PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

1 June 2004

(extract from Book 6)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

The Ministry

Premier and Minister for Multicultural Affairs	The Hon. S. P. Bracks, MP
Deputy Premier, Minister for Environment, Minister for Water and Minister for Victorian Communities	The Hon. J. W. Thwaites, MP
Minister for Finance and Minister for Consumer Affairs	The Hon. J. Lenders, MLC
Minister for Education Services and Minister for Employment and Youth Affairs	The Hon. J. M. Allan, MP
Minister for Transport and Minister for Major Projects	The Hon. P. Batchelor, MP
Minister for Local Government and Minister for Housing	The Hon. C. C. Broad, MLC
Treasurer, Minister for Innovation and Minister for State and Regional Development	The Hon. J. M. Brumby, MP
Minister for Agriculture	The Hon. R. G. Cameron, MP
Minister for Planning, Minister for the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Community Services	The Hon. S. M. Garbutt, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. A. Haermeyer, MP
Minister for Manufacturing and Export and Minister for Financial Services Industry	The Hon. T. J. Holding, MP
Attorney-General, Minister for Industrial Relations and Minister for Workcover	The Hon. R. J. Hulls, MP
Minister for Aged Care and Minister for Aboriginal Affairs	The Hon. Gavin Jennings, MLC
Minister for Education and Training	The Hon. L. J. Kosky, MP
Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Health	The Hon. B. J. Pike, MP
Minister for Energy Industries and Minister for Resources	The Hon. T. C. Theophanous, MLC
Minister for Small Business and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Legislative Council Committees

Privileges Committee — The Honourables W. R. Baxter, Andrew Brideson, H. E. Buckingham and Bill Forwood, and Mr Gavin Jennings, Ms Mikakos and Mr Viney.

Standing Orders Committee — The President, Ms Argondizzo, the Honourables B. W. Bishop and Andrea Coote, Mr Lenders, Ms Romanes and the Hon. E. G. Stoney.

Joint Committees

Drugs and Crime Prevention Committee — (*Council*): The Honourables C. D. Hirsh and S. M. Nguyen. (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells.

Economic Development Committee — (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen. (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson.

Education and Training Committee — (*Council*): The Honourables H. E. Buckingham and P. R. Hall. (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton.

Environment and Natural Resources Committee — (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell. (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz.

Family and Community Development Committee — (*Council*): The Hon. D. McL. Davis and Mr Smith. (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell, Mrs Shardey and Mr Wilson.

House Committee — (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen. (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan, Mr Savage and Mr Smith.

Law Reform Committee — (*Council*): The Honourables Andrew Brideson and R. Dalla-Riva, and Ms Hadden. (*Assembly*): Ms Beard, Mr Hudson, Mr Lupton and Mr Maughan.

Library Committee — (*Council*): The President, Ms Argondizzo and the Honourables C. A. Strong, R. Dalla-Riva and Kaye Darveniza. (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mr Scheffer and Mr Somyurek. (*Assembly*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith.

Public Accounts and Estimates Committee — (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, and Ms Romanes. (*Assembly*): Ms Campbell, Mr Clark, Mr Donnellan, Ms Green and Mr Merlino.

Road Safety Committee — (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney. (*Assembly*): Mr Harkness, Mr Langdon, Mr Mulder and Mr Trezise.

Rural and Regional Services and Development Committee — (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell. (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh.

Scrutiny of Acts and Regulations Committee — (*Council*): Ms Argondizzo and the Hon. A. P. Olexander. (*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson.

Heads of Parliamentary Departments

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

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

Hansard — Chief Reporter: Ms C. J. Williams

Library — Librarian: Ms G. Dunston

Joint Services — Director, Corporate Services: Mr S. N. Aird
Director, Infrastructure Services: Mr G. C. Spurr

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

President: The Hon. M. M. GOULD

Deputy President and Chair of Committees: Ms GLENYYS ROMANES

Temporary Chairs of Committees: The Honourables B. W. Bishop, R. H. Bowden **,** Andrew Brideson, H. E. Buckingham, Ms D. G. Hadden, the Honourable J. G. Hilton, Mr R. F. Smith and the Honourable C. A. Strong

Leader of the Government:
Mr J. LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
The Hon. P. R. DAVIS

Deputy Leader of the Opposition:
The Hon. ANDREA COOTE

Leader of the National Party:
The Hon. P. R. HALL

Deputy Leader of the National Party:
The Hon. D. K. DRUM

Member	Province	Party	Member	Province	Party
Argondizzo, Ms Lidia	Templestowe	ALP	Jennings, Mr Gavin Wayne	Melbourne	ALP
Atkinson, Hon. Bruce Norman	Koonung	LP	Koch, Hon. David	Western	LP
Baxter, Hon. William Robert	North Eastern	NP	Lenders, Mr John	Waverley	ALP
Bishop, Hon. Barry Wilfred	North Western	NP	Lovell, Hon. Wendy Ann	North Eastern	LP
Bowden, Hon. Ronald Henry	South Eastern	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Broad, Ms Candy Celeste	Melbourne North	ALP	Mikakos, Ms Jenny	Jika Jika	ALP
Buckingham, Hon. Helen Elizabeth	Koonung	ALP	Mitchell, Hon. Robert George	Central Highlands	ALP
Carbines, Mrs Elaine Cafferty	Geelong	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip	Silvan	LP
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
Darveniza, Hon. Kaye	Melbourne West	ALP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Davis, Hon. David McLean	East Yarra	LP	Romanes, Ms Glenyys Dorothy	Melbourne	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Scheffer, Mr Johan Emiel	Monash	ALP
Drum, Hon. Damian Kevin	North Western	NP	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys	Ballarat	ALP	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	NP	Thomson, Hon. Marsha Rose	Melbourne North	ALP
Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

CONTENTS

TUESDAY, 1 JUNE 2004

ROYAL ASSENT 1289

QUESTIONS WITHOUT NOTICE

Aged care: accommodation bonds 1289
Aboriginals: constitutional preamble 1290
Local government: internal boundaries 1291
Aboriginals: sport and recreation 1291
Gas: Nathalia supply 1292
Aboriginals: consumer affairs 1293
Insurance: commonwealth legislation 1294
Aboriginals: housing 1295
Real estate agents: complaints 1296
Women: small business policies 1296

Supplementary questions

Aged care: accommodation bonds 1289
Local government: internal boundaries 1291
Gas: Nathalia supply 1293
Insurance: commonwealth legislation 1295
Real estate agents: complaints 1296

QUESTIONS ON NOTICE

Answers 1297

MEMBERS STATEMENTS

Ministers: performance 1297
Smoking: health effects 1297
Planning: Melbourne 2030 1298
Aboriginals: Ballarat reconciliation celebration 1298
Hazardous waste: Pittong 1298
Avalon Airport: Jetstar 1299
Fire blight: New Zealand imports 1299
Children: detention centres 1299
Helen Neven 1300
Matthew Flinders Girls Secondary College: Myers Street site 1300
Baxter-Tooradin–Fultons–Hawkins roads, Baxter: safety 1300
Geelong: skilled and business migrants 1300
Smoking: Quitline 1301
Australian Tourism Exchange 1301

PETITIONS

Motor registration fees: pensioner concession 1301
Wild dogs: control 1301
Corangamite: internal boundaries 1301

PLANNING: MINISTERIAL INTERVENTION 1302

PAPERS 1302

BUSINESS OF THE HOUSE

Program 1302

TREASURY AND FINANCE LEGISLATION (AMENDMENT) BILL

Second reading 1303

APPEAL COSTS AND PENALTY INTEREST RATES ACTS (AMENDMENT) BILL

Second reading 1305

DEATH NOTIFICATION LEGISLATION (AMENDMENT) BILL

Second reading 1306

TRANSPORT LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading 1308

ARCHITECTS (AMENDMENT) BILL

Second reading 1310

SURVEYING BILL

Second reading 1311

JUDICIAL SALARIES BILL

Second reading 1313
Third reading 1322
Remaining stages 1323

MITCHAM-FRANKSTON PROJECT BILL

Second reading 1323
Third reading 1352
Remaining stages 1353

RACING AND GAMING ACTS (AMENDMENT) BILL

Introduction and first reading 1353

DOMESTIC BUILDING CONTRACTS (AMENDMENT) BILL

Introduction and first reading 1353

ADJOURNMENT

St Kilda Primary School: Brighton Road crossing 1353
Lake Wendouree: level 1353
Member for Brunswick: Moreland City Council 1354
Mental health: funding 1355
Bicycles: metropolitan trails 1356
Health: vegetarian food 1356
Freedom of information: guidelines 1357
Hazardous waste: Nowingi 1357
Wangaratta: performing arts centre 1357
Pharmacies: legislative reform 1358
Lincoln Causeway: speed limits 1359
Bendigo: water strategy 1359
Responses 1359

Tuesday, 1 June 2004

The PRESIDENT (Hon. M. M. Gould) took the chair at 2.02 p.m. and read the prayer.

ROYAL ASSENT

Messages read advising royal assent to:

Appropriation (Parliament 2004/2005) Act
Births, Deaths and Marriages Registration (Amendment) Act
Courts Legislation (Funds in Court) Act
Courts Legislation (Judicial Appointments) Act
Ombudsman Legislation (Police Ombudsman) Act
Private Security Act.

QUESTIONS WITHOUT NOTICE

Aged care: accommodation bonds

Hon. ANDREA COOTE (Monash) — My question without notice is to the Minister for Aged Care, Mr Gavin Jennings. There have been accommodation bonds in low-care aged care facilities for a considerable time, and they are welcomed by the industry and by the community alike. The aged care sector is calling for accommodation bonds to be introduced for high-level aged care facilities. On 30 March the federal shadow aged care minister, Stephen Smith, said:

> Mark Latham recently made it clear that Labor will not be supporting the extension of bonds to high-level care.

My question is: does the minister believe there should be accommodation bonds for high-level aged care facilities?

Mr GAVIN JENNINGS (Minister for Aged Care) — This is an extraordinary question, given that the federal coalition government has been in power for the last eight years.

We all know the federal Treasurer hopes the budget he brought down at the beginning of May will be his last. He has made it very clear to all of us that he wants to hand over the reins of responsibility for the federal budget.

In the federal Treasurer's most recent budget the federal government — the government that matters in relation to whether accommodation bonds exist within high-care facilities — chose in its wisdom not to introduce them; it chose to do nothing to address the shortage of capital that is available within the residential aged care sector. The budget papers themselves indicate that in the next 10 years $10 billion of capital investment will be required in residential aged care facilities across this nation, for which the federal government is responsible through its licensing, regulation and funding. The federal government did not take the opportunity with the budget to make the announcement that it thought accommodation bonds are appropriate for high-care facilities. However, what it did do was increase the burden of residents in those aged care facilities by increasing the cap on the day charges that may apply to individual residents.

The substantive issue of where the capital is going to come from in the future was not addressed by the federal government, apart from shifting the charges to the user: the user-pays principle will apply. The only allocation that was provided to address this $10 billion shortfall was $513 million, which if it is going to be spent strategically will be most welcome by the sector across Australia. But the sorry story is that that $513 million will be used as a cash grant to buy largesse within the Australian electorate and will be spent indiscriminately by the end of this financial year. Within one month there is going to be an allocation of $513 million in capital expenditure regardless of its capacity to leverage off outcomes for the industry right across the nation over the next 10 years.

It was negligent of the federal government. There has been no policy prescription of how it will guarantee that that capital, which will be sorely needed over the next 10 years, will arrive within the sector. It is a major challenge for my federal colleagues to identify the mechanisms by which they can provide for that capital within the sector in the next 10 years. In productive conversations with my federal colleagues, and indeed with the federal government, I have said that the Victorian government is particularly concerned with finding ways to achieve capital inflow into the sector, and it has not ruled out willy-nilly any option that is on the table.

It is our clear preference for the appropriate level of capital to be pooled and made available through the mechanisms of the federal government as a first order issue rather than having a user-pays system apply to individual residents in residential aged care facilities.

Supplementary question

Hon. ANDREA COOTE (Monash) — I am very pleased to hear that the minister had discussions with the federal opposition leader, and I ask him to enunciate

what the federal opposition leader's opinion is on high-care facility bonds.

The PRESIDENT — Order! I have some difficulty with the Deputy Leader of the Opposition's question in that it asks about the views of the federal Leader of the Opposition. I am not sure how that can fall within the minister's responsibilities, and I ask her to rephrase it to ensure that it fits within the guidelines.

Hon. ANDREA COOTE — Did the minister discuss accommodation bonds for high-level aged care facilities with the federal Leader of the Opposition, and what did he say?

Mr GAVIN JENNINGS (Minister for Aged Care) — I will take the opportunity to make it absolutely crystal clear to all members of the chamber. In my answer I said that I had discussed this with my federal parliamentary colleagues. I will stand by that. My substantive answer holds true — the federal opposition is acutely interested in this issue of making sure that there is the appropriate level of capital coming into residential aged care. To go beyond that to say that I had a personal conversation with the federal Leader of the Opposition would be stretching the bow, so I will not do that. But I make it perfectly clear to the house that the federal Labor opposition is absolutely determined to identify mechanisms through the budget and reforms to the aged care sector to provide for the adequate capital provision in the sector in the years to come, unlike the current federal government.

Aboriginals: constitutional preamble

Hon. R. G. MITCHELL (Central Highlands) — My question is to the Minister for Aboriginal Affairs. I refer to the Premier's visionary speech to last Saturday's ALP state conference where he announced the release of an exposure draft of the Constitution (Recognition of Aboriginal People) Bill. Can the minister advise the house how the government intends to progress this important matter?

Hon. Philip Davis — On a point of order, President, with deference to the minister's desire to respond to a dorothy dixer, I make the point that what goes on at ALP conferences in the past has been ruled by yourself, President, and other presiding officers as not relevant to this chamber, so therefore the question is out of order.

Hon. M. R. Thomson — On the point of order, President, the question refers to the place at which an announcement was made that deals with Victorian government administration, and therefore it is an appropriate question and rightfully one that the minister should respond to.

Hon. Philip Davis — Further on the point of order, President, as I said, with deference to the minister's desire to inform the house about matters that may be pertinent to government policy, the question was about occurrences at a state Labor Party conference, and therefore the question is not in order in relation to government business.

The PRESIDENT — Order! My recollection of the question asked was about an announcement made by the Premier at a conference on Saturday last, asking the minister what were the plans of the government to implement that policy. I do not believe the question is out of order and that it is within the responsibility of the Minister for Aboriginal Affairs as it relates to his portfolio responsibilities.

Hon. Philip Davis — So we can ask questions about ALP conferences!

The PRESIDENT — Order! As I indicated, it was about an announcement made by the Premier at a conference on Saturday last regarding government policy, and the question is asking the minister what action the government will take to implement that policy announcement.

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I would be hoping for the support of all sections of this chamber, in fact all sections of the Victorian community, for constitutional amendment to provide for the recognition and importance of the Aboriginal community within the state of Victoria. I will hopefully join all members of the Parliament in the spring session in enacting those constitutional reforms.

In the last few years the Parliament of Victoria has had a very good track record of making significant contributions to reconciliation. There was unanimous passage of a resolution saying sorry to members of the Aboriginal community, the stolen generations, in 1997 and again in 2000. Four years ago there was a joint parliamentary sitting where members of Parliament joined to hear the testimony, hopes and aspirations of members of the Aboriginal community in Victoria, a very moving event in the spirit of reconciliation to build bridges between indigenous and non-indigenous Victorians.

In fact it is the government's intention — and I am very pleased to say that the Premier did announce the government's intention at the ALP conference on Saturday — to introduce in the spring sitting an amendment to the Constitution Act 1975 to recognise

the occupancy by the Aboriginal community prior to the establishment of the colony of Victoria and to express the unique contribution that Aborigines have made to the quality of Victorian life from that time to this. Indeed members of the house may be aware that the original Constitution Bill of 1855, which was drafted only 19 years after European settlement in the colony of Victoria and was passed by the Legislative Council and subsequently sent to the Imperial Parliament, gave Queen Victoria the authority to assent to the colony of Victoria becoming a self-governing body.

The preamble to that original Constitution Bill describes the events that took place from 1835 to the introduction of that bill in 1855. That preamble, in the view of the Victorian government and we hope of the Victorian Parliament, will objectively be shown to be inadequate in describing proper consultation with, recognition of and involvement by the Aboriginal people in the drafting of that preamble and the events described in it.

Beyond that, the government is also hoping to take the opportunity to describe Aboriginal people as the first custodians of the land in Victoria and as having a unique status as descendants of the original inhabitants, to say that Aboriginal people have spiritual, social, cultural and economic relationships with traditional lands and waters within Victoria and that Aborigines have made a unique and irreplaceable contribution to the identity and wellbeing of Victoria.

The amendment will acknowledge that no other laws of the state of Victoria will be affected by the amendment and that it will not lead to any further claims or civil action being undertaken. The government recognises that a three-fifths majority of both houses will be required to achieve this constitutional reform. I look forward to productive conversations with all sections of the Victorian community, including the parties in this house, to achieve that outcome.

Local government: internal boundaries

Hon. J. A. VOGELS (Western) — My question without notice is for the Minister for Local Government. The minister has frequently said that the Bracks government will make proportional representation voting available to all councils to ensure so-called fair and equitable representation in local government. I therefore ask the minister whether she will be supporting the Victorian Electoral Commission's preferred option of a seven single-member-ward structure for Hobsons Bay City Council despite 87 per cent of the 306 submissions supporting proportional representation.

Ms BROAD (Minister for Local Government) — I welcome the question. I am pleased to advise the house that I have now received from the Chief Electoral Commissioner, Mr Colin Barry, all his recommendations for all the local government areas he has reviewed in accordance with the requirements of the Local Government Act, and I have recently met with him to discuss his recommendations.

I intend to now work my way very carefully through those recommendations and to receive advice from my department on all those recommendations before making some very carefully considered decisions. After receiving all that advice, I can assure all members of the house, including Mr Vogels, that when I am in a position to make an announcement Mr Vogels will certainly be informed of my response to those recommendations.

Supplementary question

Hon. J. A. VOGELS (Western) — The Victorian Electoral Commission's recommendation to introduce a seven single-member-ward structure in Hobsons Bay flies in the face of ALP proportional representation policy, which was also supported by every ALP member of Parliament who spoke on the Local Government (Democratic Reform) Bill in both houses of Parliament. Can the minister guarantee that Hobsons Bay will receive an electoral system supported by 87 per cent of the community and everybody in the Labor Party?

Ms BROAD (Minister for Local Government) — I believe I have responded to the question.

Aboriginals: sport and recreation

Hon. J. G. HILTON (Western Port) — I refer my question to the Minister for Sport and Recreation. I ask him to advise the house what impact the federal government's disbanding of the Aboriginal and Torres Strait Islander Commission without implementing a proper alternative mechanism will have on the sport of indigenous communities in Victoria?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the member's particular interest in this issue. The former Liberal Prime Minister Malcolm Fraser pointed out in the *Age* newspaper on 28 May 2004 that:

> Indigenous people in Australia die 20 years younger than non-indigenous ... and the gap is widening. In every other comparable country it is narrowing.

The Bracks government recognises that improved access to sport and recreation for indigenous Victorians can contribute to building stronger communities through the partnerships forged and the benefits that diversity brings. Our government's indigenous sport and recreation program aims to create sport and recreation opportunities that are inclusive and accessible to indigenous Victorians. The current indigenous sport and recreation program is delivered under the indigenous sport program known as ISP. It is a joint initiative of the Australian Sports Commission and the Aboriginal and Torres Strait Islander Commission (ATSIC). This program seeks positive opportunities in sport and recreation for indigenous Victorians. We do this by developing key partnerships through sport and recreation organisations and Victorian indigenous communities. This program is improving access and opportunities for indigenous Victorians.

I would like to highlight a number of the key initiatives and outcomes of this program. They include the recruitment of two indigenous sports development officers; the delivery of cross-cultural awareness programs, targeting state sporting associations, local government, community groups and sport and recreational facilities; the delivery of traditional indigenous games, targeting schools, community groups, sport and recreation groups and associations; and the delivery of statewide coaching accreditation camps, which provide training and skill development opportunities for Victorian indigenous communities in sports such as football, netball, surfing, basketball and soccer.

However, since the federal government's announcement that it would abolish ATSIC I understand the Australian Sports Commission has been working through options but has yet to resolve potential delivery mechanisms into future years. I am also advised that, while the Australian Sports Commission will maintain funding for the indigenous program in the 2004–05 financial year, it is working closely with the federal government to ensure that there is a smooth transition in organisational arrangements for the program in the long term. But like my ministerial colleague the Minister for Aboriginal Affairs I call upon the federal government to guarantee it will not cut funding or services to Aboriginal and Torres Strait Islanders once ATSIC ceases to exist.

I also call upon them to show goodwill rather than turning this into a cynical, political act leading up to the election. As the Minister for Sport and Recreation, I call upon goodwill and commonsense to prevail at the federal level so that all indigenous Victorians will continue to benefit from our government's indigenous sport and recreation program.

Gas: Nathalia supply

Hon. W. R. BAXTER (North Eastern) — I would like to interrupt the text messaging of the Minister for Energy Industries and ask him a question.

Hon. T. C. Theophanous — I am playing a game.

Hon. W. R. BAXTER — That is even more demeaning for Parliament then.

I refer to the minister's recent pronouncements on natural gas extensions to country Victoria. The minister may be aware that on 5 October 2002 at a public meeting the Labor candidate for Rodney promised that if the Bracks government were returned at the forthcoming election — then being held — Nathalia would be connected to natural gas. I ask the minister: when will that promise be honoured?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I am almost always happy to receive a question from the Honourable Bill Baxter, given his long contribution to this house. The question on which the honourable member seeks a response from me relates to his claim about another member — —

Hon. W. R. Baxter — We have a witness.

Hon. T. C. THEOPHANOUS — I do not want to get into that, Mr Baxter, but what I can tell you about — and I am very happy to tell you about it — is the nature of our program for natural gas extensions into country Victoria. During the whole of the seven years that the coalition government was in power it did not manage to spend a single dollar on gas extensions to the people of Victoria. I can see how Mr Baxter and other members of the National Party might be very jealous about the fact that country Victorians now consider the Labor Party to have done much more for them than the National Party ever did. So I am very happy to respond to the question from the honourable member.

The Bracks government has announced a $70 million gas extension program, and a range of actions have been taken to bring it about. As I have explained to the house before, putting together such a program is not an easy matter, because it involves an important balance — that is, we need to know that every dollar of that $70 million we spend will not simply go into the

profits of the various distribution companies or retailers that may assist in this rollout. Obviously there is a temptation for some of these retailers — —

Hon. B. N. Atkinson — So Nathalians should keep chopping wood this year, anyway, right?

Hon. T. C. THEOPHANOUS — Do you want to know the answer or don't you?

For some of these retailers there is a temptation to put up proposals which they would fund anyway, so we need to very carefully consider in each case whether the amount being spent is actually being spent on non-commercial extensions, not on making what are normal, commercial extensions of gas into regional Victoria. That is why the process has been exhaustive. That is why it has involved putting out tenders. That is why it has involved asking local councils to put in applications and then testing those applications both in terms of all the other applications and also in terms of putting them out to tender for a commercial test as well.

The government has indicated that it will announce the outcomes of those tenders as soon as they are available. I will be happy to let the honourable member know at that time about all of the various parts of regional Victoria that will be connected to natural gas when they would not have been under the previous government.

Supplementary question

Hon. W. R. BAXTER (North Eastern) — On a supplementary question, I take it from the minister's answer that promises made by Labor candidates are worthless. Be that as it may, I ask the minister, in the light of the remarks he has just made about the bidding process and the investigations that are being made and in the light of the remarks he made last week: why are country municipalities being forced into a bidding process on an unequal footing?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The answer to the member's question is no, you cannot take it from my answer that promises from members of the Labor Party are worthless. The member might be able to take it from my answer that his promises to country Victoria during his term of government were worthless. He can take that from my answer, but he cannot take his inference from my answer at all.

As I have tried to explain in a rational manner to the honourable member, who does not want to listen, we are doing this appropriately to get best value for money for regional Victoria. That is what regional Victorians expect us to do, and it is what we will do. We will deliver a $70 million program to regional Victoria for the extension of natural gas. It will improve the lives of regional Victorians in a way that was never done under the previous government.

Aboriginals: consumer affairs

Mr PULLEN (Higinbotham) — I address my question to the Minister for Consumer Affairs, John Lenders. Can the minister please advise the house what assistance is being offered to Victorian indigenous communities to assist, inform, empower and protect them as consumers?

Mr LENDERS (Minister for Consumer Affairs) — I am delighted to take up Mr Pullen's question about what government action is being taken to empower and support indigenous consumers. During National Reconciliation Week last year I announced the formation of an indigenous consumers unit within Consumer Affairs Victoria. I made that announcement because indigenous consumers were a group we heard very few complaints from. The intention was to identify disadvantaged consumers and then reach out to them.

The indigenous consumers unit was established. It has been dealing with tenancy, banking, credit and general contractual issues, as well as problems involving the repair and return of faulty goods and payment matters, which are endemic in some communities. It is illustrative that by reaching out to indigenous communities the indigenous consumers unit has been able to make a difference — it has made a difference with some of these consumer complaints from a very disadvantaged group.

The whole focus of the indigenous consumers unit is to go out there and use the existing resources, to harness them and target them towards indigenous consumers. The unit has been out there. We have worked with the energy and water ombudsman, with the Equal Opportunity Commission, with the concessions unit in the Department of Human Services, with the Victorian Ombudsman and with the Office of the Public Advocate. We have gone out in all these areas. We have gone out to communities like Geelong, Warrnambool, Portland, Halls Gap, Horsham, Swan Hill, Robinvale, Mildura, Echuca, Shepparton, Wangaratta, Wodonga, Warragul, Morwell, Moe, Traralgon, Sale, Bairnsdale, Orbost, Cann River, Ballarat and Bendigo — just to name some of the regional areas where we have been out in Aboriginal communities to assist indigenous consumers.

We have worked with the Victorian Aboriginal Legal Service, the Victorian Aboriginal Health Service, the

Victorian Aboriginal Child Care Agency, the Victorian Aboriginal Community Controlled Health Organisation and Centrelink. In all these areas the indigenous consumers unit has enhanced services and has gone to and worked with existing government agencies to reach out to indigenous consumers who are more disadvantaged than consumers generally. The Aboriginal consumers unit is also working in partnership with Liquor Licensing Victoria. Forums have been held in Ballarat, Kerang and Geelong.

In all of these areas the purpose of the indigenous consumers unit is to assist, inform, empower and protect indigenous consumers. This government has reached out. It has established an indigenous consumers unit so indigenous Victorians have access to all of these important areas. That is in stark contrast to the actions of the previous government, which slashed funding to consumer agencies by 25 per cent.

Hon. Kaye Darveniza — By how much?

Mr LENDERS — Twenty-five per cent, Ms Darveniza, in but the first of former Minister for Fair Trading Jan Wade's cuts — before starting on the second. The former government also closed down regional offices in metropolitan Melbourne. Unlike the previous government, this government is reaching out to indigenous consumers and other disadvantaged consumers to provide a greater service in more places in Victoria. It is more targeted and more effective and has greater resources, so that at this time we can assist those with the greatest need by targeting government resources. I commend the unit to the house and the Victorian community.

Insurance: commonwealth legislation

Hon. C. A. STRONG (Higinbotham) — The issue I would like to raise is with the Minister for Finance in his role as the minister responsible for insurance. The federal government has initiated complementary legislation to give full effect to Victoria's professional indemnity legislation, which we passed in this place close to 12 months ago. This federal legislation is now at risk because federal Labor is opposing the federal government's amendments and putting at risk the very significant benefits that will flow to Victorian professionals from reduced professional indemnity insurance. I ask: has the Bracks government made any direct representations to the federal Labor opposition asking it to support the federal government's proposed reforms of professional indemnity insurance?

Mr LENDERS (Minister for Finance) — My first observation and the question I ask is: what have Mr Atkinson, Mrs Coote and Mr Strong got in common? They are all defeatists; they are all looking forward to a federal Labor government. The questions come to us on this side asking us what we think of the actions of shadow ministers and federal Labor governments, so they are defeatists, but we as a government — —

Hon. M. R. Thomson — Optimists!

Mr LENDERS — Optimists on our side, defeatists on their side! Mr Strong raises the issue of professional indemnity insurance and what the federal government and the federal Labor Party are doing on these issues. I will comment on what the state government is doing and how it interrelates with the federal government on these issues.

Mr Strong is correct — Victoria has passed legislation on these matters. It has put in place professional standards legislation; and proportional liability for pure economic loss that is not personal injury in these areas. In doing those things we have addressed two of the four legs of the platform that were required and agreed to by ministers across this country to deal with professional indemnity insurance. Victoria has done its two parts, which are proportional liability and professional standards. The remaining two legs of the stool that are required are in the hands of the commonwealth jurisdiction. One was amendments to section 54 of the Insurance Contracts Act, which I have informed this house of before, which the commonwealth left neglected and basically spooked the entire insurance industry and every Lloyd syndicate that decided they would not come to Australia. The commonwealth has done a review on the issue and is acting on that. Senator Coonan, to her credit, is bringing in legislation to deal with that.

The final outstanding portion of the four legs is the issue of amendments to the Trade Practices Act. That is being discussed, negotiated and debated in the federal Parliament. All states have made it known that they would require legislation to be passed. The form of the legislation is one in the end that needs to be agreed to by the houses in the federal Parliament.

There are two sides to the story. The Insurance Council of Australia has made its view known that either Senator Conroy's or Senator Coonan's proposals would meet the fourth leg requirement. That is something that we have urged upon the government and the opposition in Canberra, to get this legislation through Parliament. There are two parts or proposals, whether they be Senator Coonan's bill or Senator Conroy's amendments that are being contested and argued in Canberra on

these issues. We urge both sides in the federal Parliament to get the legislation through the Parliament expeditiously.

Like the Insurance Council of Australia I guess most people have the view that we need the legislation through; there are two proposals and we urge Senator Conroy and Senator Coonan to sit down together and get the legislation through. That is the public position of Victoria.

Supplementary question

Hon. C. A. STRONG (Higinbotham) — I thank the minister for his answer, but it did not really go to the question. Will the minister do his best to persuade Victorian members of federal Labor to stand up for Victorian professionals and support the current amendments to the Trade Practices Act so that Victoria's engineers, architects, accountants and other professionals will be protected?

Mr LENDERS (Minister for Finance) — I find interesting Mr Strong's call to patriotism, which is what you would call it. What I would repeat — and I hope all Liberal members of Parliament would agree — is to call upon the federal Parliament to expedite this legislation coming through. The goodwill can be achieved. There are two proposals before the federal Parliament that have been there a while. Either proposal is something that needs to be negotiated in the federal Parliament. What the Victorian community and Victorian professions want is for the federal Parliament to pass it, and it is in the hands of the federal government to negotiate this, as it is in the hands of the federal opposition. Mr Strong is a defeatist as he is seeing that it is in the hands of the federal opposition to do this. There is a federal government elected to do a job. The obligation is on it to steer it through the Parliament, and we call on the federal Parliament to pass the legislation with the support of all parties, including the Liberal Party.

Aboriginals: housing

Ms CARBINES (Geelong) — I direct my question to the Minister for Housing, Ms Candy Broad. Can the minister advise the house how the Bracks government is expanding affordable housing options for Aboriginal Victorians?

Ms BROAD (Minister for Housing) — I thank the member for her question and for her interest in what the Bracks government is doing in partnership with the Aboriginal community to expand the supply of affordable housing options for Aboriginal Victorians. Saturday's announcement by the Premier and the Minister for Aboriginal Affairs is a great step forward as far as reconciliation is concerned, and I am pleased to advise the house that the housing portfolio is also working for reconciliation. Victoria has a proud record of providing a substantial level of funding over and above the commonwealth-state housing agreement through the Aboriginal Rental Housing program. In this current financial year the Victorian government has added some $8.7 million over and above the commonwealth-state housing agreement funds. Victoria received $3.5 million from the commonwealth through that agreement, so the Victorian government is funding more than twice that amount over and above what comes through that commonwealth agreement. I am pleased to also advise the house that the Victorian government has a very effective working relationship with the Aboriginal Housing Board of Victoria. At the end of last week I met with it again to receive an update on the work that we are doing in partnership with the board.

