

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

**LEGISLATIVE ASSEMBLY
FIFTY-FOURTH PARLIAMENT
FIRST SESSION**

**29 October 2002
(extract from Book 4)**

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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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. NAPHTHINE (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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Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maxfield, Mr Ian John	Narracan	ALP
Carli, Mr Carlo	Coburg	ALP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Clark, Mr Robert William	Box Hill	LP	Mulder, Mr Terence Wynn	Polwarth	LP
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Helper, Mr Jochen	Ripon	ALP	Seitz, Mr George	Keilor	ALP
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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

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Tuesday, 29 October 2002

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.03 p.m. and read the prayer.

The SPEAKER — Order! In view of the fact that the parliamentary leadership and a large number of members are attending the Bali memorial service and concert, the chair will be resumed at 3.00 p.m. for questions.

Sitting suspended 2.03 p.m. until 3.03 p.m.

PERSONAL EXPLANATION

The SPEAKER — Order! The Minister for Police and Emergency Services, on a personal explanation.

Honourable members interjecting.

Dr Napthine — He should resign!

The SPEAKER — Order! I ask the Minister for Police and Emergency Services to take his seat. Personal explanations are an important matter for the house. I ask the house to quieten down.

Dr Napthine — He still should resign!

The SPEAKER — Order! The honourable member for Portland!

Mr HAERMEYER (Minister for Police and Emergency Services) — I desire to make a personal explanation, Mr Speaker. In replying to the adjournment debate on Thursday, 17 October, I referred to a report in the *Heidelberger* of 28 February 1996 relating to the theft of a number of garden signs during an election campaign. In doing so I named Mr Matthew Guy in relation to this incident.

Honourable members interjecting.

The SPEAKER — Order! I have just indicated to the house the importance of personal explanations and asked for the house to remain silent.

Mr HAERMEYER — I accept Mr Guy's public assurances that he was not charged in relation to this incident and that the belief on which my remarks were based was false. I apologise to Mr Guy.

Honourable members interjecting.

The SPEAKER — Order! The house is now wasting its own time.

CONDOLENCES

John Thomas Wilton

The SPEAKER — I advise the house of the death of John Thomas Wilton, member of the Legislative Assembly for the electoral district of Broadmeadows from 1962 to 1985 and Deputy Speaker and Chairman of Committees from 1982 to 1985.

I ask honourable members to rise in their places as a mark of respect to the memory of the deceased.

Honourable members stood in their places.

The SPEAKER — I shall convey the message of sympathy from the house to the relatives of the late John Thomas Wilton.

QUESTIONS WITHOUT NOTICE

Minister for Police and Emergency Services: conduct

Mr DOYLE (Leader of the Opposition) — I refer the Premier to the grudging and unsatisfactory apology of the Minister for Police and Emergency Services, and I ask him the central question: does the government accept and support the doctrine of the separation of powers?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. The answer unreservedly is yes, I support the doctrine of the separation of powers — unlike the opposition, which has a policy of mandatory sentencing, which it has brought in. The government will continue to uphold the doctrine of the separation of powers.

Water: Melbourne restrictions

Ms GILLETT (Werribee) — Will the Premier advise the house what action the government is taking to ensure the conservation of Melbourne's water resources?

Mr BRACKS (Premier) — I thank the honourable member for her question. As of midnight on Friday, 1 November, stage 1 water restrictions will come into place in the Melbourne catchment area.

Melbourne's water storages are currently sitting at 54.2 per cent, which is not quite the trigger for the month of October, which is 52 per cent. But as we move into November the trigger increases to 54 per cent, and therefore unfortunately, but as a matter of

urgency, stage 1 water restrictions will come in at 12 midnight on 1 November. The water restrictions will apply predominantly and mostly to domestic household use and to such things as car washing, the watering of home gardens and the filling of swimming pools, which will not be enormously inconvenient to people but which are practical and sensible undertakings in ensuring that we have a sustainable water supply right through the summer period.

Melbourne will now join other regions around Victoria that are also on water restrictions and have been, in some cases, for some time.

Mr Ryan interjected.

Mr BRACKS — The Leader of the National Party has raised in this house in the past and with me personally the water restrictions in other country and regional areas. That is determined on a case-by-case basis, based on the catchment and water storages for that particular area or municipality. In this case it was appropriate that the trigger point be reached, because the government did not want to be in a position of doing anything other than that required by empirical evidence on a 20-year occurrence, which is what is happening now, on low-water storage areas.

I have every confidence that overwhelmingly Victorians and the people of Melbourne will comply with these water restrictions. I believe Victorians want to do the right thing and ensure that they play their part in ensuring we have a sustainable water supply system for the state.

These water restrictions are designed to get through a period such as this, which only occurs every 15 to 20 years, and I have every confidence that Victorians will get behind them. I urge Victorians if they have any doubt to contact their water retailers. Information will be placed in the papers by Melbourne Water and other water authorities to ensure that there is proper information going out to householders on what is required in these stage 1 restrictions.

Melbourne Wholesale Fruit and Vegetable Market

Mr RYAN (Leader of the National Party) — I refer to the Premier's answer to my question of two weeks ago, when he categorically ruled out privatising the Melbourne Wholesale Fruit and Vegetable Market. Given that since then his government has received a petition from 400 growers and traders operating at the market asking that it be privatised and that wholesalers have unanimously passed a motion of no confidence in

the board, will the Premier now give private enterprise a go and reconsider his position?

Mr BRACKS (Premier) — I thank the Leader of the National Party for his question. At least he stands for something: he stands for privatising a function which is currently in public ownership. At least he has the guts to admit that. As distinct from the Liberal Party, which stands for nothing and will not come clean on what its policies are. We in the government have a difference on this matter — we want to keep this in public ownership — but at least the National Party is prepared to say that it wants to privatise something. We know there is a philosophic difference. The answer to the question is no, we will not accept that petition and privatise the market.

Water: resource management

Mr HOWARD (Ballarat East) — Will the Minister for Environment and Conservation inform the house what action the government has taken to enhance the sustainability of Victoria's water resources?

Ms GARBUTT (Minister for Environment and Conservation) — I thank the honourable member for Ballarat East for his question and his commitment to proper water management. At least this side of the house knows that water is a precious and limited resource and knows how to value it properly — that is, not just in Melbourne, but right across the state. When we won government there had already been two years of drought and we found that the previous government had not a single idea on water management. It had no vision and it absolutely ignored regional Victoria by treating it like the toenails — cutting and slashing the departments that delivered services.

This government, however, has provided real leadership when it comes to water management. We have delivered vision and icon projects. I have to go no further than the Wimmera–Mallee pipeline as an example of a visionary project that will produce water for the environment, water for sustainable regional growth and great benefits for the farmers in that region — a great triple-bottom-line outcome. The only thing holding us back is the federal government's approach — that is, the Liberal and National parties federally that will not come to the party.

One of our priorities has been to improve our efficiency in using water. We have to get much smarter in the way we use it. We have a great raft of initiatives encouraging smarter water use, one being New Water, with the emphasis on recycled water. The government has set a target to increase recycling to 20 per cent of

Melbourne's treated effluent by 2010. When we came into office the previous government gifted us a great legacy of 1 per cent of water being recycled. We have set a vision of 20 per cent.

I was delighted to be able to announce and launch two projects last week which set in train the New Water policy. The \$3 million Sunbury–Melton pipeline shows great vision and determination. The pipeline will carry recycled water across the western area of Melbourne around Sunbury. It will open up new agricultural opportunities.

The other launch I did last week was delivering new water to the Sandhurst club development. It is using recycled water from the eastern treatment plant for both its golf courses and also for parks and gardens, including in the new, privately owned homes. We have also established a smart water fund, once again looking to the future and once again prioritising water efficiency. That will deliver \$4 million worth of innovative projects with an emphasis on recycling this year and another \$4 million next year.

Last Sunday I had the great pleasure of launching the report and the government's response on the development of a water resources strategy for Melbourne for the next 50 years. It is a long-term view which shows how we can provide water to Melbourne in a way that is sustainable and responsive to community needs and, of course, cost effective.

I could mention as well the Werribee Plains vision which we have put out and which has excited the entire western area of Melbourne, right through to Geelong. We announced that at the water summit — another great success of the Bracks government. It is setting out a vision for the sustainable development of that region for the next 30 to 50 years.

We are restoring flows to the Snowy and Murray rivers by saving water which is currently wasted, which currently evaporates or which currently seeps into sandy soil and which is impossible for anybody to use. We are saving that water with visionary innovative projects — whether it is at Normanville, at Tungamah at Woorinen or throughout the Goulburn system. The Bracks government has that commitment to using water properly, to managing it properly and, of course, to valuing it properly.

We would all remember the great farm dams debate that we had in this house, which we repeated and repeated — —

Mr Ryan — On a point of order, Mr Speaker, I refer to your directions about ministerial answers needing to be succinct.

The SPEAKER — Order! I ask the minister to conclude her answer.

Ms GARBUTT — The farm dams debate displayed for the whole world to see how the opposition was totally divided, did not know where it stood and had no position on proper water management or the environmental benefits of water. The Bracks government has shown leadership on water management. It has a great list of achievements and a great vision for the future.

Minister for Police and Emergency Services: conduct

Mr DOYLE (Leader of the Opposition) — I refer the Premier to his previous answer, and I further refer to the admission by the Minister for Police and Emergency Services that he obtained and used confidential police information in the house on 17 October to attack Matthew Guy, the endorsed Liberal candidate for Yan Yean. Will the Premier confirm to the house that in the obtaining and using of that confidential police information there was a breach of the privacy act and the Police Regulation Act, and will he advise the house what action he will take to deal with this breach of ministerial standards and abuse of the separation of powers?

Mr BRACKS (Premier) — First of all, I thank the minister for already apologising to Mr Guy in this house. Secondly, the matters which are raised by the Leader of the Opposition are being examined by the Ombudsman. Therefore, it is appropriate for me to wait for the Ombudsman's report.

Honourable members interjecting.

The SPEAKER — Order! I warn the honourable member for Caulfield.

Police: community safety

Ms BARKER (Oakleigh) — Will the Minister for Police and Emergency Services advise the house what initiatives the government has implemented to enhance community safety, including an increased police presence, and will he explain why they are necessary?

Mr HAERMAYER (Minister for Police and Emergency Services) — I thank the honourable member for her question. As the house is aware, this government committed to providing 800 police on the

front line in its first term of office. And, as the house is aware, we have delivered more than 800 police on the front line in our first term in office — we have done it eight months ahead of time.

Honourable members interjecting.

The SPEAKER — Order! I ask the opposition benches to quieten down, particularly the honourable members for Portland and Wantirna.

Mr HAERMEYER — But last week — —

Honourable members interjecting.

The SPEAKER — Order! I have just asked the opposition benches to quieten down. The Chair is having difficulty in hearing the minister, as I am sure are all members.

Mr HAERMEYER — Last week the opposition said it was going to commit to 1050 extra police. I was overcome by a sense of *deja vu*. I wondered why this was, and then I came across a document.

Honourable members interjecting.

The SPEAKER — Order! This clearly cannot be allowed to continue. I have asked the house to quieten down.

Mr HAERMEYER — I came across a document called *A Safer Victoria*, which was a policy upon which the previous Liberal government came to office. It said:

A coalition government will increase the number of police officers by over 1000 to 11 000, in its first term of office.

Honourable members interjecting.

The SPEAKER — Order! The Chair is having difficulty hearing the minister. I ask the house to desist.

Mr HAERMEYER — I say that again:

A coalition government will increase the number of police officers by over 1000 to 11 000, in its first term of office.

Dr Dean — On a point of order, Mr Speaker, I thank the minister for repeating the commitment of the Liberal Party to increase the number of police, but he is debating the question and is reading from a document that is entirely about opposition policy, not about the question he was asked.

The SPEAKER — Order! First of all, I once again ask the house to quieten down so that the Chair can hear what the minister is saying and so that the Chair can make a deliberation. I ask the Minister for Police

and Emergency Services to desist from debating the question. The requirement under sessional orders is for him to answer it.

Mr HAERMEYER — Public safety is about what you do, not what you promise. The opposition has promised this before. We promised 800; we delivered 800. The opposition promised 1000, and decimated our police force. Where were the 11 000? Police numbers went down to 9400 under that government. No wonder the Police Association says the Liberal Party lacks credibility; no wonder no-one believes it. It is about what you do, not what you say.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Wantirna sits in the unfortunate position of being near the Speaker. When he interjects in that vein it is impossible to hear the proceedings of the house. I ask him to desist.

The Minister for Police and Emergency Services has concluded his answer.

Minister for Police and Emergency Services: conduct

Mr COOPER (Mornington) — I refer to the public admission by the Minister for Police and Emergency Services that he knowingly used confidential information from police records in the house on 17 October when he attacked the endorsed Liberal Party candidate for Yan Yean, Matthew Guy, and I ask: will the minister confirm to the house that the information from Victoria Police records was obtained for him, following the minister's request, by his police liaison officer, Inspector Bill McKendry, who instructed one of his subordinates to access the records system, and will he advise the house whether this is the same Inspector Bill McKendry whom he appointed director of Crime Prevention Victoria, with a salary increase from that of an inspector to that of an assistant police commissioner, on the same day that he disclosed the confidential information on Mr Guy to the house?

Mr Batchelor — On a point of order, Honourable Speaker, I refer you to rulings by Speakers Edmunds, Coghill, Delzoppo and Andrianopoulos in dealing with questions to ministers, and in particular the requirement that a question is to seek information, not give information. I would put it to you — —

Honourable members interjecting.

The SPEAKER — Order! The honourable members for Berwick and Bennettswood, and the Leader of the Opposition!

Mr Seitz interjected.

The SPEAKER — Order! I warn the honourable member for Keilor.

Mr Batchelor — Honourable Speaker, I put it to you that the diatribe being put by the honourable member for Mornington breaches these guidelines in a number of areas. The honourable member for Mornington has sought to use question time to provide spurious information, not to ask a question, and in doing so he has attempted to ask multiple questions, again breaching the guidelines on questions without notice, where only one question is permitted to be asked on each occasion.

The SPEAKER — Order! I do not uphold the point of order raised by the Leader of the House, but I remind the house and the honourable member for Mornington that sessional orders also require, in addition to answers being succinct, that questions be succinct. I am of the view that the honourable member is not being succinct and that he should come to his question.

Mr COOPER — I got to a point when the point of order was taken, so I will repeat the last part of the question, with your indulgence.

The SPEAKER — Order! The honourable member, asking his question.

Mr COOPER — Mr Speaker, do I take it that you want the entire question asked again?

Honourable members interjecting.

Mr COOPER — I am sorry, Mr Speaker, I cannot hear you.

Mr Maxfield interjected.

The SPEAKER — Order! The honourable member for Narracan should desist!

The honourable member for Mornington, asking his question.

Mr COOPER — Will the minister confirm to the house that the information from Victoria Police records was obtained for him, following the minister's request, by his police liaison officer, Inspector Bill McKendry, instructing one of his subordinates to access the records system, and will he advise the house — —

Honourable members interjecting.

Mr Batchelor — On a point of order, Honourable Speaker, I refer to your previous ruling, where you asked the honourable member for Mornington to obey sessional orders, requiring that his question be succinct. He is merely using this as an opportunity to repeat his longwinded, bellicose and illogical question. I ask you to make the honourable member for Mornington abide by the sessional and standing orders and to point out that if he is going to ask a question, it must be succinct.

The SPEAKER — Order! I do not uphold the point of order; I am not of that opinion.

Mr COOPER — Will the minister confirm to the house that the information from Victoria Police records was obtained for him, following the minister's request, by his police liaison officer, Inspector Bill McKendry, instructing one of his subordinates to access the records system, and will he advise the house whether that is the same Inspector Bill McKendry whom the minister appointed as director of Crime Prevention Victoria, with a salary increase from that of an inspector to that of an assistant police commissioner, on the same day that the minister disclosed the confidential information to the house?

The SPEAKER — Order! The honourable member for Mornington is not being succinct now.

Mr HAERMEYER (Minister for Police and Emergency Services) — This is an absolutely sleazy innuendo made against a very decent police inspector. Inspector McKendry is a decent police officer with an unblemished police record. He has had commendations from chief commissioners of police and a distinguished career in Victoria Police. This is a sleazy allegation against a very respected police officer. If the honourable member for Mornington has a specific allegation to make, I suggest he make the allegation to the Ombudsman rather than run out an innuendo. This is absolutely disgraceful!

Mr Cooper — On a point of order, Mr Speaker, the Minister for Police and Emergency Services made no attempt to answer my question. I ask him to answer my question.

The SPEAKER — Order! There is no point of order.

Economy: performance

Mr ROBINSON (Mitcham) — Will the Treasurer inform the house of the latest independent assessment of the strength of Victoria's economy and advise

whether there are any threats to this continuing strength?

Mr BRUMBY (Treasurer) — I thank the honourable member for Mitcham for his question. A few weeks ago I was pleased to announce to this house that the strong financial management of the Bracks government had been recognised with the ratings agency Standard and Poor's reconfirming Victoria's AAA credit rating. The house will recall that at that time Standard and Poor's said publicly:

The net debt numbers are in a sensational position.

Triple-A is the rating we gave it. It is the best rating that we give out at Standard and Poor's, so we cannot really give it anything better than that.

I am delighted to advise the house that the American rating agency Moody's has today reconfirmed Victoria's AAA credit rating — it has now been reconfirmed on two occasions. Moody's went on to cite the state's strong financial performance, low debt levels and the support provided by an ample and diverse economic base. It went on to say:

The annual financing surpluses that the state has produced, which encompass both operating and capital spending, have allowed Victoria to continue to reduce its already modest debt levels. Surplus amounts accumulated in prior years have also been prudently set aside in a reserve for future capital spending.

Yesterday I released the annual financial report for Victoria which showed that for the year 2001–02 Victoria had an operating surplus of \$273 million, a cash surplus of \$1.3 billion and a GFS (government finance statistics) operating surplus of \$1.66 billion. There are nine government jurisdictions around Australia. Only one other, New South Wales, is able to claim a surplus on all three measures. The opposition, which hates good news, hates the AAA rating and hates the fact that we are the only jurisdiction apart from New South Wales with a surplus on all three measures.

I was also able to advise the Housing Industry Association this morning that Treasury has officially upgraded Victoria's economic growth for 2001–02 from 3.75 per cent to above 4 per cent, putting us in the strongest position in Australia.

We have also had endorsements. I will read another endorsement from —

Dr Dean interjected.

Mr BRUMBY — You are on your own, my friend. You are —

Honourable members interjecting.

Dr Dean — On a point of order, Mr Speaker, in relation to debating the question, I do not mind the sudden switch of the Treasurer to a cash-based process, and he may even wish to talk about the \$2.65 billion deficit he is predicting in the cash-based —

The SPEAKER — Order! The honourable member, on his point of order!

Dr Dean — But I would ask him not to debate the question.

The SPEAKER — Order! The honourable member is clearly not taking a point of order but attempting to make a point in debate. The minister should desist from addressing his remarks across the chamber and direct them, in the third person, through the Chair.

Mr BRUMBY — I think the shadow Treasurer was confusing the cash position with his own election promises! Saul Eslake of the ANZ bank said:

Victoria's economy has performed strongly over the past three years.

Victoria's economic growth has been well balanced across the major components of activity —

and he cites consumer spending, business investment, housing investment and international exports.

The one point I want to make in conclusion is that the Bracks government has a strong economy because it has been able to exercise responsible, prudent financial management. This stands in stark contrast to the promises of the opposition, which to date total more than \$3.5 billion.

Honourable members interjecting.

Dr Dean — On a point of order, Mr Speaker, the shadow — I mean the Treasurer; he may be the shadow pretty soon!

Honourable members interjecting.

Dr Dean — You agree? That's good!

Honourable members interjecting.

The SPEAKER — Order! I ask the government benches to quieten down, particularly the honourable member for Footscray.

Dr Dean — In relation to debating the question, Mr Speaker, I do not mind if the Treasurer wants to emphasise that because he has had no capital projects

he has got a lot of cash, but that does not mean he ought to then turn the debate back on the opposition. I ask you to ask him to stop debating the question.

The SPEAKER — Order! I ask the Treasurer to come back to answering the question and to conclude his answer.

Mr BRUMBY — As I was saying, if you want to get strong economic growth of the type that Saul Eslake has been talking about, you need responsible financial management. You will not maintain AAA credit ratings and responsible financial management if you add \$3.5 billion of unfunded promises to the budget bottom line.

Dr Dean — On a further point of order, Mr Speaker, not only is the Treasurer now re-debating the question, but the people upstairs know that the \$3 billion that he talks about is totally —

Honourable members interjecting.

The SPEAKER — Order! I will not continue to hear the honourable member for Berwick. He is clearly attempting to make a point in debate. The Treasurer, concluding his answer.

Mr BRUMBY — In the period since the honourable member for Malvern has been opposition leader, the opposition has racked up \$1.5 billion worth of commitments.

Honourable members interjecting.

The SPEAKER — Order! I have asked the Treasurer —

Honourable members interjecting.

Dr Dean — On a further point of order, Mr Speaker, as soon as you make it clear — and all can see it — that the Treasurer is debating the question, he continues to do it. His reference to \$3 billion is purely an attempt to talk about the opposition, and if he wanted to do that he would have to talk about the equivalent \$5 billion of Labor Party promises on his own costing.

Mr Batchelor — On the point of order, Honourable Speaker, the honourable member for Berwick has yet again — I think this is the third or fourth occasion — deliberately used a point of order in an attempt to prevent the Treasurer from talking about the threats that exist to the strength of this economy. Every time the Treasurer attempts to answer those the honourable member for Berwick takes a point of order.

What you will now see, presumably from the honourable member Doncaster, is a point of order arguing that the Treasurer is taking too long and should be required to be succinct. This is a coordinated and predictable response. It is an abuse of points of order, and it is designed to stop the truth coming out about the \$3 billion.

The SPEAKER — Order! I have heard sufficient on the point of order. As all honourable members know, standing orders allow for a point of order to be taken at any time during proceedings. That has always been the practice in this house, and as Speaker I have called honourable members accordingly. On this occasion the honourable member for Berwick rose again on a point of order but proceeded again to make a point in debate. I am growing increasingly weary of him continuing to do that.

On his point of order on debating the question, I ask the Treasurer to come back to answering the question and to conclude his answer.

Mr BRUMBY — I am attempting to bring my answer to a close, but every time I do so the honourable member for Berwick is out there like a jack-in-the-box!

The SPEAKER — Order! The Treasurer, addressing his remarks through the Chair.

Mr BRUMBY — Obviously under the Bracks government's financial policies there is sound financial management, with a continuing AAA credit rating. What we are seeing is a threat to that from the Leader of the Opposition, who has clocked up \$1.5 billion worth of commitments in just eight weeks.

Dr Dean — On a point of order, Mr Speaker, the standing orders are very clear. An honourable member cannot answer a question by engaging the opposition in debate when he has been asked in a question to give information, but that is exactly what this Treasurer is doing. He is getting stuck into the opposition when he should be giving information on the question he has been asked.

Mr BRUMBY — On the point of order, Mr Speaker, I had barely spent 3 minutes answering my question before there was a succession of deliberate, orchestrated and vexatious points of order taken by the honourable member for Berwick. I am answering the question. I have been asked a question — and I repeat the question I was asked —

The SPEAKER — Order! I will not permit the Treasurer to repeat the question.

Mr BRUMBY — I was asked whether there are any threats to Victoria's continuing economic strength. The fact of the matter is that I am answering the question. Today Moody's has reconfirmed the AAA credit rating for the Bracks government.

The SPEAKER — Order! The Treasurer is now debating the question, not speaking to the point of order.

Mr BRUMBY — I am attempting, and I am entitled, to answer the question asked of me. This is a deliberate orchestrated campaign by the opposition. I suggest to you, Honourable Speaker, that it is a clear breach of the standing orders, and I ask that you sit the honourable member down and restrict him from taking further points of order.

The SPEAKER — Order! I thank the Treasurer for his advice, but I will not take it.

In regard to the point of order raised by the honourable member for Berwick, I am not of the opinion that the Treasurer is debating the question.

Mr BRUMBY — Some \$1.5 billion — that is equivalent to \$21 million per day, \$147 million per week or more than \$600 million per month — has been committed by the Leader of the Opposition in the 72 days in which he has been leader.

Mr Perton — On a point of order, Mr Speaker, the minister is clearly debating the question. This is the performance that this minister enters into almost every week of sitting. In every other week of sitting, Mr Speaker, you have ruled that he is debating the question when he enters into this form of debate, and I ask you to bring him back to order.

The SPEAKER — Order! I do not uphold the point of order. However, even allowing for interruptions, this is now developing into a very long answer. The Treasurer, concluding his answer.

Mr BRUMBY — The fact of the matter is, as I said before, Victoria has a AAA credit rating today from Moody's, a AAA credit rating some weeks ago from Standard and Poor's, a surplus on all three accounts, the best performing economy in Australia, the lowest unemployment rate, the best rate of business investment and the strongest housing industry. This is a great record. The Bracks government has provided certainty and stability, but all that would be put at risk by the \$3.5 billion of unfunded promises made here by the Leader of the Opposition.

Police: confidential records

Mr DOYLE (Leader of the Opposition) — I refer the Premier to the public admission by the Minister for Police and Emergency Services that he obtained and knowingly used confidential information from police records in the house on 17 October when he attacked the endorsed Liberal candidate for Yan Yean, Mr Matthew Guy, and I ask the Premier: has he taken any action to determine whether any other minister or the staff of any other minister has obtained information or sought to obtain information on Mr Guy from confidential police records since 17 October?

