PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

24 October 2000

(extract from Book 4)

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By authority of the Victorian Government Printer

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TUESDAY, 24 OCTOBER 2000

Tuesday, 24 October 2000

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.04 p.m. and read the prayer.

PHOTOGRAPHING OF PROCEEDINGS

The PRESIDENT — Order! I advise honourable members that I have given permission to Mr Grant Campain to take photographs of Council members in the chamber during the course of the day for inclusion in the Legislative Council's new web site.

QUESTIONS WITHOUT NOTICE

Snowy River

Hon. E. G. STONEY (Central Highlands) — I refer the Minister for Energy and Resources to her recent significant announcement on the Snowy River and ask whether she will release the agreement between Victoria and New South Wales which allows for environmental flows down the Snowy River.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the honourable member's question I welcome the opportunity to refer to the historic agreement reached between the New South Wales and Victorian governments which honours the election commitment of a 28 per cent return to the Snowy River, notwithstanding the suggestions made the last time we sat in this place that the agreement would be able to produce only a 10 per cent return. I also welcome the Prime Minister's comments on the agreement in which he promised a constructive response from the commonwealth government and the very positive response of the National Party federal member for Gippsland, Mr Peter McGauran.

When all the relevant documentation is concluded and in its final form following consideration by the federal cabinet of the response to the environmental impact statement on the corporatisation of the Snowy hydro scheme, it will be publicly available.

Industrial relations: task force

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Industrial Relations what action the Bracks government is taking to implement recommendations from the independent industrial relations task force.

Hon. M. M. GOULD (Minister for Industrial Relations) — The Bracks government is proposing a new landmark fair employment system for Victorians and is set to introduce the landmark system for Victorian workplaces not covered by federal awards or agreements.

The recent independent industrial relations task force has uncovered significant flaws in Victoria's current industrial relations arrangements which have resulted in the creation of a new class of Victorians — the working poor. Those ordinary Victorians are in need of urgent support, and they will get that support from the Victorian government, which has listened to community concerns about industrial relations.

The government will today give notice in the other place of legislation to establish a simple — —

An opposition member interjected.

Hon. M. M. GOULD — You know why!

Hon. Bill Forwood — Bring it in here.

Hon. M. M. GOULD — It will come here. The bill will establish a simple yet effective system to protect those workers — a system that has the added benefit of minimising the impact on small businesses and not duplicating the federal industrial relations legislation.

The independent task force has made it clear that the government needs to protect the 200 000 Victorian workers who have fallen through the cracks of Mr Reith's conflict-based industrial relations system. Mr Reith has abandoned those people; the Victorian government will protect them.

Mr Reith did not want to attempt to fix the system, although he had four years in which to do so. We asked him to fix it and he refused. As recently as yesterday Mr Reith proposed to extend the lousy system we have in Victoria right across Australia. However, the Bracks government is now acting responsibly to protect those men and women who have fallen through the cracks of the Reith system. Some of them work for $2.20 an hour. Those workers currently receive the fewest of entitlements and are the least protected because of the previous government's referral of industrial powers.

The Bracks government will protect workers, as it said it would, who are not covered by federal awards or agreements. The government's reforms will create a fair employment tribunal to help settle workplace grievances and will establish fairer and more balanced employment standards for all employees not protected by federal awards or agreements. It will provide minimum standards of employment, such as types of leave — for example, bereavement and carers leave — hours of work and basic categories of employment. It

will provide a new information service that employers have been screaming for! It was a unanimous decision of the task force to get more compliance and reporting mechanisms in place to protect responsible employers. The government will establish a review mechanism for contractors.

As I have previously informed the house, the government has commissioned an independent economic impact study about the reforms which will be released shortly. The study found that the impact on the Victorian economy is negligible. Victoria has had years of the divisive, mean-spirited approach of Mr Reith's system, which did not look after Victorian workers. The government will protect people by introducing a fair system.

Snowy River

Hon. R. M. HALLAM (Western) — I refer the Minister for Energy and Resources to the acknowledgment by the Minister for Environment and Conservation that the water required to meet the government's commitment in respect of environmental flows down the Snowy River will be secured, if necessary, by a direct purchase of irrigation water on the open market. I ask the minister to explain to the house how such an entry into the market by the government can do other than corrupt that market and force up the price of water to Victorian irrigators.

Hon. C. C. BROAD (Minister for Energy and Resources) — I welcome yet another opportunity in this question time to talk about the historic agreement between the New South Wales and Victorian Labor governments in implementing the election commitment to return 28 per cent of natural flows to the Snowy River.

As part of the agreement a package was designed — as the government committed itself at the outset of the negotiations — to protect the rights of irrigators and to open up infrastructure opportunities for the region through water savings projects. Considerable opportunities will be provided through those projects. That was acknowledged by Shepparton irrigators at the meeting I attended with the Minister for Environment and Conservation on the day of the announcement to ensure that people were properly briefed on the agreement and how it will be implemented.

The government is very conscious of the need to ensure that the new enterprise to be established to implement the agreement does not distort the water market. It is very clear that although the majority of environmental flows will be provided through water savings projects, there is provision in the agreement, following negotiations, to allow for the purchase of water entitlements. Unlike the National Party, the government has been very clear in reaching that agreement. I point out that the agreement the government has reached with New South Wales is entirely consistent with proposals put forward to the Victorian Murray Water Entitlement Committee established by the previous government and chaired by the honourable member for Swan Hill in the other place.

The report of that committee provided to the previous National and Liberal party government clearly envisaged purchasing water for the Snowy. In part the report stated that any water to be provided by Victoria to the Snowy should be achieved from additional savings or from purchasing water entitlements. I reiterate that that was a report provided in June 1998 to the then Minister for Agriculture and Resources, the Honourable Pat McNamara, by the chair of that committee, the honourable member for Swan Hill.

In conclusion, in line with the government's commitment to ensure that water is secured by the enterprise at the lowest cost, it is not envisaged that purchasing of water entitlements will provide the significant part of the water to meet the target the government has set for the enterprise. The bulk of that water will come from water savings projects, but it is important that provision is made for the purchase of water entitlements where that can be achieved within the budget set for the enterprise and within the time frame for achievement of the target.

Snowy River

Hon. E. C. CARBINES (Geelong) — I address my question to the Minister for Energy and Resources, and I am pleased to provide the minister with yet another opportunity to talk about the historic agreement. How does the government intend to implement the package of increased flows to the Snowy River?

Honourable members interjecting.

The PRESIDENT — Order! I ask the honourable member to repeat the last sentence.

Hon. E. C. CARBINES — How does the government intend to implement the package of increased flows to the Snowy River?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for her question about the historic agreement between the Victorian and New South Wales Labor governments.

Honourable members interjecting.

Hon. C. C. BROAD — Only because you keep asking questions about it.

Honourable members interjecting.

Hon. C. C. BROAD — Two from your side! The environmental benefits to flow from the agreement are enormous and will achieve important gains, including improving the habitat for a range of plant and animal species and a number of threatened species. A joint enterprise is to be established by Victoria and New South Wales to implement the agreement and to acquire water at least cost, irrespective of where it is sourced, whether it be New South Wales or Victoria. Those acquisitions are fundamental to the package.

The water offsets that will provide flow to the Snowy River will ensure that irrigators' existing water rights will be secured and that both the environment of the Murray River and the quality and quantity of water that is available to South Australia will be protected in accordance with the commitments given by both governments.

The $150 million to be provided to the enterprise over 10 years to secure the achievement of part of that objective — a 21 per cent flow over a 10-year period — will fund water-savings projects where it is cost effective to do so. Importantly the enterprise to be established will not have unlimited funds to buy water at any price, as some opposition members seem to be suggesting. The enterprise will operate under a strict set of rules. Its annual business plan will have to be approved by the participating governments. It will have a defined annual cash flow and a limited capacity to make short-term investments, to carry over funds between financial years and to undertake borrowings. In short, the enterprise has a defined charter under which to go about its business of achieving its targets.

Contrary to the suggestions made by some opposition members, water savings will be the key source of the water offsets that will provide environmental flows for the Snowy. The New South Wales and Victorian governments have commissioned studies to identify potential water-savings projects. Victoria is currently considering a number of cost-effective projects that were identified in a report by Sinclair Knight Merz, which is publicly available. It is believed savings will be produced by addressing inefficiencies in northern Victoria's irrigation systems.

Following the announcement of the agreement, I found in discussions with irrigators that they welcome the improved efficiency that will result from the investment of funds in improving irrigation systems, which will provide greater reliability of water delivery to and ensure better returns on their investments in their farms.

The agreement to increase flows by the use of water entitlements is in accordance with proposals put forward to the previous government. There is nothing new about that part of the agreement; it will enable the enterprise to secure water through purchasing water entitlements. The government's long-term target of 28 per cent flows will be achieved by tapping the innovation and investment power of both the private sector and the public–private sector partnerships that will be established to find the remaining water that will be required to meet that target.

The Victorian government acknowledges that the implementation of increased environmental flows will be a complex task and that undoing 40 years of damage will take some time. However, it is a task to which the Victorian and New South Wales governments are committed, and I am optimistic that the commonwealth government will shortly give its agreement. Overriding the complexity is the reality that New South Wales and Victoria have taken gigantic steps towards managing precious natural resources in a sustainable way for the benefit of future generations.

Answer ordered to be considered next day on motion of Hon. PHILIP DAVIS (Gippsland).

Industrial relations: task force

Hon. M. A. BIRRELL (East Yarra) — On 5 September the Minister for Industrial Relations stated that prior to adopting any of the recommendations of the industrial relations task force the government would consider the economic impact statement. When did the government receive the economic impact study report?

Hon. M. M. GOULD (Minister for Industrial Relations) — The government received the report two weeks ago.

Small business: government commitment

Hon. R. F. SMITH (Chelsea) — I ask the Minister for Small Business to demonstrate to the house how the Bracks government is fulfilling its commitment to the small business sector and to outline its strategy for supporting it.

Hon. M. R. THOMSON (Minister for Small Business) — Recently I released 'Showcasing small business', which is the first significant small business policy statement that has been made in many years.

Honourable members interjecting.

Hon. M. R. THOMSON — I cannot compete with interjections this week.

This is the first time a government has showcased small business, highlighting what it contributes to the Victorian economy, its innovation and its creativeness, and expressing the need for a whole-of-government perspective in dealing with small business needs. The government has drawn on initiatives it has put in place during the past 12 months, which have enabled wide communication and consultation with small business — —

Honourable members interjecting.

The PRESIDENT — Order! Obviously the honourable minister is having difficulty speaking and is finding it difficult to raise her voice to the level necessary to overcome the chatter around her. I invite honourable members to allow the minister to be heard.

Hon. M. R. THOMSON — Thank you, Mr President. The government wants to build on the strengths of small business. The policy focus outlined in the statement recognises the need to provide access to information and skills development. It has become obvious from the responses the government has had to the small business program it has run that although there are programs to assist small businesses, people's knowledge of those programs and how to access them is limited. The government is therefore looking at ways to communicate with small business people to make it easier for them to access what it is able to provide by way of information and assistance.

The statement also mentions the regulation review that is ongoing; minimising impediments to growth; championing small business in all tiers of government, including working in cooperation and in partnership, particularly with local government but also with the federal government; and encouraging participation in the state's growth. The document also demonstrates the new approach by the Department of State and Regional Development. It is a whole-of-department approach to small business, instead of its being the responsibility of only one arm of the department.

That is emphasised by the increase available to small business from the business development program. It was 39 per cent in 1998–99 and will be increased to 50 per cent over the life of this Parliament.

The government is conscious that the contribution of small business is often not recognised and it is intent on small business getting that recognition from the community and the government. The government will look at ways to assist innovative new businesses and businesses that are looking to export markets by helping them to attend trade fairs and trade missions to showcase what those businesses have to offer.

The range of initiatives described in 'Showcasing small business' will be of practical benefit to small business and represents the beginning of what the government will do over time. 'Showcasing small business' will be a breathing, living document that will develop and meet the needs of small business now and into the future.

Snowy River

Hon. PHILIP DAVIS (Gippsland) — Will the Minister for Energy and Resources advise when she will make available the costings that support the secret deal with the New South Wales government to spend $300 million to distort the northern Victoria water market to obtain environmental flows for the Snowy River?

Hon. C. C. BROAD (Minister for Energy and Resources) — The question is very similar to one I have already received and answered. For the record, when the agreements are concluded with the commonwealth, the water licence and all the arrangements will be publicly available. It is absolute rubbish for the honourable member to refer to secret deals. Given the questions that have been asked in this place over a long period about the agreement I can understand why the opposition might be disappointed that agreement has been reached and that the commonwealth will support it. I urge the opposition to take the approach of its federal counterparts and to support the agreement. They should welcome it and embrace the benefits it provides.

Water safety: government initiatives

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Sport and Recreation inform the house of the steps the government is taking to educate Victorians about the dangers of toddler drownings?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Today I had the duty of releasing the *Victorian Drowning Report*, which reveals that 55 Victorians lost their lives as a result of drowning in 1999–2000, an increase of 6 from the previous year. Toddler drownings dominated the statistics, with 17 toddlers aged between 0 and 5 tragically drowning during that period. That is 11 more than the previous year and represents 31 per cent of total drownings for the state. The critical factor revealed by the report is

that the majority of those drownings occurred in home swimming pools and baths. Sadly, it takes only a couple of seconds for a toddler to drown.

Through the Play It Safe by the Water campaign the Victorian government aims to reduce the number of drownings by promoting increased awareness of water safety issues. The campaign message, Never Take Your Eyes Off, begins to address the issue of the constant supervision of toddlers. The government recognises that it takes more than an awareness message to stop toddler drownings. It is a combination of issues, including pool fencing laws, public education about the maintenance and importance of backyard pool fencing, and the need, as mentioned, for constant supervision.

The government has established the swimming pool and spa working party, which includes representatives from the Royal Life Saving Society of Australia, Victorian branch, Kidsafe, the Royal Children's Hospital safety centre, the Swimming Pool and Spa Association, the Municipal Association of Victoria and local government. The working party has developed a series of immediate and longer term recommendations and actions that include: marketing initiatives such as the repackaging and refocusing of the Play It Safe by the Water campaign, focusing on toddler issues; the production of an easy to use pool fences brochure; and a toddler commercial to be developed by Channel 7. The Building Control Commission is also working on a range of building issues relating to the problem.

The government has also increased fines for inadequate pool fencing and is setting the fines at $1000 — up from $500 — for an owner who fails to comply with the swimming pool safety barrier requirements. I am also pleased that the national Surf Life Saving Association has seen fit to link its national Keep Watch campaign to the Victorian government's Play It Safe by the Water campaign.

Industrial relations: task force

Hon. M. A. BIRRELL (East Yarra) — I refer the Minister for Industrial Relations to her statements about the economic impact study. How many days did the consultants have to do those studies?

Hon. M. M. GOULD (Minister for Industrial Relations) — I cannot recall the exact date I referred the house to the fact that the government was to have economic modelling done in respect of the industrial relations task force. It is in *Hansard*. I think it was close to the day that I received the report, which was 5 September.

Hon. M. A. Birrell — You said it would go to tender.

Hon. M. M. GOULD — It went to tender and that was handled by the department as part of the usual process. From the time of the selection process the company that was embraced had until — —

Hon. M. A. Birrell — It was a shonk study.

Hon. M. M. GOULD — No, it was not.

Retail tenancies: review

Hon. T. C. THEOPHANOUS (Jika Jika) — Will the Minister for Small Business advise the house of progress on the delivery of the government's election commitment to review Victoria's retail tenancy legislation?

Hon. M. R. THOMSON (Minister for Small Business) — Prior to the election, one of the Labor Party's key promises was to review retail tenancy legislation. This morning I announced the review that will take place on retail tenancy and the need for adequate legislation to ensure the simple and easy address of disputes that arise in that area. The retail sector is a vital part of Victoria's economy, with a monthly retail turnover of about $3 billion. Some 97 per cent of retailers are small. The focus of the review will be to ensure that the policy settings behind the legislation are correct. It will be a fundamental review of the legislation.

Hon. W. I. Smith — How long will it take?

Hon. M. R. THOMSON — Just wait and you will get the whole lot.

The framework under which the terms of reference have been drafted is to take into account the current regulatory arrangements in light of the government's election commitments on retail tenancy.

The review will examine the 1000-square-metre rule, which we consider is arbitrary and may deny access to that act for people who should have it. One of the tasks of the review will be to examine who should have access under the legislation and to look at creative ways in which it can be defined to ensure that no-one who should have access to the legislation is overlooked.

We will also examine whether franchisees and public corporations should be included. Some anomalies exist in relation to public corporations where similar sized organisations and similar business activities do not have access to the legislation merely because of the way they

are structured. The review will examine that matter to see how it should be dealt with.

There are also problems in relation to the complexity of information disclosure, and the review will investigate ways in which the disclosure provisions from the perspective of both the tenant and the landlord can be made more simple to comply with.

The review will also look at reasonable security of tenure to ensure there is a balance for both the landlord and tenant. In that context we will ensure there is wide consultation during the review process. We will enable anybody who wishes to make a submission to do so.

Regional consultation will be conducted so that peak bodies right through to the single tenant or the single landlord will have access to information and an opportunity to provide input into the review.

We will examine dispute resolution arrangements. This is a good opportunity to examine the way they have operated under the Victorian Civil and Administrative Tribunal since 1998 and what other mechanisms may need to be considered in relation to the administration of dispute resolution.

The Office of Regulation Reform will conduct the review and will draw on a range of policy and legal expertise to assist it. I am happy to announce that the expert reference group will consist of Mr Peter Lowenstern, secretary of the property and environment law section of the Law Institute of Victoria; Dr Dianne Bolton, director, executive MBA, Monash Mount Eliza Business School; and Mr Robert Bardsley, Assistant Victorian Government Solicitor, administrative law, Department of Justice.

Honourable members interjecting.

Hon. M. R. THOMSON — I am sorry that the honourable member got it wrong again. In taking into account that retailers currently have to confront the business activity statement (BAS) and Christmas sales, we will be releasing an issues paper or framework for the review in mid-December.

Hon. Bill Forwood — It is 18 December.

Hon. M. R. THOMSON — You are correct, thank you. In February it will be opened up for consultation. A discussion paper will be released in April and a final report presented to me in July, and legislation will be introduced in the spring sitting period next year. The reason we are taking time on this matter is to ensure we do it only once and get it right and to ensure that people who wish to have input into the review have access to it.

It is vitally important that the detail of the legislation is right, and at the moment it is leading to great legal activity in the retail tenancy area. A lawyer informed me that inconsistencies in the Retail Tenancies Act are ensuring that his business is hugely successful. With those inconsistencies, the current act must be reviewed.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

> That so much of the standing orders as require answers to questions on notice to be delivered verbally in the house be suspended for the sitting of the Council this day and that the answers enumerated be incorporated in *Hansard*.

The question numbers are: 735, 739–773, 842–44, 863, 915, 919, 920, 925–48, 952, 953, 955, 956.

Motion agreed to.

PETITION

Buses: Dandenong Ranges

Hon. G. K. RICH-PHILLIPS (Eumemmerring) presented a petition from certain citizens of Victoria requesting that the government give urgent consideration to the proposal submitted to the Department of Infrastructure for the further development of bus services in the Dandenong area (35 signatures).

Laid on table.

DRUGS AND CRIME PREVENTION COMMITTEE

Benchmarking crime trend data

Hon B. C. BOARDMAN (Chelsea) presented report for 1995–96 to 1999–2000, together with appendix.

Hon. B. C. BOARDMAN (Chelsea) — (*By leave*) — Before moving that the report be laid on the table and be printed I desire to make some comments on it, and I thank the house for granting leave for me to do so.

This is undoubtedly an important report — the first of the six-monthly reports from the Drugs and Crime Prevention Committee on benchmarking crime trends

data. The inquiry enables the committee to report on the incidence of crime, identifies emerging trends and comes up with ways of addressing them.

What makes the report relevant to Parliament is that it benchmarks official crime trend data over the past five years, provides an excellent guide to reported crime in Victoria and goes into considerable detail to explain the complexities within different agencies of reporting crime.

For example, over the reporting time frame there has been a 5.7 per cent increase in the number of robberies, and that has been concentrated around retail outlets such as convenience stores and milk bars. The number of aggravated burglaries increased by 39 per cent from 1997–98 to 1998–99. That takes into consideration a change that came into effect on 1 September 1997 of the definition of aggravated burglary so that if a person was at home at particular premises when the offence was committed it was classified as an aggravated burglary.

Conversely, the number of serious drug offences such as trafficking, manufacturing and cultivation fell by 16.8 per cent in 1999–2000. However, the incidence of use of syringes as a weapon increased from 4.17 per cent of all weapons used in 1995–96 to 20.72 per cent in 1998–99.

Members should familiarise themselves with a number of issues in the report, which goes into some detail, categorising offences by location, age and sex of victims and offenders, and police districts, and compares Victorian figures with those of other states in which the offences occurred at a rate per 100 000 head of population.

I shall touch on a number of discrepancies and the problems involved in comparing crime trend data. More than 4000 individual statutory and common-law offences are recorded on the Victoria Police Law Enforcement Assistant Program (LEAP) database. These have been grouped into 27 broad offence categories, which are further subdivided into four general classes. When one goes through the classification one sees the anomaly that the Australian Bureau of Statistics (ABS) reports its figures on a calendar year basis and the Victoria Police reports on a financial year basis. I urge honourable members to take note of the report and the issues on which it touches.

I thank in particular Kim Wells, the honourable member for Wantirna in the other place and my predecessor as chairman of the committee, who did an excellent job in the early days establishing the committee and getting the inquiry up and running. The committee extends its best wishes to Kim in his new role as shadow Minister for Police and Emergency Services. I thank Ms Sandy Cook, the executive officer; Dr David Ballek, the research officer on the relevant inquiry; Peter Johnston, a research officer on another inquiry; and Ms Michelle Heane, all of whom have spent countless hours and have dedicated themselves tirelessly to producing an impressive and professional report.

There is one issue that I need to touch on. The committee has taken the unusual step of producing the report in two formats. Although traditionally parliamentary reports are tabled in B5 format, given that the report contains a number of complex and detailed charts and graphs the committee prepared it in A4 format. On the behalf of the committee I flag the possibility of a review of the long-held tradition of tabling parliamentary reports in B5 format, because in comparing the A4 copy with the B5 copy the committee noticed differences in the printing quality of the report. It might be time to look at the issue and work out the best way to deal with it.

That issue aside, I urge all honourable members to take note of and seriously consider the report. It is the first of six monthly reports. It gives no reasons for, explanations of or opinions about the data it contains. Those issues will be dealt with by the committee in subsequent reports.

Laid on table.

Ordered to be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 9

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 9 of 2000, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Barwon Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Calder Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Central Murray Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Crown Land (Reserves) Act 1978 — Minister's Orders of 18 September and 3 October 2000 giving approval to granting of leases at Castlemaine, Fairlea and Corangamite (three papers).

Desert Fringe Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Eastern Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Electoral Commissioner — Statement of functions conferred, 10 October 2000.

Emergency Services Superannuation Scheme — Report, 1999–2000.

Environment Conservation Council —

Marine, coastal and estuarine Investigation Final Report, August 2000.

Report, 1999–2000.

Financial Report for the State of Victoria —

Report (incorporating the Annual Financial Statement), 1999–2000.

Gippsland Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Goulburn Valley Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Grampians Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Highlands Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3)(a)(iii) in relation to Statutory Rule No. 90/2000.

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns June 2000 and Summary of Variations notified between 1 June and 30 September 2000.

Mildura Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Mornington Peninsula Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Multicultural Commission — Report, 1999–2000.

National Parks Act 1975 — Report, 1999–2000

National Parks Advisory Council — Report, 1999–2000.

Northern Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

North East Victorian Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Parliamentary Committees Act 1968 — Minister's responses to recommendations in Public Accounts and Estimates Committee's reports upon Commercial in Confidence Material and the Public Interest and Outsourcing of Government Services in the Victorian Public Sector (two papers).

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

Brimbank Planning Scheme — Amendment C10.

Casey Planning Scheme — Amendment C6.

Darebin Planning Scheme — Amendments C6 and C13

Delatite Planning Scheme — Amendment C2.

Glen Eira Planning Scheme — Amendments C2 and C12.

Mildura Planning Scheme — Amendment C1.

Moonee Valley Planning Scheme — Amendment C15.

Shepparton — Greater Shepparton Planning Scheme — Amendment C7 Part 1.

Strathbogie Planning Scheme — Amendment C2.

Surf Coast Planning Scheme.

Towong Planning Scheme — Amendment C2.

Wangaratta Rural Planning Scheme — Amendment C3 Part 1.

Whittlesea Planning Scheme — Amendment C1.

Yarra Planning Scheme — Amendment C3.

Yarra Ranges Planning Scheme — Amendment C1.

Police Appeals Board — Report, 1999–2000.

South Eastern Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

South Western Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Stamps Act 1958 — Treasurer's report of 5 October 2000 of approved exemptions and partial exemptions and refunds made on corporate reconstructions for 1999–2000.

Statutory Rules under the following Acts of Parliament:

Accident Compensation Act 1985 — No. 102.

Administration and Probate Act 1958 — Supreme Court Act 1986 — No. 98.

Environment Protection Act 1970 — No. 92.

Pipelines Act 1967 — No. 90.

Petroleum Act 1998 — No. 91.

Road Safety Act 1986 — Nos. 95 and 96.

Subdivision Act 1988 — Nos. 94 and 101

Subordinate Legislation Act 1994 — No. 99.

Supreme Court Act 1986 — No. 97.

Tobacco Act 1987 — Nos. 93 and 100.

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rules Nos. 97 to 99.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rules Nos. 93, 95 and 101.

South East Water Limited — Report, 1999–2000.

Trust for Nature — Minister for Environment and Conservation's report of 15 October 2000 of receipt of the 1999–2000 report.

Victorian Civil and Administrative Tribunal — Report, 1999–2000.

Victorian Funds Management Corporation — Report, 1999–2000.

Victorian Managed Insurance Authority — Report, 1999–2000.

Western Regional Waste Management Group —

Minister's report of failure to submit 1998–99 report to her within the prescribed period and the reasons therefor.

Report, 1998–99.

Proclamations of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:

Accident Compensation (Common Law and Benefits) Act 2000 — Section 2(8) — 20 October 2000 (*Gazette No. G42, 19 October 2000*).

Equal Opportunity (Gender Identity and Sexual Orientation) Act 2000 — Section 2(1) — 9 October 2000 (*Gazette No. G40, 5 October 2000*).

Financial Sector Reform (Victoria) Act 1999 — Section 2(2) — 1 November 2000 (*Gazette No. G42, 19 October 2000*).

PUBLIC LOTTERIES BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

This bill provides for two significant matters of policy. This bill is the government's response to the independent national competition policy (NCP) review of the Tattersall Consultations Act 1958 presented to the previous government in January 1998. This legislation demonstrates the government's strong commitment to NCP and gives effect to the main findings of that review. The review found that the Tattersall Consultations Act does not conform to NCP principles of removing restrictions on competition and should be replaced with conforming, generic lotteries legislation.

The government accepts the major findings of the review, and more recently those of the Productivity Commission, which in regard to lotteries found there are likely to be major benefits from the development of a national market for lotteries.

To that end, this government is introducing legislation that will enable Victoria to participate in, and benefit from, such a market when it eventuates. This government will actively seek the cooperation of New South Wales in facilitating a national market once exclusivity arrangements in that state lapse. This legislation provides for a licence to Tattersalls to 30 June 2007, which aligns it with the NSW licence. Common expiry with New South Wales is the first step in creating a nationally contestable market, as between them Victoria and NSW account for some 55 per cent of the national lotteries market.

The second significant matter is that this bill provides the mechanism by which the government meets its election commitment to introduce an Australian Football League (AFL) footy tipping competition.

Part 1 of the bill sets out the preliminaries, including commencement mechanisms.

The main purposes of the bill are to:

provide for the lawful conduct of public lotteries, including football pools and competitions;

repeal the Tattersall Consultations Act 1958; and

entitle the promoter under that act to a public lottery licence for consultations and soccer football pools.

Part 2 of the bill develops the framework for public lotteries. It declares that the conduct of a public lottery licensed in accordance with this act is lawful, despite the provisions of any other law to the contrary.

This part sets out the obligations upon a licensee and the authority with respect to rules. It provides for the disallowance by the authority, and requires the operators to make rules publicly available, including through any agents.

This part also provides for the continuation of the practice that a public lottery determined by a draw must be conducted under government supervision.

This part also makes clear a licensee must ensure that an accurate record is made of each entry in a public lottery. That record must include the amount paid to enter the lottery and the amount, if any, of commission paid.

The bill prohibits accepting an entry in a lottery from a person under the age of 18 years. This extends the current ban on the sale of instant ‘scratch’ tickets to minors. This change is the government’s response to the clear message from the public consultation process undertaken earlier this year. That process highlighted the strong community expectation that gambling should not be accessible to minors.

This part also continues the practice that a licensee must not provide credit to a player to enter into a lottery. This does not prohibit entry by way of a credit card.