There are a number of concerns which the Aboriginal community has about housing in Victoria and they are directed at the actions of the federal government. A particular one of those concerns relates to the recent decision by the federal government to abolish the Aboriginal and Torres Strait Islander Commission. That decision has thrown the indigenous housing agreement between the commonwealth government, the Bracks government and ATSIC into uncertainty, and urgent clarification is being sought as to the fate of that important indigenous housing agreement and what the implications will be for expanding the supply of affordable housing for Aboriginal Victorians who need it.

Another area of concern to the Aboriginal community in Victoria is the commonwealth's view that it wants to redistribute funding for housing to the Aboriginal community in Australia to rural and remote areas. This throws into question the $3.6 million which the commonwealth currently provides to Victoria through the commonwealth-state housing agreement for indigenous housing. It will come as no surprise to members on this side of the house that according to the commonwealth government's definition of 'rural and remote' no part of Victoria is rural or remote. It is the case therefore that Victoria stands to miss out on the $3.6 million that it currently receives. We would urge the commonwealth to take into account the needs of urban and rural Aboriginal Victorians in making decisions about the distribution of funding for Aboriginal housing in Victoria.

Real estate agents: complaints

Hon. A. P. OLEXANDER (Silvan) — I direct my question to Mr John Lenders, Minister for Consumer Affairs. I refer the minister to his media release of Thursday last week on 27 May entitled 'Estate agents complaints rise' and to the response to the release from the chief executive officer of the Real Estate Institute of Victoria, Mr Enzo Raimondo, who said:

> Any suggestion complaints have increased is blatantly misleading.

He said this on the basis that a telephone contact does not constitute a complaint. I ask the minister: does he still maintain that the number of estate agent complaints has indeed risen?

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Olexander for his interest. It is interesting — we can be pedantic about this. We have a body called the Estate Agents Resolution Service, so presumably if people are ringing a resolution service they want something resolved — presumably! In the previous year the Estate Agents Resolution Service received a bit over 8000 calls; then during the year I reported that the Estate Agents Resolution Service received 10 524 calls — —

Mr Viney — That's an increase, isn't it, John?

Mr LENDERS — Indeed, Mr Viney, there was an increase of 2036 calls to the Estate Agents Resolution Service over that one year. Do I stand by the fact that there has been a greater number of contacts with the resolution service? Unequivocally!

Further to that, the form of written complaints received by the Estate Agents Resolution Service dropped from 916 to 871. Mr Olexander is correct; the Real Estate Institute of Victoria is correct — the written complaints dropped, but the contacts to the Estate Agents Resolution Service increased by 2036. Of those written complaints the percentage dealing with mismanagement of residential property went up to 27 per cent from 25.8 per cent. The percentage dealing with the conduct of agents went up to 25 per cent from 22.8 per cent. There are four lots of statistics here. One of those lots did go down, and I am delighted that the written complaints went down. We share that with Mr Raimondo — we are delighted the written complaints went down. As I said, the contacts to the resolution service went up by 2036, and the written complaints dealing with the issues of mismanagement of residential property and the conduct of agents went up.

Hon. B. N. Atkinson interjected.

Mr LENDERS — The long and the short of it is — yes, I stand by the press release, primarily because the contacts with the Estate Agents Resolution Service increased by 2036. People who ring the resolution service, I can assure Mr Atkinson, do not ring it for the time of day. But I congratulate the industry in general that the written complaints went down.

Supplementary question

Hon. A. P. OLEXANDER (Silvan) — The minister is running away from his statement last week that complaints have risen. He is now talking about contacts having risen, and contacts and complaints, as the industry has pointed out, are not the same thing. Sometimes people want information. Is it not a fact that the minister has distorted and contorted the truth about estate agent complaints, which have in fact decreased, to continue his fear campaign amongst Victorian property buyers?

Mr LENDERS (Minister for Consumer Affairs) — I certainly stand by my statements in the main response to Mr Olexander's question — that 10 524 people having rung the Estate Agents Resolution Service was an increase of 2036. I also restate that the written complaints have gone down, for which I congratulate the industry. But the total number of calls to the resolution service, which is not like Mr Atkinson thinks — that people ring for the time — has gone up by 2036. I stand by that statement.

Women: small business policies

Hon. KAYE DARVENIZA (Melbourne West) — I refer my question to the Minister for Small Business, Marsha Thomson. The Bracks government has put in place policies to help women in small business over its term in government. Can the minister advise the house of the outcome of some of these policies?

Hon. M. R. THOMSON (Minister for Small Business) — I thank Ms Darveniza for her question. I know her interest in supporting women in small business and giving them the assistance they need. Most members will be aware that in March 2002 I launched the Showcasing Women in Small Business strategy. As part of that strategy we also launched Show me the Money, which was a group of seminars and a financial manual that were about providing practical and sound initiatives and advice aimed at women in small business. It was driven by women in small business and came from some of the concerns

they expressed to me as I was going around Victoria. The initiative also followed the fact that research around that time showed that fewer Australian women were actually starting their own businesses. One of the main reasons for this was the difficulty they were having accessing finance.

I am pleased to be able to say that over 700 women have actually participated in the seminars that have been held right across Victoria and thousands of the Show me the Money manuals have been circulated throughout the Victorian economy. It was pleasing, therefore, to see the recent Australian Bureau of Statistics characteristics of small business survey which showed that the number of Victorian businesses was growing, particularly the number of small businesses run by women.

The report showed there was a 13 per cent increase in the number of women operators of small businesses in Victoria between 2001 and 2003. This is in contrast to 0.2 per cent across Australia. Indeed, if it were not for the women of Victoria we would have actually seen a decline in the number of women running small businesses in Australia. But it does mean we cannot afford to rest on our laurels; we must continue to support women who want to run small businesses. I am happy to be able to say that we will continue to run the finance program for a further 12 months for our small business women out there who are doing a fantastic job for Victoria running very successful businesses.

It is also worth noting that the survey found that in June 2003 there were an estimated 303 500 small businesses in Victoria. This represents a 4.3 per cent average growth rate since June 2001, compared to a national growth rate of 0.7 per cent over that same period. It is the highest growth rate of small business of all states and territories. It shows again that Victoria is in fact the place to be if you want to run a small business.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to 22 questions on notice: 500, 503, 504, 876, 1107, 1247, 1252, 1257, 1452, 1506, 1508, 1517, 1540, 1581, 1582, 1612, 1622, 1626, 1745, 1753, 1768, 1770.

Hon. B. N. ATKINSON (Koonung) — President, I wish to raise the concern I have about an outstanding answer to a question which is now well over 12 months old. The question was directed through the Honourable Marsha Thomson to the Minister for Innovation, the Honourable John Brumby. I have written to the minister in this house seeking an answer to that question and an explanation as to why it has taken over 12 months to answer the question. I ask the Leader of the Government if he can give me some assurance about when I might receive an answer to that question.

Hon. M. R. THOMSON (Minister for Small Business) — We have indeed received a letter in the office and we have made contact with the minister's office and are arranging for a response to the member's question.

MEMBERS STATEMENTS

Ministers: performance

Hon. BILL FORWOOD (Templestowe) — This is the last week of the autumn sitting in the Assembly and it is probably the last week in Parliament as ministers for André Haermeyer and Mary Delahunty. Without doubt they are two of the worst ministers ever seen in the state's 150 years of government, and Victoria will not miss either of them when they are sacked next week.

Mr Smith — Who's this?

Hon. BILL FORWOOD — André Haermeyer and Mary Delahunty. We all know they are on the slippery slide. We know that we have a police force in crisis headed by a minister found guilty of inappropriate access to police files. It is time for him to go, and to go now.

And poor old Queen Mary! If ever there were a person who was promoted above her level of competence it is the Minister for Planning. What I have heard is that the minister has asked her department to produce for her a list of her successes, and I got an early leak. I table in Parliament a blank sheet of paper — the list of Mary Delahunty's successes in the planning portfolio!

Smoking: health effects

Hon. J. G. HILTON (Western Port) — As yesterday was World No Tobacco Day, I would like to share with the house some recent comments by the United States Surgeon General, Mr Richard Carmona. He has issued a report which, citing 1600 scientific studies into the effects of tobacco, describes findings that associate cigarette smoking with colorectal, liver and prostate cancer as well as erectile dysfunction. The report indicates that cigarette smoking significantly harms every major organ of the body and has been directly linked to another series of diseases, including

leukaemia, cataracts, pneumonia and cancers of the kidney, cervix, pancreas and stomach.

In the United States the cost of treating smoking-related diseases is approximated to be $75 billion. The loss of productivity from smoking is estimated to be $82 billion, and the Surgeon General estimates that cigarette smoking causes 440 000 deaths annually. He also said that on average smokers die 13 to 14 years before non-smokers. So, I say to all the smokers in the chamber: have a good day.

Planning: Melbourne 2030

Hon. ANDREA COOTE (Monash) — I refer to the *Caulfield Glen Eira Leader* of Monday, 24 May, and an article headed 'Plan "dead in the water"'. The residents of Glen Eira are very concerned at the impact of Melbourne 2030. The Minister for Planning in another place, Mary Delahunty, who was eloquently described by the Honourable Bill Forwood, said that detractors of the 2030 plan were ill informed.

The City of Glen Eira has submitted a comprehensive plan to the minister and detailed the following concerns:

> the negative impact on residents of high-density housing;
>
> inadequate affordable public transport across the municipality to cater for increased population;
>
> inadequate focus on providing housing for ageing population; and
>
> limited planning for the municipality as a whole.

The council is particularly concerned about Glenhuntly being listed as a major activity centre. The minister's reaction to this criticism was typical of the Bracks government. This is the government that was going to put 'local' back into local government. What the minister had to say was more of the Bracks spin. The newspaper states, about the minister:

> She said a call for a comprehensive marketing campaign for Melbourne 2030, made by the implementation reference group, was 'very valuable' and would eventually be followed through.

That was more spin. Her fix for these concerns, instead of understanding and looking at them specifically, was to say, 'We will have to look into a marketing campaign'. More spin! It is more spin by this government, and that is its reaction to just about everything.

Aboriginals: Ballarat reconciliation celebration

Ms HADDEN (Ballarat) — I want to acknowledge and thank the Ballarat Anglican diocese and Bishop Michael Hough for showing true leadership during this week of reconciliation, which was celebrated at the Anglican Cathedral of Christ the King in Ballarat at a special mass last Saturday morning.

This service gave local people a chance to come together to celebrate the true meaning of reconciliation with the Ballarat and District Aboriginal Cooperative members and elders of the Watha Wurrung people, with Elder Ted Lovett recognising ancestors and original ownership of the land.

The service was a mixture of traditional Anglican symbols and traditional indigenous music, with young male emu dancers, the didgeridoo, a message stick, clap sticks and smoking and water ceremonies using the Cherry Ballart coolamon bowls carried by Ted Lovett, Karen Heap and Christine Ward. Bishop Michael spoke about reconciliation being not just a physical but also a spiritual thing and said that it is what each of us feel in our hearts and act out in our daily lives. It is a gift that is within each of us, and it is up to us now to open up to reconciliation and not rely on federal government legislation.

Last Sunday St Paul's Anglican Church at Linton held a thanksgiving service to acknowledge the hard work, support and community fellowship during the campaign against the toxic waste site at Pittong over the last seven months, which resulted in the community struggle for justice and peace succeeding.

Hazardous waste: Pittong

Hon. DAVID KOCH (Western) — I would like to place on the record that last Sunday, 30 May, I also attended the thanksgiving celebration at St Paul's Anglican Church at Linton where community members gathered, bringing to a close the outrageous and traumatic attempt by the Premier and Ministers Batchelor and Holding in another place to dump toxic waste at Pittong. The community was able to express its gratitude for being spared a toxic waste dump and help each other in the healing process, especially those most seriously affected by the stress and emotional upheaval of this ill-conceived debacle.

I, along with Ms Dianne Hadden, a member for Ballarat Province, was privileged to participate in this most friendly and supportive service led by Father Robert Ferguson. Over 80 people were in attendance at the service, and over 200 people gathered at the

recreational reserve for a community barbecue afterwards. This was a grand effort by a small community that was determined not to have its district scarred by toxic waste. Disappointingly, the member for Ripon in another place, Joe Helper, was again absent. If at the ballot box in 2006 he gets similar support to what he has given to the Pittong community during this fiasco he may as well hoist the white flag now.

The Bracks government loves a brawl and has again harassed and demeaned small communities with flawed decisions by nominating, again without consultation, Nowingi as a toxic waste site. Or was a secret deal done with the Independent member for Mildura to secure a rail upgrade?

Avalon Airport: Jetstar

Hon. J. H. EREN (Geelong) — Jetstar has finally landed in Geelong. Today is a very exciting and historic day for Geelong, and I am sure all members would join with me in welcoming Jetstar to Avalon Airport. This morning I had the pleasure of attending the launch of Jetstar at Avalon with the arrival of its first flight from Sydney. I have long talked about Avalon's potential, and this morning's arrival of the flight from Sydney marked the first time the airport has seen a commercial flight. Avalon has long been a hub of activity, from its days as a military base to the present day as a transport hub and Qantas repair headquarters, but Jetstar's commercial flights to Sydney and Brisbane, which started today, will turn the airport into something special.

Last month I hosted Geoff Dixon, the chief executive officer of Qantas, while he visited Geelong to meet with community and business leaders, and I was encouraged by the amount of support Jetstar has received in Geelong. Throughout the city there are flags promoting the service showing that Geelong is certainly behind this initiative. From the number of people who turned out for today's launch at Avalon I know the airport certainly has the potential to become one of regional Australia's leading commercial airports and a jewel in Geelong's crown. Once again my congratulations to all involved. Well done!

Fire blight: New Zealand imports

Hon. W. A. LOVELL (North Eastern) — Today, on National Apple and Pear Day, Australian horticulturalists will take the opportunity to promote some of the finest quality fruit grown anywhere in the world and also highlight how much is at stake if the fire blight disease were to arrive here through New Zealand apples and become established in our orchards. Fire blight is a disease that attacks apple and pear trees and is recognised as horticulture's equivalent of foot-and-mouth disease. Severe outbreaks of fire blight kill pear trees and severely affect apple trees. In areas like California, which experiences similar climatic conditions to our own, fire blight has wiped out pear orchards.

My electorate, which has apple and pear growers in the Goulburn and Murray valleys and at Stanley, grows about 90 per cent of our nation's pear crop and 25 per cent of our nation's apple crop. Biosecurity Australia accepts that an outbreak of fire blight would result in a loss of 50 per cent of Australia's pear production and 20 per cent of Australia's apple production. The growers believe Biosecurity Australia's flawed import risk analysis, which proposes some of the world's weakest protection against fire blight, will eventually lead to the introduction of this devastating disease.

Fire blight is endemic in New Zealand but is not present in Australia. Today, on National Apple and Pear Day, I urge all members to support Australia's horticulturalists in their fight to prevent the risk of the devastating disease, fire blight, entering Australia on imported apples and invite you all to sample some of the clean, green disease-free fruit grown in North Eastern Province. Boxes of fruit are available in the corridor outside the papers office.

Children: detention centres

Ms MIKAKOS (Jika Jika) — On 13 May the Human Rights and Equal Opportunity Commission tabled its report, *A Last Resort? A National Inquiry into Children in Immigration Detention*, in federal Parliament. It is a damning indictment of the federal government's detention policy. It found that Australia had failed to provide adequate health care and education and to protect the mental health of unaccompanied or disabled children in Australia's detention centres.

The report states on page 37 that between 1999 and 2001 the Howard federal government subjected asylum-seeker children to 'cruel, inhuman and degrading treatment' in violation of the United Nations Convention of the Rights of the Child, which Australia ratified in 1990. This convention stipulates on pages 18 and 19 of the report that 'the best interests of the child should be a primary consideration in all decisions that affect them' and that 'detention of children must be a measure of last resort'. The commission found that many of the arguments used by the Howard government for keeping children in detention to be

'flawed' and its policy to be in 'fundamental breach of child's rights' and to have failed 'to take all appropriate measures to protect children in detention from physical and mental violence'.

The Prime Minister's lack of compassion is demonstrated by his government's behaviour towards the *Tampa* refugees, some of whom were held on a roof for over two years and most of whom have subsequently been granted refugee status. Most of them were from Afghanistan and were fleeing the oppression of the Taliban. Prime Minister Howard seems intent on using moral and ethical grounds to justify his invasion of Iraq following the failure to find weapons of mass destruction but backflips when it comes to being compassionate to the very people who were being terrorised by the brutal regimes he now condemns.

Helen Neven

Hon. P. R. HALL (Gippsland) — The Tubbut Resource Centre neighbourhood house is nominating Mrs Helen Neven for an Outstanding Learner Award as part of Adult Learners Week to be celebrated in September. I have been asked to support that nomination, and I enthusiastically do so. Helen lives in perhaps Victoria's most isolated community, Tubbut, and her community needed someone to take over the task of publishing the local newsletter titled the *Tubbut Tattler*. Helen, like many of us, lacked confidence in using computers, but over the last three years she has applied herself to learning the software program called Publisher so as to produce the newsletter.

Having recently completed a one-day training course on the use of Publisher I know the use of that program is not an easy task, but Helen does it far better than I ever could. She demonstrates the standards of excellence that can be achieved by women living in remote regions of Australia. Helen would be a most deserving winner of an outstanding learner award, and I wish her well in those endeavours.

Matthew Flinders Girls Secondary College: Myers Street site

Ms CARBINES (Geelong) — Yesterday I was delighted, in conjunction with the member for Geelong in another place, to announce that the Bracks government has purchased the former Catholic regional college site in Myers Street, Geelong, for the use of the Matthew Flinders Girls Secondary College.

This news is very important for Matthew Flinders as the site will be in addition to its existing facility. Matthew Flinders has approximately 1000 girls, and its current facility has become considerably cramped for students and staff and is overcrowded. The purchase of the new site will provide an extra 6500 square metres of space, including 24 classrooms, for the Matthew Flinders community. The school will now have space to grow in the future and extend its curriculum delivery.

Over the next few months principal Helen Fraser and her staff will decide which year levels will use the new campus after they take possession in August. I know the Matthew Flinders community, especially Ms Fraser, has worked very hard to achieve this outstanding result and was delighted to receive this great news yesterday. Congratulations Matthew Flinders — go girls!

Baxter-Tooradin–Fultons–Hawkins roads, Baxter: safety

Hon. R. H. BOWDEN (South Eastern) — On several occasions I have mentioned in the Parliament that in my opinion the intersection of Baxter-Tooradin, Fultons and Hawkins roads, Baxter, is the most dangerous intersection in South Eastern Province. Recently I received correspondence from VicRoads advising that after consultation with the community it does not intend to improve that corner. I wrote back to VicRoads asking more questions about the consultation on the most dangerous intersection in South Eastern Province. VicRoads wrote back and said that in November 2003 it did a letterbox drop of the residences along Fultons and Hawkins roads.

To check to make sure I was right, this morning I drove along that section of road. Between Frankston-Flinders Road, Baxter-Tooradin Road and Golf Links Road there are only 10 houses — VicRoads did a letterbox drop of 10 properties, and on the basis of that it is arrogantly refusing to invest in safety in this area. Many hundreds of motorists use that intersection every day. It is acknowledged to be a deathtrap. I can only say that this issue is not going to go away, despite the arrogance of VicRoads. I want something done about it because I do not think a letterbox drop of 10 households is enough for VicRoads to base that decision on. It is deplorable, and action will have to be taken so that VicRoads understands its responsibilities.

Geelong: skilled and business migrants

Hon. KAYE DARVENIZA (Melbourne West) — I was delighted to chair a working group in Geelong last Friday that was looking at ways of increasing skilled and business migrants to the Geelong region. I want to thank those who participated so actively in the forum. Geelong has a long history of attracting and settling migrants to the area and retaining them. Those

participating in the forum were representatives from local government, businesses, industries, employers, government representatives and community organisations.

The Bracks government is committed to increasing Victoria's share of skilled and business migrants, including migrants to rural and regional areas. Last month in Bendigo the Premier launched Victoria's migration strategy, which outlines the government's approach to seeing more migrants being attracted to and settling in Victoria and making it their home, including attracting and settling people in rural and regional areas.

The strategy also outlines the $6 million the government has committed and explains how regions such as Geelong will be able to access these funds to attract skilled and business migrants.

Smoking: Quitline

Hon. D. K. DRUM (North Western) — As Mr Hilton stated, yesterday was World No Tobacco Day. I thank the three experts from the Cancer Council of Victoria who travelled to Bendigo yesterday to raise awareness of the problem. They were Ron Borland, Vicki White and Margaret McDonald. They met with National Party members at a round table conference about issues relating to youth smoking, statistics and the damage done by smoking in the community.

Yesterday a questionnaire was distributed to 6000 to 7000 students at every high school in Bendigo, and every high school student sat down and completed a 12 to 15-minute questionnaire. The process included a discussion with their respective teachers.

I wish to thank the principals and the schools that so enthusiastically got behind the concept of the discussion paper in Bendigo yesterday. There are plenty of statistics associated with smoking. What we really need to zero in on is that 90 per cent of non-smokers at some stage attempt to give up, but if you attempt to give up without any help — that is, make the decision to do it on your own — you have a 5 per cent chance of success. If you make that one telephone call and ring the Quitline you will increase your chance of success from 5 per cent to 20 per cent. I want to encourage — —

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

Australian Tourism Exchange

Hon. S. M. NGUYEN (Melbourne West) — I was delighted to attend a well-organised exhibition at the Australian Tourism Exchange yesterday. I thank the many companies that were present, as well as the members of Parliament and staff of Tourism Victoria.

This shows that the Bracks government is committed to supporting and attracting more tourism to Victoria. It is trying to promote more business in Victoria. Last week the Minister for Tourism launched a package for Tourism Victoria regarding what can be done to create more business in Victoria. I spoke to many stallholders who were delighted that the exhibition was well organised by the government. There were many overseas tourists present. I thank the committee for organising the event — —

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

PETITIONS

Motor registration fees: pensioner concession

Hon. DAVID KOCH (Western) presented petition from certain citizens of Victoria requesting that the Victorian government abandon the proposal to increase the cost of car registration for Victorian pensioners by $78.50 as it will detrimentally impact upon those who are financially unable to pay by jeopardising their freedom of movement, removing their independence and diminishing their quality of life (141 signatures).

Laid on table.

Wild dogs: control

Hon. PHILIP DAVIS (Gippsland) presented petition from certain citizens of Victoria requesting that the government provide funding to employ at least two additional permanent dog trappers for the bushfire recovery task force in Gippsland (38 signatures).

Laid on table.

Corangamite: internal boundaries

Hon. J. A. VOGELS (Western) presented petition from certain citizens of Victoria praying that the Victorian government support the current position of five two-councillor wards for the Corangamite Shire Council (81 signatures).

Laid on table.

PLANNING: MINISTERIAL INTERVENTION

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Mr Lenders (Minister for Finance) — By leave, I move:

That there be laid before this house a copy of a statement on ministerial intervention in planning matters for the period May 2003 to April 2003.

Motion agreed to.

Laid on table.

PAPERS

Laid on table by Clerk:

Australian Crime Commission — Report, 2002-03.

Drugs, Poisons and Controlled Substances Act 1981 — Standard for the Uniform Scheduling of Drugs and Poisons, No. 18, Amendment No. 3, 1 May 2004 and Minister's Notice regarding the amendment, commencement and availability of the Poisons Code (three papers).

National Parks Act 1975 — Minister's notice of 27 May 2004 of consent to petroleum exploration within the Lower Glenelg National Park under Petroleum Exploration Permit Number 151.

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

Banyule Planning Scheme — Amendments C38 (Part 1) and C40.

Glen Eira Planning Scheme — Amendments C11 and C14.

Hobsons Bay Planning Scheme — Amendment C39.

Hume Planning Scheme — Amendment C43.

Kingston Planning Scheme — Amendment C31.

Maroondah Planning Scheme — Amendment C27.

Melbourne Planning Scheme — Amendment C90.

Statutory Rules under the following Acts of Parliament:

Architects Act 1991 — No. 51.

Associations Incorporation Act 1981 — No. 39.

Building Act 1993 — No. 46.

Drugs, Poisons and Controlled Substances Act 1981 — Nos. 43 and 44.

Evidence Act 1958 — No. 52.

Extractive Industries Development Act 1995 — No. 53.

Fair Trading Act 1999 — No. 41.

Financial Management Act 1994 — No. 42.

Nurses Act 1993 — No. 45.

Residential Tenancies Act 1997 — No. 40.

Road Safety Act 1986 — Nos. 48, 49 and 50.

Subordinate Legislation Act 1994 — No. 47

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rule Nos. 47, 49 and 50.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 36, 39 to 41, 43 and 48.

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

Extractive Industries Development (Amendment) Act 2003 — Whole Act (except section 15) — 27 May 2004 — (*Gazette No. G22, 27 May 2004*).

Human Services (Complex Needs) Act 2003 — Whole Act (except for paragraph (e) of section 31(3) — 31 May 2004 (*Gazette No. G22, 27 May 2004)*.

BUSINESS OF THE HOUSE

Program

Mr LENDERS (Minister for Finance) — I move:

That, pursuant to sessional order 20, the orders of the day, government business, relating to the following bills be considered and completed by 4.30 p.m. on Thursday, 3 June 2004:

Appeal Costs and Penalty Interest Rates Acts (Amendment) Bill

Architects (Amendment) Bill

Death Notification Legislation (Amendment) Bill

Judicial Salaries Bill

Mitcham-Frankston Project Bill.

Surveying Bill

Transport Legislation (Miscellaneous Amendments) Bill

Treasury and Finance Legislation (Amendment) Bill

Hon. PHILIP DAVIS (Gippsland) — The Leader of the Government is being tricky again, moving a motion and not giving an explanation as to why he is moving it. I should not have thought that there would have been any need for such a government business program on this day, and for that reason I will oppose it.

Motion agreed to.

TREASURY AND FINANCE LEGISLATION (AMENDMENT) BILL

Second reading

Mr LENDERS (Minister for Finance) — I move:

That pursuant to sessional order 34, the second-reading speech, except for the statement under section 85(5) of the Constitution Act, be incorporated into *Hansard*.

I advise the house that there were some minor amendments to the Treasury and Finance Legislation (Amendment) Bill in the Assembly regarding grouping provisions under the WorkCover provisions.

Motion agreed to.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The prime purposes of the bill are:

to ensure the continuation of a soundly administered workers compensation scheme, business efficiency and appropriate harmonisation of relevant WorkCover and payroll tax legislation by introducing measures to improve the equity and administrative efficiency of the WorkCover scheme;

to provide a capacity for salary sacrifice for designated categories of members of the State Superannuation Fund and make a number of technical amendments to the various acts governing Victoria's public sector superannuation schemes; and

to amend the Victorian Managed Insurance Authority Act 1996 to clarify some provisions relating to insurance arrangements within the Victorian public sector.

Amendments to the Accident Compensation (WorkCover Insurance) Act 1993 and the Accident Compensation Act 1985

The bill places a time limit on the ability of employers to recover amounts purportedly paid as premium for past policy years, amends the grouping provisions, reintroduces a joint and several liability provision for employers who are members of a group, and enables the Victorian WorkCover Authority to partially waive an employer's liability for reimbursement of uninsured claims costs.

Victorian WorkCover Authority v. I. R. Cootes

The Court of Appeal decision in *Victorian WorkCover Authority v. I. R. Cootes* determined that the Victorian WorkCover Authority did not have clear power to collect premium from adjustments for prior policy years (except for errors in the declaration of rateable remuneration). This exposed the Victorian WorkCover Authority to employers' claims for refund of moneys purportedly paid as premiums, based on adjustments other than rateable remuneration.

Following the I. R. Cootes decision, amendments were made to the Accident Compensation (WorkCover Insurance) Act 1993 in 2001 which had the effect of reinstating the Victorian WorkCover Authority's power to collect arrears of premium.

The 2001 amendments provided a time limit of the current policy year plus the four previous policy years on the Victorian WorkCover Authority's powers to recover adjusted premium from an employer. The amendments did not provide a statutory time limit on the ability of an employer to seek refund of premium purportedly paid, on the assumption that the Limitation of Actions Act 1958 would limit this right to six years.

Since 2001, employers have stated that concerns relating to premium adjustments have been addressed by the VWA publishing a statement on its web site in January 2002 that it would not seek recovery of premium for past policy years where the increase arose from WorkCover industry reclassifications.

This bill addresses legal advice received by the VWA that it should seek to supplement the 2001 amendments to place a statutory time limit on an employer's right to seek a refund (or any other relief) to the same time limit already placed on the Victorian WorkCover Authority's right to recover. The amendments are consistent with other statutory restrictions on time limits for refund claims in taxation legislation. The bill also preserves the rights of employers who have lodged a written request for a refund of premium that was received by the Victorian WorkCover Authority prior to the operative date of the amendments.

The amendments are necessary to restore the policy intention that there should be a time limit on the period within which employers can make refund claims. The bill provides that these amendments will have effect from today's date.

Section 85 statement read pursuant to sessional orders:

Statement under s85(5) of the Constitution Act 1975

Clause 15 of the bill states that it is the intention of proposed section 22A of the Accident Compensation (WorkCover Insurance) Act 1993, which is to be inserted by clause 5 of the bill, to alter or vary section 85 of the Constitution Act 1975. I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by proposed section 22A.

Proposed section 22A will preclude an employer from commencing proceedings, including in the Supreme Court, for recovery of amounts paid or purportedly paid as premium (as defined in proposed section 22(3) of the Accident Compensation (WorkCover Insurance) Act 1993 which is being inserted by clause 4 of the bill), other than in accordance with the provisions of proposed section 22A.

The reason for this limitation on the jurisdiction of the Supreme Court is to implement the policy intention that there should be a time limit on the period within which employers can make refund claims. Without these amendments, the Victorian WorkCover Authority will remain exposed to the possibility of reopening many matters.

Waiver of employer's liability

Section 61(1) of the Accident Compensation (WorkCover Insurance) Act provides that where a claim for compensation

has been paid or is payable to an injured worker of an uninsured employer, the VWA may, by notice in writing, require an uninsured employer to reimburse the VWA for the costs incurred for that claim. Under section 61(2), the VWA may waive the employer's liability in respect of the costs of the claim if it is satisfied of certain circumstances.

The current wording in that provision only allows the VWA to recover or waive the whole liability of the employer. Concerns have been expressed that the current provision does not enable the VWA to recover part of the claims costs or allow for partial waiver of the employer's liability where an employer may not have the capacity to pay the whole amount owed but may have the capacity for part payment. To address these concerns, the bill enables the VWA to exercise a discretion to waive, wholly or partially, an employer's liability for reimbursement of uninsured claims costs.

Grouping provisions

The bill updates the WorkCover grouping provisions by, in essence, adopting the current payroll tax provisions. At the inception of WorkCare in 1985 grouping provisions identical to those of payroll tax were adopted. However, since that time the payroll tax provisions have been updated several times including amendments last year to address the consequences of the reading down of the grouping provisions by the Court of Appeal in the recent case of *Muir Electrical Company Pty Ltd v. Commissioner of State Revenue*.

The grouping provisions were introduced both as an anti-avoidance measure and to ensure equity as between employers where legal structures created for non-avoidance purposes result in workers compensation premiums being reduced or eliminated. As such they are intended to have wide application.

Under these provisions entities may be grouped because they are related under the Corporations Act. Entities may also be grouped, subject to a discretion, where their businesses are commonly controlled by the same persons, and, broadly speaking, if they inter-use or share workers or the work performed by the workers of an employer is mainly in connection with another connected or dependent employer. The discretion allows the context of these connections to be taken into account.

The adoption of grouping provisions for WorkCover which are essentially the same as those of payroll tax reduces compliance and administration costs for employers and is consistent with the government's policy of harmonising payroll tax and WorkCover legislative provisions where appropriate.

