PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

8 October 2002

(extract from Book 2)

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Temporary Chairmen of Committees: Ms Barker, Ms Davies, Mr Jasper, Mr Kilgour, Mr Loney, Mr Lupton, Mr Nardella, Mrs Peulich, Mr Phillips, Mr Plowman, Mr Richardson, Mr Savage, Mr Seitz

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The Hon. S. P. BRACKS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr R. K. B. DOYLE (from 20 August 2002)
The Hon. D. V. NAPTHINE (to 20 August 2002)

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. P. N. HONEYWOOD (from 20 August 2002)
The Hon. LOUISE ASHER (to 20 August 2002)

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Mr P. J. RYAN

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Mr B. E. H. STEGGALL

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Burke, Ms Leonie Therese	Prahran	LP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
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Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maxfield, Mr Ian John	Narracan	ALP
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Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

CONTENTS

TUESDAY, 8 OCTOBER 2002

Tuesday, 8 October 2002

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.04 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Superannuation: public sector

Mr CLARK (Box Hill) — My question is addressed to the Minister for Finance. Have the unfunded liabilities of Victorian public sector superannuation funds increased as a result of falls in Australian and international share prices since 30 June this year, and if so, by how much?

Mr LENDERS (Minister for Finance) — As I heard it, the honourable member for Box Hill asked a question as to the performance of the state superannuation funds since 30 June. As the honourable member would know, the Treasurer has already reported on performance until 30 June. We certainly get, as I understand it, quarterly reports on the exact returns. The first quarter's has not come, but obviously those returns will reflect equities as they apply in the government sector, as they apply in the private sector and as they apply internationally.

Drought: government assistance

Mr RYAN (Leader of the National Party) — Given that new exceptional circumstances funding arrangements proposed by the federal government and agreed to in principle by the federal agriculture minister would give the state a greater say in drought relief applications, boost overall assistance to farmers and rural communities and increase the level of commonwealth and state contribution, will the Premier explain why his government has refused to support those new arrangements?

Mr BRACKS (Premier) — I thank the Leader of the National Party for his question. I also thank the National Party for its considered approach to the recent drought and its comments which supported the cash grants that have now been introduced in Victoria — as a follow-up, of course, to the emergency measures we released earlier on.

In relation to exceptional circumstances, the government is now preparing a case and a submission which will go to the federal government either later this week or early next week for exceptional circumstances in the 22 municipalities which were identified as having severe drought conditions and therefore qualifying for state assistance — and the $27.7 million package for cash grants in particular — for risk management and long-term sustainability of farms.

As to the matter of the formula which is proposed to be changed by the federal agriculture minister, Mr Truss, we are happy to negotiate and discuss that with him, as are other jurisdictions, but I think there is a much more urgent matter — that is, if you look around Australia you see that New South Wales, Queensland and Victoria have each provided assistance before those exceptional circumstances arrangements have been put in place.

Could I pose this question to the house: how much assistance has been given to drought from the federal government? The answer is zero, absolutely zero! I have written to the Prime Minister, and we will prepare our case. I would urge the Leader of the National Party — —

Honourable members interjecting.

The SPEAKER — Order! I ask the house to quieten down, particularly the honourable member for Mornington.

Mr BRACKS — I would urge the federal government to consider very carefully the submission which will be provided by the state for exceptional circumstances. Whilst I welcomed earlier on the support from the National Party for the cash grants and the proposals we had, that is in great distinction to the policy — or so-called policy — of the Liberal Party, which is actually recommending in the policy from the shadow minister — and these are the words — that the New South Wales-type transport studies be used in Victoria. That is what it is proposing — those things that have been rejected by farmers as putting up prices. Those things that are not called for by the Victorian Farmers Federation and the farm community are the very things that members of the Liberal Party are now calling for. They are wrong on that, and we are right to pick the cash grants, as every other agriculture minister has said.

Melbourne 2030 strategy

Mrs MADDIGAN (Essendon) — Will the Premier advise the house why the government's metropolitan strategy is so necessary and how it will make Melbourne, already the world's most livable city, an even better place to live?

Mr BRACKS (Premier) — I thank the honourable member for Essendon for her question. I am very pleased that today, with the Minister for Planning, the Deputy Premier and the Minister for Transport, we

released Melbourne 2030, the metropolitan strategy for Melbourne. It is a plan not just for Melbourne but for Melbourne and the regions and also the connections between Melbourne and the regions.

As the honourable member for Essendon quite rightly said, Melbourne is the most livable city in the world. It has been rated as such, and that was confirmed in a recent edition of the *Economist*, which surveyed expatriates on their preference for cities around the world. It again rated Melbourne as the most livable city in the world — for a second time.

This metropolitan strategy is all about ensuring that Melbourne remains the most livable city in the world in the years to come. Just as 30 years ago a former Premier, Sir Rupert Hamer, had the vision and foresight to set aside green wedges and to protect the shape and size of the city, so 30 years later we will very soon be bringing into the house important legislation to ensure that those green wedges are protected in the future as well. They will be protected for farming, protected for open space and protecting the flight paths of the water catchments — the very things we need to plan the city for the future.

This is all about ensuring that we have a more compact city and a city that is integrated with the regions. It will identify within it those growth areas which can take sustainable growth in Melbourne itself and the growth areas in both the regions themselves and the corridors.

I want to congratulate the Minister for Planning on her work. The strategy has been roundly applauded right across the area — property groups, environment groups and community organisations — and I congratulate her on that. I congratulate also the former Minister for Planning, now the Deputy Premier, who also did a great job in initiating the process and making sure it came to fruition with the current Minister for Planning.

I commend the policy to the house. I know that just as 30 years ago we planned for the future so now we are planning for a sustainable and better future for Melbourne and the regions in which we operate.

Budget: surplus

Mr DOYLE (Leader of the Opposition) — Will the Premier confirm that the projected budget surplus of $522 million will be achieved this year?

Mr BRACKS (Premier) — I can do even better than that — I can certainly confirm it, but the ratings agency Standard and Poor's also confirms it! In fact as recently as yesterday after examining the fiscal and budget positions in Victoria Standard and Poor's reaffirmed that Victoria would have the highest possible rating — a AAA rating. It reaffirmed that Victoria is one of the best jurisdictions in the world in its budget position, its debt position and its capacity to go forward. I have absolute confidence in the forecast of the Department of Treasury and Finance, confirmed by the ratings agency Standard and Poor's as recently as yesterday. In answer to the question, 'Would I believe the opposition or would I believe the ratings agency Standard and Poor's?', I would believe Standard and Poor's every time.

Melbourne 2030 strategy

Mr CARLI (Coburg) — Will the Minister for Planning inform the house what initiatives the government is implementing under its metropolitan strategy to address planning issues at the urban growth boundaries and in our major metropolitan centres, and what has been the reaction to these initiatives?

Ms DELAHUNTY (Minister for Planning) — I thank the honourable member for his question. Melbourne 2030 is a plan to manage the growth of Melbourne. As the Premier has said, it is already the most livable city. In the next 30 years up to an extra million people will want to live and work in this great city. Under this government we are attracting population back into this state.

What will be the essence of the plan? Firstly, we are putting an urban growth boundary around Melbourne to stop the residential creep into our valuable agricultural land. Secondly, we will have development on the fringes. There will be five designated growth areas. They will be in Werribee, Hume, Epping, Cranbourne and Pakenham. Smarter planning in these municipalities — —

Mr Honeywood interjected.

Ms DELAHUNTY — And Pakenham. At least the honourable member for Warrandyte is listening! I am glad he is listening. This is a very good plan.

Smarter planning in these growth areas will provide communities, not just housing subdivisions. Communities — that is what we aim to do. But that is on the fringe. We are also looking at extra population in our networks of activity centres right across the metropolitan area. Over 100 activity centres have been identified.

Mrs Fyffe — On a point of order, Mr Speaker, I seek your guidance on this: I have been listening very carefully to the minister's answer. Isn't she giving us information from a document that is publicly available?

Shouldn't it be an answer to a question about matters that are not available publicly?

The SPEAKER — Order! I do not uphold the point of order. The question asked by the honourable member for Coburg sought information as to what the government was doing in relation to this particular strategy. So long as the minister confines her remarks to answering that question I will continue to hear her.

Ms DELAHUNTY — So we are looking at principal activity centres which will attract the extra population in Melbourne.

We are talking about, for example, Northland shopping centre. We are talking about Monash University in the south, for example, and Box Hill transit city in the east, right through to the Werribee animal and food research centre in the west. They are some of the examples of the activity centres that are mapped by Melbourne 2030. We will have 10 new parks, we will protect the Yarra River, we will protect the Maribyrnong River, and we will share the benefits of being Victorian by networking to regional centres right across the state.

We are working in partnership with our councils. Clearly the councils will need to work to implement the metropolitan strategy, and today we announce $5.6 million of support for councils right across metropolitan Melbourne. The councils have certainly welcomed the metro strategy. What are they saying about it? The Municipal Association of Victoria has welcomed the release of Melbourne 2030.

Mr Honeywood interjected.

Ms DELAHUNTY — A Labor Party cheer squad, says the honourable member for Warrandyte. He would not have a clue.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Pakenham will find himself on the receiving end of sessional order 10 if he continues in that vein. I have asked the Deputy Leader of the Opposition to cease interjecting; I ask the minister to cease taking up those interjections.

Ms DELAHUNTY — What is the Municipal Association of Victoria saying? It welcomes the release of Melbourne 2030, calling it a:

> … bold vision for the way our communities can develop sustainably.

The Housing Industry Association welcomes the state government's Melbourne 2030.

Mr Plowman — On a point of order, Mr Speaker, I believe the minister is debating the question and not responding to the question that was put to her. I ask you to bring her back to responding to the question on what the government is doing, not what the response has been.

Mr Batchelor — On the point of order, Mr Speaker, the question was very specific. The minister was asked to comment on the reactions to these initiatives. It could not be any clearer that that is what was asked, and the minister is responding appropriately. Points of order should not be used by the opposition to prevent a minister from answering the question. We have seen it here today, and I guess we will see it on other occasions. We will resist it every time!

The SPEAKER — Order! I do not uphold the point of order raised by the honourable member for Benambra. The minister was clearly answering the question that was posed, and I will continue to hear her. However, I advise the minister of the need to be succinct and to conclude her answer.

Ms DELAHUNTY — Honourable Speaker, I am happy to be succinct, but I think we have suffered four points of order, none of which has been successful. I am trying to answer the question as asked.

Honourable members interjecting.

Ms DELAHUNTY — In answering the question that asked about the reaction to these initiatives, I point out that the Housing Industry Association welcomed Melbourne 2030, describing it as providing a clarity of vision and saying:

> This strategy has the potential to be the most far-reaching and influential policy delivered by the Bracks government.

That is from the Housing Industry Association, one of the plan's many supporters.

What other reactions have we received? What is the opposition saying? Two months ago, after a briefing on Melbourne 2030, the Liberal spokesperson — —

Dr Dean — On a point of order, Mr Speaker, despite the two points of order the minister has been going on for an awfully long time. You have asked her to be succinct and she is launching into another escapade.

The SPEAKER — Order! I have heard sufficient on the point of order. I am not prepared to uphold the point of order. There have been a number of interruptions to the minister's answer. Notwithstanding those, I ask the minister to conclude her answer.

Ms DELAHUNTY — We do welcome the positive support for Melbourne 2030. We also, of course, welcome the confidential email that the shadow Minister for Planning sent to all members of this house on this side. I think it was supposed to go to his colleagues on that side, but what we saw in that confidential email was no policies, no idea, no hard work. The Liberal Party just does not care.

Questions interrupted.

DISTINGUISHED VISITORS

The SPEAKER — Order! Before calling the honourable member for Mildura, it gives me great pleasure to welcome to our gallery today a distinguished delegation from the Queensland Parliament. That Parliament's speed camera review task force is with us, and the task force is led by Ms Barbara Stone. Welcome to the delegation

Honourable members applauded.

Questions resumed.

Government: four-year terms

Mr SAVAGE (Mildura) — I refer the Premier to the statement of Labor's campaign director, David Feeney, in the *Herald Sun* of Saturday, 24 August, that 'the Premier's stable. The cabinet's stable. The Parliament's stable' and ask in these circumstances how any government committed to serving its full term could justify doing otherwise?

Mr BRACKS (Premier) — I thank the honourable member for Mildura very much for his question and for repeating that endorsement and support for the government. I appreciate that very much.

Mr Richardson — On a point of order, Mr Speaker, I submit that you should rebuke the Premier. The honourable member for Mildura is trying to distance himself from the government, not get pulled into it!

The SPEAKER — Order! The honourable member for Forest Hill is clearly not taking a point of order.

Mr BRACKS — I thought it was 10 out of 10 for the first interjection and probably 0 out of 10 for the second one!

There is under the constitution a four-year term. The first three years are fixed. The last year is at the discretion of the government and the Premier of the day. That remains the case, and those matters have not been decided.

Budget: estimates

Dr DEAN (Berwick) — I ask the Premier: is it a fact that the $515 million downward revision of the estimated 2001–02 budget outcome announced by the Treasurer last Friday is the first time in 10 years in Victoria since the Cain and Kirner governments that the budget estimates have been downgraded?

Mr BRACKS (Premier) — The budget is in a sound and strong position, and I congratulate the Treasurer on the work he has done to make sure it is in a sound and strong position.

Standard and Poor's yesterday in its AAA credit rating reaffirmed that the Victorian budget is the envy of most jurisdictions around the country. If you look at the heading — —

Honourable members interjecting.

Mr BRACKS — The budget, as confirmed by Standard and Poor's, has a AAA credit rating assigned to it, not only for the past performance but also for the projection forward. We are the envy of most other jurisdictions around the world.

We planned in a buffer for any external shock, as happened after 11 September, better than most jurisdictions. If you look at the headline on the front page of the *Australian Financial Review* today, as the shadow Treasurer should have done, you will see that $7 billion has been lost by governments across Australia. This government has budgeted for a position where any external shock internationally can still leave Victoria with a substantial surplus, and that is what we have. We have a substantial surplus currently, and in the future we have planned for an even more substantial surplus.

Melbourne 2030 strategy

Mr WYNNE (Richmond) — I ask the Minister for Transport to advise the house what initiatives the government is implementing under the metropolitan strategy to ensure that residential development occurs in areas well serviced by public transport?

Mr BATCHELOR (Minister for Transport) — The metropolitan strategy represents a new direction in strategic planning through the incorporation of transport planning and land use planning into a consolidated planning document. This document will provide for Melbourne a vision for the future and a framework under which property developers, councillors and individuals will be able to plan where the future citizens of Melbourne will reside.

For far too long new residential developments in Melbourne have taken place well away from areas that are well serviced by public transport. This government is trying to ensure that it is able to achieve its 20/2020 vision for public transport — that is, an increase to 20 per cent of all motorised trips by the year 2020. The government is using the metropolitan strategy as a long-term strategic tool to achieve that.

We will be able to deliver this project firstly through the development of the Transit Cities program, under which the government will encourage housing development around existing activity centres and major public transport nodes.

Secondly, the government will encourage new residential developments alongside or close to public transport corridors, particularly the existing heavy and light rail networks. This will be targeted in areas that have existing rail lines or the capacity to have those rail lines extended. Municipalities and locations such as Werribee, Melton, Hume, Epping, Pakenham and Cranbourne are the sorts of places that have an existing fixed rail corridor or have the capacity to have additional facilities and capabilities built into the network, and this is where we will be encouraging new development to take place.

Thirdly, the government will prevent development in those areas on the outskirts of Melbourne which are outside the urban growth boundary and located well away from the heavy rail network and which, therefore, would not be appropriate for future residential development.

The new planning framework released today by the Premier indicates how Melbourne will achieve its target of accommodating an additional 1 million residents by 2030 and the 620 000 dwellings in which they will be located over the next 30 years.

It is in stark contrast to our Liberal opponents, whose only vision is articulated by the shadow Minister for Transport, and that is for its entire road budget to be used in his electorate. He is so worried about his position that he has taken $180 million out of the opposition's road promises to deliver to his electorate, leaving no money for other electorates or shadow ministers to promise for their own electorates. That shows how desperate the opposition is, and it shows the stark contrast between it and the government. We have a long-term vision that will provide advantages for Melbourne now and for our children and their children, one that is based around a proper land-use planning approach that understands the importance of public transport, particularly heavy rail, in the future development and one that will maintain Melbourne's status as the most livable city in the world.

TAC: solvency

Mr CLARK (Box Hill) — I address my question to the Minister for Workcover. Has the solvency level of the Transport Accident Commission fallen as a result of falls in Australian and international share prices since 30 June this year, and if so, what is the TAC's current solvency level?

Mr CAMERON (Minister for Workcover) — I am surprised that opposition members have absolutely no understanding of the way accident compensation schemes work. If they did they would understand that when you look at the solvency you have to look at the liabilities and assets, which is only done each half year. I can tell you, Mr Speaker, that when they were done in June this year what we had with the Transport Accident Commission (TAC) was a profit from the insurance operation of $347 million.

In an investment environment around the world that has been one of the worst for decades it is fantastic to have an organisation that can do that and withstand and weather the world storm. That is what we have been able to do. We have been able to do that with the TAC, and able to do it with Workcover. The TAC is solvent.

Government: financial management

Mr STENSHOLT (Burwood) — Will the Treasurer inform the house what policies the government has implemented to deliver responsible financial management for Victoria and advise why it has done this?

Mr BRUMBY (Treasurer) — I thank the honourable member for Burwood for his question, and I can obviously confirm to the house today that the Bracks government is delivering responsible financial management and at the same time strong economic growth for Victoria. This was of course confirmed yesterday by Standard and Poor's reaffirming Victoria's AAA credit rating. This is the highest rating that any government can achieve, and it confirms that the Victorian budget is in a very strong financial position.

The opposition hates to hear this, but on the ABC *Drive* program yesterday Brendan Flynn from Standard and Poor's is reported as saying about the Victorian government budget position:

> The net debt numbers are in a sensational position and look, on an international basis, certainly, there's a number of governments out there that would kill for such numbers.

Mr Maclellan — So you can spend like mad!

Mr BRUMBY — I will come to that Robert; I will come to you!

The SPEAKER — Order! I ask the house to come to order, particularly the honourable member for Pakenham.

Mr BRUMBY — No, we are not finished. He went on to say:

> AAA is the rating we gave it. It's the highest rating that we give out at Standard and Poor's, so we really can't give it anything better than that.

Not bad, is it? Since coming to government we have put in place a strategy. We have managed to pay down net debt; we have managed to turn around our health system and our education system; we have managed to double infrastructure spending; and we have done all of that while maintaining a healthy budget surplus. We are one of the few governments anywhere in Australia or around the world that have been able in the last year to deliver a strong budget surplus position.

We hear all the whingeing and whining from the opposition. Here's a question: last week which government announced a deficit of $1.4 billion, Robert?

The SPEAKER — Order! I ask the Treasurer to address honourable members by their proper titles and to make his remarks through the Chair.

Mr BRUMBY — I think the opposition knows the answer to the question.

This government has been prudent in the way it has managed the state's finances, and it will continue to be prudent in the future. But I am concerned about alternative approaches. This morning at a press conference the Leader of the Opposition confirmed that he had not jettisoned or rejected the previous commitments made by the former Leader of the Opposition, which totalled some $2 billion of spending.

Dr Dean — On a point of order, Mr Speaker, on the grounds of both relevance and debating, it surely is important, if the minister is going to talk about his economic performance, that he tells us what happened to the $1.8 billion surplus. Where did it go?

The SPEAKER — Order! The latter part of the point of order is clearly a point in debate and is not in order. I ask the Treasurer to come back to answering the question.

Mr BRUMBY — So we have the $2 billion, and then today the Leader of the Opposition announced another $95 million worth of spending commitments; yesterday, $240 million. The total for the new Leader of the Opposition is over $1 billion. The total on the spendometer is more than $3 billion of unfunded promises.

Dr Dean — On a point of order, Mr Speaker, you have already warned the Treasurer about debating the question, and he is now doing what he always does — and that is taking absolutely no notice of your rulings, Sir. If he is going to debate the question I ask the Treasurer to at least tell the truth.

The SPEAKER — Order! The latter part of that point of order is out of order. In regard to debating the question, I have already asked the Treasurer to come back to answering the question.

Mr BRUMBY — Honourable Speaker, I was asked about responsible financial management, and one thing we have not done is make promises we cannot keep. The opposition leader goes all around the state. You are like a mobile ATM!

The SPEAKER — Order! I have already requested once today that the Treasurer address honourable members by their proper titles and make his remarks through the Chair. I will not hesitate to sit him down if he continues to disobey the Chair.

Mr BRUMBY — No PIN number required.

Honourable Speaker, I make the point that the government has delivered responsible financial management. It has the best-performing economy across Australia and is one of the few governments anywhere in Australia or across the world that are delivering both operating surpluses and cash surpluses and investing in infrastructure. It is paying down net debt and investing in our health and education system, but the government has not promised things it cannot deliver. We have not promised $3 billion of unfunded commitments, and we will continue to be prudent. The opposition cannot — —

Dr Dean — On a point of order, Mr Speaker — I think the Treasurer has to take his seat as I am taking a point of order.

The SPEAKER — Order! I ask the Treasurer to take his seat.

Dr Dean — The Treasurer seems to be losing control, as he does often as Treasurer, and he is now debating the question yet again. He is also not telling the truth, but let's put that to one side.

The SPEAKER — Order! I clearly cannot uphold the point of order in regard to debating the question. The Treasurer had in fact come back to answering the question, providing information about what his government was doing. There is no point of order. The Treasurer, concluding his answer.

Mr BRUMBY — Honourable Speaker, with $3 billion you would either plunge the budget into deficit or alternatively you would have to be true to form and sack teachers, nurses and police to pay for these unfunded promises.

NOTICES OF MOTION

Mr BATCHELOR having given notice of motion:

The SPEAKER — Order! I ask the minister to pause. I ask the house to come to order so that the Chair can hear the notices of motion.

Ms KOSKY having given notice of motion:

Mr Honeywood — On a point of order, Mr Speaker, could the minister give a brief explanation of it?

The SPEAKER — Order! There is no such requirement at this stage.

Mr RYAN having given notice of motion:

Mr Haermeyer — On a point of order, Mr Speaker, with respect this is a speech, not a motion.

The SPEAKER — Order! That is clearly not a point of order.

Mr RYAN continued giving notice of motion.

Mr Batchelor — On a point of order, Mr Speaker, I refer you to previous rulings of the Chair — I recall Speaker Delzoppo's, but I seek your guidance on this — that notices of motion have to be short and to the point and are not entitled to be verbose and rambling, which is clearly the form and manner in which the Leader of the National Party has constructed this notice of motion. I ask you to require him to conform to the pre-existing forms of the house and previous Speakers' rulings.

Mr RYAN — On the point of order, Mr Speaker, I refer you to the first item of general business, notices of motion, on the notice paper which runs for six and half pages and I suggest to you, Sir, that there is no point of order.

Mr Thwaites — On the point of order, Mr Speaker, I refer you certainly to the ruling of Speaker Plowman, where there was a particularly long notice of motion and the Speaker ruled that he considered that the length of the notice was beyond the point of what was reasonable. He asked the member not to use the notice of motion to give what was in effect a speech. It is my submission to you, Sir, that this notice of motion is now unreasonably long. The motion can be shortened. It can clearly express the thrust of what the honourable member wishes to say without going into this very long exposition that the Leader of the Opposition is now going into.

The SPEAKER — Order! I am not prepared to uphold the point of order raised by the Leader of the House.

Mr RYAN continued giving notice of motion.

Mr Batchelor — On a further point of order, Mr Speaker, I draw your attention to Speaker Plowman's ruling of 1998.

Honourable members interjecting.

Mr Batchelor — This is a different point of order. I refer you to Speaker Plowman's requirement that notices of motion should not exceed 250 words. The Leader of the National Party has clearly exceeded that limit. I would ask you to have him sit down to comply with the forms and previous rulings of this house.

The SPEAKER — Order! The rules of this place are that a member is entitled to give a notice of motion on any subject he or she might choose. That notice of motion is then examined by the Chair and a decision is made if it is found to be not in accordance with the rules that this house has set down. I am of the view that the Leader of the National Party has not contravened any rule in the giving of his notice. I will continue to hear him.

Mr RYAN continued giving notice of motion.

The SPEAKER — Order! I have been generous and allowed the Leader of the National Party every opportunity to move his notice of motion, but in view of the ruling by Speaker Plowman on 17 February 1998 I ask him to be succinct and to conclude his notice of motion.

Mr RYAN continued giving notice of motion.

Mr Batchelor — On a point of order, Honourable Speaker, you have quite correctly asked the Leader of the National Party to conclude his notice of motion. He is not doing that; he is defying the Chair. If he will not conclude now, I ask you to move on to the next item of business.

Honourable members interjecting.

The SPEAKER — Order! I will now read Speaker Plowman's whole ruling on 17 February 1998 in regard to the length of notices:

> The Leader of the Opposition raised on a point of order the excessive length of another member's general business, notice of motion. The Speaker ruled that when notices of motion exceeded 250 words in length they were deemed excessive, as the details can be canvassed in a general motion and should be dealt with in his speech and not in a motion. However, the member was permitted to complete his notice of motion and the Speaker stated that it may be looked at with a view to abbreviating it to come within the 250-word limit.

In view of that ruling, I will continue to hear the Leader of the National Party, but I advise him and the house that his notice of motion will be subjected to the same rigours as those that were imposed in 1998.

Mr RYAN continued giving notice of motion.

Mr INGRAM having given notice of motion:

Mr Ryan — On a point of order, Mr Speaker, at the risk of sounding churlish could I adopt the various points of order taken by the Leader of the House when I was moving a notice of motion?

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order! There is clearly no point of order in view of the earlier ruling I gave on the numerous points of order raised by the Leader of the House.

Mr INGRAM continued giving notice of motion.

PETITIONS

The Clerk — I have received the following petitions for presentation to Parliament:

Sladen Street, Cranbourne: safety

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Assembly a public petition for the upgrade of Sladen Street, Cranbourne, installation of traffic lights and safe crossing points for children and other pedestrians.

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

By Mr ROWE (Cranbourne) (519 signatures)

Road safety: drink-driving

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth that we —

(a) deplore the continuing influence of alcohol as a major contributing factor and cause of death and injury on Australian roads;

(b) believe that drinking drivers deprive motorists of the right to safe transport for themselves and families by endangering the life and limb of all who use the roads;

(c) believe that the drinking driver infringes the civil liberty of the majority of the community by causing and contributing to the death of between 25 per cent and 30 per cent of all Australians killed on our roads;

(d) note that evidence from *Australian Alcohol Guidelines* published by the National Health and Medical Research Council in October 2001, shows that the crash risk is increased five times when the driver has a blood alcohol level of .05. The guidelines also show that risk increases to 25 times at .08 and 80 times at .15.

We consider that a legal limit of .05 which carries a fivefold risk of crashing a car is totally unacceptable.

Your petitioners therefore pray that the government introduces, at the forthcoming session of Parliament, legislation to reduce the legal limit to below .05 and to ensure that such legislation is strictly enforced.

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

By Mrs MADDIGAN (Essendon) (2994 signatures)

Moreland: Gowanbrae boundaries

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the Gowanbrae Action Group and the undersigned citizens of the state of Victoria showeth the municipal boundaries for the area of Gowanbrae are not in accordance with conventions of community of interest.

Your petitioners therefore pray for the municipal boundaries of the cities of Moonee Valley and Moreland be altered to move the area known as Gowanbrae from the City of Moreland to the City of Moonee Valley (Gowanbrae to be described as the areas bounded by Melrose Drive, the Metropolitan or Western Ring Road, the Moonee Ponds Creek and the interstate rail line in Strathmore).

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

By Mr LANGDON (Ivanhoe) (215 signatures)

Moreland: Gowanbrae boundaries

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria residing in Tullamarine sheweth the undersigned petition is against the Gowanbrae Action Group requesting the municipal boundaries be altered to move the area known as Gowanbrae from the City of Moreland to the City of Moonee Valley.

Your petitioners therefore pray that the undersigned residents wish that no change be made to the boundaries, as this will also affect us. We were never asked our opinion and we do not support the move as the City of Moreland has served us well with all required services.

The City of Moonee Valley has made no commitment on what services it will provide.

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

By Mr LANGDON (Ivanhoe) (38 signatures)

Belgrave–Gembrook and Selby–Aura roads: safety

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth:

that the citizens of Selby are concerned for public safety and users of Belgrave–Gembrook Road and the intersection with Selby–Aura Road, Selby;

this road and intersection have a history of minor accidents and near misses within the Selby township

that construction of a roundabout and lowering of the speed limit to 50 kilometres an hour to achieve safety improvements is required as an urgency for this arterial road and intersection to reassure the safety concerns of the community.

Your petitioners therefore pray that the Parliament of Victoria examines the safety of Belgrave–Gembrook Road and provides funding and works for its improvement.

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

By Mr McARTHUR (Monbulk) (497 signatures)

Mountain Highway, The Basin: safety

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of Victoria sheweth that the lack of a pedestrian crossing across Mountain Highway, The Basin, is resulting in many near misses as pedestrians cross the busy Mountain Highway.

Your petitioners therefore pray that Vicroads provide funding to provide for the urgent installation of a pedestrian crossing at The Basin to link the shops with the car park.

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

By Mr McARTHUR (Monbulk) (389 signatures)

Laid on table.

Ordered that petitions presented by honourable member for Monbulk be considered next day on motion of Mr McARTHUR (Monbulk).

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 8

Ms GILLETT (Werribee) presented *Alert Digest* No. 8 of 2002 on:

Commissioner for Ecologically Sustainable Development Bill
Constitution (Parliamentary Reform) Bill
Constitution (Water Authorities) Bill
Control of Weapons and Firearms Acts (Search Powers) Bill
Crimes (Property Damage and Computer Offences) Bill
Federal Awards (Uniform System) Bill
Forests Legislation (Amendment) Bill
Health Legislation (Research Involving Embryos and Prohibition of Human Cloning) Bill
Murray-Darling Basin (Amendment) Bill
National Parks (Box-Ironbark and Other Parks) Bill
Regional Development Victoria Bill
Road Safety (Responsible Driving) Bill
Sentencing (Further Amendment) Bill
Volunteer Protection Bill
Wrongs and Other Acts (Public Liability Insurance Reform) Bill

together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Commonwealth Games Arrangements Act 2001 — Orders pursuant to ss 14 and 15

Crown Land (Reserves) Act 1978 — Section 17DA Order granting under s 17D a lease by Yarra Bend Park Trust

Financial Management Act 1994 — Report from the Minister for Finance that he had received the 2001–02 annual report of VicFleet Pty Ltd

Melbourne City Link Act 1995 — Order pursuant to s 8(4) decreasing the Project Area

Mildura Base Hospital — Report for the year 2000–01

Parliamentary Committees Act 1968:

Response of the Minister for Industrial Relations on the action taken with respect to the recommendations made by the Family and Community Development Committee's report on the Inquiry into the Conditions of Clothing Outworkers in Victoria.

Response of the Minister for Transport on the action taken with respect to the recommendations made by the Road Safety Committee's report on the Inquiry into Rural Road Safety and Infrastructure

Parliamentary Officers Act 1975:

Statements of Appointments and Alterations of Classifications during the year 2001–2002 in the:

Department of the Legislative Council

Department of the Legislative Assembly

Department of the Parliamentary Library

Department of Parliamentary Debates

Joint Services Department

Statements of Persons Temporarily employed during the year 2001–2002 in the:

Department of the Legislative Council

Department of the Legislative Assembly

Department of the Parliamentary Library

Department of Parliamentary Debates

Joint Services Department

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Boroondara Planning Scheme — No. C30

Darebin Planning Scheme — No. C19

Greater Dandenong Planning Scheme — No. C11

La Trobe Planning Scheme — No. C20

Manningham Planning Scheme — No. C11

Monash Planning Scheme — No. C7

Moonee Valley Planning Scheme — Nos C33, C34

Murrindindi Planning Scheme — No. C6

Surf Coast Planning Scheme — Nos C5, C9

Wellington Planning Scheme — Nos C14, C15

Whitehorse Planning Scheme — Nos C27, C42

Whittlesea Planning Scheme — No. C12

Yarra Planning Scheme — No. C41

Yarra Ranges Planning Scheme — No. C26

Statutory Rules under the following Acts:

Adoption Act 1984 — SR No. 77

Catchment and Land Protection Act 1994 — SR No. 83

Children's Services Act 1996 — SR No. 82

Drugs, Poisons and Controlled Substances Act 1981 — SR No. 86

Fisheries Act 1995 — SR No. 78

Health Act 1958 — SR Nos 80, 81

Health Services Act 1988 — SR No. 79

Melbourne and Metropolitan Board of Works Act 1958 — SR No. 94

Pharmacists Act 1974 — SR No. 85

Racing Act 1958 — SR No. 87

Road Safety Act 1986 — SR Nos 88, 89, 90

Second-Hand Dealers and Pawnbrokers Act 1989 — SR No. 92

Subordinate Legislation Act 1994 — SR No. 93

Supreme Court Act 1986 — SR No. 91

Tobacco Act 1987 — SR No. 84

Victims of Crime Assistance Act 1996 — SR No. 76

Subordinate Legislation Act 1994:

Ministers' exception certificates in relation to Statutory Rule Nos 76, 80, 81, 82, 85, 86, 91, 93

Ministers' exemption certificates in relation to Statutory Rule Nos 70, 73, 74, 77, 78, 83, 84, 87, 88, 89, 90, 94

Survey Co-ordination Act 1958 — Reports of the Surveyor-General for the years 1999–2000, 2000–2001, 2001–2002

The Constitution Act Amendment Act 1958 — Statement of function conferred on the Electoral Commissioner dated 1 October 2002

Victorian Law Reform Commission Act 2000 — Report on Failure to Appear in Court in Response to Bail — Ordered to be printed

The following proclamations fixing operative dates were laid upon the Table by the Clerk pursuant to an Order of the House dated 3 November 1999:

Gaming Legislation (Amendment) Act 2002 — Sections 62 and 64 on 12 September 2002 (*Gazette G37*, 12 September 2002)

Racing Acts (Amendment) Act 2002 — Remaining provisions on 26 September 2002 (*Gazette G39*, 26 September 2002).

ROYAL ASSENT

Message read advising royal assent on 17 September to Guardianship and Administration (Amendment) Bill.

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Commissioner for Ecologically Sustainable Development Bill
Constitution (Parliamentary Reform) Bill
Federal Awards (Uniform System) Bill
Murray-Darling Basin (Amendment) Bill
National Parks (Box-Ironbark and Other Parks) Bill
Regional Development Victoria Bill
Sentencing (Further Amendment) Bill
Wrongs and Other Acts (Public Liability Insurance Reform) Bill

BASSLINK PROJECT

Mr RYAN (Leader of the National Party) — By leave, I move:

> That in accordance with section 38(2) of the Planning and Environment Act 1987 this house revokes amendment C15 of the Wellington planning scheme and amendment C20 of the Latrobe planning scheme.

I move these motions together deliberately. Although on a strict interpretation section 18 of the Planning and Environment Act 1987 might suggest that they be moved separately, for the convenience of the house I have moved a motion which incorporates both the planning scheme amendments which this motion seeks to revoke — amendment C15 of the Wellington planning scheme and amendment C20 of the Latrobe planning scheme.

It is very important to note that the proposed revocation of these planning scheme amendments represents an opportunity for the people of Victoria, not a threat. I say that because this process intends that there be a pause, at least, put upon the development of the Basslink project. It is not intended for one moment that this will put an end to the Basslink project. The qualification of that comment is that if the proponents of the project, National Grid International Ltd, desire to persist with the use of pylons, then the National Party will continue to oppose this. As I say, Sir, this motion is moved on the basis that it is not intended to be the concluding position on the prospective development of Basslink.

This is a project of national significance. I have supported the principle of the project from the outset, but I trenchantly oppose the use of pylons across the Victorian section of the proposed route where Basslink is to be constructed. That comprises, in the broad, a distance of about 65 kilometres, but the first 5 kilometres from McGaurans Beach going inland is intended to go underground. It is the remaining 60 kilometres that is the main focus of this motion before the house today.

I need also to emphasise to the house that although I am putting a position which is my own and which reflects that of my party, it is not a position that is necessarily unanimously agreed to by all people in Gippsland. There are others who are opposed to the concept of the project. Others are worried about the impact of the project on fishing; they are very concerned about the environmental damage that might be done to the reefs as the cable comes ashore out of Bass Strait and up to McGaurans Beach. Some people are worried about damage to the sand dunes at McGaurans Beach and others are worried about the electromagnetic fields and emissions that may or may not come from the cables as they are erected. And there are certainly people very worried about tourism issues.

I want to make it clear at the outset that although there is strong support for the Basslink project through Gippsland, it is not universal. It is fair to say that the majority of people throughout Gippsland do support it. In the end, though, I think it is also fair to say that the sticking point is the pylons. What is proposed by the proponents is to build approximately 180 of these pylons. They will each be approximately 45 metres in height — and, by some kind of mind association, that equates approximately to the height of the Great Southern Stand at the Melbourne Cricket Ground.

The project was conceived back in the late 1980s and the early 1990s. I well remember, soon after I was elected in 1992, that I convened a forum in Leongatha. To that forum I invited the proponents of the Basslink project and also representatives of what was then the State Electricity Commission. Strange as it may now seem, having regard to what has gone on in the decade between then and now, I can say that there were almost literally two men and a dog attending that initial forum in Leongatha. I am certain in my memory that more people came to the forum for the purpose of listening to what was being said by others associated with the project and to get some understanding of what was proposed than there were people who came along to hear about it.

That is reflective of the fact that at that relatively early stage in its genesis the project had a general form but no firm intent to proceed with it. It was more in the nature of a concept, although it had at that stage been reduced to some measure of writing and material was circulated in the broader community. Certainly, though, the project then bore absolutely no equality with that which we now see as having being considered over these last three years in particular.

That situation prevailed until about July of 1999 when it was revitalised. The Basslink authority had been formed in Tasmania. Mike Vertigan, who used to work for the Victorian government, was the chair. He came across to Leongatha and started to have consultations with the Leongatha shire and with other municipalities and communities. It was then that there dawned the understanding that they were serious about developing this project out of Tasmania. At that early stage there were prospectively two routes. One was in the general area of the one now contemplated and the other was intended to come right through South Gippsland proper, coming ashore at Cape Liptrap, up over the Strzeleckis and into the grid at Traralgon. So at that juncture, back in about July 1999, there were two routes under active consideration.

The most memorable event occurring at that time was a public meeting held in Leongatha in or about July or August of 1999. I attended the meeting, as did many other members of Parliament. About 1200 Gippslanders came to the meeting. It was a night to remember. The project was described by the proponents and a number of us spoke. On that night and on every occasion or opportunity since I have put the position from my own perspective and that of my party that although I was in support of the principle of Basslink I would under no circumstances support the use of pylons inasmuch as that would entail their being built across the Gippsland countryside, irrespective of whatever route might ultimately be chosen to build the project. The stance that I took that night has been consistent to this day.

And so it is that today I move a motion to disallow the planning scheme amendments. The minister has used her powers pursuant to the provisions of the Planning and Environment Act 1987 to enable these amendments to be tabled before the house this day. By way of confirmation of that important aspect of this whole procedure I confirm for the purposes of this contribution to the house that the amendments to the Latrobe planning scheme and the Wellington planning scheme were tabled here today a short time ago in the Legislative Assembly. In the course of the process that the minister undertook she unilaterally removed the right which otherwise exists in Wellington shire and Latrobe city to consider amendments to their respective planning schemes.

That has caused, understandably, an enormous outcry within those respective municipalities — certainly in the case of Wellington shire. I am not so sure about Latrobe, where we have the unusual circumstance of the current mayor being the endorsed candidate for the Labor Party at the next state election at the same time as he is the electorate officer of the current Labor member for Morwell and leads a municipality which in itself is bitterly opposed to the development of Basslink. I am not sure how that conundrum sorts itself out, but certainly in the case of the Wellington shire and also the Latrobe city there is a sense of outrage.

The amendments which the minister required to the two planning schemes were gazetted in accordance with the act on 19 September. As I say, they have been laid before the Parliament today. This represents an historic opportunity for members of this Parliament. It is a rare event that a motion for the revocation of amendments is passed in this place. But if ever that were to be justified, I put it to the house that today is one such instance. It is important that members of this place do not shy from this.

The National Party has promised the people of Gippsland over the years that it would use every tool available to it within the law and within the powers available to it in this Parliament to block the use of pylons in the construction of this project, and it is being true to that promise today. Others in this place have made similar promises. Today is the opportunity for them to support this National Party initiative.

I also want to make it clear that in proposing the revocation of the two planning scheme amendments the National Party is offering an option, which involves the undergrounding of the cable across a distance of about 60 kilometres. It can be done technically, and it can be done feasibly. They are matters to which I will return.

I emphasise to the house that we are not simply saying no to the project itself. Rather we are saying, 'Build the project, certainly. But you, National Grid, the developer, have to be subject to all the protocols and qualifications which go with all the necessary environmental standards that have to be accommodated here'. Those include issues to do with fishing, offshore reefs, the electromagnetic fields that are produced by the cables, tourism and all the other matters that are of grave concern to many Gippslanders. All those things have to be accommodated within the various authorities which are given to enable this project to proceed. But we say that the pylons cannot be used and that there is an alternative to their use, and it is an issue to which I will return.

I emphasise again that there are those in this place who have had a lot to say about this issue over the years. The Minister for Agriculture, the honourable member for Morwell, has had a lot to say about this project. I was at a public meeting with him in Traralgon — I remember it well — where he had his say. He told the crowd — this is going back a couple of years — that he would

never support the use of pylons in the construction of Basslink. I think it is fair to say that various other comments in the same vein have been accorded to him.

I see the honourable member for Narracan is in the chamber. He is a member of the Labor government who purports to be a Gippslander, and he has had a fair bit to say about this project over the years.

Mr Maxfield interjected.

Mr RYAN — 'Fifth generation Gippslander', he tells me across the floor. Here is the big chance for the honourable member for Narracan to stand up for Gippslanders, because I can tell him now that in the course of the impending election there will be an enormous amount of discussion on this issue. I emphasise to him that it will not stop in the electorates — mainly my electorate — which are covered by this proposed route and over which these pylons are to be built. It will go far further than that: it will extend to those people, particularly in Gippsland, whose parliamentary representatives in this place have had a fair bit to say about it over the years and to whom I will be looking for support on this motion before the house today.

I assure the honourable member for Narracan, as I do the Minister for Agriculture, that in the event that they pike on it, do not have the courage of their convictions and are not prepared to stand up here and vote in favour of this motion, there will be plenty more said about that right through Gippsland in the course of this impending election. I know Narracan is already the focus of a fair bit of discussion given this upcoming election. But by Jove it is about to go up several levels if the honourable member for Narracan does not get over here and vote with us when the time comes.

Mr Maxfield interjected.

Mr RYAN — And of course there are others. What about the government members who represent other seats in country Victoria? What about the honourable member for Benalla? What about the honourable member for Seymour? What about the honourable member for Gisborne? There are plenty of other members of the Labor government — three of them, anyway — who say they support country Victoria. Here is a great chance for them, too.

Mr Maughan interjected.

Mr RYAN — I thank the honourable member for Rodney for the interjection. The honourable member for Ripon also has a great chance to get over here and support the National Party on this issue, because he knows this is absolutely critical to not only the people of Gippsland but also country Victoria.

Are we going see this open, honest and accountable government stand by what it has promised the people of country Victoria? Or are we going to see it slink away in the night without being prepared to stand up for the people of Gippsland in particular?

Then we have the three so-called Independents, and I look forward to their support. I believe the honourable member for Gippsland West will support this motion.

Ms Davies — Of course.

Mr RYAN — 'Of course' — I hear her interjection.

The ACTING SPEAKER (Mr Lupton) — Order! The Leader of the National Party will address his remarks through the Chair.

Mr RYAN — I can say in all honesty, without wanting to blush, that this is the first interjection in a long time I have welcomed from the honourable member for Gippsland West, and I welcome it very sincerely. It will be great to have her support. I hope we will also have the support of the honourable members for Gippsland East and Mildura. I hope the Liberal Party votes with us on this, because it has also had a fair bit to say about this project over the years. I look to the support of the Liberal Party in relation to this.

I am heartened by the fact that under general business there appears notice of motion 100 in the name of the shadow Minister for Planning, who has proposed moving for the revocation of amendment C13 of the Frankston planning scheme in accordance with section 38(2) of the Planning and Environment Act. I am encouraged that the honourable member saw fit to give notice of that motion on that day, because he no doubt regarded it as being important to his community. I look forward to his support and that of his colleagues for the motion that is before the house today.

The alternative, as I say, is to underground this cable. It can be done on a technical basis, and it can be done on the basis of commercial reality. The technology which can be used to develop this project is of relatively recent origin. Even as relatively recently as 1998 it did not exist to the point it now does, where it is being used in various projects not only in Australia but in other parts of the world.

The best evidence of that assertion lies in the success of the projects which have been otherwise developed, and it is one of those to which I wish to refer. In that fine newspaper the *Sunraysia Daily* there appeared on

Monday, 7 October, an article headed, 'Murraylink project recognised for its environmental management', which says, in part:

> The contract to lay cable for the Murraylink underground interconnector has been named Australia's foremost environmental construction project for the year.
>
> The undergrounding of the 177-km, 220-Mw interconnector cable is the overall winner [of the] 2002 Case Earth award for environmental excellence.

It says further on:

> The 177-km Murraylink interconnector launched last week is the world's longest underground transmission line.

The comment from the project director, Mike Farr, is:

> Underground cable was chosen instead of overhead transmission lines to ensure minimal visual and environmental impact — and a rapid means of getting the project onto the market.
>
> Murraylink provides a highly reliable facility as it will not be susceptible to lightning strikes, bushfires nor impact by foreign objects as afflicts conventional overhead transmission lines.
>
> This national environment award is proof positive that communities need no longer suffer overhead transmission cables.
>
> Murraylink is now a working reality that proves the capability of underground power transmission.
>
> Three years ago this level of undergrounding was new technology.
>
> Murraylink proves that long-distance undergrounding is technically and economically feasible.

Insofar as the reality of being able to underground these cables on a technically and commercially feasible basis is concerned, this project, which is 177 kilometres in length with a capacity of 220 megawatts, has been successfully completed and commissioned. The project was developed by Transenergie US, a United States company, but it does have a successor in Australia. It has an important presence in Australia and has built five of these projects. The fact is that it can be done.

Ms Delahunty interjected.

Mr RYAN — I was not going to come to the Minister for Planning for some time, but she is now assisting my contribution so I will jump forward.

Ms Delahunty interjected.

Mr RYAN — She says to me by interjection — this is priceless — 'You just have to get the facts right!'. Coming from her that is an absolute classic, because if we had got the facts right, Minister, I would not now be on my feet moving this motion. If the minister had got the facts right this project would have proceeded on an entirely different basis and there would not have been the need for this motion in the first place. Do not patronise me or anyone else by talking about getting the facts right. The minister has bungled this in a way I will deal with amply in due course.

Ms Delahunty interjected.

The ACTING SPEAKER (Mr Lupton) — Order! The Minister for Planning should allow the Leader of the National Party to continue without interruption.

Mr RYAN — Of course, Transenergie was one of the original entities that lodged an expression of interest in the Basslink project. It dropped out well and truly before this project ever got near the stage of determining who would ultimately be the successful bidder. The problem Transenergie had in being able to become engaged in this project was that at the time the developers did not regard it as having enough presence in Australia to justify its being included in the process, so it was not included in the process. That is the absolute fact. Transenergie was one of the original 15 prospective proponents who bid for the project, and history and the facts show that its involvement in Australia now is vastly more extensive than it was when these bids were under consideration, back in the late 1990s.

It is pertinent to consider the players in relation to this project. Who are the various participants in the project? I want to look at this issue because it is very relevant to the consideration of the Parliament. The first and most important are the people of Gippsland. I include in that general description the Wellington and Latrobe municipalities, both of which feel aggrieved at being shut out of the process. They have mutually mounted a case on behalf of their respective communities against the installation of the pylons in the course of the Basslink project. Now, at a pivotal time when the question of the pylons is to be discussed, their capacity to consider their own planning schemes has been taken from them by the Minister for Planning under the provisions of the Planning and Environment Act. They quite rightly feel aggrieved.