This part also prohibits schemes in relation to public lotteries that guarantee or promise a prize in the lottery or that give a greater probability of winning a prize than that given by the licensee. Such schemes are inconsistent with the government’s commitment to meaningful information to players and informed choice.

This part also introduces into legislation for the first time the protection from publication of the identity of a person who wins a prize in a lottery if the person has requested anonymity.

Part 3 of the bill relates to public lottery licences. The minister is to determine from time to time the number of public lottery licences that may be issued and the public lotteries authorised to be conducted by those licences.

The minister cannot issue a licence to conduct a public lottery that is a competition approved under other gaming acts. In addition, the minister must not issue a licence to conduct a public lottery that, in his or her opinion, is offensive or contrary to the public interest.

This part sets out the procedure for an application for a licence and the method by which that application is assessed and investigated. The minister must refer each application to the authority and the Secretary of the Department of Treasury and Finance — that is, there are two main arms of assessment: probity and related checks conducted by the authority; and financial and commercial suitability, conducted by the Department of Treasury and Finance. Both the authority and the department must give a written report to the minister as to the outcome of those checks. The authority and the secretary, respectively, must carry out all investigations and inquiries they consider necessary to enable each of them to report on the suitability of an applicant.

It then sets out the manner by which the minister is to determine whether to grant or refuse a licence application. The minister may grant a licence application only if he or she is satisfied that the granting of the application is in the public interest, taking into account the matters referred to in the two reports and any other matters the minister considers relevant. In making a determination about a licence application, the minister is entitled to rely on any findings or recommendations contained in the reports of the authority or the secretary — that is, in making decisions on the granting of licences, the minister is acting on the best advice of the authority and the department.

The minister may impose conditions on a licence, including conditions that remain in effect after the licence expires or is surrendered, cancelled or suspended.

The term of a licence may not exceed seven years, with a possible extension of not more than 12 months, which may be granted only once. The rationale for this extension is to provide flexibility in the event a sole licence is about to expire and formal processes for future licensing are incomplete. A licence cannot be renewed, but a person who holds or has held a licence may apply for another licence. A public lottery licence is not transferable.

The bill provides for the possibility of a premium payment, as consideration for the licence, payable by the licensee. This recognises the value inherent in a public lottery licence. The premium payment is a tax.

This part also provides for the publication and tabling of licences and for the creation of a register of public lottery licences. All public lottery licences will be fully and publicly available for inspection.

The bill provides for a wholly owned subsidiary of the licensee to conduct lotteries on its behalf, following assessment of that subsidiary by the authority. This part outlines the authority's approval process.

This part also provides for the amendment and surrender of licences. Licensees may apply to the minister for an amendment of a public lottery licence. If that occurs, the minister may require the requesting licensee to notify any other licensee the minister believes may be adversely affected if the amendment is made. Notified licensees have the right to object to the application for licence amendment.

The minister, in determining whether to make an amendment, must consider a range of factors, including any objections by affected licensees. The minister must also consider whether the amendment is in the public interest and consistent with the tenor of the original licence. A condition of approval of an amendment may be a premium payment determined by the minister in recognition of the increased value of the amended licence.

A licensee may surrender a licence only with the consent of the minister.

This part also sets out the grounds for disciplinary action, the type of disciplinary action that the minister may take, and the circumstances by which the authority or secretary may recommend to the minister that he or she take disciplinary action. When taking disciplinary action, the minister is entitled to rely on the findings and recommendation in the report of the authority or secretary.

The minister may suspend a licence if satisfied that the licensee, an appointed subsidiary of the licensee, or an executive officer of the licensee or subsidiary, has certain criminal proceedings pending.

This division provides for the ongoing monitoring of associates, or likely associates, by the authority. It also sets out the process by which the authority may undertake investigations to help it decide whether the licensee is a suitable person or body to conduct, or to continue to conduct, a public lottery.

Part 4 of the bill is in relation to returns to players, supervision charges and tax. This part requires the licensee to ensure a return to player of not less than 50 per cent of the total amount paid for soccer football pools or 60 per cent of the total amount paid for all other public lotteries each year. This is in line with current returns to players. Total amount paid excludes any amount payable as commission to an agent of the licensee.

The bill introduces a provision for the payment of a supervision charge by the licensee. This brings lotteries into line with other gaming forms, including gaming machines. The general principle is that the gaming operator is required to meet the reasonable costs of regulation of this activity.

A licensee will pay taxes levied on the basis of player loss. This brings lotteries into line with all other gambling forms, except bookmakers. These tax rates will apply to Tattersalls consultations upon repeal of the Tattersall Consultations Act. The tax rates for lotteries other than footy tipping licence have been chosen to be

comparable with the turnover tax rates currently levied upon Tattersalls, for the given payout rate of 60 per cent. The bill contains two tax rates for each public lottery. This is to ensure sales in jurisdictions that are not subject to the GST face the same effective tax rates as sales in those jurisdictions that are subject to the GST.

This approach is consistent with that proposed for the turnover tax regime in the current Tattersall Consultations Act, and meets the state's obligations under the intergovernmental agreement. Slight adjustments have also been made to take account of the recently identified need to make GST-related adjustments relating to the treatment of commission and for the removal of the 10-cent ticket levy on certain Tattersalls games.

The act continues the practice of the hypothecation of lottery taxes into the Hospitals and Charities Fund. As an administrative matter, the repeal of the old act requires the creation of a new trust fund called the Mental Health Fund. This new fund is a direct replacement for the Mental Hospitals Fund under the Tattersall Consultations Act and will be funded and applied in exactly the same way as the Mental Hospitals Fund.

Revenues from the footy tipping competition will, as previously indicated by the government, be spent on the government's sports and health policies.

The bill provides for the sharing of tax with other jurisdictions in the same way as occurs now.

Part 5 of the bill relates to compliance requirements of licensees. These requirements include the keeping of proper accounts, records of transactions, and such other records as sufficiently explain the financial operations and financial position of the licensee.

This includes the requirement that a licensee prepares and presents annual financial statements for the public lotteries it has conducted during that financial year. They must be audited by the Auditor-General and submitted to the minister, who must table them in each house of the Parliament. This is the current requirement placed upon Tattersalls.

It provides for the dealing with unclaimed moneys in the same way as currently occurs with Tattersalls consultations.

Part 6 of the bill relates to investigation and enforcement. This part provides for the appointment of inspectors, and sets out the inspectors' functions and powers, and the inspectors' rights to enter premises and seize lottery equipment.

Part 7 of the bill provides for a range of general provisions, such as setting out who may bring proceedings for an offence against this act. This part provides for the authority or secretary to hold inquiries.

The authority may enter a memorandum of understanding with enforcement agencies in other jurisdictions that allow the sharing of information appropriate for performing its functions under this act.

Parts 8 and 9 of the bill provide for a range of consequential savings and transitional provisions, largely to ensure as little disruption as possible is caused as a result of the enactment of the bill.

The bill entitles the promoter (that is, Tattersalls) to a licence under this act for the conduct of consultations and soccer football pools until 30 June 2007. The bill also makes clear that a public lottery licence under this act, other than an AFL footy tipping licence, cannot be issued to any person other than the promoter, if the licence would be in force at any time before 1 July 2004. That is, the government is honouring the Tattersalls entitlement to exclusivity under the licence conditions from the old act. The act provides no guarantee of exclusivity from 1 July 2004.

The promoter must pay a premium as consideration for the period from 1 July 2004 to 30 June 2007 entitled under the new lottery licence. The premium payment will be negotiated between the government and Tattersalls.

If agreement on the amount or timing of the premium payment is not reached on or before 1 July 2002, the promoter's licence under the new act expires on 30 June 2004.

In considering its negotiating position the government will have regard to its obligations under, and strong commitment to, NCP principles. With those principles in mind, it is this government's intention to issue public lottery licences in force from 1 July 2007 by way of transparent, contestable competitive tender processes.

This legislation provides for a relevant, appropriate and open framework for the conduct of lotteries in Victoria into the future.

I commend the bill to the house.

Debate adjourned on motion of Hon. ANDREW BRIDESON (Waverley).

Debate adjourned until next day.

LAND (ST KILDA SEA BATHS) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The bill provides for the City of Port Phillip (acting as the committee of management) to enter into a lease for a term not exceeding 45 years for the reserved Crown land adjacent to the St Kilda sea baths complex at Jacka Boulevard, St Kilda. That lease cannot be granted without the written approval of the minister responsible for the Crown Land (Reserves) Act 1978.

The main purpose of the bill is to provide for a power to lease the land for the purposes of a car park to be constructed and operated by the Crown lessee of the St Kilda sea baths complex. The construction of the sea baths complex is nearing completion and is planned to open over the coming summer.

The redevelopment of the sea baths and the construction of the neighbouring car park in effect represent a single development proposal. However, as the underlying land status is different (the sea baths is unreserved Crown land and the car park is reserved Crown land) the land is administered under different acts.

The current developer, South Pacific St Kilda Pty Ltd, has been assigned the existing Crown lease for the St Kilda sea baths complex with a term of 50 years, with a residual of 45 years, issued under the Land Act 1958. The lessee also has a lease under the Crown Land (Reserves) Act 1978 for the construction of a two-storey underground car park on adjacent reserved Crown land. The provisions of the Crown Land (Reserves) Act 1978 limit the maximum term of a lease under the act to 21 years.

The proposed bill provides South Pacific St Kilda Pty Ltd with a lease term for the adjacent underground car park consistent with the lease term for the sea baths complex.

The total cost of the sea baths development, including the car park, is in excess of $42 million. The construction of the car park is a key element in ensuring the sea baths complex is accessible to the public and will ensure its success as a major coastal tourist and recreation facility. The car park will also assist in addressing a chronic shortage of car parking in the area.

The bill represents a significant milestone in the long history of the redevelopment of the former sea baths at St Kilda. The bill provides important security to South Pacific St Kilda Pty Ltd that there will be consistent lease terms for the sea baths complex and for the adjoining reserved Crown land on which it is constructing the car park, providing substantial improvements of benefit to the community.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

TRAINING AND FURTHER EDUCATION ACTS (AMENDMENT) BILL

Second reading

[Second-reading speech subsequently expunged by order of the house.]

The DEPUTY PRESIDENT — Order! I direct the minister to the heading of the second-reading speech he is reading. The document delivered to me has a different heading from the one on the bill.

Hon. J. M. Madden — Mr Deputy President, you may well be right. I may have been handed the wrong second-reading speech. I believe that is being checked at this time.

Hon. Bill Forwood — On a point of order, Mr Deputy President, I seek the guidance of the Chair as to how the house should cope with the current situation, in which a minister is reading a second-reading speech that should not be read. Given that other second-reading speeches need to be read and that it appears the speech that should be read is not available, a mechanism needs to be found to get rid of the speech that should not have been read in the first place while not disrupting the orderly flow of the work of the house.

The house has a number of second readings to deal with before it moves on to debate the Constitution (Amendment) Bill. We need to quickly find a mechanism to regain the time!

The DEPUTY PRESIDENT — Order! With the leave of the house, the second reading of the Training and Further Education Acts (Amendment) Bill will be postponed until later this day.

Hon. Bill Forwood — On a point of clarification, Mr Deputy President, will the words that have already been read in this place be expunged from *Hansard*, or is it intended to let the words stay and for *Hansard* to show that the debate is being deferred until a later time?

The DEPUTY PRESIDENT — Order! On the point of clarification, Mr Forwood, a ruling on the expunging of what has been read of the second-reading speech will be given later.

TATTERSALL CONSULTATIONS (AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The purpose of this bill is to: (a) reinstate a duty rate of 36 per cent of turnover for Tattersalls overseas lottery sales and 34 per cent of turnover for Tattersalls overseas soccer football pool sales; (b) compensate Tattersalls for the GST paid on the agency services provided to Tattersalls by its accredited representatives through a 0.7 percentage point reduction in the lottery and soccer football pool tax rates; and (c) clarify that Tattersalls lottery sales outside Victoria made via telephone or the Internet are not subject to the 10-cent levy.

Under the Intergovernmental Agreement on the Reform of Commonwealth–State Financial Relations, the states and territories agreed to adjust their gambling tax arrangements to take account of the impact of the GST on gambling operators. In Victoria, in the case of lotteries, the tax rate was reduced from 36 per cent of turnover to 32.36 per cent of turnover from 1 July 2000. The corresponding reduction in the soccer football pools tax rate was from 34 per cent of turnover to 29.46 per cent of turnover.

The basic purpose of the changes to the gambling tax arrangements in Victoria, which were effected in the autumn session through the National Taxation Reform (Consequential Provisions) Act 2000 and the National Taxation Reform (Further Consequential Provisions) Act 2000 was to ensure that none of the stakeholders in the gambling industry would be worse off as a result of the introduction of the GST. In Victoria, in the case of lotteries (and other gambling activities), players have not been affected at all: there have been no changes to the entry price of games, the payout rates or the probabilities of winning. The operators have continued to pay the same amount of global tax, when state gambling taxes and the GST are combined. The Victorian government is also basically no worse off as all GST payments are being returned to the states, although in the case of Victoria GST payments are less than they should be because of adverse Commonwealth Grants Commission relativities.

Overseas sales

At the time that the autumn session legislation was enacted, which, of course, occurred before the commencement of the GST, the Department of Treasury and Finance was given to understand that Tattersalls lottery sales in their entirety would be subject to the GST. A small proportion of Tattersalls lottery sales actually takes place in overseas jurisdictions. In 1999–2000, Tattersalls total turnover came to about $903 million. Of this amount, overseas sales accounted for about $4 million or 0.44 per cent of the total. Tattersalls has now advised that they are not paying GST on these overseas sales, as exports are not subject to the GST.

As noted, the purpose of the adjustments to Victorian gambling tax arrangements that were enacted in the autumn session was to ensure that the operators would be no worse off as a result of the GST. However, as Tattersalls is not paying GST on its overseas lottery sales, it is in fact better off. The Department of Treasury and Finance has estimated that the gain to Tattersalls is close to $150 000 per annum. The purpose of reinstating the 36 per cent tax rate for overseas lottery sales is to remove this unintended benefit that has accrued to Tattersalls.

While Tattersalls does not currently sell soccer football pools in overseas markets, the 34 per cent tax rate should also be restored for soccer football pools in the event that Tattersalls should decide at some future date to market this product in overseas markets.

The restored tax rates in respect of overseas sales are to operate retrospectively from 1 July 2000. This is because Tattersalls has been paying the reduced tax rate since that date. The bill contains a provision in terms of which Tattersalls will be required to pay the Victorian government all outstanding duty within seven days of this bill receiving royal assent.

Agency commission

Tattersalls markets its lottery products through a network of about 700 accredited representatives, who receive commission on their sales. The entry price that a player pays includes commission. The Tattersall Consultations Act 1958 makes no reference to

commission, and the tax and payout rates are calculated on the value of sales excluding commission. The annual financial reports of Tattersalls also present sales data without making any reference to commission. Victoria therefore adjusted its tax rate to make room for the GST on the basis that the gross margin of Tattersalls was equal to the difference between total sales excluding commission and the amount paid out in prizes. On this basis, the lottery tax rate was reduced from 36 per cent of turnover to 32.36 per cent of turnover and the soccer football pool tax rate was reduced from 34 per cent of turnover to 29.46 per cent of turnover.

However, the Australian Taxation Office has now advised Tattersalls that in calculating its gross margins Tattersalls must take into account the total price that a player pays to enter a lottery, including commission. This has the effect of increasing the gross margin of Tattersalls and the amount of GST that it has to pay. As the object of the adjustment to the gambling tax arrangements was to ensure that the operators would be no worse off as a result of the GST, Tattersalls has sought a further adjustment to the tax arrangements to compensate it for the extra GST that it must pay. The government considers that this request is reasonable.

A reduction in the tax rate is considered to be the most efficient and cost effective way of compensating Tattersalls for the additional GST it must pay for the inclusion of commission in its global sales figure for purposes of calculating its gross margins and GST liability.

The Tattersalls commission rate displays considerable stability over time. The average commission that Tattersalls has paid over the past five years is equal to 7.71 per cent of net sales, within a range of 7.60 per cent and 7.82 per cent. The compensation that has to be given to Tattersalls is equal to one-eleventh of this amount or 0.7 percentage points. The tax rate is therefore being reduced from 32.36 per cent to 31.66 per cent for lotteries and from 29.46 per cent to 28.76 per cent for soccer football pools. Victoria will be no worse off since all GST revenues are being returned to the states, with the caveat that current Commonwealth Grant Commission relativities disadvantage Victoria.

The amendment will be retrospective to 1 July 2000. This is because Tattersalls has been paying GST on the commission component since that date. This will involve reimbursing Tattersalls for the difference between the tax rate that they have been paying and the reduced rate. The period of the reimbursement will be from 1 July 2000 to the day on which the bill receives royal assent. The bill contains a provision providing for a standing appropriation for this amount.

Telephone and Internet sales

A 10-cent ticket levy was introduced in Victoria in 1992 for most lottery products. Lottery tickets sold in non-Victorian jurisdictions, which form part of the Victorian lottery pool, were exempted from the 10-cent ticket levy as Victoria cannot constitutionally impose a tax on non-Victorians. In recent years, Tattersalls has commenced selling lottery products by telephone and via the Internet. Because no ticket is actually produced and handed over to the player in the case of telephone and Internet sales, the Tattersall Consultations Act 1958 was amended to provide for a 10-cent levy. The 10-cent levy is the equivalent of the 10-cent ticket levy. It was designed to protect the revenue, and to ensure that accredited representatives selling lottery products through the traditional channels were not disadvantaged compared to sales made by telephone or through the Internet. However, the amendment did not exempt the sale of telephone and Internet lottery products sold outside Victoria from the 10-cent ticket levy. A housekeeping amendment is necessary to clarify that such sales are not subject to the 10-cent levy.

I commend this bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

TRAINING AND FURTHER EDUCATION ACTS (AMENDMENT) BILL

Second reading

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

> That the proceedings of the Council immediately following upon the calling of the order of the day for the second reading of the Training and Further Education Acts (Amendment) Bill up to the suspension of the proceedings during the minister's second-reading speech be expunged from the *Hansard* record, and that so much of standing orders be suspended as would prevent the motion for the second reading of the bill being again moved.

Hon. BILL FORWOOD (Templestowe) — Although this is a sensible way of tidying up the situation, all members of the house would appreciate it if these matters were more smoothly managed.

Hon. W. R. BAXTER (North Eastern) — I would have thought it might have been in order for the Leader

of the Government to acknowledge to the house that some incompetence and inefficiency has occurred; otherwise the *Hansard* record will be incomplete.

Hon. M. M. GOULD (Minister for Industrial Relations) (*By leave*) — I moved the motion and was about to make a comment about the proceedings. I apologise to the house for the inconvenience of inadvertently having begun the reading of the incorrect second-reading speech. I will endeavour to prevent such an incident happening again. I thank the house for its indulgence in supporting the motion.

Motion agreed to.

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Hon. M. M. Gould (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

This bill provides a forward-looking legislative framework for the establishment of key educational institutions in the post compulsory education sector. The provisions of the existing legislation require amendment to accommodate the change within the sector that has occurred in the past decade. Legislative reform is also required to meet the challenges of the post compulsory sector that today is characterised by innovation. The bill aims to achieve this while at the same time contributing to the government's commitment to improved public accountability.

Victoria has two major public institutions whose functions relate primarily to adult education — the Council of Adult Education, usually known as the CAE and the Adult Multicultural Education Services, which is known as AMES. Both organisations have been major contributors to post compulsory education in Victoria, and both have the capacity to make a major and ongoing contribution to the people of Victoria consistent with the government's reform agenda if appropriate steps are taken to modernise their corporate status.

The CAE was established by legislation in 1947 to pursue the development of adult education. It is currently constituted under the Council of Adult Education Act 1981. This act is outdated and in need of review. There is also a need to clarify the CAE's role and relationship with the Adult, Community and Further Education Board.

AMES is currently part of the Department of Education, Employment and Training. It has no separate legal status. AMES was established in 1951 following agreements between the commonwealth and state departments of education that led to states taking over responsibility for migrant education. AMES is now Australia's largest specialist provider of language programs. It is also a provider in the commonwealth's Job Network program, and provides job seekers from diverse language backgrounds with support in overcoming barriers to gain employment appropriate to their qualifications and experience.

The bill will amend the Adult, Community and Further Education Act 1991 to provide for the establishment of adult education institutions and their governing boards, based on the model contained in the Vocational Education and Training Act 1990 for TAFE institutes. This model has proved practical and workable over the last decade.

Two adult education institutions, to be known as Adult Multicultural Education Services and the Centre for Adult Education will be established by the act.

The Governor in Council will also be empowered to establish additional adult education institutions by order in council — in the same manner as TAFE institutes and their councils are established — adult education institutions will, as far as possible, have common powers, functions and accountabilities.

Boards will be established as bodies corporate with the powers commonly exercised by bodies corporate, including the power to hold property, enter contracts and sue and be sued.

The Governor in Council will be empowered to make structural and other changes in respect of adult education institutions and their governing boards, in the same way as orders can currently be made in relation to TAFE institutes and their councils. The minister will be required to consult the board of the institution concerned and the Adult, Community and Further Education Board before recommending such orders to the Governor in Council.

Boards of adult education institutions will consist of from 9 to 15 members — the number being fixed by Governor in Council order in each case. Of these members:

at least half will be appointed by the minister;

one will be a staff member of the institution, elected by staff;

one will be a student of the institution, elected by students;

one will be the director of the institution; and

the remainder will be coopted by the board on the basis of relevant knowledge or skills.

Boards will be required to act within the state government policy frameworks and subject to directions of the minister, which may be given generally or on specific matters. Boards will be subject to the Financial Management Act 1994, will be required to report annually to Parliament and will be required to manage risk and insure through the Victorian Managed Insurance Authority.

The bill contains provisions designed to ensure a smooth transition to the new governance arrangements for the CAE and AMES. The board of the new Centre for Adult Education will be the successor in law of the current Council of Adult Education. It will assume over all rights and liabilities of the council. Staff of the existing CAE will transfer to employment with the board on the same conditions they enjoyed immediately before the transfer.

The board of the new AMES will assume the rights and liabilities of Department of Education, Employment and Training, which relate to the operations of AMES at the date the new board is created. Department staff involved in the operations of AMES will transfer to employment with the board on the same conditions they enjoyed as employees of the department immediately prior to that date.

The bill also repeals the Employment Agents Act 1983. This act was passed 17 years ago to establish a licensing arrangement for a wide range of employment agents. The act was never proclaimed and consequently never came into operation. It is considered to be redundant.

I commend the bill to the house.

Debate adjourned for Hon. B. N. ATKINSON (Koonung) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

CONSTITUTION (AMENDMENT) BILL and CONSTITUTION (PROPORTIONAL REPRESENTATION) BILL

Second reading

Debate resumed from 4 October; motions of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. D. G. HADDEN (Ballarat) — It is with great pleasure that I speak in support of the two bills to be debated concurrently. The first of those bills is the Constitution (Amendment) Bill, which primarily provides for the reduction of the term of members of the Legislative Council to one term of the Legislative Assembly. It fixes the term of Parliament to four years unless there is a vote of no confidence in the Premier and the other ministers and it removes the Legislative Council's power to block supply.

On the point of the blocking of supply, I, too, have been doing a lot of reading over the past couple of weeks on the background to the bills. I visited the web site of the Parliament of Victoria on democracy in Victoria and read the outstanding book by Raymond Wright called *A People's Counsel — A History of the Parliament of Victoria 1856–1990*. I am probably following the member for East Yarra, Mark Birrell, who said it was part of his bedtime reading. I shall quote from page 182, which specifically relates to the ability of the upper house to block supply. The quote relates to supply of 1947 and the contribution is made by the independent MLC for Melbourne Mr Likely Herman McBrien, who states:

> This chamber is a house of review. It is not a political instrument to be used for the purpose of coercing or censuring a government which may be politically opposed to it. The function of the Council is to deal fairly with all legislation that comes before it, to make suggestions for improvement by way of reasonable amendment. It was never intended that the Council should be a wrecker of government legislation. If attempts by political extremists to take financial leadership from the Assembly succeeded it would be a crowning act of folly …

Hon. W. R. Baxter — When did the Council last do that?

Hon. D. G. HADDEN — In 1964, for 24 hours. I will take up that question later, Mr Baxter.

Hon. W. R. Baxter — We'll have a history lesson.

Hon. D. G. HADDEN — I think history lessons are good for all of us, Mr Baxter.

Clause 3 of the Constitution (Amendment) Bill amends the Constitution Act by providing for fixed four-year terms. A shorter period will be possible only if the Legislative Assembly has passed a no-confidence resolution in relation to the Premier and other ministers of state.

Clause 3 inserts a new subsection (3) in section 8 of the Constitution Act to replace the current subsections (3) to (6). Section 8(3)(d) currently provides for the dissolution of the Legislative Assembly where the Assembly has passed a resolution expressing a lack of confidence in the Premier and the other ministers of state. So the Parliament currently has that power.

Clause 3 amends section 38(2) so that Parliament's term commences from the day of the general election, not the first sitting of the Parliament.

Clause 4 repeals section 28 of the Constitution Act, subsection (1) of which currently deals with tenure and states:

> … a member of the Council shall be entitled to hold his seat until the expiration or dissolution of the second Legislative Assembly after he has been elected.

The new provision in the bill is section 30A, subsection (2) of which provides for the duration of the Council to continue after a general election until the dissolution of the Assembly. Therefore the duration of both houses of Parliament will be concurrent, and all members of Parliament from both houses will face an election every four years.

I am certainly not afraid to go before my electorate, the Ballarat Province, every four years, and other honourable members in the opposition seats in this house should not be afraid to do likewise.

Clause 5 substitutes a new section 62 and provides that a bill for appropriation of the consolidated fund or for imposing duties or taxes must originate in the Assembly. Subject to a new section 65, appropriation bills can be rejected but not altered by the Legislative Council.

Clause 6 substitutes a new section 65. It defines annual appropriation bills as bills that deal only with the annual appropriation of the consolidated fund for the ordinary annual services of the government for a particular year but does not include a bill to appropriate money for or in relation to Parliament.

Subsection (8) provides that the certificate of the Speaker under section 65 is conclusive evidence for all purposes and cannot be questioned in any court. That is the same as section 67(4), which is to be repealed along with sections 66, 67 and 68(5). They will be made redundant due to the provisions in clause 3.

The supply issue in the bill adopts the approach taken by the United Kingdom and New South Wales. The Legislative Council can consider and debate annual appropriation bills but should the Council reject or fail to pass such a bill within the specific time frame of one month of it being passed by the Assembly the bill must be presented for assent.

Part 3 of the Constitution (Amendment) Bill amends the Constitution Act Amendment Act. In particular, clause 8 amends sections 3 and 37, the definitions sections, so that the terms 'simultaneous election' and 'periodical election' will be omitted and the term 'general election' will apply to concurrent elections of both houses of Parliament. Consequential amendments are provided for in clause 9 but I will not go into those in detail.

Clause 13 amends section 164(5), which deals with the death of a candidate. Sadly, as all honourable members know, that occurred in the Frankston East electorate on election day in September 1999. The amendment inserts the words 'end of the' to provide that an election will fail if a candidate dies after noon on the nomination day and before the end of the polling day. Clause 11 amends section 159 by adding the words 'or each candidate', to allow for multiple candidate nomination procedures. Clause 16 inserts proposed section 208AB, which provides for a procedure to ascertain votes where two members are to be elected.

The Constitution (Reform) Bill was introduced in the lower house in the spring session of last year primarily to reform the upper house, provide fixed four-year terms for members of the Legislative Council and Legislative Assembly and to remove the upper house's power to block supply. The bill lay over for some six months to enable consultation to take place with the Independent members of Parliament and non-government parties. As a result of consultation the bill was withdrawn and the two current bills were introduced.

The Australian Labor Party went to the September 1999 election with a clear policy of fixed four-year terms and other reforms to the upper house contained in one document entitled 'Integrity in public life'. In summary, the policy was for the reform of the Legislative Council and a leaner Parliament — the reform of Victoria's upper house to introduce proportional representation and reduce the number of members in both houses. As I said, the original bill was withdrawn and the government is now proposing to reduce the number of members in this house to 40.

Furthermore, the Premier, Mr Steve Bracks, formally responded to the Independents Charter Victoria 1999 and agreed that the government's commitment was to improve the democratic operation of Parliament, to reform the Legislative Council by abolishing the current system under which its members are elected for a term equal two terms of the lower house so that all members of both houses would serve four-year terms concurrently, to adopt a proportional representation voting system and to establish standing committees similar to those that operate in the Senate to review legislation and the operation of government.

The contents of the bill should not be and are not a surprise to opposition members. It has been the Labor Party's policy to reform the upper house since 1985, and the policy ratified at the 1986 ALP state conference. The policy was and still is to reform this chamber, not to abolish it. Anyone who says the government wants to abolish this chamber is making foolhardy and mischievous statements. It is nonsense.

An article that appeared in the Ballarat *Courier* of 8 March quotes Dr Napthine, the Leader of the Opposition in the other place. It states:

> … more community consultation was needed before any changes were made.