Mr BRACKS (Premier) — As I mentioned before, this matter is being determined by the Ombudsman, and we will await the Ombudsman's inquiry.

Taxation: government initiatives

Mr STENSHOLT (Burwood) — Will the Treasurer advise the house what tax initiatives the government will be implementing to give tax certainty to Victoria's businesses and advise what other approaches to taxation the government has rejected?

Mr BRUMBY (Treasurer) — As I just advised the house, the Bracks government has had the AAA credit rating approved by both Moody's and Standard and Poor's and it has done that because it has provided responsible financial management, but as part of that it has been able to provide major tax relief within the context of prudent fiscal management. The government has provided certainty and stability to the business community so that business people in this state know where they stand in relation to tax and are able to make long-term investment decisions, and that is one of the reasons that Victoria has the strongest economy in Australia.

To date the Bracks government has committed to \$1 billion worth of tax cuts. It has taken Victoria from being the state with the highest number of taxes to being the state with the equal lowest number of taxes.

Labor has cut payroll tax from 5.75 per cent to 5.45 per cent — down to 5.35 per cent next year — and we have lifted the threshold to \$550 000. The government has abolished unquoted marketable securities duty. It has abolished duty on non-residential leases and it has increased the land tax threshold. Compared to the Kennett government Labor has provided \$1 billion worth of tax cuts. How many taxes did the former government abolish? It abolished \$1 million of taxes.

There is more in the government's tax policy. From 1 July next year the payroll tax rate will be reduced

from 5.45 per cent to 5.35 per cent. From 1 July 2004 the government will abolish mortgage duty at a cost to the budget of \$122 million. From 1 July 2005, in accordance with the agreement reached with the commonwealth, the government will be abolishing bank accounts debits tax.

The bottom line is that what Labor has provided is certainty and stability and that in turn has provided confidence which has meant more investment and more jobs for the Victorian economy. The fact is business needs certainty. It is no secret that some time in the next year there will be a state election.

Honourable members interjecting.

Mr BRUMBY — There will be — some time in the next year. Businesses do look at the policies of the opposition. To date, there are five separate opposition tax policies. We have the payroll tax policy —

The SPEAKER — Order! I ask the Treasurer to pause.

Dr Dean (to Mr Brumby) — Sit down and take your tablets!

On a point of order, Mr Speaker, we are about to embark upon another episode that has been created because a question has been asked which invites a minister to debate the issue. I know it is very hard for you, Mr Speaker — I can understand that. If a question is asked which invites a minister to debate an issue it is quite clear that the opposition will take points of order when that begins. That is beginning now and that is the object of this question. I ask you, Mr Speaker, to stop the Treasurer now, before we get into a series of points of order as he begins to talk about opposition policy, has a go at the opposition and breaks all rules on standing orders that clearly say questions are not for attacking the opposition, they are for giving information.

Mr Thwaites — On the point of order, Mr Speaker, the honourable member for Berwick has pre-empted the response of the Treasurer. The Treasurer has barely had an opportunity to commence his response. This is clearly a strategy on the part of the opposition to prevent the Treasurer from properly responding to the question. The question asked not only about tax policies generally but also more specifically about what policies have been rejected and why. These are matters central to government administration.

The SPEAKER — Order! I am not prepared to accept the point of order raised by the honourable member for Berwick. The question posed to the

Treasurer sought information about the actions of his government and what it has adopted or rejected in regard to certain financial policies. As long as the Treasurer confines his remarks to that question, I will continue to hear him.

Mr BRUMBY — As I said, Labor has provided certainty and stability and in turn that has led to confidence, record levels of investment and the lowest unemployment rate in Australia. That contrasts with the uncertainty that is evident throughout the business community because of the lack of clarity and the five different tax plans of the opposition. There is the payroll tax plan, the stamp duty plan which has been described as half baked —

Mr Perton — On a point of order, Mr Speaker, over recent months we have dealt with this sort of question time and again and on many occasions you have found that this minister has strayed into debating the question. In answering this form of question drafted within his office, the minister is entitled to answer the question in respect of his own administration and policies in his own department that have been rejected. But time and again you have ruled against this minister then trying to debate the opposition's position. The opposition is happy for him to make a ministerial statement and to have a debate during the course of the election campaign, but that is not the purpose of question time.

Mr Thwaites — On the point of order, Mr Speaker, the Treasurer had only just commenced responding to the question which related to a range of policies; not only those that have been adopted, but those that have been rejected. If policies are rejected because they are contradictory or inconsistent and are likely to undermine certainty then that is a relevant matter for the Treasurer to itemise in his response to the question.

The SPEAKER — Order! Essentially the honourable member for Doncaster has made the same point of order as that made by the honourable member for Berwick. I have just given the Treasurer instructions about how he should answer the question.

Mr BRUMBY — There is the not-prudent policy, the policy that is on all of the Liberal Party members' and candidates' web sites, and then of course there is the commitment —

The SPEAKER — Order! The Treasurer should desist and come back to answering the question.

Mr BRUMBY — The fact is that you need certainty and stability for businesses so they can plan ahead and invest. You cannot do that if you have five separate plans. You cannot do that if you are slippery in the way

you develop your policies and you are slippery in the way you present — —

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster should desist! The Treasurer should address his remarks through the Chair!

Mr BRUMBY — The government has been providing certainty and stability. The opposition has five separate tax plans. It is being slippery. It is cheating and deceiving voters, and the public deserves much better.

The SPEAKER — Order! The time for questions without notice has expired, and a minimum number of questions has been answered.

PETITION

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

Donvale: telecommunications antenna

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

The humble petition of the undersigned residents of Donvale and parents and friends of the Donvale Montessori Early Education Centre asks that the telecommunications antenna proposed to be installed by Hutchison Telecoms on the south-east corner of the main football ground at Donvale Reserve, Donvale, be not installed within Donvale Reserve, Donvale, for the reasons following.

This antenna to be installed by Hutchison Telecoms is planned for a light tower less than 20 metres behind residential homes. The antenna will point directly over these homes, a newly completed children's playground and a 150-student early education centre (2–5 years of age).

This has been planned without due local community input or consideration.

Despite reassurances from Hutchison Telecoms through their own scientific studies that radiation (called electromagnetic emissions) from the antenna is safe, clearly the independent scientific community is undecided as to the adverse effects of these emissions and their potential long-term harm to the human body. These concerns are also voiced in federal government papers.

Whilst these installations are generally unsightly especially within a public reserve, it is specifically the extra electromagnetic emissions produced from the antenna that residents and community are expected to live under 24 hours a day and their unknown effects that cause the most concern.

Your petitioners therefore pray that the state government support the members of the Donvale community and the Donvale Montessori Early Education Centre by taking all

steps to oppose and stop the installation of the telecommunications antenna within Donvale Reserve, Donvale.

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

By Mr PERTON (Doncaster) (166 signatures)

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 9

Ms GILLETT (Werribee) presented *Alert Digest No. 9 of 2002* on:

Child Employment Bill
Country Fire Authority (Volunteer Protection and Community Safety) Bill
Courts Legislation (Judicial Pensions) Bill
Crimes (Stalking and Family Violence) Bill
Dandenong Development Board Bill
Education and Training Legislation (Miscellaneous Amendments) Bill
Estate Agents and Sale of Land Acts (Amendment) Bill
Gas Industry (Residual Provisions) (Amendment) Bill
Health Legislation (Amendment) Bill
Highway Authority Protection Bill
Limitation of Actions (Amendment) Bill
Major Events (Crowd Management) Bill
Melbourne Cricket Ground (Amendment) Bill
Outworkers (Improved Protection) Bill
Pay-roll Tax (Maternity and Adoption Leave Exemption) Bill
Planning and Environment (Metropolitan Green Wedge Protection) Bill
Port Services (Amendment) Bill
Retail Leases Bill
Transport (Highway Rule) Bill
Transport (Taxi Driver Standards and Ombudsman) Bill
Victims of Crime Assistance (Miscellaneous Amendments) Bill

together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Agriculture Victoria Services Pty Ltd — Report for the year 2001–02

Ambulance Service Victoria — Metropolitan Region — Report for the year 2001–02

City West Water Limited — Report for the year 2001–02 (two papers)

Financial Management Act 1994 —

Reports from the Minister for Agriculture that he had received the 2001–02 annual reports of:

Dairy Food Safety Victoria

Phytogene Pty Ltd

Report from the Minister for Environment and Conservation that she had received the 2001–02 annual report of the Trust for Nature

Report from the Treasurer that he had not received the annual report for the year 2001–02 of Emergency Communications Victoria together with an explanation for the delay in tabling

Financial Management Act 1994 — Financial Report for the State of Victoria, incorporating the Quarterly Financial Report No. 4 for the Victorian Budget Sector for the year 2001–02 — Ordered to be printed

Intellectual Disability Review Panel — Report for the year 2001–02

Interpretation of Legislation Act 1984:

Notices under s 32(4)(a)(iii) in relation to the amendment of various standards incorporated in the Electricity Safety (Installations) Regulations 1999 and the Electricity Safety (Equipment) Regulations 1999

Legal Practice Board — Report for the year 2001–02

Mental Health Review Board — Report for the year 2001–02

Melbourne Parks and Waterways — Report for the period 1 July 2001 to 1 December 2001

Parks Victoria — Report for the year 2001–02 (two papers)

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

Casey Planning Scheme — No. C44

Glen Eira Planning Scheme — No. C16

Greater Dandenong Planning Scheme — No. C25

Greater Geelong Planning Scheme — Nos C1, C50

Horsham Planning Scheme — No. C14

Knox Planning Scheme — No. C25

Melton Planning Scheme — Nos C21, C31

Monash Planning Scheme — Nos C9, C15, C26

Swan Hill Planning Scheme — No. C10

Victoria Planning Provisions — No. VC16

Wangaratta Planning Scheme — No. C7

Yarra Ranges Planning Scheme — No. C21

Police Appeals Board — Report for the year 2001–02

Psychosurgery Review Board — Report for the year 2001–02

Public Advocate — Report of the Office for the year 2001–02 — Ordered to be printed

Public Record Office Victoria — Report for the year 2001–02

Queen Victoria Women's Centre Trust — Report for the year 2001–02

Rural Ambulance Victoria — Report for the year 2001–02 (two papers)

Rural Finance Act 1988 — Direction by the Treasurer to the Rural Finance Corporation to establish, operate and administer a scheme of assistance to person carrying on farming in Victoria who are affected by drought conditions

Rural Finance Corporation — Report for the year 2001–02

South Eastern Medical Complex Limited — Report for the year 2001–02

South East Water Limited — Report for the year 2001–02 (two papers)

Treasury Corporation of Victoria — Report for the year 2001–02 (two papers)

Victorian Casino and Gaming Authority — Report for the year 2001–02

Victorian Catchment Management Council — Report for the year 2001–02 (two papers)

Victorian Coastal Council — Report for the year 2001–02

Victorian Meat Authority — Report for the year 2001–02

Yarra Valley Water — Report for the year 2001–2002 (two papers)

Young Farmers' Finance Council — Report for the year 2001–02

Zoological Parks and Gardens — Report for the year 2001–02 (two papers).

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:

Accident Compensation (Amendment) Act 2001 — Section 34 on 28 October 2002 (*Gazette G43, 24 October 2002*)

Gaming Legislation (Amendment) Act 2002 — Section 54 on 24 October 2002 (*Gazette G43, 24 October 2002*).

ROYAL ASSENT

Messages read advising royal assent to:

22 October

Agriculture Legislation (Amendments and Repeals) Bill

Residential Tenancies (Amendment) Bill

Road Safety (Responsible Driving) Bill
Sports Event Ticketing (Fair Access) Bill
Utility Meters (Metrological Controls) Bill
Wrongs and Other Acts (Public Liability Insurance Reform) Bill

29 October

National Parks (Box-Ironbark and Other Parks) Bill

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Child Employment Bill
Country Fire Authority (Volunteer Protection and Community Safety) Bill
Courts Legislation (Judicial Pensions) Bill
Dandenong Development Board Bill
Education and Training Legislation (Miscellaneous Amendments) Bill
Estate Agents and Sale of Land Acts (Amendment) Bill
Gas Industry (Residual Provisions) (Amendment) Bill
Major Events (Crowd Management) Bill
Melbourne Cricket Ground (Amendment) Bill
Outworkers (Improved Protection) Bill
Pay-roll Tax (Maternity and Adoption Leave Exemption) Bill
Retail Leases Bill
Victims of Crime Assistance (Miscellaneous Amendments) Bill

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I 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, 31 October 2002:

Gas Industry (Residual Provisions) (Amendment) Bill
 Limitation of Actions (Amendment) Bill
 Transport (Highway Rule) Bill
 Planning and Environment (Metropolitan Green Wedge Protection) Bill
 Outworkers (Improved Protection) Bill
 Retail Leases Bill
 Estate Agents and Sale of Land Acts (Amendment) Bill
 Local Government (Update) Bill.

Briefly, this sets out the legislative program for this parliamentary week. It is eight bills, which is in line with the number of bills that the house has dealt with

over recent weeks. I expect that in that context we should be able to achieve normal standard hours during the course of this week.

Dr DEAN (Berwick) — Again the program is eight bills. I can assure you, Mr Speaker, that if the Kennett government had tried to put through eight bills in a week there would have been all hell to pay and the bills would have been talked out until 3 o'clock in the morning. I remember every single person in the opposition talking on a bill to make the debate go as long as they possibly could. I must say it is quite stunning to see the minister regularly bring in seven, eight or even nine bills, two of which he eventually has to drop.

The difference between the government and the opposition is that the opposition is not going to do that. We will do the best we can to ensure that the bills requiring debate are debated properly. We will try and cooperate and ensure that honourable members go home at appropriate times. It was good to hear the Leader of the House say that he hopes everything will be normal, because if it is normal we certainly will not be going to an election this year. Therefore, this is just an ordinary week and there is no hurry to get bills upstairs, downstairs or wherever, and we will proceed, do the proper thing, debate the bills we need to debate and get on with the job.

The opposition will do its best to ensure that the business program is achieved without late nights.

Mr MAUGHAN (Rodney) — Likewise the National Party will not be opposing the government's business program. We think it is a program that can be achieved. We welcome the comments from the Leader of the House that the house will be sitting normal working hours this week and that we can all get home in reasonable time on Thursday. The National Party does not oppose the government's business program.

Motion agreed to.

PERSONAL EXPLANATION

Mrs MADDIGAN (Essendon) — On 9 October in a speech on the Constitution (Parliamentary Reform) Bill I said that the honourable member for Mornington was involved in the Troughton Swier rort. I wish to correct the record: it was in fact the previous member for Brighton.

MEMBERS STATEMENTS

Preschools: funding

Mrs ELLIOTT (Mooroolbark) — The Bracks government's implementation of the group employer model in preschools denies choice and betrays the community fabric on which preschools were based and have since operated.

Despite a pre-election promise by this government to reduce the administrative burden on preschool voluntary committees of management, the workloads are as heavy as ever. It took this government until May this year to announce an initiative, which has turned out to be funding for a group employer model. However, the tender for this model was advertised only a few weeks ago and neighbouring preschool communities were given just a few weeks to organise themselves into a viable model. Furthermore, the minister revealed last week that those preschools that choose to stand alone without joining a group will not receive administrative funding support.

There must be clear and fair choices for preschools and all of them must be provided with the same opportunity to have paid support whether they join a group or remain stand-alone preschools.

I have received a letter from the Ride Avenue Preschool in Benalla which states about the group employer model:

We believe that the introduction of this model is unfair and discriminatory and lacks choices to preschools who wish to stand alone, but who also may require [administrative] assistance ...

This letter is representative of many.

The Liberal opposition believes in choice. The Labor government in general and the Minister for Community Services in particular do not and Victoria's preschools will be significantly disadvantaged as a result.

Drought: government assistance

Mr RYAN (Leader of the National Party) — I call upon the government to review the criteria which have been applied for those who wish to seek access to the funding available through the government's package for those suffering from the drought.

I make this plea to the government on behalf of all farming communities, those who are on farm as well as the many small businesses in the many locations around country Victoria that are caught in the grip of this terrible problem at present. That applies to the grains

industry, the dairying industry, and any other form of agribusiness presently conducted.

I understand that so far 196 applications have been lodged seeking finance, which can be up to \$20 000. I also understand that of the 36 that have been considered, 7 have been rejected and 29 have been accepted, and that the average payout is \$17 500. That is telling us that once people are actually through the gate and once approval has been granted in relation to the assistance offered under the package, the payments being made are very near the maximum that is allowed — namely, \$20 000.

Some relief ought to be granted to the farmers who are telling me, and who told me again last week in northern Victoria, that it is taking up to 6 hours to fill out these forms at a time when they are already under enormous stress. I ask the government to reconsider this situation because it is a cause of great grief and difficulty in our country communities at the present time.

Employment: Narracan

Mr MAXFIELD (Narracan) — I rise this afternoon to congratulate the Bracks government on delivering jobs in my electorate. Last week more than 400 jobs were announced by the Premier, a significant number of which are in my electorate. In fact some of the companies have already started employing staff. That is the Bracks government. The announcement was made on Tuesday last week and already there are companies employing staff, including Jindi Cheese, a \$1.7 million project with 24 jobs; Tarago River Cheese, a \$1.5 million project, 15 jobs; Pure Harvest in Drouin, \$1.5 million and 30 jobs; Reids Stockfeeds in Trafalgar, \$1.5 million and 9 jobs; Drypac in Warragul, almost \$1 million and 30 jobs; and Radfords Abattoirs in Warragul, \$390 000 and 37 jobs.

This support for the rural community as a result of the loss of timber jobs is greatly appreciated. Those timber workers who unfortunately will lose their jobs know there are jobs to go to. Additional support has been provided by the Bracks government for redundancy and employment support for those timber workers who lose their jobs. This is the Bracks government delivering to workers. After seven years of workers being thrown onto the scrap heap and neglected, the people who are losing their jobs know they have the security of the Bracks government which is committed to jobs and growing the community. At the end of this process there will be more jobs than there were at the start.

Preschools: Frankston

Ms McCALL (Frankston) — The electorate of Frankston boasts some excellent kindergartens and schools, and I commend them all to the chamber this afternoon. I wish to mention a couple by name: the Karingal Preschool, which recently built itself a new playground; and also Montague Park. But these preschools have had to deal with the problem that was mentioned by the honourable member for Mooroolbark. They recognise that they need extra administrative support; they are volunteer committees of management. However, they are fearful of the suggestion that joining a group is the only way they will be able to attain this administrative support.

This is an assumption that one size, one project and one idea will fit all. That is a dangerous assumption. It is equally the same assumption that all children will learn at the same rate, or that all adults will choose to walk at the same pace. This is not appropriate for preschools. They should be able to determine which group they choose to join or not join. They should be supported whether they decide to stand alone or join a group. I commend the stand made by those preschools who choose to stand alone and I congratulate the excellent work done by those preschools in the seat of Frankston.

Mitchell: community events

Mr HARDMAN (Seymour) — I rise to congratulate the many people involved in a full weekend of events that occurred across the Mitchell shire between 25 and 27 October. Two of those events were proudly supported by the Bracks government through the rural community leadership program and also the country Victorian tourism grants program: the Tastes of the Goulburn and the Festival of Arts in Mitchell. Both those inaugural events were successful. They attracted visitors to the area to taste the wonderful wines and foods produced by the Goulburn River catchment within the Seymour district. The arts activities brought to Seymour many people from around the area, and there were events held in Trawool, Seymour, Broadford and across the shire. The great talents of the local artists were on display.

They boosted tourism and also economic activity within the area. It was fantastic to see them complementing events that were already established, including the Victorian Wine Show, which is held in Seymour each year, and the arts activities that occur around the Old Post Office Gallery in Seymour, which promotes Australian artists.

So many people deserve our heartiest congratulations — the service clubs involved such as Lions, Apex, the agricultural society and the arts society. Well done.

Ambulance services: Red Cliffs and Irymple

Mr SAVAGE (Mildura) — I wish to place on record the forthcoming decision by Rural Ambulance Victoria to locate an ambulance station at either Red Cliffs or Irymple. I have publicly stated on a number of occasions that I think the location should be at Red Cliffs. This is a growing community and contrary to some of the figures being placed on the public record it is not a declining community. The school figures are up by 87 on 1999. If the location is put at Irymple it would preclude any future expansion for the Red Cliffs community and it would also deny residents an appropriate level of service.

I know that the Mildura station is under a fair amount of stress for code 1 backups, but if that is the case it should be looked at as a separate issue and the Red Cliffs community should not be denied a proper service for the future. This region also covers Nangiloc and Colignan, which is some distance away from Mildura, and there are 300 people working at Southcorp in Karadoc. You have to predict what the future might hold. There is also mineral sands activity at Wemen, and a new plant at Thurla. The region is growing at a fast rate and we need to look ahead and have some vision for an ambulance service at Red Cliffs and Irymple.

Try Youth South Yarra Kindergarten

Ms BURKE (Pahran) — The former Horace Petty kindergarten situated in the Pahran public housing estate in Malvern Road, South Yarra, was reopened by Try Youth and is now called Try Youth South Yarra Kindergarten. The kindergarten currently provides services to families who live in the housing estate in the surrounding area. The majority of the families in this area consist of recent immigrants and those of high needs and limited incomes. Try Youth Services has twice written to the Minister for Community Services for help with no answers so far.

Preschool is a crucial period for young children from both an emotional and educational standpoint. It also services families and links the children and families to additional services within the community. It is imperative that the children from a socially disadvantaged environment be given every opportunity to attend such programs through early intervention and that they are provided with a firm ground for the future.

I ask the minister to support this worthy cause. She visited the kindergarten earlier in the year and has seen the case at hand and surely can understand the need. The community has been giving funds privately to the kindergarten for some time now, but it needs government assistance. I ask the Minister for Community Services to support this worthy cause.

Blackburn community bank and Heatherdale Tennis Club

Mr ROBINSON (Mitcham) — Last week the ANZ bank announced a record profit in excess of \$2 billion. Amidst the backslapping of senior executives and large corporate shareholders many residents of Blackburn remain angry at the bank's betrayal of those residents. In August last year senior executives assured the Australian community that there would be no more branch closures, but at that very time the bank was preparing to close the branch in Blackburn and in five other locations in Melbourne, and it did that early this year. There has never been an explanation of this betrayal. The bank's chief executive officer, John McFarlane, remains a party to this deception by refusing to acknowledge the pain and hardship caused.

In total contrast the efforts of many Blackburn residents in seeking to develop a community bank at Blackburn South are commendable. In particular, I would like to congratulate Damian Ahearne at Blackburn Cellars and other staff on the work they are doing in getting pledges up, which now exceed \$500 000. A prospectus is planned for early 2003.

I would also like to congratulate the Heatherdale Tennis Club, which early this year had some success in accessing a Vichealth active recreation grant and is running a Health and Wellbeing — Try Tennis program. The club is working closely with the Mitcham community house on this project. The club has been an active contributor to the Mitcham community over the last 35 years and can call among its past members Wimbledon champion Pat Cash.

Preschools: Dromana

Mr DIXON (Dromana) — I wish to speak about the lack of support services for preschools in Victoria. Two good examples of that lack of support are in my electorate, both of which pertain to Dromana Preschool. At the moment there is an eight to nine-month wait for speech therapy services. If somebody could afford private speech therapy they would not have that wait, but it is very expensive.

In my electorate we have had four speech therapists in the past four years. Not only have we had that change in therapists, but there have been gaps in the services provided, with absolutely none of the continuity which is so important in that area. Early intervention through speech therapy in preschools is important, because these children are at a critical stage in their development. It saves a lot of heartache and cost later on in primary and secondary school if we can intervene with consistent and continuous speech therapy in the preschool years.

There is also a lack of integration aide assistance in preschools, an issue that was also raised by Dromana Preschool. Integration aides are accessible only in extreme cases. We in the Liberal Party believe that the requirements for accessing integration aides in preschools are far too extreme. Again, early intervention is the key, because it is going to save a lot of heartache and cost at the primary and secondary school level.

Schools: Burwood

Mr STENSHOLT (Burwood) — I commend the many marvellous volunteers who last weekend worked on the fetes, festivals, fairs and fundraisers in my area, including those of Our Lady's in Wattle Park, St Cecilia's in Camberwell South, the Rowen Street kindergarten in Glen Iris, St Stephen's in Surrey Hills and St Michael's in Bennettswood. In particular I commend the work done at the Wattle Park Primary School, which had its fete on Saturday. It was extremely well organised by one of the parents, Rhonda Bowen. There were 15 stalls, mainly selling food and wine, and 60 to 70 parents took part, organising and helping out. There were a couple of jazz bands, one provided by a music teacher, Kyan Robinson, and the other by a brother of one of the parents. There were the usual children's rides and entertainment, as well as a raffle, which I had the honour of drawing later in the evening.

I also had the great pleasure of helping out for a couple of hours on the drinks stall, working alongside Terry Ymer, one of the teachers at Camberwell High School. He was in the national IQ competition, and he was the one in the television studio audience with the highest score. He and I had great fun working there all day and talking to each other. It was a great layout, and there were fireworks to finish off. Unfortunately the rain came down just before the fireworks, but then it stopped and the fireworks went off. It was an excellent day, and the fete raised \$10 000 for the school.

GAS INDUSTRY (RESIDUAL PROVISIONS) (AMENDMENT) BILL

Second reading

Debate resumed from 10 October; motion of Mr BRUMBY (Minister for State and Regional Development).