It is not only they who feel aggrieved. Recently, one of the councillors of the Wellington shire, Mr Kevin Young, at a meeting of the Municipal Association Victoria moved a motion which was supported by 77 of the 78 councils in Victoria and which, in effect, gave the Victorian Labor government an absolute flogging for following the course the minister saw fit to undertake. That is a message that is replete in the

commentary by municipalities around Victoria, and it is further evidence of the fact that this is an issue that does not stop at the boundaries of Gippsland. I assure the government that it will have far wider implications than just for Gippsland.

Beyond the municipalities themselves there are Gippslanders generally. You have to look at the map to get a proper picture of the consideration of this project from 1992 through until now. Over the last decade to a greater or lesser degree Gippslanders have lived with the prospect of this project being built. It is part of the community identity in Gippsland. I go so far as to say that because wherever you go this topic is discussed at length, and that is particularly so given the history of things — namely, that on the night of that meeting back in 1999 two routes were being actively considered, so vast areas of Gippsland were under consideration for the construction of the pylons. So it was that the principle of concern about the development of Basslink became part of the way of life of virtually a generation of the Gippslanders who have lived in that magnificent part of the state for the last 10 years.

The process has been protracted, and in that sense I have no complaint. It is a necessarily extensive process because it is a $500 million project — I will return to that point later. The bidding process occurred soon after Mike Vertigan came across to see us in Victoria. A joint advisory panel was established under the previous government, of which I was a part, and that panel was a sensible idea under which the three levels of government — namely, the Tasmanian government, the commonwealth government and the Victorian government — determined that there would be a common application process so as to avoid, for example, environment effect statements being considered within each jurisdiction as opposed to doing it in one go. That was a sensible thing to do.

In the consideration of the development of the environmental impact statement some 550 submissions came from Victoria. I lodged one. Hearings were held at which many people who had lodged submissions went along to the joint advisory panel and gave evidence. I went to the panel and gave evidence. Further hearings were held after the draft report was prepared. Those hearings were restricted. Certain people would have loved to make further submissions to those hearings but were prevented from doing so. The minister made the situation perfectly clear in a letter to the joint advisory panel when she told the panel, 'Slam the bag on this because I need a report from you by the end of June!'. She made it very clear to the panel that she wanted to shut down the process, and she did, which caused much grief in many Gippsland communities.

Then there was the production of the final report. In all of this an enormous amount of passion was generated about this project — understandably so. An enormous amount of passion built up over many years. That is not even to talk about the many public meetings that were undertaken in a variety of forums where people came together to share their concerns, put their point of view and make sure as best they could that they were heard. It saw many great soldiers in the cause, if I can put it that way, people such as Rosemary Irving, who has devoted literally years of her life to this project and who favours the principle of Basslink but who, like me, is trenchantly opposed to the use of the pylons.

Others are against the project for various reasons — people like Ian Onley, Robert Burns, Lesley Joyce and Jeff Robbins. Over the years hundreds of editions of newspapers in the region have given immense coverage to this project. I speak particularly of the Giles family, and Michael Giles in particular through the publications of the *Leongatha Star* and the *Yarram Standard News*. The *Foster Mirror* has also commented on the project, as has the *South Gippsland Sentinel-Times*. It is an issue that is regularly featured on ABC radio and commercial stations throughout Gippsland. The television coverage has been extensive. The net result is that the people of Gippsland have regarded this issue with absolute passion during the years it has been the subject of discussion.

It is important to look at it in that context, because there are various commentators who essentially ask: what is all the fuss about? This is only about 22 farms. These pylons will only be built on 22 farms. Who gives a damn? In the end it is 22 lousy farmers; what is the difference? They are just cannon fodder for this. You do not worry about that; you bowl them over. Who cares? You can build these things across their land. There might be a drought; they might be contending with Johne's disease; they might have all sorts of other problems. The fact is that they were minding their own business when along came National Grid wanting to build this thing across the landscape. In the end some would say, 'It is only 22 farms; who cares?'. The people of Gippsland care; they care intensely.

It is not only the farmers themselves, but it is those who live on the adjoining lands and in Gippsland generally who are proud of one of the greatest parts of the state. This has become a complete article of faith. Beating the use of pylons in this project is regarded passionately and fervently by many people throughout Gippsland.

I refer to other players. National Grid is a huge British conglomerate that has seen fit to want to invest its funds in Australia, and most particularly in Tasmania in laying the cable under Bass Strait and into Victoria. For all the talk of the money, the dimensions of the project, and everything that goes with it, the fact is that this is really a very long extension cord. It will be plugged into the grid in Victoria, run across Gippsland, into the sea, into Tasmania, and plugged into its system on the other side. It will have the capacity to transfer power back and forth.

Ms Delahunty interjected.

Mr RYAN — The minister asks: do I support that? As is her wont, the minister obviously was not listening when I started speaking because I made it clear that for years I have supported this project, and I still do. I support the National Grid investment in Australia, particularly in the context of this project. But I trenchantly oppose the use of the pylons, particularly when an option is available whereby the cable can be put underground.

In many senses National Grid's credibility is in tatters. I refer to just a few examples. This was said to be, as we have been told for years, a $500 million project. We were told at the outset, 'There is $500 million to build this, that is it. If there is another cracker, no project'. That was the general tenor and the actual comment that we heard so often from National Grid. Of course a few problems arose, and there was a bit of shuffling.

The draft report was produced in the context of a fair bit of heat from some of the big commercial enterprises with interests in Gippsland — for example, Esso was worried about the prospective impact of the technology that was to be used in the laying of the cable under the sea, because at that juncture the Basslink proposition was to use a monopole cable. In the face of plenty of advice to the contrary, it wanted to use a single cable. The problem is that when you use a single cable like that it emits what are termed stray currents, and those stray currents earth at the nearest available mechanism. Esso's worry was that these stray currents would earth through the wells in the pipelines. In the submissions it made to Basslink, it made it clear that if this issue was not addressed the lifetime of their extensive pipeline system in Bass Strait would be threatened. It was joined by various others.

Duke Energy has a multimillion-dollar development that spans Bass Strait. It similarly uses pipelines. It transfers gas out of the South Gippsland fields into Tasmania. It has pressured that up, and has started taking gas across. It was also worried about a similar problem. Other enterprises, such as Gippsland Water, were worried. They made their concerns clear during the course of the joint advisory panel hearings.

Throughout, National Grid maintained its stance: it could not afford any more money on this project. When the draft report was produced, to my absolute astonishment and that of many others there came a day — 4.30 p.m. one Friday — when National Grid announced without any further ado that it would use a cable with a metallic return across Bass Strait. In its own cost estimates, and in the view of others, there is anything up to an additional $70 million or $80 million involved in the use of that metallic return. But without any further ado National Grid announced that that extra amount of money would be spent on the installation of the metallic return.

To this day we do not know who is paying it. We do not know whether National Grid, Hydro Tasmania or the Tasmanian government is paying it. But the fact is that a project, which purportedly from a commercial point of view would fall over if it was going to cost any more than $500 million, suddenly had added to the cost of its bottom line some tens of millions of dollars. To this day we do not know precisely how much or from whom that money is being sourced. That brought about enormous consternation through Gippsland.

The other area where we have seen the reputation of National Grid take several serious hits is with regard to the issue of the undergrounding. The commentary on this point has become more strident over time. The original case made by National Grid was that it could not be done, or if it could then the expense was vast and would add anything up to — and the figures seem to have varied over the years — $80 million or $90 million.

Recently National Grid posted onto its web site a document termed 'HVDC Light would have sunk Basslink'. This is a reference to high voltage direct current light cable which is a relatively recent development for projects of this size. The assertion in the commentary is that the use of this HVDC Light would have added $200 million to the cost of the project. The approach by Basslink to these numbers has been nothing less than extraordinary, having regard to the amounts of money about which we are speaking. Tens of millions of dollars have been bandied about by National Grid as the proponents of the Basslink project.

Of course there was its evidence before the joint advisory committee when it was asked repeatedly by the panel to quantify the amounts of money required to underground the cable. The extent of that evidence, and

the way in which it was given — the inaccuracies associated with it, the breadth of its content — is nothing less than breathtaking. The panel simply could not pin it down to get any semblance of a figure for what it regarded as being appropriate for the undergrounding of this cable.

There was then the issue of Transenergie and its treatment. It has now come forward in its own defence in the face of commentary levelled at it by National Grid. Transenergie was one of the 15 or so organisations indicating expressions of interest, and its involvement stopped at that stage of the project. In its subsequent involvement, internationally as well as in Australia, it has done an enormous amount of work on the use of this HVDC Light cable in the various projects in which it has been involved.

The company has now spent something of the order of $300 million in the development of its projects. The Murraylink project I have already referred to has only recently been commissioned. Directlink, crossing the border between New South Wales and Queensland, is another one. And interestingly this organisation, in a worldwide sense, has vast holdings of both the old technology — that is, the high voltage direct current cable — as well as the new developments involving the HVDC Light cable.

I know this will be of enormous interest to you, Mr Acting Speaker: I have a section of it here with me. I am not allowed to wave these things around so I will not, but suffice to say it is a very innocuous-looking piece of cable. It is a section taken out of one of the cables which is used, and it is the style of cable which can be used by Transenergie or indeed anybody else who might want to be involved in these projects for the purpose of its being laid underground. The general form of it is that you need two of these cables, I am advised, running parallel or side by side. The one I have here is capable in its completed form of translating 330 megawatts of power in an underground trench. This is the sort of cabling which is used and the two of them together can translate 330 megawatts of power.

The proposition advanced by Transenergie is that you simply double up. All you do is run them in parallel and you have a capacity to run 660 megawatts of power on a continuous basis — not as Basslink contemplates, which is 480 megawatts as a set amount, but running up to 600 megawatts as its maximum. The cable which Transenergie is able to lay now can run up to 660 megawatts using the configuration which I have outlined.

This morning as a further stage of investigation of these issues I spent about an hour and a half having a long conversation with Mr Jeff Donahue, the president of Transenergie US, who is in Australia for the purposes of the commissioning of the Murraylink project, and with him was Dr Tony Cook, the managing director of Transenergie Australia. They had with them two other gentlemen who are expert in all of this and they gave me a very ample description of how, using tomorrow's technology, a cable can be undergrounded well and truly beyond the scope of what is contemplated by Basslink.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING SPEAKER (Mr Lupton) — Order! While the Leader of the National Party is pausing I would like to draw the attention of the Parliament to the senior delegation from the Jiangsu Province, our sister state in China, who are sitting in the gallery. They are led by Mr Xu Guojian, senior adviser of the Jiangsu Provincial People's Government. Welcome to the Victorian Parliament.

Honourable members applauded.

Debate resumed.

Mr RYAN (Leader of the National Party) — I will take that round of applause as being directed to the delegation rather than to myself, Mr Acting Speaker. I am sure that developments like those I am describing here are also happening in China, because as we know China is a very forward-thinking nation which is undertaking an enormous amount of development for the benefit of its people. It is seeing huge expansion in its industrial capacity and I am very confident it is, even now as I speak, using the very sort of technology that I am describing. China is a great nation and we are delighted to have representatives of that wonderful country here amongst us today.

In the case of National Grid things are not quite so flash. The company has been making assertions about the use of HVDC Light, and as it got more strident and more concerned about where this might all be going the efforts it has made to discredit the use of HVDC Light have gone far and away beyond what should be regarded as being appropriate — and it has started to make significant mistakes. Recently it received correspondence from a company termed ABB Australia Pty Ltd. Let me tell you something about that company, Mr Acting Speaker. ABB Australia Pty Ltd is a subsidiary of an international company — Swiss or

Swedish, one or the other — and this company builds HVDC Light cable. It knows, obviously, by definition, what its capacities are. When it came upon the web site of Basslink which, to put it colloquially, was absolutely bagging the prospect of the use of the cable which ABB manufactures, it was, of course, concerned and disturbed about it.

The company has provided to me a letter of 2 October which is directed to Mr Geoff Singleton, the chief executive officer of Basslink. Should the house so desire I can make it available. It is headed 'Re: Basslink document entitled "HVDC Light would have sunk Basslink"', and says:

> ABB has reviewed the above document dated September 2002. ABB is surprised and extremely concerned about several statements made in that document on HVDC Light technology.
>
> The document states that 'HVDC Light is not a cheap underground option'. We strongly disagree. ABB's customers in the United States, Sweden and Australia have found HVDC Light to be a cost-effective method for undergrounding transmission. These customers evaluated HVDC Light against conventional DC with overhead alternatives.
>
> The document further states that 'It would be at least $200 million more expensive' when applied to Basslink. We do not understand this statement given that Basslink Pty Ltd has not approached ABB regarding costing data for an HVDC Light application for Basslink. We and our customers have found that HVDC is cost competitive with conventional HVDC technology.
>
> The document also states that HVDC Light has 'more losses of energy in transmission'. This statement is misleading. We are pleased to inform you that based on actual electrical loss measurements for the Murraylink and Cross Sound Cable HVDC Light projects, the losses are substantially less than earlier HVDC Light projects, due to design improvements.
>
> ABB is particularly concerned regarding the fact that such a document has been produced by Basslink Pty Ltd without confirmation of any facts from ABB. The document in its current form has the potential to seriously damage ABB commercially.
>
> I seek the opportunity to meet with Basslink Pty Ltd to clarify this matter and contribute to the release of a new document which is factually correct.

It is signed by Mr David Baker of ABB Australia. That is an interesting read, isn't it? This is an organisation that actually manufactures these cables, and it is telling Basslink, 'Get off the case, boys. You're out of order. You've made a bad mistake'. Harking back to my days of yore, I would have thought in the law there was a fair case here for issues of defamation, which might get a mention in time to come. Basslink needs to be careful about the way it puts that sort of material up on its web site, particularly in circumstances where it is faced with that sort of correspondence from the manufacturer of this cable.

It does not stop there. Let's have a look at a letter that Transenergie Australia sent to Basslink on 3 October. It also refers to representations regarding HVDC Light. This is a letter again directed to Mr Singleton and signed by Dr Tony Cook, managing director of Transenergie Australia. It says:

> I have recently been provided with copies of the following material which has been published by Basslink and which makes a number of representations in relation to the HVDC Light transmission technology.
>
> (1) 'Questions and answers about "HVDC Light"' — published on Basslink's web site —

and it provides the address:

> (2) Basslink information sheet 3 September 2002 entitled 'HVDC Light would have sunk Basslink'.
>
> A number of the representations made in the material are misleading and deceptive. These include the following (among others):
>
> (1) HVDC Light is not a cheap underground option.
>
> (2) HVDC Light is not designed for heavy-duty applications.
>
> (3) The energy losses which would result from using HVDC Light cable for the Basslink project exceed that which would result from using the cable as proposed by Basslink.
>
> I am not aware of any comparative study that has been undertaken in relation to HVDC Light and the technology being used by Basslink. I am also not aware of any approach that has been made to Transenergie or ABB by Basslink to obtain information in support of the claims being made in relation to HVDC Light.
>
> Accordingly, Transenergie is very concerned about the publication of the material by Basslink given the real risk that Transenergie's operations and business opportunities both in Australia and overseas may be adversely affected by the misrepresentations. ABB may be similarly adversely affected and I understand that it shares Transenergie's concerns and will be contacting you separately in this regard.

And boy, didn't it do so, as I have just read out!

> A number of Transenergie's transmission experts are currently in Australia and I would welcome the opportunity for them to meet with Basslink representatives on a 'without prejudice' basis in order to correct Basslink's current misunderstandings in relation to the use and costs of HVDC Light. I am very concerned to ensure that the publication of the misrepresentations ceases immediately and I believe that such a meeting may assist in achieving this objective in a sensible and a conciliatory manner.
>
> I look forward to hearing from you shortly.

It is duly signed by Dr Cook. These are increasingly desperate and baseless attacks which National Grid is mounting on people who have the demonstrated capacity to build this project by undergrounding the cable. The fact of the matter is that it can be done.

Then there is, of course, the consideration of Transenergie itself and the way it has conducted its affairs over the course of its involvement here in Australia and overseas. It has built five of these projects, two in Australia. It is true that they have been of less capacity, but there is no problem, the company tells me, in being able to build a project of a similar capacity over a similar length to what is contemplated by Basslink. All you do is what I have already described — run the cable in parallel — and you get the result you want. Indeed, the general portability and adaptability of Transenergie's concept are such that you can lay half a dozen of these cables in a trench if you so wish and get whatever you want by way of megawatt capacity within those trenches. It is not an issue so far as Transenergie is concerned. The fact is that it can be done.

The further fact is that it is very competitive. Having met with them today, I have had a broad outline from Mr Donahue and Dr Cook of what those competitive costs entail. They tell me that the cost of the actual trenching, the undergrounding, is about $65 000 per kilometre. If you add to that the cost of the materials and the other costs associated with permitting and the like, the figure is of the order of $500 000 per kilometre to build it using underground cabling. That is what Transenergie tells me. Basslink has been running the line that the cost is about $1.8 million per kilometre. It is rubbish.

The fact is that Transenergie now knows, having regard to its experience with its other projects and what it has done in Australia and worldwide, that this project can be built on the basis of a figure of around about $500 000 per kilometre to enable it to happen. It means therefore that it is perfectly feasible within the cost parameters that are contemplated by this whole project. As I said, we have Murraylink and Directlink complete, and we have that environmental award I have already read to the house. There is ample evidence that the technology is well and truly there to be able to do what Basslink requires.

Transenergie put its point of view to the joint advisory panel. I have with me a letter dated 24 August 2001. This is a letter which Dr Cook, the managing director of Transenergie, directed to the Basslink joint advisory panel. It is four pages in length. I will not read it all, but I will read some relevant excerpts from it. I am only too happy to make it available to the house, if that is desired. I suppose that the really pertinent point is in relation to the conclusions. Those conclusions follow a series of comments made by Transenergie about the background to the project, the company's own comments with regard to the different aspects of what the project contemplates and then the conclusions. The conclusions read:

> Transenergie considers that as proposed Basslink is employing out-of-date technology that has potential for significant adverse environmental impacts. This is demonstrated by the fact that the proposed technology is no longer permitted in Europe or North America.

I pause to say that at that stage National Grid was intending to use the monopole cable and Transenergie was making the point that that form of construction simply is not permitted in other parts of the world at the moment. As I have already remarked, that deficiency in this project was cured to some degree, although not completely, by the later addition of the metallic return. The letter goes on to say:

> Transenergie considers that the use of the latest technologies would mitigate many of these adverse impacts. For example, Transenergie is employing such technology to develop the Murraylink interconnection as the longest underground interconnection in the world at 180 kilometres in length. This length does not represent a constraint (technically or economically).

The company makes the point again that the length of the project simply is not an issue; it can be done. As these projects have evolved over the years, they are getting longer. This one is 180 kilometres in length. That project, which was only in the development stage back on 24 August 2001, is now operating; it has been commissioned. The letter continues:

> On that basis Transenergie considers there are significant environmental issues that the Basslink 'Integrated assessment statement' has not addressed.

Interestingly, that letter became exhibit no. V105 in the draft report, but there is nothing in the report which reflects the content of the letter. One would think that whatever might be its misgivings about the source of material when the joint advisory panel prepared its draft report it would have said something in considerable detail about this. At the stage that the panel did its draft report the joint advisory panel had received 550 submissions from Victoria and a couple of hundred, I think, from Tasmania.

I think it reasonable to say that the broad thrust of those submissions was in relation to the pylons. The general theme of the submissions was to rub out the pylons and underground the cable. Wouldn't you think as a matter of reason that the joint advisory panel, if it felt that the

material being advanced by Transenergie was not appropriate, would have at least dispelled it, that it would have spent some time knocking it on the head? You would have thought that to be a reasonable thing, would you not, Mr Acting Speaker? Well, it did not happen.

The next letter I have from Transenergie is on the letterhead of Murraylink, which is the project developed by Transenergie. It is dated 28 May 2002 and is directed again to the joint appeals tribunal, Basslink joint advisory panel. It makes a number of comments about the report which was then out for comment by people at large. Again I will not go through it all but I do want to refer to that element of it which deals with the issue of costs.

The first heading to which I refer is 'Costs' and then I will refer to 'Technology'. Under the heading 'Costs' it says:

> The draft report states that the underground costs for the Basslink project within Victoria would be six to seven times the cost of an overhead line.

There is reference to the report and it goes on:

> Transenergie disagrees with this proposition, as the use of DC cabling (rather than the AC cabling proposed in the draft report, which results in a cost of $1.1 million per kilometre) will greatly minimise these costs.

It goes on to talk about the issue of costs:

> Transenergie's experience is that, as one would expect, the cost of undergrounding DC cable is very dependent on the terrain. For example, the cost can vary from as little as $10 000 per kilometre for open terrain to as much as $150 000 per kilometre in built-up metropolitan areas where obstacles such as driveways and roads exist. Based on Transenergie's recent Murraylink experience, an average project cost is approximately $60 000–$70 000 per kilometre. Our knowledge of the proposed route through Victoria suggests much lower costs than the panel appears to have been advised of.

I pause to say that these were the issues, amongst others, which were reiterated to me by the Transenergie representatives this morning. They confirmed their view that the cost of undergrounding — the actual work associated with getting the cable underground — is about $65 000 per kilometre. Toss in all the costs of cable, on-costs and the like, and you get up to about $500 000 per kilometre.

They then come to the issue of technology:

> The draft report states that underground cables are more frequently used for low power flows and 'non-bulk' transmission such as Directlink and Murraylink, which have power flow levels significantly below that proposed for Basslink. Transenergie disagrees with this proposition.

The letter goes on to set out the configuration used in Directlink and says:

> A sister company (Transenergie US Ltd) is also proposing up to 3 x HVDC Light systems in parallel for its Lake Erielink project. Basslink could simply use two HVDC Light systems in parallel, to obtain at least 600 Mw of continuous power transfer capability in both directions between Tasmania and the mainland.

Again, that is entirely consistent with what I have been told this morning. In the way I have already described to the house, you need two of the cables to make up one unit. In that one unit you can have 330 megawatts of power running back and forth. You put two of these units together in parallel so that you have in effect four cables and you can get 660 megawatts — no problem. The letter goes on:

> The draft report states that underground transmission at a very high voltage, as would be required if HVDC Light was used for the Basslink project, is reserved for short distances. Transenergie disagrees with this proposition, as the Murraylink underground cable is 180 kms long. The HVDC Light technology would also avoid the much-publicised environmental problems with sea electrodes that have been referred to in the press.
>
> The draft report also states that underground maintenance involves extended repair times and maintenance costs.

Without reading it all, I mention that the letter goes on to say that that simply is not the case, and it sets out why. Then it sets out in conclusion — and this is absolutely significant in the course of this whole discussion — that:

> Transenergie realises that these views are contrary to those put forward to the Basslink joint advisory panel and to the Victorian government by other proponents. However, Transenergie believes that the Basslink project appears to be proceeding on assumptions about cost and technology that are outdated and uninformed.

The letter concludes that with it the company even sent a video of the Murraylink project so that the joint advisory panel could have a look at it.

Wouldn't you have thought that members of a panel charged with the responsibility, huge as it has been, of fully investigating this whole project, including the environmental aspects of the project, would jump at that? Wouldn't you think that they would initiate a process of making sure that they had a proper look at this? Wouldn't you think, for example, that they would go back to the people at National Grid and say to them, 'Look, this is what this Transenergie crew are saying. What have you got to say about the propositions they advance? Come back and give some evidence before us about the situations they advance'? Wouldn't you think they would do that? Wouldn't you think it would be a

fair question for the panel to have asked National Grid, 'Very obviously, plain as a pikestaff, physical fact, these projects are being built in Australia and in other parts of the world — what have you got to say about them?'?

This letter did not see the light of day in terms of the final report. Nothing happened — it just went through to the keeper — and to this day I find it astounding.

I have a third letter from Transenergie, dated 16 August 2002. It is directed to me and is from the ubiquitous Dr Tony Cook. I will not refer to all of it. It describes Transenergie, the entity. It talks about the projects it has built or is in the process of building. I will read this to be absolutely accurate:

> Transenergie has completed recently or has under way five major projects where HVDC Light technology is being utilised and wherein the transmission cables are underground for the land component. These are:
>
> USA
>
> The Cross-Sound Cable project (330 Mw);
>
> The Lake Erielink project (325–975 Mw); and
>
> The Harbour cable project (330–660 Mw).

It then goes on to talk about the projects in Australia, they being Directlink and Murraylink, that I have referred to. It describes the various advantages that arise through using the HVDC Light technology. Again, it is a repetition of a position which has consistently been put to me by this company over the course of the time that I have had discussion with its representatives.

They have produced a document — and again it is available to the house — which talks about Transenergie and its HVDC Light projects. It is about 14 pages long and I want to read just a bit of the last page, which is headed 'HVDC Light versus conventional HVDC'. I pause to say that everybody needs to understand that we are not talking about conventional high-voltage direct current cable; we are talking about the light version which has been developed by ABB — it is a different animal.

The document says:

> Transenergie has compared HVDC Light with the conventional HVDC for each of its five projects.
>
> HVDC Light was chosen as superior because of:
>
> Short permitting approval times
>
> More environmentally friendly
>
> Considerable cost savings in the permitting process
>
> Shorter construction times (typically one year shorter)
>
> Reduced commissioning times
>
> Comparable initial capital costs
>
> Greater operational flexibility
>
> Comparable ongoing operational and maintenance costs
>
> Comparable transmission losses.

That is what the document says and they have it out there for the world to see and there has been no flak about any of that. There is an acceptance in industry that those matters that have raised by Transenergie in that material are regarded as being accurate and the fact.

Who were some of the other players? We have the joint advisory panel. I make these comments with the greatest respect. I appeared before the panel. I was given a good hearing in the sense that I was able to put my position on the whole project. I engaged the services of a consultant, Egis Consulting, to deal with the technical aspects and with some of the aspects of cost. They gave evidence for me as well, so in the sense of being treated properly, fairly and reasonably by the panel, I certainly was. I think it is fair to say that the general point of view expressed by people who appeared before the panel was that they were treated with common decency and that the panel listened to what they had to say, or at least appeared to listen.

The fact is, though, that this panel failed miserably in its obligations to properly examine the prospect of undergrounding the cable. The joint advisory panel failed to discharge its responsibilities when it addressed this issue, and it failed miserably. It failed in a number of ways. It did not call evidence of its own right before the panel hearing that it could have sourced independently for the purpose of public comment about the sorts of issues we are now discussing. I believe it allowed National Grid to present a case which was not reasonably tested and which has been found to be wanting. It did not give proper regard to the options which I have just demonstrated at length to the house as being representative of the technology being used in Australia and internationally in that I believe it failed in its duty to properly examine this option of undergrounding.

Ms Delahunty interjected.

Mr RYAN — What it did do was seek what was termed independent advice, and this might be the cause of the 'Tut, tut, tut!' that I just heard from the minister over the way. I readily acknowledge — and it appears in appendix 9 of the final report — that the joint advisory panel obtained what it termed independent advice, so I think we are in furious agreement on that point.

Let's look at that independent advice in context. This is a half-billion-dollar project, one of the most substantial capital developments in the Australian nation. It is a private project which involves a huge international investment. It has many and varied implications for Tasmania certainly, but also for Victoria and the Australian nation. By any standard it is reasonable to say the sticking point, which has been brought home consistently to this panel by people making submissions to it, is the issue of undergrounding. Outstandingly this was the point of emphasis.

The panel went off to get independent advice. I have that advice in front of me. It appears as appendix 9 to the final report. Before making specific reference to it, I say that this advice compounds the sin. It is a farce. It makes a mockery of the process which the joint advisory panel purported to discharge. I believe it is a disgraceful document in the context of a project of this magnitude, and more particularly so having regard to the enormous emphasis which was placed on the issue to which this advice was supposedly directed.

In practical terms it comprises four pages. If you take out the graphs and the headings it is about 100 lines. It was prepared by Halliburton KBR Pty Ltd, and the heading on the facing page is:

> Independent cost estimate for the Basslink Victorian land route development.

The opening statement — a great way to start — is headed, 'Limitations statement'. That is code for 'Don't blame us'. I quote:

> The sole purpose of this report and the associated services performed by Halliburton KBR Pty Ltd (Halliburton KBR) is to provide an independent cost estimate for the development of the Basslink Victorian land route as an underground and/or overhead transmission system in accordance with the scope of services set out in the contract between Halliburton KBR Pty Ltd and the Basslink joint advisory panel ('the client').

This is a document prepared by Halliburton KBR at the request of the panel. It continues:

> That scope of services was defined by the requests of the client, by the time and budgetary constraints imposed by the client and access to information.

Let's stop there for a second. It is qualified in the fourth line. It says that the 'scope of services was defined by the requests of the client'. In other words, the joint advisory panel gave them some sort of terms of reference, which I do not specifically have, as to what it wanted from them by way of independent advice. There were time constraints and budgetary constraints. I say again, this is a half-billion-dollar project, and this was advice which the joint advisory panel was seeking. Those constraints were imposed by the client, and that is also apparent from the document.

The document continues:

> Halliburton KBR Pty Ltd derived the data in this report from the document entitled 'Submission 1 of 3 Victorian land route optimisation', prepared by Basslink Pty Ltd dated 28 March 2002, technical information provided by BPL —

that is, Basslink Pty Ltd —

> similar South Australian transmission line projects and budget quotes provided by vendors of electricity supply equipment.

I will stop there for a second. What it says is that Basslink gave them the material upon which their independent report was to be developed. Basslink gave them the information they were to consider in the preparation of their independent report. The technical information was provided by Basslink Pty Ltd. Now, isn't that a classic? We have the fox in with the chooks! Here is Basslink being subjected to an independent assessment by an organisation which is supposed to take a clinical view of this whole project, and it is basing its independent report upon information provided to it by the entity it is supposed to be reporting on.

I reckon by any standards conflicts of interests are flying off the page. This is about the 10th line of page 1. It then states how it looked at similar South Australian transmission line projects. By definition that had to be Murraylink, the one Halliburton has been referring at length here. Halliburton based part of its report — its independent advice — upon the very Murraylink project which I am now using to advance the case which is made by Transenergie that this cable can be undergrounded. I tell you this, Mr Acting Speaker, Halliburton did not come and talk to Transenergie, so by whatever means it got this information regarding the South Australian project it was not involved in the way this would convey.

There are some other classics. The document states:

> In preparing this report, Halliburton KBR has relied upon and presumed accurate certain information (or absence thereof) relative to the Basslink project provided by the client —

that is, by the joint advisory panel —

> and others identified herein.

I wonder if this was paid on the long-term principle of so many dollars per 'herein', 'whereafter' and 'wherein before'. It continues:

> Except as otherwise stated in the report, Halliburton KBR has not attempted to verify the accuracy or completeness of any such information.

So it received information from the joint advisory panel, relied upon it entirely and made no endeavour of its own to check out the validity of that information. It states:

> The findings, observations and conclusions expressed by Halliburton KBR in this report are not, and should not be considered, an opinion concerning the validity of the Basslink project. No warranty or guarantee, whether express or implied, is made with respect to the data reported or to the findings, observations and conclusions expressed in this report. Further, such data, findings, observations and conclusions are based upon information made available by Basslink Pty Ltd published in existing documentation, and information in existence in the public domain at the time of the investigation.

The absolute height of farce! Flipping over to the document itself, the introduction states:

> This report investigates and provides conceptual cost estimates associated with four alternative underground/overhead design configurations for the panel's preferred … route, identified in its draft assessment report of March 2002.

That is what it set out to do. Flicking over the page we get to the cost estimates. This seems to me to be very important and significant. It states in the first two dot points that the cost estimates have been based on:

> KBR in-house estimating data;
>
> technical information provided by Basslink Pty Ltd on the proposed underground and overhead construction arrangements …

The next dot point refers to vegetation details, and the next refers to similar South Australian transmission line projects. Isn't it interesting that this advice, supposedly prepared independently of the joint advisory panel, regards the South Australia project, Murraylink — if that is what it is, and it cannot be any other — as being similar to Basslink?

The next dot point refers to budget quotes provided by the vendors of electrical equipment, and the final dot point refers to accepted industry relativities between overhead and underground power transmission.

The key point in all this is that the technical information on the proposed underground and overhead construction arrangements was provided by Basslink Pty Ltd. Moving to the bottom line, this document concludes that the cost of undergrounding the cable over a distance of 60.7 kilometres, with 3.2 kilometres overhead — that is at the far end of it, going into the Latrobe Valley — would be $91.1 million. Let's call it $90 million between friends. It then looks at the cost of three other options which involve overheading. They are, respectively, $23.6 million — let's call it $24 million; $27.6 million — let's call it $28 million; and $33.1 million — let's call it $33 million.

The interesting thing is that if Transenergie is right, which I believe to be the case, and if the cost of undergrounding the cable is about half a million dollars per kilometre, over a distance of about 60 kilometres that totals about $30 million, not the $91 million that this crew came up with based on material supplied to it by Basslink Pty Ltd and the joint advisory panel, as opposed to those other figures of $24 million, $28 million and $33 million respectively.

Transenergie has said to me — and it has reiterated it today — that you can underground the cable in Victoria for $30 million. From the figures set out in this document — this so-called independent advice — it will cost from $24 million to $33 million to overhead it. The fact is that we can either spend a minuscule amount of money less, or a little bit more, to underground the cable — it just depends which figure you take. If you take the $33 million estimate for the overheading it will actually turn out to be more expensive than to underground it, at a cost of $30 million. The report also had lots to say about limitations on cost estimates, putting all sorts of qualifications upon those. That was the involvement of the joint advisory panel.

I now turn to the final player in all this, the Victorian government, and I am sorry that the Minister for Planning has left the chamber. The government's role in this was stipulated under terms of reference produced by the then Minister for Planning, the Deputy Premier, which were supplemented by further terms from him on 29 August 2001. I do not have a date for the first lot, but I think it was early in 2001 or late in 2000. I thought there was another set that talked about the requirement to investigate undergrounding, but what I have with me — appendix 2 — has been peeled off from the final report and the additional document that I thought was part of all this does not accompany what I have.

Nevertheless, leaving aside the formalities the issue of undergrounding was clearly uppermost in the consideration of those terms of reference, which were general. The original terms refer to an obligation to inquire into the environmental and related social and economic impacts of the Basslink proposal and any reasonable variations to the proposal as identified by the joint advisory panel or put forward by the proponent as this relates to Victoria.

What has happened? What the Labor Party has done is use Basslink according to the whim of the day to suit its miserable purposes. There is no particular star performer in this. Each minister has been appalling in discharging their ministerial responsibilities and in doing what their involvement entailed.

The Minister for Innovation, who is also the Minister for State and Regional Development and the Treasurer, is an example. But before I get to that minister I want to make it very clear that at different stages throughout the process I have sent material to each of the cabinet ministers. I have certainly sent material on other occasions to the Premier, to the Minister for State and Regional Development and to the Minister for Planning. The first of the letters I have in mind was sent on 17 July to the Premier.

As I stand here today making this contribution I can tell the house I have not received a single word by way of response from any of the ministers to whom I have directed correspondence in relation to this crucial issue of alternative technology.

Mr Maughan interjected.

Mr RYAN — Yes, three months, and those three months span a time when critical decisions were being made.

I now turn to some individual efforts. The Minister for State and Regional Development has used this as a bit of a toy, and his position on it has changed as circumstances have decreed. I have asked him questions in this place about the capacity of the Victorian government to get involved and lend some financial assistance from the economic development and environmental perspectives. His response has been to slap me around in question time. That is fine; you get to do that when you are a minister, and what happened to me happens when you are in opposition. It is just the way of the world — and it is not the issue that troubles me.

The content of the response, however, has been that this is a Tasmanian project, not a Victorian project. That is what he has told this Parliament.

Mr Carli interjected.

Mr RYAN — The honourable member for Coburg interjects to say, 'It is true!'. We will come back to that, too.

The ACTING SPEAKER (Mr Kilgour) — Order! The Leader of the National Party should ignore interjections.

Mr RYAN — Indeed I should. It is very poor discipline on my part, Mr Acting Speaker. Thank you for your guidance.

The minister has told the house that it is a Tasmanian project and that it has nothing to do with Victoria. In other instances we have had answers to the effect that there is a benefit for Victoria to be derived out of this project. The Premier has told us in question time that there is a benefit for Victoria in it. That sentiment is echoed in the draft report of the joint advisory panel, and in the final report the authors make it very clear, in either the second or the third of their initial findings, that there will be a significant benefit to Victoria arising from the development of the Basslink project, because it will take the edge off our peak electricity needs and we can take power back from Tasmania when needs must. That point of view has been put to us in this place by the Premier.

The circumstance that really annoyed me arose when the Minister for State and Regional Development came to visit beautiful Gippsland in August, only a few weeks ago. He came down to make a very welcome announcement with regard to funding for Port Albert that quite properly was well received. While he was down there, however, he was besieged by people who put to him the position about Basslink.

Honourable members should bear in mind the timing. It was a time when this government was yet to make up its mind — or supposedly make up its mind — as to what it was going to do. So the minister used the opportunity to get himself a headline. An article appeared in the *Yarram Standard News* of Wednesday, 14 August, headed: 'We'll listen to Basslink alternative, says Brumby'. Specific questions were put to him about it, and I will not go through them all now. Suffice it to say that he distinguished himself by telling these people what they wanted to hear and saying that he would consider this further material.

I wrote to him soon afterwards, sending him the material I had received from Transenergie. In my letter I implored him to consider this information. I have never to this day received a reply: absolutely nothing has come back from him.

We have had issues such as $71 million being devoted by this government to some tunnels that are needed for the development of the Eastern Freeway. I asked the Premier why, if it is good enough to put $71 million into the environment of Melbourne, it is not good enough to put some money into Gippsland to protect its environment. That drew another bit of a thumping in question time about how it simply was not our

responsibility and that the money would not be provided, and the like.

The principle that what is good for the goose is good for the gander has completely gone under this Treasurer. He has unfailingly ducked and dodged the issues. He has not given this the proper consideration he told the people of Yarram and the Gippsland region he would when he got himself a big headline in the local paper. He has allowed it to go through to the keeper.

I reiterate that I sent the Premier material about the options for the undergrounding of Basslink on 17 July, and I subsequently heard him on the radio on the day he was going to Manchester to the Commonwealth Games. I remember it well. I think it is a terrific thing that he went across as the Premier of our state, representing us at the games. It was a very proper and appropriate thing to do. But I heard him saying on ABC radio that morning that he did not have any knowledge of alternate options for the undergrounding of this cable. He did not know anything about it.

I had sent him that material from my office here at Parliament about eight or nine days previously. I know that he is flat out and that a lot of stuff comes over his desk. But I fail to understand how it is that by that point in time a letter from me was not brought to his attention. But even more so, how can it be that to this day I have never had a line of response from him about that material on this critical project? I regard that as being a disgraceful performance on behalf of the Premier of the state of Victoria.

Then classically we had the charade through which the Premier went on 12 September. I am not allowed to quote from *Hansard* and so I will not, but suffice to say I asked him questions that day along the lines of, 'What has happened to that material I sent you, since you are coming to the point of deciding what you are going to do about this project?' and 'Having regard to the options which that material offers, are you prepared to guarantee the cable will be put underground?'.

I think it is fair to say on a reasonable reading of what appears in *Hansard*, and certainly on listening to what was said to me and to the house that day by the Premier, that he was misleading in his answer and that he clearly conveyed that there was still in process the consideration of the Basslink project, that the government had not determined what it was going to do, and that I was given a guarantee by the Premier that the matters I had brought to his attention all those weeks ago would be taken into account at the time and prior to — I think the fair implication being prior to — any decision being made. Of course history now tells us that the next day the government announced its decision. The very next day, about 22 hours after the Premier had given me that answer, the Minister for Planning announced to the press that Basslink was being approved and that the pylons would be used — that this government was giving it a tick.

I regard that also as being an absolute disgrace. I do not in a sense mind if you cop a hard answer in relation to a difficult issue — that is the way of the world — certainly when you are involved in governance. But to get that answer, and to then have it followed by what occurred over the following 24 hours, I thought was conduct certainly not appropriate on behalf of the Premier of the state, and patently misleading.

Indeed, to compound the irony of it, as I was going home from Parliament on that Thursday night I was receiving phone calls from people who were talking about the prospect of the announcement on Basslink being made the following day. From my car, heading back to Gippsland, taking those various calls, I was telling people that the Premier of the state had stood in this Parliament that very day and told me, in effect, that no, that would not be happening because the process of consideration of the project was still under way, and that in effect no decision had been reached.

To further compound an already ironic position, I even made sure that I faxed the *Hansard* extract of the Premier's answer of the previous day to those many people who are on the mailing list in my office in relation to this grave issue. I expect that the mail I sent out probably arrived on the Monday, after the announcement was made by the government that the project was approved and pylons would be used. I think the whole conduct of the Premier on the issue has been utterly reprehensible.

Then we have the Minister for Planning. Again, I have sent detailed material to her in the nature of that provided to me by Transenergie. To this day I have received no response from her in relation to that. All these weeks on, there is absolutely nothing. I think her performance has been lacking terribly in this. She was asked many times by the people of Gippsland to come down and have a look at where the project was to be built. She has never been there. She was asked many times to meet with deputations. She always took the fifth amendment over it, saying, 'No, I can't talk to anybody because the process of this is such that it is under active consideration by the government'. She ducked any prospect of deputations every time on the basis of that plea.

Needless to say, the people of Gippsland regard that conduct as being an absolute disgrace in both its forms. The minister should at least have had the courage of her convictions on this issue. She should have faced the people who were going to be subject to the outcome and at least given them a hearing on what it was they wanted to put to her.

We then had the issue of the government's purported consideration of the undergrounding option. This was regarded by the government as being its big 'out'. This was a document which was prepared and produced for the Department of Natural Resources and Environment by a company called PB Power. I pause to say that I understand in a sense why the document was sought from DNRE because the Minister for Energy and Resources, in her responsibility for power, simply is a pivotal player.

I understand that, but what I do not understand is this. We have a Minister for Innovation who was faced with a welter of material indicating that this project could be put underground. Here is a man who, in his ministerial responsibility, professes to be a leader in innovation, particularly in technology. But in matters general, what did he do on this project? He turned his back on it. He ignored it. Would you not think a minister for innovation who was fair dinkum about the task would consider the prospect of being able to lead this debate and make a contribution to it in a constructive way? Would it not have been a wonderful thing for the state of Victoria if the minister having responsibility for innovation were to have gone about the task of properly and conclusively examining the options? Would you not think he would look at the fact that about four years ago the technology in relation to this HVDC Light barely existed, if at all? Yet in those four short years we have seen such immense developments in the nature of those that I have described to you today.

Would you not think that he would take into account the fact that once we build these pylons, if we do, they are going to be there for the next half a century? No-one is going to pull them down. The term of this contract, as I recall, is 40 years. Who is going to pull them down after 40, 50 or 60 years? Would you not think a minister for innovation doing his job would use this singular opportunity to be able to discharge his role in the leadership of innovation in Victoria by properly examining this alternative mechanism of developing this project? But no, he turned his back on it.

What we got instead was this product from PB Power. At least this one has about a dozen pages in it. This is the document that was delivered to the Victorian government. This was supposed to be the basis upon which it came to the conclusion that it would support the propositions advanced by National Grid. I will read from page 1 under the executive summary. It states:

> The two HVDC technologies have significantly different technical characteristics and if a detailed total installed capital cost estimate is undertaken a clear cost comparison could be obtained.

So they did not have a brief delivered to them with enough terms of reference to enable the costings to be done and comparisons to be made. It goes on to say:

> Our view is that no detailed economic evaluation has been performed for the ABB HVDC Light option. We believe that comparing various individual components would not provide a balanced, informed and objective assessment of the financial viability of the two technologies. The task is outside the scope of this report.

I pause to say they were never given the job of making their comparisons between the use of the HVDC technology which National Grid proposes, as opposed to the HVDC Light technology which is now being produced by ABB and is used by Transenergie. They were never asked to do that. It says:

> We cannot comment on or compare the overall cost of using underground HVDC Light technology without considering all cost components.

Therein lies a fatal flaw. On page 13 under the heading 'Conclusions' the paper states:

> It should theoretically be able to accommodate the requirements of Basslink —

that is, the use of new technology.

> However the use of developing technology implies higher technical and commercial risk to the owners …
>
> ABB did not offer their HVDC Light technology during the tender process —

that is, the tender process for the original project —

> as it was not available at the time.

This report echoes the sentiment that since Basslink originally went to tender the HVDC Light technology has been developed. Insofar as the document is concerned I conclude by reading this paragraph:

> The two HVDC technologies have significantly different technical characteristics and only if a detailed total installed capital cost estimate is made, a clear cost comparison could be obtained. Still this does not provide the true economic picture. A proper economic evaluation needs to be performed having taken into [account] all economic aspects such as capital cost, losses, reliability, operation and maintenance to ascertain which option is financially superior. We believe just comparing various bits and pieces would not provide a balanced, informed and objective assessment of the financial

superiority of the two technologies. This task is outside the scope of this report.

In terms of the value of the report I rest my case. This government simply does not have before it anything which justifies it having determined that it will proceed with the project using the pylons. Rather, what it has is a document which at best is equivocal about the capacity of technology to deliver the sort of outcome Basslink requires. That is putting it at its highest. It says on the issue of cost that it would need to do a complete and accurate evaluation of all of that before it could usefully make any comment. The issue of cost is a nonentity in terms of this report.

What are we left with? What we have at the end of it all is a circumstance where Transenergie is developing enterprises that I have described in some detail, using technology which is being produced by ABB and the nature of which was simply not available when the concept of Basslink first went out to tender. It flows from that that Gippslanders in particular and country Victorians at large — this issue has a focus beyond Gippsland borders — are now faced with a situation where the state government — this open, honest and accountable government, as it terms itself — is going to compel them to suffer a legacy because a huge multinational British company is too far behind the times to do the decent thing and do what is necessary, which is to build a project of this magnitude in a way that tomorrow's technology demands. I believe that to be an appallingly sad state of affairs.

In the end the people of Gippsland will wear this legacy because of the incapacity of this British organisation to do its job properly; because of the failings of the process; and because those who in many forums have stood up and supported Gippslanders will now wimp out when it really matters. Most particularly, Gippslanders now find that a state government that purports to have been elected on the basis of looking after country Victorians is turning its back on them at a time of enormous need. If I may say on their joint behalf, that is an utter and unmitigated disgrace. I commend the motion to the house.

Mr DOYLE (Leader of the Opposition) — I have heard my friend and colleague the Leader of the National Party speak many times in this house, and rarely have I heard him make a speech of such calibre. It was comprehensive and learned, and it was also persuasive on the history of the project, the process that was followed, the outcomes that have been reached and, more importantly, the alternatives that are available.

The house may be grateful when I say that there is no need for repetition of many of those points and therefore no need for a lengthy speech from me, given what we have heard in a fine contribution from the Leader of the National Party. I was as surprised as he that despite the importance of this project and the government's lip-service to transparency and being concerned, he has not received a response from either the minister or the Premier to his correspondence. It smacks of a particularly cynical type of hypocrisy on the government's part that this was a done deal; the fix was in and it was not prepared to look at any alternatives.

This project goes back a long way. The concept of linking the Tasmanian and Victorian electricity grids has been under consideration for decades, probably since the 1950s. It was following the establishment of the national electricity market that the Tasmanian government committed to join that market through an interconnector with Victoria. As the Leader of the National Party said, back in 1998 the Tasmanian government established the Basslink Development Board to facilitate the development of the project. It set up Basslink Pty Ltd as the nominal proponent to initiate the preliminary environmental planning and impact assessment studies and a short list of four drawn from 14 competitive bids was announced in 1998, which was reduced to two bidders in November 1999. The preferred proponent was announced in February 2000 as National Grid International Ltd, which is a subsidiary of National Grid Group. It acquired Basslink Pty Ltd from its interim owners shortly thereafter.