Joint and several liability provision

Joint and several liability means that all members of a group can be held liable for the WorkCover premium owed by any other member of the group. The Accident Compensation Act 1985 previously had a joint and several liability provision equivalent to that in payroll tax legislation. The WorkCover provision was repealed in 1993 when the Accident Compensation (WorkCover Insurance) Act was passed, as it was seen as an inappropriate power for private insurers in the context of the proposed privatisation of WorkCover at the time.

In order to address premium avoidance and to protect the revenue base of the WorkCover scheme, the bill re-introduces a joint and several liability provision for group members, equivalent to that in payroll tax legislation, into the Accident Compensation (WorkCover Insurance) Act. This measure will strengthen the enforcement provisions of the act, improve the administrative efficiency of the WorkCover scheme and further harmonise relevant WorkCover and payroll tax legislative provisions.

The bill introduces an integrated package of legislation for the WorkCover scheme to protect its long-term viability by strengthening compliance provisions and improving anti-avoidance measures. It also delivers on the government's important commitment to harmonise WorkCover and payroll tax legislative provisions where appropriate to ensure reduction of compliance costs for stakeholders.

Superannuation

Importantly, the bill provides for the introduction of salary sacrifice for members of the State Superannuation Fund. The proposed amendments will enable the Minister for Finance to offer salary sacrifice to designated groups of State Superannuation Fund members on a case-by-case basis. This will be done via a ministerial declaration.

Salary sacrifice is available to a large number of Australian workers (subject to their employer's agreement) and forms an integral part of the strategy to encourage Australians to save for their own retirement.

Other superannuation amendments contained in the bill are of a minor and technical nature. However, there are a couple that are worthy of further explanation.

First, the bill amends the minimum benefit provisions of several acts to ensure they conform to the commonwealth's Superannuation Guarantee Administration Act 1992 and to make them clear in their application. The superannuation guarantee regime stipulates the minimum superannuation contributions employers must provide on behalf of their employees.

The amendments to the minimum benefit provisions will ensure that a State Superannuation Fund beneficiary receives from the fund, upon becoming entitled to a benefit, at least their contributions to the fund plus interest on those contributions, plus an amount stipulated by the Superannuation Guarantee Act (in other words, their minimum benefit). Further, they will provide that, where a member dies without dependants their estate will receive at least their minimum benefit less any benefits previously paid to the member.

As I speak, benefits to several estates of deceased former State Superannuation Fund members are outstanding due to ambiguity in the legislation. These amendments will allow closure to the families of these members.

Second is an amendment to the Emergency Services Superannuation Act to allow the Emergency Services Superannuation Board to pay a death benefit to dependants or nominees where the contributor was an operational staff member and was between the ages of 55 and 60.

Although the board has been administering the relevant provision in accordance with the policy intention, section 22E of the act requires amendment to ensure there is legislative basis for those payments.

The bill makes a number of other miscellaneous administrative or technical amendments. These amendments are consistent with the government's broader objectives in relation to Victorian public sector superannuation.

Professional Standards Act 2003

The Professional Standards Act 2003 allows for limitation of liability for damages for financial or property losses by professionals who are subject to a formally approved professional standards scheme. The act also provides that limited liability does not apply where there is a breach of fiduciary duty.

Exclusion of limited liability for breach of fiduciary duty is unique to the Victorian legislation, and does not feature in New South Wales or Western Australian professional standards legislation. Following consultation with professional organisations, the government is concerned to ensure that, as far as possible, there is nationally consistent professional standards legislation, to minimise the difficulties faced by professionals who operate in more than one jurisdiction. For this reason, the bill removes breach of fiduciary duty as grounds for exclusion of limited liability.

Victorian Managed Insurance Authority

The bill amends the Victorian Managed Insurance Authority Act 1996 to:

provide a definition of 'insurance business' and of 'insurance services';

enable the repayment or raising, within the Victorian public sector, of capital by VMIA;

clarify that VMIA is able to decline to provide insurance that one of its clients may have sought against a particular risk;

clarify that VMIA is able, in agreement with its clients, to include in its insurance policies or contracts and in its indemnities terms that limit VMIA's liability; and

repeal spent provisions.

VMIA primarily provides insurance to the budget sector, and to some other agencies that have been approved and publicly declared by the Minister for Finance. These amendments are primarily aimed at clarifying the operations of the legislation to make certain that the letter, as well as the spirit, of the VMIA act conforms to established practice.

The most substantial of these amendments is to provide explicitly that where the capital of VMIA — that is, the extent to which its assets exceed its liabilities — is either above or below the level that from time to time is determined as prudent under the government's general financial management framework, the excess may be repaid to, or the deficiency recouped from, VMIA's client bodies.

These new capital provisions require the minister and the Treasurer to determine, after consultation with the VMIA board, the amount of capital to be repaid or raised, and how this amount is to be apportioned among VMIA's clients. Such apportionment will vary depending on whether the creation of a capital surplus or deficiency can be specifically attributed to a particular client body's claims performance, or to more general factors.

The provisions also require that in determining whether capital is to be repaid or raised, the minister to take into account the maintenance of an appropriate prudential margin for VMIA. Capital will only be repaid when there is evidence of a substantial surplus above this margin, or raised when there is a substantial deficit.

The other amendments made by this bill to the Victorian Managed Insurance Authority Act are intended primarily to ensure beyond doubt that the letter of the act is consistent with standard insurance practice as it is applied to dealings between VMIA and its client bodies.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).

Debate adjourned until next day.

APPEAL COSTS AND PENALTY INTEREST RATES ACTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

This bill amends the Appeal Costs Act 1998 and the Penalty Interest Rates Act 1983.

I turn firstly to the Appeal Costs Act. This act sets out the circumstances in which the state will compensate court users for certain legal expenses incurred through no fault of their own. The fundamental principle underlying the act is that when the system of justice administered by the state is responsible for certain errors and delays that are not the fault of the parties, the state should bear the financial burden arising from those errors or delays.

The Appeal Costs Fund from which this compensation is paid is currently operating in deficit. Accordingly, the bill contains a range of cost-saving measures that can be implemented immediately to reduce expenditure by the fund on an ongoing basis.

Firstly, it is proposed to require courts to consider whether it is appropriate to make an order for costs against one or more of the parties before it grants a certificate in relation to an adjournment. Although the courts currently have the power to make such orders, it is important to avoid shifting the final burden for such delays from litigants who are at fault to the fund.

Changing what has been described as a 'culture of entitlement' by creating a strong financial incentive not to cause unnecessary delays may lead not only to savings for the fund, but to a reduction in the number of adjournments

overall, thereby improving the efficiency of the court system to the benefit of all users.

In addition, payments for criminal adjournments will be limited to two days, on the basis that two days provides counsel with sufficient compensation for the lost opportunity to earn income and time to seek other work. The Attorney-General will be able to set the maximum amounts payable for each day that a matter is adjourned. The intention is to set different amounts depending on which court a matter is heard in, and to set the amounts at, or slightly above, legal aid rates. This will enable the fund to continue making payments for adjournments that are not the fault of the parties, but in a way that is fiscally responsible.

Secondly, the bill excludes certain classes of applicants from making application to the fund. Corporations with a paid-up share capital of $200 000 or more and their subsidiaries will not be able to claim against the scheme, on the basis that they have sufficient resources to fund all the costs of litigation. Such corporations are predominately public companies, with significant asset bases. Importantly, the cap will not affect most family companies and small businesses, which typically have a very small paid-up share capital. This exclusion is consistent with the position in the commonwealth, the territories, NSW and Western Australia.

Insurance companies that are litigants in subrogation of the rights of a policy holder will also not be able to make claims against the fund. These amendments will ensure that the fund's limited resources are directed towards those court users who are most in need of compensation to offset the financial burdens that may arise from the vicissitudes of litigation.

Thirdly, the powers of the Appeal Costs Board will be increased so that it can undertake more extensive investigation of claims submitted to it. The board will be empowered to investigate the following additional matters in assessing claims before it:

> the appropriateness of engaging a particular seniority of counsel for a given matter, or of engaging more than one counsel;
>
> whether or not counsel took action to mitigate any losses caused by an adjournment, including the power to require counsel to demonstrate that they have taken steps to mitigate their loss, and all necessary inquiries in relation to this; and
>
> any other matter specified by the Attorney-General by order published in the *Government Gazette*.

Further, the board will be able to require that claims be subject to taxation of costs. The taxation process gives the board access to an independent assessment regarding the reasonableness of any claim it is required to consider. In addition, the Attorney-General will be able to direct that all costs of a specified class or of an amount exceeding a specified amount be taxed.

The bill also allows the board to determine applications without conducting a hearing. This provision is declaratory of the law as it presently stands and of the current practice of the board. The board will be able to continue conducting its proceedings efficiently 'on the papers' alone, while having discretion to allow a party to appear before it.

Finally, the bill requires applications to be lodged with the board within 12 months of the final determination of a matter, so that the majority of applications can be finalised in a timely manner. However, the board will be able to accept late applications if it is in the interests of justice to do so.

This bill furthers the government's commitment to both financial responsibility and to maintaining and improving access to justice for its citizens.

I now turn to the amendments to the Penalty Interest Rates Act 1983. As members would be aware, that act gives the Attorney-General the authority to fix penalty interest rates, by publishing notice of the rate in the *Government Gazette*. Penalty interest rates are used in a variety of circumstances. For example, they are used in warrants of execution and bankruptcy proceedings, and bodies corporate and landlords use them to calculate late rental payments.

It has come to the government's attention that over the past couple of years, clarification is required as to when new penalty interest rates have taken effect. This is because the notices in the gazette stated that the new rates applied from the date that the notices were signed, which was a number of days earlier than the date of gazettal.

Legal advice has confirmed that the earliest possible effective date for new interest rates is the date of gazettal. This means that people may have used the new interest rates before they have technically taken effect.

Accordingly, in order to ensure that decisions made by courts and other people relying on the earlier dates are not challenged, the bill validates any calculation of penalty interest that used these earlier dates.

I assure members that the government has taken steps to ensure that these problems will not occur again, and that in future, it will be clear when a new penalty interest rate takes effect.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).

Debate adjourned until next day.

DEATH NOTIFICATION LEGISLATION (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

On 28 August 2003, the Premier requested a report on the adequacy of the system in place for dealing with multiple child deaths within one family and recommendations as to how the system could be improved. The report was requested

in the context of media reports regarding the deaths of four children from one Victorian family within a five-year period. The *Report into the System for Dealing with Multiple Child Deaths* was delivered to the Premier on 25 September 2003 by the Secretary to the Department of Human Services, the Chief Commissioner of Police and the State Coroner.

In summary, the review found that while the standard official processes were followed in the case that prompted the review, there were no systematic means of:

> identifying cases of multiple child deaths and the existence of living siblings;
>
> ensuring early assessment of the family's health needs in multiple child death cases; and
>
> triggering a multidisciplinary assessment of the needs of surviving siblings or risks to any prospective children.

The review also found that there were statutory limits on the Consultative Council on Obstetric and Paediatric Mortality and Morbidity's ability to gather and share information that would assist it to fulfil its functions.

The review noted that it is important to keep in mind that the death of a child is possibly the most devastating experience that can happen to a family. It evokes deep sorrow and empathy in the family's extended community. This trauma is compounded when a family experiences the death of more than one child, especially where there is no known medical reason for the deaths.

The review also emphasised that the community not only expects that government authorities will be sensitive to the grief and trauma of families who have experienced multiple child deaths, but also that priority will be given to protecting living children within the family, if there is reason to believe that they are in need of protection.

This bill implements the recommendations of the review to establish a system that can deal appropriately with cases involving multiple child deaths.

New category of reviewable deaths

The key aspect of the bill is the creation of a new category of 'reviewable' deaths by the coroner. At present, a range of 'reportable' deaths must be reported to the coroner for investigation. These include deaths that appear to be unexpected, unnatural or violent, and also deaths that occur to a person who is under the control or care of the Secretary to the Department of Justice, the Secretary to the Department of Human Services or a member of Victoria Police.

Under the current arrangements not all deaths of children are reportable. To ensure that greater system-wide focus is given to child deaths, the bill provides that all second or subsequent deaths of children in a family will be made reviewable deaths. The effect of the bill is to give the coroner the same powers with respect to reviewable deaths as he currently has with respect to reportable deaths. Medical practitioners and members of the police force will be required to report identified reviewable deaths to the coroner.

The bill gives the coroner the discretion to investigate reviewable deaths as appropriate. The coroner will also have the power to refer the case to the Victorian Institute of Forensic Medicine for consideration and investigation. The Victorian Institute of Forensic Medicine will then investigate such cases using new powers given to it under the bill.

However, it is important to note that nothing in the bill alters the coroner's existing powers and duties with respect to reportable deaths. Some child deaths will be both reportable deaths and reviewable deaths. This means that the coroner may investigate the death as he or she would with any other reportable death. However, the coroner may also refer the same death to the Victorian Institute of Forensic Medicine.

The function of the coordinator at the Victorian Institute of Forensic Medicine

The coordinator's function in relation to reviewable deaths includes investigating these cases and advising the coroner of the results of those investigations; assessing whether the family should be referred to specialised health or support services; and considering whether to make a child protection notification in relation to any surviving siblings. In order to fulfil these functions, the bill will authorise communications involving the coordinator to enable the coordinator to collect and use appropriate health and personal information with respect to a case referred to the institute. The coordinator may need to consult those who have information relevant to assessing the needs of the family and the risk to siblings. This may involve holding a case conference, where appropriate.

This process has been designed to provide a balance between the needs of grieving families and the goal of assessing the risk of harm to living siblings in incidences of multiple child deaths within a family.

The coordinator will also play an important role in educating professionals and supporting agencies about issues concerning multiple child deaths in a family.

The registrar of births, deaths and marriages

The report highlighted that a number of linkages were not able to be made effectively when authorities were faced with a situation in which the death of a child might be the second or subsequent death in a family. The bill addresses this by improving the linkages between agencies with information with respect to a child death. Under the bill, the registrar of births, deaths and marriages will be one of the key points for determining whether a child death is a subsequent death and for information exchange under the new system.

The bill provides that the registrar must routinely provide the coroner with information in relation to reviewable deaths and the existence of any living siblings of the deceased child, and known or registered subsequent child deaths. Such information will be obtained by searching the register to determine whether a reviewable death has occurred and whether there are any living siblings. Reciprocal arrangements with interstate registers will be sought to ensure full data capture. This will be a key step in allowing the coordinator at the Victorian Institute of Forensic Medicine to make an effective and timely assessment of the health, bereavement and other needs of the grieving family, while at the same time providing additional information to enable an assessment to determine whether steps may be required to protect living siblings.

The Consultative Council on Obstetric and Paediatric Mortality and Morbidity

The bill will enable the Consultative Council on Obstetric and Paediatric Mortality and Morbidity to better assist in matters concerning multiple child deaths. The bill will achieve this by extending the council's functions to the deaths of 15, 16 and 17-year-old children and clarifying that health service providers may provide information to the council, when the council requests such information.

If the council determines that it is in the public interest, the council may release information to specified bodies, including the Medical Practitioners Board, the Nurses Board, the coroner, a hospital, other consultative councils established or appointed under the Health Act and the Victorian Child Death Review Council. Importantly, the council and its members — who are experienced medical professionals and administrators — will retain all of their other confidentiality obligations.

The bill will also ensure that the coroner and the registrar of births, deaths and marriages provide the council with information relating to the causes and circumstances of the deaths of children.

Human Services (Complex Needs) Act 2003

Finally, the bill makes a minor amendment to the Human Services (Complex Needs) Act 2003 to make the confidentiality provision in that act consistent with those in the Mental Health Act 1986 and the Health Services Act 1988. Those acts all contain express confidentiality provisions which generally make it an offence for a service provider under those acts to provide identifying information about a client except in expressly permitted circumstances and it is important to make these processes clear and consistent for medical professionals.

To complete the implementation of the *Report into the System of Dealing with Multiple Child Deaths*, some amendments will also be made to the Births, Deaths and Marriages Regulations 1997, including to the medical certificate cause of death form. A series of supporting protocols and memoranda of understanding between the coroner's office, the registrar of births, deaths and marriages and the Department of Human Services are also being developed and will be in place for the commencement of the bill.

In conclusion, this bill aims to ensure that Victorian systems and processes for handling deaths are capable of dealing effectively and humanely with all cases of multiple child deaths within a family.

In doing so, the bill balances the rights of grieving families with the public interest in ensuring that living children are protected in cases where intervention is necessary.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).

Debate adjourned until next day.

TRANSPORT LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Ordered that second-reading speech be incorporated for Ms BROAD (Minister for Local Government) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

This bill makes a number of amendments to a range of acts within the transport portfolio.

Some of the most important of these are amendments to the Road Safety Act 1986 to provide a stronger legislative basis for the sale by VicRoads of registration numbers.

Since 1984, VicRoads has allowed people to purchase the right to use particular combinations of letters and numerals on number plates. This is different from the situation in which a person only pays the fee prescribed in the regulations and is issued with a number plate bearing whatever combination of letters and numerals is allocated by VicRoads.

This recognises that a number of drivers wish to 'personalise' or 'customise' their vehicles so that, for example, they contain their initials or the name of their business. In addition, VicRoads has developed a series of registration numbers that people can purchase to demonstrate their particular interests or that they belong to a particular club. These 'special interest' registration numbers range from a series celebrating the horse racing industry to those demonstrating allegiance to clubs in the Australian Football League. However, the Road Safety Act is unclear as to precisely what rights people have in these combinations once they have been purchased.

The bill makes it clear that when people purchase a particular registration number they have an exclusive right to that number which can be dealt with as their own personal property. The rights may lapse 12 months after a vehicle's registration expires unless the owner notifies VicRoads that he or she wishes to retain the rights to that registration number. The bill also contains provisions validating previous sales of these registration numbers and the fees charged in respect of a number of services that have been provided by VicRoads in relation to registration numbers and number plates. The fees that are being validated are for discretionary, value-added services which are additional to VicRoads' standard vehicle registration functions, and which have been established to meet consumer demand.

The bill also makes changes to the drink-driving and drug-driving provisions of the Road Safety Act. One of the most important of these is to address a recent court ruling by making it clear that a person who refuses to provide a blood sample required under this Act has committed an offence even if he or she is not in the presence of a person who can actually take that sample, or at the place where the sample can be taken.

For consistency, the proposed amendments cover the other refusal offences within part 5 of the Road Safety Act. These deal with refusals to provide breath samples, refusals to undergo the standard impairment assessment or provide urine

or blood samples under the provisions dealing with driving whilst impaired by a drug, and refusals to provide a sample of oral fluid under the roadside drug screening provisions introduced in the Road Safety (Drug Driving) Act 2003. The bill also amends corresponding provisions of the Marine Act 1988 and the Transport Act 1983. In all these cases police will be able to accept that when the driver says 'No', he or she means 'No'. This avoids the need to call out a doctor, set up testing equipment or make similar arrangements when it is clear from the outset that this will be a waste of time and resources because the person to be tested has made it clear that he or she will not cooperate.

The bill also provides for penalties to be imposed on drivers who refuse to comply with a requirement to undergo testing for illicit drugs imposed under the Road Safety (Drug Driving) Act 2003.

The bill removes the restrictions that prevented drivers who had lost their licence as a result of a drink-driving offence committed prior to 13 May 2002 from having a licence restoration order made subject to an alcohol interlock condition. This is expected to improve the prospects of drivers seeking to regain their licence and hence access better employment opportunities.

The bill will also provide for the notification of the Victoria police when a driver is making application for removal of an alcohol interlock condition. Under the act at present, police already have the right to put any matters regarding the person's suitability to have the condition removed before the court hearing the application. However, they need to be informed of upcoming cases so that they have an opportunity to exercise that right.

The bill contains provisions to extend the time within which a person who has been served with an infringement notice under the 'owner onus' provisions in the Road Safety Act 1986 and the Melbourne City Link Act 1995 may nominate another person as the driver or person in charge of a vehicle, expand the range of people who can receive those nominations and extend the time within which an infringement notice may be withdrawn at the request of the person on whom it was served. The aim of these provisions is to provide a longer time frame in which a person who has been served with an infringement notice may nominate the person who was actually driving the vehicle.

The bill introduces a number of amendments to the Melbourne City Link Act 1995 to improve the enforcement system in relation to taxis, support interoperability between CityLink and interstate toll roads, abolish the statutory office of director, Melbourne CityLink, confer the director's functions and powers on VicRoads and permit the disclosure and use of restricted tolling information for the purpose of investigating and prosecuting certain road safety offences.

Police will be able to issue an infringement notice directly to the driver of a taxi instead of to the owner, although that option will still be available. As most owners do not drive their own taxis, the amendment will facilitate the efficient working of the tolling enforcement system in relation to taxis.

A driver who has an arrangement with an interstate toll road operator for the payment of tolls will be able to drive in a CityLink toll zone without having to have an account with CityLink Melbourne Limited and without committing an offence under the Melbourne City Link Act. Interoperability agreements between toll road operators permit tolls so accumulated to be debited to the motorist's existing toll road account.

The bill amends the restricted tolling information regime in the Melbourne City Link Act to permit disclosure of restricted tolling information to protect the safety of workers on the link and public safety. Restricted tolling information may be disclosed to the police or to authorised VicRoads officers as is reasonably necessary for the purposes of investigation and enforcement of offences committed on the link relating to dangerous and careless driving, over-dimension heavy vehicles, improperly secured loads and affixing of number plates.

The bill also introduces a number of important amendments to public transport related legislation.

It amends the Rail Corporations Act 1996, to expand the provision which currently allows a financial penalty to be imposed for a breach of a contract to supply train or tram passenger services or a lease of tram or train infrastructure. The new provision will enable enforcement of a financial penalty clause in contracts that cover a wider range of public transport related services such as ticketing, revenue collection, construction or maintenance of infrastructure or provision of passenger service information. The terms of a penalty clause are subject to negotiation between the state and the service provider. However, the expanded provision will allow enforcement of financial penalty clauses in a number of new contracts for public transport services which will be operating before the new provision comes into force.

A second amendment to the Rail Corporations Act 1996 will repeal the legislative restrictions on cross-ownership of more than one metropolitan train or tram business. As the government has now signed new contracts with a single train and a single tram operator the provisions are no longer required.

The Public Transport Competition Act 1995 will be amended to require that all operators of 'non-scheduled' passenger services who operate a bus for hire or reward be accredited. This amendment will clarify the existing provision in the act, which presently does not clearly state that providers of non-scheduled passenger services must be accredited.

The Public Transport Competition Act 1996 is also being amended to provide the Secretary to the Department of Infrastructure with the legislative power to refuse to grant accreditation to operate a bus service where the applicant has been found guilty of a 'disqualifying offence' or has been charged with a disqualifying offence which has not been finally dealt with by a court. Disqualifying offences are serious criminal matters involving drugs, violence or sexual offences that are likely to affect public confidence in the operator's ability to provide bus services. The restriction is currently imposed by way of a licence condition. However, specifically including the provision in the act highlights the serious nature of such matters in relation to the welfare and safety of the community.

The bill amends the Transport Act 1983 to facilitate the process of issuing a driving instructor authority to permit holders to teach others how to drive a motor vehicle. At present, the Secretary to the Department of Infrastructure cannot delegate the power to grant a driving instructor

authority, and the amendment will allow delegation of this power to an officer of the department.

The Transport Act 1983 is also being amended to provide an additional regulation-making power regarding the competence and health and fitness of railway safety workers who perform railway safety work under part 6 of that act. The use of regulations in this area provides a more flexible law-making mechanism that can take into account recent advances in medical knowledge and operational improvements.

Finally, the bill includes two amendments that are consequential upon the repeal of the National Road Transport Commission Act 1991 of the commonwealth, and its replacement with the National Transport Commission Act 1993.

Firstly, provisions in the Road Safety Act that refer to agreements in the National Road Transport Commission Act 1991 are being repealed. Those agreements are not replicated in the National Transport Commission Act 1993.

Secondly, the bill replaces a reference in the Victorian Road Transport (Dangerous Goods) Act 1995 to the National Road Transport Commission Act 1991 with a reference to the National Transport Commission Act 2003. The Road Transport Reform (Dangerous Goods) Act 1995 of the commonwealth and the regulations made under that act set out nationally agreed rules relating to the carriage of dangerous goods by road, and those rules have been applied in Victoria by the Road Transport (Dangerous Goods) Act 1995. The continued operation of the Victorian act relies on a reference in that act to the commonwealth's National Road Transport Commission Act 1991. The replacement of the National Road Transport Commission Act 1991 with the National Transport Commission Act 2003 has resulted in the need to amend the reference in the Victorian act.

This amendment is important because, although the reference to the National Road Transport Commission Act 1991 is deemed by operation of the Interpretation of Legislation Act 1984 to be a reference to the replacement act, the current wording of the Victorian act incorrectly gives the impression that, since the repeal of the National Road Transport Commission Act 1991, there are no longer any rules in Victoria applying to the carriage of dangerous goods by road. To this end, the amendment has been made retrospective to 15 January 2004, which is the date of the repeal of the National Road Transport Commission Act 1991.

The amendments in this bill will contribute to the more efficient and effective operation of a range of acts within the transport portfolio.

I commend the bill to the house.

Debate adjourned on motion of Hon. R. H. BOWDEN (South Eastern).

Debate adjourned until next day.

ARCHITECTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The main purpose of this bill is to amend the Architects Act 1991 and the Building Act 1993 to give effect to the recommendations of the national competition policy review of, and the Productivity Commission Inquiry into, those acts.

The amendments: relate to prohibited conduct; change the requirements for approval of partnerships and companies; enable the resolution of complaints by mediation; modify the eligibility criteria for membership of a tribunal; modify the requirements for membership of the Architects Registration Board of Victoria; require architects to be covered by insurance; provide for a member of the Architects Registration Board of Victoria to be a member of the Building Practitioners Board; and make consequential amendments to the Architects Act 1991 and the Domestic Building Contracts Act 1995.

The Freehills Regulatory Group conducted the national competition policy review of architects and building legislation for the Victorian government in February 1999. In November 2000 the federal government released the Productivity Commission inquiry report *Review of Legislation Regulating the Architectural Profession*. A response to the Productivity Commission's report prepared by an intergovernmental working group representing state and territory interests established agreed principles within which each state could reform its architects legislation. Following this, the government published the Victorian government response to the national competition policy review of architects and building legislation and the Productivity Commission's inquiry.

This bill gives effect to the government's commitment to national competition policy by implementing the recommendations of the government response requiring amendments to the Architects Act 1991 and the Building Act 1993.

Presently the Architects Act 1991 provides that only natural persons, partnerships and companies that are registered under the act may use the title 'architect', hold themselves out as being an 'architect' or use the terms 'architect', 'architecture' or 'architectural' in relation to the design of buildings or the preparation of plans, drawings or specifications for buildings.

The bill retains the current registration system for architects. This enables persons who have been engaged in practical architectural work, and who have attained a standard of professional practice and satisfactory qualifications to be registered as architects. This maintains the nationally consistent approach to the registration of architects in Australia.

The national competition policy reviews found that there were a number of anticompetitive provisions in the existing

legislation. The restrictions on the use of the terms 'architecture' and 'architectural' were considered unfairly to restrict the conduct of other businesses. The bill removes the broad restriction over the use of the terms 'architecture' and 'architectural'. The bill replaces these terms with a more limited restriction on the use of three terms, 'architectural services', 'architectural design services' and 'architectural design' in relation to the design and planning of buildings. The removal of broad restrictions over the use of terms achieves a relaxation of unnecessary limitations on other businesses, while maintaining appropriate regulation of the practice of the profession of architecture.

Complementing the changes in the use of associated terms, the bill also introduces strengthened provisions relating to the prohibition on unregistered persons representing themselves or allowing themselves to be represented to be registered architects.

At present, insurance requirements for practising architects are specified under the Building Act 1993, and administered by the Building Commission, while registration requirements for architects are specified under the Architects Act 1991 and administered by the Architects Registration Board.

The bill simplifies the current arrangements by enabling the insurance arrangements for architects to be specified under the Architects Act, and administered by the Architects Registration Board. This will mean that architects only need to deal with one statutory body in relation to their registration and insurance requirements.

The Architects Registration Board will require proof of the required insurance when applications for registration and renewal of registrations are made. The bill further provides that every architect who is required to be covered by insurance must provide proof that they are covered for the period of registration. It will be an offence for a person to work as an architect without the required insurance. It will also be an offence for a person who is not covered by the required insurance to represent himself or herself as being covered.

The bill introduces new provisions into the Architects Act, which will enable the making of ministerial orders specifying the classes of architect required to be covered by insurance and the kinds and amounts of insurance. The new insurance provisions will simplify the administrative responsibilities of the Architects Registration Board in recording the currency of, and compliance with insurance requirements.

The national competition policy reviews found the existing ownership and control requirements for architectural partnerships and companies to be unnecessarily restrictive. The bill reduces the ownership and control requirements for partnerships and companies from the current two-thirds ownership or control by architects to a requirement that at least one director or partner is an architect who is covered by the required insurance. This amendment will remove the requirement that firms providing architectural services be under the majority ownership of architects. The relaxation of ownership is consistent with similar controls applying to building partnerships and companies under the Building Act 1993 and will improve competition within the industry.

The national competition policy reviews considered the current constitution of the Architects Registration Board to be too narrow, lacking broad industry representation. Presently, the Architects Registration Board consists of 8 members, 5 of whom may be architects. The bill increases the membership of the board to 10 members by including 2 additional members as representatives of the building industry. The membership of the board is to be further broadened by providing that the consumer representatives and building industry representatives on the board must not be architects. These changes will ensure a balanced membership of the Architects Registration Board.

The Architects Act 1991 presently provides that disciplinary tribunals established to inquire into the conduct of registered architects include members of the Architects Registration Board. The national competition policy review recommended that there be a separation of the registration and disciplinary bodies, to ensure that disciplinary inquiries are conducted by persons who are not connected with the registration process. The bill amends the provisions relating to tribunals. Membership of tribunals will now consist of one person who is a practising architect, one person who is not an architect and one person who is a representative of consumer interests nominated by the director of Consumer Affairs Victoria. At least one of the tribunal members will be required to have legal knowledge and experience. Tribunals will be appointed by the board from a list of potential members approved by the minister.

The bill also introduces mediation as an alternative to a disciplinary inquiry by a tribunal. Under the new provisions the Architects Registration Board will be able to refer a complaint to mediation with the consent of the parties concerned for the purposes of dealing with the matter expeditiously. This will avoid the delay and costs generated by referring the matter to and constituting a disciplinary tribunal.

The government response to the national competition policy reviews acknowledged a need to facilitate better understanding between the Architects Registration Board and the Building Practitioners Board. The bill amends the Building Act 1993 to include a member of the Architects Registration Board as a member of the Building Practitioners Board.

In addition to the substantive amendments, the bill also makes a number of consequential amendments to the Building Act 1993 and the Domestic Building Contracts Act 1995 as a result of the changes proposed relating to the insurance requirements for architects.

I commend the bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

SURVEYING BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The primary purpose of this bill is to modernise the registration of licensed surveyors in accordance with national competition policy requirements.

Since the days of Charles Grimes and Robert Hoddle in the 19th century, land surveyors have played a key role in the settlement and development of Melbourne and across the state of Victoria as a whole. Surveying has provided secure boundaries for agricultural lands, for commerce, transport and residential development. Cadastral surveying supports the integrity of Victoria's land administration system by providing confidence in property boundaries. The land administration system is critical to Victorians' confidence in their property market which overall represents $557 billion of property assets.

It is therefore important to all of us that land surveying is carried out at the highest level of professional standards.

Licensed surveyors are currently regulated via the Surveyors Act 1978. Following a national competition policy review of that act, it was concluded that government should continue to regulate the surveying profession. Key improvements could be made to establish a Surveyors Registration Board with wider representation than the existing Surveyors Board of Victoria and to ensure that the board's powers will allow annual registration of surveyors, subject to continued professional development, rather than registration for life as exists under the current system.