Dr DEAN (Berwick) — This bill is part of the continuing rationalisation of the gas industry, about which the Labor opposition at the time screamed and yelled and jumped up and down, calling it ugly words like ‘privatisation’ and so forth! The interesting thing is that since it has been in government not only has Labor not changed anything in the legislation, but it has welcomed the process and embraced it and said what a wonderful thing it was. That very much shows the difference between rhetoric and substance when it comes to Mr Bracks’s Labor Party.

I am glad the Labor Party has embraced it because it has worked extremely well. There is no reason why the distributors of gas should not be in private ownership, with competition driving the whole process. Hopefully, as the process continues, there will be more competition and prices will be driven down further. I sometimes wonder whether the Labor Party does not understand that and therefore is confused, or whether it does understand it but, with its union backing, cannot come out and say so and has to say things it does not believe. It is a horrible position to be in.

Today during question time the Leader of the National Party asked the Premier whether the government will consider the privatisation of the Melbourne Wholesale Fruit and Vegetable Market as requested in a petition of 400 growers and traders. The Premier, of course, thinking immediately of the Construction, Forestry, Mining and Energy Union (CFMEU) and other unions said, ‘No, we could not possibly do that. We will not privatise anything. That would be a shocking thing to do’. As soon as the word ‘privatisation’ was said the government’s backbenchers laughed. That is sad. It suggests that while the ministers understand how privatisation has worked, the backbench does not.

If the backbenchers of the Labor Party laugh when it is suggested that private enterprise can do things they are effectively laughing at private enterprise, yet they do not seem to make the connection that 90 per cent of people who are employed in the state, the people whom they look after and want to protect, get their jobs in private enterprise. They are laughing at people who are applying for jobs and working so hard to get employment.

It is a very sad spin on things. You understand why the accounts nearly always get out of control when the Labor Party is in government, as they did under the Cain and Kirner governments and as they have now, because Labor governments are caught in this terrible compromise: they know they should be promoting private enterprise to increase employment and encouraging it to do things but they cannot run with it philosophically. Private enterprise gets the message and it says, ‘Well, if that is the way you feel about it, we will go somewhere else’. The Labor government is then left with employment problems and the public service starts to expand. I think it has expanded by another 6000 people in the last 12 months, and it has increased by 20 000 since the Labor government was elected. That is part of this terrible philosophic problem Labor governments are mixed up in.

It is true that it is much easier for the Liberal Party, because it makes a simple decision. It says, ‘Who is best to run what; what will increase employment the most; and what will be most efficient?’. We look at that and are not troubled by philosophical barriers, and we get on with the job — hence the gas privatisation which the government has accepted. When the Labor Party was in opposition some of the debates were extraordinary. The then opposition said how atrocious this was and that it would bring down the state. They asked, ‘Why on earth would you think of doing such a thing?’. Yet now the Labor Party is sunning itself in the warmth of the great success of the gas rationalisation.

This bill is part of the process. Gascor is effectively now simply a conduit between the producers, private enterprise, and the retailers, private enterprise. The options were part of the system and were required to be taken up pretty much at the government’s discretion by the retailers, but because it has now become simply a conduit the shares in Gascor will be distributed. Three shares will go to each of the three retailers, and that is appropriate. I am glad the government is continuing with the process.

One of the reasons the legislation is required is that after the Longford gas explosion there was to be litigation, and there is now litigation. Gascor is being joined as a third party and technically has liability, but it does not have any assets. It is not possible to disband a corporation of any sort, whether statutory or any other type, unless it is free of such liabilities. Therefore the legislation allows the Treasurer to nominate a body to take the place of Gascor in this litigation, which will enable Gascor to give shares to the distributors and to move on.

That is all very well, but there are a couple of things that we must ask the government to give us assurances on. I do so now and I hope these can be transmitted to the minister responsible, the Treasurer, because in his summing up I would like him to respond to these questions.

Firstly, the Liberal Party is agreeing with this legislation on the undertaking and understanding that the substitution of the nominated corporation in the litigation will not alter the balance of liabilities between the parties in the litigation. I do not want to see a judge angry, suggesting that the legislature, by imposing another body in litigation by way of legislation, has altered the rights of the parties to that litigation. I have been assured that it will not and that therefore all will be well.

Mr Robinson interjected.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Mitcham will have his call shortly. He should remain patient until then.

Mr Robinson interjected.

Dr DEAN — Where were you when intelligence was being given out?

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Berwick, without interjection across the table! The honourable member for Mitcham will please be quiet.

Dr DEAN — The last thing I want is members of the judicial system being able to say that the legislature has in any way interfered with it. I am proposing that this decision to change a party will mean that that will not happen. I am agreeing to it on that understanding — for the exact opposite reason put by the honourable member for Mitcham — to ensure that there is no breach of the principle of the separation of powers.

Secondly, we in the Liberal Party are agreeing to it on the undertaking and understanding that there will be no parties who are either owed money — to whom Gascor is liable — or have rights and benefits from Gascor that will be affected by this change and nomination.

It would be outrageous if we as a Parliament nominated a body to take over from Gascor and therefore Gascor was disbanded, only to find that there were parties who therefore missed out on their rights and liabilities. I am sure in my own heart that that is the case and I have been advised that it is the case, but I want the minister to say in the Parliament, if he would be so good, that

that is the case, and then everyone can feel happy about it.

With those two provisos the opposition believes this is the next step in the process of rationalisation of the gas industry. I am absolutely sure that when the Treasurer gives his summing up speech he will express his grateful thanks to and admiration of Jeff Kennett and the previous government for bringing in this process. I have no doubt that the minister is writing that into his speech right now because he would want to be fair when he gives his accolades for the rationalisation of the gas industry. I am sure he will thank the previous government for all the wonderful work it did.

Mr RYAN (Leader of the National Party) — Coincidence in life is a wonderful thing. A couple of weeks ago in question time I asked the Premier whether his government would agree to the privatisation of the Melbourne markets. He said that he had always dreamed as Premier of receiving a question of that order because it would enable him to give a single word by way of response. I asked that question and the answer was 'No'.

Today — this very day — in question time I asked the Premier whether, in light of the fact that his government had received a petition signed by about 400 people who are directly associated with the operation of the Melbourne markets requesting that the markets be privatised, he would give private enterprise a go and reconsider his response. There was a twofold response to that question today. The first was to pour scorn upon the concept of privatisation of the markets. The second was to reiterate his answer as being 'No'.

That position about which the Premier has been so absolutely adamant and which he has reiterated in the course of those two responses is in absolute and stark contrast to the bill now before the house. The legislation now under consideration contemplates the future of Gascor, which is a statutory entity that was established under the Gas Industry (Residual Provisions) Act 1994. The issue here is whether Gascor, which is a gas wholesaler, is to be transferred to the private enterprise operators in the gas system. In this instance, and to be completely contrasted with the position the Premier has so adamantly put over the Melbourne markets question, the government is not only contemplating the disposition of Gascor to the three private entities but, more particularly, has it under very active consideration. The purpose of the bill is to enable the government to have a free hand if and when it does determine that Gascor is to be transferred across to these enterprises, which as they would have it and

the government is apparently close to concluding would be best for the industry.

Here we have another example of why business at all levels in this state is confused about this government's philosophical commitment to business, big and small. The simple fact is that it has two contradictory positions. Coincidentally that has been highlighted by today's events, particularly in the context of the bill now under discussion.

The National Party does not oppose what is contemplated in the bill because, as I have already set out, it is largely a machinery measure that is practical in its terms — just as it would be practical to privatise the Melbourne markets in response to the request put to the government by 400 of the prime users of those facilities. Be that as it may, there are other elements of this discussion which are deserving of consideration.

There is reference in the second-reading speech to the events of 25 September 1998 at Longford. On that day tragedy struck. There was an explosion at the Longford gas plant and two terrific blokes, Peter Wilson and John Lowery, died. About a dozen others were injured, some of them seriously. In addition to those who were obviously injured many others at the plant who were not directly affected physically have suffered considerably as a result of that day's events.

Certainly that was one of the great tragedies for our region in Gippsland. I live in Sale, and I was in Sale when the explosion occurred. I was out near the site soon afterwards, and over the succeeding days, weeks and months I, like so many others, lived through the subsequent events — the respective funerals and the tragedy and grief associated with all that right through to the support for the community generally and then the recommissioning of the plant. That occurred only a few months ago.

I simply put on the record that 25 September 1998 was a pivotal day in history for Gippslanders, most particularly for those who were directly impacted on by the explosion. It is one that, by definition, will never be forgotten.

One of the other factors that arose from this tragic sequence of events was the immediate impact upon the Victorian populace at large. Residentially, in business and in all elements of our communities an enormous effect was felt through the interruption to gas supply. What that highlighted apart from anything else was that the state increasingly relies upon natural gas to enable it to function. The provision of natural gas is a core issue which underpins the very functions of this state.

That in turn leads me to a very important point regarding the gas industry, whatever might happen in the future in the case of the privatised structure. The National Party very strongly believes the current system of gas distribution must be extended across different parts of country Victoria. We announced in April this year at our annual conference in Shepparton that we would establish a separate fund to enable those extensions. I made the speech at the conference and made that commitment. Subsequently, I am pleased to say, the Liberal Party adopted a similar policy, and the government is contemplating getting involved in some shape or form. If natural gas is able to be extended to our communities, that will be a marvellous thing. It is the bottom line that I am interested in.

In the announcements I made last Thursday in Shepparton I again emphasised that from the perspective of the National Party this is an issue of crucial significance. I said, by way of releasing our policy leading into the next election, that we in the National Party believe it is appropriate to expand the operation of the Regional Infrastructure Development Fund to establish \$1 billion within that fund to be spent over the next four years in various infrastructure projects. I said at the time of the release that \$150 million of that money should be devoted to natural gas extensions. I set out in the course of our policy how we believe those extensions should be effected and the processes that ought properly to apply to enable that to happen.

Coincidentally, today I met with a group of councils which constitute the Regional Cities Group — the City of Ballarat, the City of Greater Bendigo, the City of Greater Geelong, the Greater Shepparton City Council, the Horsham Rural City Council, the Latrobe City Council, the Mildura Rural City Council, the Wangaratta Rural City Council, the Warrnambool City Council and the City of Wodonga. The National Party was given a very complete presentation by the Regional Cities Group, in the course of which it set out its aspirations for its centres and for country Victoria generally.

In that presentation it was put to us, as members of the National Party, that the Regional Cities Group was seeking \$1 billion over three years, with that money to be administered through the Regional Infrastructure Development Fund. As we said in the course of our subsequent commentary, there is a remarkable similarity between the position adopted by the National Party and that proposed by the Regional Cities Group. That comes as no surprise, because over the last three years as I have crisscrossed the state, regularly visiting a variety of centres across Victoria, the issue of the

provision of natural gas to Victoria's regional centres and smaller town communities has been absolutely pivotal in the arguments that have been put to me about the future benefits for rural and regional Victoria. So of course those arguments are reflected in the plan which I announced last Thursday.

I am also very pleased to say that in our discussions this morning it emerged that the National Party and the Regional Cities Group are also of one mind as to the importance of this issue, not only for the centres represented by the entities that were there today — because many of them already have natural gas available — but even more for the many other centres around those important areas of local government for which this issue is so critical.

I am pleased to say that once again the National Party is leading the way on a matter of utterly vital interest to the future infrastructure requirements of country Victoria. I commend Regional Cities Victoria — the 10 of them — for the enormous amount of work they have done in collating the requirements of their respective areas. I commend them also for making a presentation to all three parties leading into this next election which, as I have said before, is imminent. It is to the great credit of those councillors and the staff who were involved in today's presentation and who are otherwise involved on behalf of their respective centres that this tremendous amount of work has been done. What this has achieved is to bring a focus to the aspirations of those local government areas which encompass, we were told this morning, the interests of some 600 000 people throughout rural and regional Victoria.

I should also say that the discussion this morning with regard to gas was but one element of a wide-ranging debate and discussion between us as to the issues that we respectively feel are important to the future of rural and regional Victoria. Since this bill is about issues to do with gas per se, I have no intention of going into those other areas. Suffice to say, though, that I am delighted to see that the proposals of the Vic Nats on the extension of the natural gas system fit precisely and almost to a tee with the measures which have been proposed and adopted by Regional Cities Victoria. We had a chuckle about the fact that their \$1 billion is sought to be expended over three years, whereas we in the National Party, being our ever-modest selves in the management of money, have sought the use of the fund over four years.

I cannot let the moment pass without making reference to the comments contributed by the Treasurer last Thursday after I made the announcement about the National Party's proposed \$1 billion fund. The

Treasurer's commentary was rather interesting. He said in the first instance that the \$1 billion was not as much as the current Labor government had allocated to infrastructure funding in rural and regional Victoria over the previous three years.

I took that to be a criticism of the National Party for not asking for enough. I simply take this opportunity to assure the Treasurer that he needs to watch this space. There will be other announcements made which, just as the plan we have already proposed, will be the result of a lot of work, a lot of consultation and an appropriate degree of research. They will be well thought out and are intended to deliver bottom line outcomes of benefit to our rural and regional communities.

The other element of the commentary by the Treasurer which was of interest was its absolutely facile nature. In the course of the commitments he attributed to his government over the past three years he numbered some of those which honourable members know are largely urban myths. For example, he talked about the fast rail links project. This, as I am sure you know, Mr Acting Speaker, is the original \$810 million project which was to comprise \$260 million of private funding which never ever materialised, and now represents \$550 million of public funding out of which you have to take about \$50 million for the new trains to be delivered in accordance with the contract between the private provider and the previous government, thereby reducing the figure for public funds to about \$500 million.

All that is happening in a circumstance where, as honourable members know, this government has completely misled the communities of regional Victoria in Bendigo, Ballarat, Geelong and the Latrobe Valley. Those respective communities were asked what their aspirations would be on the delivery of fast rail. In each instance they said about 1 hour — except for Geelong, which was 45 minutes. To deliver that would cost \$1.75 billion. Of course, it was always impossible in terms of what this government was putting — and so it has turned out to be. Now the government is backing away from the original commitments on time, let alone service delivery. It is unfortunate in the extreme that once again country communities were misled.

The other day we had the unseemly sight of apparently the first sod in the fast rail project being turned by this government — when we are on the brink of an election. This is some sort of half-baked attempt to try to justify having started the project before the poll gets under way.

Mr Robinson interjected.

Mr RYAN — I hear the interjection by the honourable member for Mitcham who is still, like me, trying to get over the fact that the Melbourne Football Club has traded Shane Woewodin, an unbelievable thing to have done!

But moving right along with this bill, I think that was just one element of the urban myths which were again perpetrated by the Treasurer — he of the smoke and mirrors. In his release he talked about the \$96 million commitment for rail standardisation — another myth, nothing has happened. But I digress.

The fact is that the National Party has led the way in proposing very proper amounts of money which have been carefully allocated to necessary infrastructure development that in turn will be the key to a future wave of growth in rural and regional Victoria. I am proud of the way in which the National Party has undertaken the task of extensive consultation with all parts of the community beyond metropolitan Melbourne over the last three years and that the proposals encapsulated in the plan that I released last week are reflective of that process. The National Party does not oppose this bill.

Mr ROBINSON (Mitcham) — The Leader of the National Party in his contribution to the debate indicated clearly that this bill does not, in any of its provisions, deal with the actions of the Melbourne Football Club board in seeking to trade Brownlow medallist Shane Woewodin. It is just as well, I suppose, that the bill does not deal with that because if it did the chamber would be full of football lovers who would be appalled not only at what the Melbourne Football Club board has done — —

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member is drawing a long bow!

Mr ROBINSON — But also at what might happen to their champion players. Suffice it to say we are not dealing with that, we are dealing with the Gas Industry (Residual Provisions) (Amendment) Bill, on which there are only a modest number of honourable members here to hear my contribution.

This bill is largely procedural in nature. The privatisation of the gas industry which was commenced under the former government created a right of the government of the day to transfer Gascor as an entity to the gas retailers, Origin Energy, AGL and TXU, a right which could be exercised up until 31 December this year. However, in making arrangements for that option to be taken up, the government needed to be able to transfer Gascor to those entities free of any or all

liabilities associated with the Longford class action. Clause 3 gives a unique flavour to this bill by separating those liabilities from that which would be transferred to the gas retailers.

The bill is unique in the sense that it was made necessary, in its present form at least, by the Longford explosion of September 1998. I join with the Leader of the National Party in remembering that that was a terrible incident which cost the lives of Peter Wilson and John Lowery. After the events of 11 September and the recent Bali massacre, the loss of two lives in an industrial accident may seem trivial, but I am sure all of us would agree that these deaths were tragic because they were avoidable. The deaths happened at a processing plant which was sophisticated and which had state of the art equipment — or certainly should have — and fail-safe technology. While the state and the company can work together to rebuild a plant, they cannot rebuild the lives of those who died and they would struggle to rebuild the lives of those who were injured and who have found life difficult to deal with since that time.

I had the opportunity of sitting in on some of the proceedings of the royal commission that was established after the Longford incident. That royal commission commenced in late 1998 and sat for most of 1999. It was an extensive process, and there were at times hundreds of people in attendance. It was painfully obvious that it was an expensive proceeding for the different parties. More than a dozen parties were given leave to be represented at the commission, and it was a painful experience for many of them — not the least of which were the workers involved.

Many things came out of the royal commission, but for me the abiding impression was that the state at all times needs to retain a strong supervisory power. That is as apparent in the gas processing industry, which subsequent events around the country have demonstrated — as it is in, say, the insurance industry, the superannuation industry or the field of occupational health and safety. In all of those self-governance is proclaimed to be a step in the right direction, and in the majority of cases it is. But self-governance or self-regulation by itself is not enough; it can and often does fail.

It disappointed me that in his contribution the honourable member for Berwick, the shadow Treasurer, seemed to ignore the failings that self-regulation can demonstrate at times. He seemed to be suggesting that the more governments give the private sector to do instead of performing those duties themselves the better off we will all be. That is a

comment which needs to be heavily qualified. For example, in this state it is not so long ago that the former government passed over to HIH Insurance the right to operate the building warranty insurance system. I do not believe anyone would intelligently suggest today that HIH's management of building warranty insurance led to an improvement in that part of the building industry — quite the contrary. Similarly that is the experience of fishermen down at the port of Portland, who in recent months have been calling on the government to take over that entity, which the previous government privatised.

Those are examples of where, for a variety of reasons, the private sector has not been able to demonstrate better service delivery than the government. It demonstrates again that self-regulation and self-governance do not at all times protect consumers.

This is, as I said, a largely procedural bill which required to be put into the shape it is by the tragic events at Longford in 1998. It is incumbent on all of us to remember the hardship and tragedy of that particular event. The bill deserves the support of the house, but at the same time we should also seek to support those people who were so grievously affected by what was a dark day in Victoria's history.

Mr SPRY (Bellarine) — One of the biggest problems created by parliaments is the void between complex legislation and, to use a bit of legal jargon, the reasonable man's ability to actually understand it. When legislation or the bodies created by legislation become redundant we should remove them, and that is exactly what this piece of legislation does. We on this side of the house support the replacement of the now-redundant Gascor with a vehicle that will take responsibility for any liabilities which may have accrued to Gascor over time.

Gascor, the old Gas and Fuel Corporation, performed well throughout its history. It regulated the supply and distribution of manufactured gas and then natural gas — and somewhere in the middle, bottled gas. Gascor had a proud work force of thousands of loyal and committed employees.

But gas has not been universally available online throughout Victoria, and it probably never will be in remote areas, because it is too expensive to reticulate to those distant parts. The former coalition government, however, began to address the issue back in 1993 by allowing gas distributors and retailers to charge a greater figure than the uniform tariff to cover the distribution to marginal areas, provided consumers were prepared to pay the extra cost involved.

The honourable member for Murray Valley in his contribution to the debate on the Regional Development Victoria Bill a fortnight ago indicated that he was one of the first members of this place to take advantage of that particular legislation. We tried it in Bellarine, but initial estimates by Gascor, later TXU, the privatised gas company dealing in that area, said that the cost was simply too great.

Labor in one of the great pork-barrelling exercises of the decade, a practice it has now refined to an art form, said before the last election, 'We'll — meaning the taxpayers — pay the balance', a decision in isolation from the rest of Victoria which has come to haunt it as more and more marginal communities call for similar favours. By contrast, the Liberal Party when in government will go forward in a planned manner with eyes wide open, with a transparent formula and a fixed budget to cater for marginal communities where the need is justified — I repeat, where the need is justified.

In his contribution a few moments ago the Leader of the National Party committed his party to focusing on the same objective. In the meantime, some constituents in North Bellarine are, to put it mildly, dirty on the government. These are the people who live in streets which TXU will not service because the Labor government did not do its homework and did not allow enough money to service everybody in the areas of North Bellarine it was focusing on. Labor, before the 1999 election, said, 'We'll make \$1.5 million available and we'll turn on the gas in this area of North Bellarine within 12 months of the election of a Labor government'.

Labor's plans were badly costed, and it eventually paid \$1.75 million, nearly 20 per cent more than it originally anticipated, and it took not 12 months to turn the first gas on to the first consumers but two and a half years. However, still pockets of Portarlington, Indented Heads and St Leonards have missed out. These people are not impressed. If governments are to get involved in subsidising gas companies in order to make it possible to service marginal areas — I have no argument with that particular objective — it must be done in a logical and considered manner, and not lead to some people being disadvantaged as Labor has allowed to happen in parts of Bellarine.

Ms GARBUTT (Minister for Environment and Conservation) — I thank honourable members for their contributions. There is general agreement across the board that the bill be passed and that the residual provisions need to be taken out.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

LIMITATION OF ACTIONS (AMENDMENT) BILL

Second reading

**Debate resumed from 17 October; motion of
Mr THWAITES (Minister for Health).**

**Government amendments circulated by Ms GARBUTT
(Minister for Environment and Conservation) pursuant
to sessional orders.**

The ACTING SPEAKER (Mr Lupton) — Order!
As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of the opinion that the second reading of this bill requires to be passed by an absolute majority.

Mr WILSON (Bennettswood) — The bill before the house is interesting on at least two grounds. Firstly, I am interested that the Minister for Health has carriage of the bill, and my interest and surprise is shared by many, not least the medical profession. One would have thought that this legislation is the responsibility of the Minister for Finance or perhaps the Attorney-General. Secondly, the bill before the house is being rushed through the Parliament as the government prepares to scamper off to an early election. The bill has been thrown together in the dying days of the government because the issues were not adequately addressed in the Wrongs and Other Acts (Public Liability Insurance Reform) Bill, which passed this Parliament on 16 October and received royal assent on 22 October.

As the minister advised the house in his second-reading speech, the *Review of the Law of Negligence*, the report of a review chaired by the Honourable Justice Ipp, was recently presented to all governments in Australia — commonwealth, state and territory. This report makes a number of recommendations to address problems in relation to insurance and medical indemnity.

Governments across Australia are considering all these recommendations and we are advised that COAG — the Council of Australian Governments — will determine at its meeting in December whether national uniformity in this area is achievable. I should add that, given that this meeting will occur after the state

election, I look forward to a Doyle government contributing to this debate.

Australian governments are also considering a separate report prepared for the Australian Health Ministers Council by the Legal Process Reform Group chaired by Professor Marcia Neave. The Neave report, as it is known, proposes a variety of measures relating to medical indemnity cover, and this includes the desirability of establishing a scheme for catastrophic injuries.

One of the key areas dealt with in these reports relates to establishing a national uniform law regarding limitation periods that would apply to proceedings where damages are sought for personal injury. The government claims that one key recommendation warrants immediate action — namely, reform of the general limitation period for personal injury proceedings in Victoria. Currently the period is six years, and both reports — that is, the Ipp report and the Neave report — propose that the limitation period for these proceedings for legally competent adults should now be three years.

The bill before the house proposes that the limitation period be reduced from six years to three years, but only for adults who are not under a disability at the time when their cause of action accrues or is taken to have accrued. The government argues that the bill will assist insurers and medical defence organisations in the management of their claim portfolios. The government also argues that the bill should enable those organisations — that is, insurers and medical defence organisations — to recognise some of their potential liabilities more quickly and that it will therefore give these organisations a greater level of certainty about their capacity to meet their future financial liabilities and obligations.

The government has argued that the reduced time lag in the lodging of legal proceedings that are currently brought in years four, five and six will assist in the more cost-effective management of claims. The government's rationale is in response to the Ipp report, which gives four substantive reasons for reducing the time to bring an action.

The reasons are: firstly, as time goes by, relevant evidence is likely to be lost; secondly, it is unfair on a defendant or defendants to allow an action to be brought long after the circumstances that gave rise to it occurred; thirdly, it is desirable for people to be able to arrange their affairs and utilise their resources on the basis that claims can no longer be made against them

after a certain time; and fourthly, the public interest requires disputes to be settled as quickly as possible.

The minister's second-reading speech notes that these four objectives need to be balanced against the interests of plaintiffs. The Ipp report notes that plaintiffs need sufficient time to appreciate that they have legal claims that can be pursued, to investigate those claims and to commence proceedings.

The limitation period for personal injury claims that have accrued in relation to persons who are under a disability is not altered by the bill before the house: it will continue to be six years from the date on which a person ceases to be under a disability or dies. In the case of the contraction of a disease or disorder, the three years will run from the date on which the injured person knows that he or she has suffered personal injuries and that those injuries were caused by the act or omission of some person. The bill also preserves the ability of the courts to grant extensions of time in the circumstances set out in section 23 of the Limitation of Actions Act. I note also that the bill contains a section 85 statement.