One of the final points the Leader of the National Party made, and the reason I repeat the time line is to recall it, is that at the time the process was set up alternative technology was simply not available. Does that mean that we turn our backs on it or does it mean that we need to factor it into our thinking? Again as the Leader of the National Party said, this debate is about 60.7 kilometres, 180 pylons, and a project that we all acknowledge is a major project of considerable significance not just to Victoria and Tasmania but also to Australia.

The case that the Leader of the National Party made was a fine one, and I want to emphasise a few points where the Liberal Party is in agreement with the National Party. It has always been the Liberal Party's position that it supports the project — and it does — it believes it should be underground, and the reasons for that are many. There is no doubt that Gippsland-wide opinion is galvanised against pylons. That is not some whipped-up, frenzied political outcome; it is the natural reaction of communities in Gippsland to the effect of

pylons. The overhead pylons are reviled because of their impact on the landscape and the environment and because they devalue the amenity of the communities through which they run.

It is no good isolating affected communities or saying that Basslink pylons will only affect a small number of properties: it has a much broader impact than that. As recently as this morning there were reports in the paper about community alarm at health risks from electromagnetic fields associated with overhead cables. If this project were put underground, landscape, economic, health and social values would be preserved. That is why the Liberal Party has said that it supports putting Basslink underground.

The Leader of the National Party clearly outlined several anomalies of logic in the process so far and in the government's reasoning. There are many reasons why putting Basslink underground is the only viable alternative. One is the rapid development of high voltage direct current technology, known as HVDC Light. Because of that advance this could well be one of the last projects where this question is a controversy. It may well be that we are seeing the end of that old-style technology, the last of the major transmission projects proposed to be constructed with conventional technology. I will not repeat the remarks of the Leader of the National Party, but with the commissioning of Directlink and Murraylink — both HVDC Light projects in Australia — we are seeing the dawning of new technology. The question at this critical juncture is, do we go with a conventional-type technology or should we be looking at an alternative technology?

The Leader of the National Party also pointed out that a different company, Transenergie US, has applied HVDC Light technology to other projects around the world — Cross-Sound Cable, Lake Erielink, Harbour Cable — where HVDC Light technology with its underground cables was commercially and technically more attractive than the conventional HVDC alternatives with overhead cable. That is evidence that we stand at a critical juncture. These projects clearly indicate trends away from conventional technology to HVDC Light underground.

The cost competitiveness of such a project is something around which an argument swirls. I will come back to the cost imperative, the National Party leader made some good points about the misapprehensions and the misinformation about the costs of undergrounding this particular project. At one point he mentioned — and it is certainly a figure we have heard — that the cost of undergrounding could be around $30 million. One estimate — again mentioned by the National Party leader — was that overheading the project would cost $33 million. But it is a discussion that has not been appropriately developed by the relevant authorities, and certainly not by the government. I will come back to that also in a moment.

There are some difficulties in the approach of the Leader of the National Party in his motion. In looking at this whole project it seems to me that someone or some parties are not playing by the rules. Why have we got to the point where we have an apparently irreconcilable position? What has led us to the point where we have to environmentally and socially balance a project that we all believe is a major project, a project of national significance, certainly a project of great significance to Victoria and Tasmania against economic imperatives: that is, whether we go with pylons or whether we go underground? Why have we been put in the position where we are being told that apparently we cannot have one without the other, that we cannot have the project unless we have pylons? Our answer is that we want both and we believe that can be achieved.

I will not go on much further about the Leader of the National Party's contribution except to say this: it was a most eloquent exposition of the problems that we face.

Ms Delahunty interjected.

Mr DOYLE — I will come to the solution the government has offered in a moment, but I will not have the contribution of the Leader of the National Party denigrated in that way because it was one of the most eloquent and persuasive arguments this house has heard for some time, and one based on a considerable knowledge of this project.

My view is that we need somehow to come to an arrangement where we can have both outcomes. That is what this place should be about. It should not be about butting our heads together in a political way over a project of such national significance.

Of recent days I have written on a couple of occasions to Basslink as it became obvious that this project was at some risk, and that some decisions would need to be made. Geoff Singleton, the chief executive officer of Basslink, first wrote back to me on 26 September. I will quote en passant from the sequence of letters I have received, including one as recently as today, and suggest a way forward where we can have both the project and the appropriate environmental solution of undergrounding it, because the Liberal Party has always said that it supports both those outcomes; both the project and the undergrounding.

I refer to the letter written to me on 26 September, and I read some parts of it because it is important that we look at what Basslink has said, given the deliberations we face today. In the second paragraph the chief executive officer states to me that he is writing:

> … in light of the announcement at the time of your election that all existing policies of the Liberal Party were subject to review. I am aware that the policy of the state parliamentary Liberal Party has for some time been to support my company's Basslink project, but only if it is totally undergrounded on the Victorian side.
>
> My company is concerned that this policy, if followed through in the Legislative Council by voting down the amendments to the Planning and Environment Act necessary for the project to proceed on the basis endorsed by the commonwealth, Victorian and Tasmanian governments following exhaustive examination by the joint advisory panel set up by the three governments, will force us to abandon the project. That of course would have significant economic, social and employment consequences for Victoria.

There is a more telling repetition in the next paragraph:

> National Grid is committed to the $500 million-plus Basslink project, which will create 550 jobs in Gippsland.

The paragraph continues in bold type:

> Should the Victorian parliamentary Liberal Party revoke the planning amendment in the Victorian Legislative Council, we will not build the Basslink.

The letter goes on to spell out the three basic principles on which Basslink had predicated its business. Principle 1 is:

> If the three governments determine that in their view there is an environmental requirement for undergrounding in a particular location, then it will be considered …

What I want to know is, why did this government not make it an environmental requirement? If that is what Basslink has said all the way through why is it that we have now arrived at this point of the process where Basslink itself says that is the first consideration and the first principle? Apparently it was not an environmental requirement of at least one of those three governments — that is, the state government of Victoria.

Ms Delahunty interjected.

Mr DOYLE — Minister, it is amazing. It is always somebody else's fault, isn't it?

Ms Delahunty — I am asking a question.

Mr DOYLE — So you did not sign off on it, Minister?

Ms Delahunty interjected.

Mr DOYLE — It is just incredible. It is amazing that one of the facts is that this actually says — —

Ms Delahunty interjected.

Mr DOYLE — Well then put up your hand and be responsible, Minister. Are you one of the three governments — —

The ACTING SPEAKER (Mr Savage) — Order! I ask the Leader of the Opposition to address his remarks through the Chair, and the Minister for Planning to cease interjecting across the table.

Mr DOYLE — That is all I asked. The letter refers to 'the three governments', and all I was asking was, 'Is the state government of Victoria one of those?'.

Mr Carli — Where is your backbench?

Mr DOYLE — Where is your Premier on this critical issue? Where is your Premier on it? Unbelievable!

I then wrote to Basslink to outline clearly the position of the opposition, and I will quote from that letter as well. It is quite a short letter. It reads:

> I am writing to you to express the parliamentary Liberal Party's concerns regarding the Basslink project.
>
> As you would be aware the Liberal Party supports the project on the basis that the cable is underground.
>
> This remains our position.
>
> The Liberal Party faces an imminent decision in the Parliament given the stated position of the National Party that they will move a revocation of the government's proposed planning amendments.

I then go on to quote part of the letter of 26 September:

> Your letter of 26 September 2002 states that: 'The practical effect of the revocation under section 38 would be the termination of the Basslink project.'.

My next paragraph reads:

> The Liberal Party seeks an undertaking that should we win the next state election, Basslink Pty Ltd would be willing to discuss a commercial arrangement with a Liberal administration to underground the cable.

Basslink wrote back to me immediately. Again it is quite a short letter, and I am happy to quote from it. It is also dated 4 October, and it reads:

> Thank you for your letter of the 4th October 2002 regarding the $500 million-plus Basslink electricity interconnector.

I will take the paragraphs out of sequence and go next to the final paragraph in the letter:

> I trust the Victorian parliamentary Liberal Party understands that the effect of the disallowance of the planning scheme amendments in whole or in part would be the termination of the Basslink project.

I now go back to the second paragraph, in direct response to the letter that I wrote to Basslink:

> I note all your points. Basslink has always taken a bipartisan approach to this historic and vital infrastructure project and would therefore discuss all relevant issues with you should a Liberal administration be formed.

I have written back to Basslink today, saying that I have informed Mr Singleton that on the basis of his confirmation the Liberal Party has resolved not to support proposals for the disallowance of the planning scheme amendment. I will explain why, with some reluctance, we have chosen this course. I have two letters from the chief executive officer (CEO) of Basslink directly saying that if this Parliament disallows in whole or in part the planning scheme amendments, then Basslink will not be built because the project will be terminated. In all good judgment the Liberal Party cannot allow a major project of this significance to be put under threat, so we will not be supporting the revocation of the amendments moved by the National Party. However, I can tell you, Mr Acting Speaker, that I agreed with every word the Leader of the National Party said. That is the difficulty that this government has put us in.

Why is it that other projects in Australia and around the world can use alternative technology and can go underground and be completed but in this area this project cannot? There is a precedent for this government. Honourable members will remember back to the 1980s, when cabling was to be done at Merri Creek. It was then a Labor government which actually said, 'This will go underground', and it was — —

Ms Delahunty interjected.

Mr DOYLE — Unbelievable! On a matter of this seriousness I will not respond to that sort of low-level flippancy from the minister, who should know better. That project established that from time to time governments decide that they will make sure such things happen.

We have from the CEO of Basslink a guarantee in writing that it is prepared to consider all relevant issues. Let me tell you, Mr Acting Speaker, that there is only one relevant issue for the Liberal Party, and that is undergrounding the cable — and that is the issue we would wish to discuss. As I have said, while it is our position that we cannot support the revocation motion and we wish this project to proceed — and I take the statements of the Basslink CEO at face value as truth, as I should — I can say, as the Leader of the National Party showed in excruciating detail, that there are large question marks over the process that has been presided over by this government

The final paragraph of the letter I have written to the CEO of Basslink today reads:

> In light of the expectation of an early election, that is, either 30 November or 7 December, could I suggest that Basslink preserve sufficient flexibility in its planning for the project to allow for the ready implementation of such an arrangement should the election indeed be held this year and the result be a Liberal administration?

I want Basslink to be under no illusion about the fact that although we are not supporting the revocation we wish to have that discussion — and the relevant issue is that we want the cable underground. We want both the project and undergrounding — and we think the people of Victoria and particularly the people of Gippsland deserve no less. Of course they deserve a major project of this size, generating jobs and offering security of electricity supply into the future. But this is about a differentiation between two political parties, because we have said that while that is possible we also believe this project needs to go underground. The question of cost needs to be resolved, and then we would enter into a commercial negotiation with Basslink.

As the Leader of the National Party pointed out through reference to a number of documents, what that cost would be has never been accurately determined. However, we have people who have delivered the alternative technology who say that the cost of it is $30 million.

One of the things we will be entering into straightaway is a conversation about exactly that — what is this going to cost? — and then as a government we will make a decision on the basis of funding that undergrounding through a commercial negotiation with Basslink.

I do not think it is appropriate for the Treasurer to simply say in this place, 'If you make that promise you have thrown away $91 million', because the answer is that we simply do not know whether it is $30 million or $640 million, but we need to investigate that and to have that discussion with Basslink. It is not of the order of $91 million, as the Treasurer well knows; it is much more likely to be of the order of $30 million or maybe a little more than that.

We believe both outcomes can be delivered for the people of Victoria. We believe this is a clear choice for communities. It is a clear choice between political

parties about what is on offer. If the people of Gippsland wish to have those pylons, then by all means vote Labor at the next election, because that is what it will deliver you. Return a Labor government and Gippsland gets pylons. If you vote for our side of politics then you have people who will go into bat for Gippsland; you have people who already have an agreement to enter a commercial arrangement, a commercial discussion of all relevant issues, with Basslink Pty Ltd.

From the first moment this project was mooted our party has said that it supports the project but that the cable must go underground. That remains our position.

Ms DELAHUNTY (Minister for Planning) — With an issue of such monumental importance to the state of Victoria, and indeed to the national electricity system, I am rather disappointed that both the Leader of the National Party and the new Leader of the Liberal Party have unfortunately strayed from the facts of this very complex case. What we have today is members of the National Party proposing to revoke the planning amendments for a project they say they support but in this place at this time they are proposing to revoke the amendments that will satisfy the planning approvals for that project to go on.

We have the new Leader of the Liberal Party, who earnestly says, 'We have always supported Basslink and we have always had a position that it should be undergrounded'. That is news to the people of Gippsland and the people of Victoria. That is certainly not borne out in the detail of the files in the Department of Infrastructure. What we have here is Johnny-come-lately jumping on the political bandwagon making the political mileage out of a very difficult decision. That is what you have to do in government — make the tough but fair decisions on issues of national importance as defined by the federal government, but of course it is a federal government composed of your political colleagues.

We now have Johnny-come-lately in the Liberal Party announcing that members of the Liberal Party have always supported Basslink — I shall go back to that shortly — so they will give an open cheque to a foreign company to implement Basslink. Suddenly that is their decision. They do not even know what the cost is. Of course this is the opposition that does not care about cost. They will say whatever it takes to try to claw their way back into government. It is a most unedifying sight. It could be anything between $70 million and $95 million, or if you take the calculations detailed by the Leader of the National Party, who has spent a lot of time looking at the detail of this — I give him credit for that — according to Transenergie it is $500 000 per kilometre. The entire Basslink interconnector is 330 kilometres long. Do the calculations and you see that that costs $165 million.

Honourable members interjecting.

Ms DELAHUNTY — We will come back to that.

You cannot just take the piece that suits you. The entire interconnector is 330 kilometres long. If you are looking at the total cost of Basslink you have to look at the total cost of the interconnector. It shows that you can pick a figure, as the Liberal Party is trying to do and as the National Party is trying to do; there is no agreement on what this would cost if we proposed to use different technology. I will come back to whether that technology has been proved.

Already we have figures all over the joint about what it might cost. I think it is fair to say that in government you cannot have a bit each way. You have to make the tough but fair decisions and you have to make planning decisions based on a planning process that is rigorous and is supported by the three governments involved and allows the public — whether they be local Gippslanders, the power industry or interested citizens — to have some degree of input into these decisions. That is precisely what this process has delivered.

The project represents a long mooted and important opportunity to advance the economic and electricity security of supply to both Tasmania and Victoria.

Mr Baillieu interjected.

Ms DELAHUNTY — Yes, it was mooted, back in the 1950s. The shadow Minister for Planning does not have a clue about the history of this. Back in the 1950s it was discussed. It actually got up in 1998. The facts speak for themselves. This project, a Tasmanian project, was given the go-ahead by the Tasmanian government in 1998 after a tender process that it conducted, and Basslink was given the go-ahead. That process began under the government of the former Premier, Mr Kennett, who I believe was running a government that had in the ministry and cabinet both National Party members and present sitting Liberal members. Honourable members opposite were silent then in 1998, and suddenly at the last minute, in 2002, Johnny-come-latelys are on the bandwagon trying to discover how best they can make mischief with a project that is offering significant benefits to the whole of Victoria.

This is about a $0.5 billion electricity connector that will provide 550 construction jobs in Victoria; most of them will be in Gippsland. Also more jobs will be created in Tasmania.

Mrs Peulich interjected.

Ms DELAHUNTY — But let's be parochial, as the honourable member for Bentleigh clearly wants us to be. Do not look at the national electricity grid, just look at our own corner of the canvas: 550 construction jobs will be created. Also this project has the capacity to improve the security of supply to Victoria, particularly during the peak period in summer. That is an important proposition for any government to consider, as this government has done.

We are talking about giving Victoria access to an extra 600 megawatts of renewable power, which will not only provide security of supply, particularly in those peak periods in summer, but will also boost the development of renewable energy in Australia. Renewable energy is supported by the Bracks government.

The project will also create new market opportunities for the emerging wind energy manufacturing industry. Again we see that the wind energy industry has been supported only by the Bracks government. But of course that is what we are used to — the Bracks government is used to taking the lead.

This project has received approval from the Tasmanian government, the Victorian government and, under its environmental legislation, the federal government. It follows an exhaustive process which was agreed to by the three governments. It was investigated through a joint and comprehensive process established under the Victorian, Tasmanian and commonwealth governments. The commonwealth government — the Liberal Party's colleagues in cabinet in Canberra and the National Party's colleagues in federal cabinet — not only supported this project but in fact fast-tracked it while the Liberal and National parties were in government.

The commonwealth government fast-tracked the project by defining it as a project of national significance. So opposition members should not come into this place with their crocodile tears and their fake indignation. Where were they when their colleagues were pushing and fast-tracking this project straight through the system and calling it a project of national significance? I will tell the house where they were. They were deadly quiet, gagged, silent and supine, as always under the Kennett government.

What has been this process? It has been almost defamed by the Leader of the National Party, who diminished himself. He had a very important speech to make, but criticising a process in the way he did just because he does not like the outcome is diminishing and disappointing.

I will go through that process briefly. The investigation of this project involved an integrated impact assessment statement, or under Victorian terms an environment effects statement (EES). The scope and the adequacy of both of those statements were determined by an independent joint advisory panel established by the three jurisdictions. This joint panel held public hearings in Tasmania and Victoria before finalising its report to the respective governments.

I should say that this has been one of the most consultative processes ever adopted for a major project in Victoria, as you would expect of a government that takes consultation seriously — that listens and then leads. That is the difference.

Mr Steggall interjected.

Ms DELAHUNTY — You insult the individuals who give their time and their expertise to make these decisions. It is a flippant remark to say that the process and the panel — —

Mr Steggall interjected.

Ms DELAHUNTY — The point remains the same. You can tell us for as long as you like, but you will have to accept that the expertise of the panel is something you should not diminish. It has been supported by three governments, and indeed, the community.

The consultative committee of the Victorian stakeholders provided advice on the initial route options, which of course the opposition would know have now been changed to a more environmentally sensitive route — and I will go to that in a moment — as well as other associated issues, under the Victorian Environmental Assessment Council Act. There were two further rounds of submissions on both the EES and draft panel report and two rounds of panel hearings were held. We believe this gave citizens and stakeholders ample opportunity to put their case, as the Leader of the National Party has said he did.

Several policies influenced the final decision the government made, which was a planning decision. Planning decisions, as you would know, Acting Speaker, involve a balance between the social, the economic and the environmental. Planning decisions

are always a balance. What we took into account included, not necessarily in this order, the national competition and national electricity code, Victoria's state planning policy framework, Victoria's biodiversity strategy and Victoria's greenhouse strategy. Of course we examined both the Wellington and Latrobe planning schemes, which planning amendments this motion seeks to revoke.

In this context we examined the most effective means of further developing the national electricity market and contributing to Victoria's reserve requirements and peak load capacity. We looked to protect the landscape amenity and particularly areas of high sensitivity for public recreation and tourism. We looked to avoid adverse impacts on the sites of significant Aboriginal and post-settlement cultural heritage. I would have thought both lead speakers for the opposition would have acknowledged that as a result of panel inquiries and submissions, substantial changes have been made to this recommended project.

We want to provide overall social benefits. I think I have outlined some of those benefits already. Let me just say that, on the issue of improving energy supply and enhancing the national electricity grid, the Australian Competition and Consumer Commission determined in November 2001 that the Basslink project would offer significant public benefits for both Tasmanian and mainland electricity consumers. This is part of what the Victorian, Tasmanian and commonwealth governments had to examine. This is the whole canvas of this major project, not one corner of it. We also accepted the panel's conclusion that Basslink would have a negligible impact on greenhouse gas emissions.

However, changes were made to the route, and I think they improve the route for the reasons I have just outlined. Let me just go to the key aspects, in consideration of time. Part of our assessment and planning approval requires the development of an environmental management plan for the coastal crossing point, approval for the powerline with the requirement that it must be undergrounded for the last 6.5 kilometres to McGaurans Beach, a change to the original route — which was going through the very sensitive Mullundung State Forest with a coastal crossing at Jack Smiths Lake — to one which now follows a much more appropriate route, that is, the saline waste outfall pipeline to the south-east of Loy Yang. So it is following the waste pipeline along the Merrimans Creek valley, crossing the South Gippsland Highway and heading to an underground crossing at McGaurans Beach.

We also insisted on a requirement to use steel poles as an alternative to the lattice towers for the 4-kilometre section where the line crosses the Merrimans Creek valley as a technically appropriate and cost-effective means to mitigate the visual impacts on the valley crossing. Also, as has been mentioned — certainly by the Leader of the National Party — we have adopted the more environmentally sensitive metallic return. The process has been exhaustive.

Mrs Peulich interjected.

Ms DELAHUNTY — I think that is the difference. The honourable member for Bentleigh again makes a foolish, flippant comment. Planning decisions require attention to the competing arguments and an examination of the facts, so let me go to the facts that have been presented here today.

There has been much made of the suggestion that the government somehow was remiss in not demanding that this project be undergrounded for the entire route. The Leader of the National Party — I think representing and acting as a mouthpiece for the failed bidder, Transenergie — was very, very limited in the facts he presented to this house. Let me just go to them because the facts are important. This is a complex argument. We are talking about new and old technologies. We are talking about a major project, the size and capacity of which we have not seen in this country. So it is a greenfield site.

Much was made of the claim that — I think these are the words used by the Leader of the National Party — the panel was a farce. That was very insulting and I think unfair. He said the so-called independent advice on alternative technologies was limited and unsatisfactory. Let me go to that. The panel called for advice on alternative cable technologies as they were suggested as an opportunity for economic undergrounding. The panel sought that advice from the independent energy expert Halliburton KBR Pty Ltd. As the Leader of the National Party said — and you see it in the joint panel report — that expert advice to the panel was that the new emerging technologies had not been proven for the capacity or distance required of Basslink. That was the advice to the panel. That was the advice forwarded to the government from the panel. You can dismiss that advice because you do not like it, but the fact of the matter is that that was the advice.

However, I am very aware that since that advice was given there has been much agitation and concern, quite rightly, by the people of Gippsland about this project. Certainly Transenergie, the failed bidder in the original contract, has made some extraordinary public

statements, so I did request further independent advice on the emerging technologies. After we had received the panel's report to government, and after we had examined the independent advice it had received as part of that — —

Mr Steggall — What was your 'more independent advice'? Where did that come from?

Ms DELAHUNTY — The honourable member can be flippant about 'more independent' or 'less independent'.

Mr Steggall — I am asking you.

Ms DELAHUNTY — I am about to answer it. You are either independent or you are not independent. Let me just go to this. The panel's report found that the alternative technologies had not been proven for the capacity.

Mr Steggall — The second independent advice?

Ms DELAHUNTY — No, this is the first one. It had technical limitations. So the Victorian government sought further independent advice, particularly on the possibility of using HVDC Light technology, the newest emerging technology, which is the technology being promoted by Transenergie. Of course Transenergie did not offer this technology during the tender process which it failed to win, a tender process conducted by the Tasmanian government and awarded to Basslink.

Mr Steggall interjected.

Ms DELAHUNTY — The independent advice which examined the potential believed that HVDC, the existing technology, is a mature, proven technology. At that time HVDC Light technology had not been applied anywhere in the world over the route length and the power transfer capacity required for Basslink. It had not been — —

Ms Davies interjected.

Ms DELAHUNTY — Okay! Let me get to that. It had not been demonstrated to be technically viable for the capacity and for the distance.

Mr Steggall — Where was this advice from? That is the second lot of independent advice.

Ms DELAHUNTY — Hang on to your hat!

Mr Steggall interjected.

Ms DELAHUNTY — I am about to get to that. We listened to your side for, I think, an hour.

Mr Steggall — No, an hour and a half.

Ms DELAHUNTY — You could probably do me the courtesy of allowing me to get to the point. To make it very clear for the retiring honourable member for Swan Hill, the second independent advice which was sought by the government, separate to the panel's advice, came from PB Power. It has been described to me as an international, independent energy expert. The government specifically asked for an analysis of HVDC Light and any projects both here and overseas that were using that technology, that not only had been talked about but had actually been commissioned and proven, and any other projects using that technology that had the same capacity and distance as Basslink. PB Power was given a whole range of documents to explore and others that it sought itself — for example, it looked at the *Basslink Feasibility Study Report* of November 1991, Basslink's *Certain Claims Regarding HVDC Light*, the *Basslink Joint Advisory Panel (JAP) Draft Report,* and Transenergie's paper or statement, *Basslink and HVDC Technology*. It looked at another statement from Transenergie, *Comparison HVDC Classic and HVDC Light*, and another statement from Transenergie, *State of the Art HVDC Light*. Finally, it looked at Transenergie's comments regarding Basslink Pty Ltd (BPL) statements.

I think it was fairly comprehensive. Its advice goes this way. I will not read the whole document; I am sure that would not keep honourable members entertained. It makes the point, firstly, that HVDC Light is a recent technology pioneered by a single company, ABB. Other manufacturers do not appear to offer this overall technology, and ABB did not offer this technology for the Basslink project — that is the point. It did not offer the technology, it was not in the race, and now it is trying to catch up. I understand the commercial imperative that drives Transenergie, but the point is that we made a planning decision based on the available facts presented to us.

An Honourable Member — You have to make the tough decisions!

Ms DELAHUNTY — Yes, we have to make the tough but fair decisions, that is exactly right. Good on you!

Mr Mulder — On a point of order, Mr Acting Speaker, the minister is obviously reading from a document. I ask that the document be tabled.

The ACTING SPEAKER (Mr Savage) — Order! Is the minister reading from a document?

Ms DELAHUNTY — I am reading from copious notes, over which I am scribbling.

The ACTING SPEAKER (Mr Savage) — Order! The minister said she is reading from notes. She is not required to produce that.

Ms DELAHUNTY — Thank you, Mr Acting Speaker. Let me go to my summary of the ABB advice.

An honourable member interjected.

Ms DELAHUNTY — It is interesting that people do not want to hear that advice because it contradicts almost everything that you — —

An honourable member interjected.

Ms DELAHUNTY — Almost — not everything but almost everything.

Mr Mulder — You are not reading from notes!

Ms DELAHUNTY — I am reading from notes. Do you want to hear the facts or do you want to play silly politics in the game? I will tell you what I will do. I am reading from a variety of —

Mr Mulder interjected.

Ms DELAHUNTY — Okay, Mr Acting Speaker, if they want to be silly about that. We did not play those games while your — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Savage) — Order! I ask the minister to address her remarks through the Chair.

Ms DELAHUNTY — We did not interrupt when the Leader of the Opposition and the Leader of the National Party gave their factual information. It is obviously unsettling for honourable members opposite, because they know what is coming. They know what the independent advice is saying. It is quite clear that they become excited when they know there is evidence that will contradict what has just been — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Savage) — Order! The level of conversation is far too loud. It is becoming very difficult to hear the honourable member who is on her feet.

Ms DELAHUNTY — We have made the point that ABB did not offer this technology at the time — —

Mr Baillieu — On a point of order, Mr Acting Speaker, it is clear that the minister was reading from a document. I ask her to table it.

The ACTING SPEAKER (Mr Savage) — Order! Is the Minister for Planning prepared to produce the document she was reading from, or was she reading from notes?

Ms DELAHUNTY — I am reading from a series of notes. This is a very complex topic. I have a series of notes and material here to ensure that the government is giving accurate advice to this house. I am really disappointed. We did not play those games with the Leader of the Opposition or the Leader of the National Party, but it is quite clear that they do not want to hear the independent advice. That is what this is about — independent advice!

Honourable members interjecting.

Ms DELAHUNTY — Can I continue?

The ACTING SPEAKER (Mr Savage) — Order! I ask the minister to continue. In response to the honourable member for Hawthorn, the minister has indicated that she is referring to notes and not to a document.

Ms DELAHUNTY — It is very good of the Leader of the National Party to come in.

The ACTING SPEAKER (Mr Savage) — Order! I ask the minister to address her remarks through the Chair.

An honourable member interjected.

Ms DELAHUNTY — No, no, no! This is getting to the crux of the matter. We are referring to advice that was given to the department and to the minister by PB Power Systems, an independent energy expert. I was making the point that it examined a whole range of documents relevant to this case. It also made the point that ABB did not offer this technology for the Basslink project, so I asked the independent advisers to give us advice on other users around the world or in this country of HVDC Light.

The first one we saw was a project in Sweden. This was commissioned in April 1997. What is its capacity? It is rated at 3 megawatts with a route length of 10 kilometres. What is Basslink? What is its electricity rating? Does anyone in this house know?

Mr Mulder — Are you going to tell us?

Ms DELAHUNTY — I am because that is the key. It is 600 megawatts of electricity. That is the capacity we are talking about for Basslink. That is the fact. How long is it? It is 330 kilometres from start to finish. The first example examined in the use of HVDC Light was 3 megawatts over a distance of 10 kilometres. It is not comparable.

Let's go to the next example. The second one is also in Sweden and was commissioned in 1999. What is it rated at? It is rated at 55 megawatts. What is its distance? It is 70 kilometres long. What is Basslink? It is 330 kilometres long.

The third example the Leader of the National Party referred to, Directlink, is a project here in Australia. It was commissioned in June 2000. What is it rated at? It is rated at 60 megawatts. What is its distance? It is 65 kilometres.

The fourth example of HVDC Light is a project in Denmark. It was commissioned in September 2000. It is rated at 8 megawatts. What is its distance? It is 4 kilometres long. This is what — —

Mr Ryan — What about Murraylink?

Ms DELAHUNTY — I will get to that. Don't you worry, I will get to Murraylink because the facts are pretty compelling. Let's just roll on to Murraylink. Let's have a look at that because it is critical.

Before I get there, another example was examined by Parsons Brinckerhoff Power Systems, and the government received advice on it. The fifth HVDC Light link, the Eagle Pass project, is in USA–Mexico. It was commissioned in November 2000. What is it rated at? It is a massive project of 36 megawatts back to back. There is no route length or power cable involved.

We go on to another project, the Cross Sound project in the USA. It has not been commissioned. It is expected later in 2002. The link is rated — we are getting big now; we are rising — at 330 megawatts. That is the capacity of this one. The route? It is an absolute minnow: it is 40 kilometres. That is the emerging technology that Transenergie is now touting as suitable for a project — a massive electricity interconnector — that will carry 600 megawatts over a complete distance of 330 kilometres. Basslink is a massive project.

Why do independent energy advisers say to us that the new technology is emerging? It has not yet been proven at the capacity and over the distance required for Basslink.

But there is another example, the seventh HVDC Light link. The Murraylink project, which I know both the honourable member for Gippsland South and the honourable member for Gippsland West have quoted publicly and privately during this process, was the project I sought direct advice on for the reasons I have just outlined. This link was not commissioned at the time the advice came to me. I believe it is now finished.

Mr Ryan interjected.

Ms DELAHUNTY — When the independent advice was given to the government it had not been commissioned. I do not know whether power is now flowing through it, but that is not the point.

An honourable member interjected.

Ms DELAHUNTY — Last weekend! The point is that this is nowhere near the capacity of Basslink, as the Leader of the National Party knows. Murraylink is rated at 200 megawatts. That is only a third of Basslink's requirement, which is 600 megawatts. Its route length is 180 kilometres. The total length of Basslink is 330 kilometres.

What decision can a government make, faced with that independent advice? Should we sit on our hands and do nothing? Is that what the opposition wants? Could we possibly see, as the Leader of the Opposition announced only 15 minutes ago in this place, the project falling over, with $500 million worth of economic activity lost to Victoria, with jobs lost and with security of supply put at risk? Should we simply let that fall over and run the risk of facing a compensation claim by a company which has a legitimate contract with the Tasmanian government?

It is not our contract, but it was our responsibility to take the tough, hard decisions on the planning permit. We did not have the luxury of sitting on our hands, as the previous government did, and playing politics at both ends of the spectrum. We were obliged under the planning process to make a decision that balanced the economic, social and environmental considerations relating to this project and to examine the facts relating to the emerging technologies. So the opposition should not come into this house weeping crocodile tears, acting as a mouthpiece for a failed bidder, and talking as though there were alternatives for a government that has statutory planning time lines to adhere to. We do not have those options.

We know that the Liberal Party does not have a policy, does not care, and does not do the hard work. But I have to say I am disappointed with the National Party for coming in here and wanting to have it both ways.

Here you have a political party saying, 'We support Basslink, but we are moving amendments to stop Basslink'. Well hello! In the real world you have to make a decision and live with it. The National Party cannot have it both ways. It said yes to everything the Liberals privatised for seven long years, and it left Victoria with a lack of electricity supplies, causing power stoppages. We cleaned up that mess; we have facilitated over 1000 megawatts of new generation capacity since coming to office. Now the National Party wants to block this important project, which, as I have just outlined, will bring 600 megawatts of supply in peak periods and add to the security of our electricity supply right across the state.

I do not think the Liberal Party cares about our power needs. If it did it would have stopped privatisation in Gippsland and with it the destruction of those communities it says it represents. No wonder we now have Independents representing two of those seats.

But it is worse than that, I am afraid, because just like the Liberal Party the Nationals are clearly divided on this. The Leader of the National Party argues that he has been consistent on this. That is true; he has been consistent on it. But what happened in the Senate last month? Where were his colleagues — —

Mr Ryan interjected.

Ms DELAHUNTY — 'Who cares?', asks the Leader of the National Party!

An Honourable Member — Labor cares!

Ms DELAHUNTY — Labor does care! Didn't you know that the federal government had to give this a tick under its environmental legislation? Where was the senator from Gippsland, Senator McGauran? He did not even have the courage to go into that chamber and vote. The National Party senators made themselves scarce.

My God, what courage! There they are out on the hustings saying, 'We are going to stop Basslink'. They had the chance to stop Basslink in their federal cabinet. They had the chance to stop Basslink in the Senate. They did not even have the raw courage to go into the Senate and vote against Basslink. They simply disappeared like frightened little rats up a sewer!

Honourable members interjecting.

Ms DELAHUNTY — The honourable member for Bentleigh would appreciate the embarrassment if a party that says, 'We want to stop Basslink' was in power in the federal government and had the opportunity but it did not happen. The National Party members ran away and did not even have the courage to vote against it. If the Liberals have no idea, the National Party is totally split and duplicitous. We have evidence of that. I will read from a press release entitled 'McGauran undermining Basslink'.

> … the federal Minister for Science is playing a dangerous game in his attempts to undermine the Basslink project.
>
> … Mr McGauran is clearly attempting to appease his local electorate and playing to a home town audience in his Gippsland constituency.
>
> But the federal government, of which he is a senior minister —

The Leader of the National Party cannot run away from it; Mr McGauran is a federal senior minister —

> has already approved Basslink following the exhaustive joint assessment process — —

Mr Ryan — On a point of order, Mr Acting Speaker, I am simply asking that the minister identify the document from which she is quoting.

The ACTING SPEAKER (Mr Savage) — Order! The minister has been asked to identify the document.

Ms DELAHUNTY — I am very happy to do that. I just want to finish the line and I will then identify it for him.

Here is a federal minister at odds with his own government's policy. Mr McGauran is happy to undermine that entire process and put to death a project of national significance. The press release is from the Deputy Premier of the Government of Tasmania.

We have another one. We have a press release from Senator Nick Minchin. Honourable members would know who Senator Nick Minchin is. At the time of this press release he was the Minister for Industry, Science and Resources and he is still a senior minister in the federal government. The press release states:

> A proposed direct electricity link between Tasmania and the mainland will mean more jobs and industry for Tasmania and benefits for Victorian energy users, the Minister for Industry, Science and Resources, Senator Nick Minchin, said today.
>
> Senator Minchin announced that he has granted major project facilitation status to Basslink Pty Ltd …

There you go: National Party members are supporting it in the federal government but suddenly they have a problem down here.

> The proposed 250-kilometre link will enable peaking power produced by Hydro-Electric Corporation of Tasmania to be transmitted into the Victorian grid.

Governments and planning decisions are about balance, and they are about respecting the process — and this is a process that has been agreed to by three governments. It has been a process that has allowed both citizens and stakeholders to provide their evidence and their ideas on how they would like Basslink to proceed or not to proceed.

Let me finish by saying that the Leader of the National Party diminished the independent work of the panel by describing it as a farce. He also falsely claimed that no minister in the Bracks government had responded to his letters or his entreaties. That is not so. On 8 May 2002 I wrote a personal letter to the honourable member addressing his concerns about the Basslink joint advisory panel's terms of reference. It is not true, therefore, to say that there was no response from the Bracks government, and if the honourable member is standing up to apologise, I accept.

Mr Ryan — Mr Acting Speaker, I raise a point of order on the question of debating the issue. As the minister well knows, I was referring to the period after I had sent material to her, the Premier and the Minister for Innovation, where I set out the alternative means — —

The ACTING SPEAKER (Mr Savage) — Order! The Leader of the National Party knows that that is not a point of order. He will take his seat.

Ms DELAHUNTY — We have now clarified for the record some of the misinformation that has, I think, been inadvertently — I will be gracious — misrepresented by both the Leader of the Opposition and the Leader of the National Party.

Mr Ryan — On a point of order, Mr Acting Speaker, with the minister having admitted the aspersion she made against me a short time ago, I ask her to withdraw it.

The ACTING SPEAKER (Mr Savage) — Order! I do not recall that they were the words.

Ms DELAHUNTY — I do not believe I cast any aspersions against the Leader of the National Party, but if anything I said has caused offence, of course I would withdraw.

I think we have clarified three of the main points raised by both leaders on the opposition side. Basslink is a Tasmanian project defined by the federal government as a project of national significance requiring a planning permit by the Victorian government. That planning permit was informed by a process agreed to by the three governments. It was a joint advisory panel, which provided a series of panel hearings and accepted submissions over many, many months.

The government further sought independent expert advice after the report was given to it on the status of the new emerging technologies. I have outlined that there is no emerging technology that has been proven at the capacity or the transmission distance required of Basslink. I have also outlined that in government we do not have the luxury of simply sitting on our hands and hoping that new technology will develop fast enough and be suitable enough to provide a solution to the Basslink concerns of the people of Gippsland. We are obliged to meet time lines of a contract entered into by the Tasmanian government. We are obliged to avoid, and protect the state of Victoria from, the risk of any compensation claims against us.

This decision has been an extremely tough one, but it does not mean we have not made it based on the best advice given to us at the time. While I do understand and sympathise with Transenergie, it did not have the technology at the time that these contracts were tendered for by the Tasmanian government. Transenergie is developing new technology, but the fact of the matter is that at the moment it is not proven for that capacity and for that distance. We are talking about a mammoth project providing 600 megawatts of power — three times the Murraylink project! — over a total distance of 330 kilometres.

I therefore oppose the motion of the Leader of the National Party and find myself in that sense in accord with the Leader of the Liberal Party, who also opposes this motion.

Mr MAUGHAN (Rodney) — I rise to support the motion moved by the Leader of the National Party to revoke these two planning amendments that have a very important bearing on the Basslink project. In doing so I congratulate the Leader of the National Party on an excellent speech that canvassed all of the issues and set out very clearly why the National Party has moved this motion before the house today. I also commend the Leader of the Liberal Party for his well-justified comments about the Leader of the National Party's speech.

Honourable members interjecting.

Mr MAUGHAN — I know he is voting against it, and I might touch on that in a minute. Nonetheless he acknowledged that the Leader of the National Party spelt out the issues very clearly.

That is in contrast to the speech we have just heard from the Minister for Planning, which contained a lot of

rhetoric, a lot of hot air and in some cases deceit. She said that the Leader of the National Party was a mouthpiece for Transenergie. That is absolutely false and something that I strongly reject. It is an insult to the Leader of the National Party, who I think has put his case passionately and strongly. He has been on this issue for a long time, and his position has not changed.

I would like to say at the start that I support the concept and the principle of the national grid because it will provide more competitive and lower electricity prices for the people of Victoria and Australia. Let's get that clear right at the start: I support the national grid and I support this project, but not with the overhead pylons. I think the government should have more carefully considered the alternative, now that we have one, rather than putting these pylons all over country Victoria.

As the minister and the Leader of the National Party have indicated, this is a very important project for Victoria. The National Party is not opposed to the project. However, it is opposed to those overhead pylons, those 180 45-metre high pylons that it is proposed will waddle across 63 kilometres of the Gippsland landscape. If they go ahead they will spoil the beautiful Gippsland landscape.

I feel passionately about it because I am a former Gippslander; I lived in Gippsland for 25 years, and my family has had connections there for 100 years. I feel strongly about Gippsland for two reasons: firstly, because of the family connection; and secondly, because they are country people and the National Party is concerned about country people. While it is Gippsland today, it will be the Western District tomorrow and northern Victoria after that. The National Party is standing up for country people, and in this case it is standing up for the interests of the people of Gippsland South.

The Leader of the National Party has consistently opposed the pylons. He has argued for undergrounding the cables — if we can put it under the sea, why the heck can we not put it under the ground? The technology is there to do it. The Minister for Planning has gone through a series of projects and said the advice was that it is not possible. However, at times one has to take some sort of risk. I would have thought that the Minister for Innovation and State and Regional Development might have taken a little more interest than he apparently has in this new technology which is being progressively used in other parts of the world.

It is not groundbreaking to have this project use this new technology. I would have liked to have seen this Parliament and this government remembered for doing something that was innovative rather than have them remembered as a government and a Parliament that were the last to use the old technology. I would have hoped that this Parliament could have been remembered as the Parliament which carefully and objectively considered the new technology — technology which is successfully used in other parts of the world — and decided to go with it and show a bit of support for innovation, but to have a look at it and examine it carefully.

I am not convinced that the government has adequately considered the new technology. The minister failed to convince me in her contribution this afternoon. If I could be convinced that the government had adequately considered the technology and that it is not available to do the job, I would have no problems with what the government is arguing — namely, that it is an important project, that we cannot wait for ever and that we need to proceed. However, the government has failed to convince me, and I would argue that the technology is there, that the government should adequately examine it and that we should give it a go.

There has been a great deal of passionate discussion in Gippsland and considerable interest and discussion throughout the state. The Minister for Planning and the government have treated the people of Gippsland with contempt. The minister spoke today about telling the people of Gippsland. Why does she not go down and talk to the people of Gippsland? Why is she not prepared to meet with them and argue the case? She has not done that, and she has not been prepared to bring them with her. This is a government that talks about consultation and about bringing the community with it. In many cases that is what the government has done, and I support that sort of approach. However, the government has done anything but bring the people of Gippsland with it in this case. It has been treating them with absolute contempt. Some of the comments the minister made this afternoon showed she was treating members on this side of the house with contempt for the way we have presented our case — a case which we feel very passionately about.

I believe the government has ignored the wishes of the people of Gippsland, and it has ignored the wishes of the two municipalities concerned — Wellington and Latrobe. Over time it has become clear that the so-called additional cost of using a cable as opposed to pylons, which the minister referred to in her speech, is much less than was originally suggested. We have heard all sorts of figures, ranging from the $200 million that was put forward by National Grid down to $60 million and down to a little bit more than the total cost of the project of $500 million.

The Leader of the National Party indicated that he had asked a question of the Premier in the Parliament and that the Premier had assured him that all options had been adequately considered. I do not think the evidence supports that, and I would like the government to come clean with evidence to show that it has objectively considered all those options. Our evidence is that it has not even approached some of the companies that are able to provide this new technology.

What evidence is there that the government has considered all the available options? What evidence is there that the Premier did not know that the minister was about to announce that the government was going to go ahead with the overhead pylons when, only 24 hours before, he had indicated that it was still under consideration?

There is some cause for at least doubting the Premier's answer to the Parliament that day. As I said, I thought the Minister for Innovation would have taken a much greater interest in this new HVDC technology than he has. It is being increasingly used in other parts of the world — the United States and Sweden — and Australia — and there is no evidence that the Minister for Innovation and Minister for State and Regional Development has taken an interest in making Victoria one of the leaders in this new technology.

As recently as this week there was no evidence of the government having approached ABB, the organisation that manufactures these cables, for their advice and position on this new technology. The Leader of the National Party certainly has, and in his contribution he quoted some very interesting correspondence from Transenergie and from ABB Australia. He argued that there are other alternatives: that the cable can be undergrounded; that the technology is proven; and that the cost would be little, if anything, above the $500 million cost of using the pylons.

The Minister for Planning and the government have ignored the wishes of the people of Gippsland. But the National Party is concerned about the people of Gippsland and the people of country Victoria. This project is going to be here for the next 50 years. We need to get it right and not just do what is convenient at the time. If we can satisfy the environmental considerations at the same time as satisfying the economic considerations, that is what we should be doing. It is important that we get it right. It is also important, given the information the Leader of the National Party has provided to the house, that these two amendments be disallowed and that this government consult with all interested parties and make an objective decision after due process. I therefore support the motion moved by the Leader of the National Party.

In conclusion I note that in other parts of the state the government is providing money to put cables underground. It is happening in my own area. This government likes to trumpet its environmental credentials. It talks a lot about consultation and bringing communities along with it, but it has not done so in this case. For most of this debate there has not been one government member in the house. I notice there are about five now, but for most of the time the Leader of the National Party was speaking — yes, the honourable member for Coburg was here most of the time — there were few others apart from the minister at the table.

Honourable members interjecting.

Mr MAUGHAN — Yes, there were odd members at odd times, but there were times — —

Honourable members interjecting.

Mr MAUGHAN — The reality is that for much of the time no-one apart from the minister and one backbencher was on the government side of the house. I note that once again it is the National Party that is standing up for the interests of country people and delivering on its commitment to the people of Gippsland. It gives me much pleasure to support the motion of the Leader of the National Party.

Mr CARLI (Coburg) — I rise to oppose this motion because ultimately we are dealing with a very elaborate, major and extensive planning process, and we know that with planning processes there is always a level of compromise because we have to balance the economic with the social and with the environmental. Clearly that was done in this case.

National Party members say that they support the national grid and Basslink, they just do not support this particular variation of it, but in fact they are not supporting the national grid and Basslink because clearly with Basslink there is no project unless we go forward with what has been accepted by the minister and recommended by the panel.

I want to defend the planning process, which has been attacked by the Leader of the National Party. Basically in a planning process when an environment effects statement has to be done a panel is appointed, and in this case, where obligations under three different governments and three different pieces of legislation were being dealt with, the Basslink joint advisory panel was appointed. It is often the case with environment effects statements that an elaborate process of

consultation and consideration of evidence is undertaken by the panel. Not everyone agrees with everything and is happy with the outcome, but a very extensive consultative process takes place.

The Leader of the National Party made some extraordinary attacks on the panel. He claimed the panel failed miserably to discharge its responsibility and that it was a farce and a wasted opportunity, but worse was his attack on the independent advice to the panel, which he claimed was a farce, a mockery and disgraceful. It was an attack on our planning process and on the credibility of the highly esteemed individuals who took part in that process.

Sitting suspended 6:30 p.m. until 8:04 p.m.

Mr CARLI — Prior to the suspension of the sitting I was saying that the Leader of the National Party clearly opposes Basslink and in this debate wants to use it as an opportunity to attack the members of the advisory panel and the panel itself. He is attacking the planning process and the environment effects statement process created in Victoria.

The Leader of the National Party has every right to disagree with the public policy and the project, but the fact that he attacks the integrity of individuals selected by this state government, the Tasmanian government and the commonwealth government and describes their work as unsatisfactory and not fulfilling their true obligations and the work of the consultants and the independent experts as being disgraceful and a farce is not helping the debate. All he is doing in this process is denigrating individuals and the process itself. Fundamentally he is denigrating the integrity of the planning processes in the state. That is to the detriment of the debate on Basslink. The position taken by the National Party is ultimately a position that is designed to terminate Basslink, a $500 million project, and does not contribute to a debate about an important infrastructure project for the state.

The position taken by the Leader of the Opposition was somewhat bizarre in that he accepted everything that was said by the Leader of the National Party and no doubt accepted the attacks on and the denigration of the panel members, but at the end of the day said the Liberal Party would not support the proposal put by the Leader of the National Party. That is an extraordinarily bizarre position. On the one hand the Liberal Party opposes Basslink, but on the other hand it supports Basslink! That is an extraordinary contradiction, and is no doubt the epitome of the political state members of the opposition find themselves in. They are all things to all people and seek support wherever and whenever they can.