This bill is similar to the Land Surveying Bill 2001, which was subject to a comprehensive consultation process. Industry broadly supports the many beneficial aspects of the Surveying Bill 2004 and I thank them for their participation in the consultation process.

For the first time the functions of the Surveyor-General will be detailed in one piece of legislation. The bill will clarify the role of the Surveyor-General. It also sets out in the one place the employment, suspension and removal provisions applicable to the Surveyor-General.

As an electoral boundaries commissioner under the Electoral Boundaries Commission Act 1982, the Surveyor-General plays an important role in supporting the democratic process through the establishment of electoral boundaries. The bill incorporates the parliamentary dismissal provisions for the Surveyor-General currently applying under the Electoral Boundaries Commission Act 1982. As a result, section 4 of the Electoral Boundaries Commission Act 1982 will be repealed.

The bill incorporates enhanced consumer protection through improved disciplinary and complaints mechanisms applying to regulation of the surveying profession. This reduces the risk to the land administration system through the adoption of best practice throughout the industry.

Many surveys rely on the accuracy of the survey control network, which provides a framework from which to coordinate all surveys. The survey control network is an important element in maintaining the integrity of the property boundary system. The bill provides the ability to place a fee on plans lodged with land registry to reflect the costs incurred by government in maintaining the survey control network.

I now turn to the specific provisions of the bill.

The bill provides for the annual registration of licensed surveyors to perform land surveying in Victoria; establishes the Surveyors Registration Board of Victoria, and the Surveyors Registration Board of Victoria Fund; provides for recovery of costs for the maintenance of the survey control network and repeals the current Surveyors Act 1978.

The bill provides for an expanded, eight-member Surveyors Registration Board (increased from six members). The board will comprise surveying professionals, a lawyer experienced in administrative law and representatives nominated by the minister to represent the interests of the community and property developers. The Surveyor-General will be chair of the board. The principal functions of the board are to register land surveyors and monitor professional conduct. The ability of the board to conduct preliminary investigations and formal hearings has been retained. However, any person whose interests are affected by a decision of the board will have recourse through the Victorian Civil and Administrative Tribunal to have that decision or determination reviewed.

The board will also advise government, through the minister, on the policies and strategic directions of cadastral surveying in Victoria.

Under the bill it will be an offence to claim or use the title of licensed surveyor, obtain registration as a licensed surveyor by fraud, interfere with survey marks or survey infrastructure, place survey marks if not a licensed surveyor or obstruct a licensed surveyor in the course of his or her work.

The power of licensed surveyors to enter premises on business days for the purposes of carrying out a land survey, after giving reasonable notice to the occupier, remains. However, the surveyor will not be able to enter a residence unless he or she has obtained the written consent of the occupier. The surveyor will also be liable for any damage that may occur during the course of carrying out a survey.

The bill provides for all existing licensed surveyors under the current Act to be deemed to be registered as a licensed surveyor under this bill.

The bill provides the ability to charge a fee on plans of subdivision lodged at land registry to meet the costs of maintaining the survey control network. The exact level of the fee will be determined through consultation and a regulatory impact statement. The Department of Sustainability and Environment is committed to ensuring that the survey control network is adequately maintained on a risk management basis. To this end, additional funding has been set aside by the department to provide for the strategic maintenance of the survey control marks.

The introduction of this bill will facilitate professional best practice in the land surveying profession, support the strength of Victoria's land administration system and ensure that the community can continue to have absolute confidence in Victoria's land and property market.

I commend the bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

JUDICIAL SALARIES BILL

Second reading

Debate resumed from 27 May; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Judicial Salaries Bill I would like to quote from the Attorney-General's second-reading speech, because I think it is an important issue. The second-reading speech says the independence of the judiciary — —

Mr Lenders — On a point of order, President, I do not want to detain Mr Strong or make him take too long, but he cannot quote from *Hansard* of the same sitting. I ask you to direct him to paraphrase rather than directly quote.

Hon. C. A. STRONG — On the point of order, President, I think the house misunderstood me. I was clearly paraphrasing the second-reading speech.

The PRESIDENT — Order! The member is well aware of the practice of the house of paraphrasing. I ask him to do that in the remaining part of his contribution.

Hon. C. A. STRONG — To paraphrase, the Attorney-General made the point that the independence of the judiciary is absolutely key and is guaranteed by several things — that is, security of tenure and by adequate remuneration. Adequate remuneration attracts the most suitable candidates. He also said that the way of establishing that salary should be such that there can be no question about interference from anybody and of the independence of the judiciary being influenced. That is a principle which we all fervently agree with, because the independence of the judiciary is absolutely key. Similarly, we see the independence, credibility and honesty of the police force as key to our society and to justice. When corruption is exposed in the police force, as it has been, it can lead to a total breakdown of law and order in the state, and therefore the independence of important law officers — whether they be police or judiciary — is vital. As we have seen in the case of police corruption, which is creeping into Victoria, money plays an important part in this corruption. Perhaps some people become corrupt because it is in their nature, but they would be the exception. Most people are led to bending the law — stretching the envelope, which can so easily lead to corruption — by the desire for money. Therefore the rate at which we pay the judicial officers, the law officers of this state, is key to ensuring their independence and integrity and to ensuring that not a breath or sniff of corruption can transfer from other arms of law and order in this state to the judiciary.

If one looks back over the many hundreds of years of the rich history of the law one sees cases of this. In fact one does not have to go back over hundreds of years to find cases of corruption in judicial officers. Therefore what they are paid and how that is decided is absolutely key. This bill reeks of incredible hypocrisy, because to ensure that independence the Attorney-General, with much breast-beating and self-congratulation, established the Judicial Remuneration Tribunal. He established it to ensure there was an independent assessment of what Victorian law officers should be paid. Wasn't this a wonderful thing? The Bracks Labor government was putting in place procedures that were lily white, that nobody had put in place before and that were ground breaking in ensuring the independence of the judiciary. What happened? The very first time the Judicial Remuneration Tribunal made a recommendation it was rejected. What a farce! What absolute hypocrisy! It just shows that you can have all the spin, the lovely words and the towering rhetoric in the world, but when it comes to delivering this government fails again — —

Hon. W. R. Baxter — They are embarrassed about it; that is why Mr Somyurek is the only one here.

Hon. C. A. STRONG — As Mr Baxter points out, there is only one individual on the government benches. Government members are clearly very concerned about the hypocrisy they have exhibited in this area.

Members opposite should be concerned about the whole way the government is dealing with law and order in this state. Why is the government not prepared to have an independent judicial inquiry? Why is it not prepared to have a royal commission? Why is it trying to hush up and cover up all the police corruption and shootings that are going on? Why is the government not prepared to openly, honestly and independently consider these issues? No wonder government members are too ashamed to come in here and have it pointed out to them that when it comes to law and order they are running for cover! They are naked, they are exposed as hypocrites, they are exposed as people

hiding under all the rocks and stones they can find like the frogs and little animals they are.

We should ask, 'Why is it? How has this happened?'. It goes to the hypocrisy again. With all the hoopla, towering rhetoric and backslapping that went with the setting up of the Judicial Remuneration Tribunal, how was it that the first time the tribunal sought to bring down a ruling it was thrown out by the government? I think it is because that tribunal, which was independent, was charged with looking rationally and reasonably at what our judicial officers — our judges and magistrates — should be paid, and it came up with a figure that was different from the so-called community norm — the 3 per cent which at that very stage the government was trying to force onto the nurses and teachers. The government was acutely embarrassed. It was grinding the people who make an important contribution to the state in educating our children and looking after us when we are in hospital down to a 3 per cent per annum cap at the same time as its independent Judicial Remuneration Tribunal, its independent umpire, was saying judicial officers should get significantly more than 3 per cent.

This was clearly an embarrassment when the government was trying to formalise and complete its negotiations with the teachers and nurses. It could quite rightly have been accused of having a double standard if it tried to say that teachers could only have 3 per cent but judicial officers could have significantly more. The government did not have the courage to say that it had set up an independent tribunal which assessed all the criteria and determined that judges and law officers could have more than 3 per cent. The government did not say that the determination was more than 3 per cent, that it was different to what the government was demanding teachers receive, but that that was fair and reasonable because it was assessed by this independent tribunal. The government did not have the courage to do that. Instead it got up and said this was too much and that the judges and other law officers could not get that level of pay increase because it was 'out of step with community standards'. That was the term we heard all the time. The community standard was the 3 per cent the government put in its budget. The advice of its own independent tribunal was rejected by the government because it was out of step with the community standard.

Now comes the next greatest bit of hypocrisy you can possibly imagine. The government took this high moral ground and said that everybody, whether they be the highest law officer in the land or a teacher anywhere in the system, could only be paid this 3 per cent, this community standard. No doubt the government went to the teacher unions and the nurses union and said it had this principle that nobody was going to get more than the community standard, that it had cut the judges and law officers down to size and that there was no way they could get more than the community standard. So it rejected the advice of the independent tribunal it set up to make a proper and rational assessment of judicial remuneration. I guess the government felt good when it did that and in due course we had a settlement with the teachers and nurses in line with the community standard. Then what happened? The game changed. The government had done its deal with the teachers and the nurses so it revisited the whole question of judicial salaries. Having ground the teachers down, having tricked them, having shafted them into a settlement by saying this would apply to everybody, that it did not matter who you were because from the highest to the lowest you were only going to get the community standard, having gone through all that rhetoric and achieved a settlement, having signed up the nurses and the teachers, the government backflipped and said that was all off, that it was going to put in a new method of paying the judiciary.

The government had to have some half-baked, rational, saleable device to do this so it said we should link the salaries of the Victorian judiciary to those of the federal judiciary. Federal judicial salaries are calculated by the federal Remuneration Tribunal, which is exactly like the state one. The government had to call into question the bona fides and credibility of the state Judicial Remuneration Tribunal because it did not give it the answer it wanted, and it is now going to link the wages of Victoria's senior law officers to those of federal law officers whose salaries are decided by the federal equivalent of the Judicial Remuneration Tribunal. It is hypocrisy upon hypocrisy. The net result of doing that is a very significant increase in remuneration for our law officers, more than would have been the case if the government had accepted the determination of the Victorian Judicial Remuneration Tribunal.

While the teachers and nurses were on strike the government had to maintain this farce of community standards. It threw out the Victorian Judicial Remuneration Tribunal determination of what judicial salaries should be for purely political reasons and as soon as those reasons no longer existed it had to find some other way, which was to link the salaries to the federal judiciary. The net result of that is our senior law officers will be costing us significantly more than would have been the case if they had been reimbursed under the determination of the local tribunal. In no way was this a function of economies, in no way was this a function of saving money or anything like that — it was purely a scam to hold off this particular judgment while the government was in the middle of an industrial

dispute with the teachers and nurses. As I said, the hypocrisy is absolutely breathtaking.

However, the result whatever the foundations of the hypocrisy, as I have outlined, is probably a good one. The result is that the law officers of the state will be paid at an appropriate level and a level commensurate with the law officers in the federal jurisdiction. It will, I think, enhance the ability of Victoria to attract and maintain senior law officers of significant experience which will be to the benefit of the conduct of the law in Victoria. It will mean that this important issue of an independent, transparent way of establishing remuneration for our law officers is reinstated by virtue of the fact that they will now be paid equivalent to the federal Judicial Remuneration Tribunal determinations. So at root, the result is probably not bad, and as a consequence the opposition while astounded at the breathtaking hypocrisy of the whole thing, the whole process of how we got here, intends to support the bill because the result at the end is appropriate, and is a good one.

It is worth touching quickly on some of the key aspects of the bill, which essentially removes from the Judicial Remuneration Tribunal its role of setting the salaries for Victorian law officers. Clearly, its core role or reason for being is removed, but once again it would be an embarrassment for the government, with all its high-flying rhetoric and backslapping when it set up the Judicial Remuneration Tribunal, in a matter of a few years to disband it. That would even be too much hypocrisy for the government to stand, so it has not said it will be disbanded or wiped out, but the mere fact that it will no longer be deciding the remuneration of the judges of our courts creates some problems. So the government has left the tribunal with the ability to make some determination on allowances — for example, the extent to which there should be remuneration for using a library and the extent to which there might be some remuneration for other areas of employment that could be to do with transport, working late and the other allowances that we hear about. To all intents and purposes it is a farce to leave the Victorian tribunal with those powers, because there is no reason why those same allowances could not be transferred from the federal jurisdiction as well as the basic salaries. Leaving the Victorian tribunal with these crumbs is nothing short of a farce once again just to save face over this whole scam which is nothing more than some hypocrisy to try and settle the teachers' and nurses' disputes.

In essence the bill allows for the salaries of our major law officers, judges and masters of the Supreme Court to be adjusted in the following way — and once again you cannot help smile at the way the government has done this; it is hoist with its own petard. It says that for the next two years salaries will increase by this magical community standard of 3 per cent. So the salaries of the chief justice of the Supreme Court, the president of the Court of Appeal, judges of appeal, Supreme Court judges, the chief judge of the County Court and so on will go up by this magical community standard of 3 per cent for a couple of years. Then there will be a two-year period when they will be brought in line with judges at the federal level — that will be done from 1 July 2004. The difference between the salaries of judges in the Victorian jurisdiction and the federal jurisdiction will be halved and that amount will be added to the salaries of the Victorian judges. In the following year they will get another increment that will bring them to three-quarters of the gap between the federal jurisdiction and at the end of the period they will be directly in line with the federal jurisdiction. The net result will be some independence in how the remuneration of judges is set and a very significant increase in remuneration for these important law officers which will hopefully in the end have a real benefit for the quality, standing and so on of our Victorian law officers.

One can only hope the government allows this process to run its course, because again we are looking at a period of four years. One would have to be a little cynical when one looks at the history of the government to date and how it has played around with judicial salaries — in two or three years from now it might come back and reinstate the Victorian tribunal to take over again. The bottom line is that if the government sticks to its guns with this particular piece of legislation, it will be a good outcome for justice in the state.

As a consequence the opposition will support the bill but cannot do so without highlighting the government's breathtaking hypocrisy. It cannot do so without highlighting that the teachers and nurses should feel that they have been tricked and led astray. They were told as part of the argument to make a settlement of 3 per cent so the government could stand by its community standard of 3 per cent for everyone. They were told that, and they settled. As soon as they settled the government threw out the community standard and went back on everything it told the teachers and nurses. They have been tricked. I hope and I am sure and I know that those teachers and nurses will not forget that they have been tricked and conned. They simply will not forget that they have been lied to. The government's refusal to deal honestly with the teachers and nurses in its community-standards-for-everyone approach will be one of those things that will build up and come back to bite the government in the same way

it will with the government's refusal to deal honestly with the police force and the corruption it tries to sweep under the carpet. With those few comments I once again urge the house to support the bill.

Hon. W. R. BAXTER (North Eastern) — Hypocrisy knows no bounds in politics and none more than when the Australian Labor Party is involved. As Mr Strong has put it so well in the debate this afternoon, this manoeuvre is probably the greatest example of hypocrisy that we have seen in a long time. It has really catalogued a government bringing the judiciary into the political process and into the spotlight simply to get a cheap political shot and a front page of the tabloid newspapers. It demonstrates that this government was standing up to the judges of the state and ensuring that they did not get an increase in remuneration greater than this so-called community standard of 3 per cent. Yes, government members got their front page for a day or two; they got their cheap shot — they got the populist politics advantage out of it because, as we all know, most people tend to believe what they first read. The story of the day is that story and you can try as much as you like later to correct it if it was wrong without much success at all.

My initial perception was that the Attorney-General, the first law officer of the state, had been rolled by the cabinet in persuading it to accept the Judicial Remuneration Tribunal's determination. I thought that in itself was a tragedy for the separation of powers. However, as I have watched and listened to this arrogant Attorney-General that the state of Victoria presently has to put up with, I have come to the belief that he was at the least a party, if not the instigator, of this charade. I think he saw it to his benefit to be engaged in this charade and assist the government in its populist politics, particularly at the time — as has already been noted — when there was strike action by teachers and nurses and the government had an alleged 3 per cent wage policy which it euphemistically referred to as the 'community standard'.

Interestingly enough, despite all the triumphal noises that were made when both of these disputes were resolved, it depends which side you listen to as to whether the 3 per cent was adhered to or not. If you listen to Mary Bluett she thinks that she got a lot more out of it than 3 per cent, and I rather suspect she has. I heard the Minister for Education and Training on the radio trying to justify why this amount fitted the 3 per cent criteria and her explanation was that as it fell across more than X number of financial years she could adjust the figures to make it look as if it was only 3 per cent. In fact it is more than that, if you look at it closely. Similarly, if you talk to the Australian Nursing Federation you will not get any impression that it thinks that is all its members received. They certainly think they did much better than that. The court staff who for some months were causing disruption in our courts believe they got more than 3 per cent as well. The whole deal is really a bit of populist politics and that is where the hypocrisy comes into it.

We have heard this Attorney-General use the phrase — I have heard it many times — 'attracting the brightest and the best to the bench', and so we should. There is no dispute about that, but that it is his throwaway line. What did he try and do here? He drew the members of the judiciary into a most unseemly spectacle. I do not think I can ever recall in my lifetime a circumstance of the senior judges of the state being in the newspapers in open disagreement with the government of the day on a matter of their own remuneration.

Mr Viney interjected.

Hon. W. R. BAXTER — I am coming to that, Mr Viney. You might just be patient and wait until I get to the Accident Compensation Tribunal, because I know you mention it in this house very often indeed and talk about judges being sacked. I will come to that.

It really was an unseemly spectacle to see the judges of the state being drawn into this public battle about what their emoluments ought to be. I have now come to the conclusion that all along this Attorney-General intended to do this backflip. He, along with his colleagues in the government, just wanted to get the front page to make it look as if they were sticking to the so-called 3 per cent annual increase. The reality was that they understood that if we were to maintain a judiciary in Victoria which could hold its head high in this nation the salaries and allowances paid to judges and the like had to be somewhere near commensurate with what was being paid in the other states.

Lo and behold! We did not have to wait very long before the backflip occurred. It had to come about because they had to disallow the JRT's determination within 15 sitting days, and I notice they left it right to the last day to do so. They introduced this legislation, which, as Mr Strong has pointed out to the house, will in the end mean the application of the JRT's determination, albeit over a slightly longer time frame than would have otherwise been the case. We have heard all this sanctimonious claptrap, but in reality the JRT's determination is going to come into being.

Mr Viney mentioned by interjection the Accident Compensation Tribunal. He alleges quite often in speeches and particularly by interjection that the former

government sacked Accident Compensation Tribunal judges. I want to put him right on that because I was here at the time and he was not. Those judges were not sacked at all. The tribunal of which they were members — —

Hon. T. C. Theophanous interjected.

Hon. W. R. BAXTER — It went out of existence — exactly. Is Mr Theophanous assuming that judges appointed to a particular tribunal continue to be in office despite the fact that that tribunal is legislated out of existence by the Parliament? Of course that could not possibly be a tenable circumstance.

Hon. T. C. Theophanous — That was your way of getting rid of them. You just got rid of the lot!

Hon. W. R. BAXTER — The Parliament determined the Accident Compensation Tribunal was not a particularly efficient part of the WorkCover legislation and it could be done another way. I do not think for one moment that many of the judges on that tribunal put themselves on the same standing as judges of the Supreme Court or the County Court. One of them was a former member of this place, a man I had a very close and pleasant association with in this chamber. But I do not believe he considered in his own heart that the Accident Compensation Tribunal had the same standing as the Supreme Court or the County Court. It is simply a matter of record that that tribunal ceased to exist. Clearly, if something ceases to exist, those who formed its complement no longer hold that office.

Hon. T. C. Theophanous — So you could get rid of the Supreme Court according to your logic and then all the judges.

Hon. W. R. BAXTER — I thought Mr Theophanous might roll out that sort of illogical conclusion. No-one suggests for one moment that we are not going to have a Supreme Court and a County Court. The constitution provides for it, but the constitution certainly does not provide for an Accident Compensation Tribunal. It was a creature of the failed WorkCare legislation introduced by the Cain government in the 1980s. It was a creature of that faulty legislation. It fell to a new government in the 1990s to restructure the workers compensation arrangements in this state. We are all benefiting from that reorganisation, and I am sure even the minister would acknowledge that now.

It is interesting to look at the government's submission to the JRT, because it says at page 13:

> The government submitted that Victorian judicial officers should not receive similar increases awarded in other jurisdictions on the basis that the state's capacity to meet the proposed increases had been affected by a slowed economy ...

I wonder whether the Treasurer had any input into the lodging of this submission. I do not think the Treasurer has ever accepted that the economy of the state is slowing. He is forever out there trumpeting how well it is going. The tribunal itself said:

> Although the government referred to the effect of a slowed economy, the December 2003 edition of the *Victorian Economic News* —

and the footnote states that that is a quarterly publication produced by the Department of Treasury and Finance —

> indicated economic growth in Victoria was expected to increase from 2.8 per cent in 2002–03 to 3.25 per cent in 2003–04.

What an extraordinary circumstance. We have a Treasurer careening around the state boasting about how well the state is doing, yet his government is making submissions to a very senior tribunal which it set up suggesting that the tribunal should be influenced in its determinations by the fact that the economy is slowing. Is this simply a case of the left hand not knowing what the right hand is doing or is it a case of the government trying to mislead this tribunal?

The government did not mislead the tribunal — it was a bit smarter than the government thought. It simply had resort and regard to some of the government's own publications which blew that submission right out of the water. Perhaps we might get an explanation from the minister in his summing up as to why that conflict occurred. I want to warn the government that it is very dangerous to interfere with the determinations of independent tribunals. Governments do it at their peril because it usually comes back to bite them, and there have been plenty of examples of that over the years.

One only has to contemplate parliamentary salaries as an example of how governments have often got into a great deal of trouble and difficulty whenever it was decided to increase the salaries of members of Parliament. The decision of the Hamer government to link Victorian parliamentarians' salaries with the federal arrangements has worked perfectly because the government of Victoria has been seen to be independent of the process and MPs have been seen to be independent of the process.

I well remember when Sir Henry Bolte was nearing the end of his premiership — it was in the days when we had an afternoon newspaper, the Melbourne *Herald* —

and there was a proposal to increase the salaries of Victorian MPs, because in those days the level was set by the government of the day, not by the federal Remuneration Tribunal. It was not a sitting day and the *Herald* journalist was having a ring around all the parties. He rang the Country Party room and he spoke to the only member who happened to be about that day, the then member for Swan Hill, Mr Harry Broad. He could not resist the temptation of talking to a journalist. It was probably the first time he had been telephoned by a Melbourne journalist. He said that he did not think MPs should get a pay rise. What was the outcome of that? Premier Bolte said, 'If anyone's against it, no-one gets it', so you can imagine how popular Harry was about the place!

Mr Smith — Did you get it?

Hon. W. R. BAXTER — It was before my time, Mr Smith, but no, they did not. Eventually what it led to was a great deal of difficulty in bringing the salaries of MPs to the level they should have been at that time. They were seriously lagging behind, and anyone who gave any consideration to it at all believed there should have been an increase, and indeed a substantial one. But again, populist politics, this time on behalf of a backbencher of the third party, cruelled that, and it made it more difficult for the subsequent Premier to increase salaries to a proper limit. Hence Sir Rupert Hamer legislated for the nexus with the commonwealth Remuneration Tribunal.

But what did I read in the newspapers over the weekend? This current Premier is proposing to, or it is reported that he is proposing to, interfere with the recommendation of the federal Remuneration Tribunal in respect of parliamentarians' salaries in Victoria. I simply say to the Premier: do so at your own peril. Beware, because the history has been that once politicians start interfering in the setting of their own salaries it really leads to quite difficult situations, and particularly for the Premier of the day. The Premier would be far better to let it take its course because he can then always point to being at arm' s length from the process. But once he starts to stick his two bob's worth in, it will land in his lap and it will blow up in his face. I simply advise the Honourable Steve Bracks that he might rethink his intention to interfere in that tribunal's decision, which I understand is about to be made, because if he does not he will be hoist with his own petard.

The Nationals support the legislation because we believe it will mean that in a relatively short time the emoluments of the Victorian judicial officers will be somewhere near commensurate with those of their colleagues in the other states and the commonwealth. That is as it should be and as it must be if we are to retain a viable bench. But we are very, very unhappy that we have had this unfortunate circus to get to this point. The government would have been far better off if it had simply accepted the Judicial Remuneration Tribunal's recommendation and determination in the first place.

Ms MIKAKOS (Jika Jika) — I am pleased to be able to speak on the Judicial Salaries Bill. This is a bill that will deliver certainty to Victorian judicial officers and non-judicial members of the Victorian Civil and Administrative Tribunal (VCAT) on matters of remuneration, and it will introduce parity with their federal counterparts in a gradual and responsible way. The Bracks government believes our judges and magistrates deserve appropriate remuneration. That is why we are legislating to allow for the phasing in of salary parity over the next four years.

Members of the opposition have made a number of comments about the issue of judicial independence. I think the more the opposition learns about this concept the better, so I am very happy to spend a little bit of time speaking about this issue also. As we know, the Victorian courts and VCAT are constitutionally independent of the executive arm of government. The independence of the judiciary is guaranteed by security of tenure and by secure and adequate remuneration. Secure and adequate remuneration not only attracts suitable candidates to judicial office, but also minimises the potential for litigants to exercise financial influence over the judicial decision-making process. Implications of this interference can be seen in the extreme in a number of countries around the world where insufficient remuneration and lack of tenure result in corruption and delays in the legal process.

Two important constitutional conventions surround judicial remuneration. These have developed over a long period of time and they are intended to preserve judicial independence: firstly, judicial salaries are charged as a permanent appropriation of the consolidated fund; and secondly, to avoid the threat of coercion by Parliament and the executive, the reduction of judicial salaries is prohibited. Judicial salaries should be adequate and commensurate with the status, dignity and responsibility of judicial office. On a number of occasions I have commented on the difficult task that judges are presented with, particularly in dealing with criminal matters, in weighing all the difficult circumstances of any particular case and in making difficult decisions affecting people's futures. The salaries should be sufficient to attract suitable candidates to judicial office, particularly in the higher

jurisdictions where interstate and federal jurisdictions are often seen as being in competition to attract the best candidates for judicial office to their respective supreme courts and the Federal Court.

This government has done a great deal to ensure that the Victorian bench is seen as an attractive proposition for suitably qualified candidates for judicial office. Only last week we passed legislation in this house to give magistrates the option of working part time or being able to agree to flexible working arrangements. We have broadened the criteria to include candidates from interstate to be able to be considered for appointment to judicial office, and the government's record on appointing women to the bench is well known.

It is obvious and somewhat boring, may I say, that the opposition would attack these changes as actually threatening the independence of the judiciary. It is also a bold move, given the unashamedly political attacks on the judiciary during the Kennett years. It shows clearly that memories on the other side of the house are very short indeed. We are talking about a previous administration that sacked nine judges of the Accident Compensation Tribunal when it was abolished in 1992. I do not accept Mr Baxter's argument that they were not sacked, that it happened through the abolition of the tribunal, because it was tantamount to the same thing and it was intended to achieve that as its outcome. That particular move attracted international criticism from the Centre for the Independence of Judges and Lawyers, which is an arm of the International Commission of Jurists — an organisation of which I have been a member in the past, and I put that on the record. Specifically, the case was highlighted in the centre's annual report of 1993–94, which was published in 1995, which put this case alongside harassment and persecution of judges and lawyers in places such as Russia and Zaire.

We are also talking about a previous administration that threatened the independence of the Director of Public Prosecutions when it proposed to make that office subject to political control by its Attorney-General. In the context of all this I am not sure that we should treat with any seriousness all the complaints of the opposition on this bill — a bill which will in fact protect and strengthen the independence of Victoria's judiciary.

The bill will remove the power of the Judicial Remuneration Tribunal (JRT) to make salary determinations on behalf of judicial officers and will phase in salary parity between judges of the Supreme Court of Victoria and those of the federal court over the next four years.

The government's commitment to create a salary nexus with the federal jurisdiction will change the JRT's role in regard to determining judicial salaries. It does not mean that the tribunal will become an irrelevance, as the opposition would have us believe; the JRT will retain a range of functions with regard to making recommendations concerning non-salary entitlements and providing advisory opinions on matters affecting judicial remuneration, including salary relativities.

I note a number of frivolous comments were made during the course of the debate in the other house about the tribunal wasting its time in considering matters such as library allowances. I contend that the consideration of non-salary matters is a very important function for the JRT. They include matters such as leave, allowances and superannuation, which all form part of an individual judicial officer's employment arrangements, and they need to be as carefully considered as base salaries are. The tribunal will make recommendations on matters relating to conditions of service to the Attorney-General. The bill recognises the significance of federal judicial salary movements for Victorian judicial salaries. Adjustments to federal judicial salaries have provided a benchmark against which salaries in other jurisdictions have moved for many years.

Clause 4 clearly sets out the salaries of judicial officers for the period 11 May 2004 to 30 June 2005 inclusive. All the various judicial officers are listed in the legislation. The bill sets out the formula for the adjustment of salaries of Supreme Court judges for the 2005–06 and 2006–07 financial years. During these two financial years the salary of a Supreme Court judge will be their salary as at 30 June plus an amount representing 50 per cent — for the 2005–06 year — and 75 per cent — for the 2006–07 year — of the difference between that salary and the salary of a judge of the Federal Court of Australia following the annual salary reviews of the Federal Court judges. These adjustments will be effective prospectively following the expiration of the parliamentary disallowance period contained in the commonwealth Remuneration Tribunal Act 1973.

Clause 5(4) of the bill provides that from 1 July 2007 the salary of a Supreme Court judge will be the same as that paid from time to time to a Federal Court judge. Salary adjustments will again be effective prospectively following the expiration of the parliamentary disallowance period contained in the federal legislation.

The bill protects the salary relativities of less senior judicial officers, such as County Court judges and magistrates, by ensuring that their salaries move in line with those of Supreme Court judges. For technical reasons the bill does not specifically cover the salaries of non-judicial VCAT members. However, their salaries will increase in line with other judicial officers.

By linking Victorian judicial salaries to the federal benchmark the bill will streamline adjustments to judicial salaries. Federal linkage will also ensure that judicial salaries are commensurate with the status, dignity and responsibility of judicial office and that they will be sufficient to attract suitable candidates to judicial office, particularly in the high jurisdictions.

Before I conclude I want to make a few comments on the Judicial Remuneration Tribunal's determination no. 3 of 2003, particularly in light of some of the arguments that have been canvassed by members on the other side. The tribunal's determination provided for a 13.6 per cent retrospective increase to the salaries of Victorian judges and non-judicial members of VCAT. As the Attorney-General explained very clearly in the other place, the Premier has indicated that this determination would in effect give judicial officers and VCAT members a 17 per cent pay rise over 12 months. The Premier has stated on a number of occasions now that this rise would not be in line with community expectations, particularly as it would be retrospective. The government is acting entirely within the provisions of existing legislation, which the opposition has expressed support for, in disallowing the determination and putting an alternative approach before the Parliament.

In its report the JRT also raised the issue of salary linkage between federal judges and Victorian judges and notes that it should be addressed as a priority. I refer members specifically to paragraph 47 on page 11 of the JRT report. The JRT's concern is one that the government shares and is addressing with this bill.

In conclusion I want to say that this bill affirms the Bracks government's support for an independent judiciary. It has listened to the concerns of judicial officers and is responding in a measured and financially responsible way. I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I find the hypocrisy of the government on this Judicial Salaries Bill to be absolutely breathtaking. We have just listened to a diatribe from Ms Mikakos. She said the government has listened to the concerns of the judiciary. It is absolutely extraordinary. The government came out strongly against any sort of salary increase, and I have evidence here of exactly what it said. It is fascinating to hear this holier-than-thou self-confession at the last minute when in fact it has not always been thus.

The Liberal Party will support this bill. It will increase the salaries of state judges and magistrates and bring them into line with their federal counterparts by 2007. The bill states that the purpose of the bill is to remove the function of the Judicial Remuneration Tribunal to make determinations in relation to the salaries and allowances of judicial officers and the remuneration of acting magistrates and make fresh provision with respect to such salaries, allowances and remuneration.

