and a half years, according to the appropriate process including such things as height control, development controls on setbacks, streetscapes, bulk and so on, all of which add up to density limits.

The process of developing the scheme has gone through the statutory process including community consultation, panel hearings and extensive council debate to ratify the scheme, culminating in its being forwarded to the planning minister early this year for approval. But since then it has gone into a black hole of deafening silence.

On at least two occasions the council has written to the minister requesting approval of the scheme, but has received no answer. The only clue is the department's web site, which shows the status of Bayside City Council's C2 amendment as deferred — and this is certainly not at the request of the council.

My question is: has Bayside City Council's C2 amendment been deferred so that it can be junked by the minister in favour of a new amendment which mandates higher density for Bayside council to meet the metropolitan strategy's 63 per cent increase in dwelling density for the Bayside area?

Plymouth Road, Croydon: safety

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Transport in the other place through the Minister for Small Business. Recently a $140 000 application for funding from Vicroads by the Maroondah council was rejected. The application was submitted under the Vicroads traffic and user management funding scheme.

Traffic counts have shown that about 5000 vehicles use Plymouth Road, Croydon, daily. It appears that the government has underspent to the tune of $20.5 million from the Transport Accident Commission's black spot program. The program has a budget of $240 million, but according to the government announcement earlier in the month it had run out of money.

The eastern suburbs are clearly missing out on their fair share of this crucial traffic safety program. There are more than seven severe accident black spot points in the Ringwood and Croydon areas that have recently been knocked back by the Bracks government for funding.

I call on the Minister for Transport to urgently readdress the rejection of Vicroads funding for Plymouth Road, Croydon, especially, and black spot funding for the eastern suburbs in general.

Police: Endeavour Hills station

Hon. M. T. LUCKINS (Waverley) — I raise a matter for the Minister for Police and Emergency Services in the other place. It concerns staffing at the Endeavour Hills police station.

On 16 September the minister, in an extraordinary display of political panic, gatecrashed a community safety forum organised by me and the Liberal Party to announce that three years after promising to build a new 24-hour police station in Endeavour Hills he had just identified a site.

While the local community remains sceptical about Labor's ability to deliver on this promise, given its failure to even find a site for three years, local police in Narre Warren, Cranbourne and Dandenong have raised concerns about staffing and are quoted in the local newspapers as saying, for example on page 1 of the *Journal* this week:

> …the state government planned to move officers from Cranbourne, Narre Warren and Dandenong stations to make up the proposed 36-member operation.

In the same article, Acting Assistant Commissioner Keith Smith said:

> I am involved in the personnel placement for all of region 5. At this stage there has been no direction by the Premier to move any officers.

On 3 October a government spokesperson was quoted in the *Berwick News* as saying:

> This is about putting new police in new police stations.

Local residents are justifiably alarmed by the idea of newly graduated constables filling all 36 positions at the proposed Endeavour Hills police station and questioned how the new police can possibly attain the senior ranks necessary to run a police station.

The same article notes my comments about the downgrading of Knox police station after the opening of Rowville police station, and the same government spokesperson denied this proposition.

I refer the minister to an article on page 1 of the *Knox Leader* of 17 September, where Acting Divisional Superintendent for Knox, Alan Kennedy:

> … confirmed last week that 12 officers from Knox would be transferred from Knox to Rowville.

The article goes on to quote Senior Sergeant Paul Mullett of the Police Association as saying:

> … he did not want to see a case of 'robbing Peter to pay Paul'.

A state government spokesperson said that:

> … staffing of new police stations was a matter for the Victoria Police chief commissioner.

Given these contradictory statements I ask the minister to clarify whether the Chief Commissioner of Police or the Premier is responsible for police staffing and to disclose to the people of Endeavour Hills the composition of the new police station at Endeavour Hills while providing certainty for the people of Narre Warren, Cranbourne and Dandenong about the proper staffing of the police stations in their areas?

Responses

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Ron Bowden raised a matter for the Minister for Local Government. It concerned the decision of the Mornington Peninsula council to ban media helicopters from refuelling. He asked the minister to consider the issue.

The Honourable Dianne Hadden raised a matter for the Minister for Women's Affairs. It concerned family violence and strategies to deal with the issue, particularly behavioural-change counselling for those who commit domestic violence and ways in which the government may assist in ensuring that that is occurring. I will pass it on to the minister for her response.

The Honourable Barry Bishop raised a matter for the Minister for Health. It concerned ambulance services being placed in either Red Cliffs or Irymple. He asked the minister to give serious consideration to its being placed in Red Cliffs.

The Honourable Gerald Ashman raised a matter for the Minister for Transport. It concerned the Eastern Freeway extension from Springvale Road to Ringwood and the date of completion of this section.

The Honourable Bruce Atkinson referred a matter to the Minister for Transport. It concerned whether there were costing details for the Nunawading railway line undergrounding.

The Honourable Jeanette Powell raised a matter for me about marketing agencies. She related what sounds like a very sad story in relation to the opportunity for a holiday in Bright. This may be best covered by the Minister for Consumer Affairs and a code of conduct that I believe is in place in this area. I am happy to forward it on to her to deal directly with it. If there is

any detail the honourable member could pass on that could be of benefit I will be happy to forward it on to the minister. Some details about the constituent might help to identify whether there has been any marketing in the area that we can use and pass on.

The Honourable Gordon Rich-Phillips raised an issue concerning the Berwick Village Chamber of Commerce weekly market raised with him by Bruce Shaw and the need for seed funding. I am not aware of the provision of seed funding for such a market, but if he could give me details I would be happy to have an officer talk to the chamber about how we may be able to assist. However, as a rule I do not think seed funding is available under any of the programs we offer. We will certainly have a look at what is available and talk to them about it.

The Honourable Peter Hall raised a matter for the Minister for Energy and Resources. It concerned exploration licences in the proposed Graytown national park for Flitegold. It currently has an exploration licence and the honourable member asked what it will mean for the company's existing and future exploration licences if the legislation were to be passed and the national park were to be established. I will pass that on to the minister for her response.

The Honourable David Davis raised a matter for the Treasurer. It concerned land tax and the Camberwell Centre Association's concerns. He asked the Treasurer to investigate the matter. I will pass that on to him for his response.

The Honourable Peter Katsambanis raised the issue of the Massachusetts Institute of Technology media laboratory campus. Certainly there have been discussions with senior bureaucrats in relation to MIT, but it is early days as to whether the investment will proceed. However, that is certainly being progressed.

The Honourable Andrea Coote raised a matter for the Premier concerning standard methodology for major events. I will pass it on to the Premier for his response.

The Honourable Wendy Smith raised the question of home-based business policy, which she will find on the web site.

The Honourable Chris Strong raised a matter for the Minister for Planning. It concerned the metropolitan strategy and Bayside C2 amendments being deferred. He asked whether there is a correlation or link. I will pass that on to the minister for her direct response.

The Honourable Andrew Olexander raised a matter for the Minister for Transport regarding black spot funding particularly for Plymouth Road. I will pass that on to the minister for his direct response.

The Honourable Maree Luckins raised a matter concerning staffing of the new Endeavour Hills police station for the Minister for Police and Emergency Services. I will pass it on to the minister.

Motion agreed to.

House adjourned 12.23 a.m. (Thursday).