That was back in March; we are now in October. The article further states:

> A referendum or a plebiscite on the issue was a matter for consideration further down the track, once the options and issues had been comprehensively canvassed.

As I have said, the Labor government's policy now is the same policy that leading up to the last state election it pledged to the Victorian people it would follow. It pledged to make this house a harder working house of review, to reduce the terms of its members to four years, to synchronise elections for all Council and Assembly members, to remove the right to block supply and to introduce a more effective committee system designed to monitor executive government.

The Legislative Council has become a hardworking house of review, and I have statistics on how much harder the house has worked since the government was sworn into office last October. It sat for 13 days in spring 1999, 22 days in autumn 2000 and has sat for 8 days so far in this sessional period, a total of 43 days. On my calculations the house will have sat approximately 50 to 54 days by the end of this spring sessional period, which compares with a total of 28 days in 1999, 29 days in 1998, 37 days in 1997 and 26 days in 1996.

Hon. W. R. Baxter — That is your measure of effectiveness, is it?

Hon. D. G. HADDEN — It shows we have implemented our commitment to the Victorian people.

The Constitution (Proportional Representation) Bill provides for a reduction of the number of members of this place from 44 to 40 and for the election of members using a proportional representation system. I note for the record that currently of the 22 provinces, 9 are rural, including Eumemmerring Province, which on the Parliament's web site is designated a non-metropolitan province. In addition to reducing the number of members from 44 to 40 the bill seeks to divide the state into eight provinces, with three primarily outside metropolitan provinces and five primarily inside the metropolitan area. Five members of the Council are to be elected in each of the eight provinces, and each province is to contain 11 complete contiguous districts.

It is interesting to note that according to the Victorian Electoral Commission at the last state election, on a two-party preferred basis, Labor gained 50.72 per cent of the vote for this house and the coalition gained 49.28 per cent.

Of the nine rural provinces, one and a half — comprising half of Geelong Province represented by the Honourable Elaine Carbines, and the Ballarat Province — are retained by the government. The other outlying provinces are held by National Party and Liberal Party opposition members.

Hon. W. R. Baxter — What inference do you draw from that?

Hon. D. G. HADDEN — This must be a more democratic house. For example, the Ballarat electorate has not elected a female Labor member in its 62-year history, but last September it elected two — one in this place and one in the other place. Certainly proportional representation should be introduced so that minor parties, Independents, and women have a chance to be elected to represent rural Victorians.

I know Mr Birrell was dismayed and devastated at the result in Ballarat Province. I was not devastated but somewhat dismayed that I received some 52 per cent of the two-party preferred vote. Achieving that took a lot of work, but it is unfortunate that more women are not represented in this chamber.

I shall not elaborate on the history of this chamber because it is available for all to read on the web site and in publications of this Parliament. I commend those publications not only to members of this house but also to members in the other place who need a good history lesson on how our Parliament has evolved since 1851.

In my research on these bills I came across an article written by the Honourable Mark Birrell under the heading 'Victoria needs electoral reform'. I shall not be rude or provoke the honourable member, but it was an interesting article printed in the *Age* of 25 March 1980, and he was then some 20 years younger.

Earlier members in this place have referred to Mr Birrell's idealism and so on, but I do not know what

has happened in the 20 years since. The article was written during the 48th Parliament when Rupert Hamer was the Liberal Premier, and three years later Mr Birrell was elected to the East Yarra Province. Mr Birrell said in the article that he was a great advocate for proportional representation. He indicated that reform of the upper house was required urgently.

Hon. P. R. Hall interjected.

Hon. D. G. HADDEN — I thought wisdom, not stupidity, came with age, Mr Hall. In the *Age* article Mr Birrell states:

> The upper house should be elected by proportional representation, using the entire state as an electorate.

What Mr Birrell wanted to introduce 20 years ago was the system the New South Wales government uses, which opposition members have criticised. In the article Mr Birrell also said:

> There is an immediate need for a stocktaking to be carried out on our system of government. Parliament itself must be the first body to come under scrutiny.

That is what he said 20 years ago, before becoming a member of this place. Now he is opposing this legislation, proportional representation and any move to make the Legislative Council more democratic, more diverse and more representative of the population. Mr Birrell should bear in mind that more than half the population is made up of women. Of the 14 government members in this chamber 57 per cent are women, and 3 of the women are ministers.

Mr Hallam referred to these bills as representing an intent to abolish the upper house and said that they are about reform. The *Macquarie Dictionary* says that 'reform' means to improve or amend what is wrong; it does not mean 'to abolish'. For the record, I point out that 'reform' is spelt r-e-f-o-r-m, not a-b-o-l-i-s-h.

The New South Wales Legislative Council is elected on a statewide electorate and has a proportional representation system like the Senate but has a quota of 4.22 per cent which allows for minority and single-issue members — nutters and fruitcakes, as Mr Birrell calls them. These bills will enable the establishment of a proportional representation system with a quota of 16.67 per cent.

Mr Craig Ingram, elected to represent Gippsland East in the other place, was a single-issue candidate and in only 12 months achieved for his electorate what he campaigned on. Perhaps Mr Ingram may now be called Craig from the Snowy or Craig of the Overflow, but he delivered. I would not term him a nutter or a fruitcake. He was not interested in self-interest and did not ignore the greater public interest.

I take issue with Mr Hallam when he said the New South Wales system was not quoted by the government because it was identical to Victoria's current system. I have carried out some research and found he is totally incorrect. The New South Wales Legislative Council, referred to as the state Senate, has 42 members elected for the whole state as one electorate, and 21 members are elected at each general election to serve two terms of Parliament. They require a quota of 4.22 per cent of the total number of formal votes cast to be elected to that house. Upper house members in New South Wales are all located in the City of Sydney because they represent the whole state. That is totally different from the system in Western Australia: its upper house members do not all congregate in the City of Perth because they have electorate offices throughout the state and have proportional representation. The people of Western Australia, in their wisdom and idealism, in the year 2000 have just voted to introduce single upper house terms in line with the lower house.

There are many counter arguments, but in the interests of time I point out that it is unfortunate that opposition members oppose the bills. They have spoken at length in opposing the bills but have offered nothing in the way of amendments or suggestions for the reform of the house. They say only, 'We will not vote for the bills'.

Labor was elected to govern the state and in delivering on its pre-election promises has introduced these two bills. I urge opposition members to think long and hard about the bills and to support them. I commend both bills to the house.

Hon. ANDREW BRIDESON (Waverley) — I strongly oppose both the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill — and I emphasise the word 'strongly'. As the purpose of the bills has been adequately explained by previous speakers I will not bother to mention that again and will enunciate why I oppose them.

I support all the comments made by opposition members thus far in the debate. A constitution is the foundation stone of any organisation, whether it be Parliament, a small sporting group in the community or a large company. It generally sets out the principles, guidelines and fundamentals of the operation of any organisation. A previous speaker mentioned that constitutions are important documents which ought to be taken seriously by all concerned. When a constitution is changed all those involved with it ought

to be involved in the changes to it. Constitutions of bodies such as local football clubs contain clauses that set out how those constitutions might be changed and all concerned have a close involvement in the change process. Despite what government speakers have said, the public and the community have had little or no involvement with the changes proposed in the bills.

I use my own electorate office as a guide. I have not received one letter or telephone call advocating changes to the Victorian constitution. In fact, I have received only one email from a concerned constituent, whom I later found out is an ALP member, wanting to know what the opposition proposed on the bills. Naturally I responded and forwarded the relevant information to him. I have heard no more.

Any student of change management knows that the government has got its processes wrong with the bills. The Honourable Gavin Jennings virtually admitted as much in his contribution on the first day of the debate. I will encapsulate change management theory in simple terms: for any change to be successful you must involve those concerned and bring them along with you. The government has failed on that count. In fact, the government is in effect attempting to hoodwink the public and is tinkering with the foundation stone I talked about earlier. If the opposition allowed it to succeed, democracy in this place as we currently know it would be eroded so much that it could eventually collapse. That is a horrifying thought.

The government is trying to emasculate this place with a view to eventually abolishing it. If one goes right back through the history of the Labor movement and reads its policies over time one sees that that is really what it is on about. I recall that during the Whitlam years, the then Prime Minister wanted to abolish state governments, both upper and lower houses, and replace them with regional governments.

Labor has known all along that the opposition would not support this legislation. That was flagged in the speech given in this place on 3 November 1999 by the Governor — that should the Legislative Council block the government's reforms of the upper house a Victorian constitutional commission would be established and a question would be put by way of plebiscite to the Victorian community. I have taken that as being somewhat of a threat. I invite the government to set up such a commission and involve the people of Victoria in the process of change. I am pretty confident that if such a plebiscite were to occur, at the end of the day it would be found that the Victorian public wanted a watchdog, wanted safeguards not just over a Labor government but over any government and that the will of the people would ensure that the upper house in its present form will probably remain forever and a day.

It might well be that the government will embark on another expensive course of action. I remind members that any plebiscite would not be binding on this house. Presumably after a constitutional commission had conducted its inquiry and made its findings, the government would adopt those findings, come back to this house, and unless the opposition had been involved in the change process and could see pertinent reasons for amending the constitution — over previous years Labor has constantly trotted out changes — the outcome would be exactly the same, as in this debate.

There is a need to strip away the veneer and look at the real issues behind why the government wants to emasculate the chamber. I will try to be succinct. The government cannot and will not accept the will of the people. Despite what it has said, we are all members of this place because of the democratic decision of our electors. The ALP government wants absolute and unbridled power. It does not like and does not want scrutiny. It does not like being subjected to review. As a result, I believe it is prepared to go to enormous lengths to change the rules to suit its own political agenda. I would even go so far as to say that that borders on corruption — it is a corrupt process.

Hon. M. M. Gould — Get out of it!

Hon. ANDREW BRIDESON — Labor wants to control both houses to merely rubber stamp legislation. It wants to remove the power of the Council to block supply. In fact, the probable reason for the introduction of the legislation — perhaps this will be seen as a cynical view — is to pay back both the Democrats and the Greens, who gave their preferences to the Labor Party at the last election. That was one of the reasons similar legislation was defeated in August 1987.

Raymond Wright's *A People's Counsel — A History of the Parliament of Victoria 1856–1990*, which we all know is very good bedtime reading, states:

> Opposition members questioned Labor's motives in introducing this bill which looked unlikely to succeed; they saw it as little more than an attempt on the part of Labor to win the preferences of the Australian Democrats in any forthcoming election.
>
> As expected, the bill failed in the Upper House — but not before it claimed an unlikely victim. Labor President Rod Mackenzie, who believed strongly in the autonomy of his chamber, opposed the bill.

I call on government members to do likewise.

Hon. W. R. Baxter — He was a man of principle.

Hon. ANDREW BRIDESON — He was a man of principle, Mr Baxter. One of the arguments in support of the changes proposed by the government is along the following lines: proportional representation is good, and if you win 50 per cent of the vote you ought to have 50 per cent of the seats. That is a fallacious argument.

The government can use any form of statistics to back its argument in any way it wants, but I will put on the record a brief quotation from a document edited by Richard Giles and entitled *For and Against — An Anthology of Public Issues in Australia*, which is obtainable from the parliamentary library. It makes the following apposite comment about proportional representation:

> Such simplification should be viewed with suspicion. Mathematical fairness is not the only aim of representation. Some of the problems of PR, such as those which affect electoral accountability of party mandates, have disturbing implications for the way in which Australians have traditionally assumed their political institutions will work.

In conclusion I direct attention to the editorial in the *Herald Sun* of 31 May. It states that the Liberal Party, which has the majority in this house, has an obligation and responsibility to not thwart the legislation of the Bracks government, which has some sort of mandate in the Legislative Assembly. The final paragraph of the editorial states:

> But the Liberals' obligation does not extend to allowing reforms that could paralyse government in this state.

I strongly urge all honourable members to oppose the two bills.

Hon. W. R. BAXTER (North Eastern) — I am pleased to contribute to this very important debate. To some extent I am disappointed that not all honourable members may get the opportunity to make a contribution. I find myself speaking to some degree on behalf of my colleague in North Eastern Province, Mrs Powell, and to some extent on behalf of Mr Bishop, who also may not have the opportunity to speak in the debate because of arrangements that have been made.

As someone who has been here for a while I have seen it all before. This is not a unique debate or something that has come out of the blue. Such legislation is seen every now and again when Labor is in government because its members want to emasculate this house if they can. They talk at length about accountability, honesty and responsibility but their actions, both public and behind the scenes, are quite contrary to those professed high ideals. They actually want to take away from this house the level and degree of accountability that it is currently able to exercise.

Before I go to the body of my remarks I acknowledge the masterly contribution the Leader of the Opposition, Mr Birrell, made in opening the case for the opposition in this debate. I acknowledge also the devastating critique of the legislation made by the Leader of the National Party, Mr Hallam. I commend both of those speeches to all honourable members and other interested persons because they are excellent contributions that go very well to the detail of the issue.

As I said, honourable members have seen it all before. The government's heart is clearly not in it. Government members are doing this for the exercise, as Mr Brideson said, because in return for preferences it made a commitment to the Greens and the Democrats that it would introduce legislation to change the upper house. It also made the commitment to the Independents to get that group to support it in its minority government status that it would introduce legislation to change how the Legislative Council operates. As I have said, the hearts of government members are not in it, and I will give a couple of examples of that.

Recently the Premier was at La Trobe University in Wodonga to give the annual Michael Joseph Savage lecture. Mr Savage was a Prime Minister of New Zealand who happened to be born in north-eastern Victoria and annually La Trobe University has a lecture delivered in his honour by a leading personality. This year it was Mr Bracks, who was to speak on reform of the upper house. For a public lecture one usually expects a dissertation of 30 to 40 minutes in which the lecturer expounds his or her case in a learned contribution. The Premier spoke for 5 minutes about Mr Savage — which was, of course, quite appropriate — and then gave a 10-minute dissertation or a brief skim over his plans for the upper house. Then he sat down. I could not believe that that was all we got!

I was concerned that Mr Bracks must have for some reason and somehow or other truncated the speech he had come armed with, so I acquired a copy of it. I found that he came in the first place prepared for only a brief dissertation. It was so brief that one of the shire presidents from my electorate, who had driven more than 100 kilometres to hear the Premier and was a little late getting there, heard only the mayor's vote of thanks! He missed it completely. The audience of 200 people was thoroughly disappointed. My summation is that the Premier's heart was not in it.

What have government members contributed to the debate? I invite honourable members to read the contributions made in the other house. Not one of those contributions contains any rigour or logic. They are political slanging matches and do no credit to the debate.

Mr Brideson has indicated what his experience is with public demand for the change, and mine is the same. I give a specific example that confirms there is no public clamour for changes to the upper house. I was invited to the speak 10 days ago at the University of the Third Age in Benalla on the topic of the reform of the upper house. I followed a young lady who had been dispatched from the office of Ms Allen, the honourable member for Benalla in the other place, to speak on the same subject. I do not know why the honourable member could not front up, but she sent along a staff member.

I gave my 20-minute dissertation on the proposed legislation and on the Legislative Council. At question time I was expecting a heap of questions on reform of the upper house because that was what I was there to talk about and there was alleged interest and demand from the public. I got heaps of questions, but were they on reform of the upper house? No! There were questions on road funding, the Snowy River, water, education — —

Hon. Andrew Brideson — The real issues.

Hon. W. R. BAXTER — The real issues. There is no public clamour for the sorts of changes that the government is endeavouring to foist on the people of Victoria.

Government members talk about openness, honesty and accountability, but as an example of their not practising what they preach I refer to a recent *Herald Sun* article by the Leader of the Government headed 'We must tidy up the house'. It followed an excellent article a week or so before by the Leader of the Opposition in this house, Mr Birrell. Usually I am of the view that ministers have such articles prepared for them in their offices. The one to which I refer displays such an appalling lack of logic and misuse of the facts that I think the minister wrote it herself. I put on the record that it is far off the mark and is designed to deceive and mislead. The article states:

> The upper house we have now does not do the job Victorians expect of it, and it is in dire need of repair.

I have already asked: where is the evidence for that? The article continues:

> People want and expect a democracy with appropriate checks and balances where the power of the executive is contained and decision-makers are held to account.

They are laudable ideals. Let us compare what happens in the Legislative Assembly with what we do in this place. There is no time limit on speeches here, but that does not apply in the other place. The gag or guillotine is never applied to a debate on a bill in this place but that does not apply in the other house. The Legislative Assembly has a system under which at 4 o'clock on Thursdays bills are passed even if they have not been debated at all!

Hon. M. M. Gould — How many times did that happen when you were in government?

The DEPUTY PRESIDENT — Order!

Hon. W. R. BAXTER — Members of the government say they want more accountability.

Hon. M. M. Gould — It's never happened!

The DEPUTY PRESIDENT — Order! The Leader of the Government is not in her place and interjections are disorderly.

Hon. W. R. BAXTER — Any member of this chamber can require the house to go into committee on a bill. When was the last time the Legislative Assembly went into committee? It has done so very seldom.

In this place all ministers attend for the adjournment debate. Do they do that in the other place? No. There is no time limit on the adjournment debate in this place. Is there a time limit in the other place? Yes. In the other place during the adjournment debate members get only about 30 minutes to raise matters. In this place every week Wednesday mornings are allocated for opposition business. We also have debates on annual report take-note motions. Do they occur in the Legislative Assembly? Of course they do not. This place has upper house committees established to review government actions or legislation. We have a requirement that ministers are held accountable and must answer questions on notice within 30 days. Does that happen in the other place? No, ministers of this government do not answer questions on notice in the other place. They leave them on the notice paper.

The Leader of the House is attempting to convey to the public that somehow this place does not hold the government to account whereas the Legislative Assembly does, but the opposite is the case. The Leader of the House says that the public wants these changes — that Victorians expect it to make these changes — but the government wants to emasculate the

right of this house to block or delay supply. I am not an advocate for doing that except in the most extreme circumstances. I remind the house, as many honourable members have done, that the upper house has not blocked supply for 48 years, but the Leader of the House — who talks about wanting to make this house exercise checks and balances on the government of the day — wants to take away the prime mechanism that the house has to exercise those checks and balances.

I will not go into the matter of changing the provision that this house elect members for two terms of the lower house, but there are some benefits in having members of this house sit for two terms of the other place. It will enable a longer view to be taken. It will mean that members do not have to have an eye to the next election so much and that they can take a view or a decision that may be in the long-term public interest but may not be popular in the short term. There are some valid reasons for maintaining the current system in which members of this place are elected for two terms of the lower house.

Regarding the issue of supply, not only does the government want to take away the right of the Legislative Council to block supply, which is a seldom-used weapon, but it wants to expand the definition of a supply bill so that more legislation which at present does not fall within the definition of a supply bill and which the house has the right to amend, defeat or delay may well fall within the definition of a supply bill if the amendment in the bills is passed. It will mean that the right of this house to do as it would with them would be removed.

I refer honourable members to proposed new section 65(2)(c) inserted by clause 6 of the Constitution (Amendment) Bill, which in defining 'annual appropriation bills' states that the expression 'ordinary annual services' includes:

> services proposed to be provided by the Government which have not formerly been provided by the Government.

The imaginative minds of senior officials in the Department of Treasury and Finance and the Department of Premier and Cabinet would be set to work to construct legislation on whatever the government has in mind to ensure that it falls within this greatly expanded definition of a supply bill. In that way the government could introduce in this place an initiative that the public and the opposition may be concerned about but because of the way it is constructed the government will be able to claim that it is a new initiative that has not been formerly provided by the government and that therefore it falls within the definition of a supply bill. This is a devious attempt behind the smokescreen of abolishing the right to refuse supply but expanding the definition of a supply bill and therefore achieving one of the nefarious intentions of the government.

The house also heard much ado from Ms Hadden, and from the Leader of the House in her article in the *Herald Sun* claiming that elections to the Legislative Council are undemocratic. The *Herald Sun* article states in part:

> At the last election, the Nationals received only half a per cent more than the Australian Democrats — but they have six upper house seats, and the Democrats have none.

The statement is then left in the air for the reader to imply from it that somehow or other there is an injustice and that the National Party has rorted the system and is favoured in the electoral process whereas the Australian Democrats are not. That argument goes back to my schooldays when Labor Party activists used to run the same line, but they were talking about the Democratic Labor Party. They would say that the DLP would attract X number of votes yet win no seats while the then Country Party attracted a similar number of votes yet won a swag of seats, so therefore the system was undemocratic. They did not say that the Country Party vote was concentrated in certain regions and that the DLP vote was spread across the whole state rather thinly and the DLP could not get up to 50.1 per cent in one seat. Of course, the National Party could stand candidates in many more seats and double its vote, but it would not win any more seats, nor does it have any intention of standing candidates in more seats across the state. Its purpose of being is to be a regionally based party. It does the minister no credit to say that somehow the system is shonky because the National Party is able to win seats on a vote that if spread state-wide would seem rather small. If people look at the vote recorded by National Party candidates in the seats it wins they will see that the party receives 50 per cent plus one of the votes, and in most cases much more.

Hon. P. R. Hall interjected.

Hon. W. R. BAXTER — As Mr Hall says, it is a spurious argument being made by the Leader of the House, the Minister for Industrial Relations. In the same article the minister further states:

> Let's take the North Western Province as an example of the Queensland-style gerrymander that leads to massive National Party overrepresentation.
>
> At the last election, the National Party came fourth in the four lower house seats that make up the province.

The minister is writing in a Melbourne daily newspaper. One would have thought she might have

got her basic facts correct if she wanted to write an article that was to be published in a newspaper for the public's edification. I repeat the minister's remarks:

> … the National Party came fourth in the four lower house seats that make up the province.

Honourable members should bear in mind that one of those seats is Swan Hill, where the National Party candidate came first; one is Mildura, where the National Party candidate was down the field and the seat was won by an Independent; and in the other two seats, Bendigo West and Bendigo East, the National Party did not field candidates, yet the minister claims that the National Party stood in four lower house seats and came last in each of them. That is not true.

I call on the minister to set the record straight. In any event what did the result in the four lower house Legislative Assembly seats have to do with the result in the North Western Province where the electors voted and made a decision? I refer honourable members to the results of the 1999 Victorian election as recorded in the report of the Victorian Electoral Commission. At page 292 of the report the successful candidate, the Honourable Barry Bishop, polled in his own right 51.64 per cent first preference votes.

Is the Leader of the Government saying to the people of Victoria who read the article in the *Herald Sun* that the electors in North Western Province are dills and that that is not the result they intended?

Hon. P. R. Hall — Do they want the Democrats? They got 7.28 per cent of the vote.

Hon. W. R. BAXTER — Yes, the Democrats got 7.28 per cent. The minister tries to run a public argument that there is something undemocratic about the system when the boundaries were drawn up by the independent Electoral Boundaries Commission of Victoria. The boundaries are identical with those of the Legislative Assembly, and she is not alleging that that house is undemocratic. The electors themselves decided to give the successful member a substantial and clear-cut absolute majority.

The government is coming unstuck on its honesty pledge. It keeps talking about honesty, but everywhere it goes it is prepared to spin a yarn, put a spin on its arguments, and mislead and deceive. Eventually that will bring the government down.

The real reason the bill is before the house is, as other honourable members have said, that the government wants to gain control of this house, and it cannot do that under the rules that have served the state so well for many years. It will not accept that electors often make decisions to elect a Labor government in the Assembly but to vote differently in the Council. The government wants to adjust the rules to suit itself and to win via the back door.

The government is therefore proposing to introduce a hybrid variety of proportional representation. Proportional representation is a valid electoral system; I do not dispute that. It works best in large multimember constituencies. The government has said to the Democrats, 'We will introduce proportional representation to give you a chance to get someone elected', but it has conned the Democrats in the way it has constructed the boundaries. Rather than having a statewide electorate, the government is introducing eight provinces with a quota of 16.4 per cent. The Democrats have no hope of getting in under that system in any event.

The government is endeavouring to unlock the surplus votes it has in northern and western Melbourne by introducing a gerrymander into the way the electoral boundaries are drawn under its proposal for the Legislative Council. While the Leader of the Government used the words 'Queensland gerrymander' twice in her article in the *Herald Sun*, she has her terminology wrong. There was not a gerrymander in Queensland but a malapportionment — that is, there was a heavy weighting in favour of country electorates. That is not a gerrymander; it is a malapportionment.

Labor wants to introduce into the boundaries for the upper house what might rightly be styled a gerrymander. It wants the boundaries constructed so that the so-called rural provinces will include large slabs of suburban Melbourne, especially the north-western and northern outskirts of Melbourne where there is a heavy concentration of Labor votes.

Why do I say that, Mr Deputy President? Clause 22(3) of the Constitution (Proportional Representation) Bill states:

> In allocating districts to a province, the Commissioners must ensure that 3 provinces comprise areas that are primarily areas outside the metropolitan area and 5 provinces comprise areas that are primarily within the metropolitan area.

Honourable members have heard all the talk from the Labor and Independent members about there being three rural provinces, but it is clear from reading the bill that it does not require there to be three rural provinces — not even one province is required to be exclusively rural! The bill talks about three provinces being primarily rural, without giving any definition whatsoever of what 'primarily' means. Does it mean

that the provinces would be primarily outside the suburbs in area? Does it mean that most of the population of the provinces would have to live outside the suburbs? Does it mean — bearing in mind that 11 contiguous seats would make up a province — that five city seats and six rural seats would meet the definition of 'primarily'?

If that were the situation — I suspect that is what Labor has in mind — heavy concentrations of Labor voters on the outskirts of Melbourne would be put into provinces that would be considered rural because they would meet the 'primarily' description, because there is no definition of 'primarily' in the bill at all! Victoria would have peculiarly designed electorates — designed so they incorporate large areas of the heavy Labor voting suburbs of Melbourne. That is the classic gerrymander — —

Hon. M. M. Gould interjected.

The PRESIDENT — Order! The Minister for Industrial Relations is persistently interjecting and is not in her seat.

Hon. W. R. BAXTER — The classic gerrymander is when boundaries are constructed to incorporate certain voting patterns. That is the hidden intention of the government in constructing the bill the way it has and in constructing the instructions — or the lack of instructions — that would be given to the electoral commission.

Hon. M. M. Gould interjected.

Hon. W. R. BAXTER — The government has constructed the bill in such a way that the electoral commission will have no option but to include large slabs of the suburbs in the so-called rural electorates. All the bill is intended to do is to unlock surplus Labor votes and to completely neuter the representation of country Victoria in the Legislative Council.

Because of the time constraints I will conclude by simply saying that great care needs to be taken with constitutional change. Changes to the constitution should be undertaken only after the utmost consideration. They also need to be made to work properly, consistently and adequately in times of political turmoil. There is no point in amending the constitution to deal with times of political calm. That would be too easy and would not much matter. Constitutions come into their own in times of political turmoil, and that is when they need to be able to relieve crises confronting the state.

I will give but one example of how the bill would imperil the democracy of the state — that is, the crazy notion that the government cannot go to the electorate early except by way of a want-of-confidence motion in the other place. What sort of a system would we have if the only way a constitutional or parliamentary deadlock could be resolved was by a government artificially creating a vote of no confidence in itself? That idea is not in the real world. The bill ought therefore to have other provisions that resolve a constitutional deadlock.

Hon. T. C. Theophanous — Why don't you move an amendment and have it tested?

Hon. W. R. BAXTER — Mr Theophanous, you obviously acknowledge the validity of my point that the bill is deficient and a further attempt to sideline the Governor. It is simply unworkable.

I would be happy to consider at any time valid proposals to change the constitution of Victoria, the way the house is constructed or the way it operates. I would also be happy to have those matters put before a constitutional convention and for there to be widespread public consultation.

If that is its next move the government has put the cart before the horse. It will be difficult for a constitutional convention to consider the case because the government has already nailed its colours to the mast and indicated the sort of changes it wants. To that extent the government has done the people of Victoria a grave disservice in introducing the legislation before it initiated the type of constitutional convention the Premier is now talking about.

The public of Victoria must be reminded that the constitution of Victoria, unlike that of the federation, can be amended by Parliament. Too many Victorians take comfort in the belief that the constitution can be amended only by referendum — and all honourable members know the history of constitutional referendums federally. Over the past 100 years the public — the voters, the electorate — have shown a grave reluctance to fiddle with the constitution. Victorians need to be reminded that the constitution of this sovereign state can be amended by this Parliament and that it is in their interests to keep a close eye on what the government might attempt to do with their constitution.

Hon. G. D. ROMANES (Melbourne) — At the outset I express my disappointment that the opposition is missing an opportunity to take a bipartisan approach on this issue, show leadership and respond to the mood of the electorate by signalling that at the end of the

debate it will use its numbers to block significant reform in the upper house. I also express my disappointment that Labor's position as reflected in the bills has been misrepresented by honourable members opposite, who have suggested that the government's intention is to abolish the upper house or to emasculate its review and scrutiny powers.

The intention of the Bracks government is to reform and revitalise this house; to make it more representative and accountable; to strengthen its capacity to scrutinise the legislation of the government of the day, whichever side is in that position; and to bring it into the 21st century. As Mr Baxter said, there have been previous debates on the future of the upper house, and since its inception in the 1850s there have been numerous debates about its role. However, the bills have considerable merit. Fixed four-year terms for both houses of Parliament would add certainty to the electoral process and prevent the distraction from government business that was seen last year in the 9 to 12 months leading up to the last election because the former government was operating with its eye on the election rather than on the business of the state.