It is interesting to see that the Victorian judiciary is paid well below what its counterparts in the other states are paid. For example in Victoria a Supreme Court judge gets in the vicinity of $256 300, and in New South Wales a Supreme Court judge gets $287 300. For County Court judges there is the same sort of discrepancy, with Victorian County Court judges getting $30 000 less than their New South Wales counterparts.

We in this state want to have the very best. We want to have excellence at every level, and we want to be able to train and keep the very best and brightest, so it is vital that we pay people accordingly. We expect a high level of professionalism, and it is vital that Victoria attracts the very brightest and best in the land. Therefore we need to give them security of remuneration, and we need them to know that we value their profession and expect them to go from strength to strength.

You would think that this is a straightforward bill. However, the hypocrisy is breathtaking. The government made it totally confusing and then undermined the judiciary altogether. As the Honourable Bill Baxter said, the government dragged the judiciary through a most undignified and disrespectful process. In fact, we see how the government deals with the unions, but this time it was dealing with judges. It was not good enough. The government forgot with whom it was dealing.

To see how the whole process unravelled one can go to an article by Darren Gray in the *Age* of 14 April under the heading 'Hulls overruled on judges' pay', which states:

> Victoria's Attorney-General, Rob Hulls, was overruled by his cabinet colleagues last week when they voted to block a 13.6 per cent pay rise for judges and magistrates.
>
> Mr Hulls is believed to have argued for the recommended pay rise, but was rolled by a substantial majority of ministers.

> News of Mr Hulls's cabinet defeat emerged yesterday as a prominent member of the Judicial Remuneration Tribunal, the body that proposed the rise, questioned its future in light of the government's intervention. 'I would imagine the government itself is considering whether to continue with this sort of structure', Professor Cheryl Saunders told the *Age*.
>
> She backed the reasoning of top judges and magistrates in their unprecedented public criticism of the government's decision. 'Victoria has lagged behind the other states in judicial salaries for some time,' Professor Saunders said. 'This is a problem that sooner or later we are going to have to fix'.

It is important to understand the separation of powers and to remember where and how they are delineated. In frequently asked questions the parliamentary web site clearly shows us where these differentiations occur. The government blurred these lines, and we saw what happened. However, during April a number of cabinet ministers made extraordinary statements, and the acting Attorney-General, the Minister for Agriculture, in the other place is reported as having said:

> … Victorian judges had received an 8 per cent pay rise last year and a 5 per cent pay rise shortly before that. 'The tribunal makes recommendations which the government previously has accepted', he said. 'But on this occasion, given the 8 per cent pay rise last year, the government believes that it is out of kilter with community expectation'.

The article continues:

> But Mr Cameron, who is acting Attorney-General while Mr Hulls is on leave, said: 'The Attorney-General is looking at what other mechanism there might be, to put in place a moderate … pay increase'.
>
> Asked if Mr Hulls supported the government's decision, Mr Cameron said: 'Cabinet speaks as one, and the decision of cabinet is that this is out of kilter with community expectations'.

We have seen a backflip, and Ms Mikakos said that the government was in agreement all the way through and that it was government policy. It has only recently been government policy.

The *Age* editorial of 14 May, a month later, is an interesting chronological look at what unravelled. The editorial entitled 'Playing politics with judicial pay' states:

> Amid the distraction of a federal budget, the Victorian government this week moved quietly to increase the salaries of the state's judges and magistrates …

A month earlier the acting Attorney-General said:

> Cabinet speaks as one and the decision of cabinet is that this is out of kilter with community expectations.

One month later there is a complete backflip. The editorial goes on to say:

> Yet only a month ago the government flatly rejected a recommendation of the Judicial Remuneration Tribunal that judges and magistrates should be granted a 13.6 per cent pay increase in order to bring them into line with pay levels in other jurisdictions.

The following paragraph encapsulates exactly what happened:

> The government's argument last month was that the judges' pay claim was out of step with community expectations. The government took this line at a time when it was in the midst of negotiations with teachers and nurses for far more modest pay increases. The difference was that the government treated the claims of the teachers and nurses simply as pay demands made during a conventional industrial dispute. In the case of the judges and magistrates, the government's approach was far more disingenuous. Much was made of the substantial salaries judges and magistrates enjoy in comparison to the rest of the community, casting their claim as one of greed rather than merit. It was a crude exercise in populist politics. Having played it, and with the nurses' and teachers' disputes settled, the government has quietly acceded to the judges' demands.

This government put it in the same category as dealing with its friends, the unions, but in this process denigrated the great job that judges in our state perform. It is interesting to note that the bill is a backflip, but it is salutary to remember what has been said — the rhetoric and remarks about just how supportive this government is of judges. I shall conclude by repeating what the Premier said on 10 April before the backflip. He is quoted in the *Herald Sun* as saying:

> We're not saying that Victoria's judiciary don't deserve a pay rise, but a salary increase of that size was far beyond community expectations of a fair and reasonable wage increase. The government will work to ensure judges are paid appropriately for the important work that they perform.

The government has now done a backflip. We are pleased for the judges, but it is important for the government to recognise the great work and professionalism of the judiciary in this state and to make certain that they are supported into the future so that we can rely on this excellent profession.

Mr VINEY (Chelsea) — I am pleased to support the Judicial Salaries Bill. It is important to put in the context of this debate today the important principles of what the government is achieving with this legislation and to comment on the criticisms of the opposition in relation to allegations of hypocrisy and quoting the important principle of the separation of powers.

It is ironic in this debate to hear opposition members quoting the separation of powers in the context of hypocrisy because, if anything, the extraordinary discarding of the separation of powers under the Kennett government with the abolition of the Accident Compensation Tribunal and the disgraceful attempt

under the Kennett government to nobble the independence of the Director of Public Prosecutions, having the DPP in some way accountable to the Attorney-General of the day, was a real and genuine threat to the independence of the judiciary and to the important principle of the separation of powers. They were very direct government actions that intervened in both those instances in judicial processes, and they were clearly contrary to the important principle of the separation of powers that members here have commented on.

By contrast, however the opposition wishes to portray the process of getting to this point, the bill puts in place an ordered and sensible system of remuneration for the judiciary and bases that in relationship to the salaries paid to their federal counterparts. It is something that has, of course, been discussed and debated in the community for some time, that there does need to be a proper and orderly process for this and that a linkage to the system of remuneration for the federal judiciary is a sensible way to go. So what we have in this bill is an ordered and staged process to achieve that. What was clear from the findings of the Judicial Remuneration Tribunal was the discrepancy between the salaries of the judiciary in Victoria and the salaries of the federal judiciary. That discrepancy was highlighted, if you like, to the government by the substantial 13-plus per cent proposed increase. It was not possible — and it is unreasonable for anyone to expect it — for the government to support a system where there was a very sudden and dramatic increase in judicial salaries quite at odds with the salaries and wages increases that are being paid across the community in trying to deal with the problem of the discrepancy between the salaries paid to the Victorian judiciary and those of their federal counterparts.

The bill brings into place a system that sees the move to that nexus with the federal system taking place in an ordered and staged manner over the next few years. It will see our judges remunerated correctly and properly and see them achieve a salary that is commensurate with their duties and their status and the important work they do and ensure that those salaries are consistent with those of their federal counterparts. It does it in an ordered and sensible way, and for that reason the bill should be supported. I understand that whilst members of the opposition are criticising the process of achieving this they are in fact supporting the bill and this very important principle of ensuring that we get there in an ordered and sensible way.

I reject the opposition and National Party criticisms of the process by which we are getting there. I find it somewhat bemusing that members of the opposition are quoting newspaper accounts of what may or may not have taken place in cabinet and who may or may not have supported the bill in cabinet. One of the other principles of the Westminster system of government, in addition to the separation of powers, is that there is some protection of the deliberations of cabinet, in that they are confidential, and necessarily so. I do not set any store by the comments of members of the opposition in using newspaper articles as some kind of evidence of what may or may not have taken place in cabinet. Members of the opposition are merely attempting to play politics with this issue. They have no credibility on the separation of powers because of what they did to the former Accident Compensation Tribunal and because of their attempt to nobble the Director of Public Prosecutions.

Hon. T. C. Theophanous — Not to mention the Auditor-General.

Mr VINEY — And, indeed, Mr Theophanous, their subsequent attempt to nobble the Auditor-General. They do not have any credibility in coming into this place and criticising this government on these matters involving the separation of powers. What the government has done is put in place and enshrine in the constitution the independence of the Auditor-General, and in this bill the government has put in place a system of ensuring that our judiciary is remunerated correctly and is linked to the federal judiciary. That can only increase the independence of the judiciary in the state of Victoria. Therefore this bill is to be commended and supported in the house.

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — By leave, I move:

That the bill be now read a third time.

In so doing I thank all honourable members for their participation in this debate. At the end of the day I think there is agreement that the direction the government is moving in with this bill is a correct one. I hope the opposition is able to support the government on this bill when it comes to the statutory majority.

The ACTING PRESIDENT (Hon. Andrew Brideson) — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! In order that I may ascertain whether the required majority has been obtained, I ask those members who are in favour of the motion to stand where they are.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

MITCHAM-FRANKSTON PROJECT BILL

Second reading

Debate resumed from 27 May; motion of Ms BROAD (Minister for Local Government).

Hon. R. H. BOWDEN (South Eastern) — In rising to make a contribution to this debate on the Mitcham-Frankston Project Bill, I suggest to honourable members that this should be a happy occasion. It should be an occasion where the Parliament is able to pass legislation which will facilitate the provision of a vital piece of infrastructure for the south-eastern part of Melbourne as well as for Melbourne itself and the whole state of Victoria. Regretfully this bill will stand as a monument to deceit — to a government that deceived the people prior to the election. It will be a monument that the Bracks Labor government will never be able to run away from.

The government still persists with its spin and delusion in trying to pretend to the people of Victoria that this is a freeway. It is definitely not a freeway; it is a tollway. I will use the word that Mr Viney likes me to use, the word 'appalling'. I think it is appalling that on the front page of the bill, where the explanatory memorandum is located, the first two points contain the word 'freeway' twice, perpetuating the deceit and lie and as an absolute insult to hundreds of thousands and indeed millions of Victorians who, to one degree or another, had some faith in the Bracks government that it would perform honestly and prepare legislation that would deliver a freeway. This legislation does not facilitate a freeway; it definitely and very clearly is designed to deliver a tollway — that is, a road where people have to pay to use it.

Honourable members will recall that prior to the last election representatives and candidates made absolutely no secret of their commitment to deliver a freeway. Another disappointing aspect of this legislation is the very difficult part of having to accept that we have a state government running away from a contract that it signed. This state government signed a contract with the federal government in relation to funding and the federal government promised the state and the citizens of Victoria $445 million at the time of signing and up to a 50 per cent contribution to this very important piece of infrastructure. What did this state government do? It broke a deal and ran away from its contract; it welched on its deal and also disappointed its constituency in Victoria.

I know there is such a thing as sovereign risk, but when a state government abandons a signed contract, breaks a promise that it went to an election on, it is not only time for warning lights, it is time for a large alarm bell. This government cannot be trusted. This government's history in relation to this legislation and the way the political decision and backflip were made is not only reprehensible but will be outstanding in the annals of the politics of this state for a long time — outstanding in a negative sense and as an example of what not to do and how to deceive an electorate when many of those constituents trusted the government prior to the election.

Hon. A. P. Olexander — Shame!

Hon. R. H. BOWDEN — As Mr Olexander said, it was shameful. It is a vital piece of infrastructure for the transport network in the south-eastern part of the city and its estimated length of 40 kilometres makes it the largest roadworks of its type in Australia. It is a massive, desirable and vital project that we simply have to have to maintain our leadership as an advanced manufacturing city and to set an example of a society able to be respected for its strong economy that goes with all the social benefits that we have. I am going to use the word 'tollway' in the rest of my contribution because it is an insult by the government — —

Hon. A. P. Olexander — It's a distortion.

Hon. R. H. BOWDEN — It is a maximus distortion, to quote some Latin of dubious pedigree.

Hon. A. P. Olexander — Mea culpa, mea culpa!

Hon. R. H. BOWDEN — It is a massive distortion to use the word 'freeway' and I am not going to use it. It is a tollway and people will pay to use it. I resent the government bringing this document into this house, purporting it to be a freeway. It is not the

Mitcham–Frankston freeway; it is the Mitcham–Frankston tollway. Having said that, the 40 kilometres will run fundamentally north–south: it will begin in the Mitcham area in the north and run to the Frankston area in the south. It will cross the Monash Freeway at a point honourable members are most familiar with — the Mount Waverley area.

The interesting thing about this is that in the early drawings there was not even a plan to put access points and access ramps between the north–south Mitcham–Frankston tollway and the Monash Freeway. That is unbelievable. Most honourable members here will have travelled overseas at one time or another — whether to Europe or North America — and will have used major road intersections similar to that proposed for where the Mitcham–Frankston tollway will cross the Monash Freeway. I cannot remember from my experience — and it is reasonably extensive — an intersection of that type or capacity that does not have an on ramp and off ramp for the two roads.

I felt from the very beginning that there were things to worry about in the design concept, not just the political concept, that was being put forward. However, in recent months announcements about this tollway have indicated that the builders and designers will be adding bike paths, extra on ramps and off ramps and so forth, so perhaps when the final drawings and the completed design are available for us to look at we will find that these essential pieces that were missing from the early drawings have been incorporated. But I, for one, was disappointed with the early designs. I was disappointed with the early drawings of VicRoads, the Roads Corporation of Victoria. I have yet to be convinced that, even though we are getting a tollway, it will be adequate and will be substantially able to fulfil its longer term role. I need more convincing that we as a community will be getting value for money.

The bill is modelled on the CityLink bill. If honourable members were to peruse the bill and study it very carefully they would see many parallels with the legislation regarding CityLink. I am not going to dwell at length on CityLink, although I think several aspects of it are cause for concern. One of them is the administration of its tolling regime. There is plenty of evidence to indicate that CityLink prefers to operate in a semi-secret mode. As far back as 2002 there were suggestions that on tolling and accounting it was not cooperating to the fullest extent with the state government's inspectors.

I have reservations about going ahead with this massive project and just pulling out provisions from the CityLink legislation and making the appropriate adjustments to create the Mitcham–Frankston tollway project bill that is before us today. I am uncomfortable with that, because I think if the rate of escalation of the cost of the CityLink facility is matched in the rate of escalation of the cost to consumers of the Mitcham–Frankston tollway, it will be great cause for concern. I am not convinced that the administration and provision of this facility will turn out to be good value for money for Victorian motorists. I need a lot of convincing on that, because so far I am not terribly happy even with the impact of the cost structure of CityLink on many of my constituents.

However, this debate is not about CityLink; it is about the disgraceful political backflip, the duplicity and the almost unbelievable gall of the Bracks Labor government in going to the electorate and saying, 'We will give you a 40-kilometre freeway', and then within months turning around and saying, 'That does not matter any more. We are walking away from our contracts. We are dumping our obligations. We are now going to make you pay'.

I wonder where this will all end. For instance, last week I had the opportunity to make some comments on the Roads Corporation of Victoria annual report for 2002–03. I recall that the report said that VicRoads provided $174 million worth of new roads out of a budget of $1.3 billion. It is interesting to relate that figure to this situation. I wonder whether the Bracks state government has made a fundamental decision not to provide roads from its taxation revenue and the various revenue streams available to it. I wonder whether it has opted out of the provision of significant road infrastructure by flicking it off to the private sector while taking the money from the taxes obtained through the myriad indexed charges. I think it has decided to exit the provision of substantial road infrastructure for the motorists of Victoria.

Here is a classic example. The state government has an assurance under the contract of $445 million of federal money and up to 50 per cent of cost contribution by the federal government. That is a lot of money. Regardless of whether the estimate of $1.1 billion or $2.2 billion or some figure in between turns out to be accurate, in question is the implementation of that signed contract with the federal government in which the federal government agreed to pay up to 50 per cent.

I find it absolutely incredible that a state government is willing to not only walk away from its contracts but that it is prepared to do such a disservice to the people of the state that it will turn away funds potentially well in excess of $445 million. We saw an earlier example of this type of arrogance with the refusal by the state

government to accept a substantial amount of money in relation to the upgrade of the Melbourne Cricket Ground; I think that figure was approximately $70 million. The government said it did not want the money, that it would do it its way and turned down approximately $70 million from the federal government. Here it is turning down $445 million and saddling and burdening motorists and consumers in Victoria with a high level of cost that could be avoided.

There is serious debate about the likelihood of this road being an economic failure. Honourable members might ask why that would be so. Unlike CityLink, there are substantial alternatives to the north–south route of the Mitcham–Frankston tollway. There is Stud Road, Springvale Road and several other somewhat indirect but viable roads which could be used as alternatives to the tollway between the southern portion in the Frankston area through to the Mitcham area in the north. At the moment it is not possible for a leakage or parallel circumstance to exist on the CityLink section as it approaches the city — Toorak Road is one alternative to using CityLink, but there are not too many others. However, if we take the upper end of the estimates that have been publicised and say that it could cost, may cost, will cost — or any other definition honourable members would like to use — $2.2 billion, there are parallel roads.

Some government members may say it is terrific that there are parallel roads and that people do not have to use the tollway, but let us look at these alternative roads which could be used in competition with this tollway. Springvale Road is a disgrace and a disaster. It is my understanding that over several surveys the Royal Automobile Club of Victoria has nominated the intersection of Springvale and Dandenong roads as the no. 1 black spot in Victoria. What has VicRoads done about this over successive years and several governments? The answer is nothing. It is still a very dangerous and fatal area and it is one of the parallel roads. As unpleasant, slow and inefficient as it is, Springvale Road can and will be an alternative to this tollway.

Stud Road would be familiar to most honourable members. It also runs north–south and over a long length of this tollway Stud Road will be another alternative to using the tollway. It is not very efficient either. As honourable members will recall, I am very much opposed to the placing of traffic lights where they simply should not be and where they ruin the efficiency of high-grade, efficient roads. Stud Road has been wrecked by the installation of inappropriate traffic lights over the past 20 years and is clogged inappropriately on many occasions. I believe there is serious doubt about the viability and economics of this tollway. Even though both Springvale Road and Stud Road are inefficient and leave a lot to be desired in their ability to handle the traffic, they will still be able to siphon and operate as substantial alternatives to this tollway.

Another thing that bothers me very much is the construction cost. If the state does not use commonwealth money there can be no commonwealth auditing. It would be helpful, very good and desirable for the government to accept the commonwealth money so it is able to bring to us as citizens of the state the advantages of commonwealth assistance, supervision and administration. That will not happen. This bill facilitates the construction of a tollway. It is an absolute disgrace that the Bracks Labor government is saddling the people of Victoria with a tollway when it could budget for the road over a substantial period of time and take the commonwealth contribution. The Bracks government could have provided a true freeway, a real freeway, where there was no need for tolls.

This is a tragedy for our state. At the southern end we are looking to encourage people to obtain employment and at encouraging small business in the Frankston and Mornington Peninsula area and the areas around Cranbourne where we have a large number of residential suburbs with at times somewhat limited opportunities for employment. The efficiency of our road distribution system, our highways and our road network is vital to the establishment and maintenance of our employment and small business cost structure. This will definitely add cost. I would say to honourable members that it is an unnecessary cost to the small business sector, because it could have been avoided. Representations have been made to me — and I understand several of my colleagues have had regular representations made to them — from the small business sector and some of the larger companies over a period of time expressing concern that here again will be an increase in cost.

I also wish to talk about the feeder roads at the southern and northern ends of this tollway. Honourable members would know that on many occasions over the past year or so I have expressed my growing concern and impatience at times about the inability of the state government to understand the need to protect the efficiency of roads which today handle large volumes of commuter and commercial traffic.

The Western Port Highway and the Monash Freeway are examples of roads which are very much needed in our road network. Indeed the Monash is at times on a typical business day very much at capacity and cause

for great concern. The Western Port Highway begins south of where the Monash finishes in the Dandenong area and entering Lyndhurst. I am really concerned about the plans, and the early implementation of those plans by VicRoads and the City of Casey, to install a series of traffic lights on that section of road. I believe very strongly that the properly engineered solution to the disaster that is starting to build at the intersection of the Western Port Highway and Thompsons Road in Lyndhurst is a segregated roadway or an overpass. That is the proper solution.

Hon. C. D. Hirsh interjected.

Hon. R. H. BOWDEN — I will come back to the interjection of Ms Hirsh that I do not like traffic lights at all. Through the Chair, I inform Ms Hirsh that only today I spoke in favour of traffic lights at the intersection of Baxter–Tooradin, Fultons and Hawkins roads. I want traffic lights at that particular intersection. Ignoring the unhelpful comments of Ms Hirsh, who is not interested in this topic or in cutting the costs for her constituents, I suggest that the plans of VicRoads and the City of Casey and their connivance in putting in more and more lights and ruining the efficiency of the Western Port Highway will suit the government's plan to force people in the south to use the Mitcham–Frankston tollway. This is part, in my opinion, of a deliberate plan to make it hard to use alternatives and to force people to use the Mitcham–Frankston tollway. The cat was let out of the bag recently by a member on the other side when he implied that would not necessarily be a bad thing.

I suggest that in considering this legislation we have two outstanding positions. One is that this government has brought legislation into the chamber that is a landmark in the history of the Parliament — a landmark in deceit and in betrayal of the people who had faith in them and voted for them. That is amazing, appalling and terrible. People will not forget. From time to time, depending on what article appears in the press, there are somewhere between 8 and 11 state seats that the Labor Party holds along this route that are very much in question. We will see what the people's verdict is — the constituents in the south-eastern and north-eastern part of the city will have their say at the next election as to what they think of the government's backflip and deceit in presenting this bill to the house today.

There is no question that this bill will facilitate the construction of the tollway. One of the observations that one could reasonably have in studying the bill is that it is almost indecent in its haste. It pushes aside and facilitates; it pushes hard to overcome any and all expected obstacles. That is the one outstanding factor that is inescapable when one looks at the bill. It pushes aside all the normal things that could happen with a building or other piece of infrastructure. One gets the feeling that this is so important and crucial to the government that it has decided to use all its legislative sledgehammers to ram this legislation through the administrative structure of the state so there is no possibility of this roadway not being delivered in accordance with the government's wishes and timetable.

I have real trouble with another aspect of the legislation — the so-called agreement. The first purpose of the bill is to empower the state:

> to enter into an agreement for the design, construction, operation, maintenance and management of the Mitcham-Frankston Freeway.

That is the interpretation of the opening paragraph and the intention of the legislation We do not know what those negotiations will be, what trade-offs there will be or what concessions there will be, because those things will be done in secret. Those negotiations will take place in secret and that is disgraceful. There is no reporting to Parliament; or reporting to the citizens of Victoria. We will receive, according to the legislation, the agreement — —

Hon. A. P. Olexander interjected.

Hon. R. H. BOWDEN — That is a good comment, Mr Olexander: secret Labor business! We do not know until the agreement is placed before the Legislative Assembly and this chamber what will be in the agreement — we have no idea! I believe that the haste in which the government will put the agreement into practice will not be to the benefit of the consumers and motorists of the state. There may be some good or bad points, but we will not have any chance to study or do much about it. I notice there is a provision that the agreement can be disallowed by Parliament. Given the indecency of the speed and the backflip on the government's promise, I do not hold much hope that if Parliament is not happy about some of the contents of the agreement, it will change. A secret agreement is being negotiated — an agreement that will be shoved before the Parliament and, quite frankly, the chances are almost nil for any changes being made to the agreement. It is a fait accompli and one would expect something that is completely undesirable. So much for the supervision of the Parliament, which is being treated like a rubber stamp and with disrespect. We are expected to be grateful that the government will negotiate in secret and bring to the Parliament an agreement that contains anything it wants and that it has

the numbers to pass. The losers are the people and the motorists of Victoria.

The bill regularly and repetitively suggests that the model for the legislation is the CityLink legislation. At the time of the provision of the CityLink laws technology was being developed to enable electronic tolling. It is fair to say in the main electronic tolling works quite well. It has its flaws and there was a spectacular failure by CityLink to adequately report, administer and account to those consumers who had flat batteries in their e-tags. I am not happy about that. It was reported that there was some $1.3 million overcharging by CityLink.

The technology that was designed in the early 1990s and commissioned with the opening of CityLink is fundamentally pretty good — that is my personal opinion. However, I am really unhappy with the administrative and management attitude of CityLink on overcharging when the e-tag flat batteries were a difficulty.

There is no mention so far in any of the correspondence, legislation or other documents I have had access to about the widening of technology, the upgrading of technology, the ability to have different services and products provided in terms of timing or price using the technology. While I accept that the e-tag technology is good, I need some convincing that it could not be better. By using the present level of technology and maybe some advances in technology that could be achieved, I would like to see both CityLink and the operators of the Mitcham–Frankston tollway look at the creative use of the billing technology to provide better time and cost products for the different consumers and users of the tollway. I expect that and hope that message goes through to the managers of the companies involved.

I am concerned about the cost in general of tollways. One of the interesting and very important aspects of the way our city is sited is that at present our freight traffic, import and export, is centred near the city. Up to 40 per cent of the total volume of container transports find their way along either the inbound or the outbound side of the south-eastern sector of the city. Whether it is the Monash Freeway then becoming the CityLink tollway or whether it is the Mitcham–Frankston tollway, I am concerned about the added and escalating costs over a comparatively short number of years to the very fine balance where export pricing is concerned. The cost of transportation is critical to the opportunities that we have as a state to export, particularly on goods where the export margin is quite fine.

There will come a time shortly in the next few years when inevitably, whether it is the Bracks Labor government or some other government, the use of Western Port will need to be seriously considered. If that is the case, the port will need to be upgraded. Here we have a short-term-thinking government that spends and thinks only for today. It is saddling our businesses, our consumers and our small businesses in particular with a cost structure on a tollway that extends over a substantial distance. If we consider that the major container terminal for the next 10 to 15 years is most likely to be in the port of Melbourne area, then the cost of delivering containers down the Monash and then down the Mitcham–Frankston freeway will be quite substantial, in both directions. Even if we ultimately establish a container port of some type in the future at Western Port, the transports carrying containers to the city will most likely incur the tolling costs. I am concerned about that. It is artificially raising our import and export costs, and I do not believe it is sensible for the state to beat itself over the head in relation to costs by building more and more tollways. That is totally unhelpful and is not sensible. The establishment of the Mitcham–Frankston tollway will be to the detriment of the establishment of businesses at both the northern and southern ends. I do not think it is a good thing to add costs and cause concern.

There is ample evidence that the newspapers in communities at both the Mitcham and Frankston ends of this tollway share the concerns that we have as an opposition. I will come back to this later.

The government seems to have this attitude, as I perceive it, that CityLink is going okay, and therefore this tollway will be terrific. That is a feeling I have about its thinking, and it is deadset wrong. The government is not aware of the hostility that has been caused by its unjustified reversal of policy. The government is unrealistic in that, and I am absolutely convinced that on the next election day the chickens will come home to roost. The people who trusted the Bracks government and its promise to deliver a freeway are now disappointed; they are starting to save up for the privilege of being able to drive on this tollway. They will vent their hostility at the ballot box, and I do not blame them.

One of the things that concerns me about the administration of this Mitcham–Frankston tollway is that, if you draw a parallel with the CityLink experience, there is a suggestion that the CityLink road section from Warrigal Road to the tunnels could have been wider. The drawings I have looked at on the Mitcham–Frankston tollway suggest a road system that is limited by capacity to two lanes in the main. If we are

talking long term, with the growth in that sector of the city — Cranbourne, Frankston, the northern Mornington Peninsula — and the growth that will definitely happen in the next decade or so in the Hastings area, it is questionable whether two lanes in each direction will be adequate as a capacity level. I do not think it will be, but if the government persists in allowing that sort of engineering, then we in opposition have to sound the warning. I personally think it is inadequate, and there are many suggestions that the CityLink sectors where there are two lanes are inadequate.

When you couple inadequate capacity with annual escalation in price on a product where consumers often do not have a choice, then you have cause for serious concern. Designing in undercapacity is one of the worst things that can happen with infrastructure. I am suggesting very seriously that, just as we have seen a strong suggestion of designed-in undercapacity on CityLink, we are starting to see designed-in undercapacity in the drawings I have seen on the Mitcham–Frankston tollway.

The other thing I have not been happy about at all is the misleading suggestion in the legislation that roads cannot be closed to force traffic onto the Mitcham–Frankston tollway. I sincerely do not believe that. There is ample evidence to suggest that VicRoads, which is an agency of the government and therefore is really the government, has made a conscious decision not to invest in the Dandenong or Monash area. It has made a deliberate decision not to increase the capacity of the Monash Freeway, and I have already suggested very strongly that it is allowing undercapacity to be designed in to this piece of infrastructure because its lanes are limited to the design we have seen.

Not only is the government open to substantial and justified criticism for its political backflip and its disgraceful reversal of the promise it made to the electorate, it is also open to criticism on delivering through this legislation and the private sector, if I could use that description, and it is in danger of facilitating delivery of a system that has insufficient capacity. That, plus the broken promise, is the most disappointing thing of all. It is no wonder that people not associated with politics tend to denigrate politicians and governments and do not hold parliaments in high regard. When you put together the dreadful reversal of the promise that was made by the Bracks government and the high cost of using this tollway and then add the very real prospect of it being underdesigned in capacity for the time frame it is expected to be used, you realise this is a disaster. The government does not understand the difficulties and the dreadful circumstances it is helping to establish in the south-eastern part of the city.

There is no question that during the next 10 years a lot of the growth of Melbourne will be in the south-eastern and north-eastern parts of the city. Whether one lives in the southern end and works in the northern end or lives in the north and works in the south, there will be a lot of commuter traffic involving people going about their ordinary professional work and commuting to and from their places of employment. One of the disappointing things about this legislation is that there is no recognition anywhere in the bill of the need to be mindful of efficiency or cost. It could be said — and it has been said in relation to CityLink — that trucks and commercial vehicles can use CityLink to their advantage and save time and money. If you believe that, for most of the day you are wrong. It is true that at certain times of the day CityLink does give an improved ride — 4 to 6 hours a day or during the night time. But in the peak times in the morning and in the afternoon, from a commercial and business point of view, CityLink is hopeless and a dead loss; and particularly where it enters into the Monash Freeway, the Monash is a car park that is hopeless in many ways.

I will come back to the Mitcham-Frankston Project Bill because if we look at the experience of commercial and business use in the north–south orientation of this tollway it can be expected that because Western Port is continuing to be attacked in its efficiency by — I will use it again — the connivance of VicRoads and the City of Casey, its efficiency is rapidly decreasing. When you look at the decreasing efficiency of the Springvale Road alternative and the Stud Road alternative, many people will have no choice but to use this tollway. I do not know today so I would not like to give a wrong estimate, but it has been said to me that the cost of using this tollway over the full length will be several dollars at least — it will not be just $1 or $2, but several dollars at least — so there is a cost to commuters on the tollway that will just add to their cost of living, and it is not recoverable. I think that is very poor.

We also have another situation where the new drawings indicate an on and off ramp where the Mitcham–Frankston tollway crosses the Monash Freeway and there will be the ability to enter and leave the Monash. So we have the prospect of commercial and other businesses, and particularly small businesses, which often operate on very fine profit margins, for their unavoidable transport costs having to pay a notable and sizeable fee, or toll, from Frankston. They will come up onto the Monash and then when they get to the CityLink portion, assuming they get a reasonable

run on the Monash — let us assume that — they will then have to pay again. That is absolutely disgraceful.

The state government is kidding itself if it thinks the people in the northern part of the city and the Mitcham end are going to come southbound on the Mitcham–Frankston tollway, join the Monash, shuffle up the Monash if it is a peak time in the day, then pay another toll on CityLink and be grateful to the Bracks government. It is in for a big surprise if it thinks that. Whether you come from the south or the north, if you use the Monash and CityLink your costs will be very considerable as a consumer. I am not convinced that is fair. It will happen because the government will do this, but I just want it on the record that the Bracks ministry is kidding itself if it thinks it can get away with this and avoid retribution by those consumers in this state who have no choice but to use this tollway because the other roads are being degraded in their efficiency — I think quite deliberately, even though one would not get that confession from the VicRoads organisation or from the state government itself.