The opposition has consulted the Victorian branch of the Australian Medical Association (AMA) about the amendments in the bill before the house. The AMA remains dissatisfied with the government's approach to this legal indemnity issue and broader public liability issues. In particular, the AMA has expressed concern about the limitation period in respect of, firstly, minors, secondly, others under a disability, and thirdly, the extension of time provisions.

With regard to the AMA's first concern, a minor is considered to be under a disability until he reaches 18 years of age. The limitation period under section 23 of the principal act is six years; therefore, a person may commence an action for a birth injury up to the age of 24.

With regard to the AMA's second concern, where a claimant is under a disability the cause of action accrues and time begins to run when the person ceases to be under a disability or dies, whichever is earlier. The AMA argues that section 23 of the principal act should be amended to allow a limitation period of six years for minors and others under a legal liability. With regard to the AMA's third concern, it seeks amendments to remove or at least minimise the judicial latitude allowing extensions of time.

The AMA has provided the opposition with a well-researched position paper on the bill before the

house. I will read into *Hansard* a couple of its crucial arguments:

Amendments reducing the limitation period for adults do not address the current concerns of AMA Victoria. The areas of concern relate to the limitation period in respect of minors and others under a disability and the extension of time provision as follows ...

The organisation goes on to detail its concerns. It also argues that:

The aim of limitations of actions reform is not to prevent worthy cases coming to court but to present them in a timely manner which allows insurers to make provision for and predict awards in today's dollars. This allows premiums to be more accurately defined.

AMA Victoria believes the amendments introduced by the Limitation of Actions (Amendment) Bill will not assist the MDOs. It will not address the unpredictable claims costs and will not provide certainty to meet future financial arrangements. For this to be achieved, AMA Victoria believes that amendments should be introduced to reduce the limitation period for minors and those under a disability to six years, and remove, or at least, minimise the judicial latitude allowing extensions of time.

I understand that amendments are to be moved in the name of the Minister for Workcover which deal with the issues pertaining to how this bill could impact on claims relating to the Transport Accident Commission and Workcover. My colleague the shadow Minister for Finance will deal with those matters in his contribution. With those brief comments, I advise that the opposition will not oppose the bill.

Mr RYAN (Leader of the National Party) — The National Party does not oppose the legislation, although I want to make some comments about its content. The general import of the bill is to foreshorten the current limitation period of six years, which applies to the institution of proceedings for personal injuries, to a period of three years. The bill has other elements, but I do not intend to go through them chapter and verse; its essence is to achieve that result.

This is another instance where the government has gone from doing absolutely nothing to almost absolutely everything without giving any valid reason to the public as to why it is doing it. It has given a reason inasmuch as it says that the measures in their various forms are intended to reduce premiums, but it has not given any reason in the sense that it can offer anything apart from hope that these measures will achieve the desired result.

One cannot help but contrast the provisions of this legislation with the commentary we have heard over a period of months from the Treasurer and the Attorney-General when they protested the fact of any changes being made at all. Their general point of view

was that the whole insurance issue was a scam being perpetrated upon communities by the insurance industry and therefore there needed to be concrete proof before the government would take any action which would alter the way in which people could pursue their rights.

I would love to have been at the cabinet table when this legislation came up for discussion — I freely confess I would love to be at the cabinet table anyway! Bearing in mind the position put by the Treasurer and the Attorney-General, it would have been an interesting discussion. Surely they must be hanging their heads in shame at the way in which the government has gone about its harum-scarum attempt to have a nibble here and a nibble there at legislative reform which it intends, and fervently hopes, is going to achieve delivery of lower premiums. To this day the government has not produced a skerrick of evidence which supports the basic contention that there will be a reduction in rates. The proof of the pudding will be in the eating!

I listened with interest to the excellent contribution of the honourable member for Bennettswood. He referred to the Australian Medical Association's submission to the opposition. I am somewhat concerned about and do not support the general principle of reducing to a period of six years the right of action for people under a disability or to those who are under age. It is easy to imagine a huge variety of circumstances where people under a disability — just to take that category — are not in a position to exercise their rights in the way that a six-year limitation period would recognise as being appropriate.

Similarly, for people under age there can be any one of lots of reasons why they would not be able to exercise their rights within the period of six years as referred to by the Australian Medical Association (AMA). Those reasons may have to do with people being in care; being in the hands of parents who simply do not know their rights; or having some form of injury which does not make itself apparent within the appropriate time. There may be any one of a number of reasons why the imposition of a six-year period, in the way the AMA suggests, may not be appropriate for those categories of people.

I accept entirely the comment by the AMA and the government that we need to establish a system which will take proper account of the rights of people who are genuinely and seriously injured. I spent many years pursuing those very issues on behalf of people caught in that unfortunate circumstance. However, to then say that two of the most disadvantaged groups in our community should have their rights curtailed in the way

that has been proposed by the AMA is a matter which we need to think carefully about before going down that road.

I contrast the propositions advanced in this legislation and the legislation that has already been passed at the behest of this government with the proposals outlined by the National Party in a bill we have circulated. I might say we have also provided that bill to the AMA, and I await with interest its comments on it. We have prepared what I believe to be a principled piece of legislation having application across the whole gamut of personal injuries claims. We drew up the legislation from the perspective of ignoring who would be paying, on a principled basis, putting aside the question of whether we were dealing with public liability actions, medical negligence claims or any other category of claim which might draw indemnity payments from a particular form of insurer. Rather our approach was to look at a set of basic principles and to prepare a bill which would be structured accordingly and would have application across the whole gamut of personal injuries claims.

In essence that legislation establishes a threshold of \$36 000; a cap of \$4.5 million; and makes a range of changes in how damages are calculated. Some of those amendments include the introduction of a discount rate of 6 per cent — I am conscious that the government has now included a discount rate of 5 per cent in its initial piece of legislation on this issue. We have also suggested the abolition of *Griffiths v. Kirkmeyer* damages on the basis that historically, at law, the abolition of any such right was said to represent a benefit to the defendant and we believe in this day and age, given the difficulties we are facing from a practical perspective, that this really ought to be looked at from the perspective of what is appropriate in the sense of awarding damages to an injured plaintiff. We concluded that *Griffiths v. Kirkmeyer* damages should not be awarded any longer. We recommended the abolition of interest payments. There were two or three other changes which we have proposed in the course of our legislation.

What the National Party did with that bill was to take it to the Insurance Council of Australia. I met with representatives of the ICA in Sydney in the first week of August. I did so in concert with the Honourable Roger Hallam in another place. We sat down with the ICA for an hour or more and went through the terms of the legislation. I invited the ICA to write to me, and it subsequently did. In the course of its letter where, at my invitation, it expressed a view regarding our proposals, it confirmed to me that our draft bill would, to use the

ICA's words, 'significantly reduce the cost of doing business'.

It is just that sort of commitment which I believe this government needs to get from the insurance industry before it continues further down the path on which it is now apparently bent. We need to get a realistic commitment from the insurers that the sorts of changes which are now being made by this and other forms of legislation will bring about the required result. Of course the risk is that if we do not get that undertaking from the insurance industry the benefits to be derived to the industry from the lessening of payments from initiatives such as this bill represents may well go straight through to the shareholders, if indeed there is a benefit there at all. However, what we want to achieve is that those benefits, if there are any there, will be passed on to the insured in the form of reduced premiums. That is the fundamental aim, and it is one to which this government has paid lip-service and which to this day it has simply failed to deliver upon.

I note also that amendments have been circulated by the government. This highlights again the sloppy nature of the way this legislation has been drafted on the run and brought into the house. I understand there is a deal of background music as to why this particular aspect of the legislation was not incorporated in the main bill that the house debated only a couple of weeks ago. Perhaps the government will be able to explain why we have two separate sets of legislation as opposed to what is essentially a fundamental aim being set out in the one piece of legislation.

The government might also explain how it got itself into the position where it has needed the assistance of the two opposition parties with a view to enabling this debate to occur so that this legislation can be passed into the upper house with a view to its passage as soon as possible. Of course the ultimate intent in all this is that with an election absolutely imminent and likely to be called within a week the government wants to try to scramble its way into a situation to say it has made further endeavours to deal with the insurance issues, this time particularly those relating to medical negligence claims.

So even though the government has been dragged, once again kicking and screaming, to this whole debate it is now bent upon the course represented by this bill. The National Party does not oppose it, albeit that it has some misgivings about its ultimate impact. We hope in the future that if further initiatives are to be undertaken by the government based around the Ipp report or otherwise, they will happen, particularly in a scenario where we can get some commonality of legislative

reform across Australia in a way that ensures we do not have forum shopping across state borders and also ensures that that most critical issue of concern is addressed — namely, that the most seriously injured persons in our community who suffer such injury because of the negligence of others are able to be compensated in a fair and reasonable manner to the extent to which our communities can afford in this day and age.

I might say that one of the aspects of attraction in the National Party's proposed legislation was that by establishing the threshold of \$36 000 that, we understand, would have removed something in the order of 70 per cent-plus of the claims currently being made, certainly in the public liability area, and I have no doubt would have had a similar impact in the sense of reducing the number of claims relating to medical negligence. Be that as it may, we have this bill before the house, and the National Party does not oppose it.

Mr VINEY (Frankston East) — This bill is a continuation and a further step in the government's program for addressing problems regarding the availability and affordability of public liability insurance across a range of areas, including medical indemnity cover.

The purpose of the bill is to modify the general limitation period that applies to the bringing of personal injury proceedings by adults who are legally competent. As has been mentioned in previous contributions to the debate, this has emerged in part from the report entitled *Review of the Law of Negligence*, presented to commonwealth, state and territory governments following the inquiry chaired by Justice Ipp. The report highlights the need for a review of the law of the limitation of actions.

In addition, governments are also considering a separate report prepared for the Australian Health Ministers Council by the Legal Process Reform Group, chaired by Professor Marcia Neave. The group's report proposes a range of measures to be taken to address problems regarding the availability and affordability of medical indemnity cover. Governments across Australia are considering each of those reports.

What has emerged from the reports so far is that a series of reforms of the limitation of actions legislation is required. What we have before the house today is the start of that process. The extensive recommendations relate to matters such as when a limitation period starts to operate, whether there should be an outside limit on when a personal injury claim can be brought, and what

kind of rules should apply in the case of children and impaired adults who are injured and have a right to sue.

These are complex areas of law and require some careful consideration, because it is essential that, in taking the action that is necessary to reduce the cost and impact of public liability insurance and medical indemnity insurance, people's individual rights are not damaged or affected.

The amendments before honourable members relate to one key element that can be acted upon at this stage. Both reports have proposed that the limitation period for legally competent adults should be three years for personal injury proceedings. Currently the general limitation period in Victoria for those proceedings is six years. The amendments propose to reduce that to three years to reflect the issues outlined in both the reports I have mentioned.

The proposed change is intended to assist insurers to have greater certainty in medical litigation matters. Medical defence organisations will also be assisted in the management of claims and claim costs if the proposed reforms are agreed to. The change in the limitation period will bring Victoria into line with a number of other jurisdictions, including New South Wales.

As I said, it is necessary to fully consider the impact of any law reform on persons who are under a legal disability, such as children and also adults who suffer from mental impairment or disabilities. Therefore the purpose of the bill is to reduce the limitation period to three years, but only for adults who are not under a disability when their cause of action accrues. A cause of action is generally considered to have accrued when a person suffers an injury, but in the case of latent diseases or disorders the cause of action accrues when the person first becomes aware of having suffered an injury — that is, when it manifests itself and when the person becomes aware that the injury has been caused by the act or omission of someone else.

The law regarding persons who are under a legal disability, including minors, will be reviewed in the context of the consideration of the full range of proposals outlined in the Ipp and Neave reports.

I listened to the contributions of members of the opposition and the National Party. I hope they will understand that making the proposed adjustments requires some careful consideration, in particular where it will affect minors or people who have a disability.

The bill does not change the law that applies to court-ordered extensions of time. A court will continue

to have the power under section 23A of the Limitation of Actions Act to grant an extension if it is just and reasonable to do so. The question of the court's power to grant extensions will be considered further in the context of the Ipp and Neave recommendations. This amendment will only apply prospectively — that is, to causes of action that accrue on or after commencement of the legislation — so there will be no retrospectivity in it. With those comments I commend the bill to the house.

Mr CLARK (Box Hill) — This bill is yet another inadequate step in the government's response to the public liability and professional indemnity insurance crisis. It makes minimalist amendments to the limitation period in response to one of the elements of Mr Justice Ipp's report, but it does not tackle the very difficult issues that need to be debated about whether, and if so how, limitation periods should apply to minors and others under a legal disability, and about the way in which the time under a limitation period is determined to run.

In his comprehensive response to this bill, which is the first he has handled as a shadow minister, my colleague the honourable member for Bennettswood dealt thoroughly with most of its key elements, and I do not wish to repeat what he said. But let me make the point that when this bill is combined with the Wrongs and Other Acts (Public Liability Insurance Reform) Bill, which passed through this house just a short time ago, it can be seen that the government has failed to tackle a number of vital areas in its response to the public liability and professional indemnity crisis.

The government has failed to adopt measures which the Liberal opposition has put forward, including protection for those people who voluntarily engage in a risky recreational activity with properly accredited operators and experience minor injuries. It has failed to take measures to make law firms that undertake cases on a no-win, no-fee basis responsible for ensuring that the other party's costs are paid if their client loses the case and is unable or unwilling to pay. The government has not tackled misleading no-win, no-fee advertisements. It has not reformed the insurance arrangements for businesses and community organisations operating on state government land so that they can obtain public liability cover jointly with the government. It has failed to provide practical and detailed risk management guidelines for businesses and community organisations. It has failed to assist the business and community peak bodies to establish pooled risk management and insurance arrangements.

For all those reasons, despite the government's bravado and bluster in claiming that it has been solved, the public liability crisis in Victoria is far from solved. Across the state voluntary organisations, professionals and others are feeling the pinch. Speedway operators, for example, are struggling to cope with the premium increases they are experiencing. Country football has been hit with massive premium increases. Bush walking associations are very fearful of the impact on them of their difficulty in obtaining public liability insurance.

I refer to groups such as steam rail enthusiasts. I am told that Steam Rail Victoria's public liability insurance premium has jumped from \$9000 to \$90 000; a group called R707 Operations has seen its insurance increase from \$1500 to \$60 000; and the Seymour Railway Heritage Centre's insurance premium has increased from \$8000 to around \$40 000. These organisations are largely, if not exclusively, volunteer operated, and they will find it difficult to keep operating under the burden of the public liability insurance premiums they are currently suffering.

It is appropriate that the Minister for Planning is in the house at the moment, because another sector that is finding it very difficult to cope with the insurance crisis is that of businesses associated with water treatment, and in particular airconditioning cooling tower treatment. I refer to the case of Tandex Chemicals, which wrote an urgent email to the Treasurer and to the Minister for Health on 30 September this year:

Tandex Chemicals ... is an industrial water treatment company that has operated in Australia for over 31 years. We have been actively involved with the Department of Human Services and AIRAH —

the Australian Institute of Refrigeration, Airconditioning and Heating —

in the development of the new Health (Legionella) Regulations 2001 and are a foundation member of the AIRAH special industry group for the development of a code of practice for water treatment companies.

We have been advised by our insurance company that we will not be invited to reapply when our existing public liability policy expires (30 September — today). This is despite being claim free for our 31-year history.

The company goes on to say that it has searched in vain over recent months for an insurance company to provide the cover, and it was alarmed to find that many other water treatment companies are in the same situation. It continues:

If this industry continues to operate on an uninsured basis this could result in a catastrophic situation for the code of practice, the new regulations and legionella control in general.

They conclude by saying:

As a small Victorian business employing 22 people and being one of many similar companies we feel we are the backbone of the code of practice and the industry generally. We need your leadership and action for our survival.

And it seems so far that they have been waiting in vain for that action.

Another sector that this bill is going to fail to help is that of building surveyors and engineers, and again it is hopefully an issue with which the Minister for Planning at the table is well familiar. I will refer to one letter that has been sent to the opposition. This person states:

I am a qualified civil engineer running my own business together with my wife since April 1995. This is our only source of income that we rely on to raise our family, pay our mortgage and meet our financial commitments.

During my practice I took all professional care towards my projects to ensure they always comply to the relevant and current Australian standards ...

This year as usual I filled my application to obtain a renewal for my professional indemnity insurance policy to comply with the building practitioners insurance ministerial order dated 16 May 1996 and the Building Act ... 1993.

The letter goes on to say the couple received a letter stating they would not be provided with a policy, that they were not the only ones facing this problem and that there was a dispute between insurance companies and the Building Control Commission over run-off cover. This business has not been able to obtain a —

The ACTING SPEAKER (Mr Kilgour) — Order! The level of conversation from the government benches is a little too high.

Mr CLARK — This is one of many businesses that are struggling. Another business has written to the opposition saying that it has contacted the Building Control Commission for advice and was informed legislation is pending in the Victorian Parliament which will address the contentious issues in existing legislation and in particular the follow-on provisions which the insurance industry is no longer willing to accept. This company says:

Registration renewal is required by 31 October. Beyond that date my business, and that of many others, will cease, and I am sure you will be aware of the consequences of this individually, and to the construction industry as a whole. A flow-on effect to the Victorian economy will be inevitable.

There are rumours circulating that the government is going to do something about this problem, but as of two days before these numerous policies expire there is nothing on the public record that says the government is

going to do anything to tackle the difficulties that building surveyors and engineers are facing, and certainly there is nothing in this bill that will have any significant effect on their difficulties.

In relation to the bill itself, the opposition has been fortunate to be provided with two detailed pieces of advice, one from the Law Institute of Victoria and one from the Australian Plaintiff Lawyers Association (APLA). The Law Institute of Victoria has given us a copy of the letter it wrote to the Attorney-General saying it has serious reservations about the current proposals, their practical application and their likely unjust effect on personal injury plaintiffs, particularly with the transport accident and Workcover schemes. It says:

We understand that this bill was introduced separately rather than as an amendment to the Wrongs Act amendment bill after consultation with opposition members. We received notification of the bill shortly after its first reading and obtained a copy of it when it became publicly available on 17 October. Members have expressed grave concern that it was drafted without consultation with relevant stakeholders including the legal profession and the two statutory insurers, TAC and Workcover.

The letter then goes on to explain that the law institute has consulted widely with its members. I must say, Mr Acting Speaker, thank goodness this Parliament decided that the best way to handle this legislation was with a period of time for consultation and public input rather than just including it as amendments to the wrongs bill and blithely passing it through the upper house some time ago, because as a result of this public consultation some very serious difficulties have been exposed in relation to the application of the bill to the transport accident scheme and the Workcover scheme, leading to the amendments the minister has circulated.

As the law institute has explained, the essence of the problem is that under both of these statutory schemes it is important for the injury concerned to have stabilised in order to determine whether or not it constitutes a serious injury which gives rise to entitlement to bring common-law legal proceedings. As the law institute says:

In many cases, a claimant's injuries will not be substantially stable within the three-year period. TAC's own statistics say the average time for recognition of a serious injury and granting of the necessary certificate is five years post injury.

Even once the injury has 'substantially stabilised', the process of determining impairment can often take 8 to 12 months and even longer in some cases.

It goes on to say that the arguments that may be relevant in other instances, about recognising the existence of the liability, do not apply in the case of the

Transport Accident Commission, which the institute says is in a better position than most insurers to accurately assess the future risks and liabilities.

The law institute has highlighted that difficulty. Similarly, the Australian Plaintiff Lawyers Association wrote to me to say:

I advise that APLA was not consulted by the government and did not have the opportunity of making any submissions in relation to the bill.

APLA does have serious concerns about the effect this bill will have on the rights of transport and industrial accident victims.

As you are no doubt aware, victims of industrial or transport accidents cannot commence a common-law damages action until:

- (a) their injuries are stabilised; and
- (b) a determination has been made that they have sustained a 'serious injury'.

The stabilisation requirement often means that years can go by before the 'serious injury' question can be addressed.

So it is important that these very valid concerns about the Transport Accident Act and the workers compensation scheme are addressed.

As I said, the minister has now circulated amendments which, as far as members of the opposition have been able to ascertain since we saw them earlier this afternoon, totally exclude from the bill actions for damages for accidents under the various provisions of workers compensation regime and the Transport Accident Act, so that the act as in force before the commencement of the bill will continue to apply. One matter the minister might like to address when he moves the amendments is whether they will apply to all legal proceedings that may be brought under the relevant legislation or whether they will apply only to actions by injured persons. As the minister will be aware, there is potential for actions against third parties in relation to injuries that people have suffered and there is provision for the Workcover authority itself to bring actions to recover from a third party costs which the Workcover authority has incurred.

This is a particularly difficult issue, and it is one that needs to be addressed very carefully.

I refer by way of illustration to a case that is currently causing considerable difficulty to a small business couple based in Lakes Entrance. Mr and Mrs Semmens run the Silver Sands Tourist Park in Lakes Entrance, and in essence they engaged a second-year carpentry apprentice through Eastern Victoria Group Training.

The apprentice subsequently injured himself using a Stanley knife while scouring some wall panelling. He received compensation from the Victorian Workcover Authority (VWA) through the Workcover policy held by Eastern Victoria Group Training, but in July 2000 the legal firm Wisewoulds, which was acting for the VWA, commenced proceedings to recover \$30 715.55, the amount of compensation paid to the injured apprentice.

Since that time Workcover has also settled a common-law claim for a further \$100 000, which it had also been seeking to recover from Mr and Mrs Semmens, even though there has been no formal finding of negligence on their part. As of July this year, Mr and Mrs Semmens were being chased by Workcover for \$178 000, and the cost of their legal defence up to that point was \$50 000. In essence these small business people, who tried to do the right thing in taking on an apprentice through a group training scheme, have found themselves being sued by the VWA when they were under the impression from all the discussions they had prior to taking on the apprentice that the Workcover situation had been covered. They are just two of the people subject to a third-party action, and their position needs to be clearly understood.

When this issue was raised with him the Minister for Workcover responded by saying that he had asked the Victorian Workcover Authority to further examine its arrangements while maintaining the importance of ensuring that negligent third parties remain accountable for accidents that result in workplace injuries.

Similarly the Minister for Finance wrote to Mr Neil Coulson, the chief executive officer of the Victorian Employers Chamber of Commerce and Industry, on 17 January this year, saying:

I share your concerns about the potential for this matter to damage group training companies and their capacity to encourage host employers to offer positions to apprentices and trainees.

These third-party recovery actions against businesses such as that run by Mr and Mrs Semmens, who have taken on an apprentice under a group training scheme, give rise to very serious issues. It is important that these people do not continue to be exposed to this sort of detriment, because it is likely to cause considerable difficulties for the group training scheme.

This bill will not solve all these problems. It is one of the many aspects of the Workcover legislation, third-party recovery rights and the application of the statute of limitations in particular which the minister

needs to consider. I understand that he proposes to do that, assuming he remains the minister, but in the meantime it is important that he indicate to the house whether the amendments that he is proposing will deal with third-party actions under the Transport Accident Commission and Workcover schemes, including recovery actions, or whether they will only apply to actions by injured workers or motorists seeking to claim under those schemes.

Mr SAVAGE (Mildura) — I rise not to oppose the bill but to indicate that I have some concerns with its ability to address some of the critical problems facing medical insurance. I am not aware of whether I have to declare a pecuniary interest, but I do so in the event that I am liable. My wife is a practising medical practitioner and is affected by this insurance problem, which affects every general practitioner and obstetrician in the state.

I query why the Minister for Health rather than the Premier or the Minister for Finance has introduced this bill, but passing that I presume that this reduction in the statute of limitation period is going to have an impact on the cost of claims and therefore reduce the amount of medical liability that is currently facing us. The government has to be concerned, and I am sure that it is, with the level of medical negligence liability in this state.

According to an article in the *Australian Financial Review* last Friday indemnity costs for private hospitals have more than doubled this year to an average of \$40 million. The government self-insures, so it is not perhaps exposed to that type of cost, but the increased costs must be a significant concern for the government because if there are any liability claims the government has to find that money. For instance, the level of corporate insurance for a medical provider in my region has gone from \$2 million to \$8 million in one year. That horrendous increase is an indication of the crisis that is occurring in medical liability.

The main effect of reducing the limitation period is to reduce the period between an accident and the conclusion of any consequent legal action. In medical insurance, long tails are created by injuries to children. It is instructive that in regional and rural Victoria it is difficult to find a GP proceduralist in obstetrics. In Mildura there were approximately 10 GPs with diplomas of obstetrics, now there are no such GPs who are practising. A number of obstetricians have stopped practising altogether, but of course their insurance problem continues for some 25 years after they have finished practising because of the nature of the liability with children. I notice that this bill does not address the

issue of children and only talks of reducing the period from six years to three.

A recent Australian Medical Association survey of 453 rural medical practitioners indicates that the problem is going to worsen, with nearly 50 per cent of obstetricians reducing their risks in the next 12 months. I know that some have placed their houses in their wives' names to minimise their liability. In all it suggests that one in six surgeons will cease to practise next year and 40 per cent will reduce their level of risk.

Against this background we need to assess the level of adequacy of this bill. I cannot agree with the minister's view that the bill reflects another major step in the process of altering the law to deal with current problems regarding medical indemnity, for the bill does not reduce the limitation for minors and therefore does not address the real issue confronting obstetricians.