The reduction in the term of office of members of the Legislative Council to a term equal to one term of the lower house is a positive move and would make members more accountable to their electorates. It would ensure they were active in their electorates as parliamentary representatives and would provide less opportunity for opposition members to go to sleep and not wake up for seven or eight years.

The proposition in the bills for the removal of the power to block supply is consistent with the Westminster system and current practices in the United Kingdom. It affirms that government is formed in the lower house yet at the same time the right of this house to scrutinise appropriation bills is retained.

One of the most important elements of the reforms before the house is the proposal for a system of proportional representation, with eight electorates represented by five members each, at least three of which electorates are to be formed primarily outside metropolitan areas. That will be a fairer system when compared with what is currently the case, which is a winner-take-all system due to the skewed nature, as Mr Baxter suggested, of the concentration of votes of certain parties in certain areas. The proposed system would better reflect the diversity of views of communities in rural and regional areas as well as those in metropolitan areas, and would better reflect the pluralistic nature of society.

Currently only 2 of the 22 upper house electorates have a mix of different party representatives, and there is therefore a polarity of representation in the upper house across the state. Under the proposed system, with 3 of the 8 electorates primarily outside the metropolitan area, 15 of the 40 members of the Legislative Council would represent country areas.

Mr Birrell's contribution has been referred to as a masterly presentation. However, on the issue of representation for country voters I suspect Mr Birrell got tangled up in what he meant to say. After a long preamble on the outstanding achievements of the journalist Ray Cassin, Mr Birrell quoted Mr Cassin's view, which was published in the *Age* of 4 June, that rural voters continue to be overrepresented in the proposals. Further, on 20 August, Mr Cassin said again that the proportional representation bill would introduce a serious overrepresentation of rural voters. Mr Birrell's contribution was flawed because his argument was flawed — in fact it reinforced the government's view that the proportional representation proposal put forward in the bill would provide for fair representation for country voters.

With regard to Mr Baxter's comments on rural representation, why on earth would the ALP want to reduce rural and regional representation when it has more rural and regional members of Parliament than the National and Liberal parties combined? Mr Hallam raised issues of concern with regard to the siting of electorate offices and the capacity of members of the Legislative Council to represent voters if the proposed system were introduced. I suspect Mr Hallam's concern was less about adequate representation of country voters than it was about National Party representation of voters in the areas outside metropolitan Melbourne. The electorates would be much larger in size but each would elect five members of the Legislative Council to cover the greater area.

I acknowledge that the issue raised by Mr Hallam is important and serious, because whatever reform occurs and whatever system is put in place it is essential to ensure the maintenance of both good access to members of Parliament across rural and regional Victoria and good representation by parliamentarians. That issue could have been handled by negotiation, could have been the subject of an amendment or could have been dealt with as an implementation issue. Much of the legislation that goes through Parliament must later be implemented and the details worked out. However, I acknowledge that is an important concern.

On the issue of scrutiny and review, Mr Birrell made much of the role of the upper house as a house of

review where a government's program and performance as an executive can and should be scrutinised. I agree with that point. However, the bills are about altering the structure of the upper house in ways that would enable more vigorous engagement with the community and provide scrutiny by a more representative body. The bills do not take away the means that enable the scrutiny of the kind Mr Birrell and Mr Baxter have talked about today.

The standing orders and sessional orders govern the procedures of this house and provide the framework for review functions and for scrutiny to happen as occurs in the current Parliament.

Honourable members should be concerned about scrutiny. It is a very important issue. Along with Mr Birrell and many other members of the Victorian Parliament and staff I was at the conference of the Australasian parliamentary study group in Brisbane in July. There was a great deal of talk about the role of committees and about scrutiny and review within the parliamentary systems in this country. Other parliaments without upper houses were very concerned about how to provide adequate scrutiny. They therefore saw the committee system in the context of Queensland and Northern Territory, both without upper houses, as being very important to maintaining scrutiny. In New Zealand 90 per cent of the bills are referred at the second-reading stage because there is no upper house. The bills go to a committee of parliamentarians and to the public for input.

Another message that came out of the July conference was that having an upper house does not necessarily guarantee scrutiny. As I said before, it is dependent not only on having in place the procedures of the house and the capacity to do the work but also on the commitment to democratic values from both sides of the house to making that work.

We saw in Queensland that Sir Joh-Bjelke Petersen had absolute power. It is not in the interests of a democracy for one side to have complete control and dominate and to shut out a wider range of views. That is precisely what happened during the seven years of Kennett government when the Labor Party was in opposition. More than 700 pieces of legislation were put through this house and no Labor amendments were accepted.

What was the performance of this house on scrutiny and commitment to democracy during an earlier period under the Cain government? The Liberal opposition adopted guiding principles for action. Its members accepted that the government had a general mandate to govern and that it had a specific mandate for policies on which an election had depended. But where was the real action, the real measure of commitment to those guiding principles when controversial legislation was introduced? Despite the fact that those issues had gone to the electorate in 1985, in 1985 the government's accident compensation and proportional representation bills were both defeated by non-government parties in the upper house. When the opposition had an opportunity in the 1980s it failed the test. It failed to respect the Cain government's mandate, and that is what is happening again.

In the past 12 months the opposition parties have respected the government's right to govern and the government has passed more than 60 bills. In return the Labor government has on a number of occasions respected the opposition's right to suggest improvements to legislation. Despite the government's commitment and the acceptance of the government's mandate, and despite the fact that the Labor Party has gone to the electorate in 1992, 1996 and 1999 in election campaigns with a platform of upper house reform, the opposition is signalling that it will block this legislation.

I therefore remain disappointed that the opposition will opt to entrench its power and privilege. Despite all the change it introduced into Victoria during the Kennett years when people were sacked and contracted out and there was enormous change and uncertainty, the members on the opposite side in this house are not prepared to subject themselves to a performance review every four years at an election.

We have heard many fine words about traditions and the role of this house. However, when the chips are down the opposition is not prepared to act in the interest of a more effective, democratic and pluralistic government in Victoria. As I said, I am disappointed and I urge honourable members to support the bills; otherwise a very important opportunity to usher in a whole new era for the future of the upper house in Victoria will pass.

Hon. E. G. STONEY (Central Highlands) — I will speak briefly on the two bills because much has been said in the other place about the issue and the house still has a long debate to continue. I shall bring a rural perspective to the debate and I acknowledge and congratulate the Honourable Bill Baxter on his well-thought-out comments, many of which related to rural Victoria.

Firstly, the two bills are an absolute insult to rural Victorians. If passed they will effectively reduce genuine rural representation to almost nothing. The

three rural seats would virtually become large extensions of metropolitan Melbourne. Their members would have absolutely no chance to keep across issues and no chance to be known by their constituents. All they could physically do is look after the immediate area of their electorate office and/or perhaps the small group responsible for getting the members elected.

The large seat in my area would take in the seats of Central Highlands, North Eastern Province and much of North Western Province. It would probably run from somewhere around Swan Hill to Bendigo and Craigieburn, around the edge of the city and on to Lilydale. Perhaps the boundary would go along the Great Divide to Corryong and all that land between the Great Divide and the Murray would be in that mega-electorate. It would be absolutely impossible to manage and absolutely impossible to represent. Five members would all be vying for attention — just imagine the problems of local government trying to brief individual members who perhaps have no common party allegiance or common thread so would all want individual briefings. It would be an absolute nightmare!

I speak from the experience of representing a large rural seat. I think Central Highlands is about the fourth largest province, and I note that the Honourable Roger Hallam stated that his seat, which is larger than mine, is almost unmanageable. He is absolutely correct because mine is almost unmanageable. In fact I think Mr Hallam said it was unmanageable.

Members who are trying to represent provinces that are large but smaller than what is proposed in the bill bring some perspective to the debate. It is a fact that geography and distance are in inverse proportion to the effectiveness of the politician in an electorate such as that. For example, Central Highlands has 30 newspapers. The proposed mega-electorate would have possibly twice that number. It is impossible for the electorate office and the politician to keep across individual issues in individual areas. Therefore the member has to give it away and concentrate on the people who elected him or her.

Members of Parliament with electorates like that would give up trying to represent the whole electorate. They would pander to the group that elected them by giving them that 16.4 per cent. All the elected leader of a minority group would do would be to attempt to develop that group with an eye on the next election. Last week David Oldfield said on 3LO:

> I intend to serve the interests of those who voted for me.

He was not interested in the wider electorate or the wider issues. He was interested only in pandering to the group that elected him so in turn he would be re-elected.

The driving and the loss of productivity is a big problem. It takes the Honourable Philip Davis 7 hours to drive across his electorate. The Honourable Geoff Craige and I take about 5½ to 6 hours to drive across our electorate.

The whole lifeblood of members of Parliament who are elected by a small majority hinges on their being noticed. They do that by becoming controversial. They become controversial in Parliament; they vote against bills that might have merit because it will get them attention; they make outlandish statements; they grab attention by trying to introduce private members bills. I ask the chamber: does that sound familiar? It sounds very much like the activities of certain members in the other place and in the Australian Senate, where over the years Senator Harradine has managed to keep his profile up by making outlandish statements.

Sometimes it is good to look at history to assess where we are. I quote from *The Government of Victoria* by Jean Holmes, which provides a refreshing break from *A People's Counsel*, which has been quoted ad nauseam during the debate. Jean Holmes makes a strong point early in her book at page 14, where she states:

> Another characteristic of Victorian government is the friction that has occurred from time to time between the two houses of Parliament. The upper house has been described as 'a conservative bastion without parallel in the British Empire' and it has never hesitated to exert its authority as it sees fit.

This is the bit I really like:

> It was intended to be a conservative body favouring settled policies, and was designed as a strong house, with equal power over legislation (including money bills) with the lower house.

That is an interesting direction that our forebears set us on, and it needs to be taken into account.

The Honourable Dianne Hadden mentioned women in Parliament, and in her book Ms Holmes addresses that issue. The vote for women was probably one of the most significant issues with which this house had to deal in that era. I refer to page 81, where the author states:

> Even votes for women, at first rigidly opposed by the Legislative Council which rejected bill after bill, was finally conceded in 1908, nearly seven years after women had been given the vote in federal elections so that Victoria was the last of the Australian states to act.

The next sentence is especially appropriate to what Ms Hadden said:

> Women have been eligible to stand as candidates for both houses since 1923, although they have not often taken up that right.

Hon. W. R. Baxter — She put it as if there was something shonky about the electoral system.

Hon. E. G. STONEY — Absolutely, and I could not find any correlation between that and what the honourable member was saying.

The last quote I refer to from *The Government of Victoria* is at page 82 and is pertinent to the whole debate:

> However in Victoria's case, strong rural representation has been an important factor arising out of the forces in Victorian politics as well.
>
> The state's dual development, as an agrarian and industrial state, has meant that division between city and country has been significant, …

I will dwell on that point because it is important that genuine rural representation is not reduced. We need to examine also the demographics of Victoria. Fifteen or 20 years ago everybody in Melbourne had a connection in country Victoria. There was an uncle or a grandfather or an aunt who came from a farm, and people understood the issues. That is no longer the case, and I fear that more and more Melbourne people do not understand or have empathy for country Victoria. Therefore it is important that rural representation is kept strong in this place. However, this legislation increases the isolation.

Because members here serve two terms this house cools down political rushes of blood and sorts out the spikes of enthusiasm of various political parties. Many times it has made unworkable legislation workable. I looked for an example, and the best I could find was the many amendments to the Water Act that were debated in 1989. The act in part would take away — wait for it, Mr Baxter! — landowners' statutory rights to water that fell on their land. It is a classic example, and the same issue is faced today. I refer to *Hansard* of 16 November 1989 and shall quote from the speeches of two rural upper house members. The Honourable Bruce Chamberlain is reported as having said:

> The original bill would have taken away from Victorian landowners' rights to water that they have always enjoyed. It would have given to the Minister for Water Resources powers that no previous minister has over water. Today the opposition will propose further amendments to achieve an even better balance between the interests of the authorities involved in water management and the rights of individuals to enjoy water that properly flows onto land.

That is an example of the upper house safeguarding statutory rights to water that people have had since the country was settled. Later in the same debate the Honourable Dick de Fegely, formerly a member for Ballarat Province and a good rural member of Parliament, is reported as having said:

> The bill removed the common-law right of property owners. It made provision to charge landowners for the use of water they collected in their dams, and it removed the demarcation that was in the existing act between private water and water that belonged to the Crown.

How ironic that 11 years later we are looking at an inquiry that will bring back that issue!

Victorians like the upper house the way it is. They do not expect the upper house to change. Our constitution has stood us in very good stead for many years. The upper house acts as a steadying influence on opportunistic and impulsive legislation, and the bills should be thrown out.

Hon. P. R. HALL (Gippsland) — For the sake of brevity I will not go through every clause of both the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill but will make a few comments on issues of interest to me, particularly the provisions that relate to the abolishment of the ability of the Legislative Council to block supply. I will refer to the effect of the proposed introduction of a proportional representation system and what it will mean to country Victorians, and will spend some time on that issue.

I shall make some general comments about the legislation. Firstly, it is an example of the appalling ineptitude of the government in introducing legislation to this Parliament. On 25 November last year the Constitution Reform Bill was introduced in the other place. The government wanted it passed before Christmas — 31 days before Christmas. Six months later the government withdrew that bill without explanation. I notice that in the second-reading speech the government gave some hint of why it was withdrawn, but it is full of contradictions. The second-reading speech states, in part:

> … following consultation with a number of persons, including the Independent members of the other house and the non-government parties, the government has decided to alter …

The government decided to alter its proposals. That consultation never took place. There was never any consultation with the opposition parties, and my belief is that there was no consultation with the Independents.

An article in the *Bairnsdale Advertiser* of 4 September quotes one of the Independents, Mr Craig Ingram, member for Gippsland East in the other place, as having said:

> Despite its claims of accountability and transparency in government, the Labor Party is only prepared to discuss its own concept of reform …

Mr Ingram spoke about the Constitution Reform Bill that was introduced last year and is reported as saying:

> The Premier wanted it passed before Christmas, yet, six months later he withdrew the bill without explanation and introduced two new measures to reform the upper house.

Mr Ingram did not have any explanation of why the bill was withdrawn. He was not consulted about the drafting of the two new pieces of legislation. There was no consultation with the opposition parties and the Independents, and no consultation with the people of Victoria. The last comment Mr Ingram is reported as making was — and I agree with it entirely:

> The tactics adopted by the Leader of the House confirm the need for [the] Legislative Council to retain the ultimate weapon of refusing supply, which was the purpose of an amendment of which I had given notice.
>
> The government displayed contempt for the opinions of a substantial proportion of Victorian voters.
>
> They need to understand that minorities also have rights.

I agree entirely with those comments. That is the view expressed by one of the Independents of this Parliament who believed the Legislative Council should still have the ability to block supply, and believed there had been no real consultation process about the formation of the legislation before the house.

The second-reading speech says, 'If one wants to know why we have decided to go along this track look back to the second-reading speech of the Constitution (Reform) Bill that was introduced in the Legislative Assembly 12 months ago. That will tell you why we want to change the upper house'.

What utter contempt of the role of the Legislative Council. The reform bill was never introduced into this place, yet honourable members are told that if they want to know why the legislation was introduced they should go back to the Legislative Assembly to see what happened there some 12 months ago. It shows utter contempt for this place.

The Constitution (Amendment) Bill abolishes the ability of the Legislative Council to block supply. Why is the government so paranoid about that provision and when has that power been abused? As other honourable members have said in this debate, if one goes back into the history of this place one finds that that power was last used in 1952 when a Country Party government and the Labor Party blocked supply. When has that power been abused in this place? That provision has never been abused.

I refer to the *Age* of 15 September where, under the heading 'Bracks plan to strip Governor's powers', it states:

> The Bracks government has moved to strip Victoria's Governor of the power to dissolve Parliament and call an election in the event of a constitutional crisis.

It talks about the removal of the two trigger mechanisms that currently exist to bring about an earlier election, and Mr Baxter adequately explained those to the house this afternoon. The article continues:

> A spokeswoman for Mr Hulls said the omission of the two election triggers had been deliberate because the government believed political parties understood that obstructing a duly-elected government breached longstanding conventions.

I repeat those words:

> … obstructing a duly-elected government breached longstanding conventions.

Is the longstanding convention of the Legislative Council of Victoria one of obstructionism? Where is the history of obstructionism in this house? I do not think anybody has presented a case to suggest that this house has been obstructionist. Certainly the ability to block supply has not been used for 48 years. I claim there is no such history. The longstanding history of this place has been one of refinement, as it is supposed to be. Its role is one of review, comment, and questioning of governments no matter who is in power. The upper house has made a constructive contribution to governments in Victoria.

In the eyes of some people, the Legislative Council simply cannot win. On the one hand, if it does not change or amend legislation it is accused of rubber-stamping proposals of governments. However, on the other hand, if it amends bills it is accused of being obstructionist. The upper house simply cannot win.

I turn to the Constitution (Proportional Representation) Bill. The Honourable Kaye Darveniza said the National Party obtained only 7.5 per cent of the vote at the last state election but has six seats, or 13 per cent of the representation, in this chamber. Mr Baxter was too modest to mention in his contribution that in the three upper house seats where the National Party stood each

member in their own right obtained more than 50 per cent of the primary vote.

The Honourable Roger Hallam in Western Province obtained 59.54 per cent of the primary vote, the Honourable Barry Bishop of North Western Province obtained 51.64 per cent of the primary vote, and the Honourable Bill Baxter obtained 56.41 per cent of the primary vote. The National Party stood in only three upper house seats in Victoria and in each of those three seats the members concerned obtained more than 50 per cent of the primary vote in their own right. That is a democratic system. National Party members deserve to be elected to those seats and the performance of my colleagues in each of those provinces is one of which I am proud, and I commend them on it.

Much has been said about proportional representation and the introduction of five-member electorates over eight provinces, three comprising areas primarily outside the metropolitan area. Mr Stoney mentioned the practicalities of trying to represent a rural province. My province extends from Warragul to Mallacoota. It takes me 6 hours to drive from west to east and 5 hours to drive from north to south, from Dinner Plain to Wilsons Promontory. The Minister for Sport and Recreation was in Bairnsdale last week which is a 4-hour drive from Melbourne. It is only halfway to the border of New South Wales and halfway to the other end of my province. Minister, I have another 4 hours before I get to the other end of my province.

I find it difficult enough to service my province because of its size. Under this proposal, my province, only one of five, would include places like Frankston and/or Dandenong and would extend to the border. That is the most logical placement of 11 lower house seats to form what would probably be called the eastern province, or whatever. What common community of interest exists between Dandenong and Orbost? What common community of interest exists between Frankston and Bairnsdale? Absolutely none. My ability to act as a local member would be diminished greatly. It would be a frustrating job. Country members, be they in the upper or lower house, are local members. I represent the City of Traralgon, which is the biggest city in Gippsland with 20 000 people. Despite being a member of the Legislative Council, everybody regards me as a local member. Everybody in this chamber who represents country electorates would have the same experience. We are local members and represent people. We do not represent broad areas; we are in touch with our local communities.

Under this proposal I would be spending my time going from Dandenong to Mallacoota or Frankston without sufficient time to effectively perform any representational job. The government claims that its proposal will make the upper house fairer and more representative. I think the opposite is the true picture of country electorates. This place could not be fairer or more representative.

No member of government has yet put up any credible argument to support the bills before the house. There has been much rhetoric but no evidence to justify the government's position. As has been said by many other speakers, the reason to reform the upper house is to gain political power. It is as simple as that. If the government were any good it would win control of this house in its own right under the current rules. Let it be put to the test and let us see how good it is at the next election. The government has currently 14 members in this place and requires 22 or 23 members to control it. If it is good enough it will win at the next election. If not, it should not change the rules to suit its performance.

The government will not achieve control of the upper house by the deceptive method it is pursuing by proposing these two bills. I will not be part of any deception by this government and therefore I will not support the bills.

Hon. J. M. McQUILTEN (Ballarat) — I should like to begin on an unusual note by congratulating Mr Ron Best and Ms Louise Asher on their engagement. It is difficult to find relationships in this environment. I am happy they have found a relationship and wish them all the best.

I would like to begin with the four-year term issue. I will not go over all the arguments being put from one side and the other again and again: that would be superfluous. I find it quite strange to be debating an issue that has already been decided; my comments will have no influence on what has already been determined.

Opposition members interjecting.

Hon. J. M. McQUILTEN — It is difficult to have a real debate about these sorts of issues when it appears the decision has already been made, but I will make a few comments.

The most logical of my arguments, which is the only one I will put, relates to the four-year term. Clearly elections should be for one four-year term as opposed to the current two terms. Many arguments have been put about this issue, but I will not go into them because they have been repeated endlessly. However, I will make the point that it seems to me there is a mistrust of

the electorate and that it comes down to a matter of trust. In reality having an eight-year term is saying, 'We do not quite trust the electorate to get it right the first time. We need a bit of balance'.

I am of the view that we can trust the electors. They may get it wrong occasionally, but that is democracy. In all logic this house should opt for a four-year term, the same as the system in the lower house. No other argument makes much sense. To me it is very clear: we should go to the people every four years.

People have talked about the Constitution (Proportional Representation) Bill ad nauseam. I do not wish to go into all the arguments about that bill, either. However, I will comment on a press statement put out in my electorate by the Leader of the Opposition in another place in which he said that under the proposals Ballarat would not be represented properly.

I do not actually represent Ballarat — I represent Ballarat and St Arnaud and Ararat and Bacchus Marsh and Daylesford and Maryborough, and on and on. I could give a wonderful travelogue — as many people do — and talk about the size of my electorate, which is very large. Although I have been in the job for only 12 months I have just ordered my third car. I do a lot of travelling.

In my role it is important to be able to cover all of the electorate. Honourable members such as Bill Baxter and others from the real country, where there are very large electorates, understand that. Ron Best is here, too; I just congratulated you on your forthcoming marriage.

Hon. R. A. Best — Thank you very much. You don't want to pay for the reception, do you?

Hon. J. M. McQUILTEN — I was hoping for an invitation to the wedding!

I already have a major job to service such a large electorate, and in my view it is not much more difficult to service an even larger electorate. The point has been made that the Labor Party would have all candidates based in and emanating from Melbourne. I think I can guarantee that if preselection for my seat came up I would win it again, but I would not have my electorate office in Sunshine or Melton, or wherever.

Hon. S. M. Nguyen interjected.

Hon. J. M. McQUILTEN — Sunshine is a good place; that's where I was born.

I would like to talk about a couple of other issues that are vaguely related to this bill. I hope members on the other side will not complain too much about what I am about to talk about, which is the operation of this house.

I have been criticised for not making comments during adjournment debates. That is a ridiculous argument. When I want to ask a question of Justin Madden I lean forward and whisper in his ear, or I hop on the phone and ring him. If I want to talk to the Premier I get on the phone. I do not have a problem in accessing government members.

Hon. A. P. Olexander — I do.

Hon. J. M. McQUILTEN — The honourable member for Silvan may recall that I helped him arrange a meeting with the Minister for Police and Emergency Services. I am quite happy to help any member on the other side who has a problem accessing ministers. In my view this is a government of inclusion, so if anyone on the other side really needs to meet with a minister, ring me.

Hon. R. A. Best — Even Ken Smith?

Hon. J. M. McQUILTEN — Especially Ken Smith. If Ken needs a meeting with a minister, I will help arrange it. I can tell this house — particularly Mr David Davis — unequivocally that I will not in the life of this Parliament ask an adjournment debate question. As I see it, my role is — and this impacts on how I view the operation of this house — not to wax lyrical in this place but to achieve results and actually do something.

I read through the *Hansard* of the last sitting week. It contained a report of quite a lengthy debate about alternative energy sources and sustainable energy. For 12 months I have been working on a tender that I have not yet won for a project which I think will have implications around the world. The project emanated from the electorate of Mr David Davis. I believe — and there has been some press coverage on this — that solar systems will stay in Australia. To me that was the first and primary aim of my job.

This system is the new generation of technology that will make Australia great and will take it to the next level. This sort of issue, this sort of business, and this sort of industry are too important to be played around with, and that is the way we have to treat it. I do not need to ask Minister Broad or Minister Brumby questions during the adjournment debate. I go to see them. I arrange meetings with the company and with the ministers. That is my job. My job is predicated not on giving a press release but on getting a result. That is what people in regional and country Victoria want. I know what they want. I will not go too much further on

the issue of solar systems and Mr David Davis's constant barrage. I would rather that he look after his own electorate and let me look after mine.

I am happy that the company I have been working with for 12 months is keen to work with the Victorian government. The Victorian government has not won the tender for the project; it has fierce competition from other states, particularly Western Australia, and it will be difficult to win. But I believe I have the full support of the whole Ballarat community and of the state government to go all out to keep the project — or most of it — in Victoria, and at a bare minimum to keep it in Australia.

This is the next technology: this is the future for manufacturing and for industry. For all sorts of reasons it should have the full support of this house, the other house, and the entire Victorian community — which I think it has.

Honourable members are supposed to be making short speeches on the bills, which suits me down to the ground, so I will finish my contribution. In doing so I refer to the matter of trying to keep things in perspective. On Sunday I was at a barbecue that was also attended by Paul Casey, who for a number of years has been the economic development officer for the Macedon Ranges. He would be known to former ministers Mr Birrell and Mr Hallam because he has worked for a long time in the industry department under its various names. Paul has celebrated his 60th birthday. Today he resigned from his job because he has cancer. I hope for the best but I fear the worst.

I put on the record what a wonderful man Paul Casey is and refer to all the efforts he has made within the bureaucracy over many years and to his great achievements. He is one of the quiet, unsung heroes, who no matter who is in government will do the work and will deliver. He became a friend of mine over the past 20 years. I say to Paul: I honour all that you have done in your working life. I respect you as a man, as a family man, and as a strong member of the broader community. At this time your courage is quite astounding, as is the courage of your wife and your family. I mention Paul today because often in this house we forget what is really important and what the real issues are and should be. We should never forget.

Hon. B. N. ATKINSON (Koonung) — On this occasion honourable members have been called on to make comments on bills that sadly are ill-conceived and ill-researched proposed legislation. The bills have been supported by a number of members whose speeches one might expect from people with partisan views. That disappoints me a great deal because my approach to the debate is quite different from that of my colleagues.

This debate is probably an opportunity lost. The bills ought not have come to this house because the proposal was generated by a deal done to win votes at an election. To that extent it was very successful. However, having introduced the bills the government has pursued the proposal without any degree of passion. I have never heard a more timid speech by Mr Theophanous than that he made in support of the proposal. One after another government members have addressed the bills in the same way. Perhaps they have done so in the expectation that the bills will be defeated and with some concern about a major proposed reform not being passed. However, I think their contributions reflected more that they are satisfied the bills will not be passed by the house, that they will not have to pursue the proposal in a public forum and that therefore they will not be branded as not canvassing a far wider debate on legislative reform.

I refer to a recent speech on parliamentary reform given by the Honourable Carmen Lawrence, a former federal minister and former Premier of Western Australia. Although I do not agree with a number of matters she raised, I noted that many of the things she said were far more thoughtful and considered, and reflected a wider view of the future role of legislative chambers, than anything in the bills or anything said in the debate on them.

I am strongly of the view there is a need for reform of this place because I do not believe parliaments are working as the people expect them to work. I am not sure that the Westminster system does not need to be revisited, particularly in the context of upper houses. A number of honourable members have talked about the roles of various upper houses and traced their history. I am less persuaded by the history than I am interested in the future. The Westminster system is obviously based on the British model, but the House of Lords is a different creature from our upper houses. Indeed, each of the upper houses around Australia functions differently, elects its members differently and has different roles and responsibilities. It is appropriate to address reform. There may even be a need to renovate the Westminster system so that the Parliament functions as the people — those who own the Parliament — expect it to function.

Many members of this place can take responsibility for not making this a better Parliament. I am increasingly concerned about the number of court decisions that represent the courts making legislation. Historically the

courts have been part of the government system — they have interpreted existing legislation, referred to precedents and made decisions. However, increasingly courts are venturing into new territory. I consider that to be a failure of Parliament to keep up to date with the sorts of legislative changes that are required to meet the needs of a modern society.

As members on this side of the house have said, there has been no public outcry for reform of this house, no groundswell of opinion. There have been a few editorials in newspapers, which have been generated by press releases from the government about the proposal. A number of those editorials have canned the proposal and the bills.

The original bill mentioned during the course of the debate was held over and withdrawn. Oddly it was withdrawn, as one honourable member has suggested today, because of consultation, yet the extent of that consultation was with the three Independent members of Parliament, who were not prepared to vote for it. There was no consultation with the people of Victoria. The government tried to rush the two bills that are before the house today through the Legislative Assembly before the Olympic Games. That was a pretty good tactic. The government tried to get the bills quickly out of that house, where they were the subject of vigorous examination, and into this house. Given the likelihood that there would be more scrutiny of the bills in this place it would enable the government to say that the contributions of members in this house reflected vested interests. The result of the debate in the Legislative Assembly was that that house was brought into disrepute — it was diminished in the eyes of the public — because the conduct of the debate was farcical.