In the debate I want to highlight one element: the importance of the planning process. The Minister for Planning asked for and established terms of reference for an environment effects statement panel that became an advisory panel for three governments. The environment effects statement is an important process in the planning system in the state, and it should not be denigrated in the way it has been by the Leader of the National Party. While we may not accept the outcome of the processes, it is important that we accept their importance and integrity, which fundamentally fit in with a broader planning framework in Victoria.

Ms DAVIES (Gippsland West) — I support the motion moved by the Leader of the National Party to revoke the planning amendments that would permit pylons to go through Gippsland. I had drawn up my own motion that would do exactly the same thing, but the National Party gets the call first, which I accept. As I said, I will support the motion.

The $500 million Basslink project will join Tasmania to the national electricity grid by an undersea cable and by transmission lines carried by pylons marching through central Gippsland. It is not the most economic option for Victoria to improve its electricity generation capacity. It may well be an important project for Tasmania, but there are other ways of improving Victoria's electricity supply. The Vencorp report commissioned by the Department of Natural Resources and Environment, I think in 1999, proposed six different options for Victoria to improve its electricity supply. The Basslink proposal was the fifth most economic option out of six. In fact, the Basslink proposal was rated only marginally more economic than doing nothing at all. It is a very expensive project. I concede the theory that we should have a national electricity market and that it is in Tasmania's interest to be joined up to the market. I do not necessarily believe this is the best option for Victoria.

Gippslanders have been united since the beginning against the notion that they should be made to pay for this project, which will mainly benefit Tasmanians. Gippslanders are being asked to pay by having their landscape blighted by approximately 60 kilometres of overhead pylons.

Contrary to the contribution from the honourable member for Coburg, I do not accept that this planning process as outlined was properly undertaken. I believe it was set up by the previous coalition government, the federal coalition government and the Tasmanian

government in a way that was fundamentally flawed, and I have said that from the very first public meeting on this project.

If this is a project that is in the national interest, government should have chosen an acceptable route for these transmission lines. Government should have chosen the best form for the project to take, and then should have tendered out that choice to the private sector. Instead the previous government and other governments put the project out and allowed a private developer to choose the route and the method of transmission that that particular proponent wanted. Government tried to avoid accepting its responsibility by allowing the private sector to choose the method of transmission and the route. The ultimate outcome of that very flawed decision-making process was that the proponent chose the cheapest option — and that is what this proponent did and what was so fundamentally flawed right from the beginning.

As the Leader of the National Party referred to in his lengthy contribution, there were many public meetings across Gippsland on this project when it was first brought into the public arena. I, too, attended that first enormous meeting in Leongatha, which would have to be the biggest public meeting I have attended in Gippsland. There were also large public meetings in Drouin. When the original routes were being selected, one of the proposed routes was in fact right up the middle of my electorate of Gippsland West.

After the government changed in 1999, National Grid International Ltd fortuitously decided that perhaps the route would go somewhere else, which was good for the people in Gippsland West but not so good for the people of Gippsland South, who unfortunately are in the position of having a safe National Party seat both in the state and the federal arenas, and for all the crying out of poor little Mr McGauran, he was very strong in Gippsland against this project and absolutely pathetic in Canberra, so he was able to do nothing for his constituents in Gippsland.

I wrote a very detailed submission to the joint advisory panel. I wrote my own submission, unlike the parties who managed to pay people to do the same work for them. I attended the hearing and made a verbal submission as well, and I have also advised the government, both verbally and in writing, that basically allowing this project to go through would be a dumb thing to do, but they have chosen to go their own way and to allow the project to go through with these overhead powerlines.

As I said before, National Grid's original proposal was for the cheapest possible option for this interconnector. Its original proposal involved a monopole undersea cable with sea electrodes. That sort of cable and those sorts of electrodes create real problems with stray electrical currents that have the capacity to impact on shipping and fixed infrastructure, such as the saline water outfall and the gas pipelines, not to mention the considerable concerns that were expressed by various fishermen and conservation groups about the potential impact on sharks and whales and other fisheries.

The original proposal also stated clearly that either National Grid would do this project overhead, or it was not interested. The original proposal also proposed going straight up through the middle of the Mullundung State Forest, which contains areas of national significance. Those three aspects of the proposal had negative potential consequences.

The draft integrated impact assessment statement was very blunt in clarifying National Grid's focus when it came to this project. I quote from chapter 4, page 28 of the main report, which states:

> Economic design optimisation rather than environmental consideration is the dominant factor in determining the appropriate configuration —

of this project. That sort of statement is repeated right through that particular document, that National Grid never looked at other alternatives. It was not interested; it was interested only in the cheapest possible model.

The joint advisory panel successfully moved the project away from the Mullundung State Forest, which I believe was a very necessary step for it to take. I also understand, although I have not had this confirmed, that the Tasmanian government has subsidised the metallic return being put in on the cable to overcome the need for the undersea electrodes. The undersea electrodes would have given off chlorine and other poisonous substances, so I am glad to see that at least that improvement has been made as well.

The forests saw some benefit. The fixed infrastructure, the gas pipelines, the saline water outfall and shipping have seen some benefit, and perhaps the fisheries will see some benefit, although I note that there is continuing concern by commercial fishermen around that particular area of McGaurans Beach, that there will be an exclusion zone along the route of the undersea cable, and they are concerned at how wide this exclusion zone will be in an area that they find a very good fishing ground. The commercial fishermen are also concerned about the potential damage to inshore

reefs as the undersea cable is laid across the bottom of the sea.

However, the gain that has not been made is that this proposal is still to go ahead with overhead pylons. It is a real tragedy that the government has given in to National Grid's bullying approach, which meant that the consortium was totally unwilling to consider the prospect of undergrounding this cable. Technology has undoubtedly moved on since this proposal was first mooted, and I have no doubt that the project could go underground, despite the words of the Minister for Planning.

It is not an acceptable argument to say that the technology is not proved, or the technology has not been undertaken before in exactly the same format that is proposed in this project. I do not accept that as a reasonable or rational argument. That is why you have engineers, so they can plan projects. If you use that as an argument you would never have any innovation or improvement in infrastructure, and it just does not work as an argument.

The Murraylink connector between South Australia and Victoria is about 180 kilometres long. It goes underground and it uses HVDC Light technology. There is a very clear statement that you can incorporate Basslink's proposed capacity of around 600 megawatts within that HVDC Light technology just by using several parallel cables.

One of the disadvantages of the current format of the Basslink proposal is that it has no capacity to increase supply. You have 600 megawatts and that is it — and that will not be sufficient to meet Victoria's needs in the future. I believe the government has set a very bad precedent by allowing a new set of ugly pylons to march through the countryside!

National Grid has displayed arrogance and an unwillingness to adapt to the needs of the people who are affected and who will be affected by this project. It has been arrogant in its unwillingness to adapt to technological change. The Liberal opposition had the power to push this project underground. All it had to do was a very simple thing: vote with the National Party and the Independents, and the government would not be able to amend the planning scheme as would be necessary for it to do if the pylons were to be built.

If the opposition votes this evening to refuse these planning amendments, then all the parties to these contracts — that is, the three governments and National Grid — would be forced to sit down and evaluate the project and its viability. Perhaps National Grid, just like it did with the cable, would suddenly decide it was able to provide an HVDC underground cable instead. If it really bothered to properly cost that alternative it just might be pleasantly surprised to find that yes, perhaps there would be a higher up-front fee, but there would be less cost further down the track with maintenance.

It was the previous coalition government that first set this flawed process in train. This current government has been gutless in refusing to swerve from that path, and at the moment it seems to me that the Liberal Party just wants a bit both ways. It is intending to vote with the government so that it can say to big business, 'Look at us, we are being responsible' while it wants to give a useless sop to the people of Gippsland by theoretically talking about a donation to a multinational company somewhere down the track. I say to the opposition that it is time to put its vote where its mouth has been.

The opposition planning spokesman was in Yarram badmouthing the Labor government, saying it should put the project underground, and now he will be voting with other members of the opposition to allow this planning amendment to go through. Likewise, there have been other members of the Liberal opposition wandering around Gippsland — I think one of the members for Gippsland Province in another place has also gone on public record saying that it should go underground and he too will be just letting it go through, not being prepared to actually vote. He is a bit like the federal member for Gippsland who is very good at charging around big-mouthing himself in Gippsland and is a complete wimp when he gets to Canberra because he wants to remain a minister.

I do not support the proposal to put overhead pylons through Gippsland. It just damages Gippsland and it is a terrible precedent to set for other projects across Victoria. There will be other communities which will be harmed by this precedent. The time has passed when we need to have this sort of ugliness across our landscape. I support the move to disallow this planning amendment and I truly hope as it goes through the lower and the upper house and over the months to come that before any attempts to build this project actually start there will be a change of heart and National Grid will find out that it is well within its capacity to do what the people of Gippsland want to do and will say that it will put this line underground.

Mr MAXFIELD (Narracan) — I rise this evening to contribute to this debate. It is quite obvious that honourable members opposite do not want to hear what I am about to say. They are sitting there pretty embarrassed on the other side of the house. We have listened to an incredibly longwinded speech by the

Leader of the National Party who has supposedly come out opposing the Basslink proposal as it stands, saying he wants it to go underground, putting himself in an interesting position compared to his National Party colleagues in Gippsland, people like Mr Peter McGauran, the federal member for Gippsland, and Senator Julian McGauran. Here we have Gippslanders from the National Party. Have they got a constant strong position on this?

Ms Asher — No.

Mr MAXFIELD — Before an election you have one position and after an election you have another, and that goes for the state members of Parliament and for the federal members of Parliament. Look at what happened prior to the last state election: did we see the honourable member for Gippsland South stand up in this house to speak about the evils of Basslink going ahead? Of course not. He was completely and utterly silent on the issue, a bit like the Honourable Peter McGauran in federal Parliament. It is quite typical: when they were in government they had to toe the Kennett line. The now Leader of the National Party had done a deal to become a minister in the next Kennett government and he was not going to rock any boats. He was quite happy to go along with pylons overhead. It was only after the election when he said, 'Struth, I'm not a minister. Oh dear, the people have turned against us. What can we do that's popular?'.

Of course, the next cab off the rank was the federal election. What did the Honourable Peter McGauran say? He said, 'Over my dead body! We are going to oppose this all the way'. What happened when they got to the federal Parliament? Let's go to the *Yarram Standard News* of Wednesday, 28 August, which quotes Prime Minister John Howard's comments from 1998:

> The commonwealth is keen to see Tasmania become a full participant in the national electricity market through Basslink. The commonwealth, with its commitment to development and investment in the resources and energy sector, will help to ensure that the issues raised and approvals sought are dealt with promptly and effectively.

What about the state coalition leader and Premier before the last election, Jeff Kennett, the person whom the honourable member for Gippsland South — the Leader of the National Party — obviously stood by and supported? What did he say? According to the *Yarram Standard News* in 1998 Mr Kennett said:

> The Victorian government will continue to cooperate in the development of Basslink, particularly in the area of environmental and planning approvals.

We now get to Peter McGauran, the federal Minister for Science and member for Gippsland, who I believe is a member of the National Party. The *Yarram Standard News* of 28 August quotes remarks that he made on 26 January 2000:

> After the whole consultation process has been completed, it will be up to the commonwealth government, the state government and the Tasmanian government to sign off on it. At the end of the day it is a political decision.

Does that mean Peter McGauran made a political decision in Parliament? Did Senator Julian McGauran make a political decision not to vote against Basslink in the Senate? Apparently Senator McGauran and other National Party members of Parliament were given the opportunity to vote against it. Were they in the house to vote against Basslink? No, they were not. They hightailed it out the door as quickly as they could. If they were in Parliament House they certainly made sure they did not turn up to vote. They were not going to have their vote recorded in *Hansard*; they just hid.

That is the sort of sad and sorry record we have here. Honourable members opposite were quite happy to support it prior to the state election, but it was a different story once the election was done. We certainly did not hear the honourable member for Gippsland South opposing Basslink prior to the election. It was only when he thought he may be able to save his political skin that he suddenly adopted the position he has.

What is happening with his federal colleagues, the Liberal–National Party coalition in Canberra? I thought I might read from a press release that quotes the remarks of Dr David Kemp, the federal Minister for the Environment and Heritage. It states:

> The federal Minister for the Environment and Heritage, Dr David Kemp, has given environmental clearance, subject to conditions, to the proposed Basslink electricity interconnector project.
>
> The Basslink proposal spans three administrative jurisdictions, requiring separate planning, environmental and other approvals from the three governments: Victoria (activities based on land and in territorial waters), Tasmania (activities based on land and territorial waters) and commonwealth (commonwealth marine waters in Bass Strait).

That means the three governments had to make a decision, and of course we had a Liberal–National Party government in Canberra that backed it up. The press release also states:

> 'All the evidence before me confirms that as long as the proposed monitoring and management arrangements are implemented the Basslink project will not have an adverse impact on the environment', Dr Kemp said.

I understand he is a member of the Liberal–National Party coalition in Canberra. This is what they are saying in Canberra — the opposition parties' own federal colleagues!

It is important to understand the positions of the National Party and the Liberal Party, and I thought I might quote the remarks of Senator Nick Minchin on this matter.

Honourable members interjecting.

Mr MAXFIELD — Boy, are they feeling embarrassed here today!

The ACTING SPEAKER (Mr Seitz) — Order! I ask that we have less noise and fewer audible conversations. Hansard is finding it difficult to hear the honourable member for Narracan, so I ask honourable members to control their enthusiasm in this debate and let the house listen to the honourable member for Narracan.

Mr MAXFIELD — Senator Minchin's press release states:

> The proposed direct electricity link between Tasmania and the mainland will mean more jobs and industry for Tasmania and benefits for Victorian energy users, the Minister for Industry, Science and Resources, Senator Nick Minchin, said today.
>
> Senator Minchin announced that he has granted major project facilitation status to Basslink Pty Ltd for its proposed 400 kV high-voltage direct current transmission link between Tasmania and the mainland.

But it is important to note that he did not stop there; he kept going. The press release states:

> 'The introduction of Tasmania into the national electricity market has the potential to end Tasmania's dependence on hydro-electricity, enabling an expansion (of) its industrial base and providing up to 1000 new jobs', Senator Minchin said.
>
> The introduction of an alternative energy supply will provide immediate benefits to Tasmanian commercial and domestic consumers.

What else did he say? He said:

> The Basslink project will require approvals across the commonwealth, Tasmanian and Victorian government jurisdictions. Under major project facilitation status, the Basslink proponent will benefit from a streamlined decision-making process for necessary approvals. Investors Australia, Australia's national investment agency, will work closely with the Tasmanian and Victorian governments to facilitate the project.

This is what the National and Liberal Party members in Canberra, the colleagues of opposition members of this place, are saying. Today honourable members have listened to the Leader of the Opposition saying — —

Honourable members interjecting.

Mr MAXFIELD — National Party members are selling themselves as the Vic Nats. After this they will all be called Vic Nuts!

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Narracan, without assistance from the government or opposition benches.

Mr MAXFIELD — I obtained the voting list from the Senate, and I have seen the names of all the Liberal Party senators who voted in favour of Basslink. I looked to see the voting position of the National Party senators. I think they must have been all off at the pub, because they were not there. Talk about missing in action! Talk about representing their constituents! They know what their government's position is.

We have all heard that the Leader of the National Party is trying to run through this issue as much as he can. I believe in democracy and people's views being heard. Tomorrow I will present a petition signed by more than 600 people opposing Basslink that was given to me to table in Parliament. The people who gave it to me are from the electorate of Gippsland South, and they gave it to me because they do not have faith in their local member.

It is important that this petition be tabled, because we must make sure the views of those people in the community are heard in Parliament. We in the Bracks government stand up for all views, and we analyse and look after the needs of those people. What this government aims to do is ensure that those who fish get looked after and that as much as possible this project will not interfere with those who engage in all recreational activities. It is very important for the government to recognise and acknowledge those concerns, and it does. The government will work with the community on this issue.

In the brief time available to me to make this contribution I want to highlight the comments that have been made by honourable members opposite, given that they are members of a political party across this country that is doing things completely differently. It was interesting to hear the Leader of the Opposition saying, 'We agree with everything the Leader of the National Party said today, but we are not going to vote with him'. Talk about having a quid both ways! Talk about saying one thing and doing something else! There they

are in opposition, desperately trying to straddle the fence, trying to pretend that they are in one camp while trying to be in another.

Why do they not show a bit of credibility and a bit of leadership and come out and state their real position, rather than saying, 'We support the Leader of the National Party, but of course we won't vote with him.'? Show a bit of credibility and stand up for what you believe in!

Ayes, 9

Davies, Ms	Maughan, Mr (*Teller*)
Delahunty, Mr	Ryan, Mr
Ingram, Mr (*Teller*)	Savage, Mr
Jasper, Mr	Steggall, Mr
Kilgour, Mr	

Noes, 74

Allan, Ms	Leighton, Mr
Allen, Ms	Lenders, Mr
Asher, Ms	Lim, Mr
Ashley, Mr	Lindell, Ms
Baillieu, Mr	Loney, Mr
Barker, Ms	Lupton, Mr
Batchelor, Mr	McCall, Ms
Beattie, Ms	McIntosh, Mr
Brumby, Mr	Maddigan, Mrs
Burke, Ms	Maxfield, Mr
Cameron, Mr	Mildenhall, Mr
Campbell, Ms	Mulder, Mr
Carli, Mr	Napthine, Dr
Clark, Mr	Nardella, Mr
Cooper, Mr	Overington, Ms
Dean, Dr	Pandazopoulos, Mr
Delahunty, Ms	Paterson, Mr
Dixon, Mr	Perton, Mr
Doyle, Mr	Peulich, Mrs
Duncan, Ms	Phillips, Mr
Elliott, Mrs	Pike, Ms
Fyffe, Mrs	Plowman, Mr
Garbutt, Ms	Richardson, Mr
Gillett, Ms	Robinson, Mr
Haermeyer, Mr	Rowe, Mr
Hamilton, Mr	Seitz, Mr
Hardman, Mr	Shardey, Mrs
Helper, Mr	Smith, Mr (*Teller*)
Holding, Mr	Spry, Mr
Honeywood, Mr	Stensholt, Mr
Howard, Mr	Thwaites, Mr
Hulls, Mr	Trezise, Mr
Kosky, Ms	Viney, Mr
Kotsiras, Mr	Vogels, Mr
Langdon, Mr (*Teller*)	Wells, Mr
Languiller, Mr	Wilson, Mr
Leigh, Mr	Wynne, Mr

Motion negatived.

BUSINESS OF THE HOUSE

Program

Honourable members interjecting.

Mr BATCHELOR (Minister for Transport) — Are you ready to start the day?

The SPEAKER — Order! The minister, moving his motion.

Mr Richardson interjected.

Mr BATCHELOR — Go back to sleep now.

The SPEAKER — Order! The minister shall address the Chair.

Mr BATCHELOR — I did not mean you, Honourable Speaker, I meant the honourable member for Forest Hill.

The SPEAKER — Order! I have already asked the minister to move his motion.

Mr BATCHELOR — I desire to move:

> That, pursuant to sessional order 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 10 October 2002 — —

Mrs Peulich interjected.

Mr BATCHELOR — Because we are not sitting on Friday.

The SPEAKER — Order! The honourable member for Bentleigh shall cease interjecting. The Leader of the House shall ignore interjections.

Mr BATCHELOR — The bills are:

> Wrongs and other Acts (Public Liability Insurance Reform) Bill
>
> Constitution (Parliamentary Reform) Bill
>
> Road Safety (Responsible Driving) Bill
>
> Commissioner for Ecologically Sustainable Development Bill
>
> Federal Awards (Uniform System) Bill
>
> Crimes (Property Damage and Computer Offences) Bill
>
> Travel Agents (Amendment) Bill
>
> Business Licensing Legislation (Amendment) Bill

This is a legislative program of some eight pieces of legislation in a normal parliamentary sitting week.

Mrs Peulich interjected.

The SPEAKER — Order! The honourable member for Bentleigh!

Mr BATCHELOR — She has been out for dinner.

The SPEAKER — Order! And the minister.

Mr BATCHELOR — We are seeking for Parliament to consider the eight bills this week. It is not an unusual number. It is not an extraordinarily heavy workload; it is quite a normal workload. I have already heard in the public domain some complaints from the opposition that this is too onerous, that there are too many bills. I thought it would be appropriate to address that fair and square, head-on, here tonight, in case it was an argument that someone foolishly enough wanted to pursue later on.

We normally do many more bills than this. It was interesting to note that on 6 June this year we passed 10 bills. In the week ending 9 May we passed 7 bills. That is to be compared with the week ending 28 May 1999, during the period the opposition was in government, when 13 bills were undertaken. So today we are asking Parliament to do a bit of work. The community expects that when members of Parliament come into this chamber they do a bit of work. We have seen a lot of wasted time tonight. We have seen people making unduly long speeches.

Mr Doyle interjected.

Mr BATCHELOR — I did not say that at all. I said we are wasting time. The Leader of the Opposition has already started this debate in a very untruthful way. I said today that we have seen people wasting time here and that we were likely to see that happening later on tonight.

People in the electorate expect that when parliamentarians come into Parliament in session to pass legislation they deal with bills. The tom-toms have been beating, the smoke signals are already out there in the papers, and it appears that a workload of some eight bills this particular week is onerous and that it is beyond the capability of the opposition to grapple with the range of issues that are there, the enormity of these bills, and it is just too difficult and tiresome and too much hard work.

Well, this government is not afraid of hard work: we are not afraid to come into the parliamentary chamber and put bills through. We will do that. If we have to sit later because some members of the opposition are choosing to filibuster, to unduly extend the debates, then the consequence of that will be to sit beyond the normal time so we can achieve the outcome of eight bills this week.

Mr DOYLE (Leader of the Opposition) — On the question of time on this government business program, I have just heard the most incredible attempt at defence before we even had an argument put. It is interesting — and we will be looking at *Hansard* very carefully — that the Leader of the House apparently thinks that a 4-hour debate on something as important as Basslink is wasted time, in his words. We will be looking at that very carefully.

An honourable member interjected.

Mr DOYLE — Bye-bye! Just wait for what happens in Narracan as a result of that statement.

The Leader of the House puts it to us that this is not an unusual amount of legislation. It is the amount of legislation that he focuses on. 'It is only eight bills', he says. Let's examine that. These are eight major bills that deal with issues such as the public liability crisis; major and fundamental changes to Parliament itself and the constitution of Victoria; major and controversial changes to industrial relations; ecology and conservation issues; road safety issues; serious issues of crime; and two or three other matters as well. So it is not the number of bills, it is the profound nature of the bills — and they are profound in a legislative, social, economic, environmental and political way. The implications of these bills for our communities are enormous. We have dealt with a motion of great importance to our community today, and there is a second motion, put by the honourable member for Gippsland East, of equal moment which also should be dealt with this week. Obviously this is not a normal week.

If you look at what we have left — and this is what the Leader of the House is proposing — you see that we have something like 12 hours of debate left in a normal week. The Leader of the House would have us believe that these eight pieces of legislation can be dealt with in 12 hours, which would mean that members of the Liberal Party, for instance, would have about 45 minutes per bill for all of the contributions it wishes to make. Does he seriously suggest that that is reasonable debate on each of these bills?

Mr Batchelor interjected.

Mr DOYLE — The answer is yes, he says — 45 minutes on each of these bills for the entirety of the Liberal Party is appropriate, including bills on the issues I have referred to.

The other possibility is that, despite the family-friendly hours bleating of the other side, we will once again be here until 3.00 or 4.00 in the morning tonight and tomorrow night to get through this program because we have had these eight bills brought into this place. That is the only other possibility — that, despite the complaints of the other side about family-friendly hours, we will go until 2.00, 3.00 or 4.00 in the morning. That is not realistic.

The proposed program does not allow proper scrutiny of or debate on this legislation. It is not appropriate, given the importance and weight of these bills — in fact it is worse than that, it is an insult to the Parliament and the people of Victoria — that we are asked to consider bills of this moment within maybe a 12 or 14-hour debating period, unless what the government is telling us is that it has abandoned all the principles it held so firmly before it got into government and that we now are going to go until 4.00 in the morning.

I also point out that this house has sat for three days since 6 June — which the minister pointed out earlier. Three whole days! If this is such an important legislative program, why were we not sitting earlier? 'Hardworking government' is the phrase the Leader of the House used. The upper house has not sat from 13 June until today, and that is within the government's control. We said, 'Bring them back on the same day as us', but no, 'This is a hardworking government. Give us three or four months off at a time, and then when we sit for three days give us a three-week break, and then we must have this sort of program'.

There is no reason for this program given we have had plenty of time to sit, to debate and to scrutinise this legislation. If this government were serious about this legislative program then it would have sat earlier, an appropriate time would be made available and the program would be reasonable. Transparently, the government is not serious about this program. What it offers is an insult to Parliament and to the community of Victoria, and we will vigorously oppose the government business program for the sham that it is.

Mr MAUGHAN (Rodney) — I wish to make a number of points on the government business program. The first is that it is obvious that an election is in the air; you can smell it! The government is now trying to get through the remainder of its promises prior to going to an early election. That is obvious. Eight bills this week really is ridiculous given the importance of several of those bills, particularly the first two on the notice paper, which are to do with changing the constitution and the important issue of public liability insurance.

Before getting onto that, however, I make the point that the government is asking us to debate eight bills this week, and as at today the National Party has been unable to obtain briefings on two of those pieces of legislation. I think that is absolutely appalling.

One of those two pieces of legislation is the Federal Awards (Uniform System) Bill, and I will just go through what happened. My colleague in the upper house, the Honourable Bill Baxter, rang the Premier's office on 23 September. He rang again and was advised that Mark Madden would get back to him. He rang again the following day and was told that the person who took the previous call was no longer there but someone would get back to him. He rang the Premier's office again on 25 September and spoke with Asina. On 25 September Jenny Doran from the Premier's office telephoned and advised that the department was unable to provide a briefing but that she would substitute. My colleague quite rightly turned that down because the person concerned was a political adviser rather than a bureaucrat. So as at today there has been no briefing.

The other piece of legislation involved is the Commissioner for Ecologically Sustainable Development Bill. After 14 days of asking, no briefing on it has been provided to the National Party. We have eight bills to debate this week, including those two bills on which we are expected to make up our minds as a party without having had a briefing from the government. That is the sort of inefficiency that is happening here all the time. It is complete ineptitude. That is the first point I make, that we are not properly prepared because we have not been able to get those briefings.

The second point is the importance of the legislation. The first two pieces of legislation on the notice paper are the Constitution (Parliamentary Reform) Bill, a very important piece of legislation that has significant effects for all the people of Victoria, and that debate will be limited by time, and the Wrongs and Other Acts (Public Liability Insurance Reform) Bill, a very important piece of legislation to do with public liability insurance, which the government at long last has been dragged kicking and screaming to do something about. It was the Leader of the National Party, yet again, that made the running on this bill, and it was not until the government was shamed into doing something that it finally brought forward some legislation at the eleventh hour. They are two very important pieces of legislation. We need time on those two bills; I think at least 6 or 7 hours. That means we need to go through until this time tomorrow night if we are sitting normal working hours — and I suspect we are not.

The third point I want to make is that there has been a change in the government's business program. I spoke to David Fredericks on Wednesday of last week and we agreed to the order of those pieces of legislation. I am now advised that David Fredericks was trying to contact me yesterday to tell me about changes which I heard about for the first time after question time started today. Clearly he has been trying to ring me on my mobile. I have not got my mobile with me at the moment and perhaps have not got the message; but I advise David Fredericks that I have been in this place since 5 o'clock yesterday afternoon.

My telephone number is in the Parliament House directory. In case he has lost it, it is 9651 8522. That goes through to my pager if I am not there. And in case he does not get any of those, he can look up the directory and find my pager number. So it is not that I am not contactable, but in the last 24 hours I have not heard from the government on the change in the order. I resent that, because if we are going to cooperate — and I am more than happy to cooperate — then we need to keep in close contact. I ask for a little more cooperation.

The National Party is obviously not happy with this business program and not happy with these family-friendly hours.

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

Mr MAXFIELD (Narracan) — I will speak very briefly here tonight because I do not want to spend a lot of time debating the issue of time; I want to get on with debating the bills we came here to debate. I was elected by the constituents of Narracan to debate the bills that affect them. I was elected so that we could take up the issues that are important to my electorate. In the three years that I have been a member here I have seen hour after hour wasted by members of the opposition, who seem to have nothing better to do with their time than to debate the matter of time. They could be debating a whole range of important and serious issues, but will they debate them? No, they want to debate the question of time.

They are running around saying, 'How can you stretch it out?'. We have listened today to a speech by the Leader of the National Party. He had to make it last an hour and a half or more so he repeated the same point over and over again. He could certainly have concertinaed it but still got his message across.

We see a lot of time wasted in this chamber, and we do not need to waste that time. We can be prompt and efficient in our debates in the chamber. I certainly will not be speaking for too much longer on the matter of time, because I want to get down to the real issues we are here for.

Dr DEAN (Berwick) — Only the honourable member for Narracan could say that a speech on a particular topic was a waste of time when he in fact was one of the major speakers on the topic.

Putting that aside, when I stood up here and talked about the program for the last sitting week I said words to the effect that seven bills were a lot of bills but we could get through them because they were of a minor nature and we agreed on virtually all of them. Whether or not a program is feasible depends entirely on the content of the bills being put up.

This week we have eight bills for debate, all of which are major bills. Even if they were not major bills, even if they were bills where maybe we were only moving some amendments or were agreeing with quite a number of them, one of those bills is to amend the structure of the upper house and change the legislature in this state forever. This is a bill which has been mucked in with seven other bills and which we now have effectively one and a half days left to debate.

One of the points the opposition has been making is that this government is using this constitutional bill as some sort of trigger for an election. What better evidence could we have of that statement than that it has put this major bill in with seven other major bills, with 45 minutes a bill for debate, and it is rushing it through and will probably try to make the house sit late and do all the things it said when it was in opposition it would never do.

Recently I came across a statement by the Premier on a matter concerning the way debates would occur in the house:

> We will also introduce a system where the times of major debates and legislation are fixed in advance and publicly announced through advertisements in daily newspapers on the Monday of each sitting week.

Like everything else the Premier has said, nothing like that has ever happened. And where are we now? We are here late at night, not even starting a program, one of the bills of which, amongst another seven, is to amend the upper house.

What about whether or not this could be done a different way? If this session was to run its full term, we would have about another five weeks — another five weeks where these bills could be very easily handled. So why is it that these major bills are all being

crammed into one week? Could it be that this government is trying to rush to an election?

I love the statement about how hardworking they are. Do you know, Mr Speaker, that the commonwealth government has already sat for four weeks? Do you know that the Parliament in New South Wales has already sat for four weeks in this session? How long has this hardworking government sat? Three days. Why was it that we had one week on and then three weeks off? What happened in the three weeks that we were not sitting? We now have one week to debate eight major bills, including a constitutional amendment!

I love the bit about how the opposition has wasted time on the previous bill. As a matter of fact, the opposition had one speaker who spoke for 10 minutes. There were three speakers on the other side who all spoke for lengthy periods. What we have tonight is humbug. Government members know this program is totally impractical. They know it cannot possibly be done. They know it goes against all the commitments they made when they were in opposition. Why are they doing it all? Because they have to rush to an election. Why do they have to rush to an election? It is for the same reason that Mr Cain rushed to an election in 1988. He did not want people to know what was going to happen after the election — he knew about the problems the economy was in. That is the very same reason why this mob is rushing to an election.

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

Mr CAMERON (Minister for Local Government) — Here we have a legislative program where the government wants to make this house work. One of the items on the government business program is a legislative amendment to make the upper house work, and yet here we have this mob doing anything it can to avoid — —

Honourable members interjecting.

The SPEAKER — Order! I ask the house to quieten down.

Mr CAMERON — Thank you very much for your protection, Mr Speaker. The Liberal and National parties detest work. They do not want the upper house to work, and to prove the point they do not want this house to work. No, they want to sit here and quibble over time rather than get on with the hard business that goes on in this house, and that is about debating legislation.

We have heard the honourable member for Berwick complain and carp about the three-week interval since this house was last sitting. Three weeks was a sensible interval given the fact that the opposition is divided and cannot form a position. Opposition members have had three weeks to form a position on the legislative program and still they cannot. Why do they not want Victorians to know their position on these bits of legislation? One has only to look at what occurred in this house today with Basslink where we had Liberal Party members running around giving impressions here and there. Did they not hate it that they had to come in here and declare their position? Did they not hate it that they had to vote in this house so that the public would know where they stood? And that is what we have in the legislative program.

Dr Dean — On a point of order, Mr Speaker, the Minister for Local Government is being entirely irrelevant to the question of time. It is not a debate about what the opposition's policies are or are not on Basslink.

Mr CAMERON — On the point of order, Mr Speaker, this is not a matter involving the question of time. This is a matter involving the government business program.

The SPEAKER — Order! I am not prepared to uphold the point of order at this point, but I remind the minister that this is a narrow debate.

Mr CAMERON — The government wants to get on with the business of debating legislation. It wants to get on with the business where members of this house declare their position, where they tell the public where they stand, and if the Liberal Party and the National Party are not prepared do that, they should have the common decency to simply say that.

The government is not only ready, it is able, and it wants to get on with the business of working. The government simply says to the opposition, 'Stop being lazy, stop being useless and get on with the job'.

Mr PERTON (Doncaster) — That is one of the most stupid speeches ever delivered by a minister at the table, even on this issue of the question of time. Members of the public are looking quizzically at this strange business program of the government, where the government is suggesting that it wants to get eight bills through this week, including what it claims is the most important bill in its entire legislative program — the Constitution (Parliamentary Reform) Bill.

This is a bill that it says is critical to the democracy of the state. This is a bill that this government says ought

to fundamentally change the structure of the upper house. This is a bill that ought to fundamentally change the structure of government in this house. And this government wants to allocate 2 hours to the debate — 2 hours to what is, in its words, the most important bill in this entire Parliament. What an absurdity!

But the absurdity gets even worse than that. This morning the Premier announced that the Crimes (Property Damage and Computer Offences) Bill was a crucial bill that needed to be passed by the Parliament in this week of sitting. Do you know that this bill is totally based on the model criminal code officers committee report of January 2001. And do you know that in May of 2001 there was a Parliament that treated this legislation seriously. It was the Carr government in New South Wales that, in a timely fashion, dealt with the serious issues of computer hacking. It was not only able to introduce the bill into the house in April of 2001, but was able to pass it through both houses of Parliament by the end of May 2001.

What a joke that this government brings this bill in almost two years after the committee completed its report, two years after this government signed up to it, and the government brings it into the house this week claiming that it is an urgent bill.

I have announced that we will be moving an amendment to this bill to deal with the question of bushfire arson. What could be a more crucial issue in this time of drought than the way in which we treat the felony of bushfire arson. Of course this government does not take it seriously, anyway. One would have thought that setting a bushfire was the equivalent of a terror offence, but this government has set the penalty for that as a mere 15 years.

The South Australian Parliament, which introduced the same bill in August this year, has a 20-year penalty. We have a serious amendment to deliver, an amendment that I believe the National Party will support, and although we are still awaiting the response of the Independents, I understand they will support it as well. Yet this government will string out the debate on the other bills so we will get to the trigger of 4 o'clock on Thursday without dealing with the amendments to this bill. This is one of the most crucial bills in the house, as the Premier said today, which the government should treat seriously and debate properly.

This is a government that is full of cant and hypocrisy. This is a government that claimed in opposition it would be transparent. This is a government that claimed in opposition that the Parliament would sit family friendly hours. I had a minister sit next to me during the last division and just look at me and say, 'Three o'clock in the morning!'. Even ministers think this is insane, yet this is the behaviour of a government that said it would raise parliamentary standards.

I believe they have taken lies to new heights. They have reduced transparency in the house and in government, and they should stand condemned by their business program.

The SPEAKER — Order! The time set for this debate has expired.

House divided on motion:

Ayes, 46

Allan, Ms
Allen, Ms
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Davies, Ms
Delahunty, Ms
Duncan, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr (*Teller*)
Howard, Mr
Hulls, Mr
Ingram, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Pike, Ms
Robinson, Mr
Savage, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wynne, Mr

Noes, 41

Asher, Ms
Ashley, Mr
Baillieu, Mr
Burke, Ms
Clark, Mr
Cooper, Mr
Dean, Dr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Elliott, Mrs
Fyffe, Mrs
Honeywood, Mr
Jasper, Mr
Kilgour, Mr
Kotsiras, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Maclellan, Mr
Maughan, Mr (*Teller*)
Mulder, Mr
Napthine, Dr
Paterson, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Steggall, Mr
Thompson, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr

Motion agreed to.

MEMBERS STATEMENTS

Crime: Mitcham

Mr WELLS (Wantirna) — I condemn the Bracks Labor government for its do-nothing approach to law and order in this state. Violent crime is on the increase, and crimes against the person are on the increase. We need only look at the Legislative Assembly seat of Mitcham. In the period 1999–2000 to 2001–02 total crime went up in Blackburn and Laburnum by 11.3 per cent; in Mitcham by 15.6 per cent; and in Vermont by 16.4 per cent.

Those figures are taken from police statistics based on postcodes. To make it worse, in Mitcham, with the postcode of 3132 and at the heart of the state seat of Mitcham, crime has jumped 11.2 per cent in just one year, or in raw figures, 1022 to 1136. This goes along with the recent statements put out by the Liberal Party on violent crime jumping by 24.7 per cent in three years under this government. Homicide is up 32.9 per cent; arson, 30.9 per cent; and aggravated burglaries, 29.6 per cent. This is typical of a do-nothing government and the way it treats its citizens with regard to law and order.

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

Brimbank: financial management

Mr LANGUILLER (Sunshine) — I rise today to set the record straight on Brimbank City Council. Firstly, when the Liberal government forced local government amalgamations in 1994 it sent many councils to their knees by setting rate caps and forcing staff cuts. The Liberals failed to foresee the unfunded superannuation liability resulting from the hundreds of redundancies. What did the Liberals do when this came to light? They walked away with no care and no responsibility, leaving the cash-strapped councils to carry the heaviest of burdens.

Brimbank council's burden was considerable. But Brimbank council tackled the challenge head on with a strong financial strategy. In 1997 the council had a debt of $47 million. Five years on and the debt has been reduced by $10 million. In 1997 the council had an operating loss of $15 million. In 2001–02 the council achieved its second successive operating surplus. That is a positive turnaround of over $25 million in five years. That is a fine performance by any standard, and it did not need to sell off the farm and cut crucial services like the Kennett regime did to get out of the red.

The council addresses important issues head on, as evidenced by its implementing a zero-tolerance campaign in relation to cleanliness and the amenity of strip shopping areas, developing a youth strategy and working on a drugs strategy. I suggest to the ill-informed Liberal member for Knox that before he gets up in the Parliament on a subject matter of which he has no knowledge that he further consider the performance of Brimbank City Council — —

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

Water: Wimmera–Mallee pipeline

Mr DELAHUNTY (Wimmera) — The communities of south-west Victoria are angry with the composition of the recently announced Wimmera–Mallee pipeline steering committee as highlighted by the front page of today's *Hamilton Spectator*. Personally I am extremely disappointed, in fact appalled, with the structure of the 12-member committee.

I congratulate Warracknabeal farmer Chris Hewitt as chair and other members of the committee. However, I am disturbed there is no representative in the area from Balmoral, the start of the Glenelg River, to the sea. This is a disastrous situation considering all the effort which has gone into bringing the Wimmera–Mallee and Glenelg regions together on water management.

South-west councils and the Glenelg waterways restoration group have worked tirelessly with others in the region on the pipeline feasibility study and environmental flows for both the Wimmera and Glenelg rivers. With the current drought the Wimmera–Mallee pipeline is vital to the continued growth and prosperity of western Victoria, and I am fearful the structure of the committee will retard the completion of the detailed design work and hamper the entire project, which has lost six months due to the state government's inaction and procrastination.

The committee announcement highlights the city-centric approach of this government, with the minister and her departmental staff making this decision over 300 kilometres from western Victoria and not having the courtesy to consult with key stakeholders in the region.

I strongly urge the government as a matter of urgency to reconsider the membership of this important committee with a view to adding representation from the Glenelg River region. I put the country first and I want the government to do the same thing.

National Party: Latrobe proposal

Mr MAXFIELD (Narracan) — I rise to talk about the very disturbing proposal brought by the National Party to split the Latrobe city in half. This proposal will create a very small Traralgon council to represent about 28 000 people within the Gippsland region, and will obviously create a significant increase in rates. We have already seen rate rises of up to 40 per cent in other parts of the state where separation has occurred. The National Party's disgraceful proposal to separate Traralgon from Churchill, Moe and Morwell will result in a 40 per cent rate rise for my constituents in Moe and Newborough.

This is a disgraceful and divisive proposal. The ability for us to get businesses into Latrobe city will be very much restricted by this splitting of the council into two. It will be divisive, it will be anti-jobs, anti-Latrobe Valley, and clearly anti-worker. We have a duty to ensure that those in Latrobe city get the best possible outcome they can; the lowest possible rates with the best possible service provided, on top of the $100 million task force that the Bracks government has put in place to improve the lot of those in the Latrobe city. I condemn the National Party.

Crime: Prahran

Ms BURKE (Prahran) — According to Victoria Police crime statistics, crime in the suburb of South Yarra has increased over 9 per cent while Prahran has witnessed an increase of 13 per cent. Given that both these areas fall under the constituency I serve, you can imagine my concern. In July this year three youths were killed in a series of incidents involving gangs carrying Samurai swords. Assaults and offences involving these sorts of weapons, even machetes, are also rising, with 171 assaults recorded in the last financial year in South Yarra alone.

The Premier insists that crime has gone down across Victoria, but I am afraid this is little consolation to the people of Prahran who are still too frightened to leave their homes or walk alone in their own neighbourhoods at night for fear that they may be attacked. Honourable members will forgive my cynicism when I say that the presence of the Minister for Police and Emergency Services under the guard of four police officers in Chapel Street on 31 August did little to allay their fears. The people of Prahran deserve more than a task force. They deserve more action, and an assurance that steps will be taken to more aggressively combat crime in my area. More police would be a very good start.

Schools: walking bus program

Mr HOLDING (Springvale) — I congratulate three schools in my electorate of Springvale that are part of the walking school bus pilot project. Southvale Primary School, Harrisfield Primary School and Keysborough Park Primary School were all selected to be part of this exciting initiative. Four councils have been funded by Vichealth to establish the pilot walking networks in primary schools. The project aims to increase safety skills among young people, promote healthy lifestyles by encouraging young people to walk to and from school, and to reduce traffic congestion and pollution around local schools. Essentially children walk to and from school along designated routes with parent volunteers acting as supervisors. Children are dropped at bus stops by parents, and children can join the walk at designated times and stops along the way.

I had the pleasure of walking with students and parents from Southvale Primary School on 6 August for the launch of this program in the City of Greater Dandenong, and I congratulate the City of Greater Dandenong, including Deborah Manning and Roopa Umesh, Vichealth and the staff and parent volunteers who have made this pilot project possible. Vichealth plans to treble the number of schools taking part by offering grants of up to $30 000 to local councils to expand the program in 2003. I encourage schools to apply and I understand they have until 11 October to get their applications in. I commend the project to the house.

Crime: South Barwon

Mr PATERSON (South Barwon) — This government promised to be tough on crime, but we now know that the truth is very different. In my electorate, in Torquay, Bellbrae and Jan Juc, in the postcode area of 3228, offences have leapt from 522 in 1999–2000 to 783 in 2001–02 — from 522 offences up to 783 offences over a two-year period. The people of Torquay, Jan Juc and Bellbrae can no longer believe this Labor government, if they ever did. In Barwon Heads and Breamlea, in the 3227 postcode, offences during 1999–2000 leapt from 232 to 285 in 2001–02.

This government clearly is weak on crime. That is why the Liberal Party this week has been very pleased to announce the building of a new police station in Torquay, and I can assure the people of Torquay, Jan Juc, Bellbrae and surrounding areas that it will deliver a police station in Torquay earlier than the Labor Party. Labor has not even made a start on the Torquay ambulance and Country Fire Authority station, so how can the ALP be trusted to build a police station?

Buses: Delahey–Watergardens service

Mr SEITZ (Keilor) — I rise to place on the public record my appreciation and that of the people of Keilor of the Minister for Transport's providing extra bus services in the growth area of my electorate, which is a very important region.

In particular I note and support the work carried out by the parliamentary secretary, the honourable member for Coburg, who has shown a great interest in the St Albans bus service in the Keilor electorate. In fact he has been out there a couple of times to have a look at the situation and listen to the people. He ensured that the allocations were made in the budget, and now the people have a new bus route going through Delahey and right through to Watergardens, which the Delahey action committee has been lobbying for for quite some time. We will also have a new bus route going up to Hillside, starting in November, when new buses are built for Kastoria Bus Lines.

We will have a good service in the growth area in the Keilor electorate thanks to the minister and the parliamentary secretary. This government and the Treasurer are providing the funds to look after and keep up with the growth area in my electorate. In particular I also mention the support of Cr Natalie Suleyman and Marilyn Zukalski, who organised the Delahey Action Group for a bus service there, and the principals from the schools of — —

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

Crime: Caulfield

Mrs SHARDEY (Caulfield) — In 2001–02 in my electorate of Caulfield there were more than 8000 crimes, up 3.4 per cent on the previous year. These figures come from the Glen Eira regional police.

As you might expect in a quiet suburban locale such as Caulfield, car thefts and house burglaries remain the most common crimes. What is unexpected is the alarming growth in the number of offences against persons, up 18 per cent to 498. This appalling figure means that on average more than one person was robbed, assaulted, or raped in Caulfield every day during the last financial year. This figure is extremely disturbing in a seat where more than a third of the population is over 55. Vandalism, drunkenness and street offences were up by 45 per cent to 638, while there were 146 drug offences in the 2001–02 year. The figures also show there were 7096 offences against property.

I have recently conducted a survey of the community on offences against property which shows that the people of Caulfield feel abandoned by the Bracks government on law and order issues. More than 80 per cent said the Bracks government was not doing enough to combat vandalism; 89 per cent supported banning the sale of spray cans to minors; 74 per cent supported the Liberal Party's anti-graffiti plan; and 72 per cent believed the Bracks government is doing nothing to support their local area. It is simply not good enough.

Oakleigh Amateur Football Club

Ms BARKER (Oakleigh) — On Friday, 4 October, I was very pleased to attend the annual dinner and presentation night for the Oakleigh Amateur Football Club. I congratulate and acknowledge all the players and volunteers of this great local football club known as the Krushers. In particular I acknowledge Matthew Clark, who was awarded the seniors best and fairest award as well as the best club member award. The reserves best and fairest was awarded to Brad Grant, and the under-19s best and fairest award went to Sean Earl.

The president's award was presented to Pat Torpey, with the special effort award going to Patrick McKenna. A medal named in honour of the late Joan Cosgrove, who was one of the Krushers most ardent supporters, was awarded to Damian Britt. Life memberships were also awarded to Patsy Keays and Andrew Monaghan, who have given many years of wonderful voluntary service to the Oakleigh Krushers. I would have liked to mention more, but I have run out of time, so I wish them the best for next season. Go Krushers!

WRONGS AND OTHER ACTS (PUBLIC LIABILITY INSURANCE REFORM) BILL

Second reading

Debate resumed from 12 September; motion of Mr BRACKS (Premier).

Government amendments circulated by Mr CAMERON (Minister for Local Government) pursuant to sessional orders.

Opposition amendments circulated by Mr CLARK (Box Hill) pursuant to sessional orders.

Independent amendments circulated by Mr SAVAGE (Mildura) pursuant to sessional orders.

Mr CLARK (Box Hill) — The public liability and insurance crisis is one of the most serious issues

currently disrupting community and business life across the state of Victoria. Sporting associations, community groups and small businesses of all descriptions have been hit hard by massive premium increases and, in some cases, an inability to obtain insurance cover at all.

This has gone on to threaten fundamental institutions and activities in community life across the state. Some of these threats have been well canvassed publicly; other areas are facing equally serious threats but have not received as much public attention.