The long tail affects the cost of the premium because of the actuarial uncertainty, and most medical practitioners are going to face some significant costs just to go backwards, not forwards, in liability. The worry about having to be insured for 20 years after you have ceased to practise is something that is unacceptable.

Victoria's limited response to this problem is in stark contrast not only to the recommendations of the Ipp committee but also the relevant part of the Civil Liability Amendment (Personal Responsibility) Bill recently introduced into the New South Wales Parliament, which has addressed the problem in a way that is more meaningful.

I note the minister's reference to different approaches and reports, in particular those of the Ipp and Neave committees. I am aware of the criticism about the way the Ipp committee was established and its New South Wales focus. Regardless of that, the committee was representative of a range of interests, including community interests. It is in stark contrast to the Neave committee, which was a committee of lawyers — a fact that is readily apparent, for example, if one reads that committee's proposed exemption to any threshold.

What is also concerning is that the tort reform package was inadequate and the issue of thresholds would have made a significant impact on insurance reform in this state had it been introduced or had the amendments been accepted. Of course with medical insurance this has been going on for some time. It is not a new issue. How do we attract medical practitioners and specialists to rural areas? It is becoming more difficult.

Even a regional centre like Mildura has difficulty with its number of GPs. It is almost impossible in the small

country towns and they are primarily staffed by foreign graduates who are on a limited licence to practise. It is now very difficult for regional areas to attract medical practitioners. If we continue to fail to address the core issue, it will certainly become a more significant problem.

I have heard it said that the GP should cost share the obstetrician's insurance rates. I do not believe that should be the case. The costs for obstetricians are beyond the capacity of that particular professional speciality, let alone asking GPs, who are already under huge pressure, to share the costs.

I do not oppose the bill, but I have to say we must continue to work in a more focused way on medical insurance and insurance generally because what decisions we make here today will have a great impact in 5 or 10 years. We are not addressing the core problem. It will do little but tackle the fundamental issues that drive the cost of claims.

Mr CAMERON (Minister for Local Government) — I thank honourable members for their contributions to the debate and for their support of the legislation. As the house is aware, the Ipp report has been received by governments and it will be the subject of Council of Australian Governments discussions. However, the government believes it was appropriate to move immediately on this recommendation, which related to the procedural issue of shortening the limitation period from six years to three years. Again I thank honourable members.

The ACTING SPEAKER (Mr Nardella) — Order! This bill requires to be passed by an absolute majority. As 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

Clauses 1 to 3 agreed to.

Clause 4

Mr CAMERON (Minister for Workcover) — I move:

1. Clause 4, line 1, omit "*and 39*" and insert "*, 39 and 40*".

2. Clause 4, line 14, omit 'section 3.'" and insert "section 3."
3. Clause 4, after line 14 insert —

'40. Saving

Despite anything to the contrary in this Act, this Act as in force immediately before the commencement of section 3 of the **Limitation of Actions (Amendment) Act 2002** continues to apply to —

- (a) actions for damages to which Part IV of the **Accident Compensation Act 1985** applies; and
- (b) actions for damages in respect of an injury which entitles, or may entitle, a worker within the meaning of the **Workers Compensation Act 1958** to compensation under that Act; and
- (c) actions for damages to which Part 6 or Part 10 of the **Transport Accident Act 1986** applies."."

Mr CLARK (Box Hill) — As I said during the second-reading debate, it is important for the minister to clarify whether the amendments he is moving are intended to apply to all legal proceedings that can be brought in relation to motor accidents or injuries to workers or whether they are intended to apply only to legal actions that may be brought by the injured motorist or worker under the relevant scheme. This issue is important because there are provisions under which legal proceedings can be brought against third parties, including for recovery of costs that may have been incurred by the Transport Accident Commission or the Victorian Workcover Authority.

Honourable members interjecting.

The CHAIRMAN — Order! I ask honourable members to be quiet so that the honourable member for Box Hill can be heard.

Mr CLARK — It is important for this house and the public to understand whether those latter actions are covered by the amendments the minister is moving.

Mr CAMERON (Minister for Local Government) — The bill applies only to actions relating to personal injuries and the amendments that effectively exempt those provisions relate only to actions relating to the transport accident scheme, the accident compensation scheme and the workers compensation scheme, as set out in amendment 3. The government seeks to have policy consistency where appropriate, but the transport accident scheme and workers compensation arrangements have their own statutory time lines and procedures. It is appropriate

that the government visit that issue and return to the house next year with legislation taking into account the peculiar nature of those schemes and trying to align that with the policy intention of the bill.

Amendments agreed to; amended clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

TRANSPORT (HIGHWAY RULE) BILL

Second reading

Debate resumed from 10 October; motion of Mr BATCHELOR (Minister for Transport).

Independent amendment circulated by Mr INGRAM (Gippsland East) pursuant to sessional orders.

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of the opinion that the second reading of this bill requires to be passed by an absolute majority.

Mr LEIGH (Mordialloc) — The Transport (Highway Rule) Bill has been introduced because of a decision of the High Court in *Brodie v. Singleton Shire Council*. Now councils are in effect ultimately open to legal action being taken against them. I suppose in some ways you could almost refer to this bill as the 'Holding Redlich, Slater and Gordon amendment'. It has been brought in so that at a particular point those cases currently before the courts will proceed. Anybody seeking to bring actions in respect of roads against councils is going to face some difficulties. As a result, the government has brought in a bill that will give councils protection which is sunsetted on 1 July 2004. I understand that the honourable member for Gippsland East is intending to move his circulated amendment, which seeks to omit '2004' and insert '2005'.

I think the house should be made aware of the fact that in effect what we are dealing with here is retrospective legislation. We are saying from this point on that if somebody wants to sue the council because of

something that happened in the past, and the council may not have been aware of it, they will not be able to do that.

In normal circumstances I am never happy about retrospective legislation. Another word which is often used is 'retroactive', which allegedly makes it look different, but I am not sure about that. As the minister's second-reading speech says, the government has published a discussion paper looking at what it proposes to do. In his speech he said he proposes to bring back legislation to this Parliament after 2004. The honourable member for Gippsland East, who is moving the amendment, should seriously consider the fact that the government — whether it is this government or, if it is replaced in the near future, another government — is going to have to deal with this matter.

This is going to have to be dealt with in some form or another, and it does not matter whether it is Victoria, New South Wales or some other state. What I find interesting about this legislation is that, as the minister's second-reading speech states:

What the community needs is a system that provides roads that best meet the needs and priorities of the community to the highest practical standard given the available resources. The law should facilitate this outcome.

This government is really not capable of doing roads. Have a look around this state. Three years ago the Eastern Freeway tunnels, a set of tunnels that were supposedly going to be built to the highest standard, were cancelled. The Scoresby freeway, one of the government's biggest backflips — seven years of opposition was quickly dumped in a desperate attempt to try to get in good with the eastern suburbs — what has happened to that? The state government grossly underestimated the cost. The federal government agreed to meet half the cost, which was \$445 million. It has, I know, as of today placed — —

Mr Maxfield interjected.

Mr LEIGH — No, \$445 million. The honourable member for — —

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member for Narracan is out of his place.

Mr LEIGH — He is indeed. Perhaps it is his ambition if they win, you never know.

The federal government has agreed to a total in that instance of \$445 million. I am aware that as of last week a bill has been sent to the federal government to the tune of \$25 million as a first payment, which the

federal government will no doubt pay. But the fact is that in the case of that particular road, the government is over \$400 million out in its costing of the road. Within the space of six months the cost of this road has gone up \$400 million. So we are now at a cost, between the Eastern Freeway tunnel and the Scoresby freeway, which has been given this cute new name of the Mitcham–Frankston freeway, to the tune of \$1.8 billion. The government is setting up a similar type of authority to the City Link authority. Here we have an example where the government says it is interested in the best practice for roads, but it has demonstrated a lack of capacity to deliver the road.

Yesterday we had this glorified announcement of the Pakenham bypass, where the government is going to somehow find — —

An honourable member interjected.

Mr LEIGH — The federal government committed \$100 million. We checked with the office of the federal minister for transport yesterday. We asked whether the state government had consulted the federal minister's office about what it was going to do, and the answer was no, not a word! What happened was that the federal government committed \$100 million. The state government is now saying the federal government owes it \$121 million, but it never asked the federal government about the \$121 million. This is just a stunt to help the honourable member for Gippsland West and one or two of her colleagues.

The honourable member for Gippsland West has probably never uttered the words 'Pakenham freeway' in the three years she has been here.

Mr Maxfield interjected.

Mr LEIGH — This man over there says he will build it! I will give the house a classic example. In opposition the Bracks administration proposed that as one of these safer roads we had to build a bypass in my community. Three years later, and two years in the making — and with the money, \$40 million, in the budget — the government cancelled it and instead moved on to a tramline in Burwood. So under Labor the Pakenham bypass is about as believable as its proposals for the Dingley bypass or the Eastern Freeway tunnels at the last election. All it is doing is recycling the same press release, year in to year out. The government has demonstrated a lack of capacity to deliver on road projects. We all know that freeways are the safest roads to be on; yet what we have is a lack of capacity to deliver.

The minister's second-reading speech is somewhat hollow. From my point of view — and it is the view of the state opposition — I do not intend to oppose the legislation. I understand the minister came to the state opposition today and said, 'This bill is now so significant that it has to be rushed into the upper house tomorrow, to be dealt with there'. This, by the way, is a government that says the opposition truncates and blocks legislation and opposes the things it wants to do. The fact is that the government cannot find on the fingers of two hands the number of serious opposition attempts to interfere with legislation. In fact last week, when the house debated the National Parks (Box-Ironbark and Other Parks) Bill, the Liberal Party facilitated the government's proposal in the Legislative Council chamber to do exactly what it is proposing in this chamber. Yet the Premier says he is unable to govern properly because his wishes are being truncated by the Liberal Party. The fact is, they are not.

The man is looking for excuses to rush to the people to hide the government's financial disasters on road projects, some of which would mean that fewer people would die on our roads. The fact is that only 7 per cent of road deaths occur on freeways — the best roads and the standard of road the minister is talking about. And what has the government done? On the Western bypass, for example, there are 19 cameras.

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

Mr LEIGH — I am flattered at the audience I have tonight from the government, which I really appreciate. No doubt they will all leave. Presumably there is something they all want to watch on TV.

Before the house rose for dinner I was commenting on concerns expressed by the minister about the standard of roads. As the minister says, we cannot have a common standard of roads across the state. I made the comment that, for example, on the Western Ring Road, a good quality highway, 19 speed cameras have just been installed and on the Geelong Road 18 speed cameras are about to be installed. As to what the minister was saying about a concept of safety on the roads, as indicated in the budget documents, speeding fines in the same time lines under the Bracks Labor administration versus the last Liberal government have increased from \$292 million to \$720 million.

The other point that needs to be made relates to the increasing concerns that parliaments have with the decisions made by the courts. Some elements of the judiciary today — —

Ms Pike interjected.

Mr LEIGH — If I were you I would worry about the Greens — you have bigger problems, dear!

Mr Hulls interjected.

Mr LEIGH — Kevin Chamberlin!

Mr Hulls interjected.

Mr LEIGH — It is interesting that at the moment the Attorney-General is carrying on about tariff duties, yet my opponent drives around in a foreign vehicle — wonderful news. I do not care — I have been here before — —

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Mordialloc is experienced enough to ignore interjections and stay on the subject and speak through the Chair.

Mr LEIGH — People like the Attorney-General have been saying that about me for nearly 20 years — and I am still here and they are not, so I do not particularly care.

The fact is that increasingly the courts are determining positions on what I would have thought the parliaments should be determining. The courts, whether it be the High Court, the Federal Court or otherwise, are increasingly deciding on what they believe are the issues. Parliament ought to be the supreme body of our land, and not necessarily the courts.

Ms Pike interjected.

Mr LEIGH — It ought to be. That is exactly the point about the Bracks Labor administration. It is a giggling bunch — a gaggle of gigglers — or something like that.

Mr McIntosh interjected.

Mr LEIGH — They are a bunch of hopeless individuals who stand for nothing. Let's take this legislation as an example. For seven years — including some of the time that the Attorney-General has been in this house — what did they oppose day after day in this chamber and get outraged about? Section 85 statements! On every piece of legislation that ever came before this Parliament, whether it was Albert Park, you name it — —

Mr Nardella interjected.

Mr LEIGH — Foghorn Leghorn up the back there would not know, because he was not here. The point is that when this Bracks administration was in opposition, under either the current Premier or the former Leader of

the Opposition, it was opposed to section 85 provisions, which meant being able to go to court. Whether it was Albert Park or anything else, they were opposed to it. These are the guys who were opposed to everything when they were over here. Today they have a totally different view and they pretend that they have a new arrangement. The latest example, as I said before, is the Scoresby freeway, which is potentially another safer road.

Mr Nardella interjected.

Mr LEIGH — This government has no standards, it stands for nothing.

Mr Nardella interjected.

Mr LEIGH — They laugh. I know the honourable member for Melton has had a nice time over the dinner adjournment, but the fact is that this government stands for nothing. What did Labor stand for in opposition? It stood against section 85s, it stood against Albert Park and it stood against City Link. Anything you can think about, it stood against.

An Honourable Member — Privatisation.

Mr LEIGH — Privatisation. It is very interesting what Foghorn Leghorn over there, the honourable member for Melton, says. The only person who ever proposed to privatise —

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member will ignore interjections. They are disorderly and distract the honourable member.

Mr LEIGH — They are distracting. For example, in the mid-1980s it was John Cain who wanted to sell the dams, not the Liberal Party — John Cain!

The state opposition does not intend to oppose this particular legislation. There are many councils that obviously want to see it passed. It has to be said, though, that what local government and other bodies such as state government authorities should recognise is that this is not some form of panacea so that they will not have to do their job and be unaccountable to citizens.

Nobody wants to see the various legal companies around this town making money for nothing by suing local government or state government authorities for the sake of it, but by the same token nor do we want to see councils or state government bodies acting irresponsibly in dealing with road issues — for example, when a council does not do what it is supposed to do with a footpath, ultimately the people in

charge of that council must bear some responsibility. The tragedy of all this is that if they are incompetent it is the taxpayer who ultimately pays for it rather than them as individuals.

The state opposition's point of view is that it does not intend to frustrate the bill. Indeed the minister has assured me that there are no cases of which the government is aware that will be affected by this retrospective legislation in any shape or form. If that is correct, clearly this legislation is in the interests of the state at this point. It should be remembered that whether it be motorists paying registration fees to the Transport Accident Commission or ratepayers paying rates to their local councils, they are the people who will pay for the outcomes of this legislation if it is not implemented correctly.

The opposition does not intend to oppose the legislation. The honourable member for Gippsland East has foreshadowed an amendment which would change the date of 2004 to 2005 because he says local government cannot do its job by then. The minister is discussing this issue with the honourable member for Gippsland East. My concern is that retrospective legislation should not be in place any longer than it has to be. Retrospective legislation should always be the last measure of parliaments in protecting the citizens of our state or country. My personal view of this legislation is that the sooner the government of the day brings about the reforms suggested in the report the minister has released publicly the better. It is not a good thing that parliaments act this way.

In closing, as I said before, the government is seeking to include a section 85 statement. I point out that when in opposition the Attorney-General made dozens upon dozens of speeches opposing section 85 statements. In government he has either developed amnesia or he realises that in the past governments made those decisions for the correct reasons and as a result he now supports them.

The state opposition does not oppose the legislation. It sometimes concerns me that courts make decisions and parliaments then have to turn around and rearrange themselves because, as in this case, the High Court has made a judgment based on a decision of four to three —

Mr Nardella interjected.

Mr LEIGH — You are out of your place again, Foghorn!

The ACTING SPEAKER (Mr Seitz) — Order! Interjections are disorderly. The honourable member for Mordialloc will ignore them and address the Chair.

Mr LEIGH — I tell you, you cannot ignore Foghorn Leghorn — the honourable member for Melton. The fact of the matter is that this government, like the New South Wales Labor government, would not know what the principle of the separation of powers was. We saw that in question time today when the Minister for Police and Emergency Services was forced to apologise. That demonstrates the political corruption inside this government at the highest levels. Members opposite will come undone for it. They think they can treat the voters like jerks but the voters are not jerks. There are some jerks on the government side who want to make sure — —

Mr Nardella interjected.

Mr LEIGH — There we go again! I think Kevin Chamberlin is going to do you like a dinner! Between him and the Greens, if I were you I would think about changing my name.

The ACTING SPEAKER (Mr Seitz) — Order! Through the Chair!

Mr LEIGH — Very happy to. The fact is that this government stands for nothing. The bill is a short-term measure for one purpose only. Hopefully it will correct a position and stop some of the government's Labor mates being able to sue for no real purpose.

Mr Nardella — You are hopeless!

Mr LEIGH — It is disappointing that the lower house has had to suffer what the upper house suffered with the honourable member for Melton. Never mind.

Mr Nardella interjected.

The ACTING SPEAKER (Mr Seitz) — Order! The Chair does not wish to interrupt the honourable member for Mordialloc. However, he has not used proper titles for people. Before he said 'I tell you' and I will assume he was referring to the Chair. I think the other reference was to the minister. I ask the honourable member for Mordialloc to use proper titles in line with the forms of the house.

Mr LEIGH — I am happy to use the proper terms. Something I have noticed over the years is that in Parliament you do not actually get the term, you earn it.

The problem with this government is that, at whatever level, the ministers have not earned their titles. They are

there by accident and they govern as if they have no idea what is going to happen tomorrow. They are out there misusing taxpayers' money as if there is some sort of general Christmas party going on every day. I am sure they will face the consequences of that in the very near future.

The government is seeking the opposition's assistance to pass the legislation through the upper house as quickly as possible on behalf of local government. To this point I see no reason why that should not happen. However, the date set down for the immunity to sunset is 1 July 2004. The honourable member for Gippsland East, the Minister for Transport and I have to work out what date we want.

Mr Ryan — And me!

Mr LEIGH — I was coming to the Leader of the National Party. As I said before, retrospective legislation should be in place for as short a time as possible with a proper arrangement as to what is required. I hope that the government does have a solution to this if it decides that Parliament should sit longer rather than rushing to the people a year early.

The opposition does not intend to oppose the bill, although I have concerns about it being in operation for too long into the future.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on the Transport (Highway Rule) Bill. It is very important legislation particularly for those of us who live in country Victoria. A change in the law has occurred which has had a major impact on the way councils in country Victoria are able to allocate their budgets. That change has meant a far greater impost on those budgets than was the case before the law changed. This legislation returns the law to the position it was in before a decision was delivered in May in the case of *Brodie v. Singleton Shire Council*.

To give a fulsome setting to this, the reality is that the cost of maintaining roads and bridges, particularly in country Victoria, is a significant drain on the resources of those highway authorities who have responsibility for that task. The problem is exacerbated in those municipalities throughout country Victoria where some councils have an obligation to maintain thousands of kilometres of roads and in some instances hundreds of bridges.

For instance the Rural City of Wangaratta has 365 bridges — one for each day of the year — that have to be maintained by the council. In the Shire of Strathbogie there are about 150 bridges and I could

mention other municipalities in country Victoria where a similar picture would be seen, to a greater or lesser degree. In western Victoria the maintenance of bridges is not such an issue as it is in other parts of the state, although maintenance of roads is an issue. But as a common feature, addressing the maintenance requirements of bridges is a real problem for country councils.

An already difficult financial situation was compounded when the High Court of Australia delivered a judgment on 31 May in the proceedings of *Brodie v. Singleton Shire Council*. That case related to a Mr Brodie who, on 19 August 1992, suffered injuries when he drove a fully loaded truck weighing about 22 tonnes over a 50-year-old bridge in the Shire of Singleton in New South Wales. The bridge collapsed, thereby causing the vehicle to crash through the bridge to the creek bed below. Ultimately the case went through the trial process, to appeal and eventually to the High Court where by a majority of four to three the court determined that it would abolish the longstanding common-law rule exempting highway authorities from liability for the non-repair of roads and bridges.

This rule has commonly been termed the 'immunity in the highway rule'. It has an interesting history. It was founded on the principle that while responsible authorities could be found liable for negligently performing work on roads and bridges, which is termed 'misfeasance', liability could not apply where they failed to perform any work at all, which is termed 'nonfeasance'. The rule derived from England where a couple of hundred years ago there was a drive to improve the road and bridge network between distant towns.

However, there was a concern that if an obligation were imposed that required the maintenance of those roads and bridges, it would mean a constraint would also be imposed upon the responsible authorities in extending the road and bridge network. So this rule of the defence of nonfeasance, the immunity in the highway rule, came from that situation. On the one hand it was felt that there was a requirement to extend the roads and bridges network, and on the other hand there was a recognition that there was simply not enough money to maintain that sort of infrastructure, particularly in that era, in such a manner that it would attract the principle of the law we now call misfeasance. So it was that the immunity in the highway rule was born.

In England it was abolished about 40 years ago, in circumstances where it was felt that local government authorities had enough money available to them to be able to fulfil the appropriate levels of maintenance

within the general principles of the rules of misfeasance. So it was that in England the law was changed. In Australia, however, until Brodie's case was determined the state of the law continued to be that the defence of nonfeasance was available to road authorities.

I pause to say that definitions of 'road authority' incorporate various such entities as are commonly known, but my particular interest is in local government authorities. In country Victoria it has been a particularly onerous burden, because the component of the budget of rural and regional government authorities that is devoted to the maintenance of roads and bridges is inevitably far more significant than is the case in metropolitan Melbourne. If I were to ask a Melburnian, 'What is the definition of a road?', I am sure it would have much to do with it being a strip of bitumen, perhaps with a tram track down the middle, and usually with ready-made concrete guttering and footpaths on either side. However, in a country Victorian sense I could probably keep the chamber going for a day and a half on what constitutes a road, because roads in country Victorian settings are enormously different in character from roads in metropolitan Melbourne. Their reliance upon an appropriate network of roads and bridges is no less than it is in metropolitan Melbourne, and indeed in some instances it is greater.

We are seeing a remarkable transition in the nature of the vehicles which use our roads. We are also seeing a change from travelling from point A to point B to travelling from town A to town B in a hub-and-spoke kind of pattern. That occurs because particular localities are the focus of industry — for example, a manufacturing enterprise to do with agribusiness — where there is a need for vehicles to easily move into and out of those major centres. You no longer have the problem of just travelling from point A to point B; rather there is the necessity of being able to move traffic into and out of town A to service the requirements of whatever the manufacturing enterprise might be.

Maffra and Leongatha, in my electorate of Gippsland South, each host a factory operated by Murray-Goulburn. The facility at Maffra services about 700 dairy farms in the Macalister irrigation district, while the Murray-Goulburn factory at Leongatha services about 800 farms. In each instance there is the need for the tanker fleet to move into and out of the town to pick up the milk and bring it back into the factory. The processed milk products are then transferred from those factories, usually down to Melbourne, for export — bearing in mind Victoria's

large contribution to the export market in the dairying industry.

But the point of all this is that the character of usage of the roads has undergone enormous change over the years. We now have vehicles travelling on those roads which were simply not conceived of at the time the roads were built. The concept of the B-doubles — and we are now moving to B-triples — that are using these roads very obviously was not even contemplated at the time the current facilities were constructed, sometimes 50, 60 or 70 years ago.

All this translates to the fact that if we are to have our business enterprises flourish in country Victoria we need to make certain that this road system and this network of bridges are kept up to speed. We need to make sure vehicles are able to get across those roads and bridges. That in turn means that increasingly local government in particular — since it has the ultimate responsibility with regard to local roads — is having to devote an increasing proportion of its budget to this very necessary task.

Into all of this — and in circumstances where the defence of nonfeasance has historically been available to those authorities — came the High Court judgment in Mr Brodie's case, and as I said that judgment was delivered on 31 May 2002. I think it is also relevant to say that in between 1992 and 2002 it is not as if we have had a rash of problems of a similar nature to that which Mr Brodie encountered. It is not as if we have had multiple examples of other vehicles going through bridges and crashing into creeks below. We simply have not had an increase of reports of any great import concerning accidents of the nature of that unfortunately suffered by Mr Brodie.

Because of the Brodie High Court decision, because the defence of nonfeasance was removed and councils were exposed to being liable because of misfeasance, they had to make substantive changes to the way they carried out their responsibilities for the maintenance of their roads and bridges. It had absolutely nothing to do with the facts and circumstances which had intervened in the decade from 1992 to 2002. There was no need imposed upon councils to up the ante in the sense of the extent to which they went about the maintenance of their roads and bridges. Rather, they were forced into a position where, because of a concern about being subject to proceedings for damages arising from the decision in Mr Brodie's case, they had to take extraordinary steps to protect themselves. That process in itself brought complications.

The first line of defence by councils was to err on the safe side and impose load limits, and in many of our municipalities that has caused little less than chaos. We have had situations where, although historically bridges have had, for example, load limits of 15 or 20 tonnes and there has not been a problem with traffic being able to cross those bridges, out of a concern to protect themselves from this latent risk imposed by the Brodie decision, councils have imposed artificially low load limits. For example, a bridge which historically has been demonstrably capable of accepting 15 or 20-tonne loads has been subject to a load limit of, say, 5 tonnes.

The council has done that because of the fear that if it does not very severely restrict the traffic going across the bridge — and I refer most of these comments to bridges, because they are the pivotal feature of this legislation — if mishap occurs and nonfeasance is no longer available as a defence, misfeasance will apply, and the council will end up with a judgment against it.