There was a suggestion that members in the other place should not have been lining up to speak on this legislation or should not have been exercising the privileges or rights they have to speak and maintain particular time schedules. This legislation is one of the most important pieces of legislation to come before the Parliament. It is serious legislation because Parliament alters its own constitution. The changes Parliament makes to the constitution needs to be carefully considered and examined. In this case that has not occurred. As I said, the legislation was born out of a deal made to win preference votes at the election. It has been delivered without adequate public consultation. Indeed, every attempt has been made to defer or dissuade consultation, yet the legislation makes wide-reaching changes to the constitution.

I do not want to cover the differences in the rules of this house as compared with the other place at the moment, because they were ably covered in the presentation of the Honourable Mark Birrell. The bill is a lost opportunity. The proposition put by the current opposition — at that stage the caretaker government — to the Independents when they sought undertakings from both the major political parties on how they would approach democratic reform was more preferable than what was presented to the Parliament in the form of this legislation. At that time the then government said to the Independents that it would appoint a commission that would review a range of issues appropriate to the role and functioning of this house. As a consequence it would also have considered issues that may have been important to the lower house.

I am not sure that proportional representation is such a bad thing for this house. I am not sure that in the right circumstances I would support that reform. We ought to examine that issue seriously to see whether the house can function better, not for the sake of members of this place but for all Victorians and the vigorous and vigilant Parliament that they need in the future. It is appropriate to look at issues such as the blocking of supply and the length of the terms of office of members of Parliament. It is important to examine whether ministers should be allowed in this house if it is to function as a house of review. It is important to examine the role of committees. Arguably we should examine whether we need a state government especially after the recent debate on whether Australia should be a republic.

I am of the view that Australians would support state governments, but if they did and if we see ourselves as a continuing jurisdiction within the federation of Australia we need to look more closely at the role and responsibilities between each of the three levels of government, because international treaties have eroded the jurisdiction of state Parliaments. I do not think state Parliaments have responded to that issue. It may well be that international treaties ought to be tabled in state Parliaments so that they could form a view on those treaties before they are signed by the federal government, because the provisions of some of them are being applied against state legislation.

Recently an inquiry in Queensland investigated the impact of international treaties and it is instructive for members to look at some of the review's conclusions. Taxation reform and template legislation agreed to by ministerial councils and enacted by lower houses of each of the state Parliaments and territories have changed the role of the house of review. Sometimes I think that if the six state governments, two territory

governments, the federal government and the ministers of each of those institutions agree to a particular template legislation that is passed by the lower houses of those institutions that it is rather impudent at best for an upper house to review the legislation at the state level. I wonder even about the house of review role the house has today compared with its past role. We need to look at the role this house ought to have if it is to remain as a second chamber of a state Parliament. We ought to look at the role this place should perform in the future.

I am concerned that this place does not work very well. I do not think it works to the advantage of all members and certainly not to the advantage of Victorians. I have often been concerned about the role of the executive compared with the Parliament. No doubt the executive has a cavalier attitude to Parliament. It does not matter which party sits on the government benches, ministers find Parliament a distraction. Ministers continually give evasive answers to questions.

Hon. D. McL. Davis — Notwithstanding their charter!

Hon. B. N. ATKINSON — Yes. Ministers want to play a game and keep members from being informed, from playing an active and constructive role in the government of the state. That is not what the Westminster system is supposed to be about or why members are here. In many cases executive government makes what we do irrelevant to most Victorians. I am disappointed in that. So often governments send out information to members of their own political party, but not to all members of Parliament. As the Honourable David Davis said by way of interjection, we can say that all governments play this game and it is part of the deal, but this government in its undertakings to the Independents sought to raise the high bar. It sought to improve the standards of this place but it has not delivered. The rhetoric has not matched the reality. The Parliament, but especially this chamber, in the context of its work is the poorer for the government's failing to match its rhetoric. As I said, it is not just this government or state Parliament, but the people of Victoria who deserve better than we give them.

The relationship of the executive to the Parliament ought to be redefined. The executive ought to be more accountable to Parliament and therefore to the people of Victoria than it is at this point. That is the role of a chamber and yet that is not the practice of this chamber.

Some of the issues that might have been pursued if a commission had been appointed as part of a broader debate could have included whether Victoria should have an upper house and if so what its functions should be. How should its members be elected? Should there be proportional representation? How many members should there be? The government has put the cart before the horse. One of the bills determines the proposed structure of the house, but it has been pulled out of thin air because it has no rationale. Government members have not justified the rationale. In fact, there was a different rationale in the bill laid over from the last spring sessional period. The changes came about not because of a change in rationale or public comment but simply because the three Independents said they would not vote for it. That is hardly a proper examination of the legislation — legislation that was obviously misconceived at the outset.

If Victoria is to have an upper house it ought to have a defined role, and its role for the future should be worked out. When the role of the upper house is decided on the structure of the house, how members ought to be elected, and whether proportional representation would be appropriate to that structure and function can be decided.

The bill might have addressed a number of other parliamentary reforms had the government shown a bit more vision, and had the Liberal Party's proposition for a commission been further explored. Some of the reforms are radical — for example, having common dates for state elections throughout Australia. That would effectively take much of the politics out of state elections. Victoria is already considering fixed terms, and other states ought to do the same.

All state governments could be elected at the same time. They would become more powerful in their intergovernmental relationships with the federal government because they would all go to election at the same time, whereas at the moment the ludicrous situation exists whereby the federal government plays one state government off against another, and one state government always sits out and says, 'We can't do that' because it has its weather eye on an election.

Perhaps we should have a different system in the interests not of members of Parliament or political parties but of Australians and Victorians. Perhaps we ought to elect our senators on the same day as the state elections are held so we can make the point that the Senate is the states' house — a function that has been lost in federal Parliament over a number of years.

Maybe one of the things members ought to do is take seats in the house alphabetically according to electorates rather than having the opposition on one side and the government on the other. Yes, that is the

Westminster tradition, but one of the interesting things about the function of the house and the behaviour of its members is that it would be harder for me to shout at other members if they were sitting right next to me and I had to resume my seat next to them than if they were on the other side of the room. The function of the house might be enhanced by something as simple as that.

I do not see why in this technological age we need to cross the floor to vote. I do not see why we could not have voting buttons to record our votes electronically instead of having all the movement across the chamber which, in the other house, caused a headline after an incident that diminished the standing of that house and of the Parliament. I do not see why we could not set up a rostrum next to the President so that the person who has the call of the house to speak is given some extra standing in the chamber. That would improve the working of the house.

I am concerned that often debate in the house is confined to the bills that are available to speak on rather than members addressing the issues of the day and important matters of public concern. The people out there who vote for us believe we are discussing issues that are not even on our agenda because they do not form part of the legislative program for the session.

Perhaps we should have set sitting days throughout the year rather than the current on-again-off-again timetabling of Parliament so that legislation could be drafted properly the first time rather than being rushed through to meet deadlines for parliamentary sittings and having to be revisited later because of anomalies or errors.

Parliament needs to function better. Better briefings on bills for members, especially opposition members, would enhance debate. Members of the public would be horrified if they knew that often opposition members are briefed on bills only a week — sometimes only one or two days — before they appear in the house.

If we are to have ministers in this house, perhaps we ought to consider having party lists for ministers to ensure they are not defeated at elections. That way, the best and brightest members would be able to maintain their seats and Parliament would not lose the experience and ability that is important to the proper functioning of the house.

Perhaps we should also be looking at codifying in the Legislative Assembly some of the privileges that the upper house enjoys. Those privileges were outlined very well by the Honourable Mark Birrell.

I see this bill as an opportunity lost. There are wide-ranging reforms that ought to be explored in some cases by Presiding Officers in conjunction with party leaders and in other cases by a broader forum that might look at opportunities to enhance and strengthen the role of the chamber.

As I have said, I am not averse to the abolition of the chamber. I have noticed that government members have been very quick to say, 'This is not our agenda'. I understand and accept that; that is their position at this time. However, I do not think we should be afraid of a thorough and rigorous examination of not only how the house has worked in the past — it has many commendable achievements — but more importantly how it might function in the future and whether it should function in the future. The test of that ought not be what would suit the political parties of the time or the members of the house but what would provide the most vigorous Parliament to work for the people of Victoria; what would provide the greatest scrutiny of bureaucracy; what would provide the best reining in of the executive power; and what would provide the greatest generation of ideas and services to benefit Victorians.

I will vote against the bill not necessarily because I am opposed to some of its provisions — I simply argue that they have not been tested sufficiently to achieve my vote — but because I do not think the Parliament has done a proper job of evaluating the best opportunities for the people of Victoria for reform of this house.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to have the opportunity to speak on the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill. I put on the record that I will strongly oppose both bills, as will the opposition.

My objective is to dispel the myth that election to this house is in some way undemocratic and to reflect on the legitimate reserve powers of the house to review supply. I say 'reserve powers' because history shows us that those powers have been used with great restraint and discretion and on only seven occasions in nearly 150 years. Most of those occasions occurred prior to the full democratisation of the chamber in 1950. In fact, the only blockage of supply in what I would describe as the modern era was brought about by the Labor Party on an issue related not to fiscal responsibility but rather to electoral reform.

The truth is that each of the bills is simply another chapter in the relentless campaign by the Labor Party to render the Legislative Council ineffective as a house of

review. This chamber has served the citizens of the state very well since 1851. On 11 November in that year Victoria's first part-elected and part-nominated Legislative Council met.

The first elected bicameral Parliament assembled on 21 November 1856, and I hasten to add that in a sense, because of the property franchise, the house could easily have been described in those times as undemocratic. However, Victoria was a young and emerging colony and people who uprooted themselves from Europe to come to settle in a far-off land obviously had a strong economic stake in the country. It is not reasonable to attempt to take one's mind back to those times and suggest that the pattern of evolution of this house was in some way inappropriate. Nevertheless, the Legislative Council Reform Act of 1950 provided for full adult franchise and put the upper house on the same democratic footing as the Legislative Assembly.

It is salutary to briefly reflect on some of the instances of rejection of supply and to suggest to the house that those actions were taken out of high principle and in direct consequence of the provisions of the constitution. It is interesting that the withholding of supply on 25 July 1865 was intimately associated with the namesake of my electorate, George Higinbotham. That was a time when free traders and protectionists were at loggerheads and the McCulloch government was absolutely determined to apply a 10 per cent ad valorem tax on various clothes, food, textiles and the like. There was no prospect of getting the tax through the Legislative Council so the legislation was attached to the appropriation bill.

George Higinbotham, the Attorney-General of the day, advised the government that it could deliver supply by borrowing from the banks, and that the banks, under the Crown Remedies Act, could sue the government to recoup the money advanced to deliver supply. In anybody's language that was a funny-money deal and it deserved to be scrutinised by the Legislative Council. An election was forced.

On 20 August 1867 the government of the day attempted to apply a tack to the appropriation bill for a £20 000 ex gratia grant to Lady Darling, the wife of Governor Darling, who had been recalled from office. On being recalled from office he was no longer eligible to obtain a pension so the contrivance that was attached to the appropriation bill was to give a grant of £20 000 to his wife, Lady Darling. That was ultra vires and another funny-money deal. Of course, it attracted the attention of the Legislative Council and Parliament was prorogued shortly afterwards.

On 16 October 1867 the government attempted to obtain appropriation without disclosing how the money would be spent, and included a repeat of the tack to provide £20 000 to Lady Darling. Again, it was an attempt to circumvent the legitimate financial mechanisms of the day, and again the issue was questioned by the Legislative Council and an election ensued.

On 20 December 1877 an appropriation bill was laid aside on the issue of payment of members of Parliament in this house. No election ensued after the laying aside of that bill, but again it falls into the category of the upper house looking carefully at money bills.

Probably the most famous occurrence, and I believe the seed of the current legislation, was on 2 October 1947. Hysteria had been generated by the Chifley government about proposals for the nationalisation of Australian banks. Liberal and Country Party members, with the encouragement of the banks, deposed John Cain, Sr, on an issue related to this federal matter. Again, it is almost impossible to take one's mind back to the issues of the day and exercise a fair judgment on the motives of this Parliament, but it was a raging public issue and it is interesting to reflect on some poignant words that John Cain, Sr, uttered in March 1947.

I refer to page 121 of a book by Kate White entitled *John Cain and Victorian Labor 1917–1957*. I cannot help but be struck by the relevance of the quotation to the current situation in Victoria. John Cain, Sr, said:

> … I am running a government without the numbers in either house … If, by some process contemplated by my political opponents, my government is defeated, I won't have any complaints …

I hasten to add that there is nothing further from the collective minds of this Council than the denial of supply. On 21 October 1952 Labor blocked supply in pursuit of electoral reform, not on an issue relating to money, caused the dismissal of the McDonald Country Party government and brought about the re-election of John Cain, Sr, as Premier. Nevertheless, I am sure that John Cain, Jr, at the knee of his father was greatly affected by that early dismissal.

Other famous dismissals involving the Labor Party were the dismissal of Premier Jack Lang in New South Wales in 1932 by Sir Philip Game when Jack Lang decided that he would renege on responsibilities to international borrowings and repayment of international loans to the Bank of England and there was the famous dismissal of the Whitlam government on 11 November

1975, and the funny-money deals associated with the so-called Khemlani affair.

Labor has persistently pursued a program to remove the scrutiny of the upper house in Victoria and is really interested in a unicameral Parliament. John Cain, Jr, was clearly haunted by the prospect of the Legislative Council exercising its mandate, and at page 31 of his book, *John Cain's Years*, he complained in the lead-up to the 1982 election:

> By the third week of March the issue of blocking supply was on the agenda. The Premier refused to give an assurance that the Liberal Party would not use its numbers in the upper house to block supply if we won the election.

Let the Labor Party come clean and say that it is pursuing a unicameral system. John Cain is even more explicit at page 280 of his book where he says of the Liberal Party:

> In some cases their opposition was based on political/ ideological commitment. This was true of the reintroduction of probate duty, local government amalgamations and the proposed abolition of the upper house.

John Cain set about a relentless pursuit to render the upper house dysfunctional. The Constitution (Council Powers) Bill was read a second time on 20 April 1983, shortly after his government was elected to office. It proposed that the Legislative Council be able to delay the passage of supply for only one month, after which the bill could receive the royal assent. Of course that was voted down.

The Cain government was re-elected in March 1985, but in association with that extraordinary election was the tied vote in Nunawading Province. The Liberal Party took that tied vote to the Court of Disputed Returns and the Council sat with only 43 members for a number of months. Using the casting vote of the President, Labor was able to pass its occupational health and safety legislation and again attempted to deny this house the ability to defer or block supply.

However, the most interesting thing was that in a mischievous attempt to use the numbers to its advantage, which is hardly democratic, Labor went to the Nunawading supplementary election on a platform of reform of the upper house and the power to withhold the ability of the Council to block supply. It was resoundingly defeated. That was the only time this question has been addressed in a public forum or that any type of mandate has been sought. Labor has never attempted to repeat that exercise.

Then came the Constitution (Legislative Council) Bill, which had its second reading on 20 August 1987. The Labor Party had started to expand its ambitions and to court the Australian Democrats with a system of proportional representation. That legislation was voted down. Interestingly it was opposed by the then Labor President, Rod Mackenzie, who paid a heavy price for his stand of high principle regarding the independence of this house to be of such importance.

Next came the Constitution (Proportional Representation) Bill, which was read a second time on 6 May 1988. On 1 November 1990 a further Constitution (Proportional Representation) Bill had its second reading — an almost identical bill to the bill Steve Bracks so hurriedly rushed into the lower house on 25 November 1999.

Hon. M. M. Gould — The Premier!

Hon. J. W. G. ROSS — The Premier. However, with breathtaking incompetence, in 1999 members of the Labor government had not bothered to discuss the bill with the people who are responsible for them maintaining their position on the Treasury benches — the Independents — so on 1 June the bill was withdrawn and replaced with the two that are before the house tonight.

Labor is ideologically and culturally opposed to any form of accountability. It has an absolute obsession with the functions of this house. The fact is that the proposed legislation would completely incapacitate this place, as happens in New South Wales and on some occasions in the Australian Senate. Mention has already been made of the vital role this house plays in potential changes to the constitution.

The other thing that bears mentioning is the issue of the terms in this house being equal to two Legislative Assembly terms, because that concept of permanency and freedom from casual interference is a feature of practically every modern constitution. It affords the constitution some protection from casual interference. The idea is to preserve the continuity of government in the state and to protect the community from excessively casual interference. Nothing was more definite than the way the Victorian community voted overwhelmingly in 1992 and 1996 for the Kennett government. I have always taken the view that the community voted thoughtfully and purposefully, saying that after the problems of the Cain–Kirner years it would be a long time before it would allow Labor to reign without any form of accountability. The state of the house at present is a direct reflection of the virtues of the constitution and the will of the Victorian community to ensure that there was not a casual regression to the profligate activities of the Cain–Kirner years.

There is no suggestion that governments would not be able to operate effectively without a majority in this house. The Bolte government had a majority in the upper house for only 1 day in 18 years and Sir Henry Bolte is reported to have privately conceded that the lack of a majority had kept his government on its toes and made it a better government. Likewise, the Cain and Kirner governments had a majority in the Legislative Council for the equivalent of only a week in the decade between 1982 and 1992. Nevertheless, at page 64 of his book *John Cain's Years*, John Cain says of his early years in government:

> Certainly we legislated rapidly, and mostly without hindrance from the Legislative Council.

This house plays a vital role in the execution of democracy in this state. For those reasons the opposition opposes both bills.

Hon. B. W. BISHOP (North Western) — I listened with great interest to previous speakers and I thought many of the contributions were good. Certainly some visionary comments were made by earlier speakers.

This is one of the strangest approaches to constitutional change that I have seen a government take. I may be a little old fashioned but I believe constitutional changes are the most severe changes a government can make. It is a big responsibility and I would have thought that any government bringing in constitutional changes would have worked out those changes and made absolutely certain it knew where it was going. I should have thought that in this instance constitutional change would have needed to be an election promise.

Some people from the government say it was an election promise. I do not believe that is true. There were election promises about such issues as changes to Workcover and other matters, but the government was so obsessed with the idea of constitutional change that it seemed to forget its responsibility. Did it have the right concept? As soon as someone said no, the government changed it. It changed it on the run to suit the Independents — its mates in coalition — who stood the government up on this particular issue, which brings into disrepute what the government is trying to do with its constitutional changes. Further, I was staggered that the Independent Party — if I might call them that because they generally act as a party — would agree to a concept that would reduce rural representation right across Victoria.

I turn to the changes concerning proportional representation. I make it clear that this proposal is not like the situation in the Senate, or like what happens in New South Wales or South Australia, where the state votes as a whole.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Hon. B. W. BISHOP — Before the suspension of the sitting I referred to proportional representation. If I remember rightly, at the start the government wanted five provinces with seven members in each. I guess it thought that was a great idea, probably the best idea it had ever had. I suspect it also thought everyone must agree with it. However, they did not. In fact, the government's coalition friends, the Independents, did not agree. I suppose some of us might have considered that position a bit unusual because the Independents have generally agreed with everything the government has put up. The government must have then wondered what to do. It believed it had the best concept but it did not really matter because it was only a change to the constitution, which is one of the most serious changes a government can make.

However, the government thought it had better press on with its changes and make sure they got through. I suspect one of the major reasons was that it wanted to reduce rural representation in this house and ease back the Council's opportunity to be a real house of review as defined by the Westminster system. The Independents, who supported the two bills, should be ashamed of themselves because they have sold out rural representation.

The legislation proposes a change to eight provinces with five members in each. Each province will have 11 lower house seats. Out of those eight provinces, three will be primarily rural. I wonder what that means? Does it mean that they have to be rural? Does it mean we hope they will be rural? It really comes down to almost believing in the tooth fairy to believe we will get a decent run out of this sort of distribution. What is the definition of 'rural'?

To use country terminology, the legislation is a real pig in a poke. There is no doubt that the people I have spoken to in country areas understand that this thrust will reduce representation in rural areas. That is probably what the Labor Party wants and it has conned the Independents into that kind of support.

I read through the contributions to the debate in the other house. I noted my parliamentary colleague, the Independent member for Mildura in the other place, let it slip during his contribution in the house — he was prodded a bit as I suspect there was a fair bit of interjecting — that perhaps we should consider the Queensland model. We all know what the Queensland

model is — that is, get rid of the upper house. It is of great concern, particularly to rural people, that that may be where we are heading with this attack on the Westminster system.

I refer to accountability. It is apparent that a number of government members and Independents do not like ministers being put under scrutiny. A feature of this house has been the tremendous scrutiny under which ministers of any government persuasion can be put. They are the checks and balances that this house provides. The government does not seem to like that. It is probably trying to restructure the system to take the pressure off. I do not see that as reform. I have been using the word 'change', and change is a lot different to reform.

The electorate the Honourable Ron Best and I share is huge and difficult to service. Having looked at the huge suggested provinces proposed in the bill — not that we know what the plans are — in practical terms I doubt whether members would be able to get around them as well as they can now, and it is difficult enough now. There would be little or no community of interest when one considers where the provinces would most likely be. That is of huge importance to rural members, because we are known as local members. I am proud of the fact that the people I represent talk to me as a local member of Parliament.

If Victoria had huge regions there would be no direct accountability, as exists now. Rather than working for the electorate — Mr Stoney made some excellent points on this — one would work for the party machine to ensure one was popular and to guarantee a top spot on the party ticket. That situation has made governments unstable and has not given them the opportunity to govern as crisply as most would like.

I refer to the accountability of the present system. There is no doubt that representing people across four lower house seats is direct representation. Honourable members are all well known in their electorates, regardless of whether those electorates are huge. We know the issues in our electorates and we know them well. Under the rules we have now, we can be responsive. Under the proposed changes we would not be as responsive and certainly we would not be able to continue the representation we have had in the past. There is no doubt it is a step backwards.

The bill seeks to introduce four-year terms for both houses. There has been a fair bit of misinformation about that. I cannot remember a time when there have been two full terms. Generally, the two terms run out to about seven years. I tried to work out why the Labor Party and the Independents want four-year terms. I suspect they think they might be on top for a little while, and a mirror image of the lower house will nobble the house of review. It will make a lot of difference. There would be no buffer or safety net such as that which Victorians have enjoyed for many years. There would not be any check on wild swings such as those we have seen in past elections and in other Parliaments, of which there are some good examples overseas. The present tenure of having a change each second term provides an insurance policy and it has done that well for a number of years.

During the run-up to the debate in this house and the other place, I heard some of the chatter from the honourable member for Bendigo East about the National Party having only 15 per cent of the vote. The honourable member has been peddling misinformation. That has also been mentioned by my colleagues the Honourables Bill Baxter and Peter Hall. It is important to note that at the last election each National Party member of the Legislative Council who stood for election got majorities of the primary vote. The misinformation that is being peddled is misleading and has been of much concern because it has been pushed out in our communities.

It has been said that we are afraid to face the voters because we will not go to an election each time one is called. That is absolute nonsense. The honourable member for Bendigo East and the Independent member for Mildura have been peddling such information. We face the electors each day. In the same breath they say they want to dispose of direct accountability by having members elected from the regions, not direct accountability as we have now with the lower house seats. It is obvious they do not understand the way the house works. Members who have made such criticisms should sit in the gallery during the committee stage of debate on a bill when the government is put under pressure and is being held accountable. That happened when the coalition was in government. There were many long committee stages where government accountability was strong. That is where this house of review performs well. The government wants to remove the rigour of such review, and the bills would achieve that.

The power to block supply has been canvassed well in the contributions of previous speakers. The Labor Party and Independents coalition has been all over the place on these bills and has changed them on the run, something I believe should not happen. Constitution bills are the most serious matters that a government can address, and the government has been prepared to introduce red herrings by submitting two bills. I

congratulate the government on introducing two bills into this place and allowing them to be debated concurrently rather than separately. There is no basis for attempting to introduce single-term elections in this place, and there has been no mandate to remove the power of the upper house to block supply.

The bills are nonsense because the government has tried to manipulate the system to ensure it will get its people in and to obtain the power in both houses that it so desperately needs. All of those moves, if the bills are passed, will reduce the ability of the upper house to check and review. I urge the house to vote against the two bills so that democracy can be retained in Victoria's parliamentary system and, most importantly, so that country representation in this place can be maintained.

Hon. S. M. NGUYEN (Melbourne West) — I am pleased to contribute to debate on and support the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill, which were part of the Bracks government's commitment before the election to reform the upper house because we want to bring democracy back to Victoria.

In 1996 when I was elected to this chamber there were only 10 Labor members and 34 opposition members. It could not have been called a house of review.

The commonwealth Senate has the major political parties — the Labor, Liberal and National parties — as well as the minor parties such as the Australian Democrats, the Greens and the Independents. Representatives of the minor parties were elected by the people because they did not want to rely on the major political parties.

Victoria does not have minor parties. I do not believe the Australian Democrats will have any chance of achieving representation in this place or the other place. The Legislative Council should be a place where everybody has a chance to speak on behalf of a support group.

Hon. W. R. Baxter — Why did you support the quota?

Hon. S. M. NGUYEN — The system is not designed to do that. This chamber is small and it is hard for any government to deliver promises for its constituents. The Bracks government has promised to reform the upper house to make it a better place for the people of Victoria.

The Constitution (Amendment) Bill has three key objectives, one being the reduction of the term of legislative councillors to a term equal to one term of the Legislative Assembly, which means that every upper house member will have the same number of years in a term as Legislative Assembly members. That would make this place more accountable to its constituents.

I know some members in this place are working hard at the end of their term.

Hon. W. R. Baxter — Speak for yourself.

Hon. S. M. NGUYEN — I said 'some'.

Hon. W. R. Baxter — I am glad you said 'some'.

Hon. S. M. NGUYEN — I did not say 'all'. It will be a four-year term, and the community will have a chance to vote in whoever can deliver on their promises.

Politics is changing from year to year. Because of the changes, eight years is too long. Constituents might like some new members who can represent them on certain issues; eight years is a long time to wait to see new policies and new bills. Every time there is an election the community would like to see different policies and different groups of politicians coming to Parliament.

The bill will also remove the power of the Legislative Council to block supply. They are the major changes the Constitution (Amendment) Bill will bring about. The changes to the upper house would make this place look better.

At the last election the Liberal and National parties received a combined vote of 47 per cent in the upper house, but they occupy 68 per cent of the seats — so they got more than they should have. The Liberal and National parties oppose the reform of this chamber. The National Party has only six seats. At the last election the National Party received only half a per cent more than the Australian Democrats, but the National Party has six seats and the Democrats have none. That shows how the system does not work.

At the last election the National Party came fourth in winning the four lower house seats that make up the North Western Province. It was behind the Labor Party, behind the Liberal Party, and even behind the Independents. It received only 15 per cent of the primary votes. Yet both upper house representatives from the North Western Province are from the National Party. So the system we have at the moment should be changed to meet the requirement of the voters based on proportional representation.

At the moment this house is unrepresentative, ineffective and in desperate need of repair. Therefore the changes should be made as soon as possible to ensure that it is a place of review for the future of Victoria.

Many honourable members would welcome representatives of minor parties and Independents to come to this place to work in with the major political parties to raise the voice of the community. Yet we have not seen that. If there were proportional representation in the system there would be better representation.

At the moment there are 44 members in this chamber. This legislation will reduce that number to 40. It will reduce the number of provinces to eight, and each province will return five members at each election, bringing the number of members to 40 members.

The amendments to the Electoral Boundaries Commission Act provided by the bill ensure that three of the eight provinces will be primarily outside the metropolitan area. They will be in country Victoria. The relationship between the provinces is significant.

I reiterate that proportional representation would provide more opportunity for independent members or members of minor parties who have not done so for many years to have the chance to come to this place. Three Independents have been elected to the Legislative Assembly; yet the Legislative Council is still made up of the three major political parties.

Honourable members should be aware that the changes to the legislation do not compel an alteration of the minimum election period which, as honourable members would be aware, is 25 days. However, proportional representation elections can be conducted only in 25 days if the period between the nomination day and the polling day is extended. Accordingly, the bill does not alter the minimum election period, but reduces the minimum period from the writ to the nomination day from 10 days to 8 days, while the period from the nomination day to the polling day is increased from 15 days to 17 days. Proportional representation would provide a good opportunity for people to bring their opinions to this chamber.

In New South Wales many minor parties have been elected to the upper house. At the last election a member of the Unity Party was elected to the New South Wales Parliament. A candidate from the Unity Party had an interest to learn about Victorian politics but at the last minute did not want to stand because the candidate knew there would be no chance of being elected to this place. So the Unity Party did not put anyone up for the election. Only the big parties can survive in Victoria.

Queensland, which is a big place, has only a Legislative Assembly and no upper house. There are big municipal councils in Queensland, and the power is there between the state and local governments. South Australia has regional elections, so a number of both major and minor parties can get into state Parliament.