To give the house some illustration of the range of activities that are being or have been threatened in recent times by the public liability and insurance crisis, I will mention just a few: operators of flying-fox playground equipment, speedway operators, basketball centres, pony clubs, equestrian centres, the medical profession, adventure activity operators, environmental health consultants, railway signalling providers, printing service providers, hirers of child safety equipment, enthusiasts for steam engines, building surveyors and engineers. All of these have been or are currently threatened by the crisis in public liability and insurance. It goes to the cornerstone of our life here in Victoria and threatens not only community activity but also employment and our prosperity.

This crisis has a range of causes. Some of them are well identified and agreed upon; others are more contentious. It is generally agreed that the events of 11 September 2001 and the subsequent stock market downturns have taken an enormous amount of capital out of the international insurance market, causing insurers to withdraw from many areas, particularly low-profit, high-risk business that they consider to be peripheral to their core operations. On top of that, the collapse of the HIH group in Australia and other overseas insurers has brought to an end an era of highly aggressive price cutting.

More contentious than those two causes is the role of legal claims. The insurance industry and many business, professional and community organisations argue that we have become an increasingly litigious society and that a rapidly rising number of claims and increasingly pro-plaintiff judicial decisions are creating uncertainty and incurring costs that are causing insurers either to withdraw from offering public liability insurance altogether or to offer it only at a very high cost.

In response the legal profession and others argue that the number of civil court cases has not risen significantly in recent years, that the large plaintiff law firms are not seeing an increase in the number of clients on whose behalf they are making claims and that the High Court is increasingly taking a more restrictive approach in its decisions, which is shifting the balance of judicial interpretation towards defendants.

However, on balance it seems to me there is strong evidence that unjustified or exaggerated claims are rife and are a major contributor to the cost and unavailability of insurance. Many claims are being settled by insurers before court proceedings are issued for fear of legal costs and even bigger payouts being ordered if their cases go to trial.

When you speak to small business operators across the state they can give you numerous anecdotes to bear out the fact that claims of the order of $5000, $10 000, $15 000, or $20 000 are being made against them and that their insurers are choosing to settle those claims before proceedings are issued because they fear the consequences and the cost of contesting them.

It also now seems that a significant number of these claims are being made by smaller suburban and country law firms rather than by the big plaintiff law firms. Although it is probably correct to say that recently there have been somewhat more restrictive decisions by the High Court on points of legal interpretation, it is also fair to say that the consequences of those decisions have not flowed through to a significant change in judicial attitude by the courts in general and particularly by those courts that are hearing the claims in the first instance.

The crisis is a very serious one that has for a long time now demanded serious and urgent action — but that is something we have certainly not seen from this government. The government's response to the public liability and insurance crisis has been yet another case of too little, too late. In typical fashion the government has hosted talkfests, written letters to the federal government, blamed the insurance companies and tried to take credit for the actions of others, but what it has not done is taken systematic and timely action itself.

The government had the opportunity to do so a year ago — it had an opportunity probably six or nine months ago — to take action to provide solid and detailed advice to community organisations and businesses about the options that were open to them, to put them in touch with prospective insurers and to encourage them to develop proper risk-management regimes and potentially available pooled insurance regimes. It had the opportunity to make a variety of law reforms, but it did none of these things. Instead it waited until the last minute, when individual sectors had reached crisis point, and then it rushed around

trying to patch up last-minute solutions on a case-by-case basis — and on a hit-and-miss basis.

Fortunately some other institutions in the community took action which has proved beneficial. Full credit should go to the Municipal Association of Victoria and the Our Community organisation for the scheme they developed for low-risk community groups — a scheme they developed with very little help from the government. The pony clubs and equestrian centres managed to find their own insurance cover. The government introduced, right at the death knell, a package that offered some short-term assistance for a limited number of operators in the adventure tourism industry. Of course the operators who were saved from closure were very pleased with that outcome. However, it is also fair to say that the future of that package — how long it lasts for, what the conditions are and how the transition from this short-term arrangement to ongoing sustainability will be made — remains unclear months after the initial announcement the minister made.

Similarly the government has made some modest grants for risk-management studies. They have had some benefit, but it has been a limited benefit. It also needs to be pointed out that Victoria has been the last mainland state to bring in legislation to address some of the vital law reform issues that are necessary to tackle this crisis. Governments of the same political persuasion in other states have acted far earlier. Victoria should have legislated in the autumn sitting, just as the New South Wales and Queensland governments did. If the premiers of New South Wales and Queensland, Bob Carr and Peter Beattie, were able to get their acts together to bring legislation into their Parliament, why was this government unable to get its act together and bring legislation into this Parliament?

By contrast, throughout this crisis the Liberal Party has taken a decisive stand on public liability and insurance issues. In February this year we released a document entitled *Time for Action*, which outlined both immediate measures to assist community groups and small businesses to gain affordable insurance and legislative options to help reduce the upward pressure on premiums. I can inform the house that the Bracks government failed to act on those measures that were put forward in our Time for Action package. I must say that if it had acted at that time much of the heartache that has been experienced by community organisations and small businesses since then could well have been avoided.

In May this year, following continued inaction by the Bracks government, we introduced into Parliament the Adventure Activities Protection Bill, which was designed to address both the cost and availability of insurance in the adventure tourism and related sectors. The bill was strongly supported in the Legislative Council, but the government refused to allow it to be debated at all in the Legislative Assembly.

More recently the Liberal Party has released a further document setting out reform initiatives to tackle the public liability and insurance crisis — initiatives that are based on its strong commitment to a range of principles, including encouraging personal responsibility; supporting community participation; prevention of injuries as well as treatment of injuries; fairness, certainty and commonsense in our legal system; and ensuring that the seriously injured are properly looked after.

We put forward reform initiatives that would ensure that when people voluntarily engage in risky recreational activities they accept responsibility for minor injuries incurred in the course of that activity. We proposed the introduction of proportionate liability where several defendants separately contribute to an injury or loss. We proposed that where law firms take on cases on a no-win, no-fee basis they should accept responsibility for ensuring that the other party's costs are paid if their client loses the case and is unable or unwilling to pay. We proposed to require that no-win, no-fee advertisements disclose that the client would generally be liable to pay the other side's legal costs if the client loses. We proposed to allow reputable business and community organisations operating on state government land to obtain public liability cover jointly with the government at an incremental cost reflecting the risk involved, which would thus eliminate the current existing requirement for them to provide $10 million public liability cover in favour of the government before they were allowed to operate.

I may say that this requirement to provide $10 million cover before being able to operate on Crown land continues to be a major source of difficulty to many tourism and other operators in country Victoria and a major obstacle which it would be readily open to the government to overcome if it so wished. It may be one thing in times of cheap and plentiful public liability cover to say that operators who want to carry on activities on state government land should obtain a policy noting the government's involvement, or in favour of the government, and provide that before they are permitted to carry on their trail-riding activity, their kayaking or whatever else it may be on state government land. However, following the HIH collapse, 11 September and the other factors that have

caused the cost of public liability cover to spiral and its availability to shrink, there needed to be — —

The ACTING SPEAKER (Mr Phillips) — Order! The time has come for me to interrupt the business of the house.

Sitting continued on motion of Mr BATCHELOR (Minister for Transport).

Mr CLARK (Box Hill) — I was making the point that as the cost of public liability cover rises and its availability shrinks this approach needs to be reconsidered. This point was put very forcefully by many adventure tourism operators to the minister at a gathering in Mansfield recently and the minister responded, if I heard him correctly — no doubt he will correct me later in this debate if I am wrong — and said that he was willing to consider the possibility of reducing the level of cover required from $10 million to $5 million once a catastrophic injury compensation scheme had been established at a federal level.

It seems to me that that response is seriously inadequate on two fronts: one, as to timing, and two, as to its nature. As to timing, it is not within the minister's control, the control of this government or of this Parliament as to if and when a national catastrophic injury compensation scheme is established and the time of the commencement of any such scheme. So to hold out to operators the possibility of reducing the requirement from $10 million to $5 million upon the establishment of such a scheme is to hold out a prospect that is indefinitely and indeterminately down the track, certainly not one that is imminent or likely to be fulfilled in time to overcome this crisis that they are facing, which is very pressing and very desperate.

The second flaw in what the minister said goes to the nature of what was being proposed: to reduce the cover from $10 million to $5 million. The proposal put forward by the Liberal Party, as it put forward in February this year and reiterated in September, goes far beyond that in terms of providing an adequate solution. It goes to the heart of the issue. It goes to the fact that when you have a reputable operator carrying on an activity on state government land it is a matter of benefit to the whole community, not only the local community but to the broader statewide economy — and the state government has an interest in fostering and preserving that activity.

It also goes to the fact that the risk to which the government is exposed and to which the operator is exposed is in many instances a joint risk — for example, if someone is conducting a horse trail ride on state government land and a horse inadvertently puts its foot in a trap — a wild dog trap or similar — and the rider falls and is injured, the rider might well sue the operator of the trail ride on the basis that the operator should have had a proper lookout and should have checked whether the paths were clear, and may well also join the government on the basis that the government was having its staff set traps on trails where it should have known that rides would take place. So both are at risk of being sued over the same incident.

It makes sense that that risk be managed through cover that is organised to cover them jointly. Of course if the state is taking out that cover, not just on a one-by-one basis for separate operators but generally for all operators which are reputable and which it wishes to admit to the joint management, then the sheer economy of scale should reduce the cost. This approach should be far superior to requiring operators to go off individually and obtain their own cover for $10 million or $5 million. This is not something that would be provided free of cost to the operators concerned. Under our proposal operators would contribute their fair share of the incremental cost arising from their activity, reflecting the risk involved. But even bearing that share of the cost it would be far cheaper than the regime that prevails at present. This is a clear potential benefit to numerous community activities and numerous small business operators across the state and it is one that the government has failed to take up.

The Liberal Party has also proposed, in February and again in September, that the government should be providing risk management guidelines to businesses and community organisations and it should enlist the in-house expertise that it already has through the Victorian Managed Insurance Authority to provide advice to the government which the government could then distribute throughout the community — not just bland brochures describing some of these things in general terms but solid, decent, well-reasoned, well-documented and detailed kits, guidelines or procedure manuals so that basketball court operators, speedway operators, steam engine clubs and a whole host of community organisations, and indeed small businesses, would not be put through the process of, as it were, reinventing the wheel themselves, working all of these things out from scratch themselves, but would be given enormous practical guidance on how to put in place the risk management techniques that so many insurers are now insisting on as a precondition to providing public liability insurance.

One of the classic roles of government is to disseminate information of general community benefit. It is a role that this government could and should have picked up

on a year or more ago and it is something that the government has failed adequately to do.

In like vein, in many instances there are opportunities for industry associations or associations of community organisations to establish pooled risk management and insurance arrangements. The essence of those arrangements is that instead of each individually going off to a public liability insurer and purchasing their own policy at substantial cost, all those participating — whether it be as a collection of small businesses in a particular industry or a federation of community clubs or societies in a particular field — would pool the money they would otherwise expend in purchasing their separate public liability cover.

Out of that pool of money two things would be done. Firstly, risk management arrangements would be implemented so that the collective organisation was able to certify to an insurer that all of its members had met the standards the insurer needed in order to show that each of them was properly managing risk. Secondly, out of that pool the first level of any claim that was made against any of the member organisations would be met. So in effect the balance of the pool would then be used to purchase insurance cover for only the excess above the amount that could be met from the pooled arrangement.

In other words, the organisations collectively would be taking on far more of the responsibility for managing their risk and therefore not only improving safety, reducing the number of accidents and better managing the claims but also reducing the costs to the member organisations. That is something about which there is little dispute. The principle was used by a number of the participants in a forum the government floated in September last year. What was missing was the translation of the principle of the concept into effective action, and that was something the government was well placed to play a lead role in but something it failed to do.

The final measure the government could and should have taken months ago was to help put in contact with reputable and relevant potential overseas insurers those industry associations and associations of community organisations that are unable to find affordable insurance within Australia. The point needs to be made that a range of insurers of different standing offer insurance in Australia. Some are registered within Australia and come under the federal Australian Prudential Regulation Authority. Others are not registered in Australia but are still able to write business in this country, and they may be based in foreign jurisdictions including the Philippines, the Cayman Islands and others. It is a lot harder for potential clients to judge the credit worthiness of those insurers. It is often a much lower cost product, but the great uncertainty is whether the insurer will be there to pay up if the claim is made and how difficult will it be to actually lodge the claim and have the claim fairly and properly assessed and the litigation properly managed.

On the other hand there are many reputable insurers overseas who are willing to look beyond their own shores. They are insurers who may be attracted to this country and who may be specialists in particular products or particular industry sectors, and what is needed is someone to help put the different parties in touch. Again it is a matter of avoiding the situation where a wide range of community organisations and small businesses that do not have expertise in the areas concerned have to individually go through the process of tracking down these insurers — the multiple desperate calls, emails and faxes to overseas insurance offices, pleading for cover, pitching the case, trying to persuade and solicit an insurer to write cover in the sector concerned.

A lot of that angst could already have been eliminated had the government, which was speaking to insurers overseas, been prepared to play that matchmaking role and make the information available. That would have prevented many community organisations from taking out policies with insurers about whose credit rating or other operational standing the clients concerned were unsure, possibly in some instances having policies that will not prove up if a claim is made or, equally serious, having policies that were written for one year but will not be available in future as the insurer is no longer willing to continue to write the business.

These were all actions that could have been taken by the government but were not, and the crisis in Victoria is thus far more serious than could have been the case, and far less assistance has been provided by the government. Now, very late and, as I said, well after all other mainland states the government has come to this house with the bill now before us.

The bill has a wide range of measures in it, and I will address each one, but as an overview I have to say that, while some of the measures are of limited benefit, many of these provisions are of negligible or benefit or indeed may prove to be counterproductive. The bill is certainly not an adequate legislative response to help effectively to bring to an end the public liability crisis we are facing.

Before moving on to canvass these particular provisions I will acknowledge the input that the opposition has

received from a wide range of parties, both individuals and representative organisations. In particular I acknowledge the inputs of the Insurance Council of Australia, the Australian Plaintiff Lawyers Association, the Law Institute of Victoria and the Australian Medical Association.

Turning to the various provisions of the bill and taking them roughly in the order in which they appear in the bill, the first provisions amend the Wrongs Act in two different respects in relation to intoxication and being affected by drugs. These provisions require that the intoxication of a claimant by alcohol or by drugs is to be considered in determining liability or breach of duty. They are provisions that flow from clause 3 in the bill and from proposed section 14G to be inserted in the Wrongs Act by clause 5 of the bill.

The key point to be made about these provisions, provisions the government has included in media releases on several occasions as being a significant reform and improvement to the law, is that basically they restate the existing law. It is already the position that under the existing law whether a person entering premises was intoxicated by alcohol or drugs and the level of intoxication or whether they were engaged in an illegal activity are matters that are to be taken into consideration in determining occupiers' liability.

Again, in determining whether or not there has been a breach of the duty of care that is owed to a claimant it is already the law that a court must consider whether or not the claimant was intoxicated, the level of intoxication and whether they were engaged in illegal activity.

So what does this purported reform achieve? Basically nothing further than to put into print in an act of Parliament provisions that courts would ordinarily take into account. In this respect these provisions are to be contrasted with those in the New South Wales legislation, which attempt to change the substantive law. Whether or not the New South Wales provisions are the right way to go is something that could be subject to separate debate. The point I make here is that there is very little to be gained by the provisions proposed to be inserted by this bill. The government may say it provides greater certainty to have these things set out in black and white, but as always when you replace common-law provisions with provisions in legislation the question arises whether or not the statute is intended to be a direct codification of the common law or whether it is intended to say something different to what the law already is. That is a point which can vex lawyers and litigants and take time to resolve.

The next matter to which I refer is a set of provisions to be inserted by clause 6 of the bill in relation to apologies, and there are further provisions later on in the bill which have a similar effect in relation to the Coroners Act. Those provisions state that apologies or reductions or waivers of fees on their own do not constitute admissions of liability. The intention of this is clear: that the government wants to not have people clam up and feel they cannot express a normal human emotion of sympathy or condolence in the event of an accident for fear that whatever they say might be taken down or memorised and subsequently used against them in court proceedings.

As I said, the intention is clear. The problem with these provisions is that they do not seem to achieve that intention, because while they provide that an expression of sorrow, regret or sympathy falls within the definition of an apology, they go on to qualify that by stating that it does not include a clear acknowledgment of fault. Further on in the legislation it says in several places that nothing in the relevant section affects the admissibility of a statement with respect to a fact in issue or tending to establish a fact in issue.

To summarise, if you say to someone 'I am sorry', that is not a clear acknowledgment of fault, but if you say to someone 'I am sorry. It is all my fault', then the apology provision is rendered inoperative. The Australian Medical Association, amongst others, has expressed the view that this sort of highly qualified, highly restrictive drafting is not calculated to encourage the outcome the government seeks to achieve. The AMA believes doctors, amongst others, are going to be very cautious in trying to take advantage of these provisions because of their limited nature.

The next set of provisions to which I will refer are those that limit the damages payable for loss of earnings to three times average weekly earnings. Those provisions are set out in clause 7 of the bill in proposed section 28F(1), which is to be inserted into the Wrongs Act. Those provisions will not apply to awards of damages in proceedings commenced in a court before the commencement day of the legislation, which is the day on which it comes into operation. The provisions, as I say, will limit the maximum amount of damages that can be paid in respect of loss of earnings to three times average weekly earnings.

This will not have a major impact in reducing premiums, as it is only going to be relevant where the plaintiff is earning currently or is expected to earn in the future more than three times the average weekly earnings, which currently amounts to around $2700 a week. However, the provision reflects the proposition

that the defendant should not be held responsible for an unusual level of loss above the cap level, and of course it has the consequence that people will have to take their own steps to protect themselves against loss of earnings greater than three times average weekly earnings.

The Liberal Party agrees in principle with this measure. I should point out, though, for the minister's consideration, one aspect on which I think there might be a problem with the drafting of the bill. It is in proposed section 28F(2), in which reference is made to the court being required to disregard the amount by which the claimant's gross weekly earnings would, but for the death or injury, have exceeded an amount that is three times the amount of average weekly earnings at the date of the award. The issue I raise is whether the reference to the claimant's earnings is accurate in a case where the claimant is not the person who was killed but is a dependant of the person who was killed.

In that instance — for example, if it is a child or widow of a person killed in an accident — the question is whether it is the dependant's gross weekly earnings to which regard is had or whether it is the earnings of the person who has died and on whom they were dependent.

The next measure to which I refer limits non-economic loss damages to an amount equal to the limit set under the Transport Accident Commission legislation, which is currently $371 380. To avoid the confusion that some media reports showed, it is worth making the point that this restriction does not apply to damages for economic loss, such as loss of earnings, or to medical or rehabilitation costs and therefore applies primarily, if not exclusively, to pain and suffering.

This is a cap that was recommended by the authors of the Trowbridge report, who reported to the Insurance Issues Working Group of the Heads of Treasuries on 13 May 2002. It is another measure with which the Liberal Party agrees in principle, because it is a measure that sets a community standard for what is reasonable in terms of pain and suffering damages. However, it is worth making the point that the general damages to which this provision applies are a relatively small component of the multimillion dollar payouts that attract headlines. The cap is not going to have a dramatic impact on those payouts. It does, though, set a standard in terms of what is appropriate for pain and suffering damages. Pain and suffering is, of course, something that is not as quantifiable as loss of earnings, and it is therefore appropriate to set a community standard.

The next measure to which I refer is changing the discount rate for future economic loss from 3 per cent to 5 per cent, with a power to vary that discount rate by regulation. This is a complex area that is complicated by issues of taxation and whether or not calculations are made in real or nominal terms. I should say that the discount rate to which the legislation refers is in effect the rate of earnings on a damages payment which the court is required to assume the plaintiff will be able to obtain in order to produce, over time, a series of payments equal to the loss of income or other future costs which they are expected to suffer.

When the courts calculate those future earnings losses and other costs, as I understand it, and as the opposition was informed at the briefing provided to us by Treasury officers, they ignore the expected growth through inflationary pressures and wage growth pressures in earnings over time. Courts also calculate earnings losses in after-tax terms, which, I may say as an aside, meant that when income tax rates were reduced in recent times as a result of the introduction of the GST, one of the consequences was that the damages payments that injured persons received increased. However, the earnings on lump sum compensation payments that plaintiffs receive are subject to taxation in the normal way.

The consequence of all that is that the discount rate specified in the legislation is in effect a real after-tax discount rate, in that the plaintiff's earnings must factor in both inflation and tax on top of the 5 per cent in order to obtain net payments equal to his or her future losses.

In most instances in Victoria the discount rate is not fixed by legislation, although 6 per cent is fixed as the discount rate for motor accidents. In other instances, the common law applies. The High Court has held that 3 per cent is an appropriate discount rate, and that is the rate, therefore, that Victorian courts apply. Many other states have changed this in the past, and 5 per cent is a common discount rate in many other jurisdictions.

Five per cent was also the discount rate that was recommended by the Trowbridge report to the insurance issues working group. However, the Ipp report, which was made public on 2 October, recommended a 3 per cent discount rate based on advice that that group had received from the commonwealth actuary to the effect that a real discount rate of between 2 per cent and 4 per cent was appropriate in Australia. The Ipp report gave several numerical examples showing that in the case of a totally and permanently incapacitated 25-year-old plaintiff, moving the discount rate from 3 per cent to 5 per cent would reduce the lump sum that that person received

for loss of earnings by 25 per cent. For a totally and permanently incapacitated 45-year-old plaintiff, the reduction would be 15 per cent. So of all the measures in the bill, in accordance with the advice that the opposition has received from several sources, it is this alteration to the discount rate that is likely to have the biggest impact in dollar terms.

That imposes a particular responsibility on the government to make sure it gets the discount rate correct. It is welcome that in this provision there is the power to prescribe a different discount rate to the 5 per cent, because the principle that should apply in setting a discount rate is not to use an artificially high discount rate so as to undercompensate the victim. The principle should be that the discount rate is based on a fair estimate of what lump sum is needed to provide the relevant future returns to the injured person, particularly in light of the findings of the Ipp report, which became available only in the last few days, after the government had brought the legislation to Parliament.

It would be appropriate if some careful thought were given to the operation of inflation and to the operation of taxation consequences to make sure that the government is satisfied that the discount rate of 5 per cent is fair and appropriate, because it is very easy to assume that the 5 per cent discount rate in the bill corresponds with a 5 per cent rate of interest on money that one might put on deposit. For the reasons that I have explained, and given the tax effects and the inflation effects, that is not the case.

The next provisions to which I refer are those relating to structured settlements, which are contained in clause 8. These allow structured settlements, which are agreements between the parties for compensation by periodic payment, to qualify for income tax relief, which the commonwealth government has agreed to introduce to facilitate those sorts of structured payment arrangements.

The use of these payments is a good thing in principle, because it has the potential to allow a better matching between the needs of the injured person and the timing of the receipt of payments. When payments are received as a lump sum it is not necessarily easy to manage that lump sum in a way that will produce a stream of income that meets the needs of the injured person going into the future, so structured settlements are one step towards that.

I should say although they are a step in the right direction there still remain important issues to be resolved, particularly the issue of managing the uncertainty about how long into the future the plaintiff is going to live or, if there are injuries, how long into the future a particular severity will last. Because at the time a court determines its judgment it has to make a best estimate about all of those factors and that estimate may prove to be an overestimate or an underestimate.

Under lump sum payments, and indeed under the structured settlement arrangements as they are most likely to be introduced, there is not a great deal of adjustment for that. There is adjustment in the sense that one of the ways in which the periodic payments can be funded is by an annuity, which by definition may be for the lifetime of the plaintiff, but there are still a lot of uncertainties for the future that are not addressed by the regime established by the bill. That is not a criticism of the government. The legislation responds to matters discussed by various Australian governments, but I simply make the point that this is only a step down the path that may need to be followed.

There is a further aspect. There is often concern about what is sometimes called the pot of gold effect of the potential of large lump sum payments in terms of distorting incentives and also the way in which those lump sums are managed and paid. The question has to be asked whether as a matter of public policy there should be circumstances in which the court should be either authorised or possibly even required to award compensation in the form of periodic payments, even if one or both parties do not agree. Again that is something to which we should all be giving further consideration.

The next area of the bill on which I comment is the provision relating to good Samaritans. Those provisions remove liability from good Samaritans for actions done by them in good faith to prevent death or injury or to help injured persons. The point should be made that corresponding provisions for volunteers do not apply to Country Fire Authority or State Emergency Service volunteers.

There is a further omission in relation to good Samaritans that they do not apply to good Samaritans who act voluntarily to protect property or livestock in bushfires, flood or other emergencies. These provisions only apply to people who act in good faith to prevent death or injury or to help injured persons. The question may be asked as to why these provisions do not go further. The principle underlying them is that if you do not have legislation that makes it clear that people who act gratuitously in these circumstances are protected, people will be disinclined to render assistance and that is obviously not a good thing.

I next comment on the provisions relating to volunteers, which in a sense mesh in with the provisions relating to good Samaritans. Those provisions transfer the liability of volunteers doing community work from the volunteer to the organisation for which they are working. As I said before, these provisions do not apply to volunteers under the Country Fire Authority Act 1958, the Emergency Management Act 1986 or the Victoria State Emergency Service Act 1987, nor do they apply to a person complying with a direction under the CFA act or to a volunteer who has statutory immunity under other legislation.

It should also be said that these provisions will not commence until a date to be proclaimed or 1 July 2003, whichever is the earlier. This is a delay introduced apparently, as the opposition understands, in case the government decides that regulations are needed to implement these provisions. There are some aspects of these provisions that provide for regulations, for example, in relation to whether there are small levels of remuneration that a volunteer can earn without being disqualified as a volunteer. I make the point to the minister that there are community organisations that are looking forward eagerly to the commencement of these provisions. Indeed the decisions they have to make about directors and officers insurance are vitally dependent on the commencement of these provisions.

A delay through to July next year may be sufficiently long that they are faced with the inability to obtain that insurance and potentially a decision that they may cease operation as a result. Having been contacted by one individual associated with a voluntary organisation faced with that dilemma, I assure the minister that it is not theoretical but actual. I urge the minister to ensure that this provision will be brought into force rapidly, that a decision is made quickly as to whether regulations are needed and that, if possible, the provisions will be brought into operation before the making of regulations.

I should comment on the scope of these provisions. Some of them limit the protection that appears to be given to volunteers. Other aspects of the provisions run the risk of leaving injured persons without any effective remedy. The limitation contained in the bill is that the immunity given to volunteers does not apply if the volunteer knew or ought to have known that he or she was acting outside the scope of community work or contrary to the instructions given by the community organisation, or if their ability to provide the service which they are providing in a proper manner was significantly affected by drugs or alcohol.

While one can see the objectives of the government in drafting the provisions in this way it does seem to me there is a significant risk from the point of view of the volunteer that if it is being alleged against them that they have been negligent one of the aspects of the allegation will be that they acted contrary to the instructions given by the community organisation concerned — for example, if they were given direction where to place barricades or how to handle safety equipment, handle hoses or deploy cranes or other equipment and if the accident which gives rise to the litigation was caused because they failed to carry out the instructions given by the community organisation, the immunity which they were told they had will not apply. That seems to be a serious potential weakness in the scheme being set up by the act. It will go to defeat what is a laudable objective — namely, to give confidence to volunteers that they are unlikely to be sued.

The other problem with the provision is the handling of the removal of immunity from volunteers. The bill says that the liability that would otherwise attach to the volunteer will instead attach to the organisation for which they are volunteering. The question that arises is what happens if that organisation does not have public liability insurance or does not have adequate assets? I think the answer has to be — I will be interested to hear the minister's views later in the debate — that in such circumstances the plaintiff is unlikely to be able to recover damages for the injury they suffer because there is no party with the assets from which those damages can be paid.

It is one thing to say that this immunity will apply to community organisations that have a given and specified level of public liability insurance which is considered to be adequate to the circumstances, but the bill runs the risk that over time community organisations will draw the conclusion that they do not really need to bother to obtain public liability insurance cover and that it would be in their interests not to have a great deal of assets. In some respects that would be perfectly logical from the point of view of the community organisation concerned, but it would have the public policy consequence that persons who were injured through the activities of those organisations would be left without any form of redress.

I certainly hope that most community organisations will be sufficiently public spirited and will recognise, in taking into account their overall interests, that not having proper cover is likely to be a factor that will deter people from taking part in their activities. You would hope that those incentives and their public spiritedness will ensure that most organisations have

public liability insurance. Nonetheless, the risk remains that some will not and some will allow their policies to lapse, and people who are injured will therefore be left without any redress.

The next provision I mention says that people who donate food for charity are not liable provided that the food they donate is safe when it leaves them and provided also that they tell the recipient of the food about any required food-handling procedures and any applicable use-by dates. I understand this measure has been introduced into the legislation to address the fact that many people who produce food commercially and who have available surplus food that would otherwise go to waste would dearly like to donate it to charity for distribution at no cost to the people who are in need but that they are deterred from doing so by fear of potential liability in relation to food handling.

It is not clear to me whether under the existing law people who donate food in the circumstances specified in the legislation could incur liability, but this provision makes the situation clear. However, it is worth noting that the food donor will still have to make sure that they give proper food-handling instructions and use-by-date information to the recipient, and if they do not do so they will still be potentially exposed.

In instances where the food donation is not made on a one-off basis but is a regular arrangement, again some thought will have to be given as to whether the same instructions, or the same information about food handling and use-by dates, will have to be given time and time again with each donation or whether some or all of that information can be given on a one-off basis on the understanding that it will apply to all subsequent donations of similar food. Hopefully those sorts of protocols can be readily worked out.

The next provisions of the bill on which I comment allow waivers excluding liability under the mandatory conditions in the Goods Act 1958 in relation to recreational services. These provisions, which are contained in part 5 of the bill in clauses 14 to 17, only apply to the contracting out of liability under the mandatory conditions that are imposed by the Goods Act. If parties want to contract out of the provisions imposed on their contracts under the commonwealth Trade Practices Act, they will need to do so in accordance with the Trade Practices Act. If they want to contract out of legal liability under the common law or under the other statutes that allow contracting out, they will need to do so in accordance with the general law or in accordance with any specific provisions of the statute concerned.

Under the bill any contracting out of the mandatory conditions in the Goods Act will have to be done in the prescribed form envisaged by the bill, assuming that a form is prescribed under the regulations, and it will have to be signed by the purchaser of the recreational services in respect of which the contracting out is to apply. There are some limited restrictions on the ability to contract out. The contracting out will not apply to acts or omissions done with reckless disregard and, as the bill says, with or without consciousness — whatever that might mean — for the consequences of the action.

The opposition has serious concerns about these provisions. They are simultaneously too loose and too uncertain to give the operators of recreational services the certainty they and their insurers need in order to reduce the cost and increase the availability of insurance, which is one of the key objects of the exercise. On the other hand, under these provisions people can be asked to give up all their legal rights to sue, even for the most serious injury caused by the clearly negligent conduct of the operator of the facility or activity concerned, subject only to the proviso that it not be reckless. In legal terms recklessness is a pretty extreme form of conduct, and there can be gross negligence without recklessness being involved.

Furthermore, there is no way in which the availability of these contracting-out provisions can be withdrawn from any operator of a recreational service, however unsafe the history of their operations might be. Under these provisions an operator with an appalling safety record can still ask clients, many of whom are unlikely to know of the safety record of the operator concerned, to sign a piece of paper giving up their rights to sue in virtually any event of negligence that causes them an accident, however grave the injuries they suffer might be.

These provisions are likely to bring about the worst of all worlds and not the certainty that is needed by the operators and their insurers. The risk with these waivers is that in any particular incident of negligence, or in any particular set of circumstances in which someone is injured, the injured party will take the contract, including the waiver clause under this bill, along to their lawyer, who will go over the waiver clause in fine detail and find some way in which to argue to the court that the waiver is inapplicable in the circumstances of the particular injury concerned, and therefore they are likely to recover. That is the risk the operator and the operator's potential insurer continue to face.

There is a well-established principle of law that courts should seek to read down these sorts of exclusion

clauses in favour of the consumer and against the person providing the service who is getting the consumer to sign.

So for all of these reasons, insurers, adventure activities operators and others are saying that these clauses are likely to have very little beneficial effect in increasing the availability and reducing the cost of public liability insurance.

One of the consequences is that when someone goes along to undertake a recreational activity they are likely, before they are able to commence their trail ride or bush trek or whatever, to be asked to sign a massively long legal document with one set of waivers under the Goods Act, a different set of waivers under the Trade Practices Act and a third set of waivers to cover common law and any other liability. There will be plenty of work around for the legal profession in drafting these contracts for the operators, but not much practical benefit at the end of the day. That is the message that is coming through loud and clear from just about anybody who has had a look at those provisions.

By contrast, the approach the Liberal Party has put forward in the past and is putting forward again today in the form of the amendments I have had circulated is based on work that was undertaken by the Mansfield Public Liability Task Force, work that was put forward in the opposition's Adventure Activities Protection Bill and work that was extended in our 9 September initiatives. It is an approach that is far superior because it excludes liability for all minor injuries where voluntary recreational activities with a known element of risk are undertaken with a properly accredited organisation. No contracts need to be signed; the provisions can apply to sporting and other competitions which do not have a commercial operator or a commercial contract such as is needed for these Goods Act waivers.

On the other hand, legal rights to sue for serious injuries will remain unaffected under the proposal contained in our amendments. You will not need extensive legal drafting of waivers, nor will you need to rely on the effective drafting of those waivers to obtain any benefit. On the other hand, the exemption will apply only if the recreational activity concerned is undertaken with a properly accredited organisation, so that there is the quid pro quo that in exchange for giving up one's right to claim for a minor injury when one knowingly undertakes a voluntary recreational activity, there is the accreditation regime which will offer an assurance that the organisation with which one is carrying out that activity has gone through proper processes and has proper risk-management procedures in place. It offers a win-win outcome, rather than the lose-lose outcome under the waivers model contained in the legislation.

Once again I congratulate the Mansfield Public Liability Task Force members on the enormous amount of work they have put into developing and refining this concept, and also I congratulate Senior Counsel Mr Peter Clark, who prepared the first drafts on which the Adventure Activities Protection Bill is based, and from that the amendments I have had circulated. This package is not only something that the Mansfield group and the Liberal Party are advocating. The Trowbridge report made it clear that it favoured protection being provided by statute rather than by contractual waiver, and it also recommended that accreditation by a government or industry body be a condition of such protection. Furthermore, it recommended that the activities eligible for protection be explicitly listed by regulation or otherwise, which is one of the features of the amendments we are putting forward.

Further, in relation to those amendments I believe many of the arguments the government put forward previously in response to our Adventure Activities Protection Bill remain unfounded. They were unfounded at the time, and nothing has changed since then. In response to one of the criticisms made by the government previously about the specification of the threshold between minor injury and an injury for which legal action can be brought and in an attempt to persuade the government to accept the amendments we are putting forward, the amendments specify that a claim is not a minor injury — in other words, a claim can still be brought for an injury — if that injury either meets a threshold level of 15 per cent impairment under the American Medical Association guides or if it meets what is known as the narrative test. The narrative is the definition of serious injury which is drawn from the Transport Accident Act.

In anticipation that the government might repeat the argument it raised previously — that these amendments cannot be constitutionally effective — the structure of the amendments is exactly the same as the structure that operates under the Transport Accident Act to prevent claims for injuries that do not meet the criteria specified in that act. So if there is any question of the validity of the amendments we are putting forward, exactly the same question arises in respect of the Transport Accident Act. It has never been seriously put forward that those provisions are ineffectual or constitutionally invalid. I certainly commend those amendments to the Parliament and hope they will win support from around the chamber.

Before concluding I should also touch briefly on two other sets of provisions that are contained in the bill. The first is to allow the Essential Services Commission to collect information from insurers and, if requested by the minister, also to provide advice on some premiums proposed to be charged by the Victorian Workcover Authority or the Transport Accident Commission.

In conjunction with those provisions the government intends to appoint an additional commissioner to the Essential Services Commission who will be a specialist insurance commissioner. The appointment of a specialist insurance commissioner and giving the ESC the power to collect information from insurers that is contained in the bill is intended, as I understand it, to allow the government to monitor the activities of insurance companies and satisfy itself that they are not profiteering or otherwise abusing their power and ensure that information that the government believes is adequate is available to them.

However, the risk that the government runs by introducing these provisions and appointing this specialist insurance commissioner is that they will be duplicating the work of the Australian Prudential Regulation Authority (APRA); and by introducing this additional commissioner and this additional state-based information gathering regime it will put up yet another deterrent to insurers from continuing to carry on business in Victoria or re-entering the market in Victoria.

The government has not put forward a particularly strong case, if any case indeed, to demonstrate that the information-gathering powers that are being put in place for APRA and the arrangements that have been made among various jurisdictions for the gathering and publication of information will be inadequate and that therefore there is a need for this provision. Certainly until recent times there was some lack of information about insurance matters; indeed there was a considerable lack of the sort of information that governments and the community would like to have from a policy-making point of view in order to make decisions, but that is not the question. The question is whether that shortage of information is already being overcome and therefore whether it is necessary to bring in this additional layer of regulation and bureaucracy at a state level and run the risk that insurance companies will not to want to have this duplication, repetition and crossover between regulators and that this will put them off from carrying on business in Victoria.

I understand the government is at pains to say this is simply an information-gathering power being given to the Essential Services Commission and not a power to actually regulate what insurers do, but simply demands for information and demands to access documents et cetera can be onerous, as many who are subject to regulation can testify. The government really has to ask whether the gain of these provisions is worth the potential pain.

Let me say also in relation to that aspect of the provisions that allows the Essential Services Commission to review Victorian Workcover Authority and Transport Accident Commission (TAC) premiums that the power that is being given to the Essential Services Commission is one that will be triggered only if the relevant minister — the minister responsible for the Transport Accident Act or the minister administering the Accident Compensation (Workcover Insurance) Act — actually requests the commission to carry out a review of the charges or premiums that are proposed to be made. In other words, the government should certainly not be going around saying to the world, 'Aren't we good people because we have established this independent scrutiny of the level of charges that we impose via the Transport Accident Commission or via the Workcover system?', because this review by the independent ESC can be undertaken only if the responsible minister asks it to do so. But so far as I am aware the government has made no declaration of its intentions in that regard.

Perhaps later in the debate the minister can address this point of when the government intends that TAC charges and Workcover premiums be referred to the commission for review. Honourable members on this side of the house can certainly make very strongly the point that some of the changes to Workcover premiums that have been made under the current government have been draconian not only in their quantum but in the manner of their implementation and execution; they have been arbitrary in their nature, in that they have failed to fairly and reasonably match premiums to risk. There have been all these manifest flaws that we saw inflicted on Victorian employers from the 2000–01 premium order and then from the subsequent freeze that prevents small employers obtaining any benefit from improved safety performance.

We can point to all of these serious problems with the Workcover premium regime in particular, and if the government is fair dinkum about the provisions that it is including in this bill it needs to make some commitments as to when in future it intends to subject premium orders to the scrutiny of the independent commission, because if it is not prepared to make such commitments the provisions contained in this bill are pretty hollow.

The government may say there is no point in sending proposed charges or premiums to the commission when there is going to be no change in the regime. There is probably a bit of a question mark even over that proposition, but even granted that there may be some point in that, the fact is that it remains a purely voluntary action on the part of the government to refer these premiums and charges to the commission. As I said, if the government wants to give any solidity to this mechanism it needs to spell out the circumstances in which it will refer those charges and premiums to the commission and it needs to give some commitments about its intentions in that regard.

The final provision to which I refer is one that will allow the Country Fire Authority and the Metropolitan Fire Brigades Board to require information from insurers in order to reconcile the fire service levy collections by insurers from customers with the amounts that are paid to the CFA or to the MFBB and also gives the power to those boards to disclose that information.

It is reasonable to seek to protect consumers against false claims by insurers that part of the amount being charged to them is ostensibly for the fire service levy if that amount being charged is not in fact being charged for that purpose. So far as I am aware the government has not put forward any evidence to show that this is actually occurring, but the government wants to have the power to satisfy itself that customers are not being overcharged.

There is a complication in this, and that is that the way in which contributions to the fire services are imposed on insurers does not directly correspond with the way in which insurers raise from their customers the funds that they need to pay those amounts to the fire brigade services. The contributions that the insurers have to make are imposed on them as lump sums. Each insurer's contribution to the total amount that has to be raised is set equal to their proportion of the total fire insurance premiums that are being collected from insurers; and insurers then translate the required contributions into a percentage of premiums, which based on the assumptions which are made about the premium rates and about the volume of business that are to be written will raise in total an amount equal to the contributions that insurers are required to pay.

What that means is that there is the potential for overcollection and undercollection on a purely unintentional basis on the part of the insurers, simply because without perfect foresight you cannot get an exact match every time between the percentage rate that you strike and the amount that you need to hand over. It is important that the government not draw the conclusion that any discrepancy between those two amounts is necessarily evidence that the system is not being administered fairly and properly.

There is a further aspect to this provision, too, in that the bill will authorise the fire brigade boards to disclose on a selective basis the information that they obtain. In other words, although the bill refers to the publication of that material it is clear that the publication can be made selectively to particular persons rather than made available to the public as a whole. For example, the information may be provided to the minister, who might make some public announcements which might not necessarily be made in good faith.

I should also query with the minister whether the reference to section 10A in proposed section 5A(b) of the Essential Services Commission Act 2001, which is inserted by clause 21, is in fact correct when it would appear on the face of it that the reference should be to 10B — in other words, to the functions of the commission in relation to statutory insurers rather than to the insurance industry generally. I hope the minister can address that point.

In conclusion, this is a bill that has many separate components, each of which I have attempted to address and each of which raises its own particular issues. At the end of the day the overall position remains, as I said at the outset, that this is a bill that comes to Parliament too late and with too little in the way of effective provisions to tackle the public liability insurance crisis that Victoria is currently experiencing, too little to improve the availability and lower the cost of insurance and certainly too little to address not only the problems that have emerged to date but also a further wave of problems that appears to be developing.

We have had the public liability insurance crisis for some time. What is increasingly developing is a problem with professional indemnity insurance. Some of the issues being raised by professional indemnity insurance are different from those being raised by public liability insurance, but many of the factors driving the crisis there are similar. Indeed professional indemnity insurance flows through to medical indemnity insurance, which is another serious and unresolved issue.

The minister should know, because people have been beating a path to his door, that professionals such as building surveyors and engineers will very soon face the expiry of existing insurance arrangements. In the case of building surveyors, many of their policies either expire at the end of this month or are subject to recision

or cancellation as at 31 December this year. There are issues relating to run-off cover and the long tail of cover, so if the minister and the government are hoping that the insurance crisis has peaked and is subsiding, that would be a false assumption.

The issue has perhaps not been in the eyes of the media as much in recent weeks as it was some time ago, but people out there are continuing to be hurt very badly by the unavailability of insurance in various forms. Over the weekend I attended a meeting of speedway operators, who are members of one of the latest organisations to face very serious difficulties because of the cost and limited availability of insurance. I gather that they have seen or are about to see the minister. I expect they will impress on him the difficulties that they are facing.

This is a serious crisis that is eating away at the fabric of community and business life in this state. It is a crisis to which the government's response to date has been too little and too late. I very much fear that unless the government dramatically changes its attitude and approach, its response to the crisis will continue to be inadequate, and Victorians will suffer as a consequence.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on the Wrongs and Other Acts (Public Liability Insurance Reform) Bill. The name is interesting, because it suggests that public liability is the principal focus of the bill, whereas in fact on my reading of it this legislation has a much broader application. It will apply to medical negligence claims, for example, to product liability, to claims that generally fall outside the Transport Accident Commission scheme or the Victorian Workcover Authority scheme, and to those otherwise exempted by the legislation. It has a wider application than the public liability insurance area.

This is legislation to which the government has again been dragged kicking and screaming. It is panic legislation in some senses. One only has to have regard to some of the principles that senior members of the cabinet have been reciting over the past few months to see that such is the case. For example, I have before me an article from the *Herald Sun* of Wednesday, 10 July, headed 'Snub to insurers' demand'. It contains commentary by the Attorney-General, the venerable first law officer of this state, as he likes to term himself. The article states:

> Attorney-General Rob Hulls said he had seen no evidence of the blow-out in claims the insurance industry says is responsible for the public liability crisis.
>
> And he has slammed the door on the industry's demand for tougher laws for personal injuries, saying there would be no NSW-style clampdown on claims in Victoria.
>
> 'Until I am presented with cold hard evidence, as chief law officer of this state I am extremely reluctant to take away people's rights', he said.
>
> Mr Hulls said insurers had run a sophisticated PR campaign but had produced no evidence of a blow-out in claims and court payouts.

That was on 10 July. On a rough calculation that would be about 90 days ago — and here we are.

A media release dated 12 July from the Minister for Finance and the office of the Premier is headed 'Brumby calls for cooperation from insurance industry'. It refers to the acting Minister for Finance, as he was at the time, so therein lies the explanation of why he appears in the media release. I say to the minister, this is what happens when you go away — and let it be said that the Minister for Finance is at the table.

The media release states:

> Treasurer and acting Minister for Finance, John Brumby, today called on the insurance industry to demonstrate further legislative reforms in Victoria would have a significant impact on the availability and price of insurance premiums.
>
> 'The Bracks government has a major legislative package going to Parliament in the first week of the spring session that will help make insurance more affordable over the longer term', Mr Brumby said.
>
> 'We remain open to further legislative reforms, including caps and thresholds on payouts, but the insurance industry needs to prove there is a direct link between the cost of insurance in these reforms'.

It states further:

> 'Before we could consider measures that restrict people's right to compensation, we need a clear understanding from the insurance sector that there is an economic benefit from this move and it will be passed on to the general community in the form of lower premiums.
>
> 'We are not in the business of constraining people's rights without a clear and demonstrable public benefit.
>
> 'We are cautious on tort reform because there is little evidence of caps driving down premiums in the United States during the "insurance crisis" in [the] mid-1980s' —

and so on and so on. Again that was about 90 days ago — and here we are.

It is interesting to reflect on those commentaries when you in turn consider what has been produced by the Insurance Council of Australia. I have before me a memorandum from Mr Peter Jamvold, the group manager of the southern division of the Insurance

Council of Australia, which discusses the topic of Victorian proposed insurance reforms. This is a document dated 7 December 2002. Without going through it all, Mr Jamvold makes various incisive comments in his own well-known style — the very competent man that he is. He concludes by stating:

> While the Victorian government has been successful in introducing a number of useful relief measures to address the liability issue, the major part of the current proposals is unlikely to be effective in reducing liability costs. Accessibility and affordability of liability insurance are not likely to improve as a result of these reforms. They need careful review and reformulation before they can be effective in realising the Premier's stated objectives.
>
> It is imperative that effective steps are taken to reduce general damages in small claims and legal costs across the full range of claims. This is likely to offer the greatest longer term improvement in accessibility and affordability of public liability insurance.
>
> Furthermore, the reforms must apply with immediate effect if they are to have any benefit for the Victorian community.

It is interesting to contrast the comments of the two ministers, Messrs Hulls and Brumby, with the commentary from the Insurance Council of Australia and its views as to the anticipated benefit, or more particularly the lack of it, which will accord to Victorians as a result of the measures contained within this legislation.

The National Party does not oppose the legislation. Were other things equal we would seek to amend it in some respects, but we will not attempt to do so, because in terms of our preferred position over this the structure of this legislation is effectively beyond redemption in the sense of being incapable of being amended to give effect to what we at least believe to be the appropriate structures.

We have produced some legislation which we have circulated in the community. We have termed it the Civil Liability Damages Bill 2002, and I will briefly outline its principal features to the house. They are the introduction of a threshold of $36 000, that being a monetary threshold that is unrelated to any figure to do with American Medical Association tables or otherwise; it is simply a financial threshold of $36 000. We have also proposed a cap of $4.5 million which in Victorian terms we believe would accommodate virtually all claims in this state. Yes, we have perhaps half a dozen a year in excess of that figure, but they are much more the exception than the rule. That is not to say the same situation applies in New South Wales, where an art form has been made of future economic loss and claims regarding future care in particular. The Victorian Court of Appeal has been much more conservative on these issues, so we believe a cap of $4.5 million will accommodate the vast proportion of claims, the upper levels of claims, in this state.