This process in turn has led to all sorts of unintended consequences. There have been many instances reported to me as I roam Victoria where little short of chaos has been caused in local communities. We have the situation where, because of these artificially low load limits being imposed on bridges, members of communities cannot even access their properties in some instances. People have told me they have had to travel literally hundreds of kilometres extra each week for the purpose of getting to their property via a different route rather than across a bridge over the creek — by far the simplest and the shortest route which they are no longer able to take because an artificially low load limit has been imposed on the bridge.

There have been instances reported to National Party members, and I have had lots of conversations about them, where school buses have not been able to access bridges. There have been instances where ambulances and other emergency vehicles had to be precluded, at least nominally, from being able to cross over bridges because of these artificially low load limits. In all of this you have to throw into the mix the fact that councils have had to take a radically different approach to the way in which they have allocated funding within their budgets for the purpose of maintaining the bridge system. So it is that we as a party — the National Party — are determined to do something about this to alleviate the problem.

I believe the genesis of this legislation can fairly be said to lie in a contribution made by the Honourable Jeanette Powell in another place on 7 November 2001. On that

day she made her usual excellent contribution in the course of a debate. She moved:

That this house calls on the government to urgently legislate to ensure that municipal councils in Victoria can continue to rely upon the defence of nonfeasance, which has been jeopardised by recent High Court decisions.

To the her great credit, the Honourable Jeanette Powell traced the history of the development of the immunity in the highway rule. She talked about the English experience; she went through the facts giving rise to the High Court decision; she then reviewed current legal opinion which was available; she concluded by reviewing the situations that applied in other states of Australia; and then called upon the government to do something by way of addressing the issue which she had raised. The 'something' that she suggested was almost precisely in the nature of the bill which is now before the house.

I say again, Mr Acting Speaker, that was on 7 November 2001, being within a blink of one year ago. In between times the National Party took up the cause on behalf of local government. We did so in a number of ways. We wrote to the 47 municipalities which represent those referred to in the regional infrastructure development legislation, they being the municipalities outside metropolitan Melbourne. When I say 'we' I mean that I wrote to these various councils to indicate that I believed there was a problem, that it needed to be fixed and that the way to fix it was to introduce legislation which would achieve that outcome.

The National Party received almost universal support from councils throughout rural and regional Victoria for what it proposed to do. In the course of many discussions with many councils across country Victoria over the past couple of years I have had this discussion and, but for one instance — namely, the City of Latrobe — there was acceptance of the fact that the proposition being advanced by the National Party was the way to deal with the issue. In essence, there was general acceptance that there needed to be some sort of legislative intervention in the nature of that contemplated by the bill under discussion which would achieve the outcome required by all.

Having received from councils almost universal support for this sort of an approach to the resolution of the problem, National Party members then wrote to the government. I wrote to the Minister for Transport, as did an honourable member for North Eastern Province in the other place, the Honourable Jeanette Powell. By one means or another we approached the transport minister to see if our proposal could be reflected in proposed government legislation. I am sorry to report

that certainly I did not receive any response from the minister; I cannot speak for the Honourable Jeanette Powell.

In the face of that silence the National Party then wrote to councils to say it would prepare its own private member's bill. The party sought views about that proposition from local government throughout country Victoria. Almost universally we were commended for taking the initiative. I again wrote to the Minister for Transport; again I received no response.

The National Party then advanced the position by preparing draft legislation, which I sent to the transport minister. I also sent it to the Premier. I am sorry to report that to this day I have not received a reply. That proposed legislation was introduced into the Legislative Council by my colleague the Honourable Peter Hall, an honourable member for Gippsland Province in the other place. From memory, it was second read by Mr Hall about four weeks ago. That legislation is still on the notice paper in the Legislative Council. I am sorry to report that again there was no response in any way, shape or form from the government — not from the Premier, the transport minister, or anybody else.

I am sure honourable members will appreciate that it was with some surprise, therefore, that by accident rather than design — be it on my own head that such be the case — I happened to hear, I think it was on 11 October, that the minister was in the Legislative Assembly second reading the bill which is now under debate. As I said, up until now there has never been a response to the various attempts the National Party made to get the government interested in this. Rather, the government sought in its wisdom, or lack of it, to introduce legislation which almost precisely replicates that which is presently on the notice paper awaiting debate in the Legislative Council. I am not sure what we are going to do with the bill we introduced into the Parliament, but that is a story for another day.

Suffice it to say that the process in getting this legislation before the house has been most disappointing. For the almost three years that I have led the National Party I have stated that we are interested in outcomes. We do not particularly care who suggests initiatives that are beneficial to country Victoria. The sheer politics of how we get outcomes matters little to us if those outcomes are for the betterment of country Victorians. So it is that I am here tonight supporting the legislation.

It is a salutary message to country Victorians when the government conducts itself in this way. If we are wanting, with the best will in the world, to work with

the government of the day to achieve best outcomes, surely it behoves the Premier and his ministers to at least make some sort of response to initiatives and proposals which are by definition constructive — because this government has adopted those proposals in its own legislation. It does not do this place any credit when the government conducts itself as it has in this instance. Indeed, one thing that frustrates people about politics is that there ought be, as there is in this instance, a common goal to get the best outcome for the people who are impacted on by any legislation.

Therefore if it is, as was the case in this instance, that the National Party suggested the solution, then surely if it gives the best outcomes the government should be prepared to talk to us to get a cooperative mechanism whereby those initiatives can be employed to bring about those best outcomes.

I would like to say this is a one-off, but unfortunately it is not. Recently in a debate on 8 October I traced the rather sorry history of the way in which the government has dealt with the Basslink issue. In previous instances we have of course talked about public liability insurance. In those instances again it has been the National Party which has carried the argument. In those instances again the propositions we have put have been absolutely ignored by the government, which has gone on its way to achieve outcomes sometimes to the benefit of country Victoria and sometimes not, but certainly apparently in complete ignorance of the positive contribution which has been sought to be made to the issues in question.

The bill deals with the decision in Brodie, and I have already outlined the factual circumstances of Mr Brodie's misfortune. In that High Court decision the majority of the court decided that even if the risk posed by the state of a roadway was unknown to the relevant authority or was latent and only discoverable by inspection, then to discharge its duty of care the authority would need to take reasonable steps to identify the dangers which might exist.

In the case of Mr Brodie the problem was a principle of what is called piping. The timbers in the bridge had effectively rotted out over the years, and that weakness in the structure could only be determined, as I read the judgment, by someone coming along and tapping the timbers and physically testing them. The High Court in effect determined that that is what the local government authority should have been doing to preclude the misfortune which befell Mr Brodie. That in itself is an enormous shift away from the principles of nonfeasance, which basically recite that unless there is something glaringly obvious about the bridge by way of

a deficiency there is not an obligation upon an authority to go along and individually test each of the beams or the structures which comprise the structure in question. In practical terms this substantive change in the law has imposed a very significant additional burden upon local government and upon authorities generally that have responsibility for roads and bridges.

And so it is that this bill is now before the house, because we need to deal with it for all the reasons I have mentioned. The bill itself is relatively short in its content, but we should not understate the extent of its compass. It will have major impact. In essence it returns the defence of nonfeasance to highway authorities. Those highway authorities are defined within the provisions of the legislation. To understand the impact one need only have regard to the terminology used. In this instance, as opposed to using the term 'highway authority' the term 'public authority' is used. Honourable members will see from the legislation that the definition in clause 3 refers to the Roads Corporation, the councils named in the Local Government Act, the Docklands Authority, Parks Victoria as established under the Parks Victoria Act 1998, and other entities.

Interestingly the government has chosen to sunset the provisions of this legislation. In effect the government is saying that the defence of nonfeasance will be available, but only until a certain time. The time the government has nominated is 1 July 2004, so we are talking in round terms of about 20 months hence. I note that the honourable member for Gippsland East wants to extend that to 2005. He wants to add another 12 months to it. I understand there is some discussion going on, and it may be that some resolution will be achieved in terms of a variation of either of those proposals, but time will tell.

From a National Party perspective, the major concern is to get this in place. If the time frame which is outlined in the legislation turns out not to be long enough, it can simply be amended when the time comes — say in 15 months time — before the 18 or 20 months presently contemplated expires. However, from the National Party's perspective it is really neither here nor there if it is a little longer or, indeed, 2005. So much attention is now being focused upon this issue that given the time frame the bill offers — namely, about 20 months — there is ample time for local government to address the issue. The municipalities will breathe a huge sigh of relief having been made aware of the impact of the decision in Brodie's case and having been granted that relief. I trust that local government gingers itself up so that the appropriate attention is dedicated to this and longer term resolutions are put in place.

The government has recently concluded work on a discussion paper with councils on what should happen with these sorts of issues. It may well be that outcomes are derived from a consideration of those processes, but however it may happen there is a decent lead time in this, and the National Party is at ease with what might ultimately be determined by those who are in discussions at the moment on an appropriate result.

The other thing to be said is that this legislation is retrospective. As honourable members know, as a principle retrospectivity is an anathema and certainly not to be encouraged, because it may well be done at the risk of people not being able to pursue their causes of action. The government has given an indication to the shadow Minister for Transport that there are no cases pending, that there are no causes of action that are known to have arisen and that the legislation as it is presently drawn preserves the rights of anybody who may have instituted proceedings. In all the circumstances it may well be that the concept of retrospectivity has no practical concerns because no-one is going to be caught by it, but from the perspective of the National Party it is a major issue. We seek an assurance from the minister, on the record, that no-one will be harmed by the retrospective application of this legislation.

I revert briefly to the point I was speaking of a moment ago — that is, the sunseting of this legislation. Coincidence in life being what it is, I gather that discussions between the relevant parties have been fruitful with a view to an amendment being moved which suggests that the sunseting will continue until 1 January 2005. Again, this is something the National Party supports, and it seems to be a sensible outcome on the part of all concerned.

The issue of what constitutes a highway or a bridge is also the subject of some interest. There has been some case law about whether a naturally growing tree adjoining a highway can be regarded as part of that highway, as opposed to whether a tree that is planted adjacent to the highway can properly be regarded as coming within the same definition. The outcome of that question can govern the issue of whether nonfeasance or misfeasance applies.

The same sorts of considerations have occurred with fences, telephone poles and other adornments that have been built adjacent to highways. Are they necessarily to be the subject of a defence of nonfeasance by the authorities that otherwise would be responsible or is it a question of misfeasance? Those debates are likely to continue until this issue is finally resolved. However, I do not necessarily see anything detracting from the

provisions of the bill arising from that situation. Wherever you have a rule you will have exceptions to the rule; wherever you draw a line in the sand you will have people on the other side of the line. You will always have that problem to contend with. The main point is that through the legislation and the proposed amendments Parliament will at last address an issue which local government throughout country Victoria in particular has been concerned about since the decision by the High Court of Australia in Brodie's case on 31 May 2002.

I also make the point that this is not legislation which is intended to give local government an easy out. Historically local government has taken a very responsible position regarding its maintenance programs for roads and bridges. Historically local government has spent reasonably and what it has been able to within its resources to accommodate this issue. I say again we had this completely artificial position cast upon us because of the decision in Brodie's case, arising from an accident that occurred a decade ago. In the interim it is not as if we have had this serious outbreak of vehicles going through bridges. That has not been the case. Rather, we have the position that now applies which is casting a considerable onus on local government simply because of the decision in the High Court as opposed to having anything to do with the material facts that have occurred over the last decade.

I conclude by saying that the National Party has played a pivotal role in bringing about this legislation. It is proud of the fact that given the passage of the legislation it can rightly lay claim to having been the mechanism by which a solution has been found to a difficult problem. The government is to be commended for taking up that initiative. I only wish the government would work cooperatively with the rest of us who are trying to achieve these outcomes rather than trying to score political points, which its general conduct in this whole issue would seem to convey.

Mr CARLI (Coburg) — I commend the Leader of the National Party for his thorough elaboration of the Brodie case, the highway rule and the immunity from nonfeasance. The honourable member's call for the parties and Independents to work cooperatively to resolve these issues and this particular issue has been heeded by the government. Tonight there was considerable negotiation on some of the finer points of the legislation, and as a result an amendment will be moved by the honourable member for Gippsland East in committee. That demonstrates the ability of Parliament to work cooperatively in an area that

certainly needs a response from government and the Parliament.

In essence the highway rule is that a highway authority, whether a local council or Vicroads, was exempt from civil liability for failing to maintain a road. That is the defence of nonfeasance. That was the case until the decision by the High Court of Australia in the Brodie case on 31 May 2001. Essentially that case abolished the highway rule and the ability for road authorities to use the defence that they did not have to maintain the roads or were not able to maintain the roads. The decision created considerable uncertainty, particularly with local government. It has also had enormous economic ramifications for road authorities and potentially for ratepayers and taxpayers because after the decision councils and Vicroads can be liable for accidents or injuries caused by the fact that roads were not adequately maintained.

This is essentially stopgap legislation which reintroduces the highway rule only temporarily. Once the amendment which seems to have some tacit approval is incorporated into the bill, the highway rule will become effective until 1 January 2005.

As the Leader of the National Party, the honourable member for Gippsland South, pointed out, the bill is not an attempt to get councils or Vicroads off the hook. It will give everyone the ability and the time to move to a new road management framework — that is, from the current system to a better and more sustainable system, ensuring that roads and bridges are better assessed and maintained throughout Victoria, in urban and more particularly rural and regional areas.

The new road management framework will ensure that available road resources are used in a way which best meets the needs and priorities of the community to the highest practical standards. There will be a framework which will raise the standards and maintenance of our roads. What has been asked is that there be a transition period during which the highway rule is reapplied.

It was made clear in the second-reading speech that the reinstatement of the highway rule is very much a temporary measure that is intended to give highway authorities time to adapt to the new arrangements — to the new reality caused by the decision in Brodie. The second-reading speech also sets out the broad outline of the proposed new arrangements and the bill contains a sunset clause that will repeal the highway rule on 1 January 2005.

It is important to understand that we are dealing with a temporary or interim measure to give the road

authorities — in this instance, councils and Vicroads — a period of time in which they can move towards a new road management framework.

The government and the Municipal Association of Victoria have already agreed to establish a steering group to oversee development and implementation of the new road management framework. The government intends to publish in February 2003 an exposure draft of a new road management bill for circulation among stakeholders, especially local government, for their discussion and input. The government is essentially proposing that from early next year stakeholders will be able to have input into another piece of legislation. That is intended to be introduced in the autumn sittings in 2003, with a view to having it passed in those sittings and having the new legislation in place on 1 July 2004. The new road management laws will come into force and there will be a period of overlap between the expiry of the highway rule and the new management laws.

To prepare everyone for the changeovers the government will publish draft guidelines and other documents to assist councils to implement the new arrangements. The guidelines will be developed in consultation with councils and will include a framework for asset management and development of standards by the responsible road authority.

The government's timetable will provide for the publication of drafts of the documents in time for Parliament's consideration of the new legislation. Following the passage of the legislation and consultation on the draft guidelines it is intended that final guidelines and templates will be published by August 2003.

This is all intended to give councils an opportunity to develop and implement their individual asset management plans. The government proposes not only new legislation but guidelines that will become available and will be used by councils to prepare for their own road asset management plans. This will ensure not only that they are maintaining roads but that they are doing so with the belief and understanding that the highway rule will no longer be in place from 1 January 2005.

These changes are very much proactive, and the bill is very much an action plan for the future. Clearly, reliance on the highway rule for the authorities has now gone. There has to be an understanding by all road authorities that they are responsible for those roads and that potentially litigation can be launched against them. There is no defence in the use of the highway rule. They will no longer be exempt from civil liability for

failing to maintain roads. Councils and Vicroads will have to ensure roads are maintained. There will be no defence from civil litigation in the case where those roads are not well maintained.

The framework proposed by the government is very forward looking. It is very much about a more sustainable road management system. More importantly, it is about the economic future and safety of this state. As has been said, an effective road network at the local and arterial levels is an imperative for Victoria's social and economic wellbeing.

The Bracks government is committed to ensuring that Victorians continue to benefit from well-maintained road networks. Certainly this bill is the beginning in restoring the highway rule. It is an interim measure and the first step in what is essentially a move to a new framework to ensure we have a better maintained and more sustainable road network. There has been a period of neglect of our road infrastructure, and there had to be a major commitment from all tiers of government to ensure our roads are maintained and that investments are made in them.

In the current situation many local government bodies are concerned about their ability to fund the maintenance, and not a lot of work has been put into road maintenance plans by many local government bodies. That work will have to be put in place. I commend the bill to the house, and I wish it a speedy passage.

Mr VOGELS (Warrnambool) — It is a pleasure to stand to contribute to debate on the Transport (Highway Rule) Bill. The purpose of the bill has been stated here a number of times. It aims to amend the Transport Act 1983 to provide for an interim extension of protection and immunity for highway authorities under the highway rule. I heard previous speakers express concern about the retrospectivity of the bill. However, we have all been assured that that will be sorted out.

The highway rule bill is a direct consequence of the High Court case of *Brodie v. Singleton Shire Council*, in which the court ruled that highway authorities were liable for damages in respect of a failure to repair a highway. I have heard other honourable members speak about the bill, but to put it in layman's language and the way I understand it simply is that previously the commonwealth practice of the highway rule was in operation. This rule found that highway authorities could be sued for poor performance, or misfeasance, but not for non-performance, or nonfeasance. Under this rule road authorities are not liable in any civil proceedings for failing to repair or keep in repair a

highway or for failing to inspect for that purpose. This bill reinstates that rule as an interim measure.

The bill has a sunset date of 1 July 2004, and the honourable member for Gippsland East has moved an amendment to extend that time. Everybody seems to be in agreement with that. As a former councillor of the Corangamite shire, I suggest this measure desperately needs to be taken, especially in rural and regional Victoria where the roads are being punished by heavy trucks including milk tankers and logging trucks. It is not possible for councils to keep many roads in good repair. For example, the Corangamite shire had a road network of about 2000 kilometres. The rates collected by that shire were and probably still are about \$7.5 million. That rate base would go nowhere near maintaining a road network of about 2000 kilometres, which is about the distance from Melbourne to Brisbane.

For example, the cost of replacing a bridge is probably around \$250 000 to \$300 000, and I know the Corangamite shire had about 85 of them. It started auditing the bridges — it probably still is — and found that many of them did not meet quality assurance standards. For example, a 12-tonne load limit might be placed on a bridge when an empty milk tanker already weighs 16 tonnes. So even though these councils probably understand that some of these bridges do not meet the standards, they do not have the money they need to address these issues. The same applies to the road network. As I said, Corangamite has about 2000 kilometres of road. Upgrading just a local road probably costs \$100 000 a kilometre; a major road probably costs \$250 000 to \$300 000 a kilometre; and a highway probably costs \$500 000 or more a kilometre. So it is just not possible for a rural shire to meet the requirements of this Brodie decision. The decision should never have been made, because it is just not possible to sort out those problems. The money just is not there.

I think this is an excellent bill, and it is needed. I am sure the councils — especially the rural councils — will be clapping their hands, because they have been very concerned about this for quite a while. I know the south-west municipalities group, which is made up of eight rural councils from south-western Victoria, were very concerned about nonfeasance and misfeasance — and every other feausance you can think of! The lawyers love those words, and at the end of the day the ratepayers have to foot the bill.

The Liberals, the National Party, the government and the Independents are working the way they more often

should — that is, towards a conclusion which benefits the whole of Victoria.

Mr INGRAM (Gippsland East) — It is a pleasure to speak on this bill. As honourable members have said, this is an important piece of legislation because it stops a problem which was developing, mainly for rural councils but also for all road authorities across the state. That is, it provides a temporary reinstatement of immunity for highway authorities for failing to repair roads, which is called nonfeasance. As other honourable members have explained, this problem dates back to a High Court decision in *Brodie v. Singleton Shire Council*. The nonfeasance defence has been whittled down in a number of areas over a number of years, and the High Court decision was the final nail in the coffin.

I point out very strongly that this has a much greater impact on rural councils than it has on all other road authorities, because rural councils, with their lengthy road networks, timber bridges and so on and their lack of suitable rate bases or financial support have less ability than other councils to maintain roads at reasonable standards, and they are more exposed because of it.

The legislation has come about not only because of that court case but because of a discussion paper which the government released, called *Road Standards and the Legal Duties of Road Authorities*. I made a submission on that discussion paper, arguing extremely strongly that we should be reinstating the nonfeasance defence. I notice the honourable member for Gippsland South, who is the Leader of the National Party, has the same view: that unless we reinstate the nonfeasance defence areas like mine, areas like his and other rural areas will be at a severe disadvantage because of that lack of funding. I will briefly quote from that discussion paper, because I think it is extremely important. Under the subtitle 'Access to roads' it says:

As the majority judgment in Brodie's case acknowledges, in some cases the cost of repair of, say, a bridge may leave a road authority with no practical alternative to imposing restrictive load limits or even closing the road altogether.

In other words, if an authority cannot afford to provide perfect service, and cannot afford to insure against legal liability for providing less than perfect service, it may feel compelled to close a road and provide no 'service' at all. This could directly and significantly affect the residents of an area.

I believe this has been confirmed by the Minister for Transport in discussions I have had with him where he has basically said that, even without the reinstatement of the nonfeasance defence, if councils cannot meet the duty of care or the standards that are to follow passage

of this bill and that are to be negotiated with the rural councils and road authorities right across the state, they will more than likely be required or obligated to close some roads.

I find that quite extraordinary when you get to areas like mine. If a council is required to close roads, that impacts on business and on people, so it really is important that we address this issue. That is why I support the reinstatement of the nonfeasance defence, as provided for in the bill.

The amendment I have proposed extends the time. Initially we said an additional 12 months. Through negotiation — and, it appears, agreement with everyone — that will be six months. It will provide an overlap between the time the bill will sunset and when councils are required to set up their road standards. It is important that we have that protection.

As I outlined in my submission in response to the discussion paper, this bill highlights a real problem, which is the lack of funding for rural roads. As stated in my submission, this would impose the most significant burden on those rural councils. I also outlined in that submission why I believed we should reinstate that nonfeasance.

The reinstatement of the nonfeasance defence will not cover the really key issues in my electorate, which are the inadequate funding for and the financial burden of maintaining roads and bridges for the large number of rural municipalities with a small population. That was caused in part by the amalgamation of the shires in 1995. The new councils do not have the rate base to maintain the large road networks they have. To compound that problem, at the same time there has been a 20 per cent reduction in the rate base.

What we also need to be doing, and I hope the Minister for Transport agrees with me, is —

Mr Leigh — And the shadow minister.

Mr INGRAM — And the shadow minister. I would ask all parties in this place to have a serious look at the inequitable level of funding between city and rural councils. I will use some examples to back up my case on that.

A council such as the East Gippsland Shire Council spends about \$161 per head of rate revenue on roads. The average or median household income in that area is about \$22 000. Compare that to Greater Dandenong, which spends about \$4.76 per head of ratepayers' money on roads. The better example would be

Yarriambiack which receives about \$1 million in grants commission funds.

An honourable member interjected.

Mr INGRAM — Yarriambiack.

The ACTING SPEAKER (Mr Plowman) — Order! The honourable member, without assistance.

Mr INGRAM — Yarriambiack receives about \$1 million in grants commission funding and spends \$319 per head of ratepayers' money on roads.

Compare that to the City of Greater Dandenong, which receives nearly the same amount of grants commission funds yet only spends \$4.76 per head of ratepayers' money on roads. That comparison highlights the fact that grants commission funds are for roads. It really comes down to the length and condition of those roads. Councils like Yarriambiack Shire Council really have no ability to maintain the long stretches of roads under their control, and the burden on their ratepayers is quite extraordinary. People wonder why those councils are in serious financial strife. It is because of the inequitable funding formula. This formula should be based more on a needs basis, not on some arbitrary figure set by the grants commission. That issue needs to be addressed, and I would like to think that all honourable members would acknowledge that the current system of funding is not equitable and needs to be addressed.

I support this bill, and I will propose an amendment. Do I have to move the substitute amendment, Mr Acting Speaker?

The ACTING SPEAKER (Mr Plowman) — Order! The honourable member might like to pause for a moment while the substituted amendment is circulated.

Substituted Independent amendment circulated by Mr INGRAM (Gippsland East) pursuant to sessional orders.

Mr INGRAM — As I said, the amendment I will propose will change the sunset clause. It will extend coverage for those rural councils and give them more time to come up with suitable standards. I will be taking a particular interest in how those standards are dealt with, and I know that rural councils across Victoria, particularly Wellington and East Gippsland, will also be particularly interested because they are among the councils that are most affected.

I understand that the minister will also look at reassessing the responsibility for particular roads. I know that East Gippsland Shire Council and the Alpine

Shire Council will take particular interest in the Bogong High Plains Road, which runs entirely through national park. Vicroads is trying to put on those councils that it is their responsibility, even though there are no ratepayers living on that road and it runs through national park in its entirety. I know that you, Mr Acting Speaker, would be interested in that because it is important to both our areas. It is a very important tourism loop.

I know the minister is also well aware of the outrageous situation of the Raymond Island ferry and how that was imposed upon the East Gippsland Shire Council during the period of the council amalgamations.

There are a number of issues that need to be addressed. The bill addresses just one of them — nonfeasance. A number of other issues need to be addressed in the subsequent definition of standards, and I hope the minister will look at the cost of funding those roads and make sure that we do not impose an undue cost upon those who can least afford to pay for their maintenance.

Mr CAMERON (Minister for Local Government) — I will make a brief contribution to the debate on the Transport (Highway Rule) Bill to thank the Municipal Association of Victoria (MAV) for the work it has done with the government to arrive at this position where we have before this house a very sensible and commonsense bill.