In conclusion I state that the reason the government wants to reform the upper house is that it is part of the Labor Party policy to revitalise democracy in Victoria. It believes the Victorian community should have a say in this chamber. Eight years is too long to wait to elect a new member; the term should be changed to four years.

As a result, members of the Legislative Assembly and Legislative Council would have terms with the same number of years and the government of the day would have a mandate to rule.

In the past eight years the upper house has never blocked or changed any bill; it has been a rubber stamp for several hundred bills. When the vote on the current proposal is taken in the chamber, only 14 members will vote from this side while 30 members will vote on the other side. There should be a balance of power.

In conclusion, I reiterate my support for the bills and I urge honourable members opposite to support them.

Hon. G. B. ASHMAN (Koonung) — I join the debate which is probably two-thirds concluded having had the opportunity of listening to the contributions of members on the other side. They have failed to make out a case in favour of upper house reform; they have merely put to the house an objective of the Labor Party — that is, control of the upper house and unfettered power for the government, without scrutiny.

Members opposite propose that membership of this house be on the basis of eight regions, five metropolitan and three country, each with five members. As has been pointed out during the debate, the proposal would effectively remove the local representation in this chamber and there would no longer be regional representation. Metropolitan representation would cease to be regional. It is proposed that most of the new seats will represent people in one-fifth of the metropolitan area plus a few other voters. Therefore something in the order of 11 Legislative Assembly electorates would make up one province. The opportunity for local representation or a regional overview would be completely lost.

The government has introduced the proposal without consultation. A couple of attempts were made to draft the bills before they were finally introduced in the chamber. The first bill was introduced and withdrawn; the two bills before the house have been introduced and amended in the other place. If members of the government want to change the democratic processes of this state, they have an obligation to demonstrate that the democratic process currently in place has failed. Members of the government have not produced evidence to demonstrate any failure. No government member has produced a rational argument for change. How can the alleged gerrymander exist when there is one vote, one value across the state and all the provinces have the same number of voters?

The Labor Party is seeking to emulate the worst of the Bjelke-Petersen era, when the Queensland electorate was stacked to the advantage of a particular party. In this state the party that wins the votes wins the seats. Mr Nguyen compared the votes received by the Australian Democrats with those gained by the National Party. He failed to mention that at the last election the National Party contested 3 upper house seats and, if my recollection is correct, the Democrats contested 17 upper house seats. Both parties hold about the same percentage of the state vote. The difference is that where the National Party contested seats, it polled an absolute majority and its members were elected. That is perfectly democratic.

Honourable members have had presented to them something of a bidding war. Each time the Independents came on the scene the government sought to change the proposed size of the provinces, so I wonder what commitment members of the government have to the proposed legislation. Will remaining government speakers demonstrate where the community of interest lies and how the proposal serves the democratic processes of this state? How will the government ensure that all Victorians have reasonable access to their member of Parliament? Can members of the government demonstrate that a member of Parliament will be able to represent the voters if, as is proposed, a province for eastern Victoria stretches from the New South Wales border to the outskirts of Melbourne — that is, to Pakenham and Wonthaggi? Can they show that that is an electorate of an appropriate size for a member to get around and appropriately represent the population? Can they say how a seat that stretches from Mildura to Portland and to Geelong can be of appropriate size?

Hon. G. D. Romanes — There will be five members.

Hon. G. B. ASHMAN — I take up the interjection. All five members for the proposed province may be located in Ballarat or Geelong. Nothing in the bills provides that the five elected members would be spread through the province. It is probable, as happens in the Senate, that the members would be located in the major centres of population. The proposal would have no different result: the people of Ouyen, Mildura and Cann River would not have a local member, someone who is nearby and can make representations on their behalf.

If that were extended to the metropolitan area, where it is proposed that 11 Legislative Assembly electorates will form one province, large tracts of Melbourne would have five members but, again, those members would be located in the major centres of activity. The result would be a loss of today's regional representation. Currently four Legislative Assembly seats make up each province, which is a regional representation with which people can identify. There is no way that the broad community could be convinced that a province that extended over 11 Legislative Assembly electorates — for example, from Dandenong to Eltham — had a community of interest. There is no community of interest across a seat of that size. The current system is not broken; it does not need to be fixed.

The rejection of the proposal by opposition members is a protection of the democratic processes in the state. The government and the Parliament should be considering the role of the upper house. In recent years the style of Parliament has changed. The role of the upper house can be modified to better serve the community. Parliament is undertaking significant change. Honourable members should be looking at different structures. We should examine the terms of reference given to committees and the way legislation is scrutinised. There is a great deal within the Senate system that we could adopt and add to the democratic processes of the Parliament rather than, as the Labor Party is doing, seeking to tear the place apart.

We need to recognise that the nature of government has changed. Increasingly the state level is bound by international treaties and conventions. In most sessions of this Parliament a number of pieces of legislation are passed that adopt national standards or result from mutual recognition. The nature of that legislation, having been developed by ministerial councils or other processes, means there is not such a strong role for its review and, indeed, the state's ability to amend the legislation is minimal. Perhaps there is a role for this place in the developmental stages of mutual recognition legislation. Perhaps Council members could debate the

principles of it before signing off on a national agreement.

Increasingly state governments are bound by federal grants that limit their ability to adjust spending programs. There is a role for the Parliament to debate those programs during the formative stages rather than the way it is done now. National standards exists for roads, health, business, education, privacy and equal opportunity legislation, just to mention a few. The current role of this chamber is under question and all honourable members could contribute to the process of Parliament by having a broad debate on the future role of the Legislative Council and the way it could function.

If the government chooses to have a plebiscite it should put a range of issues on the table, not just the proportional representation proposal. It should look at the future role of the upper house and the way it functions within the federation of Australia. The bill does nothing to advance democratic processes and should be rejected.

Hon. E. J. POWELL (North Eastern) — The National Party strongly opposes the constitution bills. Honourable members have referred to the way the bills came before this house and the reasons why the government believes it is necessary to reform the upper house. The bills replace the Constitution (Reform) Bill introduced by the Premier into the Legislative Assembly on 24 November 1999. The second-reading speech of the Constitution (Amendment) Bill states:

> … that the bill lay over to allow for public comment and consultation.
>
> As a result of receiving that comment on the bill and following consultation with a number of persons, including the Independent members of this house and the non-government parties, the government has decided to alter some of the proposals in the reform bill and to replace that bill with two bills — the bill before the house and the Constitution (Proportional Representation) Bill.

They are the two bills the house is now debating. An article in the *Age* of 30 May by Adrian Rollins, its state political reporter, entitled 'New plan for reform of upper house' states:

> State government and Independent members strike a deal.
>
> …
>
> Originally the government had proposed reducing the number of lower house electorates from 88 to 85 and axing nine upper house seats by creating five zones of seven MPs each.
>
> But Ms Davies said neither proposal was acceptable.
>
> She said reducing the size of the Legislative Assembly was 'not on' because rural seats were large enough already.

I agree with that. As Mr Bishop said earlier, country electorates are large. The North Eastern Province that the Honourable Bill Baxter and I represent is the fifth largest electorate in Victoria and is approximately 23 400 square kilometres. It covers rural cities such as Echuca, Shepparton, Wangaratta and Wodonga. Yet the bill wants to make electorates even larger. Mr Bishop said rural people expect their members of Parliament to be grassroots members and they expect to see them in the electorate. That would not happen under the provisions of the Constitution (Proportional Representation) Bill. Rural representation would decrease.

I give an example to indicate that Labor Party members do not realise how big some rural seats are. On 22 August the Premier visited Shepparton to launch the Telstra e-commerce trader package. I left the meeting early and said to the Premier that I would see him in Wodonga, about 2½ hours away by road. He was staggered to realise that Wodonga was part of my electorate and I told him that it stretches for about another 2 hours by road the other way as well. In Wodonga I attended the Learning City Festival and at 7.30 p.m. Mr Baxter and I attended the La Trobe University campus for the Michael Joseph Savage memorial lecture on revitalising Victoria's democracy.

Mr Baxter spoke about that subject at length. One would have thought the lecture would have engendered passion and would have gone on for some time. One would have expected that the Premier's speech would have gone for 45 minutes or even an hour. In fact, the program said it would start at 7.30 p.m. and go until 9. 00 p.m. It started at 7.30 p.m. when the Premier was introduced, but it was over by 8.00 p.m. People in the hall were staggered. They expected considerable debate. The people who attended could not ask the Premier any questions. That is the sort of consultation the government talks about and the way the government sells the message of how it will reform the upper house. The hall was half full, but the people could not ask the Premier any questions.

The Premier spoke for about 15 minutes. He spoke for about 5 minutes about Michael Joseph Savage and for about 10 minutes about upper house reform. In his presentation he said the upper house was a hardworking house and yet at the end of his presentation he said the government wanted to make sure it was hard working. I have a copy of his presentation. By his own admission he said the upper house was hard working, and I agree with him.

The Premier did not sway anyone. He had a written speech, which he read word for word, but he would not

accept any questions. Embarrassingly, the mayor of the Rural City of Wodonga spoke for almost as long as the Premier to thank him for his contribution. It demonstrates the passion the Premier has for the issue!

I stayed overnight in Wodonga but the next day I had to go back to Shepparton to attend a Goulburn Valley family care function. After that function I went to Wangaratta for other meetings. That night I went to a dinner at Wangaratta where a guest speaker was present and I got home at 11.30 p.m. Country members are expected to be in their electorates responding to their communities.

Clause 3 of the Constitution (Proportional Representation) Bill proposes dividing the state into 8 provinces, each with 5 members to represent 11 complete and contiguous districts. At present there are 22 provinces, each with 2 members, making a total of 44 members. The bill proposes reducing the number of members to 40.

The second-reading speech states — a number of honourable members have picked up on this point — that three of the eight provinces would be primarily outside the metropolitan area. The bill does not provide that they would be primarily rural, and that is what National Party members and many other honourable members who represent country Victoria totally oppose. Passing the bill would ensure that there is no country representation. There is no doubt that country people would not have a voice under the proposed legislation.

The National Party strongly opposes any reduction in country representation. Honourable members are expected to vote on a bill that does not describe what the electorates and the areas they cover will look like — a bill that was brought before the house, taken out, and then presented to the house again. That is not on!

The Labor government also says that the upper house needs reforming, is undemocratic and does not work. I have been in the house for about four and a half years — many members have been here a lot longer than that — and I have not seen any evidence of that. Not once has the Labor Party put any evidence before the house to support its argument that the chamber is not working. It has no evidence.

The reform of the upper house has not been an issue in country Victoria. Country Victorians have much more pressing issues that are vital to country Victoria — things like lack of water, farmers doing it tough, access to services, lack of doctors and attracting industries to country areas.

What annoys me is that the bill to reform the upper house was introduced after the Labor government had been in office for two months. I believe the bill is a red herring to get people talking about it instead of scrutinising the real issues — the Labor government's lack of experience and lack of policies.

If the upper house needs reforming, let an independent body look at its history, performance and future role. If there are any problems, let us look at those problems, decide how they can be fixed, and go to the Victorian people with the facts and not just the statement, 'We need to reform the upper house'.

Perhaps the special committee could look at Labor's recent performance in the upper house. I will read from an article in the *Age* of 1 June written by Meaghan Shaw, a political correspondent, who says under the headline 'Labor four below par in upper house':

> The Bracks government this week resumed its push to reform the upper house. But whatever shape the Legislative Council takes in future, Labor ministers in that chamber need to lift their game immediately to stop proceedings becoming a joke.
>
> This week, the Legislative Council President, Liberal Bruce Chamberlain, reprimanded Labor's upper house leader, Monica Gould, for dragging out the committee debate on the Workcover bill to more than 5 hours — half of that in silence as she was briefed by her advisers.
>
> Chamberlain said the late sitting — which stretched until 2.45 a.m. — cost taxpayers an estimated $4600 as parliamentary staff were forced to continue working until the house adjourned. Her performance, he said, was the worst he had witnessed during his time in Parliament.
>
> Gould maintained the long counselling sessions were needed to ensure her responses were as accurate as possible. But as minister assisting the Workcover minister, she should have had a better grasp of the issues and been better prepared by her advisers.

The article goes on to say:

> The three other upper house ministers — Marsha Thomson (small business and consumer affairs), Candy Broad (energy, resources and ports) and Justin Madden (sport and youth affairs) — are parliamentary debutantes. And it shows.

We should be scrutinising the experience of ministers in the upper house.

The Labor government also wants to introduce Senate-style elections, which could allow minor parties and independents to be represented in the house and give disproportionate power to the minor parties. The federal government has those same problems. It would have the capacity to paralyse government in this state.

As another honourable member said earlier, if people had wanted to vote Labor Party members into the upper

house, they would have done so; however, because they were hoping to scrutinise Labor's performance, they made sure there were checks and balances in the upper house. As can be seen from some recent government performances those safeguards are definitely needed.

Members of the Labor Party sometimes talk about the differences between the houses and say that other people should come into this house because Council members are all the same sort of people. However, members of this house come from very different backgrounds and have very different life experiences. Honourable members discovered that when they listened to the inaugural speeches.

The upper house is very democratic: its members are not gagged; there are no time limits on speeches; during the adjournment debate members can speak directly to ministers; it has a committee stage, as has been said, which allows members to scrutinise bills clause by clause and to make amendments; questions on notice must be answered within 30 days by the minister responsible, and members can bring them to the attention of the house if they are not; and opposition business on a Wednesday morning is reserved for scrutiny of the government of the day, which is a particularly good contribution of the upper house to the parliamentary process.

The Labor government has also criticised the upper house as a rubber stamp. I will put on record some statistics I have received from the manager of the papers office of the Department of the Legislative Council. Because of time constraints I will go through them briefly. In the 1994 autumn sitting one bill was initiated in the upper house and six bills were amended. In the spring session of that year five bills were initiated in the upper house and one was amended. In the 1995 autumn session no bills were initiated but five were amended in the upper house. In the spring session four bills were initiated in the upper house and five were amended.

In the 1996 autumn session four bills were initiated in the upper house and none was amended. In the spring session no bills were initiated but eight were amended. In the 1997 autumn session one bill was initiated in the upper house and six were amended. In the spring session no bills were initiated in the upper house but four were amended. In the 1998 autumn session four bills were initiated in the upper house in the autumn session and one was amended. In the spring session seven bills were initiated and five were amended. In the 1999 autumn session three bills were initiated and none was amended, and in the spring session five bills were initiated in the upper house and one was amended. This year 12 bills were initiated in the upper house in the autumn session and 2 were amended. The spring session is still under way. The Labor government's claim that this house is a rubber stamp is false. History shows this house is needed.

The Constitution (Amendment) Bill proposes reducing the term of the Legislative Council to one term of the Legislative Assembly, fixing the term of Parliament to four years except in the event of a vote of no confidence, and removing the power of the Legislative Council to block supply.

I was pleased to see that the bill refers to two terms and not to eight years. The Labor government keeps going on about the upper house having eight-year terms when it does not; it has two lower house terms. As other honourable members have said, the staggered terms are important to maintain consistency and retain experience. The upper house does not and should not mirror the Legislative Assembly.

Voters have an opportunity to voice their dissatisfaction with a party or a person at each election. As the Honourables Gerald Ashman and Barry Bishop said, there are six members of the National Party in the upper house, and three of them went to the election in September 1999. All three of them were returned very successfully. If electors had wanted to send them a message, they could have done so.

If Labor wants more members in the upper house, instead of changing the system it should get people to vote for it. Victoria still has a system of one vote, one value, and not some artificial quota system. I do not support the bills, and I am pleased to put on record some of my reasons.

Hon. JENNY MIKAKOS (Jika Jika) — I am pleased to speak in support of the bills. This debate is probably one of the most important that will occur during my parliamentary career because the bills relate to Victoria's democratic institutions and processes, which the government is committed to strengthening.

As the final speaker for the government I have had the benefit of being able to listen to many contributions from members opposite, and I have been listening to them with a great deal of interest. I am yet to discover a single honest reason for the opposition's opposing the legislation. Honourable members opposite have referred ad nauseam to the fact that the Legislative Council has no time limits on debate and to the flexibility of the standing orders, as if the unlimited nature of the debate is adequate to make up for the

unrepresentative manner in which members have been elected.

The real reason for the opposition's opposing the legislation was given in the *Age* on 18 June by Mr Birrell's favourite commentator, Mr Ray Cassin. The article states:

> Conservative interests want an undemocratic upper house to protect their power from the consequences of democratic changes of government in the lower house.

If the opposition had the ability to see beyond its own self-interest the house would have an opportunity to strengthen the state's democratic institutions. The opposition is not about to give up its current gerrymander under which it won over half the seats that came up for election in the September 1999 election. It won 14 of the 22 seats, despite having less than 50 per cent of the two-party preferred vote in the Legislative Council.

Many opposition members have claimed that this house acts effectively as a house of review. However, if the opposition wanted to enhance this house's reputation it would support making it a more representative and accountable chamber because that would make it a far more effective house of review.

Opposition members failed to mention in their contributions that a house of review acts as a safeguard against a tyrannical government and is for the benefit of the people of Victoria, not for the political benefit of any political party. The interests of the Victorian people are not served by having a Legislative Council that is unrepresentative of their views as expressed at each general election. Unlike the partisan position of the opposition in opposing the legislation, the government has not sought to alter the constitution to its own political benefit. Although the government accepts that the introduction of proportional representation may well lead to its not having a majority it is prepared to open up the house to greater participation and accountability in order to strengthen democracy, irrespective of the political uncertainty involved in such a move.

Victoria may well end up with a proportional representation system with Independents holding the balance of power in this house, if that is the wish of the Victorian people. However, I do not believe that the Victorian public is likely to support the election of what I refer to as 'hate' candidates. In fact, the increase in the quota in the Constitution (Proportional Representation) Bill, as opposed to what was proposed in the previous reform bill, is designed to ensure that that does not happen.

I am sure honourable members want to conclude the debate this evening, so given the limited time available I will focus my comments on two key aspects of the legislation: the fixed four-year terms proposed in the Constitution (Amendment) Bill and the proportional representation system to be introduced by the Constitution (Proportional Representation) Bill.

Clause 3 of the Constitution (Amendment) Bill seeks to remove the minimum three-year terms for the Legislative Assembly and to establish fixed four-year terms for both houses of Parliament. The bills have special importance provisions and the blocking of supply provisions will be deleted from the constitution. The only method by which an early election will be able to be called will remain the current process of a no-confidence resolution being passed in the Legislative Assembly — the most well-established tradition under the Westminster system for calling an early election.

Clause 4 provides for the current terms of Council members, which are equal to two terms of Assembly members, to be altered so that they will be of the same duration as and run concurrently with those of Legislative Assembly members. The clause also provides for the termination of the term in office of Council members who were elected at the 1999 general election in order to bring all members into sync with the current terms of both houses. The clause would result in the end of the current system of only half the Council members going to an election at the end of every Assembly term.

The introduction of a process whereby all Legislative Council members would go to an election every four years would ensure greater accountability of members to their electorates and ensure their records and achievements would be put to those electorates at each general election. It is not surprising that the current members of the Liberal and National parties who sit in this house are not keen to have their records go to the electorate every four years, given that they are the people who sat idly by and allowed the Auditor-General and Victoria's hospital and education systems to be decimated while claiming they were part of an effective house of review.

I am yet to hear a single rational reason from opposition members as to why this house should continue to have only half of its members elected at each election. If the opposition were serious about the house acting as a house of review it would consider supporting at least one of the two bills — that is, the Constitution (Amendment) Bill, which deals with fixed parliamentary terms.

The other aspects of the legislation I want to touch on relate to the Constitution (Proportional Representation) Bill, in particular the proposed introduction of proportional representation and the issue of rural and regional representation. Clause 3 will result in a reduction of members of the Legislative Council from 44 to 40 members, with representatives of the Council being derived from eight provinces, each returning five members. Each province will comprise 11 complete and contiguous Assembly districts.

Clause 19 of the bill will result in the introduction of a transferable quota preferential system of proportional representation as the basis for voting in the Legislative Council, a system the Australian public is very much accustomed to because it operates in the Senate. In order for a candidate to be elected in the Legislative Council he or she will need to obtain at least 16.67 per cent of the votes cast in a province, a much higher vote than the One Nation party has been able to achieve in this state.

Part 4 of the bill will result in an increase in the level of representation from rural and regional Victoria by providing that the Victorian Electoral Commission must ensure that three Council provinces comprise areas primarily outside the metropolitan area and five provinces comprise areas primarily within the metropolitan area. The metropolitan area is defined in clause 22. It refers to municipal areas in inner and outer suburbs of Melbourne. The electoral boundaries will be drafted by the electoral commission. It is not surprising that the government has not provided any details on that issue because it is to be determined by an independent body.

The bill will provide for 15 of the 40 Legislative Council members, or 37.5 per cent, to be from primarily regional and rural areas. It will ensure that rural Victoria has a strong voice in this house.

In conclusion, I note that the Honourable Mark Birrell was right in his speech only once and that was when he said that Labor can win a majority in the Legislative Council. The people of Victoria will never forget the cynical way in which the opposition will vote down the bills today. They are the first bills introduced by the Bracks government that members of the opposition have been prepared to reject to protect their own vested interests. I am sure the Victorian public will recall that vote come the next general election, and the members of the opposition may well see a change in the balance of numbers in this house. I am happy to lend my support to the bills.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I make only a brief contribution.

Honourable members interjecting.

Hon. G. K. RICH-PHILLIPS — I could be encouraged to make a longer one! I have listened with great interest to the contributions made by honourable members and in particular to the comments made by the Honourable Jenny Mikakos.

Hon. D. G. Hadden — Good comments, too. An excellent contribution.

Hon. G. K. RICH-PHILLIPS — No, not excellent comments. In her opening Ms Mikakos referred to this as being the most important debate she had participated in or was likely to participate in during her career. Given that statement, it is interesting to note that she was not in the chamber for most of it. Indeed, at a time when the government is proposing enormous changes to the way the Victorian constitution works and to the structure of Parliament, only four government members are present in the chamber. That shows the level of commitment Labor members have to their own proposals.

In the course of her contribution Ms Mikakos described the two bills before the house as strengthening democracy. She also spoke about greater accountability in the electorate. As anyone who has looked at the Constitution (Proportional Representation) Bill would realise, the bill does not propose greater accountability in the electorate by members. In fact it reduces accountability by members. Under the proposal members would no longer be responsible to their electorates; they would be responsible to their party headquarters. What would be important for a member would be where he or she fell on a party's ticket, not the state of his or her electorate.

It is therefore absolute nonsense for Ms Mikakos to say the proposal would make members more accountable for their actions. It is also a fallacy to say that the bill strengthens democracy. It weakens it. The bill reduces the level of scrutiny to which government would be subjected. It reduces scrutiny of the government's budget.

I turn briefly to the matter of the budget because, as honourable members would be aware, the 1999–2000 financial report for Victoria was tabled today in the chamber. Although I have had only a cursory glance at the document, it makes interesting reading. On page 19 reference is made to expenses for 1999–2000. A key sentence states that state operating expenses for 1999–2000 total $26 190 million.

That is an overall increase of $2517 million or 10.6 per cent compared with 1998–99. In less than a year the government has increased expenditure by $2517 million. This is the government that wants to reduce scrutiny of its budget. This is the government that wants the upper house not to have the power of rejecting or changing the budget. This is the government that originally wanted to send its budget straight from the lower house to the Governor. It did not want any scrutiny at all. In one year an extra $2517 million was spent — by a government that does not want scrutiny.

It has often been said in a number of contexts that the price of freedom is eternal vigilance. I submit that it can equally be said that the price of democracy is eternal vigilance. When I was preparing for this debate I referred to the debate that took place in 1988 when the government last proposed significant changes to the operation of the Legislative Council.

It was interesting to note the similarities between the proposals put before this place in 1988 and the proposals and the way they were brought forward in 2000. In 1988 the government started with one bill, which was later broken into two bills. In 1988 a bill was brought in without consultation and without a mandate. In 2000 a bill was brought in without consultation and without a mandate. One of the key differences between 1988 and 2000 was that when the Cain government introduced its bill in 1988 it had had six years in government. The electorate had at least had an opportunity to determine the trustworthiness of that government. Indeed, the electorate ultimately determined the trustworthiness of that government.

The other key factor that differentiates the 2000 proposal from the 1988 proposal is that at least in 1988 the government had a majority in the lower house, which is something the current government certainly does not have.

This year's legislation is cynical and hypocritical. Ms Mikakos referred to the opposition as being cynical for voting down the legislation. However, it is the government that is cynical in the way it has introduced the bills. Since its election the government has preached a number of principles. It has preached consultation and democracy. It has preached developing rural and regional Victoria. It has preached financial responsibility and it has preached restoring democracy. The legislation flies in the face of all the principles the government has espoused.

The government does not have a mandate to introduce the bills. It does not even command a majority in the Legislative Assembly. A government that does not have the numbers in the lower house is proposing to restructure the Parliament of Victoria. The government is saying, 'Trust us with your money'. The government does not want its budget scrutinised. Yet a reading of the *Victorian Parliamentary Handbook* reveals that many of the ministers who are now in government were advisers to the Cain and Kirner governments that brought Victoria to its knees in the early 1990s. Those same people are now saying, 'Trust us with your money'. What a ludicrous proposal!

It is also worth putting on record that the attack on democracy in Victoria is not just a one-pronged attack but a multipronged attack. We saw recently the Premier's refusal to extend the term of the sitting Governor, His Excellency the Honourable Sir James Gobbo. No-one would dispute that Sir James Gobbo has served Victoria with distinction, and previously served Victoria as a judge of the Supreme Court and in his many community roles with distinction. However, the government did not see fit to extend Sir James's term to the traditional five years. The government did not want a Governor with the judicial and constitutional qualifications of Sir James Gobbo. It did not want a Governor who could question what it is proposing to do to the upper house. It did not want a Governor who could question the legislation brought before him. So Sir James was dismissed; his term was cut short.

It is worth reflecting on what happened in the commonwealth situation. Also due to expire at the end of this year was the term of the incumbent Governor-General, Sir William Deane. In an act of generosity the Prime Minister extended Sir William's term for six months so that he could participate in the centenary of Federation celebrations. Yet the Victorian government did not extend the same courtesy to Sir James Gobbo. It did not want Sir James there and it cut his term short.

On a number of occasions the Premier has said the upper house is unrepresentative and should face the electorate far more often. When one looks at those honourable members who sit on the government benches one can understand why the Premier does not want them there. I refer the house to an honourable member for Ballarat Province and her car parking space issue. The other honourable member for Ballarat Province refuses to raise issues on the adjournment. In his contribution today he said that during the life of this Parliament he would not raise a matter on the adjournment relating to Ballarat Province or anything else. In an early contribution one of the government ministers handballed a football across the chamber! Is it

any wonder the Premier does not want such people sitting in the upper house?

Earlier this evening the gallery was full of schoolchildren. Looking up at those children it dawned on me that as members of the upper house we are not its owners, we are merely its custodians. The children sitting in the gallery and the generations that will follow are the people for whom we are holding this institution. It is not for us or for a government — a minority government at that — to dictate how this place should be structured. It is a matter for the people of Victoria and for future generations. It is ludicrous that the government, which lacks a majority in the lower house, has sought to introduce a bill to affect major structural changes to the operation of the Parliament without any reference to the people of Victoria.

Another issue raised during the debate relates to some comments that were attributed to a former Young Liberal state president many years ago. It is interesting that that has been used as a key plank of debate by the Labor Party. It seems extraordinary to me that one of the strongest arguments Labor can advance is a comment made by a Young Liberal president 20 years ago.

Hon. A. P. Olexander — A very good Young Liberal president.

Hon. G. K. RICH-PHILLIPS — An outstanding Young Liberal president. But it is extraordinary that that is the basis of Labor's arguments.

Hon. M. R. Thomson — It is not the basis.

Hon. G. K. RICH-PHILLIPS — It has been the basis of some of your speeches, Minister Thomson. That same Young Liberal president, who went on to become the Leader of the Government in this place, has taught me and other new members of this Parliament that the Parliament is a place to be respected and honoured. We have learnt from the former Leader of the Government just what the Parliament means and how it should be respected.

It is not without a degree of pride that I stand here as a member for Eumemmerring Province, having been elected last year by a system that will continue to exist. I was not elected with a mandate to change the system, or to reduce scrutiny on the government and make it easier for the Labor Party to govern, but to serve the people of Eumemmerring Province and the people of Victoria. That is what I am here to do and is what I will do. It is not a matter of making this place easier for the Labor government to operate. It is not about aiding the executive. It is about serving the people of Victoria.

Hon. D. G. Hadden — It is not about obstruction either.

Hon. G. K. RICH-PHILLIPS — Ms Hadden raises the issue of obstruction. I would like to see some examples of where this house has obstructed the government.

Hon. T. C. Theophanous interjected.

Hon. G. K. RICH-PHILLIPS — Having earlier spoken on the issue of respect for the house, it is interesting to see that as usual Mr Theophanous is the one showing disrespect to the house by standing at the table and interjecting from there. That says much about Mr Theophanous's contempt for this house and the Parliament.