Within those two parameters the bill proposes a range of measures pertaining to the calculation of damages. They include the establishment of a discount rate of 6 per cent. That accords with the Transport Accident Commission (TAC) figure. Of course that is different from the Victorian Workcover Authority (VWA) figure of 3 per cent. Historically the issue of discount rate has always been extraordinary difficult to explain to juries. I have briefed barristers over the best part of 20 years, and I have the great fortune — —

An honourable member interjected.

Mr RYAN — No, I lost six cases in 20 years, and when they bury me I will be buried with a part of each. But apart from all that I had the good fortune to brief some terrific barristers over the years and they were successful in being able to explain this principle of a discount rate. But it is challenging to put it to a jury in terms that can be easily understood. In essence it entails the concept of providing to someone a lump sum of money today which is reflective of an amount of money that they would otherwise be paid over a period. As a very broad, rough, generalist summary, that is what we are talking about. The issue then becomes to what extent do you discount the amount of money which is being paid to someone now to allow for the fact that they have the present benefit of that lump sum — for example, to take a simple illustration, if you wanted to pay someone an amount of money today which equated to what would otherwise be $1 a week over the next year, you would not give them $52 as a lump sum because they could take $52, invest it, draw it down at $1 a week and still have money left over at the end of that week. Rather, the issue is to what extent you discount the $52 to allow for the fact that they can draw down their $1 and at the end of the 52 weeks there is no money left.

Debate has ranged over this issue of discount rates from time immemorial. Eventually the High Court intervened to make determinations in relation to it. Before the High Court did so it used to be the custom in these cases to call actuaries to give evidence about these sorts of issues to try to establish what the discount rates rate should be. Those practices — the High Court's intervention and the understanding that there needed to be an element of pragmatism brought to this — induced various legislative endeavours to introduce a discount rate which would have application across different forms of legislation. In Victoria we have the position where the TAC discount rate is 6 per cent, the Victorian

Workcover Authority discount rate is 3 per cent and the general common law discount rate is also 3 per cent. In other states such as Tasmania it is 7 per cent. As I have said already, the bill that the National Party has advanced prescribes 6 per cent, and the proposals contained within the legislation now before the house are 5 per cent. So I suppose if nothing else it just goes to demonstrate how this issue remains, in a clinical sense, the subject of a fair deal of discussion.

The bill proposed by the National Party incorporates that discount rate of 6 per cent and prescribes that there be no interest payable upon damages for personal injuries claims, and again that picks up provisions contained within the TAC and VWA legislation. It also provides that there be no award for what I term *Griffiths v. Kirkemeyer* damages. These are moneys payable in an award made to a plaintiff which are reflective of benefits which that plaintiff receives when the person who is the provider of those benefits is contributing those on a voluntary basis. So it relates to the circumstance of a young person who is injured, for example, and his or her parents contribute their efforts voluntarily to the care of their child.

Historically the state of the law has been that the plaintiff is entitled to recover an amount of money as part of his or her award which reflects the extent of that voluntary contribution. In today's world, harsh as it may seem, we believe the time has come where the law needs to be changed in that regard. Historically it was derived from the fact that a defendant should not enjoy the benefit of voluntary contributions being made to assist an injured plaintiff, but we believe it is artificial in today's world that a plaintiff should be entitled to enjoy an award of money which relates to voluntary services provided by others. Therefore our legislation prospectively removes the *Griffiths v. Kirkemeyer* element of damages awards.

Our bill proposes to delete the concept of double dipping. This is intended to relate to situations where people are able to obtain benefits from other sources which we say ought necessarily to be taken into account when calculations of damages are being made, particularly with regard to future economic loss or future care. For example, there are many instances where superannuation or personal insurance policies provide lump sum or annuity benefits to plaintiffs, and we say that in this day and age, although the historical position has been that a defendant should not enjoy the benefit of a reduction in damages because of the presence of these forms of compensation, nevertheless they need to be taken into account in assessing the amount of damages a plaintiff receives.

So, for example, if there is a claim for future economic loss it would have to be offset by the amount of money that is derived by a plaintiff from a personal insurance policy. On the other hand, we have allowed in our bill for the fact that any person in that circumstance is entitled to recover the extent of his or her contributions by way of premium payments or their own contributions to superannuation schemes. That should be a set-off against the amount of money that is otherwise deleted from the award of damages they receive. They are returned, if you like, the benefit of the contribution they have made by way of those payments.

We have also proposed that the commencement date for the legislation be prospective, not retrospective. Again that is intended to be on the basis that it is a fairer approach than might otherwise be the case if you simply have the scheme applying from a nominated date.

What the National Party did was to address the issue, which the government has failed to do. I went to Sydney with the Honourable Roger Hallam, my colleague in another place. We went to meet with the Insurance Council of Australia, and we did that in the first week of August. We met with Mr Dallas Booth, who is the deputy chief executive of the ICA, and with another gentleman whose name now escapes me. We had about an hour and a half looking at the legislation. Before going to Sydney we had provided the ICA with the terms of our bill, which centre around the pivotal issue that members of the National Party have emphasised since we started this whole debate on public liability insurance in the middle of last year — namely, that you have to be very careful about introducing legislation that impacts on people's rights unless you know with a fair deal of confidence that the insurance industry is going to pass on the benefit of those reduced premiums and that the outcome, for our country communities in particular, will be achieved. Even more particularly, those involved in adventure tourism should be able to have a reduced level of premium obligations.

If you do not do that you risk introducing these measures in their various forms only to find that they become an insurers' benefit and that any reduction in premiums goes straight through to the shareholders' funds and the poor old punter out there who is having to pay the premiums does not get the benefit of the reduction. Therefore, we went to see the Insurance Council of Australia, the peak body for the insurance industry.

Having had the discussions with council members I invited them to write to me with their views as to the

content of our bill. What follows is what they had to say in a letter they wrote to me on 9 August:

> I refer to our discussions in relation to the draft Civil Liability Damages Bill 2002. The desire to make public liability insurance more affordable and available for policyholders in Victoria is welcomed by the insurance council, and we appreciate the opportunity to discuss the bill with you.
>
> I confirm that the Insurance Council of Australia is consistently calling for a uniform approach to the reform of negligence and related areas of the law in Australia. Our major concern is that if an injury occurs to a person or to property there should be a consistent approach from the law, no matter whether the claim or any associated legal proceedings are brought under federal or state law, whether it involves tort or contract, or whether there is a claim under common law or an alleged breach of a statute.
>
> The uniform approach should ensure that a single incident gives rise to a single and predictable result, regardless of the cause of action or the nature of the liability that may be present.
>
> In relation to the draft bill, our analysis indicates that the bill is likely to result in significant savings to the overall cost of claims for personal injury damages under public liability and similar policies. The actual impact in premiums, however, would need to be determined by individual insurance companies having regard to the nature of the risks they underwrite and their own assessment of the likely cost of claims they may incur.
>
> Thank you for giving the ICA the opportunity to examine this proposal.

To my knowledge at least, that is the first time the insurance industry has indicated that a particular policy approach as represented by draft legislation is going to achieve the end we are after. We have now gone to the insurance industry — to the actual insurers — to talk to it about the content of this proposed legislation, and we will see what it has got to say and report to the house about it in due course.

The overall position with our bill, though, is that it is intended to be based on strong principles as opposed to being related to who is actually paying the money, what the cause of the action is or how the proceeding got before the courts in the first place. Rather, we have looked at a principled approach to amending existing schemes of legislation and compensation in a way that can have a broad application irrespective of how it is that the injury in question may have occurred. We think there is an irresistible benefit associated with that sort of approach as opposed to what we have before us in the context of the legislation now under discussion.

Turning to some of the provisions in the bill, the honourable member for Box Hill went through them very comprehensively, so I do not intend to review the bill in its entirety by any stretch. I do, however, want to make some comments about some elements of it. It is of broader application than simply for public liability insurance. That is fine, although I think that needs to be recognised by the government for the sake of its general commentary about this to the public at large.

The Trowbridge report gets a mention in the second-reading speech, but the bill picks up some elements of the Trowbridge recommendations while others are missing.

As to some of the specifics, there is the provision which talks about intoxication and illegal activity which must now be taken into account by the court. In reality this is no real departure from the current law. Indeed, any barrister for an insurer who did not explore the facts of an accident in such a way as to put to a plaintiff the prospect of any influence of drugs or alcohol giving rise to the facts of an accident would be sacked, I would have thought. Therefore whilst this motherhood sort of stuff has, I suppose, generalist appeal, that is exactly what it is in reality, and these issues are in practical terms taken into account in the court process now.

Then there is the issue of the apology. It will be interesting to see how the pragmatics of this apply over the term of its operation once it passes into law, presuming this legislation does get through. But suffice to say that we believe there are going to be some very interesting discussions as to whether the form and content of an apology should be treated in one way or another, having regard to the content of this legislation.

The issue then of the calculation of damages has various elements. There is the question of past loss being capped at three times average weekly earnings. I might say the same provision applies to future loss calculations. They are also capped at three times average weekly earnings. This is at May 2002, so the figures will not be accurate but the principles will remain accurate, and I think they are deserving of a bit of clarification from the government. I refer to the Australian Bureau of Statistics figures on average weekly earnings. In Australia we have three categories; full-time adult ordinary time earnings in May 2002 was shown as $868.50 per week; full-time adult total earnings was shown at $906.80; and all employees total earnings was shown at $689 per week. Then there are various components for private sector, public sector, seasonally adjusted estimate and so on, with all sorts of variations on the theme.

I would like from the government while the bill is between houses some definition as to what precisely we are speaking of out of that range of figures when there is reference in the legislation to the calculations

pertaining to average weekly earnings. I appreciate there is a definition shown there, but again the practical application of that definition would seem to be doubtful at least in the sense of establishing a figure which is to be worked upon.

Then there is the further element of the capping of non-economic loss at $371 380. That figure is indexed. It is intended to reflect the current cap in the Transport Accident Commission. Interestingly, I would have thought, speaking to barristers involved in practice now, that the maximum payment for general damages in this state is probably about $450 000, or something of that order — the absolute maximum. If you are a quadriplegic with no movement, the actual general damages component of your award would be about $450 000. To have this capped at this figure, while I understand it reflects the TAC situation, I wonder as to the reality of what the cap will represent in the sense of seeking to make savings. Mind you, I am not urging the government to make it tougher and tighter. I understand recently there have been discussions about the figure becoming $250 000 in a nationwide sense. I freely confess I would be more concerned about that representing a penalty to seriously injured people than the figure of $371 380 which is presently prescribed by the legislation.

There is then the issue of the discount rate. I have already dealt with that. While we are on this question of figures for the future, one of the elements that this bill simply does not touch upon at all is the issue of future medical care, which is by far the most significant component of any damages claim. If you have people who are seriously injured and involved in multimillion dollar proceedings, that element which attracts by far the greatest award of damages pertains to future care. This legislation does not touch upon that issue at all. Again, it is where I believe the proposition advanced by the National Party does have merit in that that cap of $4.5 million is all-encompassing, wraps up all the aspects of damages and gives certainty as to highest level outcomes. With the position in terms of trying to make some sort of assessment of the insurance risk, I think this bill will be lacking in being able to deliver that certainty to insurers.

There are provisions for structured settlements. They are to apply only if everybody agrees to them. I will be interested to see in practical terms how often that applies. My experience of it is that people prefer to take the money and go and do what they will with it. But with changes having been made to the commonwealth taxation regime, it may be that it is more attractive than it has historically been. Time will tell.

We have the good Samaritan legislation being introduced. That has been in other jurisdictions for many years. We support the introduction of it.

I pause to say that I have received correspondence from Mr Alex Hooper, who is a volunteer and community worker of some 60 years standing, having held every position within the Country Fire Authority available to a volunteer, including CFA board member and most particularly being one of my constituents and a very able, competent and capable man. Alex has sent me a fax with a comment that I contribute to this debate. He says:

> This piece of legislation part VIA good Samaritan protection and part IX volunteer protection are excellent pieces of legislation that are urgently needed in today's society and world.
>
> However, the legislation extends protection to an individual from civil proceedings when 'acting in good faith', yet whilst in the words of Premier Mr Bracks it encourages 'members of the Victorian community to continue to act in a socially responsible manner without fear of litigation for negligence' does not intend any compensation for injury or losses due to their 'good Samaritan' or voluntary actions.
>
> This must be addressed, as in practice it will cause much trauma to the individual concerned, their families and dependants. The community must provide compensation and avoid any traumatic monetary consequences from actions of individuals going to the assistance of an individual community member or a whole community during an emergency.

Mr Hooper goes on to make a number of very good points about how the legislation could perhaps be amended to give better effect to its basic purposes. He says in support that he nominates a new provision which would generally provide that there be compensation provisions similar to that provided under the CFA legislation and regulations. This is already provided to individuals who act as casual firefighters under direction. He goes on to mention:

> Administration of claims to be carried out by the Workcover authority.
>
> Funding of the new scheme to be provided by the government, TAC, Workcover and CFA on a shared basis.

He then advances various arguments in support of these proposals. I would urge the government to have regard to what he has to say. These are matters that the minister might care to consider while the bill is between houses because Mr Hooper is a very able man and really does have much to offer in these important issues. I might say he is a veteran of the Ash Wednesday fires and he has also made some observations on those calamitous times. Again, I will

make that letter available to the minister, and I would urge him to consider it.

There are provisions regarding food donor protection. It will be interesting to see their interpretation with the passage of time. Also, questions as to whether the food was safe in terms of the Food Act at the time when it left the premises of the donor and whether the donee obeyed the instructions which are said by the legislation to be an element of whether indemnity is available will be interesting aspects of how all this unfolds with the passage of time.

We will watch this with much interest. The principle behind it is a good idea. We all want to avoid the ridiculous circumstance where in a major chain store food is disposed of wantonly simply because it is midday on the last day of trade and it has got to go because there is no better way to deal with it constructively. We would all welcome anything that better addresses this so that people in need are the beneficiaries of the product. By the same token it will be interesting to see how these provisions unfold.

The bill contains provisions relating to volunteers who are exempted from civil action for negligence. It is a qualified exemption, and it will be interesting to see what happens in practice. The National Party introduced a private members bill in the other place that accommodates these issues. I am pleased to see that the legislation now before this house reflects in large part the intent and content of the National Party bill. Members of the National Party strongly support these initiatives being taken to protect volunteers. Again it needs to be highlighted that the organisations for whom those volunteers are undertaking the work remain vicariously liable for the activities of the volunteers. That is something, in the broad sense, the government needs to advertise so that there is not a misplaced sense of security in those organisations.

There is the question of the waivers. Again this is a difficult issue of balance. While amendments are being made to the Goods Act in anticipation that the federal government will do likewise with trade practices legislation, it will be interesting to see how it pans out in the fullness of time. There will be no benefit to a provider of services or product if there is what is described as reckless disregard, which equates to gross negligence. Fortunately the law has an understanding and acceptance of how these terms are defined. It will make the interpretation of these provisions easier in a way, but there is always a sense of unease about whether the potential liability of a provider of services could in some way be unfairly diminished in favour of that individual against the interests of the innocent participant when the person providing the service knows full well there are elements of risk associated with whatever he or she is looking to do and tries to rely on the waiver to exempt themselves from liability.

Just to take a simplistic example, the organisation that runs a business involved in canoeing has people sign up as they get into the boat knowing full well that the vessel is not up to scratch and has weaknesses, yet it will try to rely on the waiver. There will be discussions about whether the activities of the provider amounted to reckless disregard or gross negligence. These are the sorts of issues the waiver provisions will throw up. For all that, I think it is better to have a go at it rather than not to have a go at it, and if the trade practices legislation is amended appropriately it is probably reflective, as much as anything else, of the current view of the general population that this is an issue that needs to be addressed.

The bill contains provisions regarding the Essential Services Commissioner, who has been given a general advisory role over and above that presently enjoyed. On one reading of the bill the minister has the capacity to directly influence the premium levels fixed by the Transport Accident Commission and the Victorian Workcover Authority. That is a first. The minister will have the capacity to have a direct impact in that regard. It will be interesting to see how that unfolds over the passage of time. I do not immediately understand why that has made its way into the bill, but it appears on page 36 among the general provisions of proposed section 10B to be inserted in the Essential Services Commission Act 2001. I will be interested to see how that comes into effect from a practical perspective.

The Country Fire Authority and Metropolitan Fire Brigade acts are amended in like manner to ensure the fire service levy returns are provided on an appropriate basis and the penalties are increased. That is basic stuff.

The National Party has serious concerns about whether the legislation will do what the government avows it will. For all the reasons I have put to the house this evening members of the National Party believe the option contained in the legislation we have prepared is a better alternative. We also believe, as I said before, that the government's legislation is beyond redemption in the sense of our being able to amend it to give it the sort of effect that we think is appropriate, so with some misgivings we do not oppose the bill.

Mr LENDERS (Minister for Finance) — I support the bill, and I do so with a great deal of pride. The bill was introduced in this place by the Premier three weeks ago, and I am absolutely serious in saying that this is a

bill that comes out of a government that listens and then acts. The fact that the Premier introduced the bill is a sign of its importance to the government. It covers a range of ministerial areas and is very important to us. The government has gone out to the community, has listened to the community, has worked with industry and other governments and has acted with industry, other governments and the community to come up with this bill. It is important legislation for all the reasons the Premier outlined in his second-reading speech three weeks ago.

In my opening remarks it is worth reading an extract from the report entitled *Review of the Law of Negligence* by Justice David Ipp and his committee which was tabled at a ministerial council meeting in Sydney last week. I refer to paragraph 1.38, which is a worthwhile paragraph to quote:

> Many different changes could be made to the current law of negligence to further the objectives stated in the first paragraph of the terms of reference. Many bodies and individuals with differing interests and objectives have made submissions to the panel as to the changes that should be made. Such changes were often recommended on the basis of assertions about their likely effects; but typically they were not supported by reliable and convincing empirical evidence. The vast majority of the assertions were based merely on anecdotal evidence, the reliability of which has not been tested.

I read that quote because it is an incredibly important context in which to open my remarks. That is not in any way to reflect on what has been proposed by the honourable member for Box Hill or the Leader of the National Party. They both come to the debate, as every person in this Parliament should, with the view of asking, 'What can we do to fix the problems within the insurance industry?'. We may differ on the emphasis, we may differ on the timing and the approach, but I believe everyone in this house shares the view that we need to find a solution to the problem.

The second point I draw out of the report is that we in this state and all the other states and territories in conjunction with the federal coalition government have come a long way to arrive at a uniform national approach to the problems we face.

That is best illustrated by going through the Ipp report, particularly tables 1 to 9. People will be pleasantly surprised at how far we have come towards a uniform national approach to this situation. Commentators like the Insurance Council of Australia and others will focus on the areas where there is a difference. But the Ipp report shows, and tables 1 to 9 in particular, how far all nine jurisdictions in this country have come in getting a uniform approach to the law of negligence — and obviously with it, the Wrongs and Other Acts (Public Liability Insurance Reform) Bill.

I refer to the ministerial statement that I made earlier this year about this government's approach to dealing with the looming issues of public liability insurance. As the Leader of the National Party correctly said, this cannot be confined to public liability insurance issues but must also be broadened to general professional indemnity issues. The approach the government has taken leads us to a second wave of provisions to deal with professional indemnity issues, and that is a logical flow on.

In the ministerial statement we outlined the historical basis of the issue — where we had come from and where we were going, and our whole approach. Our first approach, and this from a government that listens and acts, has been to go out there and fix the problems, whether they be with builders warranty insurance, not-for-profit groups, the equestrian industries or adventure tourism. The government has dealt with those problems, and on that basis I reject the assertion from the honourable member for Box Hill that we were basically sitting and waiting for the world to go by. We were leading the country with a hands-on approach to solutions to these problems.

Secondly, we were dealing with the macro-national issues in conjunction with other governments through three meetings of the ministerial council on insurance under the federal Minister for Revenue and Assistant Treasurer, Senator Helen Coonan, and numerous discussions in our community on a range of areas. In the macro area we dealt with the hard economic issues of insurance, discount rates, waivers, caps, thresholds, a review of the general law of negligence and, importantly, the collection of data. That was the government's approach, going right back to the ministerial statement and through three ministerial council meetings, and it has now come up with legislation that deals with those hard economic issues.

The Mansfield community was one of the first to come to the government. The community said initially, loudly and clearly, that we needed to address the law on waivers. We have not wavered in our support of the Mansfield community in sticking to what it asked us to do. The people of Mansfield also asked us for a number of other things, which we have not accepted, but we think we have addressed the issues through the legislation.

The government has got advice, particularly from the Insurance Council of Australia, on the important hard economic issues. We have also spoken to individual

insurers and to large sections of the community. Interestingly our advice from the insurance council has varied almost from month to month as to the critical areas to address in public liability insurance. We have certainly taken that on board, but as a government we have been looking to make decisions that will result in a reduction in premiums and in a greater availability of them. They are the things we have consistently and vigilantly followed. We have also intervened in the sector and have insisted on exit strategies where we can assist and then go forward.

The second part, and the legislation also addresses this, concerns not just the hard economic issues but also the cultural changes which are necessary in our community and which need to be reflected in our legal system not only to support and enhance those economic issues but also to reflect the views coming through loudly and clearly to the government from the Victorian community. The views coming through from the Victorian community — and I have travelled around a large part of this great state, whether in my own electorate and in the cities of Monash and Greater Dandenong or in regional areas — are that there needs to be a cultural change in the legal system as it applies to standards of care and to how we as a community value volunteers and good Samaritans. How do we feel about issues like apologies? How do we feel about illegal activity and people's capacity to sue in those circumstances? These issues are reflected in much of the bill. A change in the culture and in how we deal with these situations, in addition to addressing the hard economic issues, is what Victorians want.

I now comment on a number of the issues to which the honourable member for Box Hill and the Leader of the National Party alluded. As I said, the honourable member for Box Hill, like everybody in this place, wishes to find solutions to public liability insurance issues, and I commend him on his willingness to discuss and understand these issues. But I say to the honourable member for Box Hill, who is critical of the pace and direction of the government, that we have a very good working relationship with the commonwealth government on this, and we are remarkably in step with other jurisdictions.

I invite him to read — I am sure he has already, as he is a thorough reader of these sorts of documents — tables 1 to 9 in the Ipp report, a copy of which he has. If he does he will find again a remarkable convergence between jurisdictions on how to deal with these issues.

The honourable member for Box Hill spent a lot of time talking about the Mansfield proposals, which we have looked at closely. We are acutely aware of the issue of adventure tourism. The honourable member for Box Hill, with his colleague the honourable member for Kew, was at a public meeting in Mansfield which I addressed on this very issue. I am not sure if they were there to learn something or to keep an eye on me — probably a combination of them all!

Ms Asher — Did they boo?

Mr LENDERS — No, they did not boo. They were polite and listened. The government rejects their amendments, which I will call the Mansfield amendments. I have no doubt that they are well intended, and we will deal with these in more detail in the committee stage, but the government's view is that they will cause more angst than benefit. They would set up different categories of recreational services and other things that would make the system more complicated and create more legalisms, when again the initial call from the people of Mansfield was for waivers. In this legislation there are other things that will assist.

The government has also directly assisted the community with an adventure tourism package, so we cannot support those amendments for those reasons. I understand the emotional commitment the Liberal Party has to the Mansfield proposals, which is partly good intentioned and partly to do with how that party is positioning itself against the National Party in their bid to try to take the seat of Benalla off the excellent current member. I urge the Liberal Party to get over the political objectives in Benalla and support the broader objectives, which are very critical. The first step is to continue this national approach to dealing with the issues.

Also there are a number of issues about public liability thresholds and about a range of other things such as fees on Crown land. While they are all worthy objectives for the honourable member for Box Hill to pursue, I do not need to remind him that if governments are not vigilant about what happens on Crown land, in the end they start underwriting the commercial activities of individual operators. That has potentially enormous cost consequences for governments of whatever political persuasion. I certainly spoke about this in Mansfield, and I had this discussion with many members of the adventure tourism community there. This is an issue the government is looking at, but I caution the honourable member for Box Hill not to be too frivolous in promising taxpayer relief in areas where there are no decent exit strategies.

There are a number of other reasons why we should be extremely cautious about the amendments of the honourable member for Box Hill. We do not want to

put Victoria out of kilter with the nation, because we have worked hard to get the nation working in the one direction. The Liberal amendments would put us out of kilter and also expose us to a massive risk of litigation on what are or are not recreational activities.

They would bring in the bureaucracy when dealing with these issues, whether they be issues of new accreditation, state risk as to definition, and added workload for insurance companies. It dabbles in a lot of different pieces of legislation. While we are clearly supportive of anything that assists adventure tourism — and again we welcome the goodwill of the opposition in a lot of these areas — we could not support the amendments, which for those and other reasons we will go through in the committee stage.

The honourable member for Box Hill also raised some concerns about the role of the Essential Services Commission and the extra legislative powers the government wishes to give it. I can assure the honourable member for Box Hill that the last things this government wishes to do are to take on a prudential requirement through the Essential Services Commission, or to ask it to do things that we already have the data for. This is an option for the government to extract data so it can make informed decisions if the need arises. We know that the Australian Prudential Regulatory Authority was asleep on the job during the HIH collapse. APRA has absolutely got its act together now. We wish to have it for circumstances where the government is not satisfied that it is getting sufficient data to make informed decisions. We do not wish it to be a duplication; we do not wish to put any extra burdens on industry but we do wish to keep that option alive.

It is worth noting that one of the main things that has arisen out of the ministerial council — I met with Justice David Ipp last week — was a desperate need by all nine governments to find the data that allows us to make informed decisions on issues of insurance. We do not want to go frivolously frolicking down any of the sort of paths that were alluded to before, which Justice Ipp mentioned. We want to be sure that decisions we make have an economic impact before we take away people's rights. That is information that all governments need and this is part of that issue.

The honourable member for Box Hill mentioned a number of specific clauses, and I will deal with those separately with him because I have limited time now. However, I will certainly get back to him on those issues.

I will briefly go through some of the remarks by the Leader of the National party who as always is a very entertaining speaker. He has dealt with this issue with some passion and belief for quite a long period and certainly we would be churlish not to acknowledge it. He spent a lot of time talking on the bill that he is separately proposing so I will not go into that. I agree with one of his concluding statements — that we need to be mindful that these changes can impact on people's rights and that we need to be careful if we are reducing rights. Again, this totally reiterates the point I have been making — governments need to act on information and data and to act decisively when they have them. We need to be careful in balancing that, but this legislation goes down the path where it does deal with people's rights. In some areas it varies them, but it does so on the basis that it will bring results to the community and it is informed deliberation that gets us there.

My final point on the comments of the Leader of the National Party is that part of the reason this legislation brings in the Essential Services Commission is that in a number of those areas we were required to do so under national competition policy. That is the answer to one of his queries.

To conclude: where to next? The government thinks this is a very good piece of legislation that brings Victoria and the other jurisdictions into line. It is a very important first step and one where we have drawn a line in the sand, have brought together the things we need for economic and cultural change and have presented them to the Parliament saying, 'This is the first part of our package which deals with the critical areas that will make public liability insurance both more affordable and more accessible. But it is only the first step'.

The ministerial council last week dealt with the report by Justice Ipp. It was a very interesting time, in a sense, when the ministers spent almost 4 hours going through that report bit by bit, discussing different jurisdictions' views as to where we were going as a community and where the law on negligence could lead us. As a finance minister, my responsibilities were for areas that had a direct economic impact in Victoria. Many of the other areas in that report, fascinating as they were regarding the law on negligence, were far more appropriate for the Standing Committee of Attorneys-General to deal with. However, the insurance ministerial council has now commissioned urgent information and we are getting Justice Ipp back on to this, for his recommendations of which one would have significant economic impact. He will be coming back in mid-November to a further meeting of insurance ministers which will report at the end of November to a heads of government meeting. We are now at the cusp

of rapid action where the second wave of legislation from all jurisdictions will come into being.

I urge the honourable members who are contemplating amendments to this legislation to reflect that even a New South Wales government, which most will acknowledge is probably the most radical government in dealing with these issues, has varied and adjusted a number of its second-wave proposals — three in total — to take into account some of the recommendations from the Ipp report, and also to take into account methods of keeping greater uniformity between jurisdictions. New South Wales has had to act far more quickly than most other states because by any measure the problem was probably twice as bad in New South Wales as it was in Victoria and other jurisdictions. Having said that, the government is rapidly coming to a national approach and it is critical for it to take a balanced approach. We now have very good legislation in place and we need to work from this to the second wave of legislation which Justice Ipp is dealing with. Most of the amendments that are being proposed in this house tonight, or this morning as it is now, are far more appropriate to be dealt with so that we can work in a coordinated national response, with that further economic information, within a matter of weeks, which is a good way for us to keep on moving.

We need to continue to keep the balance between the rights of individuals to sue, as they can under a legal system, and also the rights of our community to survive in an insurance regime that is both affordable and accessible. That is a very hard balance but this act would be a fantastic start, the first of two parts, to getting it to happen. I urge the house to support it and give it a speedy passage.

Ms ASHER (Brighton) — I would like to make a small contribution at this unseemly hour of the morning, on the Wrongs and Other Acts (Public Liability Insurance Reform) Bill currently before the house.

The bill is a timid and late attempt to address a crisis. I want to direct my comments particularly to the tourism industry given that I am shadow Minister for Tourism, although I obviously acknowledge that the crisis impacts on community groups, professional groups and so on.

The bill is a late response. In fact, it represents all the characteristics that we have seen for the past three years of this government — a deferral of responsibility, a deferral of decision making and a shifting of the blame. It was initially the commonwealth government's fault. Initially we were told we were waiting for the commonwealth government to act; it was in part because of the HIH collapse and it was in part because of the 11 September terrorist attacks. Rather than a desire by this government to make an early contribution to solve a crisis in tourism and business, the government set out on its usual pattern of spin, press releases, meetings, a ministerial statement in March and a summit prior to that, and only tonight do we finally see legislation before this house. The government was told in 2000 that there was a crisis in public liability insurance, and indeed in 2001 the cries got louder and louder from the business community, and from the tourism industry in particular.

The bill before the house is very limited in scope. It is late, as I said earlier, and scarcely earth shattering. I shall briefly run through the components of the legislation honourable members are debating tonight. Others have run through it so I shall try to be as brief as possible. The legislation calls on courts to consider intoxication, drug or alcohol use and engagement in illegal activity by a plaintiff in determining whether a breach of the duty of care of a defendant has been established. Those with legal qualifications tell me that this is largely window dressing, but those in favour of the inclusion of this clause argue that it clarifies the law.

The bill also provides for an apology — that is, a general expression of sorrow — to not be an admission of liability or guilt. It also provides for fee waivers — for example, particularly in a health context — not to be an admission of guilt. I understand this is particularly levelled at health registration boards, and the Health Services Commissioner has made a number of recommendations to government to encourage more openness between health practitioners and clients.

The bill caps the amount of damages for loss of earnings, fixes damages for non-economic loss and allows for structured settlements — that is, periodic payments by agreement to take advantage of some commonwealth tax law changes. The bill also provides protection for volunteers and good Samaritans. I believe those two components are particularly desirable, but why on earth they could not have been enacted in the autumn sitting of Parliament is quite beyond my understanding.

The bill also provides for protection of food donors and provides for waivers for recreational services. Indeed, the bill defines recreational services. I was a bit at a loss to understand the Minister for Finance's criticism of the Liberal Party in relation to recreational services when he himself, in the Premier's bill — if he has read it — defines recreational services as meaning:

… services that consist of participation in —

(a) a sporting activity or a similar leisure-time pursuit; or

(b) any other activity that —

(i) involves a significant degree of physical exertion or physical risk; and

(ii) is undertaken for the purposes of recreation, enjoyment or leisure.

This bill sets up that definition and allows for waivers if people opt to sign waivers.

The opposition was advised during its briefing on the bill that a plain English document is being developed, but I ask the minister to ensure that relevant trade associations, community groups and tourism groups are involved in the drawing up of that particular plain English document.

The Essential Services Commission has been given a number of powers in relation to the collection of material, which have been touched on by other speakers. I recall that some time ago in this debate the previous Minister for Finance actually blamed the inaction of this government on the failure of the industry to have passed over sufficient statistics. So the government obviously is ensuring that it has at a state level statistics available to it to look at the insurance industry.

There is an element of this bill which I am particularly interested in which has elicited very little comment — that is, the fire services levy. The bill provides for the Country Fire Authority and other groups to also provide data. In fact, it specifically requires insurance companies to provide data on the collection of the fire services levy. At the moment insurance companies can collect fire services levy amounts in excess of what they are required to collect. The bill will require insurers to report to the government on what they are doing. As I said, insurers could be collecting more than is actually required. Interestingly enough there are no penalties in the bill for overcollection, although there are penalties for failing to provide information.

I am also particularly interested in the fact that the government has simply called on the Secretary of the Department of Justice, the Secretary of the Department of Treasury and Finance or the Emergency Services Commissioner to publish in any manner the authority sees fit this particular information relating to the fire services levy. This could mean that under the bill in the form currently available before the house the public would not know. I seek an assurance from the minister that should it become apparent through these statistical collections that insurance companies are overcharging the public and businesses in the area of the fire services levy the public have a right to know that. I seek an assurance from the minister that that would be examined in what he has called his second wave — I would probably prefer to call it a trickle — of reform in this particular area.

The bill before the house is not earth shattering. We have waited an awfully long time for it, but it is not earth shattering. Much has been omitted. It is seven months since the ministerial statement, since the Minister for Finance came before this house in March 2002 telling us there was a problem. Small business knew it years beforehand, and the tourism industry knew it years beforehand. The minister told us in March there was a problem, and today we are debating a limited bill. There is no doubt that there are many causes of the problems faced by the tourism industry, business and the medical profession. One is human greed. However, I think this government has been particularly slow to act, and what it has done is limited.

The key deficiency of the bill before the house is that the style of remedy suggested by the Liberal Party in the Adventure Activities Protection Bill 2002 — a bill that the government would not allow the Liberal Party to debate in the Legislative Assembly — has not been picked up in this bill. My colleague the honourable member for Box Hill has gone through a range of deficiencies in the bill, but from my point of view, given that I wear the shadow Minister for Tourism hat, it is this deficiency that I think key groups will be most disappointed with.

Basically the Liberal Party has argued, based on the advice to it by the Mansfield public liability insurance task force, that an individual in our society should assume minor risks. Individuals should not assume the risks if operators, for example, or businesses are negligent, but minor risks which are an inherent part of any sporting activity or adventure tourism activity should be assumed by the person themselves.

Unfortunately the Labor Party has stopped debate on the Adventure Activities Protection Bill four times so far. That is scarcely an honest, open, transparent and encouraging debate in our society. On 29 May the Minister for Finance asked the leader of opposition business in the Legislative Council to withdraw the bill. Of course the bill was not withdrawn. Secondly, the Labor Party voted against the bill in the upper house. A reasoned amendment was moved to have the bill withdrawn, and the Labor Party supported that reasoned amendment. Thirdly, in the Legislative Assembly it was the Minister for Tourism himself who refused to

allow the second-reading speech on that bill to be given; and, fourthly, again in this place, the Labor Party would not allow debate, even though the Liberal Party asked if it could debate the Adventure Activities Protection Bill during the time allocated to it for matters of public importance.

Despite the 'reasonable' approach taken in this chamber by the Minister for Finance, on four occasions the Labor Party has tried to knock out a debate on something that would substantially reduce premiums by having individuals assume minor risk. Individuals themselves would take on responsibility for minor risk — and again I reiterate not for negligence but for minor risk.

The key benefit that would have flown from this is the fact that — again, on figures provided to the Liberal Party by the Victorian Tourism Operators Association — 81 per cent of claims in the tourism industry can be classified as being minor, and that is defined as less than $50 000. Those claims absorb 87 per cent of the dollar value of claims. If individuals were provided with the mechanism to assume their own risk, the main part of the dollar value of claims would be obliterated.

There are additional concerns by the industry in respect of the fact that insurers settle claims without notification to businesses and obviously there is a general view that human greed has played a significant role in the fact that now unfortunately about 70 tourism businesses have had to close because they cannot get public liability insurance. Indeed, other businesses are still operating but struggling to operate on a year-by-year basis as they try simply to get cover to keep going. I hope the bill does result in reduced premiums, but I suspect the remedies suggested by the Liberal Party — if we were allowed to debate them in this place — would go significantly further to achieving the premium reductions that we are all seeking for businesses operating in this particular area.

Unfortunately, Victoria has been the last state to act on these particular issues. I draw the minister's attention to the fact that in New South Wales Labor Premier Bob Carr made a ministerial statement on 27 March 2002. On 7 May he released the consultation draft of the New South Wales government's Civil Liability Bill and after three weeks of consultation — that is what I call a more concentrated form of consultation that perhaps this government should look at — on 28 May the bill was second read by Premier Carr. So New South Wales managed to have a bill in the autumn sitting of Parliament but Victoria did not.

I also refer to data provided to the New South Wales Legislative Assembly by its Premier in relation to the estimate of Pricewaterhousecoopers of the possible premium reductions as a result of the New South Wales legislation:

> There will be a 17.5 per cent reduction in the cost of personal injury claims. There will be a 14 per cent reduction in the cost of public liability claims as a whole. Most importantly, there should be a reduction of some 12 per cent in public liability premiums.

That is what the New South Wales government was able to put to its legislature in the autumn sitting of Parliament, unlike this government which was unable to provide anything in the autumn sitting and has provided something only now.

Indeed, the New South Wales government, according to an Insurance Council of Australia briefing paper of September 2002, already has a second bill ready to go, which will look at supporting personal responsibility for risk — which is precisely what members of the Liberal Party have been talking about for months now: the principle of contributory negligence and limits on damages.

So that is the contrast of Labor in New South Wales operating at a much speedier pace and Labor in Victoria operating at its usual slow pace. Indeed, I note that the Minister for Tourism released in February *Victoria's Adventure Tourism Action Plan 2002–04*. The minister acknowledged the value of adventure tourism to Victoria's tourism and in fact in a strengths, weaknesses, opportunities and threats analysis recognised the problems with premium increases in public liability insurance. Notwithstanding the fact that the Minister for Tourism put out a glossy talking about the importance of Victoria's adventure tourism industry and the development of a plan for that industry, it has taken until now for any legislative attempt to be made by this government to address some of the problems facing industry.

I refer also to VECCI's *Business Forum* dated July 2002, where the Victorian Employers Chamber of Commerce and Industry reports on having surveyed its own members. Again, with some regret it reports that the survey, which was conducted prior to June this year:

> … shows that 88 per cent of businesses reported an increase in the cost of their PLI policy in the previous 12 months, and the average increase in PLI premiums across all industries was 74.2 per cent.
>
> The largest increase reported by an individual business was 1200 per cent. In dollar terms, the average PLI premium increase for small business (1–19 employees) was $3860,

> while the increase for medium-size business (20–99 employees) was $10 507.

These business cost increases are unsustainable in the short term and they are certainly unsustainable in the longer term. It is why we are so disappointed, not with the content necessarily of the bill before this house but with the length of time it has taken to put it together and the things that are missing from the bill. What is more important in this debate is what is not in the bill. The government should have gone much, much further.

I also refer to a press release issued by VECCI on 14 August 2002. Again, VECCI — which has been disinclined to criticise this government — actually points out that Victoria was:

> … falling well behind other states in addressing the public liability insurance (PLI) crisis.

Given the comparative timetable in New South Wales, it is irrefutable that the Victorian government is falling behind the more aggressive approach we are seeing in Queensland under a Labor government and in New South Wales under a Labor government in relation to this particular problem.

I am delighted that the breakdown of the influence of the legal purists appears finally to have occurred in this particular debate. One of the things we as a society have to grapple with is that sometimes we may have to give up rights for the overall benefit of society. Some of the 'solutions' put forward in this bill represent a significant switch. There was a time in this Parliament, given the influence of the legal profession both in the Labor Party and in the Liberal Party, when I would have been surprised to see legislation like this which does restrict some rights being debated in the Parliament. I am delighted to see that break down.

The challenge for us as a community is the issue of personal responsibility. On our side of politics we talk a lot about personal responsibility. That is the great cultural change that will provide a real solution to the public liability insurance problem in Victoria and across Australia. Individuals must assume more personal responsibility for their own actions. The government should look at the sorts of solutions that the Liberal Party has advanced in its papers and in the bill before the house to ensure that individuals assume their own personal responsibility for their own risky activities rather than blaming other people and resorting to the courts, and rather than trying to make a quick buck out of an accident.

Mr SAVAGE (Mildura) — I indicate my support for the bill. The measures contained in it go some way towards resolving the insurance crisis, but except for the issue of the increase in the discount rate it does not deal with the major drivers of claims.

I understand the suggestion and the discussion about issues such as thresholds and proportionate liability. These ought to occur in an environment in which alternatives can be weighed up and the consequences of adopting particular proposals analysed exhaustively.

The time for such suggestions has long passed and we need to do more about solving the problems with some political will rather than continuing to talk about the difficulties. The fact is that we are twiddling our thumbs in some respects while peoples' lives are being affected. Small businesses are closing down and even a small country golf course in my area has had a significant increase in its public liability policy and only has 40 or so members. It is beyond its capacity to find that sort of money.

Despite the government's efforts many voluntary organisations and sporting groups are still finding significant difficulty in obtaining public liability insurance at an affordable price. I understand why there is some hesitation in making hard decisions but they are necessary — for instance, there should be a rigorous threshold similar to that of the Transport Accident Commission. If it works for the TAC why can it not work for public liability?

I understand the reluctance to take this issue on because the plaintiff lawyers have certainly run a very vigorous campaign against this concept. They subjected me to a rather unfair and spurious attack last Saturday in the *Sunraysia Daily*. The fact is that all Victorians will be the losers unless we stand up to that type of intimidation and blackmail. Much of the opposition for more effective measures focuses on the rights of individuals being restricted and the possibility that savings and cost flow-ons will go to insurance company profits instead of making it more possible to achieve public liability. That is a relative simplistic and cynical view. It is not possible to demand that insurance companies guarantee to reduce premiums before substantial changes are made. Unless we make some changes the current level of premium will certainly rise. We cannot talk about the declining cost of premiums. We can say that if we achieve something it will be to keep the premiums at the current levels.

We also have to look in some detail at the cost of underwriting losses which for 2001 were $750 million. This was down from $2 billion in 1999 and the net claims expense appears to be about 80 per cent of total expenses. Nor can we forget that underwriting losses

were offset by a rate of return on investments which we cannot assume will again be possible in the foreseeable future.

Statistics indicate that while insurers incurred $500 million-plus in underwriting losses on public liability insurance over the last three years, they reduced their employers liability losses from $470 million to $77 million and compulsory third party losses from $146 million to $87 million. By 2000, 121 per cent of liability insurance premium collected in 1994, 124 per cent of premium collected in 1995 and so on — all of that had been expended. Professional liability losses are down from $281 million in 1999, but they were still $139 million last year.

The immediate challenge is to slow down the rate of increase in the premiums and to increase access to liability insurance, which means addressing underwriting expenses. The argument about individual rights must be balanced against the rights of people to be able to conduct businesses and even have jobs and the need for the communities to undertake those activities necessary to sustain the social fabric. We have seen plenty of situations and heard plenty of anecdotal evidence that suggests that our ability to maintain a solid social fabric and enjoy good social activity is being diminished.

The main drivers of liability insurance costs are the discount rate, joint and several liability and the cost of small claims, a reminder of which is the report that Western Australian councils are paying $70 000 a week for slip-and-fall injuries on footpaths. Social reasons rather than economic ones drive the promotion of caps. There is insufficient evidence to conclude that the no-win, no-fee arrangements have impacted significantly on the cost of claims.

In limiting small claims it is necessary to choose between monetary and non-monetary thresholds. Monetary thresholds have two weaknesses. One is that the threshold includes medical expenses and loss of earnings as well as pain and suffering, so that anyone who falls below that threshold may not be able to recover any of their financial losses. The other is that over time the threshold erodes as plaintiffs find ways of making claims which exceed them. For example, a 30 per cent impairment test was introduced into the workers compensation scheme in Western Australia in 1993, but a second gateway of $100 000 loss of earnings was allowed to cover the harsh effects of this test. It was expected that this gateway would generate 100 claims a year, but it was closed in 1999 because by then it was generating 2000 claims a year.

To maintain consistency most states have based their responses to the liability crisis on their current compulsory third-party schemes. One exception is New South Wales, which has adopted an approach it rejected after four years in its compulsory third-party system in favour of the 10 per cent impairment test. The other is the Victorian government, which has the compulsory third-party system based on the 10 per cent permanent impairment test to qualify for compensation for pain and suffering. Instead of adopting a threshold it is proposing to adopt a system which attempts to restrict the recovery of legal costs and which has been introduced in Queensland.

I think it is too early to make any definitive statements about the Queensland model, but there are some disturbing early signs. Favourable comparisons have been made between sets of claims arising from injuries sustained in the March quarters of 2000 and 2001. However, the first claims settled are generally simple and easy claims for out-of-pocket expenses. While there have been some claims for pain and suffering or non-economic loss, they would not have been many. More significant is the continued increase in claim frequency from around 0.42 per cent in 2000 to 0.48 in the December 2001 quarter and the significant increase in the average payment for general damages in minor claims from around $9000 for claims finalised during 1996 to around $17 000 for claims finalised during 2002.

Consequently I will be seeking to amend the bill to apply the same provisions in the Transport Accident Act which prevent the obtaining of compensation for pain and suffering unless the injury causes 10 per cent of whole body impairment. This system is based on the assessment by the fourth edition of the American Medical Association guides, except for psychiatric illness. The main criticism of this is that they are arbitrary, inappropriate and unfair. I accept that on a few occasions they could produce an unfair outcome; however, my amendments will address that, and they have a narrative to provide an alternative for serious long-term impairment or permanent serious disfigurement which does not constitute 10 per cent of whole body impairment under the AMA guides.

I am conscious of the opposition's view that, while the need for a threshold for pain and suffering has not been demonstrated, a 15 per cent impairment threshold to protect adventure tourism is essential. I am aware of the plight of adventure tour operators, but I do not believe they are in a different position from, for example, a small security business which has to stop functioning because of its inability to obtain liability insurance or Steamrail Victoria, a voluntary group, which has

suspended its operations because of its inability to obtain insurance.

The panel chaired by Justice Ipp, which has reviewed the law of negligence, has recommended the adoption of a threshold for general damages in terms of 15 per cent of a most extreme case, which is the threshold being adopted in New South Wales. In addition it recommends the restraint on the recovery of legal costs as proposed by the Queensland government. However, the panel does not believe this to be the ideal threshold. Rather, its view is that of all threshold options, one based on a system of independent assessment of impairment using objective criteria is the best because it is likely to produce the most reliable and consistent results. It is clear that the political judgment of the panel was that there seemed to be little prospect of a recommendation based on such a system being supported and implemented by the various states.

The arguments for moving to proportionate liability in the area of professional indemnity has been known for some time. To date, law reform bodies that have considered this question have opposed such a measure in cases involving personal injury or death. Consequently I shall not seek to amend the legislation to take it beyond what appear to be the current acceptable limits. Rather, I shall seek to support the measures being proposed in New South Wales.

Finally, I am concerned that the proposal to expand the powers of the Essential Services Commission could create unnecessary administration for insurance companies and could constitute a disincentive to offer insurance in Victoria. I am aware that that is not the intention of the government, but it should be made clear that the ESC should collect only information that is not available from the Australian Prudential Regulation Authority, and I will seek to amend the relevant part of the bill to clarify when the ESC can exercise its powers.

I do not pretend that the model I am proposing is perfect, and I would be happy to seek further amendments from other sources to improve this legislation in either house. However, if we do not continue to be vigorous in our changes of public liability I challenge everybody in this place to predict what the future will be. Unless we can draw down the current high cost of public liability, the situation will get worse.

The medical insurance issue will have a significant impact in the next few months, not because of predicted losses but because the insurance companies have failed to actuarially assess what their needs are for the past. Add to that the high cost of public liability and the actuarial inefficiencies or deficiencies of the past, and we will see some more significant problems in the medical insurance field, as with all public professional liability.