The bill deals with an extremely complicated legal problem, which was presented to us and to every jurisdiction around Australia with the abolition of the so-called nonfeasance rule. There are various views as to what nonfeasance meant or did not mean; nevertheless we had to tackle it. Looking at the law and the way it has evolved over the years, nonfeasance went very much against the grain because the basis of the rule was that if you did nothing even though you knew you should have you were not liable. That went against the grain of natural thinking.

So, over the years, the rule has been whittled away to the extent that the High Court effectively threw this out the window. While we appreciate that simply returning to nonfeasance is not feasible — because in the long run it will ultimately be whittled away again — what we have been able to do is put in place a holding pattern and move to a position of road standards. The role the MAV has taken, and the leadership it has provided together with the government, is to be commended.

Remarks have been made about roads and road funding, and of course you would expect that, Mr Acting Speaker, because it is a very prevalent issue

across the state and particularly in country Victoria. Honourable members will be aware that as part of the 1991 national agreement on road funding local roads are the responsibility of councils with the assistance of the federal government. And while the Roads to Recovery program and the funding it has been given have been very welcome, the withdrawal of \$100 million by the Liberal–National government in Canberra has been a considerable blow particularly to country councils. The legislation will apply not only to rural roads but also to state roads. Again, I thank the MAV for its contribution.

Mr PLOWMAN (Benambra) — I wish to speak briefly on the Transport (Highway Rule) Bill because the honourable member for Gippsland East, who I am sorry to see has now left the house, raised an issue that I should comment on, the issue of the Bogong High Plains Road. As the Minister for Transport will know, the honourable member for Gippsland East and I approached the minister together with community groups from East Gippsland and north-eastern Victoria to have that road upgraded. The minister very generously agreed to consider that, and it was deemed that the road would be an important part of the tourist loop that adds to the Great Alpine Way and also to the Omeo Highway running between Mitta and Omeo. This is an important part of the whole tourism link of roads through that area. Again I commend the minister for giving due consideration to the importance of that to the electorate of Gippsland East and to my electorate.

Last winter in relation to the Bogong High Plains Road, the responsibility for the management of which has always been contentious, Parks Victoria overruled a decision taken by the Shire of Alpine, which believed it was its responsibility to manage the road. Parks Victoria said — and rightly so — that this was part of a national park and that therefore the road was not the responsibility of the council. That being the case, at the end of the snow period the council said that if the Bogong High Plains Road was not the responsibility of the council during the winter it was certainly not the responsibility of the council during the summer. This argument has gone on. It is important that the legislation will help in returning the position of misfeasance to the councils so that they are no longer liable for some of the things for which they would otherwise have been liable.

The point I make clearly is that, despite that, this is only part of the difficulty that the shire has. If the road is in a national park then clearly it should be the responsibility of the government, as is the case with roads in other national parks. Where that is the case Vicroads is given the responsibility to look after and maintain the roads,

and Mount Buffalo is a classic example. It is therefore important that the section of road I refer to, which has no ratepayers living along it and so provides no benefit to the shire by being a rate-earning road, should revert to the government and Vicroads should have responsibility for its maintenance.

I look forward to the minister's response because it is neither an unusual nor ureal request that this happen. I therefore request that the minister take this into consideration. Certainly, because of the conflict between the parties, maintenance of this section of the road has been neglected. I am glad to see the honourable member for East Gippsland back in the house because he would agree with me that it is important that maintenance of that road be upgraded. It is important that the case we both put to the minister that this road should be sealed is considered — and I hope the minister will give due consideration to this request.

Mr BATCHELOR (Minister for Transport) — In replying I thank the Leader of the National Party and the honourable members for Mordialloc, Warrnambool, Gippsland East, Bendigo West and Benambra for their contributions tonight to this debate. Overwhelmingly it has been a very constructive and positive debate, with honourable members recognising that road authorities have had the rug pulled out from under their feet, so to speak, by the High Court decision and that Parliament is trying to address the difficult transitional arrangements that must be put in place to deal with the new reality.

The honourable member for Gippsland East has foreshadowed an amendment that will be dealt with in the committee stage. Listening to the debate, I understand that it will be supported by not only the government but also the opposition and the National Party. I thank the respective members of Parliament for that support not only for the bill but also in dealing with a difficult and complex set of issues. They have indicated in their contributions to the second-reading debate that they are prepared to support in a consensus way the moving of the sunset provision through to 1 January 2005. I put on record that the government will be supporting that amendment and is happy to do so.

I should like to respond to one particular issue raised by the Leader of the National Party who asked who the bill would apply to and who would be affected by it. There is no doubt that it comes into effect from the date of the second-reading speech and that up until that date the rights are preserved.

Mr Cameron — If a writ has been issued.

Mr BATCHELOR — That is right, if a writ has been issued and proceedings have started. This view is not only supported by the substance of the bill but also acknowledged in *Alert Digest* No. 9 of 2002 of the Scrutiny of Acts and Regulations Committee.

I quote from its report, which states:

The committee notes the special circumstances that arose as a result of the judgment in the Brodie case, as explained in the passage from the explanatory memorandum above.

The committee accepts that the retrospective provision in the bill returns, in a statutory form, the common-law 'highway rule' immunity for nonfeasance as it existed prior to the decision in Brodie. The committee also notes that legal proceedings commenced prior to 10 October 2002 are excluded from the retrospective operation of the proposed provision.

The committee accepts the retrospective operation of the amendments is justifiable in these circumstances.

I concur as minister with the assessment provided by the Scrutiny of Acts and Regulations Committee, and that addresses the issue raised by the Leader of the National Party.

The effect of this bill is, in a sense, to take people back to the same position they were in prior to the Brodie case, and that is the important thing to understand. This bill is re-creating or re-establishing until 1 January 2005 a set of legal arrangements which had existed for a long time in the real world and which were only interrupted by the decision in the Brodie case.

Not only is it the intention of this procedure to deal with the substance of the legislation, but there is also a clear understanding that, in the interim, Vicroads and the government will work with local councils to establish appropriate standards for the maintenance of all roads in Victoria. In essence the amendment circulated by the honourable member for Gippsland East is an acknowledgment that some additional time may be needed for that procedural framework to work out what the appropriate standards are and how they might be put in place and apply right across the community.

I acknowledge the good work of the Municipal Association of Victoria, which was also acknowledged by the honourable member for Bendigo West and Minister for Local Government. The MAV has played an important role in progressing not only the concepts contained in this bill but also the administrative arrangements necessary to underpin the concept of road standards, and it has done that in a very constructive way.

However, I say to all local councils that to achieve this sunseting a lot of work needs to be done. Lots of local government authorities will be in a good position to respond — and respond quickly — by codifying and establishing the road standards post-2025, but they need to start now and not at some time much closer to 2005. This will be a long and detailed process, and Vicroads and the government are prepared to work through it with local authorities. But as I say, it cannot be left to the last minute or they will be caught napping.

I am pleased with the support this bill has received. As you indicated, Mr Acting Speaker, this has become an issue in a number of areas, and in particular in an area that is close to your heart. I appreciate the support that has been given to this proposal in general, and I also appreciate the commitment from not only this house but also the Legislative Council to deal with the legislation expeditiously this week in order to alleviate some very precise pressure points, such as those that exist on the Bogong High Plains Road.

This bill will go some way towards addressing two of the fundamental issues that have been raised by the Alpine Shire Council — the public liability and insurance issues associated with its management of this road — and put the shire in the same position it was in prior to the Brodie case.

I am prepared to sit down and talk with the mayor and try to work through those funding issues. As a precursor to that, I will be asking the officers of Vicroads and the shire to get together to try to resolve any differences and establish agreement about the facts of the case so that when the mayor and I get together we can progress the issue. There will not be preconditions set on this meeting, rather we will have the officers get together to try to iron out any differences so they can work in a productive way and help the mayor and me to resolve any substantive issues around funding. Hopefully that can be done in a short period of time.

I thank the Parliament in anticipation of its support of the second-reading and committee stages of the bill in this chamber and wish it a speedy passage through the upper house.

The ACTING SPEAKER (Mr Plowman) — Order! As this bill is required to be passed by an absolute majority and there is not an absolute majority of members 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 agreed to.

Clause 2

Mr INGRAM (Gippsland East) — I move:

Clause 2, line 5, omit "1 July 2004" and insert "1 January 2005".

As explained in the second-reading debate, this amendment changes the sunset clause to give those rural councils which are most affected by the removal of the nonfeasance defence more time to adequately bring up their reporting and road construction and maintenance management operations. So they are protected by that nonfeasance defence until 1 January 2005.

Mr RYAN (Leader of the National Party) — The National Party supports the amendment. The government has taken a different tack in accepting the amendment moved by the honourable member for Gippsland East in its amended form. Just last week in the debate on the National Parks (Box-Ironbark and Other Parks) Bill when the National Party moved its amendments, the government saw fit to move precisely the same amendments in its own name. When the minister is concluding this debate I would be interested to know why there has been a basic change in the way amendments are being dealt with by the government — but I am sure he can explain that to the chamber.

I pay tribute to Paul O'Dwyer, the barrister who prepared the bill which the National Party introduced in the Legislative Council. Mr O'Dwyer's work saw the legislation created, and it is largely to his credit that it is being debated in the Legislative Assembly at all.

Mr LEIGH (Mordialloc) — The opposition has no objection to the amendment, by agreement between the sides. I still make the point, as I did during the course of the second-reading debate, that I do not agree with retrospective legislation. However, we must make sure that the government of the day and the councils concerned honour the commitment and that it is sunsetted on 1 January 2005. Hopefully the councils the honourable member for Gippsland East is talking about will resolve the matters by then and that the government at that date — whichever it might be —

will ensure that proper legislation resolving this matter for the future is brought into the Parliament.

Mr PLOWMAN (Benambra) — I support the amendment. The Vicroads Omeo Highway and Benambra–Corryong Road economic evaluation study indicates that the minister is prepared to look at the Bogong High Plains Road as a road of importance to be improved. In so doing I believe he has accepted that this road is the responsibility of the government and not the Shire of Alpine. In committee the minister needs to answer whether he accepts that responsibility.

The CHAIRMAN — Order! The committee is dealing with the amendment moved by the honourable member for Gippsland East, which relates to time.

Mr BATCHELOR (Minister for Transport) — The government accepts the amendment moved by the honourable member for Gippsland East, and in so doing reiterates the comments made by the honourable member for Mordialloc. It is the desire of the Parliament that all councils use this extra time to their advantage to make sure that they are able to prepare the necessary road standards that will underpin what is being moved here tonight.

The honourable member for Benambra raised the question about an interim Vicroads report. That is not the final report and when the final one is made available we will use that in discussions with the Alpine Shire Council. The other day I gave an undertaking to the Alpine Shire Council, through its chief executive officer Mr Hetherington, that I would be prepared to meet with it to talk about all the attendant funding issues. The Parliament will deal with insurance, public liability and risk issues today and on Thursday.

Mr INGRAM (Gippsland East) — While we are in the committee stage I would like an assurance from the minister that before the sunset clause expires — and it appears it will be accepted — if rural councils cannot meet the standards that are to be set down through negotiation with the state government and are required to close down roads, the government will assist the councils in maintaining those roads.

Mr BATCHELOR (Minister for Transport) — The commitment the government will give will assist councils to meet those standards by that date. If they are unable or unprepared to meet those standards by the extended date the government will implement these changes on that date.

Amendment agreed to; amended clause agreed to; clauses 3 to 5 agreed to.

Reported to house with amendment.

Report adopted.

Third reading

The SPEAKER — Order! As there is not an absolute majority of the members 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 third time.

Remaining stages

Passed remaining stages.

**PLANNING AND ENVIRONMENT
(METROPOLITAN GREEN WEDGE
PROTECTION) BILL**

Second reading

**Debate resumed from 10 October; motion of
Ms DELAHUNTY (Minister for Planning).**

**Independent amendments circulated by Ms DAVIES
(Gippsland West) pursuant to sessional orders.**

Mr BAILLIEU (Hawthorn) — The concept of green wedges is a Liberal legacy of which the Liberal Party remains proud and which it intends to honour. The Liberal Party has always strongly supported the concept of green wedges and that will continue.

The concept of green wedges has emerged over some 30 years. The label has changed over that time. At various stages we have had the simple description of non-urban zones, and we have had the label of green breaks or green belts. Those of us who were students of the science in the 1970s would recall Roger Johnson's book *The Green City*, which had a significant impact on the planning community.

The original concept was formalised by the Hamer government in the 1970s. It was a vision that received widespread support in the Victorian community and particularly among Melburnians. It was a vision which was balanced and from the heart and one which has stood the test of time. I say it was a vision that was balanced because the Hamer government had the foresight to not only understand the importance of separating urban development with green spaces but

also making provision for land acquisition and the setting aside of sizeable tracts of land for public purposes.

If I recall correctly, in the 1970s some 6000 acres were set aside, well in advance of the growth of metropolitan Melbourne. The metropolitan parks that were developed at that time, including the then Maribyrnong Valley Metropolitan Park and what was the Jells Park — —

Ms Beattie — Look it up in the *Melway*!

Mr BAILLIEU — The honourable member for Tullamarine says I should look it up in the *Melway*. The honourable member for Tullamarine can be comforted by the fact that as a student I actually worked on the Maribyrnong Valley Metropolitan Park.

Ms Beattie — What a big comedown for you!

Mr BAILLIEU — Quite the contrary; it was a pleasure. Those of us who worked on the concept of metropolitan parks in the 1970s respect and honour the contribution they have made. Brimbank Park and the Churchill National Park, which began in the Jells Park region, were major contributions from the Hamer government and they were in advance of the growth of Melbourne at the time.

I can recall students at university at that time looking at, for instance, what is now Brimbank Park and saying, 'This is an undeveloped and extensive area, not close to urban development'. At the time those of us who were involved appreciated the foresight. That is what it was in the 1970s — foresight. That foresight was embraced by the planning community and others. As the honourable member for Tullamarine would know, the setting aside of land for Tullamarine Airport was a visionary piece of Liberal foresight which Victorians have appreciated ever since.

As I said, the contribution of the Hamer government to the development of the concept of the garden state is a legacy which we are proud of and will honour. It is fascinating to recall the currency that the slogan 'The Garden State' had with Victorians and all Australians. 'The Garden State' was probably the most memorable tag Victorian car number plates ever wore. It still resonates and it is still part of the Victorian dream that we are 'The Garden State'. It is fascinating to think of that as part of our history and to reflect on what it is in Victoria that causes people to feel so close to their parklands and other green spaces. The reality is that it is part of our history. Those spaces are a link with our past and that link is something that we all can cling to.

Madam Deputy Speaker, it is late in the evening and unless I am mistaken we will be adjourning in a couple of minutes. I have a considerable amount to say about the bill in front of us.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! There is too much audible conversation. I ask honourable members to take their seats.

Mr BAILLIEU — There is quite a lot I wish to say about the bill. Obviously that will have to wait until tomorrow.

Mr Robinson — Can we have instalments?

Mr BAILLIEU — We will be having it in instalments.

Ms Beattie interjected.

Mr Holding interjected.

The DEPUTY SPEAKER — Order! The honourable member for Tullamarine and the honourable member for Springvale!

Mr BAILLIEU — Some years ago, Paul Kelly, who wrote a book about how our culture and beliefs have changed, entitled *The End of Certainty*, touched a nerve with Australians. We have almost replaced an age of belief and trust. Our institutions are regarded with some disdain by the community. There has been a shaking of belief in many of our institutions: churches, Parliament, councils, unions, and employers. Indeed, on an international scale there is reason to consider that certainty is something about which the community is greatly concerned. In many ways that causes people to believe and trust in things which are perhaps intrinsically a little more benign. Indeed the great trust, faith and belief that Australians have in their own environment are testimony to our reaction to change.

You can probably sum it up by saying, from an Australian point of view, that no matter what happens on an international scale — and today we have seen a reminder of it — you can mess with our hearts, you can mess with our heads and you can mess with — —

The DEPUTY SPEAKER — Order! The time for government business has now expired. The honourable member for Hawthorn will have the call when the debate is resumed.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The DEPUTY SPEAKER — Order! Under sessional orders the time for the adjournment of the house has arrived.

Barwon Health: waiting lists

Mr SPRY (Bellarine) — I refer the Minister for Health to one of the most disturbing examples of the mistreatment of a patient in the public health system that I have witnessed in 10 years of serving in the Parliament. It concerns a resident of my home town of Queenscliff who has been waiting for 13 months for open heart surgery at Geelong hospital. This unfortunate patient does not want his identity revealed publicly because he is afraid that it might further jeopardise his chances of getting much-needed treatment. That in itself is an indictment of the system, but I am happy to give the minister his details later.

In a recent letter to the acting operations services manager at Barwon Health's Geelong hospital this patient says:

A great deal of nervous anxiety for both my wife and myself as well as the rest of our family. I feel I have not progressed an inch and feel lost and without a positive outlook.

I hope you would be able to help me overcome the dreaded thought of a seventh cancellation plus the fear of the aneurysm rupturing.

This is a shameful reflection on Barwon Health. Despite the government's rhetoric, waiting lists are ballooning to unmanageable numbers, and this case illustrates Barwon Health's inability to manage under this Labor government.

Madam Deputy Speaker, imagine you are waiting for open heart surgery. You are keyed up and anxious, yet your appointment is cancelled not once or twice or three, four or five times, but six times. Can you imagine what your state of mind might be? You have to admire this man's courage. I ask the minister to give me an assurance that this man's next appointment on 28 November at Geelong hospital will be honoured. He deserves better than the indifferent attention he has been subjected to under this Labor government.

General practitioners: numbers

Mr ROBINSON (Mitcham) — I refer the Minister for Health to Victorians' access to a very basic health service in the electorate of Mitcham in the eastern suburbs of Melbourne, and that is their access to general practitioners (GPs). I ask the minister, on behalf of all Victorians, and particularly on behalf of those in

the eastern suburbs, to make every representation possible to the federal government to address what is an urgent situation.

Mr Perton interjected.

Mr ROBINSON — Perhaps the honourable member for Doncaster needs to consult a GP.

The federal government's own figures show that over the last six years in the federal electorate of Deakin — the federal government breaks these figures down by electorate — the number of GPs has fallen from 154 to 130. There has been a similar decrease in the number of GPs who are bulk billing. The decline in the number of GPs in the eastern suburbs means longer queues and frustration. After all, this is a basic right. As the population grows it is understood that the growing number of older people in that population consumes more health services, so it stands to reason that access to GPs should be maintained as a right rather than made harder. In the Mitcham electorate, for example, there are some 7800 residents over 65 years of age.

I acknowledge that in the first instance this is a federal government problem by virtue of its power over the issuing of provider numbers, but it is in the interests of all Victorians that the Minister for Health make the strongest possible representations to Canberra in the various forums that exist to address this problem.

I congratulate the minister on the work he is doing in the provision and extension of health facilities. The other day the honourable member for Burwood and I were at Box Hill to announce a fantastic expansion of the Whitehorse Community Health Service. That is an excellent extension, and we look forward to further announcements involving that great service.

It concerns me that the federal government does not seem to want to know much about this problem. When questioned recently the federal Liberal member for Deakin, Mr Phil Barresi, said that any decline in the number of GPs working in Deakin was driven by the demand for the service. This is quite extraordinary. This reminds me of the old line in *Yes, Minister* where the minister was shown the most efficient hospital in the system which happened to be the hospital that was empty.

Mr Perton interjected.

The DEPUTY SPEAKER — Order! The honourable member for Doncaster is out of his seat!

Mr ROBINSON — Perhaps the federal government's rationale is that reducing the number of

GPs who operate will make us a healthier society. It does not stand to reason; it is a crazy piece of logic. The federal government needs to improve its game urgently.

Fishing: reciprocal licences

Mr JASPER (Murray Valley) — I wish to bring to the attention of the Minister for Ports in another place the problem of reciprocal fishing licences for people living on the border of Victoria and New South Wales. The issue of reciprocal fishing licences goes back a long way. It has been raised on many occasions. In the mid-1980s there was a move to get reciprocal fishing licences, and the Victorian government suggested it would provide a reciprocal licence system. New South Wales said it would if Victoria funded New South Wales for the amount of the lost reciprocal licence fees. So it has been a big issue that has gone on for many years.

When the premiers of New South Wales and Victoria met at Albury-Wodonga last year they decided that Albury and Wodonga should consider coming together and that they would look at border anomalies, including fishing licences, and provide reciprocal licences for people fishing on Lake Hume and Lake Mulwala. That led to a consultation paper on joint fisheries management arrangements for Lake Hume and Lake Mulwala, with responses to be provided by 15 November 2002. It provides for those fishing in Lake Hume to have a Victorian licence and for those fishing in Lake Mulwala to have a New South Wales licence.

This is an absolutely ridiculous situation which defies logic. We will have a continuing problem where people need to have two licences despite this proposed arrangement. If you are fishing in Lake Hume you will need a Victorian licence, but if you go up to one of the tributaries from Lake Hume you will need to have a New South Wales or Victorian licence, depending on what side of the border you are on. If you go to Lake Mulwala you will have to have a New South Wales licence, but if you go up the Ovens River into Victoria you will need to have a Victorian licence.

With this discussion paper we see the perpetuation of a ridiculous situation in relation to fishing licences which has continued over the years that I have been in Parliament. The issue needs to be resolved, but the position taken in the consultation paper will not resolve it. It seeks to resolve the issues in Lake Mulwala and Lake Hume, but it will provide a single licence only for each of those two lakes and it will not resolve the situation for people fishing in other areas. If you have a Victorian licence for fishing in Lake Hume you will not

be able to fish in Lake Mulwala because you will need to have a New South Wales licence to fish in that lake.

I want the Minister for Ports to review with her New South Wales counterpart what is an obvious anomaly. It needs correction and we need reciprocal licences.

Greater Geelong: review

Mr TREZISE (Geelong) — I raise an issue for action with the Minister for Local Government concerning council structures within the region of Geelong. As the member for Geelong and a ratepayer in the City of Greater Geelong I am well aware that there is overwhelming community-wide dissatisfaction with the performance of council and in particular the lack of basic services being provided to ratepayers. Steps must be taken to address this issue, not only for the benefit of ratepayers but also to ensure that Geelong as a city is not being impeded by a structure that is failing it.

Therefore the action I seek is for the minister to take into account the concerns of Geelong ratepayers and consider a review of council structures within the region. In seeking this action I bring to the attention of the house the fact that I have recently conducted a community-wide survey seeking people's views on matters of importance to them. Of the 2000 responses approximately 75 per cent of written replies raised concerns relating to the City of Greater Geelong. Many residents raised not only service provision concerns but also concerns relating to the size of council and thus being treated impersonally or, as one resident wrote, as 'just another number waiting in line for a service that was not forthcoming'.

I am also well aware that the minister has appointed an inspector to the Surf Coast Shire to investigate financial problems in that council. Therefore it is evident to me that there are systemic problems within council bodies in the wider Geelong region as a result of the way local government structures were imposed on the region by the previous Kennett government. In seeking this review I can assure the minister that, together with my government colleagues in Geelong, as a priority I will be taking appropriate steps to consult with ratepayers to ensure that their views and ideas on appropriate council structures are sought and taken into account by government. I urge the minister's action on this important issue.

Preschools: Eltham

Mr PHILLIPS (Eltham) — I raise for the Minister for Community Services, and in her absence the

Minister for Senior Victorians, the issue of additional funding for preschools in the Shire of Nillumbik and the City of Banyule in my electorate of Eltham. We know how important preschools and child-care centres are for young children, and an additional burden has been placed on preschools to do more given the tightening of regulations and the improvements over the years. Preschools rely predominantly on fundraising activities to keep them going.

Many of the preschools in the Eltham electorate require additional funds to upgrade their facilities in line with the new regulations. A lot of it is for fencing that is unscaleable for children so they can be kept within the confines of the centre and play safely outside the building. An enormous burden has been placed on local government to find extra funding, and if it were not for local government many of the preschools would simply not survive. Nillumbik Shire Council has written to me seeking additional funding in line with the changes to regulations made this year.

I seek additional funding from the minister this financial year for the preschools in Nillumbik and Banyule to keep those preschools operating and continuing to provide a service for young children.

Liberal Party: Ripon candidate

Mr HELPER (Ripon) — I raise a matter for the attention of the Attorney-General as the minister with responsibility for the Victorian Electoral Commission. I quote from a letter:

I believe that now more than ever we need the certainty and security that comes from having definite priorities and plans ...

I agree with that statement and highlight some of the achievements and priorities that have been met in terms of the Labor Party's plans in the electorate of Ripon, such as the refurbishment of three major hospitals and the provision of improved services and refurbishment at two smaller hospitals; the building and commissioning of seven police stations; the return of passenger rail services; and the standardisation of rail services. I quote again from the letter:

I am greatly concerned that after only three years Victoria's financial position has run down ...

I disagree with that, of course, pointing to Victoria's AAA rating and the excellent economic and budgetary performance that has occurred under the Bracks government, with its magnificent Treasurer. I further quote from the letter:

I believe the safety and security of our neighbourhoods and community is a prime responsibility of government.

I concur with that statement and draw attention again to the employment of more than 800 extra police officers across the state and in my own electorate, as I have said before, the building of seven new police stations and some innovative initiatives. I will skip a couple of paragraphs of the letter and go to the postscript, which states:

I enclose information about Rob de Fgely —

I cannot really pronounce the name —

your local Liberal candidate in the Ripon electorate ...