Having heard the arguments advanced by government members I will finish my contribution with some thoughts that were articulated by previous Labor members of the house. I refer to a debate on 29 November 1995 — only five years ago — on The Constitution Act Amendment (Amendment) Bill. The first speaker of relevance to this debate was Mr Don Nardella, a former member for Melbourne North Province and now a member of the other place. Mr Nardella is reported as saying:

> I support this important bill and the reasoned amendment.

Listen carefully, Mr Theophanous:

> It is always important to have bipartisan support for constitutional changes affecting the electoral system.
>
> If we want consensus in our community it is important to ensure that the democratic processes we enshrine in the constitution have the agreement of both sides of the political fence.

I also quote from the contribution to the same debate by a former member for Chelsea Province, Mr Burwyn Davidson, who is reported as saying:

> Even minor changes to the constitution are important — so important that they should not be undertaken without several steps being followed. Before we amend a document as important as the constitution there ought to be widespread consultation with academics and constitutional experts. After all, who knows what contingent amendments may need to be made to accommodate the effects of changes further down the track? Every time we want to change the constitution academic and constitutional lawyers must be allowed to have a darn good look at the amending bill.

That constitutes a substantial change to the current position of the Labor government. The bills before the house are nothing more than a hypocritical, cynical exercise and a grab at power by a minority Labor government.

Hon. PHILIP DAVIS (Gippsland) — I am delighted to join the debate on the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill.

Hon. T. C. Theophanous — Do you want eight years too?

Hon. PHILIP DAVIS — I have been here eight years. Except for the times I have had to sit here and listen to Mr Theophanous, it has been an absolute delight. The worst aspect of my last eight years has been the fact I have had to put up with the diatribe coming from the other side of the house on a consistent and recurrent basis. Nothing changes. I have noticed that my concern about that is shared by government members. Many government members would endorse my remarks. If we hear little from you, Mr Theophanous, I will get through my speech.

I am delighted to join the debate and talk particularly about clause 22 of the Constitution (Proportional Representation) Bill, which deals with the issue of electoral boundaries and highlights the stupidity of the approach the government is taking to what is a serious issue — that is, constitutional reform. This aspect of the bill, which deals with declaring a requirement for the electoral commissioners to create three primarily rural electorates and five metropolitan area electorates, is an indication of how out of touch with rural and regional Victoria the Labor government is. It is clear that the Labor Party has only recently been able to win any confidence in some rural areas, and the seats won at the state election last year outside the metropolitan area were Ballarat and Geelong. Clearly, the Labor members of Parliament do not make any effort at all to get in touch with and deal with constituents outside those provincial cities.

Hon. Jenny Mikakos interjected.

Hon. PHILIP DAVIS — The interjection of the Honourable Jenny Mikakos is interesting. If her view that the Labor Party is in touch with rural Victoria were correct she would know how unrealistic and unsuitable it is to propose that members of this house should represent areas larger in size than the existing rural provinces. My province of Gippsland is the third largest province but it covers only 20 per cent of Victoria. It is an area of great diversity and of enormous economic significance to the state in natural resources which are a requisite for the wellbeing of the economy, but what is important about that province is its people. The people are strongly attached in a parochial way to their local communities.

Gippsland as a regional focus does not have a geographic centre, a provincial centre of critical mass, that the community identifies as being its capital. It is a diverse community with many small towns. The largest towns are typically those on the ribbon of the Princes Highway East, such as Traralgon, Sale and Bairnsdale. They are the largest cities, but their populations are in the order of 15 000 each. They are not large populations. Many towns in Gippsland have populations of fewer than 5000 people. Each of those communities expects and deserves proper and adequate representation from local upper house members. It is true that that is typically the case throughout regional Victoria as a whole. Clearly the Labor Party is not in touch with that.

How would it be physically possible for any representative of a large province almost three times the size of the current enormous rural electorates to adequately be in touch with the community? It would not be physically possible to do it. For example, it is clear that the options for reaggregating Assembly districts into new provinces in eastern Victoria would mean an area from Mallacoota to Wonthaggi to Wodonga. I thought about that recently as I was undertaking parliamentary business in my role as shadow minister. I went to Wangaratta, Wodonga, Beechworth, Mount Beauty and a few other places on one day. I left Melbourne in the morning and returned in the evening and had travelled 804 kilometres for the day. I suggest many city members, such as Mr Theophanous, would have trouble doing 800 kilometres a month! Another day I visited Healesville, Alexandra, Benalla and a few spots in between, and I travelled a total of about 600 kilometres for the day. It is usual for me to take note of the distances I travel around the state.

As a shadow minister one gets in touch with areas of the state as needed, but as a local member one must have a much more regular commitment to visiting constituents. Clearly the proposal before the house would make it physically impossible for members of this house to discharge their duties to their constituents. Not only would it be impossible to do that effectively, but the proposal would also disenfranchise those constituents by the mere fact of their not being able to access their local members. Currently there is a great burden of responsibility on members of this place to ensure they are accessible to their constituents. The eastern part of the state has upper house members with offices in Sale, Traralgon, Wonthaggi and Berwick. It is critically important in the context of this debate to understand the fundamental issue of representation.

The Honourable Jenny Mikakos said she had not heard any honest comment in the debate. The honest comment is that the only seats Labor members can win are where their factional allies put them in place. They do not have the guts to campaign on the ground and win the seats. They are trying to rort the electoral process in this place only because they cannot be bothered doing the work in large rural electorates to win them. They have given up. Had Labor members campaigned effectively and done the work in Gippsland they may have won that seat.

A 0.3 per cent margin is one I am conscious of as a result of the 1999 election, but the Labor Party did not invest the effort to try to win the seat because it is lazy. It simply wants to change the constitution to give it an easy ride to greater influence in the Parliament. Without equivocation the Labor Party will fail at the next election. It will suffer a remorseful vindication of the attitude of rural people that the Labor Party has chosen the easy option of constitutional reform to take some control of the Legislative Council. The government is not prepared to make the effort and do the hard work that is necessary.

If Mr Theophanous wants to join the debate on what is required to represent all communities he should get out on the road and visit communities around the state.

Hon. T. C. Theophanous interjected.

Hon. PHILIP DAVIS — Mr Theophanous is in charge of the government's review of school bus services. He should visit Bendoc, Bonang, Swifts Creek, Omeo, Mallacoota, Genoa and Bemm River in his program.

Hon. T. C. Theophanous — What about Cabbage Tree?

Hon. PHILIP DAVIS — I have opened a bridge at Cabbage Tree outside the home of Mr and Mrs Ingram. The bridge cost $106 000, for which the Kennett government provided the funds.

I do not believe the Labor Party is interested in rural Victoria because the evidence is that the whole of eastern Victoria from Wodonga to Wonthaggi to Mallacoota will be aggregated into one upper house seat. Anybody with a tad of credibility would be embarrassed at that notion. Members of the Labor Party clearly do not understand the impact that would have on representation.

Hon. T. C. Theophanous — There would be five members.

Hon. PHILIP DAVIS — Where would they be based? Where their factional loyalties lay. The Labor members would be based in Melbourne as they generally are now.

Members of the Labor Party do not intend to campaign to win the confidence of rural voters; they will rely on using their allies through factional arrangements to deliver the votes. They will be relying on preference deals, as they did at the last election. They did not try to win the votes themselves.

I oppose the bills. It is farcical for the Labor Party to introduce such proposals to the house. It demonstrates that it has a great deal to learn about rural Victoria. Rural Victorians will not be taken in by such proposals.

Hon. I. J. COVER (Geelong) — I shall contribute to debate on the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill. It gives me great pleasure to follow the spirited contribution of my colleague the Honourable Philip Davis and to pick up on some key aspects of his contribution as they relate to the Constitution (Proportional Representation) Bill, clause 3 of which seeks to divide the state into eight provinces, each of which is to return five members. Just as the honourable member spoke of a concern about the extent of the electorate which under the proposal may be designed for the eastern part of the state, I have a similar concern about one of the five provinces that might be drawn up for the western part of the state, which includes Geelong, the area I represent.

I say at the outset that the first and foremost reason I sought to be elected to this place was to represent Geelong — the place I come from — and to provide some sort of voice for the people of Geelong in the Parliament of Victoria. I am concerned that under this proposal Geelong may lose its voice. I do not say that I might lose my voice; I say that anyone else from Geelong who may seek to be elected to the Parliament of Victoria may lose his or her voice. Currently the electorate is clearly Geelong Province, which has two representatives in this place. Over time there has been as degree of variation in the representation provided to the people of Geelong. I trust that my representation and that of my colleague the Honourable Bill Hartigan, who was with me until last year — —

Hon. Philip Davis — One of the best members.

Hon. I. J. COVER — Whose name is probably not mentioned enough around here.

Hon. M. A. Birrell — Or loudly enough.

Hon. I. J. COVER — Or loudly enough. I recall the contribution of Bill Hartigan not only to this place but also to the people of Geelong. Under this proposal there is the prospect that Geelong could be lumped in with Ballarat, Horsham, Warrnambool, Portland and wherever else.

Hon. J. M. McQuilten — What's wrong with that?

Hon. I. J. COVER — There might not be anything wrong with that at all, Mr McQuilten. There might be a bit of Maryborough in there as well.

Hon. J. M. McQuilten — That would be excellent.

Hon. I. J. COVER — I dare say I would be happier to share a province with you, Mr McQuilten, than with the member I share it with at the moment.

Hon. Philip Davis — Is that an offer?

Hon. I. J. COVER — It is not an offer, Mr Davis, it is a statement of fact. The fact is there are still people in this house who are called by the electorates they represent — for example, the members for Geelong Province and the members for Ballarat Province. Under this proposal their representations would be diluted and could disappear because some other province may be put up as one of the eight in the state. In that case Geelong would not have the representation it currently has, and that would cause all sorts of problems for the people of Geelong in having their voice heard in the upper house.

I am the penultimate speaker — another word I have been looking forward to using for the past four and a half years; I used 'synergy' two and a half years ago — and a number of issues have already been canvassed. One of the most crucial issues that was canvassed at the outset by members on this side is the fact that the Labor Party is not committed to this legislation and is confused. Throughout the debate we heard how it first attempted to introduce a bill last November, which was later withdrawn because the Independents were not happy with it.

Hon. B. C. Boardman — Two Independents.

Hon. I. J. COVER — Two Independents were not happy with it. Then it introduced two bills, which still had a degree of confusion about them. Not only is the Labor Party not committed to the bills, I do not think it has had any success in getting the people of Victoria to support the supposed reform.

The reform of a constitution must be done properly. It is the most important instrument in the politics of a state or country, as was mentioned on the first day of the debate on the bills by Mr Furletti, who pointed out the significance of a change to a constitution. Anyone who is serious about changing a constitution should consider the republican debate that took place throughout Australia for two years in a range of forums. A convention made up of a cross-section of people from throughout the country was put together and sat for two weeks in Canberra to discuss that very issue.

Over the course of this debate on constitutional change one bill was introduced and then withdrawn before a further two bills were introduced. I am not sure how the bills will fare because they are a bit of a shandy — they have been mixed up and do not have any commitment or public support. The measures are half hearted and half baked. They do nothing but hide the real agenda of the Labor Party — that is, to abolish the upper house and get absolute power and a blank cheque to run Victoria.

I raise a point that has not been made on the other side throughout this debate — that is, that the current Victorian system was introduced by the Cain Labor government.

Hon. Philip Davis — Which government?

Hon. I. J. COVER — The Cain Labor government.

An Honourable Member — They all go quiet, don't they?

Hon. I. J. COVER — I paused there hoping to hear government members say, 'Hear, hear!', but nothing was forthcoming — there was just silence. The Cain Labor government introduced the system under which we now operate and which operates very well. It has provided stable government for the people of Victoria. But government members conveniently ignored that fact — it has not been acknowledged by any of them. Several were quick to point out that the Leader of the Opposition made some comment about constitutional change 20 years ago, but a more recent event — the introduction of the system we now operate under by the Cain Labor government — was not mentioned at all.

Some government members have accused the upper house of being just a rubber stamp. I remind honourable members of the debate on the Regional Infrastructure Development Fund late last year in the first sittings of the Bracks Labor government. Members on this side of the house quite rightly as part of the process of the upper house providing checks and balances on and scrutinising the activities of the government proposed amendments to the reporting procedures to ensure accountability of the operation of the fund. We were

attacked. I was attacked personally in the pages of the *Geelong Advertiser* for obstructing the government — that is, for not being a rubber stamp. We were being accused of being a rubber stamp, but as soon as we would not say, 'Yes, go ahead and hand out the money willy-nilly all around Victoria as you like, Mr Brumby', we were not a rubber stamp but were obstructing the government.

The government cannot have it both ways, yet this legislation is all about having a bit both ways. The government should not advance the argument about the house being a rubber stamp because all it is trying to do is make a grab for absolute power and a blank cheque. It does not need a rubber stamp for blank cheques; it can just write them out.

Another argument I have heard is that the upper house is not democratic. The Legislative Council is fair and democratic right now. It uses the same electoral system as the lower house, with a system of one vote, one value and independently drawn electoral boundaries. It is a safeguard and provides vital scrutiny of all of the government's legislation, including the state budget. The current voting system has provided stable government for decades.

As I pointed out at the outset, the proposal would cut the voice of rural Victoria, particularly the voice of people in areas such as Ballarat, Geelong and Bendigo — and, as Mr Philip Davis articulated, the people of Gippsland, whom he represents so well.

Honourable members opposite have been quick to quote Ray Cassin. As I said earlier by way of interjection, each time they do so members on this side will quote Meaghan Shaw. I will do so by way of conclusion because I have been hanging onto this article since 1 June.

Hon. T. C. Theophanous — Which year?

Hon. I. J. COVER — Since 1 June 2000. That very good piece in the *Age* is headed 'Labor four below par in upper house'. As there are five Labor members in the house, which one is above par, given that the other four are below? The heading of the article cannot be repeated often enough in the context of the conduct of this place! By way of introduction to her article, Meaghan Shaw wrote:

> The Bracks government this week resumed its push to reform the upper house. But whatever shape the Legislative Council takes in future, Labor ministers in that chamber need to lift their game immediately to stop proceedings becoming a joke.

I endorse what Meaghan Shaw said. Mindful of the time and contributions that other members wish to make, I refer to the paragraph at the end of her article:

> Before Labor reforms the Legislative Council, it needs to get its own house in order.

Those words of Meaghan Shaw could not be more appropriate.

Not only for the reasons I have mentioned but for all the reasons mentioned by members on this side of the house, I oppose both bills. The current system should continue because it has served Victoria and Victorians well. Geelong is particularly well served by the current system. I look forward to being able to continue to serve Geelong for many years to come as a member of this place under its current structure.

Hon. C. A. STRONG (Higinbotham) — I also oppose the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill. As their names suggest, the bills deal with the constitution of this state, which is not something that should be lightly played with or that a recently elected government should simply decide to change. The constitution should be ongoing; it is not some plaything of governments to change as they come in and go out of power. The constitution continues through time and should be there as a backstop to be referred to when it is needed. A good constitution need come into play only on rare occasions and therefore it is not something that should be changed lightly or at whim.

As outlined by other speakers, it is totally inappropriate that the recently elected Labor government should decide to seek to finetune the constitution of the state to suit itself. More than that, the government is seeking to significantly change the constitution of the state to suit its own purposes. It is totally inappropriate for any responsible government to seek to do that. It should realise that constitutions go on.

The Constitution (Amendment) Bill seeks to change the term of the upper house, the house of review, so that it will be not two terms of the lower house but exactly the same as the lower house. One of the key reasons for the existence of the upper house is that it provides a dampener and ensures there are less dramatic swings than might occur in the lower house. The composition of a lower house might change rapidly so the fact that the upper house runs for two terms provides an element of stability. Almost without exception upper houses, whether they be the Senate of this nation or the United States or wherever, run for two terms. One of the key rationales for having a longer term in an upper house than a lower house is to provide stability, and to act as a

brake, check and balance for a recently elected lower house that, flush with the power of success, might want to rush in and change the whole fabric of the society of a state. To seek to change the term of an upper house by reducing it to that of the lower house is ridiculous. It would remove one of the key benefits in its role of review and the provision of stability.

The Constitution (Proportional Representation) Bill seeks to also change how the members of the upper house are elected. Rather than retaining the system by which members are elected to represent a particular area and are responsible to a local constituency, it is proposed to set in place a small number of what might be called super provinces, with members elected by proportional representation. In other jurisdictions where election is by proportional representation, often there is government by minorities. Let nobody tell honourable members that proportional representation is democratic because the inevitable result is that one or two small parties or individuals hold the balance of power. Therefore the end result is an undemocratic situation in which a splinter group or an individual can set the agenda for a whole state or nation.

I urge honourable members to reject the bills and to stand behind the constitution of the state and not let this government treat the constitution of Victoria as its own plaything.

CONSTITUTION (AMENDMENT) BILL

Second reading

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of the Constitution (Amendment) Bill requires to be passed by an absolute majority. The question is that the bill be now read a second time.

House divided on motion:

Ayes, 13

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

Noes, 27

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

Pair

Darveniza, Ms
Luckins Mrs

Motion negatived.

CONSTITUTION (PROPORTIONAL REPRESENTATION) BILL

Second reading

The PRESIDENT — Order! I am of the opinion that this bill requires to be passed by an absolute majority of the whole number of the members of this house. The question is that the bill be now read a second time.

House divided on motion:

Ayes, 13

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

Noes, 28

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

Pair

Darveniza, Ms
Hall, Mr

Motion negatived.

ELECTRICITY INDUSTRY BILL

Introduction and first reading

Received from Assembly.

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

ELECTRICITY INDUSTRY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Assembly.

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

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Marine parks: establishment

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Energy and Resources with a matter that I suggest she also refer to the Minister for Environment and Conservation in another place. I refer to a newspaper article in the *Herald Sun* of yesterday under the headline 'Marine parks to ban all forms of fishing' and also to an article in today's *Age* headed 'Call for 13 marine parks off Victoria'. Both articles refer to an Environment Conservation Council report that contains a significant number of proposals for marine parks to be established in the electorate of South Eastern Province, which I have the honour of representing. There is considerable concern among recreational and lobster fishermen in San Remo, which is in the eastern zone, that the report could have serious access ramifications for them.

I ask that before taking any action the minister seek a meeting with the members of Parliament who represent the affected electorates along the coastal strip which is the subject of the report so that they can discuss with her and her colleagues the ramifications for both recreational fishermen and the lobster industry.

Karadoc Avenue–Fifteenth Street intersection, Mildura: black spot funding

Hon. B. W. BISHOP (North Western) — I ask the Minister for Energy and Resources to raise with the Minister for Transport in another place the identification by the Mildura Police and Community Consultative Committee of the Karadoc Avenue and Fifteenth Street intersection as the no. 1 black spot site in Mildura.

There is good reason for concern. There are 660 students at the Irymple Secondary College and 300 students at the Irymple Primary School, which is about 400 metres to the north of the intersection. There is no real pathway to connect the schools to a safe crossing at the traffic lights in Sandilong Avenue, which is further up Fifteenth Street. Both student groups access their schools by crossing the intersection of Karadoc Avenue and Fifteenth Street.

Traffic is heavy, with a large number of buses and cars accessing Irymple Secondary College in the mornings and afternoons. Parents have described the traffic as at times chaotic, approaching bedlam. The school traffic is in addition to the heavy traffic that uses Fifteenth Street, which is one of the main arteries into Mildura. The intersection is difficult and unsafe for students to cross.

To be fair to Vicroads, I must say it has done significant preliminary work in the area. A traffic survey has confirmed the need for a controlled intersection, and I understand a subsequent determination has been made to install traffic lights. I have also been advised that engineering drawings have been completed.

There is a real need for something to be done at the intersection. I suspect that the communication process on the identification of the black spot might be missing the mark somewhere. However, I am not quite sure of the details and I ask the Minister for Transport to provide me with an immediate briefing on that important safety issue.

Queenscliff child-care centre

Hon. E. C. CARBINES (Geelong) — I ask the Minister for Small Business to refer to the Minister for Community Services in the other place an issue of importance to families who live in the Borough of Queenscliffe, which is part of my electorate of Geelong Province.

The borough currently has one private child-care centre, which services up to 70 local families. Earlier this year the operators of the centre announced it would be closing the centre at the end of this year. The announcement caused much concern among the local Point Lonsdale and Queenscliff families, who rely on the service the centre provides.

A public meeting of parents and interested residents who use the centre was held several months ago. I was pleased to attend as the member for Geelong Province and was the only member of Parliament, state or federal, who turned up.

The meeting resolved to form a committee with a view to keeping the centre operating as a community facility. Since then the parents involved have worked long and hard to try to reach that goal. This has involved lobbying the federal government and seeking the support of the Bracks government.

I have been pleased to work closely with parent representatives, and I thank the Minister for Community Services for allowing the departmental officer from Geelong to work with the parent committee in an advisory capacity. I understand from representatives of the committee that the officer's advice has been most useful and supportive of the committee's efforts. I am pleased to advise the minister that the parent committee is now in a position to announce that it has been able to secure a lease of the current child-care centre through the federal government to replace the privately run service in the borough with a community-run service, and that announcement has been warmly received by the Point Lonsdale and Queenscliff communities.

However, for the community-run child-care service to begin from the start of 2001, the current licence needs to be transferred to the new Lonsdale children's services management committee. On behalf of the families of the Borough of Queenscliffe I therefore ask the minister to support the initiative of the community I represent and grant an exemption of the $437 transfer licence fee.

Parliament: bocce challenge

Hon. C. A. FURLETTI (Templestowe) — I extend a challenge to the Minister for Sport and Recreation and ask whether he would be willing to compete with a team of government members against a team of Liberal Party members in the inaugural parliamentary bocce challenge of the century. The president of the Bocce Federation of Australia has agreed to coordinate this major sporting event under the auspices of the federation — —

Hon. R. A. Best — How many members per team?

Hon. C. A. FURLETTI — Six per team. It has been agreed that the Veneto Club in Bulleen, which is in my electorate, should be the venue for the challenge.

Hon. M. M. Gould interjected.

Hon. C. A. FURLETTI — We are all Australians. Mr President, the Liberal Party team consists of the Leader of the Opposition in the other place, the honourable member for Portland; my colleague the Honourable Bill Forwood; the shadow Minister for Sport and Recreation, the Honourable Mr Ian Cover; the honourable member for Bulleen in the other place; Mrs Maree Luckins and me. There should be only one prerequisite in this challenge, in the spirit of amateur sport, and that is that the players in each team should have played not more than two games of bocce before today. Mr Raymond Cher, the president of the Bocce Federation of Australia, has told me he is seeking sponsorship to ensure that winners of the tournament have the right to nominate an appropriate charity as the beneficiary of the donation. The Veneto Club has set aside its bocce rink for Saturday, 18 November. The Liberal team will be there, Minister, and I ask: will the Labor Party accept the challenge?

Maribyrnong: Community Support Fund allocation

Hon. S. M. NGUYEN (Melbourne West) — I direct a matter to the attention of the Minister for Industrial Relations as the representative of the Premier in the other place. We are all aware of the adverse consequences of problem gambling. The City of Maribyrnong has the highest number of gaming machines in Victoria. I ask the minister to ask the Premier to advise what amount has been allocated from the Community Support Fund in the past year, and how much has been allocated to the community of the City of Maribyrnong.

Bendigo: healthy eating service

Hon. R. A. BEST (North Western) — I raise a matter for the attention of the Minister for Industrial Relations as the representative of the Minister for Health in the other place. The issue relates to the creation of a country-based program and facilities for people suffering from eating disorders and their families. I raised this issue on 5 September because of a study funded by the previous health minister, the Honourable Rob Knowles, to assist the Bendigo Health Care Group through Caitlan Fraser to identify a model that could provide treatment in a regional and rural setting for people suffering from eating disorders.

As you would be aware, Mr President, most of the programs for people suffering from eating disorders are conducted in the metropolitan area, and that causes dislocation for not only the sufferers but also their families.

Today I received a letter from the Minister for Health that advised:

> This government has made a commitment to improve services to people with an eating disorder and their families. Additional funding has been provided to both Monash Medical Centre and the Royal Melbourne Hospital to enhance the specialist eating disorder services they provide.

The letter further states:

> A centre of excellence for eating disorders is also to be established.

One of the concerns I have relates to the third-last paragraph of the letter, in which the minister says:

> In the process of establishing this centre of excellence, interested groups with expertise in service delivery and/or expertise in research and training such as the Bendigo Health Care Group will be invited to contribute. Consumers and carers will be key participants in the establishment and operation of the centre.
>
> The work already undertaken by Bendigo Health Care will certainly be of interest in both the establishment and the work of the centre.

Will the minister reconsider funding for a rural-based program, and can the model identified in the report *Eating Disorder Project* to provide the best treatment in rural and regional settings be funded as part of the new centre of excellence so that people from country Victoria can be treated in their regional or rural locations without having to suffer the dislocation of having to travel to Melbourne, which increases the anxiety and stress for the unfortunate sufferers and their families? Can we get a service that will increase the status of health care for country Victorians to meet that of people in the metropolitan area?

Eastern Freeway: extension

Hon. W. I. SMITH (Silvan) — I direct a matter to the attention of the Minister for Energy and Resources as the representative of the Minister for Transport in the other place. The issue relates to the government's recent announcement of the extension of the Eastern Freeway. Everyone welcomes the announcement finally made by the government. However, there is some vagueness about whether the extension will end at Maroondah Highway. It is important that it go to Maroondah Highway, because without that extension the Scoresby freeway extension will be limited in capacity.

The government said it is committed to a Scoresby freeway, and one would therefore expect the extension of the Ringwood outer east road to go to Maroondah Highway. I am not the only person suffering from the government's vagueness about what it is going to do. The community is also unaware of the government's intentions, and in the Moorabbin local paper, *The Mail*, of 17 October an article headed 'Tunnel vision falls short' states:

> But conservation groups are concerned about the lack of detail at the Ringwood end, with the government non-committal about extending the road to Maroondah Highway.

Is the government going to extend the Eastern Freeway to Maroondah Highway?

Retirement benefit scheme

Hon. R. M. HALLAM (Western) — I raise an issue with the Minister for Industrial Relations as representative of the Minister for Finance in the other place. I ask the minister to intervene to resolve a matter that has been a long-running administrative merry-go-round to gain some relief for a particular party who I think has been treated very shabbily by the Bracks government.

For 14 years Allan Hall was the European director of the Victoria Promotion Committee, located in London. Because of the circumstances of his employment he was not given access to superannuation but the government set up a retirement benefit scheme for him prior to his retirement in 1979.

Unfortunately that scheme had no indexation clause. However, successive governments have acknowledged the inequity of the absence of indexation and have made ex gratia adjustments each year. I have a letter under the signature of the Honourable R. A. Jolly dated 28 October 1985 committing to an annual review of the ex gratia payments. So each year either Allan Hall, or since his death the representative of his widow, has applied for and been granted an ex gratia payment to maintain the value of the original entitlement. Unfortunately the most recent application from the representative, which was dated March of this year, was addressed to me as the Minister for Finance. I say 'unfortunately' because I am no longer the Minister for Finance and it has cost the representative. Let me explain.

I sent the letter on to the new Minister for Finance, hoping that that would fix the problem. However, since then a saga has unfolded and at last count no fewer than 10 messages have been exchanged between my electorate office and the office of the representative in Great Britain. There have also been a number of letters between the representative in Great Britain and the Minister for Finance, and indeed there have been

several letters from my office to the Minister for Finance. One of them is worth repeating, in part.

On 19 September I said in correspondence to the Minister for Finance, Ms Kosky:

> I find it embarrassing that such a routine request should go unresolved — worse still, unanswered — and I would request that the matter be given your urgent attention.

Hon. R. A. Best — No answer?

Hon. R. M. HALLAM — All to no avail, Mr Best. I understand that as of tonight the representative has had no response from Minister Kosky, and I am at a loss to understand why there should be no response.

Hon. I. J. Cover — That is more than a month ago.

Hon. R. M. HALLAM — I have since had a letter, Mr Cover. I hope it is not to do with the number of dollars involved, because the amount is modest. I hope it is not to do with the entitlement, because I have in my records recognition of the entitlement from the Honourables Rob Jolly, David White, Tom Roper, Ian Smith, Alan Stockdale and Roger Hallam. I think I have done all I can, but I am personally embarrassed at such shoddy treatment by the Victorian government.

I ask the minister to intervene to make the ex gratia payment and to establish a process by which this embarrassment is overcome in the future, but at least to extend the representative the courtesy of a response.

Roads: suburban speed limits

Hon. G. B. ASHMAN (Koonung) — I direct to the Minister for Energy and Resources a matter for the attention of the Minister for Transport. I note that the government is intending to introduce a 50-kilometre-an-hour speed limit for residential areas. I also note with some concern, and it has been raised with me by a number of constituents, that a number of municipalities are seeking to impose a blanket 50-kilometre-an-hour speed limit across residential areas, which includes feeder and connecting roads.

Although both Knox and Whitehorse councils have indicated a preference for the blanket speed limit, it has been put to me, and I support the argument, that 50 kilometres an hour is an inappropriate speed limit for a number of connector roads. By way of example I refer to Albert Avenue in Boronia, Harold Street in Wantirna, Surrey Road in Blackburn and Templeton Road in Wantirna. All are wide roads that collect traffic from major residential areas. They carry volumes in excess of 10 000 vehicles per day and are not small residential streets.