We have seen the scenarios that have been well presented in the newspapers. One in the *Herald Sun* had the heading '$750 000 bunny-bit-me case'. A kid who had the top of its finger nipped off got $750 000 in damages. That is hardly a 10 per cent impairment! And there was the case of the young drunken teenager in New South Wales who broke into premises above a nightclub and was awarded $50 000 damages and his mother $18 578. Those are probably the extreme cases to call upon, but they do exist and they are creating in people's minds a very bad impression that there is a system of rorting out there when it comes to public liability that has an impact on the costs we pay for on a daily basis.

I urge honourable members to give consideration to the amendments that introduce a TAC threshold on the basis that if it is good enough for people who drive motor cars I cannot see why in this crisis — and it is a crisis — we cannot extend the same set of principles so that we apply them in all forms of public liability assessment. I commend the bill to the house.

Mr VOGELS (Warrnambool) — The public liability crisis that has gripped our lives rages like a cancer destroying the fabric of life as we have known it. It is generally agreed that 11 September and the collapse of HIH tipped the balance, but there is no doubt that it was happening anyway and has been slowly building up.

Most of us have grown up in Victoria in the midst of communities that have always banded together with the full support of government, which made Crown land available for the benefit of the public to build such things as swimming pools, golf clubs, halls, recreation reserves, pony clubs, guide and scout halls, and camp sites for community progression and leisure. We saw volunteers offer their services to form committees of management that would organise and oversee working bees that regularly maintained our public reserve buildings and swimming pools by mowing lawns, fixing spouting and doing whatever else it took.

Then came the scourge, like a plague that would slowly envelop our society: to blame somebody else if something goes wrong. If an accident occurs it has got to be someone else's fault. We started seeing advertisements in papers and hearing daily on the radio and TV, 'Do you know all your entitlements if you have been injured at work or at play?', and the lawyers

proclaimed no win, no fee. There is a goose out there that will lay a golden egg and we can all get on with life and everybody will be happy ever after.

As this started to progress we noticed diving boards disappear from swimming pools and the monkey bars and seesaws vanish from our playgrounds. Even the old steamroller or locomotive sitting in a park somewhere which as kids we used to play on was fenced off or taken away altogether. It has now got to the stage where adventure tourism has been destroyed, equestrian events cancelled and even surf lifesaving clubs threatened with extinction. In Warrnambool we have the Premier Speedway, which the new member for South-West Coast will shortly elaborate on.

The crisis is now spreading from public liability insurance to professional indemnity insurance. Building surveyors, engineers, environmental health professionals and the medical profession are all at risk.

I will read from a letter from Mr Neil Povey, a building surveyor and civil engineering consultant working in Warrnambool, and also from a letter from Mr Barry Wilson. I do not know if other honourable members have received letters from building surveyors and engineers. It is an interesting and sad letter. There must be hundreds of building permit-holders out there in rural Victoria at the moment in the same situation. The letter states:

> As background, our company provides both building surveying and civil engineering services and has been providing this service to the district for the past seven years …
>
> To date I have been unsuccessful with applications to Dexta, CGU, Royal Sun Alliance and I am awaiting consideration from Planned Professional Risk Services.
>
> Each refusal has primarily been based on the government requirement for Building Act compliance which is the need to supply the 10-year run-on insurance provision. They also claim to be wary of engineers who undertake project management as we do and also that we are now part time (although I still manage to work 70 hours per week!).
>
> … my biggest concern is that I have 10 'live' building permits and a further 5 permits with directions in place which cannot be completed because I am the relevant building surveyor.

So there are 15 houses just from this one building surveyor which are either half-finished, three-quarters finished or nearly finished and where building has completely stopped. The letter continues:

> I have written twice to the Building Commission (the registrar) and to date have not received a reply, although I have been told verbally the following:
>
> To be relieved as the building surveyor I need to comply with three actions:
>
> 1. Write to the Building Commission and request that I no longer be the relevant building surveyor for these projects.
>
> 2. Write to my clients and request that they agree to me no longer being the appointed relevant building surveyor.
>
> 3. Arrange for another building surveyor to take over these 'live' projects.
>
> Items 1 and 2 can be achieved but item 3 is not achievable as no building surveyor would want to increase their workload when they will most likely not be able to get insurance also. I have requested this assistance from other building surveyors but to no avail.
>
> The builders associated with these permits will not be able to complete the projects and their owners will not be able to occupy the buildings without certificates of occupancy.

I know the honourable member for Gippsland East also has letters from building surveyors because I have seen some of them. Something has to happen; this cannot go on.

Getting back to public liability, I listened very carefully to the honourable member for Box Hill, and I agree with what he said. There are four issues that I would like to expand on.

The first is that we need to allow reputable organisations operating on state government land which are an established and important part of tourism, economic activities, or community activities the option of acquiring, at a price reflecting the risk involved, public liability cover in conjunction with the insurance or self-insurance cover which the state government already has for its own public liability. If taken up by the organisation concerned, this would be in lieu of requiring it to obtain a $10 million public liability cover before it was allowed to operate on state government land. That would be a great start. Surely if you are operating on Crown land the government, through its Victorian Managed Insurance Authority, could help take this public liability insurance risk.

Issue no. 2 is to insist that a law firm pursuing legal action on a no win, no fee or similar basis is responsible for ensuring the other party's legal costs are paid if its client loses a case and is unable or unwilling to pay. This will stop lawyers taking no win, no fee cases for clients with few assets, knowing the insurers cannot recover their costs even if their defence is successful. The responsibility of the loser to pay the winner's costs is the greatest protection, stopping Australians going down the American path.

No. 3 is to ensure that where people voluntarily engage in a recreational activity they accept responsibility for minor injuries incurred in the ordinary course of that activity.

No. 4 concerns the protection of volunteers and good Samaritans from the risk of being sued. For volunteers, liability should be passed from the individual volunteer to the organisation for which they work. This might slightly increase the cost for the organisation, but it ensures its volunteers are not deterred by the fear of legal action.

In conclusion, there is no doubt that the issue of insurance needs to be addressed urgently by all levels of government. According to the Insurance Council of Australia, which has assessed each state's reform packages, Victoria's reform package is among the worst in the country and has largely failed to tackle the main issues that are driving up costs. The state government's response has been too little, too late. It has fiddled while Rome burnt, as the old saying goes. Although this legislation goes part of the way, it is nowhere near strong enough to address the issues now confronting Victoria.

I am very concerned that, as the honourable member for Mildura and others have said before me, unless very strong action is taken the country will grind to a halt. It is absolutely outrageous. I have seen some of these houses. People who have a house nearly finished cannot move in. It is absolutely ludicrous. Something desperately needs to be done.

Mr INGRAM (Gippsland East) — It is a pleasure to make a brief contribution to debate on this bill today. The Wrongs and Other Acts (Public Liability Insurance Reform) Bill in my view is probably the most important piece of legislation that has come before this Parliament in the short time I have been here.

Some people might find that a strange comment, but it is one of those pieces of legislation that attempts to address a major problem that has been evident in the community from well before 11 September, and I also believe it was there before the HIH collapse. It was growing.

The ongoing, rising costs of insurance and the cyclical nature of the insurance industry have caused a great deal of impact on a whole range of community groups, businesses and adventure tour operators — the list goes on and on. It really is about a conflict between the duty of care of an organisation, individual or provider and the acceptance of personal risk or the responsibility for your own actions.

In the middle of that we have the insurance industry, lawyers, courts and Parliament trying to deal with the problems. But we have got to the stage now where there is that need to have insurance, and to have that protection for your personal and business assets is causing a really major cost on a whole range of communities. It has broken down the social fabric of our communities to the extent that a whole range of things that we took for granted only a very short time ago are now becoming very nearly impossible to do, so the enjoyment that we had in the community and the activities we used to be able to conduct in the community, because of the cost of insurance have become basically unavailable to us.

That is a very sad thing. Everyone has horror stories from their electorate, I am sure. I think the classic one from my electorate is a group of mainly elderly ladies who get together once a fortnight to do machine knitting. Because they operate in a facility that is owned by the local council, they are required to have public liability insurance. These people are a group who do not want to do fundraising. They do not want to have to pay for the pleasure of what they are doing; it is just for their social enjoyment. But because they need public liability insurance because they operate in a council facility and the cost has gone through the roof — and for this group if it is $800 a year, that means they have to dip into their kitty to pay that — it really has stopped that activity.

We can go right through a whole range of different activities that have been either stopped or limited and businesses that have closed down. There have been real impacts on the community. It is not a new thing. How long ago was it that we raised this issue first? It first came to my attention in July 2001 when some adventure tour operators came into my office. They were getting to the stage then where their insurance premiums, if they could get insurance, were going to be exorbitantly high and probably cause their businesses to close down.

At that stage I raised it with the government and publicly and put up what I thought was a proposal to deal with it. We had to start the public discussion at that time. A whole range of different actions have taken place in the ensuing 12 to 18 months. Where are we up to now? We still have the same problems evident in the community. I acknowledge the work the Minister for Finance has done on individual aspects in dealing with issues as they arise. Some have been slow and frustrating for the particular businesses, industries or groups of people.

Unfortunately, some of the answers have not come anywhere near fast enough, and businesses have been lost. We need to look at what the changes in the bill will do. There are some good points. Soon after I was elected a group of volunteers from emergency services in my region were strongly supporting the need to have the good Samaritan legislation introduced to provide protection for volunteers. It has taken a while, because that was before this issue came about, but they are grateful that finally they will see good Samaritans being protected. They are people who go out and do something they believe is right in good faith and they are pleased that volunteers will have some protection.

The honourable member for Mildura raised a couple of issues in relation to previous cases that have reached the front pages of the newspapers and prominence in other media. The classic example of what can happen with volunteers is that in New South Wales and Queensland volunteer surf lifesavers have put flags out on the basis of their best knowledge and someone has had an accident that is entirely their own fault but it appears that sometimes the courts see it differently.

That brings me to an interesting statement by a retiring Queensland judge that appeared in the *Australian* some time ago. It is interesting because he said in his retirement speech:

> Some judges have enjoyed playing Santa Claus, forgetting that someone has to pay for our generosity.
>
> We have allowed the test of negligence to degenerate to such a trivial level that people can be successfully sued for ordinary human activity.

I am not singling out judges. Part of the problem is that the definition of negligence has been watered down through court cases over time. What we are doing here is saying, 'We have to put a stop here because the inherent nature of our society to sue and not take that personal responsibility has caused major problems and someone has to pay'. In the end it is basically the community that pays through increased insurance premiums.

The honourable member for Warrnambool raised the matter of professional indemnity problems in relation to the building industry. This is a real issue. We are being forced up against a brick wall, so to speak, very fast. In a whole range of professional fields in the building industry — architects, engineers and building surveyors — there is a problem in providing services in most country areas because of the distances involved and the lack of qualified people in the area. You then put on top of that the incredibly high premiums they are expected to pay if they can get insurance at all.

One of the factors is that the insurance companies will not cover them because of the nature of the regulation the building industry operates under in Victoria. Because we have strong regulations insurance companies are saying, 'We will insure you for public liability insurance, but we will not cover you because of the provisions in the building industry acts'. We need to address these matters. To do them one at a time is a problem because we always seem to be chasing our tails, so to speak.

The way it has been introduced for adventure tourism operators is a good start. It is good that we are trying to deal with this across all governments, both commonwealth and state. Both governments have been too slow to react. The problem was there, and it should have been evident long before it was dealt with, but at least we are now doing it.

I will take up one issue. A very well-run organisation in my area provides adventure-type holidays for young people, school groups and a whole range of people. It provides horseriding, abseiling, large swings and so on. It managed to get insurance. Because of its risk management, although the premiums were increased quite significantly, the company was able to be insured because of the nature of its business. One disappointing thing was that the insurance company had a form of waiver that it required the organisation to meet. It was interesting that a public school on a visit there refused to sign the waivers because that school had been directed by the education department that departmental policy was not to allow the school or any students or parents to sign a waiver for the students. This will be an issue if we are now passing legislation in this place to basically honour and recognise those waivers and the education department then turns around and says, 'No, we will not allow any parents or students to sign a waiver for them to participate in activities', when they are essential for the personal development of those young people.

If you look at some of the aspects, particularly in my area, there are a number of children right across Victoria, particularly in some less privileged areas, who need to be got back on track. One of the ways to do that is to challenge them and put them to the test, to have them abseil, go rock climbing and whitewater rafting, as well as horseriding, riding mountain bikes and things like that. If we do not have a system that allows the waivers to be recognised, and if schools are advised by the education system not to accept them, we are really failing. Fortunately that business was able to reinsure without the need for the waivers, but we are going to run into this situation down the track and we need to be dealing with it.

Another point I would make is that Australia is an extremely small insurance market. We are getting into some problems with the market because of the small number of people within particular professions or groups. There is a limited supply of insurance products available, which causes problems, and that is part of the difficulty with the building industry. The actual pool is very small.

I have spoken to a number of members of Parliament from other states about this issue. It appears that Victoria has a greater problem than some of the other states with manufacturing businesses, particularly in my area, and with the building industry, as well as a wide diversity of problems in public liability and professional indemnity. Some of the other states do not have that. They have a clear problem with some small businesses, but that has mainly been with adventure tourism operators.

We have to ask why our state has had a higher increase and why it has more businesses that have had problems gaining insurance. Obviously the insurance industry believes that in some industries in our state there is a greater risk of being taken to court or sued and that therefore there is a greater risk in insuring here. That needs to be addressed, and it means we probably have to go further than some of the other states.

Some of the business operators that have had problems — I know the Minister for Finance is well aware of these, because we keep raising them with him — are the road surfacing and road construction contractors. Some contractors' insurance premiums have gone from less than $10 000 to well over $60 000 and up to $80 000 in some instances. Obviously there are some real problems there.

I am pleased to speak in the debate. There are not too many members of Parliament who do not recognise that this is something that desperately needs to be addressed. It is probably not the last bill on this issue that will be passed. We will need to keep a close eye on it, because there are some real concerns out there. A number of speakers have said that this legislation will not reduce premiums, and I think that is where we need to go in many cases. The community cannot afford to continue paying premiums at the current level. We have to try to reduce them.

If we still had a handle on the insurance industry through the former State Insurance Office or the Government Insurance Office we might not have got to the stage where we could not recognise we had this problem. It should have been recognised long before it became a major problem. We may end up having to consider putting some pressure on the insurance industry and on the lawyers to ensure that where real negligence occurs people have access to the courts. That access will have to be limited to ensure that the cost to the community does not blow out in the way it has. We need to reduce that cost.

Mr LUPTON (Knox) — This legislation probably affects more people than any other legislation with which I have had to deal. There would not be one sector in our community that has not been affected by the steep increases in insurance premiums. I refer to builders, construction engineers, sporting clubs, councils, electrical engineers, golf clubs, tennis clubs, doctors, specialists et cetera.

In my electorate builders who have been in the construction industry for a number of years have tried to get insurance so they can continue to build. While they may have one block of land with six units on it, they can only get insurance to cover three or two, so they have to go back for more — and of course the cost of the building goes up. One electrical engineer who employs about 25 people makes very detailed and specialised electrical equipment. He cannot get public liability insurance to install that equipment in other factories.

In the City of Knox the honourable member for Bayswater and I are faced with the situation where tennis clubs have introduced a fee — something like $40 — for Joe Blow to go and have a game of tennis. So it means that I can no longer rock up one Sunday and have a game of tennis. I have got to apply about five days before with my $40 so that I can have a game. This is getting ridiculous. It is absolutely stupid to think that nowadays a person cannot go and have a game of tennis, golf — or whatever it is — on a council property because the council is frightened somebody is going to sue it.

I had a person come into my office the other day. She had fallen over on the footpath and broken her ankle. When she rang the council the first thing she was asked was, 'How much do you want?'. All she wanted to do was ring up and tell them about the footpath. As I said, golf clubs have insurance policies for everything. If you fall over and hurt yourself on the sprinkler heads, you cop it.

There is also the issue of doctors, particularly specialists. Specialists are getting out of the business because they cannot pay the public liability insurance just in case something goes wrong. I read an article the other day about gynaecologists who are talking about bailing out altogether. The federal government will

have to pay an enormous levy to keep them practising because of the concerns they have.

At the playgrounds I played on many years ago the equipment has been pulled out because somebody might get a splinter or slip off the monkey bars. It has all changed. Now you have to have playground equipment children will not get a splinter or rash from or skin themselves on.

I am very fortunate to have the help of the honourable member for Box Hill, who as opposition spokesperson on this effort in relation to public liability insurance has been very helpful in obtaining such insurance. In one case he helped obtain it for a firm that manufactures train signal equipment. It got to the stage — and it has got to that stage again — where some months ago it was going to have to shut its doors because it could not get public liability insurance. As of yesterday it has until 8 November to obtain its public liability insurance or else close the doors, with enormous repercussions.

Tourism has already been mentioned, as has the concern about the effects when people on a holiday are injured doing something we would have expected to take on as a matter of course. If I hurt myself I had to wear it. We had that ridiculous situation the other week where a person had gone to a holiday place, taken their dog out into the bush and the damn dog was bitten by a snake. People were sued and had to pay. This is getting to the ridiculous stage. As I said earlier, I do not believe there is anybody in this state of ours who is not affected. Whether they are young people or old, they are all affected.

When you have to go to a football club and say to the young kids that the rates for the public liability insurance needed for them to play football have gone up fourfold or fivefold it is a little bit hard for them to understand.

You can look at some of the payments that have been awarded. I think it was the honourable member for Mildura who mentioned a derro up in Sydney who under the influence of alcohol broke into a pub, had a fight with the owner, got done over and copped $50 000 because of trauma et cetera. I had a situation some time ago where a burglar fell through a factory roof and damn well sued the owner of the factory. This is becoming ridiculous, yet we have allowed it to continue.

Back in about March the honourable member for Box Hill introduced a paper entitled *Public Liability — It's Time for Action*. It is regrettable that that paper was not taken up and acted on back in February, because I believe it addressed a number of the issues which were raised at that time. Had action been taken in relation to that I believe we would not be standing here today some seven or eight months later trying to bring in legislation.

With a degree of concern I note that if you look at what the states are doing you find that each state is attempting to do something different. In New South Wales damages payouts are to be capped at $350 000. In Western Australia legislation is before the Parliament to cap economic loss awards to three times weekly earnings. Queensland plans to limit damages for people injured while intoxicated. South Australian legislation proposes to cap damages payouts at $241 500. Victoria is going for $360 000.

There is no consistency between the states and whilst I congratulate the government on acting, I am concerned about the fact that the proposal was put to it back in February and nothing was done. I also refer to an article in the *Australian* of 3 September which indicates that both Victoria and New South Wales were going it alone and introducing legislation at about the same time as the federal government had just released a report on insurance. Maybe it would have been opportune to have awaited that report and then looked at introducing the legislation, because, as I have said, we have five states all doing something different. There is no consistency between the states.

I support the concept of the good Samaritan legislation; that is extremely important and it is well and truly overdue. I really and truly think this is about a situation where if you apologised to the person who was injured you were accepting liability. It was absolutely ridiculous. The legislation before us is good; I support it. I also support the amendments of which the honourable member for Box Hill has given notice. I emphasise again that had the paper the honourable member for Box Hill introduced in February been acted upon at that stage, we would not be standing here today trying to fix this up some nine months down the track.

Mr THWAITES (Minister for Health) — I am pleased to join the discussion on this very important bill which introduces reforms into the insurance and liability area in Victoria. Of the two areas I wish to touch on, the first relates to food donations by businesses to charities and the second relates to issues touching on medical indemnity.

As a result of this legislation many needy Victorians will benefit by the provision of legal immunity to those businesses which, in good faith, donate food to charities. In the past there has been a reluctance on the

part of a number of businesses to donate food to charities because of the fear they may be held responsible if a consumer of the food fell ill. These new laws protect those businesses and individuals who act in good faith in donating safe food that would otherwise go to waste. There is a great deal of this food; in fact there is an estimate that 280 000 tonnes of food is thrown out each year in Melbourne alone so we could expect that at least some of that food that would otherwise be thrown out would be put to good use.

This legislation provides that a donor of such food is exempt from liability to a negligence claim if the food is donated to a not-for-profit charity distributing it to those in need and where the donor acted in good faith. This is Australian-first legislation, based upon a model from overseas. I congratulate those organisations that put forward the proposals, principally the charitable organisation One Umbrella, which uses donated food to make pies for distribution to the needy, and also the Law Institute of Victoria, in particular the Young Lawyers section of the institute, which had not only lobbied for the changes but has prepared a great deal of information which the government and other interested parties could rely on in preparing this bill now before the house.

I now turn to the other important issue of medical indemnity. The government acknowledges that medical indemnity insurance is a key issue for doctors, hospitals and the community. In recent years there has been a significant rise in premiums for doctors in order to protect themselves from claims for negligence. These premiums have risen particularly for some specialists like obstetricians, and it is estimated that the premiums they now pay can be in the range of $63 000 a year. Premiums for general practitioners are much lower by comparison, but even in that area the increase in premiums in recent years has been significant.

It is worth pointing out that in recent years in Victoria the increase has not been as significant as it has been in New South Wales and Queensland. In those states, as I am sure all honourable members are aware, the medical defence organisation United Medical Protection has as a result of financial problems made a major call on its members. That has led to very high premiums and to the financial failure of that organisation. Over the years the medical defence organisations in Victoria have better managed their financial situation and set aside funds for future liabilities.

However, there are a range of pressures on premiums, and these come from a range of factors. They include the decreasing availability of and increasing price for reinsurance; low returns on investments in the depressed equity market; the need to set aside additional capital reserves in anticipation of potential regulatory requirements; increased claims costs in certain areas; and particularly the risk of very large claims in cases of what are termed catastrophic injuries. Most notable in Australia the Colanda Simpson case in New South Wales set a benchmark for those very high claims. Other factors influencing the size of the claims include the long-tail nature of the medical indemnity business, where some claims might be made up to 24 years after the incident leading to the claim. The final issue is the small size of the market and the small size of particular sections of the market — for example, obstetricians or other specialists — so when the premium is calculated it is calculated on the basis that the risk is shared by a small number of people.

Given all that, there is a serious problem that needs to be addressed. The bill is an important initiative in commencing to address those problems. The government certainly agrees that in coming years much more will need to be done both at a national and a state level to fully address the problems associated with the rising costs of medical indemnity insurance.

I will briefly canvass some of them. They are matters that have been partly dealt with by the Ipp inquiry at the national level. They have also been dealt with by the report of the so-called Marcia Neave inquiry, which was set up under the auspices of the Australian health ministers. Some of the key issues that those reports deal with are limitation of actions, which I will come back to; catastrophic claims and a statutory scheme in relation to those; premium regulation and cross-subsidisation; and finally Medicare rebates and the cost that doctors have to pay for insurance premiums by comparison with the medical rebates they get.

I shall just touch on the issue of the limitation of actions. Currently in Victoria there is a six-year limitation of actions period for adults and for children there is a six-year period after they reach the age of maturity — that is, 18. That is why there is a very long tail. The government is currently considering the recommendations of the Ipp review and the Neave report in relation to limitation of actions periods. Certainly the government agrees that we need to look carefully at some way of ensuring that the very long tail does not lead to a very high call on premiums for doctors.

The health ministers nationally have sought to further investigate a national scheme for catastrophic claims. Although the number of these claims is small in percentage terms, the quantity of the claims in dollar

terms is very large. A number of proposals have been examined which would take those catastrophic injuries outside the common-law system into a more managed system, where people who are injured can have their attendant care and other needs met but where the risk of those very large claims is not added to the premiums of obstetricians and others. Work is being undertaken there which is very important.

The Attorney-General has previously announced that in addition to the measures in this legislation he is preparing further measures which will introduce a cost threshold into personal injury claims. That also will be an important way of limiting the number of cases that are brought and thereby reducing the overall cost of premiums.

The package of measures before the house is important. Firstly, it includes the protection of volunteers and good Samaritans; secondly, it ensures that saying sorry does not represent an admission of liability; thirdly, it establishes a cap on loss of earnings of three times the average weekly earnings; fourthly, it creates a cap on non-economic losses; fifthly, it increases the discount rate from 3 per cent to 5 per cent; and sixthly, it enables substantial amounts of damages to be paid in regular instalments — that is, structured settlements instead of one lump sum.

They are all important measures which will help to make the medical indemnity scheme more affordable. Just that one initiative of increasing the discount rate from 3 per cent to 5 per cent makes a considerable difference. That has been estimated to be of significant benefit to the medical defence organisations, so I am sure that provision would be widely supported. But as I have indicated, there are other matters that the government and I are considering.

I have set up a medical indemnity working party which has representation from the medical profession, the medical defence organisations and the legal profession. I thank all members of that working party, who have been providing important advice to the government. It is fair to say that it is difficult in an area where there are quite different views to reach an entirely consistent view. However, the fact that those people have been prepared to work together and endeavour to make sensible suggestions to the government is acknowledged, and I thank them for it.

I look forward to continuing to work with the medical profession and others involved in coming up with solutions to what is a very complex and difficult problem.

Dr NAPTHINE (Portland) — It is with some disappointment that I rise at 1.40 a.m. to debate what is a very significant issue right across Victoria. It is a sign of total mismanagement by the Bracks Labor government that the Parliament is debating this significant issue at 1.40 in the morning. The fact that this legislation is being rushed through the house in the early hours of the morning after months and months in which the government should have done something is an indictment of this government and an indictment of the responsible minister.

This is clearly an important issue which affects all aspects of community life and everything we do in our business, social and sporting activities to ensure that we retain a high quality of life in the state of Victoria and in our communities. It is interesting that we are debating this bill at 1.40 a.m. when this house has sat for three days since the middle of June — an absolutely slack, lazy workload from a do-nothing, lazy Bracks Labor government. This is a classic sign of a do-nothing, lazy government simply not being able to manage its agenda in Parliament and not being able to manage its agenda in the community. The consequence is that we have not had adequate debate on this bill in Parliament, with all members being given the opportunity to raise their electorate issues of concern.

I congratulate the honourable member for Box Hill on his detailed and comprehensive analysis of this legislation. I also congratulate him on the wise advice he has given Parliament on this legislation and in particular the thoroughness with which he has analysed the legislation and put forward constructive amendments which I believe the house ought to consider and adopt in the interests of providing a better outcome for the community.

The honourable member for Box Hill concluded his speech with some words which I felt summed up the legislation before the house tonight. The legislation with respect to this very important issue is too little, too late. The government has been dragging the chain on this issue. It initially refused to even accept that there was a problem. The Leader of the National Party highlighted the fact that, while the community was expressing concern about increasing public liability insurance costs and the increase in professional indemnity insurance costs as early as two years ago, the Attorney-General said there was no problem; the Treasurer and acting Minister for Finance at the time said there was no problem; the government put its head in the sand and was finally dragged kicking and screaming and forced into having a public liability insurance forum in this house. At that forum the government said it would take some action. The former

Minister for Finance said action would be taken. As a consequence of that forum we had a typical Bracks government response: another talkfest, another place where people aired their concerns, but no action was taken.

The Liberal Party put out a policy position in February this year, and if the government had adopted that policy at that time we would have been much further advanced in terms of delivering more affordable and accessible public liability insurance premiums and insurance policies across the state. The Liberal Party brought forward private members legislation on which the government prevented any debate. If it had adopted that legislation we would have more businesses still operating in adventure tourism in Victoria today. The government has also been dragging the chain in respect to its Labor colleagues in New South Wales and Queensland.

Public liability insurance affects the entire fabric of our community. The cost of this insurance is threatening the viability of some of the important events that make our local communities great — events like the Heywood Wood, Wine and Roses Festival, the Casterton Kelpie Festival, the Warrnambool Fun for Kids event, local shows, community fundraisers and school fetes. All of those events are being impacted upon by the increasing cost of public liability insurance. In fact some of them have had to be cancelled or are not able to continue because they could not get public liability insurance. It is an absolute shame that in a number of communities across Victoria Carols by Candlelight could not be held simply because the organisers were unable to obtain public liability insurance. Those that could attract public liability insurance were hit with such high premiums that the whole event was seemingly being run to raise enough money to pay the insurance to run the event. That defeats the purpose of many fundraising community events.

Public liability insurance costs are reducing the capacity of the community to deliver basic activities like scouts and guides and the management of our local halls and local playgrounds. These are activities people participate in for recreation or for the community good, let alone the activities of our sporting clubs. We should be trying to encourage the development of junior sport to help our young people understand about teamwork, fitness and working together to achieve a goal. Junior sport builds some of those characteristics which are very important in young people and adults, but people are being forced out of sport simply because of the cost of public liability insurance.

One of the growth industries in country Victoria has been adventure tourism. Some 70 businesses have closed, largely in country Victoria, and hundreds more jobs and businesses are at risk, yet this government refused to support the Adventure Activities Protection Bill.

Ms Allen — Codswallop!

Dr NAPTHINE — The honourable member for Benalla says that is codswallop. Her Labor colleagues voted against that legislation in the upper house and prevented it being debated in this house. The honourable member for Benalla did not stand up for adventure tourism businesses in Mansfield. They brought forward this very positive suggestion, and the Labor Party slammed the door in their faces. The honourable member for Benalla treated them with contempt. She deserves to be condemned for it, and she will be.

The Adventure Activities Protection Bill was a very positive step in providing protection for those industries. I would have allowed participants to assume their own risk for minor injuries. The opposition's amendments to the legislation before the house pick up that concept and extend it further across Victoria.

In business we have had public liability problems because of the cost to business and problems with professional indemnity insurance and builders warranty insurance. Many builders right across the state are still having difficulty in obtaining warranty insurance given the cost involved. I recently received representations from local builders. Mr Gavin Carr gave me some letters, one of which was from Mr Tony Arnel, a commissioner, advising him that:

> The Victorian government has confirmed that its reinsurance support for the provision of builders warranty insurance by Dexta Corporation will cease on 30 September 2002.
>
> The Building Commission advises builders that they should urgently review their current eligibility for obtaining builders warranty insurance to ensure that their current arrangements will remain in place beyond 30 September.

They need that warranty insurance because they cannot operate without it.

Mr Lenders — Every single one of them had it extended.

Dr NAPTHINE — The minister should sit down for a minute! Mr Carr also received a letter in July from the Master Builders Association of Victoria, which states:

> Following the recent difficulties surrounding domestic warranty insurance, I wish to advise that Dexta are presently unable to offer any annual renewals post 30 June 2002. As a result I have enclosed a new application form from (AHW) Australian Home Warranty Pty Ltd, underwritten by Reward Insurance Ltd, for completion and return.
>
> AHW are only able to offer job specific policies and I have set out the following points to assist you with completion.

It is interesting to note that Mr Carr is a self-employed business person who has been operating in the building industry since 1961. That is a very long time, and his is a very successful business. He has been involved in the construction of multimillion-dollar projects such as building wind towers at Codrington and the Target Country store in Portland. After 40 years of success in the industry he is having difficulty obtaining builders warranty insurance to do renovations and minor house building. He has been offered insurance for projects of a maximum value over a 12-month period of $500 000, for a single dwelling of $250 000, and for improvements of $25 000. That is not sufficient for him to operate his traditional business.

What we are saying to the minister, if he would listen, is that right across Victoria successful business operators like Mr Carr are being denied access to fair and reasonable builders warranty insurance at a proper price. That is a problem we need to address.

The other issue I wish to address in the remaining minutes I have is what I believe is a real crisis facing country Victoria. It affects a recreational sporting activity that is worth many millions of dollars to country Victoria and involves many thousands of people as spectators or participants on the track. Speedways right across country Victoria are facing a real crisis through public liability insurance. I am told that many tracks across country Victoria could close within the next few months, including Southern 500 at Portland and tracks at Mildura, Bendigo, Hamilton, Stawell and Simpson, and that even the Premier Speedway at Warrnambool, which is one of the state's largest, is at risk. I refer to a letter from Southern 500 Speedway at Portland, which says:

> Speedway's future is very much in doubt of going ahead for season 2002–03 due to our predicted cost of public liability insurance being $28 000 this season for seven events only, compared to last season which cost $14 000 for the same number of events.

So it has doubled in the last 12 months.

> Victoria alone stands to lose an estimated $28 million plus … into the economy if Speedway should collapse due to public liability insurance increases.

The letter states that speedway is the second highest attended spectator summer sport in Australia. I would say that right across the state in country Victoria it is the highest attended spectator sport in the summer. Figures I have from the speedway industry show that it is indeed a $28 million industry for the rural economy. With attendances of 2000 to 5000 fans at meetings and their estimated expenditure — if you look at travelling to and from the speedway, accommodation, food and miscellaneous shopping, plus gate attendance and so on — you are talking about $28 million a year involved in speedway. There are also the costs of the participants.

While many honourable members may be under the misapprehension that speedway is a sport for young people who are so-called petrolheads, the reality is — and I have had the pleasure of attending a few speedway events in recent years — that it is very much a family-based activity, with many families involved both as spectators and participants. They are all no-alcohol functions and they are very family friendly. Some of the demographics show that 55 per cent of the people involved are married, a significant number have children, they are generally low-to-middle income earners and 50 per cent plus are blue collar workers. So it is very much for the working person and has working family support.

It is a very popular sport and is worth many millions of dollars. It would be an absolute tragedy if speedway tracks right across country Victoria were closed, not only for the people who enjoy the speedway and those who participate but particularly for those country communities that would lose the benefit of that $28 million in economic activity.

Speedway is also very positive in providing a constructive and positive outlet for young people who are interested in speedway activities and racing vehicles. It has a Teen Safe program which works specifically with young people so they can learn about the risks involved in driving vehicles, particularly at speed. It shows them how to be safer drivers on the road and aims at three key points: change behaviour, hazard perception and risk evaluation. It certainly helps those young people to be better drivers when they do participate on the roads.

Speedway has done all the right things. It works on a national level with a national insurance policy to give $30 million worth of cover, but the premium for that policy is $1.7 million. If the insurance levy is applied to all tracks it means there has to be an average of $4000 per meeting. That is an extraordinary amount for speedways at Portland, Hamilton, Mildura, Bendigo

and Simpson to raise. They have to pay it off up front before the meeting starts, and for every track that closes or every meeting that does not take place those costs have to be passed on to other meetings. So if three or four tracks close, the costs go up for the remaining tracks. Even Premier Speedway at Warrnambool, which is one of the most successful speedways in the state and has crowds of 15 000 to 20 000 for its major events during the summer, would be at risk of closing if its public liability insurance premiums increased to that sort of level or even higher.

Pre-2000 the Southern 500 Speedway at Heathmere paid $620 per meeting for $30 million of public liability cover; in 2002–03 that has risen to $4000 per meeting. It makes the Southern 500 Speedway unfinancial and unviable, and it is now considering not running any meetings this year. If it does not run meetings then 8, 10 or 15 other speedways across the state will have to close.

This is a serious problem across a whole range of activities. The example of speedways is simply one instance that particularly affects country Victoria that shows the impact of massively increasing public liability insurance premiums.

Unfortunately this legislation brought forward by the government is too little too late. The Insurance Council of Australia has already said that it will have little or no impact on insurance premiums or the availability of public liability insurance. It is disappointing that on this issue the Bracks Labor government has failed the people of Victoria and particularly the people of country Victoria.

Mr MAUGHAN (Rodney) — I wish to make a brief contribution on this important piece of legislation. Noting that it is close to 2 o'clock in the morning I will keep my remarks brief.

Because so many of my constituents over the last 12 months have contacted me and my office about public liability insurance it would be remiss of me not to make some contribution. Those representations have come from a wide cross-section of the community including pony clubs, which for quite some time were looking at going out of existence. Pony clubs are an important part of the fabric of country Victoria. Likewise with lots of other community groups, and one could go through the various sporting clubs including football clubs, tennis clubs, swimming clubs and the large carnivals. In Echuca we have the Southern 80 Club Marine Water Ski Race, which is a significant event which almost closed this year. It deferred and was able to get insurance at the last minute, so it went ahead and will probably be able to proceed next year, but that large event for Echuca was at real risk.

Other organisations include trail ride groups. There are a number of operators in the Rodney electorate that have gone out of business because of the cost of public liability insurance. Small charitable fundraising groups that have raised $2000, $3000 and $5000 for charities have now decided that it is not worth working their butts off to pay more than double what they pay to the charities in order to pay their public liability insurance. All of those and many others have written to local members and have certainly contacted my office. Many of those organisations have either considered closing or have closed.

Turning to junior sport, I was at a premiership presentation in Echuca only recently. A group of volunteers who are doing a marvellous job in fostering junior football are now faced with an increased public liability premium of $8000 per annum. That group of volunteers is working incredibly hard doing a marvellous job in providing junior sport throughout the Echuca, Kyabram and Lockington area, but it is now faced with another $8000 per annum public liability insurance premium.

Scouts, guides — the list goes on and on. I do not want to canvass all the issues that have already been so adequately canvassed and to go through all the costs. I simply want to say that this issue became evident well over 12 months ago. The government was dragged kicking and screaming yet again by the Leader of the National Party, who again took the initiative on this issue and organised a forum that was to be held here at Parliament House in Queens Hall. At long last that shamed the government into doing exactly the same sort of thing, so the Leader of the National Party cancelled his seminar and let the government go on with its seminar. It was quite a good talkfest, but nothing happened. That was some 12 months ago.

The Leader of the National Party took the issue to a national level. The National Party obtained legal advice and has put forward a private members bill. There has been a great deal of activity. At long last, at 5 minutes to midnight, the government has come in here this week when we have eight pieces of legislation, including a very important piece of legislation to do with reform of the upper house, and we are debating it at 2.00 a.m. That gives some indication of how serious this government is about this issue — as serious as it is about the other related issues of medical negligence insurance and builders warranty insurance. The latter is causing a great deal of anxiety to a range of builders in the Echuca and Kyabram areas at the moment.

I rise to simply express my concern at the way this has been handled, at the inactivity of the Bracks Labor government in dealing with this issue and at its bringing it on for debate at this time in the morning. I hope that we get on with it and that the outcome is better than it has been. I am not assured that is the case with this legislation, as the honourable member for Box Hill and the Leader of the National Party clearly pointed out earlier this evening.

Mr ASHLEY (Bayswater) — The last time I rose here was on 5 June or something like that. On that occasion I made a rather important point in a silly hat, and that important point was in part to do with the reform of the way we do things, including the way we handle legislation. Here I am at 2 o'clock in the morning at the beginning of October, dealing with a profound issue which has been badly dealt with in the sense that this kind of legislation is really in the nature of emergency legislation, and you cannot get emergency legislation absolutely correct. You put it down and get running with it so that it is in place and so the community can have some confidence. I think that has been the failure over the months.

There are times when legislation should happen slowly — it should brew — but this is not that kind of legislation. I doubt that the government would like to be compared in any way or sense to Margaret Thatcher, but this much is true: if we go on the way we are going, if we fail to deal with matters of liability — personal injury liability, matters of public insurance and the rest — we will have no such thing as society, as Margaret Thatcher once wrongly said.

Back on 30 March this year, before the issue had come to this house — in a structured form, at least — the *Australian Financial Review* made a few telling remarks on life being a risky business. It said:

> It used to be taken for granted that life is a risky adventure. These days, when life is probably safer than at any time in history, we look for complete safety. And if even small accidents happen, we look for someone to sue. No, not all of us do, but enough to make children's playgrounds boringly safe, to have council swimming pools facing closure and sporting clubs cancelling events, to have a primary school establish a policy of not putting sticking plaster on skinned knees in case children turn out to be allergic to the plaster and the school is sued.
>
> Lawyers and the insurance industry blame each other for the high cost of liability insurance, which has risen by 30 per cent since last September —

that is, since September 2001. The editorial concludes:

> Warnings of the dangers of high-risk sports should be enough to absolve the operators of responsibility, unless there is concomitant negligence. We should not want to become the kind of society in which children can no longer have billycart races.

If the issue affects leisure and sport, it also affects work and voluntary activities. A few months ago, in about March or April, an elderly lady rang me and said, 'I think the government should put some investment into small businesses so they can replace their ladders with lifts'. I said, 'What is the problem?', and she said, 'I had a man come in to clean the gutters on my roof, and he said, "I can't do it all for you because I can't reach some of the guttering without using a ladder, and I can't use a ladder"'. Being good at getting leaves out of gutters, I asked her if she needed some extra help and she said, 'No, no. In a couple of weeks my son will be around and he'll clean the rest out'. So it was okay for her son to come and clean out what could not be done by the person who had the job of cleaning the gutters out in the first place.

A few months later I had a call from the proprietor of a company called Nifty Lifts in Bayswater, who said that if he did not have insurance by 25 May he would be out of business. On 25 May there would be no more business for him. The reason was that the insurers believed that his lifts — his scissor lifts and his cherry pickers — were too dangerous in situations where they were used by emergency services.

The consequence of his business and businesses like it coming to an end would be that no-one could provide emergency services. They could not repair overhead lines, for example. The situation goes from bad to worse: it goes from a business not being able to provide a facility to society not being able to provide emergency services. That is how crazy the whole thing has become. Fortunately with a bit of help from the honourable member for Box Hill we were able to put this man on to a broker who got him his insurance for a 400 per cent increase.

Where does all this come from? In part, it occurs because a lot of unhappiness gets into the lives of people who are injured. Another lady in my electorate could not get any help because she fell off her own settee.

Mr Hulls — She should have gone to see Peter Lockwood.

Mr ASHLEY — She would not get any help from Peter, either. She fell off her own settee and injured herself, and she could not get any help because it happened in her own house. Had it happened in a neighbour's house, she would have been okay.

The problem with this kind of culture is that it breeds a sense of humiliation and a sense of unfairness, so people want to pursue it to get something out of it. This has created what the Royal Australasian College of Physicians has said is a culture of seeking to get some advantage out of a system of compensation. The problem is that people do worse under compensation systems than they do on their own, and the reason for that is that they become dependent and they enter that vortex where even some of the courts seem to have an antisocial attitude in the way they give excessive benefits to people to the disadvantage of the community.

A few months later we have reached this point of dealing with it at the time that the federal government is coming up with a new response, which it hopes will be a national response to this whole issue. It plans to call it, probably, the Civil Liability Personal Injuries and Death Act. I trust that out of that we will get consistency as we come together to introduce a national uniformity of laws, instead of the mishmash we now have.

Mr BAILLIEU (Hawthorn) — 'Too little, too late' has been said of this Wrongs and Other Acts (Public Liability Insurance Reform) Bill. It is particularly late now so this will be very brief.

Insurance is difficult at the best of times for any government, but this government seems to have made it all but impossible in this state. The reality is that the issues are not over, and they are certainly not over for the tourism industry, the building industry, the construction industry and the professionals who service those industries.

I briefly endorse the remarks of the honourable member for Box Hill, who has so eloquently put the case for the amendments he has proposed and so well raised the issue back in March when he issued the paper *Public Liability — It's Time for Action*. It is only a shame that the government has not acted before.

Whether you are running a rugby club, a horseriding business, a fishing charter, swimming events — I have been involved in a number of those things — the issues are real and the expenses are dramatic. We have known about a lot of these issues for some time. The government has obviously been hamstrung by its relationship with its lawyer friends and we all know about that sort of ambulance chasing that goes on.

I mentioned the building industry. The government unfortunately believes it has resolved the insurance crisis in the building industry. That is not the case; there are still builders who cannot get insurance, whose capacity has been halved and whose premiums are subject to unprecedented conditions. Similarly plumbers had an issue, and the government had itself believing that that had been resolved. It has not been resolved, and there are still plumbers struggling with the transfer of their insurance. They are being subjected to the fact that their run-off cover on a transfer is not picked up and, equally, on the termination of their business, that the run-off cover is terminating as well under the new arrangements.

For professionals in the building industry, be they surveyors, engineers, architects or valuers, the professional indemnity insurance issues are very real at the moment and I urge the government to get on with it. The honourable members for Box Hill and Warrnambool have raised these issues already. I have had countless letters from building surveyors, engineers and architects, and I know from the architectural practice with which I am still associated that the premium rises have been extraordinary despite the continuing basis for many of these professionals where there are no claims histories. The reality is that the insurance issue is not over. The government has done far too little and acted far too late. It has a lot more to do with a lot of other industries that it has not even touched yet.

Mr WILSON (Bennettswood) — It is unfortunate that we are debating a major policy issue that impacts on so many businesses, professionals and individuals throughout Victoria at 2.15 a.m. In my very brief contribution I wish to place on record that I have had detailed representations from both the Australian Medical Association (AMA) and the Australian Dental Association (ADA). These submissions have been of value to the opposition and I have provided the same to the honourable member for Box Hill, the shadow Minister for Finance.

The AMA and the ADA have made representations to the opposition on the issues of expressions of regret, caps on damages, the discount rate, structural settlements, protection of volunteers and an effective threshold system, the statute of limitations, long-term care costs and, finally, professional negligence. At this late stage of the debate, and given the hour, I will not canvass these issues as both the AMA and the ADA have provided their submissions to the government and to the opposition alike, and I presume that those submissions were also forwarded to the National Party and the Independents.

I place on record the final concerns of the AMA as detailed in its submission to the opposition:

> The Wrongs and Other Acts (Public Liability Insurance Reform) Bill 2002 … does not reflect an adequate response by the government to the concerns of doctors practising medicine in Victoria …
>
> An extensive survey of Victorian doctors confirmed that the medical indemnity crisis is just as much an issue for Victorians as it is for the people of New South Wales. Of the 2000 Victorian doctors who responded to the survey conducted by AMA Victoria in August this year, 10 per cent said they would stop work altogether by 2003 and 40 per cent said that they would effectively withdraw from undertaking higher risk practice and procedures (e.g. obstetrics) by 2003.
>
> …
>
> The critical drivers of medical indemnity costs must be adequately and urgently addressed by the Victorian government. Unless there is significant strengthening of the provisions currently proposed in the Wrongs and Other Acts (Public Liability Insurance Reform) Bill 2002, uncertainty and escalation of medical indemnity premiums will continue and medical services will be lost, particularly in rural Victoria.

With that brief contribution, I urge the government to take heed of the warnings of both the Australian Medical Association Victoria and the Australian Dental Association, Victorian branch.

The ACTING SPEAKER (Mr Savage) — Order! As this bill is required to be passed by an absolute majority and there is not an absolute majority of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1

Mr SAVAGE (Mildura) — I move:

1. Clause 1, page 2, after line 6 insert —

> "( ) to limit claims for pain and suffering arising from personal injury to claims relating to serious injury; and
>
> ( ) to provide for proportionate liability in relation to certain actions involving negligence; and".

This limits claims for pain and suffering arising from personal injury to claims relating to serious injury and provides for proportionate liability in relation to certain actions involving negligence.

Mr LENDERS (Minister for Finance) — The government will not support this amendment. We certainly have no problem with the intention, but given the process that has been set up through the Ipp inquiry in the national area which deals with these things, we think this is too soon. In a few weeks time all governments will be discussing a considered position on this. We think it would be more appropriate for it to be dealt with then, so we do not support the amendment.

Amendment negatived.

Mr CLARK (Box Hill) — I move:

1. Clause 1, page 2, after line 24 insert —

> "( ) to provide for approval of operators of certain recreational activities and to limit the circumstances in which proceedings may be brought for compensation for death or injury arising from those recreational activities; and'

This amendment adds an additional purpose provision to reflect the proposals that we have put forward to prevent claims for minor injuries incurred by people undertaking recreational activities with approved operators. I canvassed the merits of these provisions during the second-reading debate, and I seek the committee's support for them.

Mr LENDERS (Minister for Finance) — Again the government cannot support these amendments. We understand where the opposition is coming from on this, but we think, firstly, that the issue of the threshold is one we cannot accept and, secondly, that the targeting of these amendments is not well done. We think the definition of 'recreational activity' in itself will cause more administrative angst to the insurance industry and more costs, so we cannot support these amendments either.

Mr CLARK (Box Hill) — Briefly in response to the Minister for Finance taking exception to the definition of recreational activities, the provisions in this scheme of amendments that the opposition is proposing are far more detailed than those adopted by the government in its waiver provisions. Our regime expressly provides for an explicit listing of the recreational activities to which the amendments apply and for that list to be added to.