The action I seek from the minister is that he reassure my opponent — Rob de Fegely is his real name — that his name will appear appropriately on the ballot paper when the election occurs any time over the next 14 months. The letter, for the interest of honourable members, has under it the signature of Robert Doyle, Leader of the Opposition.

Anglicare: Rosebud

Mr DIXON (Dromana) — I raise for the attention of the Minister for Youth Affairs in the other place, through the minister at the table, the Minister for Senior Victorians, the decision to stop the funding of Anglicare's unique youth services program in Rosebud, which is an area of high youth unemployment and homelessness. It has been a wonderful preventive program. I quote the manager, Sally Alsop, who states:

We are absolutely devastated ... After three successful years of bringing positive change to the lives of local youth, our youth program has hit the dustbin.

I ask the minister to reinstate the program's funding. It has been a wonderful preventive program and is supported by many community groups, including the local Anglican parish, Rotary and the Mornington Peninsula Shire Council. The Department of Human Services has said it will no longer fund the program and that it is the responsibility of the Office for Youth. When Anglicare approached the Office for Youth it said, 'No, we will not fund that, it is the responsibility of the Department of Human Services'. Who is missing out? The young people of Rosebud.

A great part of the program was the shed program, which is described as one that saw young people who were directionless and often socially rejected come together to gain physical, social and promotional skills. They are currently learning to restore a donated trailer-sailer yacht from scratch. The ultimate aim was to learn to sail it. You could not bring more positive

change to the life of a person who has suffered abuse, rejection, school refusal or homelessness.

I ask the minister to work out who is actually responsible for funding the program and to restore the funding, because in December the youth worker who works so closely with young people in the Rosebud area will be sacked.

Land tax: small business

Mr STENSHOLT (Burwood) — My request for action is directed to the Treasurer. I ask him to take action to provide practical administrative relief to small retailers and landowners in the payment arrangements for land tax. This is an issue which I have raised before in the house on behalf of people in and near my electorate. As honourable members may know, land tax is often passed on as an expense or an outgoing — —

Mr Perton — On a point of order, Deputy Speaker, there is a rule against anticipation. There is a Retail Leases Bill in this house, and the honourable member is asking for action relating to the bill. The honourable member is not entitled to do so during the adjournment debate.

The DEPUTY SPEAKER — Order! I do not uphold the point of order. The honourable member is asking for administrative action on matters that he has raised relating to land tax.

Mr STENSHOLT — The honourable member for Doncaster has got it wrong again. He obviously does not understand the issue. I have been supporting retail tenants, small traders and businesses in my area. They have raised this issue with me in the past, including the Maling Road traders in Canterbury and the traders in Camberwell. I have spoken to and addressed the Camberwell business group several times — far more than the local member — and also traders in Ashburton.

I look after small businesses in my area in a way that has not happened before, and I have talked to Philippa Kelly of the Australian Retailers Association. Armed with their advice about practical arrangements, we have to look at doing things which are achievable.

I approached the Treasurer's office and asked for a meeting with Treasury and State Revenue Office staff to discuss what practical administrative arrangements could be made to at least lessen the cash flow problems. Honourable members who understand small business realise that certainty about cash flows is very important. Indeed, if one can lessen the cash flow shocks that local traders might suffer they can be delivered a great service.

While there is the wider issue of the land tax and its scale, I am looking to the Treasurer to take some simple steps, such as stretching out the payment period so the rates can be paid over a longer payment phase. The idea is to help traders manage their cash flows with greater certainty than in the past. I also raise with the Treasurer the need for better information for local retailers and owners on land tax payments. It is very important that shopping strip retailers have clear information on better payment systems.

I urge the Treasurer to give positive consideration to these suggestions and their implementation.

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

Planning: St Kilda Football Club oval, Moorabbin

Mrs PEULICH (Bentleigh) — I raise a matter for the attention of the Premier, and in his absence the Minister for Senior Victorians. I also take the opportunity of pointing out that only 6 minutes ago there were half a dozen ministers in this chamber, but currently there is only one. Yet again it is disappointing that the very important issues honourable members are raising on behalf of their communities are not able to be responded to by the ministers responsible.

I raise a matter in relation to the proposed redevelopment of the Moorabbin oval at Linton Street and the absolute misinformation and policy confusion resulting from the actions and failure of communication of members of the Labor Party, which are having a significant impact on the community and causing a high degree of angst.

Let me quote some of the policy confusion and misinformation that is being spread: first of all, the St Kilda Football Club wants some reforms because it is looking at some hard financial challenges in the future; the Kingston City Council — a Labor-dominated council — is keen to see some sort of redevelopment; Greg Alabaster, a former Labor councillor and a former Independent who in 1992 gave his preferences to Labor when nobody else did and who was also the Mordialloc electorate campaign chairman for Robyn McLeod, opposes any development; the Minister for Sport and Recreation funds the development of plans for the proposal — —

Mr Holding interjected.

The DEPUTY SPEAKER — Order! The honourable member for Springvale!

Mrs PEULICH — And then says he did not because he wants consultation. And even before the consultation has occurred the Labor candidate for Bentleigh, who lives in Northcote but says he lives in Bentleigh, says 'I'm totally opposed to any sort of redevelopment and I'm totally opposed to any sell-off of public land'. I am happy to hear about the opposition to the selling off of public land — —

Mr Holding interjected.

The DEPUTY SPEAKER — Order! The honourable member for Springvale!

Mrs PEULICH — Only a week later we had the release of the 2030 Bracks planning nightmare, which is going to cram an additional 23 000 buildings into Moorabbin, which is now a major activity centre. I call on the Premier to clarify the policy confusion that is impacting on the Moorabbin community, and in particular those residents in the area surrounding Linton Street.

Employment: Latrobe Valley

Mr MAXFIELD (Narracan) — I direct my adjournment issue to the attention of the Minister for Employment. As honourable members would be aware, the Latrobe Valley certainly suffered under seven years of Liberal and National Party neglect. We saw job after job lost as the Kennett government cut a swathe through the Latrobe Valley and took absolutely no action to create the jobs that we needed in our community.

After those dark, neglectful years, what has been occurring of late? For starters, the Bracks government put together a \$100 million rescue package for the Latrobe Valley, which shows the government's commitment to driving it forward.

An honourable member interjected.

Mr MAXFIELD — That's right. Great local members assisted with the lobbying.

You can see how housing prices in the Latrobe Valley are rising, as is the optimism and excitement in the Valley. The strong commitment to upgrading public housing has been used to train those who are unemployed.

As well as the \$100 million rescue package in the Latrobe Valley we also have the new call centre for the Office of Housing which was announced the other day. That is an \$8.6 million project that will create over 64 permanent, full-time jobs or their equivalent in the

township of Moe. The old Moe hospital site is where we have established the Telstra call centre. A Monash University rural health centre will go in there as well. Job after job is going into Moe, and we are seeing the unemployment rate drop as more and more people are going back to work.

We also have the tendering out of the coalfields, which is part of the ministerial task force, and we now have in the pipeline projects worth billions and billions of dollars that will create thousands of jobs across the Latrobe Valley. It certainly is something that makes me very proud.

Even with that tremendous achievement of the Bracks government with regard to jobs we need further support for those who are still unemployed; we need more of the jobs that have brought the unemployment rate down. We will continue to drive it. Therefore I ask what action the Minister for Employment can take to assist those who are unemployed — those who are still out of work — because we cannot rectify all the Kennett government neglect overnight.

We are rebuilding the Valley, which is now going forward with optimism and hope, but we cannot ignore those who have been left behind in this project. We will carry them, and as a government we will support them all the way, and we will be calling for further action to assist those who are out of work.

Clothesline project

Mrs FYFFE (Evelyn) — My request for action is to the Minister for Women's Affairs. I refer to her arrogant behaviour prior to the launch of last week's Week Without Violence and the Clothesline project. An invitation to speak at the launch was issued two months earlier to Kay Nesbitt, a high-profile victim of violence who has for the past 17 years fought for victims' rights.

On the very morning of the launch Kay was told by fax, just before she left home, that she was not allowed to speak. Kay Nesbitt has given me a copy of the speech she would have given. It is non-political. It is full of understanding, compassion and concern for the victims of violence and their children. I quote:

Family and domestic violence is much more than physical abuse, it is all about when a partner tries to control the other partner and other family members. There are also other controlling behaviours as well, such as sexual and mental abuse, threats of violence and revenge, property damage and even harming the family pets, destroying things that are held dear to that person, humiliation and even financial exploitation and social isolation.

Most of these women live in absolute fear even after they have left their abusive relationship. Domestic violence does not just happen in our poor neighbourhoods either; it is also rife in our wealthy areas as well ...

...

Most people do not understand the reasons why most of these women do not leave their abusive partners. It is because they still love them, and in many cases they believe that they will change because that is what they have been promised.

Many children who witness family violence have been found to have very high emotional and behavioural problems, much higher than children from functional families ...

It is up to all of us now to say enough is enough because we will not accept that violence is a part of our everyday life any more.

What did the minister do? The very week she launched the women's safety strategy with the books that she has sent out all over the state she refused to share the same platform as Kay Nesbitt. Why? Because Kay is standing as an Independent candidate for the seat of Bass against Labor's bosom friend, the honourable member for Gippsland West.

Kay Nesbitt was not making a political statement. It was the Minister for Women's Affairs who made the event political. The opening of Kay's speech was:

The Clothesline project was devised to make people more aware of the impact that violence has on our women and children in our community.

The great idea of the Clothesline was to make it visible to the public so that each woman can tell her story in her own way, by painting a picture on a T-shirt that symbolises her experience that she has endured.

And Kay Nesbitt has certainly endured that experience!

The action I want from this minister — the minister who lacks compassion and caring! — is that she write to Kay Nesbitt and apologise for refusing to speak on the same platform at such an important event for all women and children who are victims of mindless violence.

The DEPUTY SPEAKER — Order! The honourable member for Springvale has 40 seconds.

Consumer Law Centre Victoria

Mr HOLDING (Springvale) — I direct a matter to the attention of the Minister for Consumer Affairs. The action I seek is that the minister continue funding to the Consumer Law Centre Victoria for its important casework and litigation service, which it established in February 2001. It is a very important service which undertakes selective test case litigation to advance consumer interests. It needs funding from the state

government for it to continue, and the action I seek is that the minister give a guarantee that this funding will continue so that its important test case work can go on.

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

Responses

Mr CAMERON (Minister for Local Government) — The honourable member for Geelong raised a matter concerning municipal arrangements in the Geelong region. He pointed to the fact that he did a survey recently and had an enormous response from residents with concerns involving the City of Greater Geelong. Equally, I get correspondence as well.

He also pointed to ongoing concerns about the Surf Coast Shire, where a municipal inspector was appointed to look at issues that had surfaced going back to the Liberal days of compulsory competitive tendering. There is no doubt that the handling of local government by the Liberals has a lingering effect.

The honourable member for Geelong is a great advocate for his region. He has told the house that he will be promoting, and seeking views on, more workable arrangements at the local government level. In doing so he will continue to consult with the community of Geelong.

I welcome his commonsense approach following his survey. The government will, of course, give consideration to his suggestions following this work.

Mr HULLS (Attorney-General) — It really was an extraordinary tale that was told to us by the honourable member for Ripon, and I would not have believed it until I was presented with the actual letter he referred to. My understanding is that 16 000 of these letters have gone out, signed by an ex-schoolteacher — —

Mr Perton — On a point of order, Deputy Speaker, the action asked for by the honourable member for Ripon was for a referral to the Victorian Electoral Commissioner. The Attorney-General is entitled to canvass matters of government administration but not to use this as an excuse to engage in electoral banter.

Ms Delahunty — On the point of order, Honourable Deputy Speaker, the action that was sought from the Attorney-General related to the correct spelling on the — —

Mr Perton — No, you weren't listening, you dill!

Ms Delahunty — I was listening.

The DEPUTY SPEAKER — Order! The minister, through the Chair.

Ms Delahunty — The action that was sought from the Attorney-General was to reassure Mr de Fegely that his name would be spelt correctly, and that is what the minister was doing.

The DEPUTY SPEAKER — Order! I do not uphold the point of order at this stage, as the Attorney-General had just begun his response and may make comments in passing. However, the Attorney-General is required to respond to the matter raised by the honourable member for Ripon. It is not an opportunity to attack candidates standing for election, whenever that may be.

Mr HULLS — Oh no, I do not intend to attack the candidate.

I understand 16 000 of these letters have gone out under the signature of the Leader of the Opposition, and the candidate's name appears to have been spelt incorrectly on 16 000 occasions.

The point is that we have a new Electoral Act in Victoria, and it says that the Electoral Commissioner has the power to refuse to include a person's name on the register of electors if the commission considers that:

... the name is fictitious, frivolous or obscene.

One can only read the name of the candidate.

Mr Perton — On a point of order, Madam Deputy Speaker, you indicated in your previous ruling that you would not permit the Attorney-General to head down the track that he is now heading down. Clearly the section he has just read does not even refer to the letter that he has just read out. As you said, the adjournment debate is not a time for attacks to be launched on candidates for either party.

The DEPUTY SPEAKER — Order! There is no point of order. The honourable member appears to be anticipating what the Attorney-General may say in the future. As the Chair has not heard anything inappropriate in relation to the matter raised by the honourable member for Ripon, I ask the Attorney-General to continue.

Mr HULLS — So the Electoral Commissioner can refuse to register a name if it is fictitious, frivolous or obscene. I personally am no oil painting, but for someone to be describing themselves as 'de Fgely' is, one might say, either fictitious, frivolous or obscene.

Mr Perton — Madam Deputy Speaker, on a point of order, this is a Parliament. It is not a place for a minister of the Crown — someone who is very happy to describe himself as having a special role as the first law officer — to be mocking the name of another citizen, whether he is a candidate or not, and I ask you to bring him back to addressing matters of government administration rather than trying to make bad humour about someone with a European name and a European spelling of a name.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask members to cease interjecting, particularly the honourable member for Springvale.

Mr Helper — On the point of order, Deputy Speaker, as the person who sought the action from the Attorney-General, I think I am entitled to know very well what action I sought. The action I sought was that the Attorney-General reassure my opponent, who I know would probably be suffering acute embarrassment at the hand of his leader, that on the ballot paper in the forthcoming election, whenever that may be over the next 14 months, his name will be spelt correctly. So I for one am extremely — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! There is no point of order, and neither did the contribution by the honourable member for Ripon refer to the point of order. The Chair is not in a position to judge the benefits of the humour of the Attorney-General. I ask the Attorney-General to continue his answer.

Mr HULLS — Section 68 of the Electoral Act provides that:

... after the issue of the writ for an election —

whenever that may be —

the Commission must make available at locations and times determined by the Commission —

- (a) the names and contact details of the candidates for the election.

Section 69 provides that when nominating a candidate must specify their name and address as it appears on the register of electors.

Mr Holding interjected.

The DEPUTY SPEAKER — Order! The honourable member for Springvale will cease interjecting!

Mr HULLS — It is my understanding that there is no person called ‘Rob de Fgely’, despite what the Leader of the Opposition may have us believe. Despite the fact that he was a schoolteacher, he seems to have sent out 16 000 letters promoting someone by the name of ‘de Fgely’.

My suggestion to him is that he read the Electoral Act so that he understands that he has to ensure that the true names of candidates are indeed put on ballot papers. So I think the message to him is — and I will ensure that he is advised — that under sections 68 and 69 of the relevant Electoral Act he cannot go pretending that he has candidates he does not have. I do not care what they look like. Whether they are handsome or otherwise I do not think is relevant, but he must have the correct names on the ballot paper. I think it is an embarrassment to him and the people of Ripon that the Liberal Party leader does not even know who his candidate is in Ripon.

But I know that the people of Ripon know who Joe Helper is. They absolutely know who Joe Helper is because it is Joe Helper who has got them seven police stations. It is Joe Helper who has ensured the refurbishment of three major hospitals. So when it comes to election time, whenever that may be, the people of Ripon will have a choice between Joe Helper and someone called de Fegely, and I am sure they will make the right choice. Helper for Ripon!

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask the house to assist the Chair in allowing the adjournment debate to continue in an orderly manner, and I ask honourable members to cease interjecting.

Mr THWAITES (Minister for Health) — The honourable members for Bellarine and Mitcham raised issues in relation to health which are connected. Regarding Barwon Health, I will certainly look into that matter. Some of the issues raised by the honourable member for Bellarine are of concern, but I point out that the government has provided an extra \$40 million in funding for Barwon Health which has enabled it to employ more than 160 extra nurses, and this hospital is now treating far more patients than ever before. In fact there has been an increase of approximately 50 per cent in the number of patients treated. This, of course, is a fundamental indicator of how many patients can be treated in a high-quality way.

I also point out that Barwon Health has turned around a deficit situation which it inherited as part of a funding black hole from the previous government. This

government has turned that situation around and the hospital in turn is now reducing its waiting lists. This is an excellent outcome.

Mr Spry — On a point of order, Madam Deputy Speaker, I appreciate the fact that the Minister for Health is in the house to answer this question. I really appreciate that. It is a change to see some ministers in here — —

The DEPUTY SPEAKER — Order! I ask the honourable member what his point of order is.

Mr Spry — The point of order is that the question I raised affects the life of one of my constituents. He has been scheduled for surgery six times, and surgery has subsequently been cancelled every time. I ask the minister to address that specific question. I do not want the sword of Damocles hanging over the head of this man for any longer than is absolutely necessary.

The DEPUTY SPEAKER — Order! There is no point of order.

Mr THWAITES — I object to the debating point the honourable member for Bellarine raised. The honourable member told me that he wanted me to look at this issue. I had already agreed to that. For the honourable member then to raise a spurious point of order is a breach of trust and contrary to the indications he gave me. What I am trying to point out to the honourable member is that Barwon Health is doing a very good job in treating many more patients than it did under the previous government.

The honourable member for Mitcham raised the issue of the shortage of GPs, which is causing a major problem not only for hospitals in the east of Melbourne but also in Geelong. I met with the Division of GPs in Geelong this year and its members raised with me the problems being caused for Barwon Health and the Geelong hospital because of the shortage of GPs.

In fact, they showed me graphs that compared the availability of GPs with the increase in demand in the emergency department at Geelong hospital. It is that increase in demand in the emergency section that has led to problems with elective surgery, because under the hospital's clinical priority system the most urgent patients are treated first. So the emergency department patients need that treatment first.

Geelong does not have enough GPs because the federal government will not provide them. It will also not provide adequate medical benefits, so the Geelong hospital — —

Mr Spry interjected.

The DEPUTY SPEAKER — Order! The honourable member for Bellarine!

Mr THWAITES — That means the Geelong hospital is now coping with more emergency cases all the time. We are seeing the same result in the eastern suburbs and in the outer north-western suburbs of Melbourne, where the growth in emergency demand is greatest in areas of recognised GP shortages. The evidence indicates that the primary care-type presentations — presentations that might otherwise have been before a GP — have increased some 34 per cent in two years in the areas where there are general practitioner shortages.

As a government we are acting on this. We are working with the GP divisions under our hospital access risk program to provide support for these patients to try to prevent their admission to hospital. But so long as the federal government continues to provide insufficient GP numbers and insufficient funds for GPs we will have this pressure on emergency departments in the eastern suburbs and in Geelong and an increase in presentations that should be handled through the GP system.

Mr Wilson interjected.

Mr THWAITES — Of course he is not. That is the whole point.

Mr Wilson interjected.

The DEPUTY SPEAKER — Order! The honourable member for Bennettswood!

Mr THWAITES — The increase in demand in emergency departments leads to a reduction in the ability to carry out elective surgery. That is something the federal government must address.

Honourable members interjecting.

Mr THWAITES — Honourable members opposite say this is happening all around Australia. Of course it is!

Honourable members interjecting.

Mr THWAITES — All around the world now? Of course it is happening around the world! The federal government — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The honourable member for Bennettswood will cease interjecting.

Mr THWAITES — Of course this is happening around Australia, because the federal government is failing to provide enough GPs. But this government by contrast is providing more funds, more nurses and more beds. That is why we are seeing waiting lists come down and the quality of care improving.

An honourable member interjected.

Mr THWAITES — We are seeing improvements in Geelong, and I would like to congratulate Sue de Gilio and her team on the work they are doing to improve the budget and rebuild the health system in Geelong and to provide a better quality of care.

Mr PANDAZOPOULOS (Minister for Employment) — I thank the honourable member for Narracan for raising important issues about people who are out of work in the Latrobe Valley. He highlighted the nearly eight dark years in the Valley under the previous coalition government of the Liberal and National parties. He spoke of the great investment and jobs record the region has had in the last three years under this government, and he sought my assurances that the government's employment programs would still be focused on those who, irrespective of how good or bad the economy is, unfortunately still find themselves out of work.

I note, as the honourable member probably has, that the National Party candidate in Morwell, Jenny Hammett, was quoted in the local newspaper having a go and saying that:

The Labor Party needs to prioritise solutions for youth employment in the Latrobe Valley ...

Where was she for the seven and a half years of the Kennett–McNamara government? She has obviously been a member of the National Party for a while. Where was she in the Latrobe Valley to try to stop the biggest job shedding that that region has ever seen in its history, and probably greater than any other part of Victoria? Where was she?

She has the audacity to go out and scaremonger about the community business employment providers in the region saying that the government is not committed to the community business employment (CBE) program. That is what Jenny Hammett, the National Party candidate in Morwell, is saying. If honourable members on the other side actually listened rather than gasbag as they do, they might not have to ask me again.

The assurance I can give the honourable member for Narracan is that the CBE program is a key part of the government's employment programs. The CBE program is there because the federal government does not provide support to everyone who happens to be out of work. The fact is that most Victorians who find themselves out of work do not receive federal government assistance, and that is why we have state-based employment programs like that offered by the CBE providers. They will continue.

The National Party candidate in Morwell is sitting there saying, 'Well, if the National Party is in government' — I assume it would be in a coalition, but it has not told us about this — 'its policy will be to support the community business employment programs'. The fact is that it is the government's policy to support CBE program agencies in the local area.

I note that in the article she is quoted as having referred to the Morwell agency but she did not name it. I assume she is referring to comments reported in the press when I was recently at Gippsworks, otherwise known as Gippsland community advancement, recognising the contribution of its great employment placement record in the term of this government. It has found a whole lot of jobs because of employment growth in that region during the term of this government.

I am also pleased to inform the honourable member that in different labour market programs in that entire region there has been investment by the government of \$11.6 million for getting people, including young people, into work.

We have funded 1323 new jobs through the community business employment programs and 770 new jobs through the community jobs program. The honourable member for Narracan is aware that I will be there next week for more great news. There have also been 471 new jobs created as part of the private sector skills development program; 150 youth-based, state-based apprenticeships and traineeships for young people in the region under the youth employment scheme; and apprenticeships and traineeships for 1169 young people under the youth employment incentive scheme.

I know the honourable member for Narracan is very proud of that. Obviously the National Party candidate in Morwell does not understand exactly what has been going on. She wants to pretend that the government has not been caring about the Valley. It was her government that did not care about the Latrobe Valley, but this government does care. Rather than scaremongering among community agencies that are doing great work she should be applauding the record

of the government and should probably even be voting for our candidate for Narracan at the next election, as well as in the many different Gippsland seats where the Labor Party is running candidates. Whenever the election may be, the Gippsland community has been very appreciative of the fact that under this government they have seen jobs growth and that under the previous government they saw massive job losses.

Ms CAMPBELL (Minister for Senior Victorians) — I commend the honourable member for Springvale for his continued interest and advocacy in consumer affairs. He has recently been very active with Springvale Community Aid and Advice Bureau and has advocated strongly for that agency, and the members of that agency and those involved in the community-funded programs out of Consumer Affairs Victoria know and recognise his strong work in his electorate.

I want to commend one other agency, the Consumer Law Centre Victoria, which is also a very active consumer advocacy organisation which complements the work of Consumer Affairs Victoria in protecting consumers. CLCV works very closely with Consumer Affairs Victoria in a number of ways. For example, when we recently had a round table on seniors and consumer issues, Chris Field from CLCV was an active contributor.

CLCV has introduced a very innovative program called its casework and litigation service, which began in February 2001. That service undertakes selected test-case litigation to advance consumer interests. It is, as I said, a very innovative program, and 250 consumers have been assisted as a result of this service. The seconded solicitors from commercial law firms are doing pro bono work thanks to the Attorney-General's innovative pro bono secondment scheme, and 250 consumers have been able to benefit as a result. I support that casework and litigation service, as does the honourable member for Springvale, and its track record speaks volumes from the consumer point of view and also from the point of view of the families who have benefited from the service.

The government, through Consumer Affairs Victoria, will be providing funding for the service to continue for a further year, and this financial support is in recognition of its very important work. I look forward to continuing to work with the service.

The matter raised by the honourable member for Murray Valley for the Minister for Ports in another place regarding reciprocal fishing licences will be passed on.

The honourable member for Eltham raised a matter for the Minister for Community Services in relation to additional preschool funding, and that will be passed on.

The honourable member for Dromana raised a matter for the Minister for Education Services in another place regarding Anglicare in Rosebud, and that will be referred.

The honourable member for Burwood raised a matter for the Treasurer on practical administration action on land tax for small business, and that will be referred.

The honourable member for Bentleigh raised a matter for the Premier in relation to Linton Street, and that will be referred.

The honourable member for Evelyn raised a matter for the Minister for Women's Affairs, and that will be referred.

The DEPUTY SPEAKER — Order! The house now stands adjourned.

House adjourned 10.58 p.m.