The difficulty that this will bring is enormous. We should have a transport system with upgraded rail, integrated roads and everything designed to help people, families and residents to have jobs convenient to where they live. There will inevitably be the need to commute because of the professional use of products or industry patterns, but essentially in the Cranbourne, Frankston and Pakenham areas and so forth there are huge numbers of new suburbs where residents would prefer to have jobs and employment opportunities close to where they live. Putting a toll on the Mitcham–Frankston road will not work to the advantage of the economy of the Frankston, Seaford Cranbourne and other areas which could be served, and which expected to be served by this Mitcham–Frankston project.

That is not good for the cost structure of establishing and maintaining a small business. It is not good for the fine people who live in those areas and the fine young families that are trying to establish themselves and gain good career prospects. Quite frankly, if one were to consider starting a small business one would have to look at it very carefully in terms of location. Why would you establish a small business in either the Mitcham or the Frankston part of this tollway when as a business you may have to incur substantial transit and transport costs? Businesses have to look at this factor and seriously take it into account.

When businesses decide they will not go to an area, whether it is in the Mitcham area or the Frankston area, then they are taking away, accidentally, through that decision opportunities for nearby residential suburbs to provide employees; or, to put it the other way, employees living in those areas affected by the maximum impost of the toll have decreased employment opportunities. I think that is very disappointing, because for a government that professes to be socially aware and concerned, and concerned for families and all the things that we hear — and it does not have a monopoly on righteousness — it is deliberately overlooking the impact that these tolls will have on young families and employment, particularly in small business. That is regrettable and very sad.

In conclusion, I shall make the following comments in summary. This is a somewhat outstanding example of a government that has made a major and tragic mistake. The policy decision to establish a tollway is an amazing mistake. It is one that will over many years bring high cost to the business sector. It will bring a lack of employment opportunities to families along the route of this tollway, and that is a reprehensible mistake. I also ask, as the constituents have asked on one or two occasions, what are they getting for the taxes? Yes, they get health services and educational services, but when they pay their taxes they want their roads too. The state government is not delivering the roads. It is flicking it off to the private sector, and the constituents will have to pay again. They are paying the taxes and they will still have to pay the tolls. That is a huge mistake, and it is one that the constituency will bring home to the Bracks government at the next election.

I am also very unhappy with the lack of indication that there is a willingness of this organisation that will establish the tollway — the Southern and Eastern Integrated Transport Authority (SEITA) — to use the technologies and the improvements in technology to bring targeted and focused — —

Honourable members interjecting.

The ACTING PRESIDENT (Mr Smith) — Order!

Hon. R. H. BOWDEN — I think that is something that is very much needed because not everyone in our community has an expense account or a company car. There are hundreds of thousands and perhaps millions of motorists over a year who just to do not have the ability through the business sector to reduce the impact of the costs of these tolls.

The government has been uncaring and totally unable to appreciate the impact that these tolls will have on people of modest income and modest means. There is no hint whatsoever in the legislation that that has been a

factor that the government has even considered. The use of technology should be seriously explored. On behalf of the opposition I say we are very unhappy to see that we are saddling the north-eastern and south-eastern parts of the city with a higher cost structure for goods and services that must be moved by road transport, and that accounts for nearly everything we have. The tolls will inevitably drive up the cost of goods and services, and that is really bad.

The one thing that is fundamentally disappointing about this legislation is that the government made just prior to the election a noted promise that it would provide this road as a freeway but immediately after being elected it reversed that decision and it is now being made a tollway. It is absolutely shameful. It is an absolute disgrace. It sets a very poor example, but on the other hand it lets the constituents know this government cannot be trusted. If the Bracks government cannot be trusted to deliver this promise, it stands condemned — —

The ACTING PRESIDENT (Mr Smith) — Order! There is too much cross-conversation in the house. The house may not be interested in Mr Bowden's contribution, but I am.

Hon. R. H. BOWDEN — Thank you, Acting President, for interceding. This is proof that the Bracks Labor government cannot be trusted. It does not care. It is willing to dump higher costs on the community, it has no thought of helping the business community and it has no idea about running an efficient road system. The Bracks government has no ideas and no plans and, thankfully, now that the people are waking up to it, it has no future.

Hon. B. W. BISHOP (North Western) — I rise on behalf of The Nationals to speak on the Mitcham-Frankston Project Bill. As usual, the Nationals have consulted widely on this particular bill, but we have not got back as many responses as we normally do. Probably a great deal of the reason for that is the shortness of time. We have received some correspondence from the Royal Automobile Club of Victoria, which I will touch on later in my contribution.

The purpose of this bill is quite straightforward. In summary and in layman's terms, the bill deals with the agreement — that is, the concession deed — in principle only; it deals with land, acquisition and management; it deals with the interface between the utilities; it deals with statutory approvals; it deals with road management issues on adjacent existing roads; it deals with tolling; and it also remedies the failure of the government to provide a statutory majority for the Road Management Bill in the upper house.

The Nationals oppose this bill as a matter of principle. The Nationals oppose the Bracks government doing a backflip — or, as some commentators have said, a 'Bracksflip' — on this particular issue. I want to make the position of The Nationals clear: tolls are not an issue with this particular bill. We have no argument in principle with tolls given that our people in country Victoria would only pay for the use of the road when they use it. I make the point strongly that tolls are not the issue with this bill.

This bill contains a number of parts. I have tried to break it up into three parts. The first is the fib the Bracks government told the Victorian people: it walked away from the promise to build the Mitcham–Frankston freeway, as it called it then, and turned it into a toll road. If my memory serves me right, it also walked away from $455 million of federal money that would be provided if it is built as a freeway. I can remember the debate on the initial bill when the Bracks government quite cheekily gave the advice to the federal government that that money could be put to some other use in relation to roads in metropolitan Melbourne and other areas. That is the first part of the bill.

The second part of the bill that we are really concerned about is the lack of transparency and accountability in relation to tabling the agreement or concession deed. The other part is the amendment to fix up the Road Management Act — I say 'fix up' in the broadest terms. I do not think you could ever fix it up, but in the government's mind it has had to bring in this amendment to ram through that legislation, which it messed up in this house by not being able to achieve a statutory majority for part of it.

From the point of view of The Nationals, the question must be asked how anyone could support this bill given that it is a real slap in the face to the people in the area who were promised a freeway by the Bracks government.

We are worried about the process of the government managing this particular issue. In the real world we understand that the bill will be rammed through the house by the government using its majority. How will the government deal with risk management in this area? We are talking about big numbers — a couple of billion dollars — for this project.

The crux of the matter is whether the tollway is viable. Will it work? We come back to this government's past

history in working out how it will cobble together this project, and I shall give a couple of examples. The concern of The Nationals is highlighted by the Auditor-General's report on the four passenger rail lines around regional Victoria. The Bairnsdale project has been completed, but we do not know where the Ararat project is currently at. We know that these projects are nine months behind and there is a 26 per cent cost overrun, which is substantial. We know the government and others have played the blame game and blamed someone else. We believe the government has difficulty managing the interface between its operations and private enterprise, which leads us to the point of how the government will put this project together.

At the briefings — we always get good briefings, which I appreciate — a point was made strongly that there would be a good effort to have a managed tension, if you like, between the two consortiums that may well be competitors to put the project together. That is fair and reasonable, because that is the way business is done. The Nationals had a think about this process and tried to work through the issues of how the government can arrive at a viable balance between tolls and vehicle numbers. This process is straightforward, because when working out the viability of tolls and the return on capital investment the winning consortium would no doubt have been aware that when people decide whether they will go this way or that way they simply work out if it is cheaper to pay the toll. If it is, they travel on the toll road, and if not, they pick another route.

The Tullamarine Freeway is a good example because there were no major parallel roads that people could easily use as an alternative route. There were some, but there were no good options. I have a friend who hates tolls with a passion. I reckon he would drive to Queensland and back again to dodge paying a toll. I know there are a few people like that, and there was early resistance to tolls on the Tullamarine Freeway, but that is not as strong as it was because people have assessed the value, the savings and how they can manage the links, so the usage of the freeway has become much more balanced than when CityLink was put in place.

The Nationals see the Mitcham–Frankston tollway as a lot different. One only has to look at a map to understand that. A number of obvious roads are a lot easier alternative routes than was the case with the Tullamarine tollway. The scene is set for the Bracks government, with its past record of not being able to risk manage projects, to make a mess of this. To see that one only has to look at the Auditor-General's report on the CityLink project; that was a fair bit of a mess, and the Auditor-General's report on the passenger rail projects shows that the government is nine months late and 26 per cent over budget on the first two rail lines and there is no sign of a spike being driven in for the other two lines, the Gippsland and Mildura rail lines. The Bracks government does not have a good record in these areas.

I could go to another issue where the government has had difficulty in managing a project, that being the slightly faster train project on the Bendigo, Ballarat, Geelong and Traralgon legs. That project started, if my memory serves me right, at $556 million and it has ballooned out to over $600 million. I saw somewhere that the cost is believed to be $617 million, and I suspect that was six months ago, so it is running over by 10 per cent and likely to be 12 per cent.

The list goes on. The Mitcham–Frankston project is a big one, and we hear that the cost of building the tollway over its approximately 40-kilometre length will be a couple of billion dollars, which carries with it huge risks. We can be assured that the corporate sector will well and truly cover its risks. The government has the task of negotiating with the corporates to keep the tolls down, which will be an important issue, and to deal with the desire of the corporates to run the toll road as short as possible. That is the balance the government will be striving to attain.

We have already talked about the projects the government has mismanaged over the past few years, and we can visualise how the government will go in dealing with the private sector, because it will be negotiating with some of the toughest corporate operators in the world. I suspect that if the corporate operators have a look at how the government has managed some of the projects I have just spoken about, they will hardly believe their luck when they line up to negotiate the construction of the Mitcham–Frankston tollway. I suspect the corporates will see it as being straightforward, because they will want certain monetary flow to repay the capital cost they incur in building the road. Again the issues will be the level of tolls and the concession deed. The government will get stuck because it will say that the concession deed is for too long a period or the tolls are too expensive, and there will be a huge cost to the government in having the period shortened and the tolls reduced.

It may well be, and The Nationals think this is what will happen, that this project will not even be built because of these issues. The pressure will then be on the government, because it cannot do another backflip and back out of this now. It will have to look at its risk

management and deal with the corporates, which will be looking at the volume of traffic on the road, because the return on the capital investment and making a profit for the construction of the tollway are volume sensitive. It may come to pass that the government says to the corporates, 'You cannot charge any more than that for tolls because the market will not bear any more'. The corporates might say, 'Fine. If that's the level of the tolls, you're going to have to give us more volume on that road'. It will be a tough call for the government to decide whether it will draft traffic onto that tollway and how it will manage to do that.

Again members of The Nationals are no experts on this issue, but we think that when that balancing act has to be performed it is going to be pretty tough for the government to get this idealistic view of this toll road through in negotiations with the corporates, which are very well known for their ability to manage themselves and their risk. We believe there is a great chance — unfortunately, I suppose, in some people's minds — that this project will not even be built. We think the government ought to go back and stand by its earlier commitment.

I suppose there are a couple of options. One is that at the end of the day the government might have had a look at the tolls and said, 'That's as hard as you can go on that'. It might have had a look at the volumes and said, 'Well, we can't draft any more vehicles onto the road to keep your volume up, Mr Corporate'. It might have a go at pump priming the project from consolidated revenue or some such source to sweeten the deal to get the project under way. What an act that might be. That will test the spin doctors. I suspect that the spin doctors for the government will be earning their money then — they will probably be on triple time. They are the issues the government faces as it lurches down the path of producing this Mitcham–Frankston tollway. This process is likely to bury the project, because the government will be unable to reach a deal with the corporate world.

I move to the concession agreement. A part of this bill will, of course, be the agreement, which we suspect will include the winning company and details of the tolling regime such as the length of the concession period, the toll levels, the future increases and the design. It is probably fine to include that in the bill as it goes through. That is what the agreement or concession deed will consist of. But wait for it. The Nationals had a decent look at what happened with CityLink. The difference is that the Parliament debated the CityLink bill with the concession deed included as schedule 1. However, this agreement will be tabled separately later and therefore, unlike the situation with the CityLink process, can only be allowed or disallowed in full or in part — it cannot be amended. As the Nationals understand it, the agreement will be tabled in the Parliament towards the end of this year. The Nationals would like the government to be open and accountable, as it promised the Victorian community. The Nationals would like it to be transparent as well.

I can remember very well — and some other members in this house will also remember — the committee stage we went through in debating the Melbourne City Link Bill. It went for 18 hours. The Honourable Bill Baxter sat at that table as the minister responsible. We had the then opposition shadow Minister for Transport in the gallery with his troops running messages down and feeding questions to the then members of the opposition, and it went on for 18 hours. That was a full and accountable process. I might say that during that 18-hour committee stage they never laid a glove on Bill Baxter. One of the questions they asked him was, 'Who changes the light bulbs?', and he knew the answer. Members are not going to get that opportunity with this bill, are we? We are not going to get that chance because the agreement will just be tabled in Parliament as a totally different aspect — from a government that is supposed to be accountable and transparent. The agreement the government will have negotiated with the corporates will only be tabled in this Parliament, if in fact it gets that far. It is a sad state of affairs, is it not, for a government that is supposed to be accountable and transparent? Members will not be able to debate the agreement fully in the committee stage as we did with the CityLink bill. I will leave that there for members of the Victorian community to sort out in their own minds.

I come to the next amendment, which someone unfairly called the Bob Smith amendment. I do not blame Mr Smith for this at all. The fact of the matter is that the government just could not manage its business in the house. It could not get enough people to stand to agree when a statutory majority was required. I come back to the point that if the government is going to run a hard negotiation with some pretty tough corporates on this huge project, it is not hard to work out how that will end up. I will leave it to members to work that out.

Members will see the government use its numbers in this house today to ram through that part of the bill it was not able to get up on that particular night, and the bill will go through. Members of The Nationals consider the Road Management Act to be a dog of an act. It is hopeless. Members of The Nationals argued that in this Parliament, as did members of the Liberal Party. We believed what we said then, and a lot of people have joined us. The government will use its numbers to ram this amendment through the

Parliament. Members of The Nationals can stand up and say that and look anyone in the eye, because we moved a motion to fix this non-feasance problem, and it lapsed in the Assembly. Then the Honourable Peter Hall moved a private member's bill that would have fixed it, but that also lapsed.

The Nationals say that the Parliament ought to be able to make the rules, and that is why we have fought the issue, and I am sure that is why members of the Liberal Party have fought it. We have fought it because our municipalities, particularly — —

Hon. B. N. Atkinson — President, I draw your attention to the state of the house.

Quorum formed.

Hon. B. W. BISHOP — I have not been renamed, but I wish I had the experience of the Honourable Bill Baxter with his time in the Parliament and certainly his time serving this state so well as a minister, when he did a great job.

I go back to the point of where The Nationals stand on the Road Management Act. As I said, the opposition and The Nationals fought the bill on the ground that it would cost our country municipalities in particular huge amounts in resources and money. We cannot seem to get it into the heads of members of the government that there are massive differences. If you take a municipality in my electorate, Yarriambiack, which is a long and narrow country municipality, you discover the cost per head for roads is about $400 a time. If you go to other municipalities the cost may well be down to a single figure. The Nationals fought the bill on the ground that we believed it imposes an enormous cost on our councils. Some of our councils are saying that they will need to put on two extra people. We are not surprised at that.

We think it a good idea that our municipalities have road management plans. It gives our municipalities the opportunity to prioritise the roads they need to fix up or reseal or whatever they need to do with them. We reckon everyone agrees with that, but we do not believe they should be put under such pressure to have a road management plan that needs to stand up in a court of law. That is what is going to happen with this Road Management Act, a part of which we are debating here this evening. One of the reasons we are objecting to it is that it will become a barristers' banquet. They will have a wonderful time with this because of the process this government will put into place.

In fact it goes further than that. It is putting our municipalities at odds with our communities. Most of the municipalities I know of are going around assessing their roads and doing the right thing by consulting with their communities, our communities, and saying, 'We are going to close this road because it is going to be an extra cost and an extra risk to us under this part of the Road Management Act when it goes through'. We understand what they are doing, but just think of the inconvenience in country areas to people who want to shift stock along that road, but the road is closed. When they want to shift machinery along the road, they find that the road is closed. It is an enormous responsibility for our municipalities and an enormous cost, which we object to. That is why we opposed that bill, as we will oppose this bill tonight.

As I said, the Nationals have consulted widely on this, and we have received a few responses. As always David Cumming from the Royal Automobile Club of Victoria came up with the goods. He always does; he is a good operator and he keeps up the pressure on behalf of the members of the RACV and of course on behalf of motorists all around Victoria. I am going to zip through a few issues that David raised so that the RACV's concerns with this bill go on the record. The first question he asked is whether anything in the bill prevents the road from being a toll-free road. That is a very interesting point, I thought, but it would require another backflip with twist and double pike, or whatever it might be, to get that back into the ring. He next asked: what is the public accountability of the authority and the reviewer? Does it specify that they must act in the public interest? There is nothing about that in the bill. The minister might address that in his summing up.

Mr Cumming said that he read clause 195 as allowing an off-peak toll. I believe he is right. Proposed clause 195(2) states:

> A notice under subsection (1) may specify different tolls in respect of different cases or classes of case including different zones or groups of zones, different classes of vehicle and the use of different vehicles at different times, or any combination of these.

So Mr Cumming is probably right on that issue.

About proposed clause 199 he asked whether the 14 days was equivalent to the time for other offences — for example, payment of traffic fines. He agreed with clause 205, saying that the limitation to one offence per day is a good idea. Regarding proposed clause 206, in which the bill addresses tampering with a toll device, he said he believed 10 penalty units was about $1000 and that that was quite excessive. On clause 208 he asked what the requirements for delegation of enforcement

are — for example, who can be an enforcement officer? Is it the winning bidder? That is a reasonable question.

He went on to make the point that clause 214 seems to be out of step with the transport legislation that is before the Parliament. He said he believes it changes the infringement withdrawal provisions to relate more closely to the listing at the PERIN court. He asked why the government changed one and then introduced new legislation that is different. That is a good question.

Then Mr Cumming made a further point on clause 214, and I think he is right on this too. He said it talks about refunding the penalty, but what about related costs such as administration costs. He gave the example of a mistake being made by the toller in claiming someone used the road without paying the toll. An invoice is mailed out saying, 'Pay the toll plus an administration fee within 14 days'. This could be paid mistakenly for many conceivable reasons— for example, a corporate entity may get many such notices and pay them as a matter of course. Then they discover their mistake and contact the toller, who withdraws the infringement. The penalty is refunded, but the user is still out of pocket for the administration fee. Mr Cumming asked what would happen if it goes further and legal costs are involved. Again, not a bad question. It is a good one for the minister to answer in his summing up.

Mr Cumming also asked what were the views of the Municipal Association of Victoria on the restrictions on local government powers. And there are a couple more to go. Referring to clause 270 he said that with the Road Management Bill the RACV argued that the excess should be equivalent to similar threshold amounts related to taking an action before the Magistrates Court and it therefore questioned the specified excess of $1000. He mentioned the indexing of charges, which he said is abhorrent, and asked where was the transparency and justification for this action. Those are good points from David Cumming. He is always a good performer and is right on the ball with the bills that come before Parliament, sticking up for his constituency in the RACV and also representing all road users in Victoria.

To round up the issues, we think this is a dog of a bill, and that is why we are opposing it. We are opposing it on a matter of principle. We think the government is doing an absolute backflip, going back on an election promise. I again make it clear that the Nationals have no in-principle objection to tolls, because that is the user-pays principle that well suits our people in country Victoria. But we strongly make the point that this is not an issue regarding this bill. The issue is about the process the government has gone through. We strongly believe the tabling of the agreement or concession deed provides no transparency. It does not provide the accountability we want. We think it is a weak effort. We think the government should put it up, as was done with CityLink, so we can fully debate this issue. We believe the people of Victoria deserve that sort of accountability from this house and this government.

Going to the Road Management Bill, the government could not manage to get all parts of it through the house. We believe the bill should not be here. It should reinstate nonfeasance, as other states of Australia have moved towards doing. It should not saddle our municipalities with huge responsibilities, huge costs and an uncertain future in relation to legal challenges. The Nationals strongly oppose this bill.

Hon. J. G. HILTON (Western Port) — I would like to make some comments on the Mitcham-Frankston Project Bill. First of all I would like to give a definition of a freeway. I consulted the *Macquarie Dictionary*, which is at the table. It says a freeway is:

> ... a main road, usually divided, free of intersections, with entries and exits designed so as not to interrupt the flow of traffic.

That is a freeway. There is no mention of there being no tolls on a freeway. You can have a tolled freeway. Before the opposition says it is an oxymoron I will say this: the only oxymoron so far in this debate has been a sensible opposition contribution. That is the oxymoron. The opposition — and I do not include The Nationals in this, because I thought Mr Bishop's contribution was very intelligent and apposite — has worked itself up into a lather of self-righteous indignation. The government is being called 'deceitful' and 'disgraceful', and words like 'betrayal' and 'tragedy' are being used.

I would like to address some of the issues the opposition has raised. An announcement was made before the last election that the road would be built as an non-toll freeway. And yes, six months after the election the government reversed that promise — changed its mind. There is nothing wrong with changing your mind if other circumstances have intervened to make you change it. I would like to briefly describe what happened in those six months. National Express exited the provision of public transport. We had a major drought and, finally, major bushfires. The government was faced with a very difficult decision. The cost of the road was approximately $2 billion. That could not be paid for at the same time as the $1 billion that was needed to keep the public transport system going. The government had also promised additional education, health and

community services. Therefore the government had a choice. It had a number of options. It could build the road and go into deficit; but as has been made clear by other speakers in the budget debate that is not really an option, because the government had made a promise to the people to maintain a $100 million surplus, and if that promise was broken it would severely affect the credibility of this state as an investment destination.

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

Hon. J. G. HILTON — Before the break I was indicating the choices the government had in view of the financial situation it found itself in with the withdrawal of National Express, the drought and the bushfires. I indicated that one of the options was to go into deficit on the budget; I do not think that was ever a viable option. The government could have allowed the public transport system to collapse or it could have reduced its investment in schools, hospitals and other community services. It could have abandoned the building of the road or alternatively it could build the road and charge tolls. As the Honourable Ron Bowden said, the road is a required piece of infrastructure. It is needed, long overdue, desirable, vital and we have to have it. On that basis the government made the decision to toll the road.

This was not an easy decision, but in my view it was the right decision. I would like to ask the remaining three opposition speakers to tell this house what they would have done in those circumstances. The choice was pretty obvious when you consider the complete range of options: going into deficit; building the road with tolls; not building the road; spending less money on other infrastructure; or raising taxes. Opposition members should be able to indicate what they would have done under those circumstances. It is very easy to criticise other people, but we would like to hear — I am sure the people of Victoria would like to hear — the alternative.

I have no problem with the principle of tolling roads. Large, expensive infrastructure cannot always be paid for out of tax revenue. The size of the government's budget is $28 billion. The Mitcham–Frankston project will apparently cost $2 billion — that is, 7 per cent of the budget. In my view that is too much to spend on one project. One can ask the question: why should people in Mildura, Wodonga or other places in regional Victoria pay out of their taxed income for a road they may never use when that income could be used for schools, hospitals and other infrastructure which they will use?

Of course, tolls are not unique to this project. We already have tolls on CityLink, and there are a number of projects in Sydney which have tolls. The point about Sydney is quite interesting. A number of roads in Sydney are being tolled and will receive federal funding as roads of national importance. If this is a road of national importance, the state and federal governments should be paying 50 per cent each. The commonwealth government capped its contribution at $445 million, and now that the road is going to be tolled it has decided not to provide a contribution at all. This is a clear example of the commonwealth government wishing to make political capital out of Victorians for its own political purposes.

The commonwealth government is essentially punishing Victorians. Do we see the Liberals in this place going to the commonwealth government and advocating the case for Victoria? Of course not — they go to Canberra and weakly accept the commonwealth government's decision to withdraw this funding from Victoria. We must ask why the Howard government wanted to do that. I think the answer is pretty obvious: faced with the overwhelming popularity of the Bracks Labor government, as demonstrated in the November 2002 state election, the commonwealth government was very concerned about its own federal seats including Aston, Casey, Deakin, Latrobe, Gippsland, McEwen, Corangamite, Dunkley and Flinders. The commonwealth government was desperate for an issue which it could use to dent the popularity of the Bracks Labor government, and it has grabbed the issue like a drowning man clutching at a straw. Of course, it has not worked. As I said in my contribution to the budget debate last year, after the Premier made the announcement of the tolling on the Mitcham–Frankston freeway the results of a poll were published in the *Sunday Age* of 11 May 2003. The article states:

> The Victorian government's backflip last month on the Mitcham–Frankston freeway appears to have had no impact on its soaring popularity in the electorate, according to a new poll.

The ALP attracted 52 per cent of the primary vote in that poll. It won 62 per cent in a Morgan poll taken after the announcement. That says a couple of things to me. It says that although the Liberal Party may be trying to work itself up into a false sense of indignation by using words like 'treachery', 'betrayal' et cetera, members of the public do not buy that. They are not interested. They listened to what the Premier had to say, they accepted his explanation of the reasons for the tolls and they moved on. It is a pity the Liberal Party has not moved on. I believe a poll taken about two weeks ago showed that voting intentions were very similar to those indicated in the November 2002 election. Again, the

Liberal Party is desperately looking for an issue on which to dent the popularity of the Bracks government, but this is not that issue.

The proposition that Sydney is being favourably treated by the commonwealth government is obvious. The Prime Minister, who does not even live in Canberra but lives in Sydney, is quite happy to provide commonwealth funding to New South Wales projects but not to Victorian projects.

I suggest that when the Victorian government made the announcement of the tolling of the freeway for the reasons that I have stated, a true commonwealth government interested in the wellbeing of all Australians would have worked cooperatively with the state government to come to a conclusion which provided the benefit to the Victorian public, but that did not happen. In Canberra we have a government that is small-minded and petty. It does not wish to govern for all of Australia, but for its own small constituency. The Bracks government did not make this decision lightly. It was not an easy decision to make, but it made the right decision and I applaud it for it.

Finally, I make one comment on the way the Liberal Party has approached this debate. The Liberal Party put forward, as the lead speaker, a man for whom I have the greatest of respect, but anyone listening to his contribution would know that his heart was just not in it. He repeated himself three or four times, trotting out the usual words of deceit, betrayal et cetera. He made comments about the roads that he usually comments on in this place, but his heart was not in it. I believe that summarises opposition members — they stand for nothing and are committed to nothing, and until that changes they will be forever in opposition in this state. I commend the bill to the house.

Hon. A. P. OLEXANDER (Silvan) — I take this opportunity tonight to speak on this bill as a local member in the Scoresby corridor. I am here because people in the corridor placed faith in the promises we made to them when they made a decision to cast their votes, just as every other member in this place is a product of the support of their local communities. Unfortunately some members of this place obtained a lot of support from their local communities on false pretences. They obtained support from their local communities based on promises which they now clearly do not intend to keep.

In speaking on this bill relating to the Mitcham–Frankston freeway, or as we more accurately refer to as a tollway, I speak as one of the local members who will keep faith with my community and with the promises that we have made to them about our commitment to oppose tolls on this very important road. Of course I am referring to many members of the Labor Party in the outer eastern suburbs who went to the last election as part of a team that promised very clearly that they would not impose tolls on the road. They promised clearly that it would be toll free. Not only did they say that this was a promise of their government, but they said it was a solemn pledge. The words of the Premier were that 'It was a solemn pledge to you and your family'. He said, 'This commitment will be honoured'. People in the outer eastern suburbs believed that commitment. They put faith in a Premier and in local candidates for the Labor Party who repeated that pledge time and time again. Those candidates were the member for Kilsyth in the other place, Dympna Beard, the member for Monbulk in the other place, James Merlino, the member for Evelyn in the other place, Heather McTaggart, the member for Bayswater in the other place, Peter Lockwood, and a whole raft of other members. In this place — —

Hon. Andrea Coote interjected.

Hon. A. P. OLEXANDER — I take up the interjection of the Deputy Leader of the Opposition who makes a very relevant point. She said, 'They won't be here'. It will be up to their electors to decide whether they will be here or not. In this chamber that 'solemn pledge to you and your family' that would not be broken was made by a member for Silvan Province, Carolyn Hirsh, and a member for Central Highlands Province, Robert Mitchell. Where are they tonight? They are not in the chamber; they are not facing the music. They should be here and they should be prepared to stand up for what their local communities want, expect and demand. They should be here to vote down this legislation. They should seriously take their responsibility as local members, given the faith and trust of hundreds of thousands of individuals who voted for them on the basis that they would not toll this very important road. Yet they have been unprepared to front up in this debate and to stand up for their local communities. Their local communities are not happy about that fact at all. You only need to ask the chambers of commerce, local businesses and local councils in the outer eastern region. You only need to ask local citizens and motorists in the region. Those people are not happy about the fact that they have been betrayed on a very important promise — one in which they placed enormous faith. Many people voted for the Australian Labor Party in the outer eastern suburbs for the first time based on that commitment. It is a very serious issue because it goes directly to trust, openness, honesty and transparency in government. Once trust and respect is lost, governments fall.

I was most disturbed to hear Mr Hilton talk about this decision as though it was a piece of engineering for which collateral damage had to be factored in, but that there had not been a lot of collateral damage because, in his view, the polls are still strong for the Bracks government. Let me put forward tonight that it is not about what the polls say or do not say. It is about the promises we make to the voters; it is about performing on those promises and keeping our word. This has clearly not happened in this regard. It is one of the most blatant turnarounds, backflips on policy and blatant betrayals of a significant part of the electorate in Victoria's history. There are 1 million people living in the Scoresby corridor; depending on the estimate of the population of the city of Melbourne, it is between one-quarter and one-third of the population of Melbourne. Those people have large in their minds the promises made to them by local Labor candidates and the Premier before they were elected. They have been sadly disappointed. Premier Bracks has broken one of his promises and local Labor members have backed him up and refused to represent their local electorates, preferring to be Labor first, locals second. They prefer to toe the Labor Party line and they will not stand up for the clear wishes of their local communities. When members of Parliament go down that track because they think the polls are holding up very well, as Mr Hilton says, those members of Parliament are on limited tenure because the electorate will not forget and will not excuse this decision.

The purpose of the legislation before us today is to empower the state to enter into an agreement for the design, construction, maintenance and management of the Mitcham–Frankston freeway. It will also provide for the collection and enforcement of tolls.

It confers power on the Southern and Eastern Integrated Transport Authority to acquire land for the project and provides for procedures to deal with infrastructure and infrastructure providers. The legislation confers powers upon the minister, SEITA and the corporation and amends the Road Management Act and section 85 of the Constitution Act 1975.

Essentially what we have here today is a very sad piece of legislation, the Labor Party's answer to those communities in the outer eastern region who gave it enormous support, many voting Labor for the first time ever at the last election. This is the government's answer to those individuals. Essentially this is toll legislation. This legislation delivers tolls to those communities. It is legislation that is here today only because Premier Bracks breaks his promises. Sadly the local members in the Scoresby corridor are not prepared to stand up to their Premier. They are not prepared to stand up in the caucus and they are not prepared to lobby Minister Batchelor to reverse this decision. Promises were made to the electorate, and a large majority of the electorate believed those promises would be honoured. They believed the promises were important, and they made decisions on the basis of those promises.

I want to commend my federal Liberal colleagues who throughout this issue have stood steadfastly by their local communities in opposing tolls. From my region in the outer east, Silvan Province, I would like to pay special tribute to Tony Smith, the federal member for Casey, who has fought long and hard against these tolls. I want to pay tribute to Chris Pearce, the federal Liberal member for Aston, a fine and hardworking local member who would not betray his local community in the way the local state Labor members of Parliament clearly have. I commend Mr Phil Baressi, the federal Liberal member for Deakin, who has been for many years at the forefront of defending his community against Labor's tolls. I would also like to congratulate and commend Jason Wood, the federal Liberal candidate for La Trobe, who has similarly worked very hard to fight for the wishes of his community.