We believe our set of amendments are targeted, comprehensive and fair in that they apply only to those activities which are recreational in nature and which are voluntarily undertaken. They extend only to minor injuries, whereas the government's waiver provisions allow operators of recreational activities to ask

participants to give up all their rights to claim. Furthermore our provisions apply only to those operators who have been approved and who have therefore demonstrated an ability to have proper risk management arrangements and to minimise accidents and injuries, whereas the government's waiver provisions have none of those protections.

Amendment negatived.

Mr SAVAGE (Mildura) — I move:

2. Clause 1, page 3, after line 2 insert —

"( ) to amend section 85 of the **Constitution Act 1975** to limit the jurisdiction of the Supreme Court in relation to certain matters under the **Wrongs Act 1958**; and".

This relates to an amendment to the Constitution Act 1975 to limit the jurisdiction of the Supreme Court.

Amendment negatived.

Mr HAERMEYER (Minister for Police and Emergency Services) — I move:

1. Clause 1, page 3, lines 7 to 15, omit all words and expressions on these lines and insert —

"( ) to amend the **Country Fire Authority Act 1958** —

(i) to allow the Country Fire Authority to make adjustments in respect of contributions made under section 80A of that Act; and

(ii) to enable information about fire insurance levies under that Act to be obtained from insurers and made available; and

( ) to amend the **Metropolitan Fire Brigades Act 1958** —

(i) to allow the Metropolitan Fire and Emergency Services Board to make adjustments in respect of contributions made under section 44A of that Act; and

(ii) to enable information about fire insurance levies under that Act to be obtained from insurers and made available.".

The Metropolitan Fire Brigade Act and the Country Fire Authority Act both provide the fire services with the power to collect funding contributions from local property owners or their intermediaries — that is, insurance brokers who obtain insurance from overseas.

These provisions mirror similar provisions which enable the fire services to collect funding contributions from local insurance companies. However, an anomaly has been identified which prohibits the fire services from adjusting contributions from overseas-insured property owners.

The amendment would allow the fire services to adjust the contributions from overseas-insured property owners in the same manner in which they can already adjust those collected from locally insured property owners. The amendment is designed to allow the fire services to repay property owners or their intermediaries who insure overseas if they make a contribution in excess of the required amount.

Failure to make this adjustment would allow a number of problems to arise. The first is equity in terms of enhancing the already emerging gap between the contribution rates for offshore and domestic insurance holders, which is difficult to justify in principle. Also the very high contribution rate for offshore insurance could ensure that some major corporations move back onshore for insurance to take advantage of the reduced contribution rate applying in the domestic insurance market, and hence that might reduce the overall level of fire service funding.

I think the amendment attempts to address the anomaly and the potential consequences of that anomaly.

Mr WELLS (Wantirna) — The opposition will not be opposing the amendment. We are disappointed that we were only given the amendments moments before the bill was debated. We thank the Minister for Police and Emergency Services for the effort that he took to ensure that the shadow Minister for Finance and I were briefed. It is a sincere thanks.

The reason we do not oppose the amendment is that it is obvious that we need to ensure that people paying the fire service levy who choose to insure with an offshore insurance company are paying the same rate as someone insuring with an onshore company.

This bill will give a refund power which will fix an inequity that has developed over the years, especially with the massive increase in premiums with the overseas insurance companies. It is for that reason we do not oppose the amendment.

The CHAIRMAN — Order! Before calling for voting on that amendment, I am required to ask the honourable member for Mildura to move his amendment.

Mr SAVAGE (Mildura) — I move:

3. Clause 1, page 3, line 15, omit "available." and insert "available; and".

Mr HULLS (Attorney-General) — The purpose of the amendment is to enable the honourable member for Mildura to move a further amendment in relation to advertising. In relation to that matter, firstly there is a Standing Committee of Attorneys-General (SCAG) that is looking at a national legal profession, including advertising and consistency of advertising around Australia. That is the first thing I would like to point out.

The Victorian context is totally different to that in states like New South Wales — particularly New South Wales. In Victoria solicitors advertising is subject to the practice rules of the Law Institute of Victoria, which as we all know is the recognised professional association for solicitors.

The rules state that a law firm can advertise but only if the advertising is not false, misleading or deceptive. Further, practitioners are not entitled to claim that they are specialists in an area of law unless they are actually accredited specialists. They need to go through a whole range of qualifications to become accredited specialists. To breach these advertising rules is professional misconduct, and law firms can be dealt with harshly for professional misconduct.

To go down this path of restricting advertising is, I say, unnecessary for a number of reasons: firstly, because of the stringent regime that already applies in Victoria, which is different from New South Wales; and secondly, because this matter has been referred to SCAG for it to have a look at in the context of the national legal profession. To go down this path now will simply entrench the market power, if you like, of those already substantial, well-known law firms to the detriment of smaller firms, in particular small country firms. We do not believe this amendment is appropriate.

Further to that, and I understand the honourable member does have some concerns about advertising of no win, no fee, it is true that the concept of no win, no fee — I am certainly in favour of no win, no fee work being done because it ensures that many people who would normally be disenfranchised can get access to our justice system — does not implicitly state that if a person loses their matter they could be liable for the legal costs of the other side.

The Law Institute of Victoria is introducing an amendment to its regulations that will ensure that in future advertising of no win, no fee will incorporate a statement that if a person were to lose their case or matter they could be liable for the legal costs of the other party. That would address the concern that I understand is going to be raised by the honourable member. On that basis, we oppose this amendment because we do not believe it is necessary. It has been dealt with in the national legal profession by SCAG, and indeed we believe it would certainly have the potential to entrench the market power of the larger firms to the detriment of the smaller firms. It is not warranted.

Mr Savage's amendment negatived; Mr Haermeyer's amendment agreed to.

The CHAIRMAN — Order! The honourable member for Mildura's amendment 4, which is consequential on his amendment 3, automatically fails. There is no need for the honourable member to take any action on it.

Amended clause agreed to.

Clause 2

Mr SAVAGE (Mildura) — I move:

5. Clause 2, after line 16 insert —

"( ) This Part and sections 7 and 20(1) are deemed to have come into operation on 31 August 2002.".

If these amendments were to be introduced they would commence on 31 August 2002, so it is retrospective to that date.

Amendment negatived.

Mr SAVAGE (Mildura) — I move:

6. Clause 2, line 17, omit "This Act (except sections 8 and 11" and insert "The remaining provisions of this Act (except sections 10 and 13".

It is a consequential amendment.

Amendment negatived.

The CHAIRMAN — Order! As amendment 6 has been lost, the honourable member for Mildura cannot move amendments 7 to 14, 16 or 19, which are consequential.

Clause agreed to; clauses 3 to 19 agreed to.

Clause 20

Mr SAVAGE (Mildura) — I move:

15. Clause 20, after line 34 insert —

"( ) The Commission may only exercise its powers under section 37 to request information in relation to insurance if the Commission is unable to obtain the information from another State regulatory body

or from a regulatory body of another State or Territory or of the Commonwealth."

I ask for a verbal amendment to that amendment. Where it says in the second line 'request' it should be 'require'.

This relates to the Essential Services Commission seeking information from other sources like the Australian Prudential Regulation Authority, and if it is unsuccessful then it will come back to the insurance industry, but it should use other areas first.

Mr LENDERS (Minister for Finance) — The government accepts this amendment.

Mr CLARK (Box Hill) — The opposition considers this a worthwhile amendment and supports it.

Amended amendment agreed to; amended clause agreed to; clauses 21 to 27 agreed to.

New clause AA

Mr HAERMEYER (Minister for Police and Emergency Services) — I move:

2. Insert the following new clause to follow clause 23 —

' "**AA.** ***Adjustment of contributions by owners and insurance intermediaries***

At the end of section 81 of the **Country Fire Authority Act 1958 insert** —

"(2) Despite anything in this Act, if the Authority is satisfied that, because of exceptional circumstances, the contribution to be paid by an insurance intermediary or the owner of a property calculated under section 80A exceeds an amount that the Authority determines to be equitable, the Authority may, at its absolute discretion, determine an amount of contribution for that insurance intermediary or owner that is less than the contribution calculated under section 80A.

(3) If a new amount of contribution is determined under sub-section (2), the Authority may —

(a) if the contribution under section 80A has not yet been paid, require the insurance intermediary or the owner to pay that new amount instead of the amount payable under section 80A; or

(b) if the contribution under section 80A has been paid to the Authority, refund to the insurance intermediary or owner the difference between the contribution paid under section 80A and the new amount.

(4) It is sufficient compliance with section 80A(3)(b) if an insurance intermediary or the owner of a property pays an amount required under sub-section (3) to be paid by that insurance intermediary or owner.".'.

It is consequential to the amendment that has already been carried, so it requires no further explanation.

New clause agreed to.

New clause BB

Mr HAERMEYER (Minister for Police and Emergency Services) — I move:

3. Insert the following new clause to follow clause 26 —

'"**BB.** ***Adjustment of contributions by owners and brokers***

At the end of section 45 of the **Metropolitan Fire Brigades Act 1958** insert —

"(2) Despite anything in this Act, if the Board is satisfied that, because of exceptional circumstances, the contribution to be paid by an insurance intermediary or the owner of a property calculated under section 44A exceeds an amount that the Board determines to be equitable, the Board may, at its absolute discretion, determine an amount of contribution for that insurance intermediary or owner that is less than the contribution calculated under section 44A.

(3) If a new amount of contribution is determined under sub-section (2), the Board may —

(a) if the contribution under section 44A has not yet been paid, require the insurance intermediary or the owner to pay that new amount instead of the amount payable under section 44A; or

(b) if the contribution under section 44A has been paid to the Board, refund to the insurance intermediary or owner the difference between the contribution paid under section 44A and the new amount.

(4) It is sufficient compliance with section 44A(3)(b) if an insurance intermediary or the owner of a property pays an amount required under sub-section (3) to be paid by that insurance intermediary or owner.".'.

In speaking to it I simply say ditto.

New clause agreed to.

New clauses A and B

Mr CLARK (Box Hill) — I move:

2. Insert the following new clauses to follow clause 11 —

'**A.** ***New Part X inserted***

Before the Schedule to the **Wrongs Act 1958 insert** —

'**PART X — RECREATIONAL ACTIVITIES PROTECTION**

Division 1 — Introductory

'**43.** ***Definitions***

(1) In this Part —

"**A.M.A. Guides**" means the American Medical Association's Guides to the Evaluation of Permanent Impairment (Fourth Edition) (other than Chapter 15) as modified by this Part and any regulations made under this Part;

"**approved recreational activity**", in relation to an Operator, means a recreational activity specified as an approved recreational activity in the Operator approval of that Operator;

"**damages**" include pecuniary and non-pecuniary damages;

"**injury**" means physical or mental injury;

"**Insurer**" means the person or body that is the public liability insurer of the Operator at the time the relevant recreational activity is conducted;

"**medical practitioner**" means a registered medical practitioner (within the meaning of the **Medical Practice Act 1994**) and, in relation to anything done for the purposes of this Part in a place outside Victoria, includes a medical practitioner who is lawfully qualified under a law in force in that place to do that thing;

"**medical** report" means —

(a) a statement in writing on medical matters concerning the person, made by a medical practitioner; and

(b) includes any document which the medical practitioner intends should be read with the statement, whether the document was in existence at the time the statement was made or was a document which he or she obtained or caused to be brought into existence subsequently;

"**Operator**" means a person approved as an Operator under Division 2;

"**Operator approval**" means an Operator approval granted to a person under Division 2 as that approval is in force from time to time;

"**participant**" means any person who takes part, or agrees to take part, in an approved recreational activity conducted or provided by or under the supervision of an Operator, whether or not the person provides any consideration to the Operator in exchange for his or her participation in the activity;

"**serious injury**" means —

(a) a serious long-term impairment or loss of a body function; or

(b) permanent serious disfigurement; or

(c) severe long-term mental or severe long-term behavioural disturbance of disorder; or

(d) loss of a foetus.

(2) In this Part a reference to a recreational activity includes a reference to —

(a) providing facilities for participation in or training for the recreational activity; or

(b) training a person to participate in the recreational activity or allowing a person to use facilities to undertake that training; or

(c) supervising, adjudicating, guiding or otherwise assisting a person's participation in a recreational activity.

44. ***Objects of the Part***

The objects of this Part are —

(a) to approve operators of recreational activities and to impose conditions on those approvals in order to improve the safety of participants in recreational activities; and

(b) to ensure that the costs of compensation for injuries arising out of or in the course of certain recreational activities are contained so as to minimise the burden on Victorian community organisations and businesses; and

(c) to reduce the social and economic costs to the Victorian community of compensation for injuries arising out of or in the course of certain recreational activities; and

(d) to entitle only those persons (or the dependants of those persons) who die or suffer significant injury or serious injury (within the meaning of Division 3) to bring proceedings for compensation for death or injury arising out of or in the course of their participation in certain recreational activities.

Division 2 — Recreational Activity Operators

45. ***Application for approval as an Operator***

(1) A person may apply to the Minister for an Operator approval for the conduct or provision of creational activities in Victoria.

(2) An application under sub-section (1) —

(a) must be in writing; and

(b) must describe the nature of the proposed recreational activities; and

(c) must be —

(i) in the prescribed form (if any); and

(ii) accompanied by the prescribed information (if any); and

(iii) accompanied by the prescribed fee (if any).

46. ***Approval as an Operator***

(1) If an application is made under section 45, the Minister may —

(a) grant the Operator approval; or

(b) refuse to grant the Operator approval.

(2) The Minister must notify the applicant in writing of the decision within 28 days after receiving an application under section 45.

(3) The Minister must specify in each Operator approval the Operator's approved recreational activities.

(4) In determining whether it is appropriate to grant a person an Operator approval or to specify a recreational activity in that approval, the Minister must have regard to the following matters —

(a) the nature of the proposed recreational activity offered, or proposed to be offered by the applicant; and

(b) whether the proposed recreational activity is an activity listed in Schedule 2 or a prescribed activity; and

(c) whether the proposed recreational activity involves inherent risk of injury to the participant including, but not limited to, a risk arising from —

(i) the forces of nature;

(ii) the behaviour of animals;

(iii) the terrain, location or environment in which the activity is to be conducted;

(iv) the physical ability of the participant;

(v) the equipment to be used by the participant;

(vi) the degree of physical contact or exertion involved; and

(d) the experience, training and qualifications of the person or persons who are to conduct or supervise the conduct of the proposed recreational activity on behalf of the applicant; and

(e) the risk management procedures which the applicant has in place, or proposes to put in place, in respect of the proposed recreational activity.

47. ***Conditions of Operator approval***

(1) An Operator approval is subject to the prescribed terms and conditions and to such terms and conditions as the Minister determines from time to time.

(2) Without limiting sub-section (1), the Minister may grant an Operator approval subject to a condition that the applicant obtains public liability insurance in respect of the approved recreational activities in an amount not less than the amount prescribed from time to time.

48. ***Operation of Operator approval***

(1) Subject to sub-section (2), an Operator approval takes effect on the date the approval is granted.

(2) An Operator approval —

(a) may take effect from a date after the approval is granted that is specified in the approval; and

(b) may specify that it is to only take effect after compliance with a condition precedent determined by the Minister, including a condition required under section 47(2).

(3) Subject to this Division an Operator approval remains in force for the period of 5 years following the granting of approval.

49. ***Application for variation of approval***

(1) An Operator may apply to the Minister to vary an Operator approval to —

(a) add one or more recreational activities to the Operator's approved recreational activities; or

(b) remove one or more recreational activities from the Operator's approved recreational activities; or

(c) otherwise vary the terms and conditions on which the Operator approval is granted.

(2) An application under sub-section (1) —

(a) must be in writing; and

(b) in the case of an application to add a recreational activity, must describe the nature of the proposed recreational activity; and

(c) must be —

(i) in the prescribed form (if any); and

(ii) accompanied by the prescribed information (if any); and

(iii) accompanied by the prescribed fee (if any).

50. ***Variation of approval***

(1) If an application is made by an Operator under section 49, the Minister may —

(a) vary the Operator approval; or

(b) refuse to vary the Operator approval.

(2) The Minister must notify the applicant in writing of the decision within 28 days after receiving an application under section 49.

(3) In determining whether it is appropriate to vary an Operator approval, the Minister must have regard to the matters set out in section 46(4).

(4) A variation of an Operator approval —

(a) takes effect when notice of the decision is given to the Operator or on any later date that may be specified in the notice; and

(b) continues to have effect for the term of the existing Operator approval under section 48(3), subject to any further variation under this section.

51. ***Revocation of approval***

(1) The Minister may revoke an Operator approval by notice in writing given to the Operator or by publication of the notice in the Government Gazette if —

(a) the Operator, by notice in writing given to the Minister, requests that the Operator approval be revoked; or

(b) the Operator has failed to comply with this Part or the regulations or with any terms or conditions to which the Operator approval is subject.

(2) The Minister must not revoke an Operator approval under sub-section (1)(b) unless —

(a) the Minister has given not less than 7 days' notice in writing to the Operator of the intention to revoke the Operator approval together with the reasons for that revocation; and

(b) has stated in the notice that the Operator may, within 7 days after receiving the notice, make a submission to the Minister.

52. ***Time revocation takes effect***

The revocation of an Operator approval takes effect from and including the day after the day on which —

(a) the notice of the revocation is given to the Operator; or

(b) the notice is published in the Government Gazette —

whichever is earlier.

Division 3 — Damages in Respect of Death or Significant or Serious Injury

53. ***Actions for damages***

(1) A person is not entitled to recover damages in any proceedings in respect of the injury or death of a participant arising out of or in the course of an approved recreational activity conducted or provided by or under the supervision of an Operator except in accordance with this Division.

(2) This Division does not apply where the participant participated in that recreational activity before the commencement of section 12 of the **Wrongs and Other Acts (Public Liability Insurance Reform) Act 2002.**

(3) This Division does not apply to proceedings for damages of a kind referred to in section 28C(2).

(4) For the avoidance of doubt it is hereby declared that all the provisions of this Division contain matters that are substantive law and are not procedural in nature.

54. ***Application to Insurer for determination***

(1) Subject to section 56(1) and (2), a participant may not bring proceedings in accordance with this Division unless a determination of the degree of impairment of the participant has been made under section 55(1).

(2) A participant may apply to the Insurer for a determination of the degree of impairment.

(3) An application under sub-section (2) —

(a) must be in writing in the prescribed form (if any); and

(b) must be accompanied by —

(i) a copy of all medical reports; and

(ii) affidavits attesting to such other material —

existing when the application is made and of which the participant or his or her legal representative is aware and on which the participant intends to rely, or the substance of which the participant intends to adduce in evidence, in proceedings in accordance with this Division or in any related proceedings.

55. ***Determination by Insurer***

(1) Subject to sub-section (3), the Insurer must make a determination of the degree of impairment of the participant as a result of the injury assessed in accordance with section 57 within 120 days of receiving an application for a determination from the participant under section 54.

(2) If the participant unreasonably refuses to comply with a request by the Insurer that the participant submit to a medical examination, to be paid for by the Insurer, or in any way hinders such an examination, the period between the date on which the participant so refused to comply, or hindered the examination, and the date of the examination must be disregarded in calculating the period of 120 days referred to in sub-sections (1), (4) and (6).

(3) Despite sub-section (1), if the application is received during the first 104 weeks after the injury, the Insurer may refuse to make a determination if the Insurer is not satisfied that the participant's injury has stabilised.

(4) The Insurer must, within 120 days of receiving the application, advise the participant in writing —

(a) of the determination; or

(b) of the refusal to make a determination under sub-section (3).

(5) The advice referred to in sub-section (4) must be accompanied by —

(a) a copy of all medical reports; and

(b) affidavits attesting to such other material —

existing when the advice is given and of which the Operator or the Insurer or the legal representative of either of them is aware and on which they intend to rely or the substance of which they intend to adduce in evidence in proceedings brought by the participant in accordance with this Division or in any related proceedings.

(6) If the Insurer fails to advise the participant in writing within 120 days of receiving the application —

(a) of the determination; or

(b) of the refusal to make the determination under sub-section (3) —

the participant is deemed to have suffered a significant injury.

(7) The participant, within 28 days after receiving the advice referred to in sub-sections (4) and (5), may give to the Insurer an affidavit attesting to such further material (whether or not existing before the participant made the application under section 54) in rebuttal of the material (other than medical reports) attested to in affidavits accompanying the advice.

(8) In proceedings in accordance with this Division, a medical report or other material is inadmissible in evidence —

(a) on behalf of the Insurer if —

(i) it was in existence, and the Operator or Insurer, or the legal representative of either of them, was aware of it, before the date by which the advice of the Insurer is required to be given under sub-sections (4) and (5); and

(ii) it had not been disclosed to the participant in accordance with sub-sections (4) and (5); or

(b) on behalf of the participant if —

(i) it was in existence, and the participant or the participant's legal representative was aware of it, before the expiration of 28 days after receiving the advice under sub-sections (4) and (5); and

(ii) it had not been disclosed to the other party in accordance with sub-section (7) or section 54(3).

(9) If the Insurer determines that the degree of impairment of the participant as a result of the injury assessed in accordance with section 57 is 15 per cent or more, the injury is deemed to be a significant injury within the meaning of this Part.

(10) If a participant makes an application for a determination under section 54 of the degree of impairment of the participant, the participant must not make a further application for such a determination unless it is the first application made after the Insurer has refused to make a determination in accordance with sub-section (3).

56. ***Entitlement to bring proceedings for damages***

(1) A participant may bring proceedings to recover damages in respect of an injury if the injury is deemed to be a significant injury in accordance with section 55(6) or section 55(9).

(2) If the Insurer has —

(a) advised the participant of its determination in accordance with section 55(1) and its determination is that the degree of impairment of the participant is less than 15 per cent; or

(b) advised the participant of its refusal to make a determination in accordance with section 55(3) —

the participant may not bring proceedings for the recovery of damages in respect of the injury unless —

(c) the Insurer —

(i) is satisfied that the injury is a serious injury; and

(ii) issues to the participant a certificate in writing consenting to the bringing of proceedings; or

(d) a court gives leave to bring the proceedings, on application of the participant.

(3) A copy of an application under sub-section (2)(d) must be served on the Insurer and on each person against whom the applicant claims to have a cause of action.

(4) A court must not give leave under sub-section (2)(d) unless it is satisfied that the injury is a significant injury or a serious injury.

(5) A dependant of a person may recover damages under Part III in respect of the death of a participant.

(6) A court must not, in relation to an award of damages in accordance with this section, order the payment of interest, and no interest shall be payable, on any amount of damages, other than damages referable to loss actually suffered before the date of the award, in respect of the period from the date of the death or injury to the participant in respect of whom the award is made to the date of the award.

(7) Except as provided by sub-section (6), nothing in that sub-section affects any other law relating to the payment of interest on any amount of damages, other than special damages.

57. ***Assessment of impairment***

(1) In this Division, a reference to the assessment of a degree of impairment in accordance with this section is a reference to an assessment —

(a) made in accordance with —

(i) the A.M.A. Guides; or

(ii) the methods prescribed for the purposes of this section —

and in accordance with operational guidelines (if any) as to the use of those Guides or methods issued by the Minister; and

(b) if the Minister has approved a training course in the application of those Guides or methods, made by a medical practitioner who has successfully completed such a training course.

(2) In assessing a degree of impairment under sub-section (1), regard must not be had to any psychiatric or psychological injury, impairment or symptoms arising as a consequence of, or secondary to, a physical injury.

(3) For the purposes of assessing the degree of psychiatric impairment, the A.M.A. Guides apply, subject to any regulations made for the purposes of this section, as if for Chapter 14 there were substituted the Clinical Guidelines to the Rating of Psychiatric Impairment prepared by the Medical Panel (Psychiatry) Melbourne, Victoria October 1997 and published in the Government Gazette.

(4) If methods are prescribed for the purposes of this Division and apply to a determination of impairment, the Assessor must make the determination in accordance with those methods rather than in accordance with the A.M.A. Guides.

58. ***Where no Insurer***

If there is no Insurer, this Division applies, with any necessary modification, as if the Operator were the Insurer.

Division 4 — General

59. ***Delegation***

The Minister may, by instrument, delegate to any person any function or power of the Minister under this Part, other than this power of delegation.

60. ***Regulations***

(1) The Governor in Council may make regulations for or with respect to prescribing —

(a) forms to be used for the purposes of this Part;

(b) fees for the purposes of this Part;

(c) the activities which may be specified as approved recreational activities;

(d) the terms and conditions which apply to Operator approvals granted under Division 2;

(e) any matter which is authorised or required to be prescribed for carrying out or giving effect to this Part.

(2) Without limiting sub-section (1), the regulations may —

(a) modify the A.M.A. Guides in their application under this Part; and

(b) fix the methods to be used for the purpose of determining the degree of impairment in respect of an injury.

(3) Regulations made under sub-section (2)(b) —

(a) must specify the methods to be used and any modifications of those methods that are to apply; and

(b) can only apply for the purpose of determining the degree of impairment of a person who suffers an injury on or after the date that the regulations are made or on or after a later date specified in the regulations.

(4) Regulations made under this Part —

(a) may be of general or of specifically limited application; and

(b) may differ according to differences in time, place or circumstance; and

(c) may apply, adopt or incorporate, with or without modification, any matter contained in

any document as existing at the time the regulation is made or at any time before the regulation is made; and

(d) may impose a penalty not exceeding 10 penalty units for any contravention of the regulations.'.

B. ***New Schedule 2 inserted***

After the Schedule to the **Wrongs Act 1958 insert** —

"**SCHEDULE 2**"

Recreational Activities

Section 46(3)

For the purposes of section 46(3), activities which may be specified as approved recreational activities include, but are not limited to —

(a) abseiling;

(b) canoeing and kayaking;

(c) cattle drives and musters;

(d) fishing;

(e) four wheel drive tours;

(f) hang gliding;

(g) hiking or bush walking;

(h) horse riding and horse trail riding;

(i) hot air balloon flights;

(j) light aeroplane and ultra light plane flights;

(k) mountain bike riding;

(l) rafting, including white water rafting;

(m) rock climbing, whether indoors or outdoors and whether on a natural or man-made surface;

(n) snow skiing, snowboarding, cross-country skiing and snowplay with the aid of toboggans, ski-bobs or inflatable devices;

(o) trail bike riding;

(p) sporting competitions and sporting activities;

(q) motor car racing, motor bike racing and motor boat racing;

(r) any activity designed to simulate any of the activities listed above and the environment in which that activity is usually conducted, for the purposes of teaching the skills necessary to undertake that activity.".

These are the substantive clauses that implement the regime on recreational activities to which I referred earlier, and I again commend them to the house.

Mr LENDERS (Minister for Finance) — For the reasons outlined before, the government does not support these amendments.

New clauses negatived.

Reported to house with amendments.

Report adopted.

Third reading

The SPEAKER — Order! As there are not 45 members present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr HULLS (Attorney-General).

ADJOURNMENT

Mr HULLS (Attorney-General) — I move:

That the house do now adjourn.

Brimbank: union fees

Mr McINTOSH (Kew) — I wish to raise with the Minister for Industrial Relations the issue of union bargaining fees. The action I seek is for the minister to intervene or to use his good offices in a specific problem that occurs in the City of Brimbank. I have been contacted by five employees of the City of Brimbank who are not members of any union; however, they have received a letter of demand from a firm of solicitors purporting to act on behalf of the Australian Services Union. As the minister is a current member of the ASU it would be very interesting if he could intervene on behalf of these five employees. They received this solicitor's letter demanding the sum of $500, apparently for the participation of the union in negotiating an enterprise bargaining agreement.

The most important thing is that these five employees are not members of the ASU — indeed, not members of any union. They do not want the ASU to act on their behalf, nor are they interested in having anything to do with the ASU. They do not even want the ASU to use their money and donate it to the Australian Labor Party, because the ASU is an affiliate of the ALP.

Honourable members interjecting.

Mr McINTOSH — This demand has no legal standing and all you people over there yelling at me are complicit in extortion. What the union is doing is trying to extort money from innocent people, disadvantaged

workers — and that is what you people talk about, doing the right thing. Do that and ensure that this sort of illegal activity, this sort of extortion, is prohibited. Indeed why do you not come out and publicly support — —

The DEPUTY SPEAKER — Order! The honourable member will address his comments through the Chair.

Mr McINTOSH — Deputy Speaker, I call upon the Minister for Industrial Relations to support the federal government in its efforts to introduce a bill to prohibit these thieves.

Dental services: Wangaratta

Mr JASPER (Murray Valley) — I raise a matter for the Minister for Health and in his absence the minister at the table. I wish to bring to the attention of the minister my concerns about the community dental clinic provided in the Rural City of Wangaratta. The house will be aware that services are being provided in country areas for people who are not in a position to get appropriate dental work done by practising dentists apart from visiting these clinics.

The dental service was originally operated by the Wangaratta District Base Hospital and prior to the last election there was a lot of controversy about it and many representations were made. I had some funding provided by the previous government which extended the service and there had been an indication that waiting lists would be reduced in country areas. However, with the change of government we saw a change in the provision of the dental service at Wangaratta, which was taken over by a Melbourne organisation. There is no doubt that there has been some improvement in the provision of this service and the waiting times are not as long as they had been in the past, but there is certainly concern about the continued waiting time for people seeking a range of dental services.

I have had brought to my attention cases of people who require services and are waiting for extended periods. We have seen extended times for dental work, with between 12 months and two years and beyond for specific work. The difficulty at present — and I took this up with the dentist who is operating the service at Wangaratta — is the shortage of dentists who work in country Victoria. So what we are seeing is a situation where although there is funding provision, there are no appropriate dentists in country Victoria. I believe that what the government needs to do is look at providing additional incentives for dentists to operate in country Victoria. The dentist at the Wangaratta service was keen to see some action on this additional incentive for more people to be trained as dentists, not only in Victoria but in all country areas.

If we can get additional services we will be able to reduce the waiting time for people who are crying out for this service. There is no doubt that there are specific people who do require the service and who are not in a position financially to pay for it. We need stronger support. I ask the minister what can be done to assist in providing additional services by having additional incentives for dentists to operate in country Victoria. There is a range of ways in which this can be done.

Consumer affairs: builders

Ms GILLETT (Werribee) — I raise a matter for the attention of the Minister for Consumer Affairs concerning some less-than-scrupulous builders who have been operating not just in the City of Werribee but across Victoria. These builders seem to have been operating in some shonky deals, offloading these onto consumers, particularly in my patch in Hoppers Crossing. I ask the minister to act to protect unsuspecting consumers against unscrupulous builders.

As the minister would be aware, Werribee is in a growth corridor — though it is well protected and nurtured by the metropolitan strategy announced today by the Minister for Planning. As such many members of my community are in a particularly vulnerable position when it comes to building new homes. They need the protection of a fine Minister for Consumer Affairs such as the one we have to make sure that people who are building homes in growth corridors are acutely aware of their rights and that builders are acutely aware of their responsibilities. It is terribly important that the minister take action in this area so that people can be protected in making the major investment of their lives.

I ask the minister if she will take immediate action to make sure that people in this vulnerable position are informed of their rights and responsibilities and that these shonky builders who are damaging vulnerable people are called to account.

Wombats: disease control

Mr McARTHUR (Monbulk) — I wish to raise an issue for the Minister for Environment and Conservation, who seems to be missing this evening. It relates to a serious wildlife problem in the Dandenongs, wombat mange. I do not know if any honourable members understand what mange is and what effect it

has on animals. Mange is caused by a parasite which burrows into the skin and causes ulcerations which in turn cause pus and scabs, and that can lead to blindness, starvation and the eventual death of the animal. Sadly this is left to wildlife volunteers to deal with. Recently when a wildlife volunteer in my area raised this issue the local media contacted the Department of Natural Resources and Environment. A spokeswoman said that the government had no role to play in dealing with mange in the local wildlife population. That is a disgraceful attitude to take, because the animals have an appallingly slow and painful death, and the government's hands-off attitude means that that is left for volunteers to deal with.

Those volunteers generally do not come into contact with the wombats until it is far too late to treat them, and that means they have to put them down. Putting down a wombat is a difficult matter if you do not have a firearms licence, which most of these volunteers do not. They have to catch the wombat, which is difficult — they are heavy and diseased and are covered in pus and scabs — and then they have to take them to a vet and ask the vet to put them down. The hands-off attitude of the government is simply not good enough. It is something the government must deal with, because it has responsibilities under the Prevention of Cruelty to Animals Act. I call on the minister to empower some officers in her department in the Dandenongs to deal with this issue and to treat and where necessary put down the animals suffering this dreadful disease.

Strathbogie: council structure

Ms ALLEN (Benalla) — I raise with the Minister for Local Government the very important issue of good governance for local councils. I want the minister to take action to ensure that the people of the Strathbogie shire can be assured of fair and equitable representation by their local councillors.

In 1996 when the previous government amalgamated shires around Victoria a very interesting little shire was set up in the north-east. As everyone in the Benalla electorate knows, it was set up to satisfy the ego of the previous member for Benalla — who just happened to be Deputy Premier and Leader of the National Party — so he could have his own shire to control. In accordance with his demands he was granted the Strathbogie shire. However, over the past six years the people of the Strathbogie shire have felt powerless to have their rights considered in council elections and decisions.

Council elections were stacked with tickets so that those existing councillors or candidates who wished to be elected to provide the people with good governance were guaranteed to lose. With the advent of the Bracks government's Local Government (Governance) Act the people of the Strathbogie shire mounted a concerted campaign to ensure that the people's wishes would not only be heard but listened to, and not only by me but also by the minister.

The communities of Strathbogie have campaigned long and hard for a better electoral structure for their council. I can remember having many meetings with concerned citizens from Euroa, Violet Town and Nagambie in my mobile offices in Nagambie and Euroa and empowering them to take ownership of their issue, encouraging them to organise well constructed campaigns to inform their fellow residents of the importance of changing the structure of the council so that all the towns get fair and strong representation and a councillor who will have the communities' best interests at heart.

Despite the current council's best efforts to go against the will of the people, the majority of people in the major townships — Nagambie, Euroa and Violet Town — who responded to the survey wanted single-member wards. The council's own consultant got it right when he wrote that the council would find it very hard to go against the people's overwhelming support for seven single-member wards. The performance of some of the Strathbogie councillors in this escapade underlines the importance of the reforms that the Bracks government wants to make to the Local Government Act. The government wants more transparent and open local government that responds to community desires, not ignores them. I ask the minister to take action to ensure this happens in the Strathbogie shire.

Electricity: wind farms

Ms DAVIES (Gippsland West) — I raise an issue for the attention of the Minister for Planning. I ask the minister to undertake further consultation and investigation of issues relevant to the establishment of wind farms along the coast. I do not believe yet that the government has adapted to the consequences of substantial new energy infrastructure being established not by government for community good but by private industry for private profit.

We need only witness the ongoing community trauma surrounding the Basslink project in South Gippsland, the Bassgas project in the Bass Coast and Cardinia shires and now wind farms right up and down the coast. A common feature of all those private projects is the absence of immediate local and community benefit to

those actually wearing the cost of the intrusion of these facilities into their landscapes.

Some of the issues which need to be explored include finding ways to establish a clearer community benefit for these new infrastructure projects; establishing a clear recognition in the wind farm guidelines of the requirements and objective of the Victorian coastal strategy, which is not there at present; recognising that large projects over 30 megawatts will have very significant impacts on communities and therefore require more direct community involvement by those communities and not less; ensuring that proper work is done to investigate suitable inland sites for wind farms; and encouraging and facilitating more significant landscape overlays in local planning schemes.

Each time I flick a power switch on I am acutely aware that this convenience is available to me at the expense of the amenity of those who live in the Latrobe Valley, very specifically. More broadly, we will all feel the negative impact of climate change brought about by unsustainable and unsound energy generation. However, it is very clear that there are unresolved issues around the generation of clean wind power which must be dealt with better. I ask the minister to demonstrate a genuine willingness to tackle this detail to a greater degree than has been shown so far.

Roads: black spot program

Mr HONEYWOOD (Warrandyte) — The issue I raise for investigation and action by the Minister for Transport relates to the discriminatory funding or lack of funding for black spot programs in the outer east, particularly on major roads. I need only point to Springvale Road in the electorate of Mitcham, where for $130 000 of proposed black spot funding supported by the local council and residents we could have had a major alleviation of the very difficult logjam effect of traffic going into and out of Springvale Road.

Mr Robinson interjected.

Mr HONEYWOOD — The honourable member for Mitcham, who interjects, should recall that Mr David Mayor received an email from him in which he claimed there was no more money because the black spot program had been fully spent. Yet what do we find? Instead of spending $130 000 on his constituents, the honourable member for Mitcham supported a $20.5 million underspend in the total black spot program in the past 12 months.

In addition, in my own electorate, whether it be Plymouth Road in Croydon Hills, which requires an amount of $140 000 to duplicate the laneways around two roundabouts, or whether it be Glenvale Road in North Ringwood, where we have had a traffic road safety audit done and the local council is pushing the Minister for Transport to inspect this dangerous road — I have made two speeches on the subject in Parliament — three years down the track the Minister for Transport will not do anything about alleviating those road safety issues.

Whether it be Wonga Road in Warranwood or whether it be Yarra Road in Croydon North, all of these projects were supported by local councils, each one of these projects was nominated as a high priority and every one of them missed out because this government prefers to string the outer east motorist along by saying, 'Don't you worry, we are going to build you the Eastern Freeway and the Scoresby freeway'. For three years the government has conned the outer east motorist into believing that real money would be spent on main roads in the outer east. Not a dollar has been spent, and in the meantime the outer east has missed out on black spot funding because of this discrimination.

Lynbrook primary school

Mr HOLDING (Springvale) — I wish to raise a matter for the Minister for Education and Training relating to the establishment of a primary school in the suburb of Lynbrook. I ask that the minister ensure that plans to develop a primary school at Lynbrook are progressed as urgently as possible.

The suburb of Lynbrook on the South Gippsland Highway in the City of Casey is growing rapidly. According to a survey conducted by the Lynbrook Schools Action Group, in April 2002 there were 336 children aged 0–12 years living in Lynbrook. Approximately 166 of these children were aged from 0–4 years and the number of those already attending primary school was about 170. These figures are already out of date as families are moving into Lynbrook very rapidly. In fact I understand that more than one family moves in every week.

According to the Urban and Regional Land Corporation, which is responsible for the Lynbrook development, a further 400 to 500 blocks of land will be released for sale in 2003. Australand will also commence development of land on the west side of the railway line, but in the catchment area for any proposed Lynbrook primary school. Essentially the case for the establishment of a primary school in that area is overwhelming. I have contacted the southern region of the Department of Education and Training and it has informed me that it is monitoring student numbers in Lynbrook in consultation with the City of Casey.

The advice I have received is that for approval to be given for the commencement of a primary school a demonstrated potential opening enrolment of 300 students is required. This is coupled with an annual student growth rate of 50 students, an actual held enrolment in the submission year of 200 students and an actual held enrolment in the planning year of 250 students. I have also written to the minister and apprised her of the acute need for the commencement of the approval and subsequent construction of a primary school at Lynbrook. I understand discussions have already commenced between the Department of Education and Training and the Urban and Regional Land Corporation regarding the purchase of suitable land for a primary school.

I congratulate Debbie Pike and the other members of Lynbrook Schools Action Group on the work they have done in identifying the need for a school amongst local families and advocating on their behalf. Lynbrook is an area that is very deprived in relation to infrastructure. It does not yet have a commercial zone or a shopping centre; it lacks a proper rail crossing, and this is being worked through with the Department of Infrastructure and the local council; and it even lacks a post box because Australia Post refuses to provide basic facilities and infrastructure for the community.

I ask that action be taken as soon as possible to progress this important project for all the families that have chosen to make Lynbrook their home.

York Road–Wray Crescent, Mount Evelyn: safety

Mrs FYFFE (Evelyn) — My request for action is directed to the Minister for Transport. It concerns Wray Crescent and its junction with York Road in Mount Evelyn. I received a letter from the minister on 1 August 2002 in response to my letter to him dated 27 August 2001 in which I wrote about community concerns regarding the intersection of Wray Crescent and York Road. I had also included a copy of a petition that I had tabled in Parliament.

In his letter the minister said that he apologised for the delay in responding to my letter of 27 August 2001. I am pleased about that because it took him 12 months to answer a simple letter.

He also said that he understood that the Shire of Yarra Ranges was reviewing a number of options to improve safety at the intersection of York Road and Wray Crescent and he expected the council to submit a suitable proposal for consideration by the government in future programs.

The Wray Crescent intersection with York Road is dangerous. The junction of the two roads is at quite a steep incline with heavy, continuous through traffic on York Road. Wray Crescent is a de facto main street of Mount Evelyn with shops and access to the Warburton trail. Where Wray Crescent comes into York Road there are service roads, again with shops and heavy traffic. The intersection is very dangerous with poor visibility, heavy traffic and a narrow roadway. The residents have called for traffic signal works and an extra lane in each direction of York Road. The council applied for black spot funding in the amount of $457 000, but the application was not successful. Traffic volumes on both roads are increasing daily and the situation is urgent.

I urge the Minister for Transport to take action before we have more accidents. There is a severe risk of fatalities. There is a roundabout at the top of York Road, only a few hundred metres from Wray Crescent and cars speed down there. The traffic is increasing and it is becoming more and more dangerous every day.

Housing: smoke alarms

Mr ROBINSON (Mitcham) — The matter I wish to raise for the attention of the Minister for Housing is a very serious issue which has been raised in this chamber on a number of occasions in the past few years. It relates to smoke alarms, in particular smoke alarms fitted with a strobe light for people with a hearing impairment. I am seeking an assurance from the Minister for Housing that strobe light appliances will be installed as a matter of course in public housing units occupied by tenants who suffer a hearing impairment.

My interest in this matter was raised some time ago by Mrs Simons of Blackburn who pointed out, as I think a number of Melbourne residents have pointed out to their local members, the inadequacy of standard smoke alarms for people who suffer hearing impairment. A significant hearing loss can mean that a person will not respond to an activated smoke alarm even when they are in close proximity to it.

A while ago I noticed an old *Herald Sun* article of 12 June 1999 which details the very real problem created in these circumstances. The article talked about a Frankston resident who died in a house fire. The individual's son said that an acute hearing problem had probably prevented his father from hearing the smoke alarm until it was too late — a very tragic situation.

Smoke alarms have been mandatory in this state for three years; I think that is the case right around the

country. However, there is a real need to ensure that we adopt best practice, particularly in public housing which is the state's responsibility.

In the time she has been in the position the Minister for Housing has done a wonderful job with public housing and there is a great deal of new resourcing going into that sector. I congratulate the minister for her work but call on her to ensure that we provide public housing tenants with smoke alarms and strobe lights where appropriate for tenants with hearing impairments. Further, I seek consideration of the development of a program which would allow for the subsidisation of the cost of smoke alarms with the strobe appliance for Victorians who are not public housing tenants. Such a program would allow the cost of installing those alarms to be reduced; it is somewhere in the vicinity of $250 at the moment.

Police: Brighton station

Ms ASHER (Brighton) — At the ridiculous hour of 10 past 3 in the morning, I ask the Minister for Police and Emergency Services to intervene to stop the Labor Party's unacceptable plan to close the Brighton police station.

I have obtained documents under freedom of information (FOI) which show there is a Department of Justice and Victoria Police feasibility study that has been put together by the Cox Group. The plan shows a mega police station to be built in Abbott Street, Sandringham, and, as part of that plan, the closure of the Brighton police station and the criminal investigation unit, also located in Brighton. Under the Labor Party's grand plan these two facilities will be relocated to Abbott Street, with a plan to sell the valuable Brighton land in Carpenter Street and Asling Street to part-fund this process.

As an outrageous sop to the Brighton community we are being offered a shopfront in either Bay Street or Church Street. A briefing note obtained under FOI shows that Commander Gasner from region 1 on 6 December 2001 notes that there will be no police response at all from this shopfront. This is unacceptable. The Brighton community at the moment has a 24-hour stand-alone police station, which we want. We do not want, when our homes are burgled, for police in Sandringham to be looking up streets in Brighton in the *Melway*.

In Brighton we pay tax, too. Indeed, on a median-value home in Brighton we pay $40 000 tax — we pay a huge amount of tax in Brighton. We want a basic level of service in our community. If the Labor Party is going to use the argument, 'The real estate is valuable, therefore we will sell it', that will therefore mean that this community will have no services at all. We demand a 24-hour stand-alone police station, which we have now, and we will fight to retain it. I went to the 1999 election on a platform — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The honourable member for Melton!

Ms ASHER — I have written to the Minister for Police and Emergency Services on 16 September and obtained no response. I might put on the public record that offences by postcode show that in 3186 — that is Brighton, for the members opposite — 1940 offences took place in 2001–02 and another 612 in 3187, which is Brighton East.

It is unacceptable for the Labor Party to seek to remove a basic and fundamental service from a community simply to flog off high-value real estate. I will fight for the retention of this police station and I ask the minister to give an assurance that Brighton will retain its police station.

Consumer affairs: clairvoyants

Ms BEATTIE (Tullamarine) — The matter I raise is for the Minister for Consumer Affairs. I ask her to investigate various scams that are going around, particularly as they relate to clairvoyants. At this late hour of the night I suppose we could all claim to be clairvoyants and say we are going to finish in half an hour or so.

These are very shrewd operators and they make all sorts of outrageous claims by mail promotion: that they can tip Tattslotto wins, bring good luck — no such good luck for the opposition, though — that they can feng shui cosmic breath, restore people's health to them, and tip big wins. I understand that search warrants have actually been issued. These people make lots of money from unfortunate people who perhaps are quite desperate to believe that somehow good luck is going to come upon them or good fortune is going to smile upon them. I understand that about $32 000 — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired. The time for raising matters on the adjournment has also expired.

Responses

Ms CAMPBELL (Minister for Consumer Affairs) — The matter raised by the honourable

member for Werribee related to builders that inappropriately preyed on consumers in this state. It is really important that through the service of Building Advice and Conciliation Victoria consumer affairs investigates any claims about inappropriate builders and their practices.

I want to let the honourable member for Werribee know that through Consumer Affairs Victoria a Guiseppe Spatari, of Hoppers Crossing, was recently fined $1500 without conviction in the Sunshine Magistrates Court. He was an owner builder who then sold his house. He failed to provide the purchasers with building warranty insurance and a certificate to prove that insurance cover existed, and he failed to set out the warranties implied in the contract. That is just one example of many where Building Advice and Conciliation Victoria has acted to protect consumers.

The honourable member for Tullamarine raised a matter relating to clairvoyants. Consumer Affairs Victoria has acted, and at this hour of the morning I would recommend that not only the honourable member for Tullamarine but others look at the Consumer Affairs Victoria web site to see the work that has been done on clairvoyants. After listening to consumers the government has acted and has retrieved around $10 000 for 824 consumers in Victoria who have been duped by clairvoyants.

I will pass on to the Minister for Planning the matter raised by the honourable member for Gippsland West about unresolved issues in relation to wind farms.

The honourable member for Warrandyte raised a matter for the Minister for Transport in relation to black spot funding in the east, and I will refer that to the minister.

The honourable member for Evelyn raised a matter for the Minister for Transport in relation to safety concerns at the Wray Crescent and York Road intersection, and I will pass that on.

I will also pass on to the Minister for Education Services a matter raised by the honourable member for Springvale about the establishment of a Lynbrook primary school.

The honourable member for Mitcham raised a matter for the Minister for Housing relating to public housing tenants who are hearing impaired and the need for them to have strobe smoke alarms.

The honourable member for Brighton raised a matter for the Minister for Police and Emergency Services about the Brighton police station, and I will refer that to him.

The honourable member for Kew raised a matter for the Minister for Industrial Relations that referred to the federal government, and I will pass that on.

The honourable member for Murray Valley raised a matter for the Minister for Health relating to community dental clinics around Wangaratta. I note that he congratulated the government on the fact that services have improved under its stewardship. Waiting times have decreased, but he wants more funding. I am sure the minister will listen attentively to his concerns.

The matter raised by the honourable member for Monbulk for the Minister for Environment and Conservation relating to mange in wildlife, particularly wombats, will be referred to the minister.

The honourable member for Benalla raised a matter for the Minister for Local Government in relation to the people of the Strathbogie shire requiring strong representation and good governance through a better structure of their wards. I will pass that on.

Motion agreed to.

House adjourned 3.18 a.m. (Wednesday).