I ask that when the minister draws up the guidelines for the introduction of the 50-kilometre-an-hour limit he take into account the usage of some of those collector roads and what the average motorist would see as an appropriate speed limit for that road, and that he post on those roads the limit that is generally accepted by the community. For the roads I have named — there are hundreds more around Melbourne — I believe a more appropriate limit is 60 kilometres an hour.

Berwick Primary School

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise with the Minister for Sport and Recreation as the representative of the Minister for Education the siting of the new Berwick Primary School. Late in the previous government's term in office a decision was made to build a new primary school at Berwick because the existing school had outgrown its site in Berwick Village. The previous government chose a site in the Edrington Park estate but as a consequence of the change of government the site was abandoned and a new site was chosen, next to Haileybury College on the Princes Highway at Berwick.

As honourable members would appreciate, the Princes Highway at Berwick is a busy road and a number of traffic and safety problems connected with it have generated much debate and concern in the local community. I am in possession of a letter dated 28 July, a paragraph of which states:

> One prime example of the need to produce well-planned systems is associated with the relocation of the Berwick Primary School, now to be relocated on the former Casey estate, parents and children will be required daily to negotiate the dangers of the Princes Highway.

The letter continues:

> Traffic movements at the intersection of Manuka Road and Princes Highway are currently chaotic, morning and afternoon, without any relocation of the Berwick Primary School.

It goes on to talk of other issues. That letter is typical of community concerns in the Berwick and the local area regarding the relocation of the school to such an inappropriate site on the Princes Highway. What is not typical about that letter is its author, one Robert Hanson, who is the honorary president of the Berwick branch of the Australian Labor Party. It is clear that Mr Hanson, as a member and branch president of the Labor Party, is not getting satisfaction from the Labor Party organisation, and neither is the Berwick community.

I therefore ask that the Minister for Education take into consideration the concerns of the Berwick community

about the relocation of the Berwick Primary School. I ask if the minister will not consider the concerns of the Berwick community that she at least consider the concerns of the Labor Party and its local branch and try to find a more appropriate site for the Berwick Primary School.

Industrial relations: task force

Hon. W. R. BAXTER (North Eastern) — I draw the attention of the Minister for Industrial Relations to the waste, inefficiency and incompetence emanating from her office. The minister is very proud of the independent report of the Victorian industrial relations task force and has referred to it several times at question time and again today. I was pleased to receive a copy of the report courtesy of the minister's office at the end of September for my use, and I appreciated that. However, much to my surprise and as time went on increasing concern, I received a further copy on 13 October, another copy on 16 October, two copies in separate envelopes on 17 October and four more in separate envelopes on 18 October. This seems to me to be a totally unnecessary waste of the taxpayers' resources.

I seek an assurance from the minister that this will not happen again, because today I received from the minister a document entitled *Voices from the workplace*, which is a selection of submissions to the task force. I advise the minister that I appreciate receiving this copy, but I require only one copy and would like an assurance that I will not get multiple copies over the next few weeks.

School buses: supervisors

Hon. ANDREW BRIDESON (Waverley) — I raise with the Minister for Sport and Recreation a matter for the attention of the Minister for Education. Perhaps the message will also be passed on to the executive officer of the school bus review, which I think the Honourable Theo Theophanous has something to do with.

On 29 August I raised with the Minister for Police and Emergency Services police checks of school bus supervisors. I received a response from the minister and it is he who is encouraging me to take the issue to the Minister for Education. According to the Minister for Police and Emergency Services, the school bus review will pick up this issue. I urge the Minister for Education to ensure that school bus supervisors undergo police checks.

Hon. T. C. Theophanous — What are you quoting from?

Hon. ANDREW BRIDESON — I am quoting from a letter dated 6 October I received from the Minister for Police and Emergency Services.

Drugs: Life Education program

Hon. A. P. OLEXANDER (Silvan) — I raise a matter with the Minister for Sport and Recreation, who is the representative in this house of the Minister for Education. It concerns me that I am forced to raise again with the government an example of its lack of interest in the welfare of children in the outer eastern region of Melbourne.

The minister would be well aware that Life Education units throughout the state spread an important anti-drug message to schoolchildren, teaching them about the dangers of drugs and alcohol and the effects on their bodies. The program is aimed at primary school-age children, and several units operate and have operated over the past four years in my electorate and that of my colleague the Honourable Wendy Smith.

The program has been running statewide for about 15 years and Life Education committees and educators do a fine job in spreading the anti-drug message to young people in Victoria. Last year in the City of Maroondah 80 schools were visited and some 18 000 primary school students heard the anti-drug message. In Maroondah the cost of the program was more than $85 000 to run three educators and two vans, and the Life Education program received $19 600 from the state government. All other funds for the program are raised by parents and communities and the fee for service that the Life Education units charge.

In the City of Knox, part of which is in Silvan Province, some 4000 students were visited in 10 Knox primary schools. In total, the government provides $400 000 per annum for this program, which is about 20 per cent of the total cost of running it each year. It is interesting to note that about a month ago on the Neil Mitchell program Premier Bracks said that he just could not imagine a situation where we would not fund the program in the future. However, it appears that the Minister for Education certainly does not share the imagination of the Premier because her message to local newspapers in my electorate has been that no decision has been made on funding Life Education programs beyond the end of this year.

The situation is now becoming critical, as educators are leaving local committees — there are some 27 in Victoria, including at Maroondah and Knox — because

of funding uncertainty that will jeopardise future programs in my electorate and the electorates of many honourable members. I ask the minister to provide clear statements that those programs will continue and be funded in future years.

White-tailed spiders

Hon. N. B. LUCAS (Eumemmerring) — I refer the Leader of the Government, as the representative in this house of the Minister for Health, to the excellent work of the Australian Venom Research Unit at the University of Melbourne. This research unit deserves its high reputation as a result of the excellent work of its former director, Professor Struan Sutherland, and the current director, Dr Ken Winkel, and his deputy, Dr Gabrielle Hawdon. I refer particularly to the work that the unit has been doing on the white-tailed spider, which is a common spider around Victoria. Not only do bites from this spider cause forms of skin ulceration, but in some cases there are reported amputations as a result of serious necrotic skin lesions.

The work the unit is doing in this area is worthy of praise. The problem is funding. I note in a letter I received from the unit, as a result of my initiating some correspondence, that it is currently researching this issue with the aim of understanding the process of necrosis in spider bite victims in Australia. This work should be supported. Accordingly, I ask the Minister for Health to initiate steps to obtain further funding for the work of the Australian Venom Research Unit in researching necrotising arachnidism and the venom of the white-tailed spider.

Brighton Bowling and Tennis Club

Hon. C. A. STRONG (Higinbotham) — I refer the Minister for Sport and Recreation, as the representative in this house of the Minister for Gaming, to the Brighton Bowling and Tennis Club and the question of five gaming machines that were recently removed from that club.

The Brighton Bowling and Tennis Club was established in 1880. It owns property in Brighton and conducts bowls and tennis activities, as its name suggests. It currently has about 400 members. In March 1994, the club contracted with Tabcorp for five gaming machines and, although that is only a small number — it is a relatively small club — the gaming machines nevertheless brought into the club about $27 000 a year, which was an important element of the funding and the running of a club that provides a valuable service in the local area.

Recently those five machines were withdrawn by Tabcorp to go to more profitable areas, which raises an important point. Although $27 000, the net result coming to the club from the machines, may not seem a lot, it will be extremely difficult if the club has to find that amount from its own resources. I ask the minister to examine this issue because it is a question not just for this particular club but for many small clubs whose viability can be seriously affected by the loss of that income. In balancing the number of gaming machines across the state there is a need to pay due account to this issue. I ask the minister to urgently review the issue.

Frankston Hospital

Hon. B. C. BOARDMAN (Chelsea) — I refer the Leader of the Government, as the representative in this house of the Minister for Health, to a letter that appeared in the *Frankston-Hastings Independent* of today's date, written by Matt Viney, the honourable member for Frankston East in the other place. The first paragraph of the letter headed 'Hospital truth' states:

> The Liberal members of state Parliament, Cameron Boardman and Andrea McCall, ask that I tell the truth on Frankston Hospital. I am happy to do so as it is about time the community got the facts about Frankston Hospital rather than political rhetoric.

I am happy that he is willing to state the facts because he says in his letter that:

> People are right when they say that the situation at Frankston Hospital is not fixed. We are doing all we can but it takes time to construct the buildings needed to accommodate these beds. We are building as quickly as we can but it will be about another year before extra beds are in place and we will finally see dramatic improvements.

Mr Viney says it will be about another year before Frankston Hospital sees more beds. However, on 11 April a media release from the Minister for Health referred to the winter emergency bed allocation. In this announcement on behalf of the Minister for Health, supposedly there would be 25 new beds at Frankston. Not only did the minister announce that there were to be 25 new beds at Frankston, but the media release goes on to state:

> After the winter period, the additional resources will remain in the system.

Anybody would be confused by Mr Viney's accusations. He says in the *Frankston-Hastings Independent* that there are no extra beds at the Frankston Hospital and the residents of Frankston will have to wait another year for the extra beds. Who is telling the truth and what is the real situation? Will the

minister outline when the 25 extra beds at Frankston were allocated and, if they were allocated, whether they remain in the system?

Planning: VCAT appeals

Hon. P. A. KATSAMBANIS (Monash) — I ask the Minister assisting the Minister for Planning, who is the representative in this place of the Minister for Planning, to direct to him the matter of planning appeals heard by the Victorian Civil and Administrative Tribunal. When a planning permit application has been rejected by a council it can be appealed to the VCAT.

However, in many instances when developers take planning permit applications that have been rejected at council level to the VCAT they often produce new plans that are substantially different from the original plans submitted. Those new plans are dealt with by the VCAT as though new applications were being made and the tribunal has to act as a de facto council. Those plans do not go through the proper scrutiny of advertising and public consultation processes that occurs with the plans originally submitted to council. Significant concern and exasperation have been expressed in my province and in the City of Port Phillip, where developers have gone to the VCAT and produced what they call their back-pocket plans. They are not the plans submitted to council and not the plans the community has seen.

Many local residents and local councils spend significant time and funds preparing cases for the VCAT only to find that the plans for which they have prepared have radically changed. Honourable members may be aware that it was Liberal Party policy at the last state election that had it been returned to government it would have changed that process so that when developers went to the VCAT with substantially different applications, those applications would be sent back to councils for rehearing rather than being heard immediately at the tribunal.

The Labor Party, with Minister Thwaites in charge of the planning portfolio on a part-time basis, has been in power for 12 months and there has been no change. Despite the fact that the process of backdoor plans being presented at the VCAT is having an impact in his electorate, the electorate we share, the minister has done nothing. I seek from the minister an outline of what he will do to alleviate this problem. In what time frame will he act to correct the anomaly?

Bass Coast: sewerage dispute

Hon. K. M. SMITH (South Eastern) — I direct a matter to the attention of the Minister for Energy and Resources, representing the Minister for Local Government in another place. It concerns an issue raised in the house on 6 September about the extortion of $5000 by one of the conservation groups, the South Gippsland Conservation Society, against a builder. The minister quickly responded to the issue.

Hon. J. M. Madden — On a point of order, Mr President, the word ‘extortion’, whatever the issue, is overstating what the incident may be. The honourable member is drawing conclusions when seeking an answer from the minister.

The PRESIDENT — Order! The honourable member did not refer to anyone by name. He spoke about one of the conservation groups. There is no precedent for me to rule that out of order. I take the point that honourable members should not use expressions like that lightly. They should do so when they feel there is substance to the allegation.

Hon. K. M. SMITH — I used the word ‘extortion’ because that is what it was. It is a serious issue. The council involvement in this extortion bid and the involvement of the South Gippsland Conservation Society — —

Hon. M. M. Gould — On a point of order, Mr President, the honourable member is saying that the South Gippsland Conservation Society acted improperly and he used the word ‘extortion’. If that is the case I have concern about the honourable member stating that fact without justifying it and without having any facts.

The PRESIDENT — Order! That is a repeat of the point of order raised by the Minister for Sport and Recreation.

Hon. T. C. Theophanous — It is not quite; he named them.

The PRESIDENT — Order! He also named them earlier on. It is my duty to protect certain classes of people, such as members of this house, members of the other place and members of the judiciary — and that is about it. If a member is stating that someone is a crook or someone is guilty of a particular crime the member should be careful and should not do so lightly. Ultimately a member has to be accountable to this chamber. If a member makes a statement without substance, the forms of the house can be used against the member. I cannot take it any further because there is

no precedent. The honourable member should choose his words carefully and come to the point of the matter.

Hon. T. C. Theophanous — On the point of order, Mr President, the reason I wish to take this further is that I think you should clarify the ruling you have just made. My understanding is that extortion is a criminal offence. It was a different matter when Mr Smith said it was a conservation organisation, but he later named that organisation. The point is that he is intending to continue not only to name the organisation but to claim something about that organisation that involves a criminal activity. I ask that you, Mr President, clarify whether it is appropriate in this house for accusations of a criminal nature to be made against persons or organisations, so that all honourable members know there is a level playing field.

The PRESIDENT — Order! I am surprised that the honourable member is raising this matter, given the amount of time he has spent in this house. The whole concept of parliamentary privilege, as contained in the bill of rights, is to enable members of Parliament to raise serious matters in an environment where they can do so without being intimidated by the threat of legal action, and so on.

Hon. T. C. Theophanous — We are aware of that.

The PRESIDENT — Order! I am not sure of the point the honourable member is making. I have given two answers to it. I cannot see how anything the member said adds to it. The Honourable Ken Smith, on the issue.

Hon. K. M. SMITH — I am more than happy to do that, Mr President. My concern is about a letter that was addressed to me by the Minister for Local Government dated 18 October in response to the matter I raised, which I received on 20 October. The minister said that the council was cleared but he did not say that the conservation group had been cleared of anything. What was of most concern to me was that when he sent two of his investigators out they did not bother to speak to me about the issue I raised. That would have been a starting point.

The council received a copy of the letter addressed to me on 18 October, the day it was posted, and it was read out at a closed council meeting. The honourable member for Gippsland West in the other place, Susan Davies, issued a press release on 20 October, the day I received the letter, and sent it to the local newspapers at 9.27 a.m., before I received the letter that was personally addressed to me. I ask you, Minister, to ask the minister why I was not spoken to about the issue. Why did the council have the right to a copy of the letter before I did? How did Susan Davies get hold of a copy of the minister's letter and have time to write a press release and have it distributed, giving me a nice old kicking around, I must say? I would like to know how she got all those things. Is she just protecting her friend the mayor and the conservation group she is involved in? I want some answers in relation to the matter.

Blackburn Lake Primary School

Hon. B. N. ATKINSON (Koonung) — I raise an issue for the attention of the Minister for Energy and Resources. One of the schools in my electorate, the Blackburn Lake Primary School, was damaged by fire just prior to the last state election. Undertakings were given by the then Minister for Education, Phil Gude, to replace that school within a short time.

The school community has had a lot of comments back from education bureaucrats, from the minister and from the local member in another place, Tony Robinson, in regard to that — —

Hon. J. M. Madden — Is this on education?

Hon. B. N. ATKINSON — Can you let me decide what issue I am talking about?

The PRESIDENT — Order! You should have done it earlier.

Opposition Members — He did!

Hon. B. N. ATKINSON — I certainly did. I referred the matter to the attention of the Minister for Energy and Resources.

The PRESIDENT — Order! Thank you. Mr Atkinson, to continue.

Hon. B. N. ATKINSON — The Minister for Education has indicated to the school, as has the honourable member for Mitcham in another place, Tony Robinson, that there have been all sorts of delays associated with why the school has not been able to be rebuilt subsequent to the fire damage in what I would regard as a reasonable time frame. In fact, some 12 months after the fire the school is yet to be rebuilt and there are no prospects of work starting until next year.

As a result of the negligence of the Minister for Education an opportunity has arisen for the minister in this place to explore a new initiative in partnership with the school that I think would be of significant benefit to

Victoria, and certainly to the education system — that is, to look at incorporating solar energy collection in the rebuilding of the school to offset its energy consumption.

The Blackburn Lake Primary School is in an area in which there is a significant interest in conservation. Many people are committed to conservation causes, and the school is keen to establish itself as a pilot school for an energy conservation project. I suggest that this would provide a significant opportunity for the minister to test what energy reductions might be achieved in schools with a view to meeting some of Victoria's commitments to the greenhouse strategy and other public policies.

Bank: closures

Hon. D. McL. DAVIS (East Yarra) — I raise for the attention of the Minister for Small Business a matter of great concern to small business operators in East Yarra Province and throughout Victoria — that is, the growing number of bank closures.

The minister will undoubtedly be aware, as are all honourable members, of the trend to electronic banking. However, it is not always appropriate or financially suitable for many small businesses to do their banking that way, especially with cheque deposits, cash withdrawals, and so forth. In addition, many elderly customers of small businesses are not well suited to using electronic banking. Branch networks are still important, and in the context of small business in particular.

During the last election campaign the Labor Party issued a banking policy that dealt the state government into the issue of banks, bank closures and so forth. Its policy states:

> Without government action, the devastating consequences of bank closures will continue …

The policy then outlined a specific series of actions. I note that many of the Commonwealth Bank branches that are closing relate back to the old State Bank branches and to the merger of the two banks. It is interesting to note that in 1990 there were 1300 State Bank Victoria or Commonwealth Bank branches in Victoria and in July this year there were fewer than 334 Commonwealth Bank branches.

In my electorate of East Yarra a number of branches have been closed and other closures have been recently announced — namely, of the Surrey Hills and the Ashwood branches. I note that this is a matter of great significance to local small businesses. I also note that the Bendigo Bank in both country and city areas has offered a useful alternative in the form of community banks.

Hon. J. M. McQuilten interjected.

Hon. D. McL. DAVIS — I note Mr McQuilten's interjection that he made a statement to the local paper about the Beaufort bank closure. He is reported in a local paper as saying:

> Unfortunately there is nothing the state government can do …

That is in light of the policy Labor put out before the last state election. My question is: does the Minister for Small Business agree with her colleague John McQuilten that there is nothing the state government can do? If she does not agree with Mr McQuilten's position and seeks to absolve the government of the responsibility it accepted in its own policy before the last state election, what action will she take to prevent the devastating consequences?

Purple Octopus Management

Hon. J. W. G. ROSS (Higinbotham) — I raise for the attention of the Minister for Youth Affairs the particular experience of John and Desiree Zee, who are constituents of mine and directors of Purple Octopus Management, which is a youth entertainment management and promotions company in Moorabbin.

In August they were able to present talent at the Popkomm music conferences held in Cologne, Germany, which was attended by something like 16 000 international music representatives. They have also given presentations at Halle and Cannes. Purple Octopus Management was able to obtain funding of around $30 000 from the South Australian arts council and $20 000 from the Australia Council. They applied to Arts Victoria for support, but were unsuccessful. As a result, they mortgaged their house and were able to cover the costs of showcasing young popular music talent overseas and attempting to create a viable industry.

I raise the issue concerning my constituents as an example of a far more general issue. Arts Victoria funding is predominantly of a much greater magnitude and is mainly soaked up by ballet, classical music and art galleries. Honourable members would be aware of the great pride that can be generated as a nation as a result of pop festivals such as those held as preliminary events to the Olympic Games. I think there is a need to facilitate that sort of activity.

I suggest that grants of the order of $100 000 from the minister's portfolio would be an appropriate means to facilitate such activities. It was a great disappointment that a viable organisation was unable to get any funding whatsoever from its home state. I am concerned that valuable talent is being poached by other jurisdictions. Will the minister use his good offices to examine the problem to see whether there is any way possible to provide grants of a small number but of sufficient magnitude to encourage the popular music industry in Victoria?

Liquor: licences

Hon. BILL FORWOOD (Templestowe) — I raise a matter for the attention of the Minister for Small Business. I understand that currently the Director of Liquor Licensing is considering the transfer of a liquor licence for a premises at 195 King Street, Melbourne, which contains in it sexually explicit entertaining conditions. I further understand that at a hearing in late September at the Victorian Civil and Administrative Tribunal the superintendent of police for the region, Tony Warren, said in evidence:

> I have … been concerned that sexually explicit licensing conditions have been included into the 'on premises' licences without police or public consultation. The inclusion of these conditions has not given the public the ability to address their concerns about the possible detrimental effect that another venue of this type could have …

I understand the premises are quite close to the Victoria University of Technology campus in King Street. I ask the minister to investigate whether it is appropriate for a liquor licence with those conditions to be issued in that area.

Diet pills

Hon. ANDREA COOTE (Monash) — I refer the Minister for Consumer Affairs to an article in the *Herald Sun* of 10 October headed 'Warning on diet claims', which states:

> Authorities have been accused of turning a blind eye to dubious diet pills.
>
> Dieters were wasting millions of dollars a year popping unproved over-the-counter products, the Australian Consumers Association claims.
>
> Dozens of slimming tablets, capsules and powders were able to be sold through … pharmacies, health food stores and mail order despite scant scientific credibility …

In the Labor Party's election promises there is a comment about dietary disorders and research into the matter. I am aware that the minister has spoken about women's body image and slimming, advertising, et cetera.

In my electorate hundreds of young women are subject to the eating disorders Mr Best referred to earlier. I am concerned in particular about bulimia and anorexia among young women who can buy diet pills over the counter, without even having to see a doctor. I am very concerned about the fact that the pills are so readily available. What action is the minister taking to prevent the tablets being so readily obtainable across the counter?

Industrial relations: reforms

Hon. M. A. BIRRELL (East Yarra) — The matter I raise for the attention of the Minister for Industrial Relations relates to the economic impact study the government belatedly commissioned after the allegedly independent industrial relations task force tabled its controversial recommendations to re-regulate the industrial relations system and help the unions in their plans to unionise small business.

There is obviously a great deal of concern among the business community, let alone ordinary Victorians, about the damaging economic impact of the government's proposals and therefore a keen interest in the carrying out of a genuine economic impact study that analyses the impact of the cost on both small and other businesses and the detrimental effect it would have on employment growth.

Early in September, in a response to a matter I raised previously, the minister said that she signed off with her department the brief for the tender for an economic impact statement on the day the government received the task force report. Given that there was a tender and it was not like the previous consultant's report, which was done without a tender, and that the minister alleges that the report was completed in just a matter of days or perhaps weeks, can the minister indicate to the house how many firms or individuals tendered in response to the request for tender and when the tender actually let — in other words, on what date was the successful organisation advised that it could do the project?

As a result of getting that information it can be worked out whether there was an actual tender, how many applied for it, who the winner was and when that winner was told that he or she had won.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Sang Nguyen raised with me for referral to the Premier the amount of

money that had been paid from the Community Support Fund, in particular to the City of Maribyrnong. I will pass that on to the Premier, who will respond to it in the usual manner.

The Honourable Ron Best raised for referral to the Minister for Health a request for reconsideration of a decision about the funding of country-based facilities to address eating disorders. I will pass that on to the minister and ask him to respond in the usual manner.

The Honourable Roger Hallam raised for the attention of the Minister for Finance a matter relating to the late Allan Halls and ex gratia payments and superannuation. I will pass that on to the minister and ask her to respond.

The Honourable Bill Baxter raised with me the industrial relations task force report that I circulated to all members of Parliament and the fact that I requested that further copies be circulated to members of Parliament on the basis that a number of them had been in touch with me to say that constituents were interested in the document. I asked that further copies be sent to members of Parliament so that they could forward them to their constituents. Tomorrow I am meeting with a delegation to be led by a member of the opposition in the other place about that very issue. Given that he was involved in a government that had to pulp glossy reports and now talks about waste, I point out that the report is not — —

Hon. B. C. Boardman — A couple of Labor members sent it to their union mates, so you have to print more.

Hon. M. M. GOULD — It is a member of the opposition in another place — the honourable member for Knox. Tomorrow I am meeting a deputation of his constituents.

The Honourable Neil Lucas raised for the Minister for Health a matter involving the Australian venom research unit at the University of Melbourne. I will raise that with the minister and ask him to respond in the usual manner.

The Honourable Cameron Boardman raised a matter for the Minister for Health, and I will ask him to respond to it in the usual manner.

The Honourable Mark Birrell asked about specific details of the letting of a tender by the department. I do not have the exact details with me. I am happy to respond to him tomorrow with the information he has requested.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Ron Bowden requested that the Minister for Environment and Conservation take no action in response to the Environment Conservation Council proposals on marine parks prior to receiving representations from anglers and rock lobster fishers in his electorate. That is a request I will pass on to the minister, along with I am sure many more to come.

The Honourable Barry Bishop requested the Minister for Transport to provide briefings on the matter of action to achieve a controlled intersection at the junction of Fifteenth Street and Karadoc Avenue, Mildura. I will refer that matter to the Minister for Transport.

The Honourable Wendy Smith requested the Minister for Transport to clarify whether the proposed extension to the Eastern Freeway will connect to the Maroondah Highway. That is a matter I will refer to the minister.

The Honourable Gerald Ashman requested the Minister for Transport to take into account the appropriate speed limits for feeder roads when he draws up guidelines for the introduction of 50-kilometre speed limits. That is a matter I will refer to the minister.

The Honourable Ken Smith requested the Minister for Local Government to respond to a series of questions. That is a matter I will refer to the minister.

The Honourable Bruce Atkinson asked that I explore with the Minister for Education the potential for incorporating energy efficiency and solar energy features in the rebuilding of the fire-damaged Blackburn Lake Primary School. I undertake to investigate those opportunities.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Elaine Carbines raised for the attention of the Minister for Community Services the closure of a private child-care centre in the Borough of Queenscliffe that had 70 places. The parents wish to keep the centre open as a community centre. They have obtained funding for the project and ask that the minister assist in granting an exemption for the licence transfer fee.

The Honourable David Davis referred to bank branch closures. They are not relevant to my function as the Minister for Small Business, but minimum bank services and standards were raised by the New South Wales government, with the support of the Victorian government, at a ministerial council meeting of ministers for consumer affairs. Concerns have been raised about branch closures, including the lack of

consultation with communities and the need for mechanisms to ensure that communities have access to traditional banking services. The government is conscious of the need to ensure such services are available.

Banking issues are a federal matter, so I hope the honourable member will join with the government in asking his federal colleagues to support minimum banking standards so that communities are consulted and receive adequate assistance given the uniqueness and importance of banking services.

The Honourable Bill Forwood said that the Director of Liquor Licensing had issued a licence that enabled sexually explicit entertainment to take place at a certain facility. The honourable member said that the Victorian Civil and Administrative Tribunal had questioned whether there had been community consultation. The Director of Liquor Licensing is an independent statutory appointee. I will follow up the issue and find out what occurred. I will ensure that the director is informed, and I would like to be informed, myself.

The Honourable Andrea Coote referred to an article on 10 October about diet formulas and diet pills being available over the counter in retail shops. Diet pills and formulas are covered by drug legislation. The government constantly advises members of the public to be careful about what they purchase or consume. It is important that diet pills achieve the purpose for which they are sold.

The issue is about more than just the availability of diet formulas, cocktails or biscuits supposedly used for diet purposes. It is also about self-esteem, which is so important to young people. This is a serious issue that is covered by a range of portfolios. The government is conscious of the need to ensure that people are careful and that they check products before purchasing them. It is similar to the purchase of beauty creams, the makers of which tell us that the wrinkles we have today will be gone in seven days. I am not sure that any of us believe that!

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Carlo Furletti referred to the inaugural parliamentary bocce challenge at the Veneto Club. I am always happy to take up a challenge, and I believe a parliamentary colleague in the other place, the honourable member for Coburg, is organising a team. I recommend to my colleagues that any hospitality the Veneto Club offers be taken after the proceedings, because the balls are weighty and I want to make sure our aim is good. I will have to check my hectic schedule to see whether I am available, but there is something about the challenge that appeals to me.

The Honourable Gordon Rich-Phillips directed to the attention of the Minister for Education the location of the new Berwick Primary School. I will refer the matter to the minister in the other place.

The Honourable Andrew Brideson raised for the attention of the Minister for Education in another place police checks for school bus supervisors. I will refer that matter to the minister.

The Honourable Andrew Olexander also raised for the attention of the Minister for Education funding for life education units. I will refer that matter to the minister.

The Honourable Chris Strong raised for the attention of the Minister for Gaming in another place the withdrawal by Tabcorp of five poker machines from the Brighton Bowling and Tennis Club. I will refer that matter to the minister.

The Honourable Peter Katsambanis referred to the Minister for Planning in another place issues raised at VCAT hearings, including so-called back-pocket plans. I will refer that matter to the minister.

The Honourable John Ross raised for my attention grants for entrepreneurship in the popular music industry, including access to potential funding. The Office for Youth is currently working on a long-term strategy for recreational and developmental opportunities for young people. I thank the honourable member for raising the issue because there is the potential for links with associated portfolios as well as opportunities to develop entrepreneurship in the music industry.

Motion agreed to.

House adjourned 11.28 p.m.