All of these federal Liberal colleagues have worked steadfastly and kept faith with their communities over building a freeway which should truly be a 'free way' and not a tollway. They have opposed the Bracks Labor plan to slug businesses and to slug families, and I want to congratulate them. I also want to congratulate federal Treasurer Peter Costello, who in the 2004–05 federal budget has allocated over $400 million for this state government to build this road, if it will only honour its promise and build a freeway instead of a tollway. Premier Bracks has snubbed that federal government commitment and that funding, and in the process has made a decision which, on the best estimates, will take $280 per month out of the wallets of daily commuters on this tollway. This $280 a month is the cost of Labor in the outer east and the Scoresby corridor. People will not forget that either.

Government members in this place, and Mr Hilton is a classic example of this, are very good at distorting the truth, very good at coming in here day after day crying poor about the federal Liberal government and blaming it for the failures of the Bracks government and its ministers — and there are many failures of the Bracks government — who blame everyone but themselves for their own financial and administrative mismanagement. This government will find any scapegoat to shift that blame, and it always tries to escape facing up to the fact that it is essentially a government that has no vision for Victoria and simply cannot manage its own finances.

Instead it finds it much easier to raid the wallets of people in my local community to pay for the Premier's broken promises.

This is a very sad piece of legislation for people in the outer eastern suburbs, the people in my electorate. It is a sad piece of legislation for those people who are represented in this place by Mr Robert Mitchell, a member for Central Highlands Province and by Ms Caroline Hirsh, the other member for Silvan Province. If those members of Parliament had any sense of responsible democracy, they would heed the overwhelming wishes of their local communities and oppose this legislation. Tonight both of them have an opportunity to keep faith with promises they made and to heed the wishes of their local voters and communities and vote against this legislation. I will be voting against this legislation, because I will keep faith with my community. I call on Ms Hirsh and Mr Mitchell to exercise the democratic opportunity they have in this Parliament tonight and to cross the floor and vote with the opposition against this legislation. I make that call to them most sincerely and very seriously. They have the ability and opportunity to keep faith with the people who elected them to Parliament. If they choose to vote in favour of this piece of legislation, they will be undertaking one of the most severe betrayals of a local community that has ever taken place in Victorian political history. If they choose to vote for this legislation, they should stand condemned.

Mr VINEY (Chelsea) — It is a delightful opportunity to speak on this bill and to correct the record on a few matters that have come up in this debate. I open my contribution by observing the fact that the people the opposition has put forward to lead the charge against the government on the Mitcham–Frankston freeway are Ron Bowden, Barry Bishop and Andrew Olexander. That says one hell of a lot. The quality of the contributions from these members has been nothing short of pathetic. We have just had from Mr Olexander a series of Liberal Party rhetoric statements as he got stuck into the government with a wet lettuce in the most pathetic contribution I have heard in this place.

Let us go through some of the history of the Mitcham–Frankston project. If you care to go to the *Melway* you will find that this project was first recorded in 1967. At that time Henry Bolte was the Premier of Victoria. He did not build it, nor did Dick Hamer, Lindsay Thompson, John Cain, Joan Kirner or Jeff Kennett, but Steve Bracks is going to build it. Let us get the facts straight. It is an extremely important project for the people of Victoria. It will provide a transport corridor down through the eastern suburbs for a population about the size of Adelaide. It provides vital links for the economic benefit of this state. It is this government that has got on with it. It has made the commitment to build it, and it got on with the project. These kinds of attacks with a wet lettuce from Mr Bowden and Mr Olexander are pathetic. They do not deal with the fundamental issue that this project has to be built for Victoria's economic benefit. All they are coming up with is an argument about how it is paid for.

Everyone in Victoria knows perfectly well that the road has to be paid for in one way or another. It will either be paid for through taxes or through tolls. It is true that this government had to change its position on how it will be paid for. But this government has never changed its position about this vital project going ahead. We have gone through this debate before, and I have said quite happily in this Parliament that I apologise to the people of Chelsea Province for the fact that the government held a position at the election and has had to change it since. That apology was made by the Premier of Victoria, no more or less. What is interesting is that it is a substantially different position to that of Jeff Kennett in his seven years in government. The only time Jeff Kennett apologised to the people of Victoria for sacking nurses, for getting rid of teachers and for closing schools was during the Frankston East by-election. That was the only time he said sorry; it was the pathetic effort by him to try to claw back some support in the community. That is in stark contrast to the position of this government. We had to change our position on the Mitcham–Frankston project and the way it will be paid for. We are apologetic for that change.

Now let us deal with why that change occurred. It occurred for a whole series of reasons, not the least being the fact that the Kennett government's privatisation of our public transport system was an abysmal failure and cost the people of Victoria up to $1 billion. That was not known before the election. Let us look at the funding of the Mitcham–Frankston freeway. We had an agreement with the federal government that it is a road of national importance, an agreement that says the state government will fund 50 per cent and the federal government will fund 50 per cent. Then what happened? Mr Bishop comes into this chamber and opposes the government's bill and criticises us — the Leader of the National Party in the federal government, the Deputy Prime Minister, put a cap on that funding of $445 million which is less than 25 per cent of the total cost of the project.

So after signing off an agreement and saying in the first place that it would fund 50 per cent of a road of national importance that was vital to the infrastructure needs of Victoria and to its economic development, the

federal government then put in a cap. The Victorian government was faced on the one hand with a massive blow-out in the cost of the public transport system because of the Kennett government's complete and abysmal failure of privatisation and on the other hand it faced a complete failure of the federal government to come to the party and properly fund this project. What we have here is a failure, on both counts, of the Liberal Party. That is the fundamental reason this government had to reverse its position on the tolling of the Mitcham–Frankston freeway and put in place the new system of funding it.

In a pathetic, wet-lettuce attack the Liberal Party came into this chamber tonight and criticised the government for this policy position. This bill puts in place a range of systems that will enable this project to proceed quickly and efficiently. They are things associated with the route, the land purchases necessary for part of that and in particular — and what I am quite prepared to touch on tonight— the tolls that are to be put in place in relation to the future project. What an incredibly stark contrast it is to what the Kennett government did with CityLink! We have put in the legislation our commitment to the people of Victoria that no roads will be closed to force people to use this tollway.

Hon. Bill Forwood interjected.

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Forwood is out of his seat and his interjections are disorderly.

Mr VINEY — The government has put in the legislation a commitment that there will be no road closures. What we know from this project is that people have a choice. They can choose Springvale Road, Stud Road or the Mitcham–Frankston freeway. We know people have the choice of using those alternative routes. It is in very stark contrast to what the Kennett government put in place in relation to CityLink; it created traffic impediments and road closures to funnel and force cars onto the CityLink project. That is the first stark contrast.

The second stark contrast is that the tolling system here will provide a broader range of options and choices for people to use the freeway in a better lower cost option than existed when the Kennett government put the CityLink project in place. One in particular that I would like to highlight is the fact that this legislation makes it clear that if someone uses the freeway they will have, after notification, 14 days to make a payment without suffering the sort of fine that the Kennett government put in place in relation to CityLink. What happened with CityLink was that if someone used or accessed the freeway they had until midnight that night to make the payment or they would be hit with a $100 fine. This bill puts in place a process that allows people to make a payment within 14 days, and if the payment is not made or the owner of the vehicle has not nominated another driver, the fine system will kick into operation. So a very different structure is being put in place for the funding and tolling of this freeway system compared with what the Kennett government did with CityLink. This bill is a thought-through process that will provide an opportunity for the tenderers to put a tender together that will provide the best possible value for motorists to use the tollway.

I would have thought all members of this house should support this legislation. Rather than using this bill as an opportunity to score cheap political points and criticise the government for its changed position in relation to tolling — which is all the opposition has been able to do tonight — it could have come in here and said, 'Look, we might not agree with what the government has done in relation to tolling, but this piece of legislation makes sense and will facilitate the project to an early conclusion'. But opposition members do not want to do that for a whole range of reasons. Not only do they want to make political points, but they have no interest in seeing Victoria's economy grow; they have no interest in seeing employment improve out in the eastern suburbs under the Bracks Labor government. All they wanted to do was try to lay blame on members of the government and try to make accusations that government members had not been truthful at the last election.

Mr Olexander came in here and started to name a few of his favourite opponents. He started to name a few that he wanted to criticise with his wet-lettuce attack. I would have enjoyed it if Mr Olexander had come in here and named all the candidates who were successful at the last election. He might have used the whole 15 minutes available to him if he had done that! It would have been useful if he had taken the opportunity to name a few of them who were elected to this house as well, because as a result of the last election, for the first time, this government achieved a majority in the Council as well as in the lower house. The reason that happened was not — as Mr Olexander, Mr Bowden and Mr Bishop would try to portray — to do with the Mitcham–Frankston freeway. That is not what happened.

What happened was that the people of Victoria recognised that after seven years of the Kennett government ripping into our hospitals, closing our schools, sacking our teachers and nurses, putting in place CityLink without the sorts of options we are

putting in place in this bill, and having a Melbourne-centric focus and focusing entirely on what was going on in Melbourne and referring to rural and regional Victoria as the toenails of this state, they had three years of the Bracks Labor government delivering on what people cared about — delivering on schools, putting 4000 extra nurses into our hospitals, increasing the number of hospital beds, making commitments like the Mitcham–Frankston freeway, seeing month after month after month of employment growth, seeing month after month of unemployment being below the national average, seeing an average 4 per cent economic growth in Victoria and seeing a government that was committed to projects throughout Victoria. That is the difference. That is the contrast the people of Victoria saw, and that is the contrast they recognised at the last election. That is why they elected this Labor Party to form a government again with an increased majority, including a majority in this house.

That is the reason the last election was won by this government. It is not, as Mr Olexander puts out, stuff about the Mitcham–Frankston freeway. That was but one of the issues. I will mention an issue that Mr Olexander needs to remember. He needs to remember about the dishonesty of Robert Dean. The people of Victoria voted against Robert Dean and Robert Doyle, and they voted for Steve Bracks and a government that delivers for Victoria on the things that people in Victoria care about: the actual services that matter to Victorians.

Hon. J. A. VOGELS (Western) — I would like to make a few comments in this debate. I say at the outset that the opposition opposes the Mitcham-Frankston Project Bill. I would just like to respond to a couple of remarks by government members. Mr Hilton said that the project will cost $2 billion, and no-one will disagree with that. He also said that that represents, I think, 7 per cent of the budget. Obviously that is not that accurate. The project will not be built in one year. It will be at least four or five years before it is built. If you look at what the government is collecting in tax revenue at present, which is about $30 billion a year, and if you multiply that out, even if taxes, charges and fees do not go up — and we know they will go up enormously under this government — about $150 billion will be collected in the time that the Mitcham–Frankston tollway will be built. So the cost will be closer to 1 per cent of budget revenue, not 7 per cent.

Mr Matt Viney said the Premier, Steve Bracks, will build the freeway. The Premier is not going to build the freeway — tolls will build it. It has nothing to do with the Premier or the Labor Party; it will be built by tolls, if it gets built.

It is interesting to note that during the election campaign in 1999, when I was elected, the now Minister for Transport, Peter Batchelor, in the other place stood up and opposed the Scoresby freeway. The Kennett government promised before the 1999 election that it would build the Scoresby freeway, but the Labor Party opposed it. This government has a huge credibility gap with its promises. The Scoresby freeway promise is probably the outstanding one, but there have been other promises, such as the rail standardisation promise. That will never be delivered. It was promised during two election campaigns, but it has been put into the too-hard basket. There was the promise to build the Mallee-Wimmera pipeline, which is in great danger of falling over and will probably never be built — —

Hon. J. M. McQuilten interjected.

Hon. J. A. VOGELS — The state government promised that, just like it is promising to put the money in to build the Geelong bypass. Martin Ferguson has come out in the Geelong newspapers and said clearly that if Labor wins, the federal government will not put up half of the funds for the Geelong bypass, so that is another furphy.

The reason the opposition opposes this bill is not that it opposes tolls; the reason it is opposing this bill is that the Mitcham–Frankston freeway will be built on porkies and lies. The opposition is obviously not against tollways; it built CityLink, but it came out and said clearly that it would be tolled. Everybody knew it. People did not like it, they were dead against it, but everybody knew that CityLink would be tolled. I have a few quotes that were made before the last election. Anybody who watched the television during the lead-up to the election saw the Premier saying, 'There will be no tolls on the Scoresby freeway'. I have some quotes from a couple of members of this house. Mr Bob Smith is an honest man, but he said on 23 May 2001:

> I put on the record that the Victorian government does not support direct tolls on motorists.

He put that on the record. On the same day Mr Gavin Jennings, the Minister for Aged Care, who is also a man of his word, said:

> The government has repeatedly made it clear that it does not support tolls.
>
> The Prime Minister believes the Scoresby freeway will be toll free and is negotiating financial arrangements with the Victorian government and the private sector on this basis.

They said there would be no tolls only 18 months ago. What has changed? It is obvious what has changed. The federal government and the Victorian government had

an agreement that they would build the Scoresby freeway, that it would be 50 per cent funded by the commonwealth and 50 per cent funded by the state and that it would cost approximately $900 million. Following the election the Bracks government decided it would call it the Mitcham–Frankston freeway and that the amount would double — it is now $2 billion — which was never in the original contract. Anybody knows if you get a quote and sign a contract — whether with a plumber, with a painter, to get your house built or to get your car repaired — if you start changing what is in the contract or quote, you are likely to find yourself with all sorts of extras because it provides the other party with an opportunity to change the contract. Unlike the state government, the federal government realised that it would be handing out taxpayers money so it could not just throw another $500 million in at the whim of the state government. The state government said, 'Let us put these contracts together; it is a whole new project'. Of course the federal government will not do that; it would be irresponsible for it to do that.

Before the last election — and nobody can dispute it — the Bracks government told porkies to the voters out in the eastern suburbs and got away with it, but I do not think it will get away with it the next time because people have long memories and will not be hoodwinked twice.

The other part of the bill I want to mention is the part that addresses the failure of the government a few weeks ago to get the numbers to support the section 85 provisions of the Road Management Bill. As I stated at the time, local government in Victoria is responsible for about 128 000 kilometres of local roads. It is also responsible for thousands of kilometres of footpaths, bridges, kerb and channel drainage, guard rails — you name it. By losing the protection of nonfeasance, the old highway rule, it is obvious that councils will now be held responsible for everything that can go wrong. They have always been able to be sued if they do not manage their road networks properly — it has always been an option for road motorists to sue councils — but with the nonfeasance protection now gone completely, it will be a plaintiff's lawyer's field day, and it will be at the expense of ratepayers.

As I have travelled around the municipalities I have noted that council staff have prepared road asset management plans for their roads, bridges, guard rails, tunnels and whatever. They have had to set the benchmark at what comes into the kitty: what rates they collect and what funds they have, so obviously many of them will have to set the bar fairly low. When you set the bar fairly low, you are open in this day and age to find yourself at the wrong end of a judgment in a court. We discussed the Brodie case ad nauseam the last time we discussed road legislation, but I still find it amazing that a truck driver who drove a 22-tonne truck down a local road, crossed a bridge with a clear 12-tonne load limit sign on it, then travelled on another bridge, which did not have a load limit on it — he should not have got there in the first place — before crashing through it was able to sue the council for negligence. It does not matter how well the councils prepare their road management plans; at the end of the day the Supreme Court of Victoria or the High Court of Australia will decide who is right and who is wrong.

The precedent has been set, and councils will lose. Metropolitan councils have not been as concerned about the Road Management Bill as rural and regional councils have been. Metropolitan councils have said to me that they can live with that bill, but all of a sudden they are finding, as Yarra City Council has found, that they will inherit huge numbers of footpaths from VicRoads that they never thought they would have. Yarra City Council told me it will be responsible for the Hoddle Street footpaths between Johnson Street and Victoria Street. It will now learn that when people trip or fall over, it will be the council that will have to cop the liability. Footpaths are notorious for causing people to sue councils.

Last year the Bracks government passed a bill providing that councils can no longer apply special levies to build footpaths unless 50 per cent of residents living in a street want them. We all know that when the people who want footpaths are told they have to pay for them they no longer want them. At the end of the day who will wear the litigation? The council will.

The Mitcham–Frankston project is about cost shifting on to motorists and councils — in other words ratepayers. If the freeway is to be built and a toll is to be applied, then I do not know how government members can say that the Premier will build the Mitcham–Frankston freeway, because the toll road will be paid for by motorists.

The budget clearly states that government departments wasted $1. 6 billion. If you add to that $1.6 billion the $450 million the commonwealth government is prepared to put in, then there you have the $2 billion that could have built the freeway at no charge to anybody! The government lost $1.6 billion.

Hon. J. H. Eren interjected.

Hon. J. A. VOGELS — Since the Bracks government was elected in 1999 it has always had its hands in the pockets of taxpayers. The budget shows

that in 1999 Victorians paid taxes, fees, fines and charges of about $20 billion a year. The current budget refers to $30 billion, a $10 billion increase in five years. It took from about the 1850s to 1999 for the tax take to get to $20 billion — that is, it took 150 years to reach $20 billion worth of taxes. Yet it took the Bracks Labor government five years to get from $20 billion to $30 billion. In another five years it will be $40 billion! We all know that the government has never got enough money because it does not know how to manage it. It loves spending it.

Mr Smith interjected.

Hon. J. A. VOGELS — I did take into account that surplus that was left behind. I shake my head in anger about what we left to you lot, because it will be wasted. We could have spent it much more wisely. The Scoresby freeway would have been built and finished three years ago if we had been in government. The government says the project will be finished in 2008, but there is no way known it will be finished by then. When I go home to Warrnambool I go down the Geelong freeway which is still not finished. It has taken four years and about $250 million to build that freeway, but the government still has not finished it. For government members to say that the Mitcham–Frankston freeway — —

Mr Smith interjected.

Hon. J. A. VOGELS — They are putting up posts and rails down the centre and so on. It is still being worked on. The only thing that will be finished on the Scoresby freeway on time and on schedule will be the tolls. I predict that the rest of the freeway will not be finished until 2010. The opposition opposes the bill, not because it is against tolls — we love tolls, because people should pay for what they use — but because the government lied about the tolls before the last election.

Honourable members interjecting.

Hon. J. A. VOGELS — Why should the people of Scotch Creek, Timboon or wherever pay for the Mitcham–Frankston freeway? Of course the user should pay for it. I do not have an issue with tolls. We have a problem with the lies about tolls at the last election. People in the eastern suburbs will remember that, because a federal election is coming up shortly. We will keep reminding them that you cannot trust a Labor government. I oppose the bill.

Mr SOMYUREK (Eumemmerring) — It is a pleasure to speak on the Mitcham-Frankston Project Bill, which sets up the legislative framework for the Mitcham–Frankston freeway. This legislation is critical in ensuring that the project is completed on time in 2008. At a cost of $2 billion, the Mitcham–Frankston project is Australia's largest urban road project, and is one of the biggest private-public partnerships currently under way anywhere in the world. When complete, the project will be a 40-kilometre link connecting Melbourne's eastern and south-eastern suburbs. The freeway will run from Mitcham to Frankston and will provide access to the Monash Freeway, the Frankston Freeway, to the ports, the airport and the various freight routes. The project will also link industrial areas and commercial precincts.

There is bipartisan support for the Mitcham–Frankston freeway in this house. We all agree that this project is vital for Victoria's economic and social infrastructure. In terms of economic benefits, the time and cost savings of transportation will improve business efficiency and competitiveness. When you consider that 40 per cent of Victoria's manufacturing output is produced within a 15-kilometre radius of Dandenong alone, which the freeway traverses, you realise just how important this project is, and you wonder why previous governments, as Mr Viney said, did not have the foresight or the will to build this freeway.

Anyone who has had the misfortune of travelling along Stud or Springvale roads in peak-hour traffic will tell you the frustration of being stuck bumper-to-bumper for half an hour on a stretch of road which should have taken 10 minutes. I know because I used to travel to work from Chelsea to Knox every day — it was terrible.

The current debate with respect to tolling is fatuous. The government attempted to build the Mitcham–Frankston freeway in good faith without tolls. The Premier apologised, as have most government backbenchers who represent the south-eastern and eastern suburbs. The government had a choice of not tolling and completing the project in 20 years or not tolling and cutting resources to key services such as health and education which is clearly unpalatable for a government that clearly believes in health and education.

The other option of course was to build the freeway immediately with tolls. The clear message the government received from local councils, business groups and the wider community in general was to get on with building the freeway with tolls or without but to get on with building the freeway.

The opposition cannot hide from the fact that it and its federal colleagues were also partly responsible for the need to impose the tolls on the road. Let me briefly

recount the Liberal Party's contribution to the tolls on the Mitcham–Frankston freeway. Remember the extra $1 billion the state government needed to find to keep the privatised public transport system from collapsing. The Bracks government was bequeathed a flawed privatisation experiment by the previous government. Remember the memorandum of understanding signed between the commonwealth government and the state government, which committed to a fifty-fifty funding ratio for the freeway. The commonwealth government subsequently welshed on this agreement by deciding to cap its contribution at $445 million.

The Pakenham bypass is the latest Victorian road to have a commonwealth cap imposed on it. I note that New South Wales roads are not suffering a similar fate, for some reason. Remember also that Victorian drivers pay 25 per cent of the nation's fuel taxes and receive only 15 per cent of the commonwealth revenue. This compares with New South Wales drivers receiving 40 per cent of commonwealth fuel revenue whereas they contribute only 30 per cent.

It is an exercise in futility to speculate as to what would have happened had the botched privatisation of the railway system not left this government with a $1 billion bailout. It is too late for that. It is history; we cannot change it. But we can act now. When I say 'we', I mean the state government working with the Victorian Liberals and the Nationals to make the federal government give back to Victorian road users their fair share of petrol taxes.

Should the commonwealth government give back to Victorian road users their fair share of commonwealth funding, in the next five years we could fund the Pakenham bypass, the Deer Park bypass, the Geelong bypass and the Calder Highway duplication. They are compelling reasons, I would have thought, to ensure that Victorian taxpayers actually get back what they deserve.

In concluding I would like to reiterate that this is a project of vital importance to the economic and social infrastructure of the people of not only the south-eastern and eastern region but also the entire state. It is too important a project to play party politics with. I commend the bill to the house.

Hon. B. N. ATKINSON (Koonung) — This is a regrettable piece of legislation because it entrenches Labor's lies to the electorate at the 1999 and, more importantly, the 2002 elections. This piece of legislation brought in by this government indicates just how much the Labor Party is intimidated by its history, particularly its recent history and how it is cowed by the fear of its own financial mismanagement. If speakers in this house talking on this legislation had been honest they would have talked about how this freeway project might well have been delivered without resorting to tolls. In fact, in discussions with some Labor members I have talked about how this might have been delivered.

Certainly had I been in government at this time I would have looked at debt funding for this project, as distinct from a toll. When you have historically low interest rates of 5 per cent and 6 per cent and you have infrastructure projects that will never be cheaper to build than they are today and you look at an inflation cost of 8 per cent for road construction projects, you realise it is sensible to build projects that are of the economic significance that government members have suggested in this debate — and certainly opposition members would not query that. We would not query it because we have been standing for this project, supporting this project and committed to this project for far longer than any of the new converts on the government benches tonight. Indeed members of the Liberal Party went to the 1999 election supporting the Scoresby freeway.

The Liberal Party was supporting this project well before the 1999 election. Members of the Liberal Party are totally committed and unerring in our commitment to this particular project. The Liberal Party went to the 1999 election supporting this project when the Labor Party did not. Its members had a road-to-Damascus conversion after the 1999 election when they realised that people in the electorates in the eastern suburbs were adamant that this project was important to their economic growth and future and was a solution to traffic problems in the eastern suburbs. Finally, the government came around.

Then the government tried all sorts of fancy footwork to suggest that it would deliver the project without actually showing commitment and certainly without allocating a single dollar to the project since 1999. In two terms this government has not allocated a single dollar to the construction of the Scoresby freeway. It has been absolutely duplicitous in the way it has gone about tackling this project. It has shown no financial sense in the context of how this project might be approached. We have this legislation that regrettably comes before this house seeking tolls. Tolls are an unacceptable solution with this project, and in my view they simply will not work. I still believe, despite the fact that the expressions of interest in — —

Hon. J. M. McQuilten — So why did you support the tolls on the Tullamarine?

Hon. B. N. ATKINSON — You are an idiot, McQuilten. You really are an idiot.

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Atkinson!

Hon. B. N. ATKINSON — We ought to really have some admiration for Mr McQuilten, because — —

Hon. J. M. McQuilten — Good! Just stop there.

The ACTING PRESIDENT (Ms Hadden) — Order! Through the Chair, Mr Atkinson!

Hon. B. N. ATKINSON — Certainly through the Chair. We really ought to accept that he just does not know very much about this particular project and we ought to admire him for at least on occasion trying to show some honesty, which other members of the government do not in terms of these sorts of projects.

The fact is that the CityLink project was entirely different from this one, as members know, because it represented a piece of road infrastructure that provided a very real solution to traffic snarls. There were simply no alternative routes to that particular piece of infrastructure, and therefore it made sense as a toll road. The problem with this road is that there are alternative routes, and people will vote with their feet — or vote with their cars, if you like — and they will not use this project if it is a toll road.

Mark my words: when the expressions of interest now lodged with the government are analysed by the government, it will find that they show that there is a need for a significant government subsidy on the project as a toll road to actually make it stack up. Interestingly enough the companies involved in the expressions of interest have common partners, so we are talking about two companies that have common links and there is a question about the competitiveness of that approach. The government will have to deal with a very real dilemma as to whether it proceeds with this project as a toll road or it faces up to the fact that its escape parachute, if you like, on its financial mismanagement in other areas is such that it will have to come up with funds to support this project in another way. I dare say that it might well yet have to face the prospect of debt funding this project because the toll road scenario simply will not stack up in my view. Having analysed road projects and having had a lot to do with major road projects out in the area for many, many years, I do not think this government will find that it can actually have any solace in this project at all, given the way it has been designed by the government at this point. That will obviously make absolute fantasy of this legislation, which provides the mechanism by which tolls can be introduced on this project.

The fact is, as I said, that this government has been absolutely railroaded into this project. I find it fascinating to hear the mea culpas from members of this house and, more importantly, members of the other house on the project. They went to the 2002 election in particular but also the 1999 election explicitly promising under the signature of the Premier to every household in the eastern suburbs that there would be no tolls on that road.

Some members in this house have commented on the fact that it was six months later that the decision was made to go to tolls, on the basis that six months seems like an extraordinarily long time. It is anything but a long time, because the government obviously knew as it went into the 2002 election that it was faced with the prospect of introducing tolls on that road. Yet in the lower house we have the member for Ferntree Gully, the member for Mitcham, the member for Mount Waverley, the member for Evelyn, the member for Monbulk and the member for Kilsyth all making contributions to the debate and all saying mea culpa, all welcoming the opportunity to speak on this bill and all saying, 'Well, you know, the government unfortunately was faced with a financial position where it really had to consider tolls'. Apart from anything else, as I have said tonight, this was not the only solution available to the government. There were other, better solutions that would have been supported by economists and by the public in the interests of what was better for Victoria and for the economic contribution this road might have made.

I have mentioned a number of members from the other house who have participated in this debate. Some members of this house might be astute enough to recognise that I left out a fairly crucial name in this debate, and that was the member for Bayswater. Unfortunately he made no contribution to the debate, and I am not surprised, because he would have been sorely embarrassed. I cannot find him reported in *Hansard* as making a contribution to this debate. He was not congratulated by the Minister for Transport, the Honourable Peter Batchelor, in the other place for making a contribution to the debate. I am not surprised, because he sent out a letter to people in his electorate promising that there would be no tolls. This man went out on a limb saying that the government had no commitment to tolls and would not impose tolls under any circumstances, and he won his seat at the election. He knows damn well that that seat is in peril at the next election because of his duplicity and that of his government.

One of those members in the lower house debate had the audacity to say that local government authorities, the councils and municipalities in this area, actually supported the government's position on tolls. Many of those councils have been bullied and threatened by the government with withdrawal of funding for other projects if they did not go quiet on the tolls issue. Several councils, particularly Labor-controlled councils, might well have curbed their criticism of this project but none of them has had the courage or, dare I say, the enthusiasm to come out and express any support for tolls or this legislation.

Of all the members in the lower house who spoke on this issue only the member for Mitcham, Tony Robinson, seems to understand the political sensitivity of the toll decision. Only he seems to understand the breathtaking betrayal of the voters in the eastern and south-eastern suburbs and in Gippsland and East Gippsland. In fact the member for Bayswater, Peter Lockwood, did not seem to care enough to contribute to the debate on the legislation in the other place, when the members for Brunswick and Yuroke were quite happy to speak. I might add that the member for Mitcham has every reason to be sensitive to voters' moods on the freeway, having won the seat at the 1999 election based on the promise of long tunnels on the Eastern Freeway.

That promise was already broken by the government's going into the 2002 election with some fancy footwork on combining the Eastern Freeway with the Scoresby freeway in what it then euphemistically called the Mitcham–Frankston freeway in an attempt to escape voter examination of its failure to make any progress on the Eastern Freeway extension, despite the fact that the former Kennett government had left more than $260 million towards that project — money that has since evaporated, has disappeared and is not available for this road project, while the government cries poor.

This legislation should not be before the house at all. The government should have stuck to its election commitments of 1999 and 2002 and to its contract in the memorandum of understanding with the federal government, which some members of this house and the other house seem intent on trying to rewrite despite the fact that it is boldly in print. One of the clauses in that memorandum says there will be no tolls. The only reason that clause is in that memorandum is that the Minister for Transport, Peter Batchelor, asked for it to be there. He insisted that that clause be in the memorandum, and that is why it is there. Yet this government seems to be very keen to walk away from that. It seems intent on trying to rewrite that memorandum of understanding, which applies to the Scoresby freeway and has always applied to it. It has never applied to the Eastern Freeway, which this government conveniently tries to suggest it does, and it has always applied to 50 per cent of the funding, not simply a capped $445 million.

This government would have a lot more credibility on this issue if it had put a single dollar to the Eastern Freeway project rather than causing more than $260 million — I understand the sum was in fact $273 million — that was made available by the Kennett government for the Eastern Freeway extension to disappear into other pet projects of this government. If it had been prepared to allocate one dollar of that to the Eastern Freeway extension or the Scoresby freeway project, then it might have some more credibility. But whilst the federal government still today has $445 million allocated in its budget, this government has not a red cent. It is relying on this legislation and on a process that I think has been rather jaundiced by the fact that there have been only two expressions of interest, and those from participants, if you like, with related party interests. This process strikes me as something of a sham.

The government was left money to undertake this project and made commitments to the electorate about this project, and yet it has turned on this project and absolutely betrayed the voters and residents of the eastern and south-eastern suburbs and indeed the residents of Gippsland and East Gippsland. Only the member for Mitcham in the other place, Tony Robinson, seems to recognise the political sensitivity of that. Members of this house do not seem to realise it, but they will come to realise it because the voters will recognise the importance of this project and cast their vote accordingly.

Hon. C. D. HIRSH (Silvan) — When thousands of drivers are battling their way along Stud Road and Springvale Road in the future they will know that the Liberal Party voted against building the Mitcham–Frankston freeway, as I understand it is planning on doing. Let us see what it does. If a Liberal government ever got into power in this state within the period that this road is being built, there would not be a road. The Liberal Party would have voted against it and that will not be forgotten. The bill marks a historic and important step for Australia's largest — —

Hon. B. N. Atkinson interjected.

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Atkinson has had his turn.

Hon. C. D. HIRSH — It sets up the legislative framework for the project, which is ranked among the

top public-private partnership ventures currently under way in the world. It will be the longest freeway in this country. It will be delivered by 2008.

The reason for the tolls has been explained again and again. Opposition members should hang their heads in shame — $1 billion to bail out a privatised public transport system sold by the Kennett government. Some of them were in government at the time — —

Hon. A. P. Olexander — Rubbish!

Hon. C. D. HIRSH — Perhaps Mr Olexander was not in government at that time. He is so irrelevant that even if he had been elected, no-one would have noticed him.

That bailout was crucial. It happened just prior to the time that the road was due to start. I understand that some people in Silvan Province might feel let down and that may have an electorate impact. That is the prerogative of every voter in the state on any issue at all. They will make their decision in the polling booth.

The member for Malvern in the other place is not going to get much out of it, because the votes for him will be based on a very small number of people in the Liberal Party room prior to the next election.

Hon. B. N. Atkinson — Plagiarism! I have read that in the *Hansard* of the Legislative Assembly. Why don't you attribute it?

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Atkinson!

Hon. C. D. HIRSH — The people in Silvan Province are far more concerned that state government money goes toward the sorts of government projects that it has been going to.

The Maroondah Hospital has been doing extremely well, after nearly being closed down — falling to bits — under the Kennett government. It is now a significant health care centre in the eastern suburbs. I might have to remind voters that the other member for Silvan Province has said the idea of the Maroondah Hospital being a good hospital is nonsense. It is a great hospital! It is a brilliant hospital in the region — —

Honourable members interjecting.

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Forwood is out of his place!

Hon. Andrea Coote — On a point of order, Acting President, this debate is about the Mitcham-Frankston Project Bill. It is not about the Maroondah Hospital, and I ask you to draw the member back to the topic of the bill.

Hon. C. D. HIRSH — On the point of order, Acting President, the discussion of such things as the Maroondah Hospital and the Angliss Hospital is crucial, because the money that might have gone toward building a road without tolls has now gone toward the Maroondah Hospital. It is therefore relevant to the debate.

The ACTING PRESIDENT (Ms Hadden) — Order! This is a wide-ranging debate, and members have had quite some latitude, but the member has been on her feet for approximately 5 minutes. I ask that she address the issues in the bill.

Hon. C. D. HIRSH — Because of the way the freeway is being built with a private-public partnership, a great deal of money has been freed up to keep our public transport system on the road, to keep our hospitals open and to build the subacute hospital at the Wantirna drive-in.

I spent four years driving along Stud Road to work every day. My daughter drives from Ferntree Gully to Dandenong Hospital and back every day. We know what it is like to deal with Stud Road on a daily basis. Perhaps none of the opposition members has ever done this. Perhaps that is why they are voting against this bill to build this road.

Mr John Vogels said, 'We support tolls. We love tolls'. I presume all opposition members feel that way, unless Mr Vogels was simply expressing his own personal view. Yet he and the rest of the opposition are voting against the building of this crucial piece of infrastructure. It is absolutely disgraceful that the opposition would vote against such a crucial road. I know the opposition has put up a range of ways it thinks it would build the road, although after tonight even if it wanted to it could not, because it is attempting to vote down the legislation. Luckily they will not be able to do that. The people of the eastern suburbs are very lucky because the road will be voted for, will go ahead and will be completed by 2008.

At a meeting last year the Leader of the Opposition in the other place promised to fund the road by — sorry to laugh — auctioning the gambling licences which come up for renewal in 2012. I do not know what the opposition was going to do between now and 2012 — I suppose sit there and wait for it to come. The thing is the people in the eastern suburbs seriously need and want the Mitcham–Frankston road. They need it and they need it urgently. And they want it — ask any

driver going along Stud Road in peak hour and they will tell you they want that road. Mr Atkinson suggested that people would not use the road if it was a toll road. Reading some of the *Hansard* from the lower house, I saw that someone said that the other roads running north–south would be even more crowded than they are at present because people would not use the toll road. That just does not make sense. How can there be more traffic when there is another road? There is a certain amount of traffic now; that does not make sense. Mr Atkinson says people will not use the road. Who are we going to listen to? Are we going to listen to Mr Atkinson or the two bidders for the contract who believe it is such a viable contract they are bidding seriously for it? My question is: why does the opposition not want the Mitcham–Frankston road? Why does it not want the road built with long tunnels on the eastern extension, thus preserving the Mullum Mullum Creek environment and habitat? Of course, that is another very expensive project. I have heard members of the Liberal Party say, 'Skip the tunnels — you will save millions'. If you skip the tunnels, you will destroy wildlife and habitat right along the Mullum Mullum Creek reserve. I would prefer to see the long tunnels built and paid for by those people who use the road and use government money for hospitals, schools, 5000 teachers, 4000 nurses, 1500 extra police, new police stations and public transport. That is where government money needs to go. That is the important part of government commitment to any electorate.

I want to mention a person who is not in this place; I normally would not do this but I will on this occasion. The former mayor of Maroondah — I am sure someone will let him know fairly quickly that this is being said — Les Willmott spent thousands and thousands of dollars of constituents money — —

Hon. A. P. Olexander — He is in the gallery.

Hon. C. D. HIRSH — Good. He spent thousands of dollars of constituents money putting up signs opposing the tolls. He is now working for Ray White real estate selling the land around the tollway at highly inflated prices and generally doing pretty well for himself. I query the spending of that sort of money on council signs.

Hon. B. N. Atkinson — What does that have to do with the debate?

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Atkinson has had his turn.

Hon. B. N. Atkinson — I know but she has made a statement about someone and there is absolutely no correlation — —

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Atkinson is being disorderly.

Hon. C. D. HIRSH — The other matter is this argument that has been going on for months about the so-called half-share that the federal government promised to put in. Half-share? It is nonsense. The sum of $445 million was all the federal government committed to. The federal government announced its intention to provide funds for the new F3 to Sydney Orbital link, which is likely to be funded through tolls. Where is Victoria's share of the money? Twenty-five per cent of money goes in from Victoria and 17 per cent comes out. The $445 million the federal government said it would put in if the road was not tolled would be lucky to cover one-third of the cost of the road. Let us see the federal government really promise something worth while and see what happens. The commonwealth should be giving a fair share of road funding to Victoria instead of giving the bulk of it to tolled roads in New South Wales. We should be getting a fair share.

I want to talk about the tolling arrangements for the Mitcham–Frankston freeway. They will not penalise occasional or infrequent users. If an occasional user uses the road, they will be invoiced and will have 14 days to pay, which is a pretty fair way to go. In addition, there will not be any forced — —

Hon. B. N. Atkinson interjected.

The ACTING PRESIDENT (Ms Hadden) — Order! Mr Atkinson has had his turn and should allow Ms Hirsh to continue in peace.

Hon. B. N. Atkinson — She is stupid.

Hon. C. D. HIRSH — I find that very offensive, and I ask the member to withdraw that remark.

Hon. B. N. Atkinson — I withdraw.

The ACTING PRESIDENT (Ms Hadden) — Order! Thank you, Mr Atkinson.

Hon. C. D. HIRSH — There will not be any — —

Hon. B. N. Atkinson — But I still have my thoughts, and I think she is stupid.

Hon. C. D. HIRSH — I am sorry. The member used the term again, and I take offence. I do not like being called stupid.

Hon. B. N. Atkinson — I withdraw.

Hon. C. D. HIRSH — There will not be any forced road closures: traffic will be able to go whichever way it likes. My final remark is: why is the opposition voting against it?

Hon. W. R. BAXTER (North Eastern) — Is it not a fact that hypocrisy has reigned supreme in this house today? First of all we had the Judicial Salaries Bill and unbounded hypocrisy by this government, and now we have listened to the likes of Ms Hirsh. Some of us remember the attitude of her colleagues — admittedly she was not here at the time — on the CityLink project. We well remember how they railed against tolls and how they predicted that CityLink would be a failure because it was going to be a tollway. They failed to acknowledge that CityLink was being built through a congested urban environment where it was likely to be successful because the alternative routes while they are available — it is not compulsory to use CityLink, as I have noted on many occasions — are inconvenient, congested and windy. Now it has come about that those members are in government. What a delicious irony it is that the man who sat in the gallery for hours during the course of the CityLink debate and fed notes over the bench to a member for Doutta Galla Province, Mr Theophanous and others to ask the minister of the day where you would put a transponder on a motorbike, who was paying for the lighting of the Bolte Bridge and all those sorts of irrelevancies is now the minister and he is having to eat crow and introduce tolls.

Hon. B. N. Atkinson interjected.

Hon. W. R. BAXTER — It is a delicious irony. I just love the poetry of it, Mr Atkinson, I really do. There is no doubt that the Labor Party hates freeways. It absolutely hates them. We all remember when the Cain government came into office; it stopped the Eastern Freeway dead and allowed it to finish in the middle of nowhere because it did not go on with the next stage. We remember the South Eastern Car Park. John Cain, as legend has it — and I have no reason to believe it is not true — refused to allow his government driver to travel along freeways. The South Eastern Car Park had numerous sets of traffic lights on it which had to be rectified by the incoming coalition government in 1992. Did that government waste any time in restarting the Eastern Freeway? No, it did not. It let the contract very quickly to get it under way. It removed the traffic lights from the then South Eastern Freeway, now the Monash Freeway. The record of the former government in this respect is on the board.

I was fascinated that Mr Viney, in his remarks, referred to a 1967 report, almost 40 years ago, which he said mentioned the Scoresby freeway. Mr Viney enumerated the premiers who had not built it. It is interesting that Mr Viney would go back to the report prepared I think by the then Melbourne and Metropolitan Board of Works (MMBW), which was then in charge of freeway construction in Melbourne. It was at the time when the car was king. The MMBW, as we all know, whether it was Mr Croxford as chairman or his predecessor, were great at empire building. They were going to have the urban area of Melbourne crisscrossed with freeways because they saw no future at all for public transport. It is peculiar that Mr Viney would go back and draw upon that report in his defence of what the government is doing this time. If he really looked at the report he would find it was not the best piece of material he could support his argument with.

We then had the excuse trotted out in the other place by quite a few Labor members and by Mr Viney and Ms Hirsh tonight that 'we needed $1 billion to bail out the Kennett government's failed privatisation of public transport'. Firstly, it was not a failure. Secondly, it indicates the total lack of understanding of the Labor Party about business. If you are in private enterprise and you cannot make a go of it you actually go broke and someone else comes in and provides the service. What happened here? This government was done like a dinner by National Express. Its representatives flew first-class back to London, laughing all the way about what they extracted out of this minister and this government because the minister did not understand how private enterprise works. I will not have a bar of the suggestion that somehow that $1 billion had to be found to bail out public transport. It is absolute rot.

We have heard a bit about this marvellous tollway. At least Ms Hirsh, albeit a slip of the tongue, was honest enough to refer to it at one stage as a tollway.

Hon. C. D. Hirsh interjected.

Hon. W. R. BAXTER — It is a pity your colleagues are not as honest and call it a tollway.

I predict that this road will never be built by the Labor government. It will never be built as a tollway because this government does not know what it is in for. The bill is premature and is wasting the time of the Parliament. Parliament should not have this bill until the agreement is negotiated. Then we may have an idea whether or not it will stack up as a tollway. This government does not know yet what it is in for when it gets around the negotiating table with the two groups that are bidding for it. They are hard nosed. They will

not accept an arrangement on which they will not make money. The Parliament is being served this up with no idea what the toll level will be or what will be screwed out of the government by these negotiators. I have had some experience dealing with these smart operators. I sat around the table at the then CityLink offices in Jolimont Street all night negotiating by exhaustion with their team of high-paid lawyers and the bankers team of high-paid lawyers, and they will do this mob like a dinner. If they thought the negotiations with National Express were tough going, they ain't seen anything yet! I say that this road will never be built as a toll road. What these bidders will extract from the government will make it totally untenable to be a tollway — totally untenable.

Hon. J. M. Madden interjected.

Hon. W. R. BAXTER — The Labor Party is the reason for that, in particular the then shadow minister for conservation, Ms Garbutt, who cannot keep the Labor Party's word. I say tonight to this house that this road will not be built as a toll road and will not be built by the government. It will be like many of their other projects; it will never get off the ground. I fully support Mr Atkinson's contention that it does not stack up as a toll road. There are too many competing alternative routes: Stud Road, Springvale Road and Blackburn Road, you can name them all. With CityLink there are no obvious competing parallel routes. If you do not take CityLink you wind your way through the suburbs. That is not the circumstance in the eastern suburbs. This is postwar development in the eastern suburbs where there are wide, straight competing roads.

Hon. J. M. Madden interjected.

Hon. W. R. BAXTER — They might be congested, as Ms Hirsh informs us of her daughter driving to work at Ferntree Gully, but all it takes is for 5 per cent of the traffic to be taken off — —

Hon. J. M. Madden interjected.

Hon. W. R. BAXTER — I am not sure what that diatribe was about, but we will let it go because the minister does not seem to know what he is talking about and he was not here at the time either. It is all very well for Ms Hirsh to regale the house about how congested the competing routes are at the moment. Of course they are, I acknowledge that, but if you build this road you only have to take about 5 per cent of traffic off those roads and they will be quite good to drive along. You cannot run a toll road with just 5 per cent of traffic on it, it will not stack up economically. I say to Ms Hirsh: why would anyone pay the sort of toll that will be extracted from this government if the bidders are to have financial closure on this project; why would they pay that sort of toll when they can use an alternative, parallel route. That is my firm view why this road will not be built. There is no way that the bidders can cover their risk with a toll that is acceptable to the government. What is the alternative? The alternative is it is either not built or there is a subsidy from this government! I am standing by to see what subsidies are extracted from the government in the negotiation process that will start in due course. That is why I thoroughly object to the bill coming before the house tonight in advance of the agreement being hammered out. That is why I object to the agreement simply being tabled in the house subsequently and the house only having the ability to disallow in whole or in part, but not to amend. Surely if the government was practising its open and transparent mantra that it tells us about so often, we would not have the legislation until we had a schedule attached to the bill that incorporated the agreement so the house could give its consideration to the terms of the agreement — —

Hon. B. W. Bishop interjected.

Hon. W. R. BAXTER — And have a decent committee, that is right. We could then put the government to the test to see how its negotiating skills turn out to be.

We could flesh out and flush out exactly what the contractors have extracted from the government. Again I say that I have had a bit of experience in it, and there are a couple of things in the CityLink concession deed which I think were pretty generous. However, at the time that was the only way we were going to get an agreement; there was no doubt about that. Finally we gave in, and I am prepared to contend that the former government was a lot more hard nosed than this lot. If I were a contractor bidding for this project and I had my team of high-powered lawyers which I know the bidders have, I know they will be saying around their boardrooms down in Collins and Bourke streets, on past record that this government is going to be pushover compared to the Kennett government.

The taxpayers of Victoria are absolutely exposed in this deal, and it is quite erroneous that the Parliament is having this served up to it tonight in advance of the agreement being hammered out and properly negotiated. Parliament is being asked to buy a pig in a poke to say nothing of the fact that the government has been caught red-handed breaking a promise that it went with hand on heart to the electors with in 2002. It said, 'there will be no tolls on the Scoresby freeway' and here we are about to get them. So on those grounds The

Nationals have absolutely no qualms at all about opposing this legislation.

Mr SMITH (Chelsea) — According to the previous speaker this whole debate is much ado about nothing, because there is a very real chance the project will not go ahead at all. I am afraid that he might be right. I happen to think there is a significant concern that the project will not be built, and I just hope to God that I am wrong. The reason I hope I am wrong is that this is a vital project not only to the south-east but to Victoria and indeed Australia.

The job creation alone for the construction of the project will be of enormous benefit to working people in this state not to mention the ongoing businesses that will be created. The bill is about allowing the project to start. It incorporates clauses that allow the Southern and Eastern Integrated Transport Authority (SEATA) the right to compulsorily acquire land et cetera and allowing the construction of ancillary benefits like footpaths, bike tracks and other additional entrances to the freeway which will be absolutely vital to allow as much traffic as possible to get on it to try to make it viable.

I have been bemused about the way the debate has gone with the accusations flowing across the chamber about party politics or politicking on the issue. I thought we were in the business of politics, and it is exactly what people should be doing in any debate on any matter, and this is no different. This is a big-ticket item politically for both parties which leads me to this comment. We did not lightly make the decision to reverse the promise about no tolling. We felt that there was no option given the way things had developed in the public transport area with the national rail network et cetera; we had no option but to break a promise. It then became a matter of which promise we would break. Do we break the promise given to the Victorian community about keeping the budget in surplus, or do we break the promise about tolling this roadway? Well, we decided that the latter was the lesser of the two evils. The politics that are being played are rife and pretty hard, particularly with federal and state, and what is annoying to me is the hypocrisy from the federal government trying to take the high moral ground on this issue when it has a policy announced about three weeks ago that from here on all national roads will be tolled.

It has allocated $345 million to the new north-west industrial park toll road in Sydney — the new industrial area, which is serviced by the M2 and M4 which are tolled. It proves that regardless of whether they are toll roads or not, business will go there. I have no doubt that business will gravitate into the south-eastern corridor as a result of this tollway. In fact in Sydney around 320 businesses have established themselves in that vicinity as a result of the tollways and have created 9000 jobs. Whichever way you cut the custard the fact is that it is a clear and demonstrable benefit for those areas that have access. And that is what we will give business in the south-east corridor — access.

There is a lot of angst about it. I can recall on Anzac Day being confronted at an RSL by people who were most unhappy about having to pay tolls. They were truck drivers and I was a bit bemused by that, given that there is tax deductibility and there is a capacity to flow on costs. Instead of being caught up in traffic jams on Springvale Road or around Dandenong they will have access to this road. The issue of the broken promises is clearly a significant one, but it had to be done. Some people have said they are sorry that they had to break that promise. I am not sorry at all, because it was clearly the right thing to do in the long-term best interests of the Victorian public. I am not apologising for taking hard decisions. The government clearly demonstrated its capacity to do just that and has decided that at the end of the day Victoria will benefit significantly. I am sure all those people who are currently upset about what is happening will be like those who were upset with CityLink and who now just take it in their stride and benefit significantly from that project.

I can stand here and say I have always been a supporter of this particular tollway, freeway or whatever, even when other people were opposing it, because I could see the long-term benefits. I have no doubt that it will prove to be a good decision by the Bracks government. I commend the bill to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to speak on this bill and in doing so will oppose it. I have been listening attentively to the debate on both sides of the house and must say the arguments raised by the government could only be described as the Pinocchio debate because as they kept on raising the issue their noses kept growing longer and longer. At one point I thought as they moved their heads around they were going to start whacking people around the face. They really could not get their facts straight. They really believe this is the appropriate bill and the tollway is the appropriate mechanism. It is disappointing that this bill before the house really is an affront to the vast majority of people — —

Mr Smith — On a point of order, President, I am trying very hard to listen to the contribution of the member opposite, but I am particularly distracted by the

'No tolls on Scoresby' sign he has on the back of the bill which he is flaunting in the house. Are you another lying copper?

The PRESIDENT — Order! The member raised a concern. It seems it has been addressed.

Hon. RICHARD DALLA-RIVA — It seems to be that we cannot even bring our notes, not even the bill into the house. I will not refer to the bill. I will refer to my notes, and my notes are very clearly outlined. If he is not happy with those notes, I will refer to these notes here. If this government cannot handle that fact, I will refer to another set of notes that I have here. It seems that it cannot accept a set of notes. This government is so thin-skinned that it does not matter whether it is a bill, a set of notes or whatever, it cannot accept it.

We have a bill before the house that really exposes the extent of the deceit which the government has brought to the Victorian community and the voters of the east and which it went to the last election with. The government promised it would build the Scoresby freeway. A short period afterwards, it rescinded that, and it clearly has been shown through this debate to be very thin-skinned. As I outlined before the interjection by the Honourable Mr Smith — —

Mr Smith — I am not 'the Honourable'!

Hon. RICHARD DALLA-RIVA — There are some in this house, Mr Smith, who are honourable and there are some who believe they are not honourable. I am glad you have identified yourself as not being an honourable member.

The realities are that this bill is a sham, as was indicated by the Honourable Bill Baxter. This bill is another example of Bracks spin saying to the Victorian people, 'Look at what we have done. We have put a bill before the house, but we will not achieve any outcome from it'. The government has promised this bill to the people in the eastern and south-eastern suburbs. The realities are it will not develop this freeway or tollway. We know that. As Mr Baxter outlined, there are so many examples where this government has stuffed up road developments. Honourable members will remember the South Eastern Car Park. How could we forget the great achievement of the Cain and Kirner governments? It is the same with the Eastern Freeway. We will end up with a white elephant of a tollway which nobody will use. Unfortunately this project will not proceed, and it will be left to the Liberal Party to continue the project.

The government entered into a memorandum of understanding. The explanatory memorandum of the bill says:

> The main purposes of the bill are —
>
> > to empower the state to enter into an agreement for the design, construction, operation, maintenance and management of the Mitcham–Frankston freeway ...

The reality is that the government had already entered into an agreement with the federal government and had it signed by one of its ministers, so who on earth will believe the government will adhere to this agreement? It had already signed an agreement through one of its ministers, and it rescinded that. It threw it right out the window and said, 'No, we are not going to follow that'. Yet before this house we have a bill where the first page talks about an agreement. Private organisations would be very concerned about entering into any agreement with this government.

The second point I would like to raise very briefly before this bill is finalised is to suggest there are a number of concerns. The reality is that the government has snuck into the contents of this bill a certain matter which includes a provision from the Road Management Bill which was deemed void a few weeks ago when the government lost the absolute majority in this house. I will remind members about that. That was when the government failed to get a statutory majority. It failed to fulfil the requirements of the bill that was then before the house, so it has snuck the provision into this bill.

Hon. Andrew Brideson — Why was that?

Hon. RICHARD DALLA-RIVA — I think you would have to ask Mr Smith on the other side, but I do not know why. Rather than having the guts to stand up here and introduce another bill, the government has stuck the provision into this bill. It has again hidden the cost to the Victorian taxpayer. We need to do some fundamental calculations on the cost of Parliament House having to remain open because of the incompetent management of this government. How much did it cost? We reckon it would have cost between $30 000 and $50 000 to keep Parliament House open, and now we have slammed into this bill the provision that the government lost when it failed to have an absolute majority for the Road Management Bill.

Ms Hadden interjected.

Hon. RICHARD DALLA-RIVA — Again government members are very sensitive about this. The reality is that this is the Mitcham-Frankston Project Bill, and the government has stuck into it the provision of the Road Management Bill deemed void due to there not being an absolute majority in the upper house to pass the section 85 requirement. Why did the

government not create a separate bill? It wanted to deceive the Victorian community. It was quite prepared to cost the Victorian taxpayer between $30 000 and $50 000. It kept the dining room open, where they had at least five staff — the chef, the cook, the steward and three kitchen hands; it kept the clerks of the house here; it kept the library staff here; it had additional security staff; and it had the papers office staff.

And the government is now sneaking that provision into this bill in a very deceitful and underhanded way. Why? Because it does not want to show up one of its members who was not here when the government needed a statutory majority. Rather than having the guts to stand up here and present another bill because it stuffed up and made an error, the government is sticking the provision into the Mitcham-Frankston Project Bill even though it has no relevance to the Scoresby freeway, whatever the government wants to call it. What the government is doing is deceiving the Victorian community by covering up the fact that we had to remain here on the night of Thursday, 6 May, and spend 1 hour and 10 minutes of debate trying to work out this mess. Those who are interested might wish to go back through *Hansard*, which I have done, and they will find that that is how long we spent going through the mess. The government is now showing its deceit. It is trying to disguise the fact that the action of one of its members cost the Victorian taxpayer up to $50 000. That is an absolute disgrace.

This is a bill about a freeway, not a bill about correcting the government's errors because it cannot even manage a simple statutory majority. The government is a disgrace. This bill is a disgrace, and the opposition will oppose it because it knows the government will not build this freeway. It just stole a number of seats in the east at the last election by its deceit, and I really find it disgusting that we have — —

Hon. Bill Forwood — You're a disgrace!

Hon. RICHARD DALLA-RIVA — They are a disgrace, Mr Forwood; thank you for indicating it. We all oppose this bill. The reality is that we had actually proposed to build the Scoresby freeway and we were prepared to develop it without cost to the Victorian taxpayer by way of tolls. This whole bill is an absolute outrage.

House divided on motion:

Ayes, 23

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Carbines, Ms	Nguyen, Mr
Darveniza, Ms	Pullen, Mr
Eren, Mr	Romanes, Ms
Hadden, Ms (*Teller*)	Scheffer, Mr (*Teller*)
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr
Madden, Mr	

Noes, 18

Atkinson, Mr	Drum, Mr
Baxter, Mr	Forwood, Mr
Bishop, Mr	Hall, Mr
Bowden, Mr	Koch, Mr
Brideson, Mr	Lovell, Ms
Coote, Mrs	Olexander, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL. (*Teller*)	Strong, Mr (*Teller*)
Davis, Mr P. R.	Vogels, Mr

Pair

Buckingham, Ms	Rich-Phillips, Mr

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

The PRESIDENT — Order! I am of the opinion that the third reading requires to be passed by an absolute majority. The division will determine whether there is such a majority. The question is:

That the bill be now read a third time.

House divided on question:

Ayes, 23

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Carbines, Ms	Nguyen, Mr
Darveniza, Ms	Pullen, Mr (*Teller*)
Eren, Mr	Romanes, Ms
Hadden, Ms	Scheffer, Mr
Hilton, Mr (*Teller*)	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr
Madden, Mr	

Noes, 18

Atkinson, Mr	Drum, Mr
Baxter, Mr	Forwood, Mr (*Teller*)
Bishop, Mr	Hall, Mr
Bowden, Mr	Koch, Mr (*Teller*)
Brideson, Mr	Lovell, Ms
Coote, Mrs	Olexander, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Vogels, Mr

Pair

Buckingham, Ms	Rich-Phillips, Mr

Question agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Business interrupted pursuant to sessional orders.

RACING AND GAMING ACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

DOMESTIC BUILDING CONTRACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Consumer Affairs).

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

St Kilda Primary School: Brighton Road crossing

Hon. ANDREA COOTE (Monash) — My question to the Minister for Transport in another place concerns the St Kilda Primary School crossing located on Brighton Road in my electorate. Most people in this chamber would know that Brighton Road is an extension of St Kilda Road. It is particularly busy and wide, and as it approaches the city it becomes a boulevard, which shows the planning of our forefathers. Brighton Road is a problem for children and parents at the primary school. The crossing must be made much safer for the children, and indeed for any pedestrians crossing at that point. Currently it is a two-stage crossing — that is, there are two sets of pedestrian lights. One set allows persons to cross the lanes of traffic travelling in one direction, and the second set controls the traffic travelling in the other direction.

The problem occurs where users are caught in the middle of the road waiting for the walk sign. Users are also required to walk down a tram track to access the other set of lights, which means they have to avoid trams travelling in both directions. This is a feeder school for quite a large area on both sides of Brighton Road, and it presents a difficult position for small children and their parents. It is potentially an extremely dangerous situation.

Discussions have been ongoing for about six months without resolution between the school community, the local member, who is the Deputy Premier in another place, the council and VicRoads. I call on the Deputy Premier to make certain he makes a submission to the Minister for Transport to get a resolution of this dangerous issue. Six months is far too long to wait when children's lives are at stake, and it is unacceptable to everybody concerned.

The school community and the council are seeking a safer one-stage crossing that will allow users to cross the whole of the road in a single sequence. I would not have thought that that would be too much to ask. One would have thought that both the local member and the minister would make it a priority. There is strong local concern about potential pedestrian fatalities, and I ask the minister when he will provide a one-stage crossing that will allow users to cross the whole of the road in a single sequence.

Lake Wendouree: level

Ms HADDEN (Ballarat) — My question for the Minister for Water in the other place is about Lake Wendouree in Ballarat, which is currently 0.8 metres full. That is absolutely tragic for the bird life, and the black swans stopped breeding two years ago because of the low water levels. The levels are so low now that it is threatening birds and other aquatic life. Lake Wendouree is an icon in Ballarat; it equates with Albert Park in Melbourne. Lake Wendouree has nearly reverted to the original Yuille's swamp, and without adequate rainfall or an influx of water, it is expected to be dry within two years. As the house is aware, I have spoken about the drought in the Central Highlands of the Ballarat region in recent weeks and how we are eight years into a drought. We have received about 40 per cent of our annual average rainfall.

The traditional sources for filling Lake Wendouree, which used to be topped up annually, came from the Gong Gong and White Swan reservoirs. Those

reservoirs are currently at around 25.9 per cent of their capacity and can only be used for drinking water for the Ballarat population. The lake is in a desperate state. While Ballarat City Council is looking at avenues to alleviate the problem, there is simply not enough rain falling, and, as I said, this is taking its toll on the bird and other aquatic life.

I dearly would like it to either rain or for there to be a surge of water pumped into the lake. The latter would probably not be too popular a move at the moment, given the state of the water supply in Ballarat. I request that the minister direct his department to provide urgent and timely assistance to the Ballarat City Council, the Central Highlands Region Water Authority and the Corangamite Catchment Management Authority to ensure that Lake Wendouree is filled with water now before it is too late for the aquatic life.

Member for Brunswick: Moreland City Council

Hon. BILL FORWOOD (Templestowe) — I have an issue I wish to raise with the Minister for Local Government. Honourable members in this place know that from time to time members of the Labor Party leak things to me. I have been leaked a document entitled *Formal Request for Investigation — Moreland City Council*, which was written by William Robert Jacomb. I have rung Mr Jacomb and ascertained that he wrote the document, although he expressed some surprise and horror that I had a copy of it.

The contents page of the document includes items such as 'Misuse of urban overlay/blackmail' and refers in some detail to an accusation of misuse of powers of the council. I shall quote a couple of comments.
Mr Jacomb confirmed to me that he was a member of the Labor Party and at the time he met with the Labor Party he held the rank of planning subconvenor — that is, a person responsible for coordinating the planning policy of the Moreland group. The contents page further includes an item:

> Further intimidation by Carlo Carli, state member for Brunswick — —

Mr Lenders — On a point of order, President, Mr Forwood is impugning the reputation of another member of the Parliament, and I ask him to withdraw.

Hon. BILL FORWOOD — On the point of order, President, I am not impugning him at all. I am quoting from a document entitled *Formal Request for Investigation*, and I have ascertained the source. I am absolutely entitled to do that.

Mr Lenders — Further on the point of order, President, whether the member is quoting from a document or making his own statement, his utterance in this house is impugning the reputation of a member of the other house. On that basis in his contribution he is impugning the member, and I ask him to withdraw.

Hon. BILL FORWOOD — On the point of order, President, this house has the capacity to raise issues of importance. This is an issue of importance. I am not particularly making an accusation against the member for Brunswick in another place or anybody else. I am quoting from a document that has been left under the door of my electorate office, and the document is very clear. I have done nothing other than quote words from the document. I understand parts of the document have gone to the chief executive officer of the City of Moreland, Mr Brown, seeking an investigation into these issues.

I am advised that the person who wrote the document is a member of the Labor Party and of the planning subcommittee. He is saying that he was further intimidated by the member for Brunswick. I was about to read into *Hansard* Mr Carli's response, which I am prepared to do, before I was interrupted by the Leader of the Government. Surely we have not yet reached the stage in this place that we cannot stand up and say words that are provided by someone else in relation to a matter such as this? This is an official document.

The PRESIDENT — Order! I accept the explanation given by the Honourable Bill Forwood, but I do have some concerns about making imputations about another member, even though it is a third person — William Jacomb, I think he said it was — who has made these accusations. I am concerned about reading them out under cover of something that another person has said. I am not sure whether that gives the opportunity for a member to read out these accusations in the house. If he is impugning a member of the other place or this place, the member is well aware that the only way he can do that is through substantive motion.

Hon. BILL FORWOOD — I am not alleging intimidation by Carlo Carli; I am saying that he is saying it.

The PRESIDENT — Order! I am concerned about reading out in this place claims of improper behaviour by another member of this house or the other house. There is always a concern whether the documents the member is referring to are true or substantiated. I think that is the sort of thing the member is asking for, but I have concerns with his raising the name of a member of this place or the other place that impugns that member.

I have some concerns about the member raising the name of the member for Brunswick in the other place. I am advised by the Clerk that you cannot state that a member in another place acted improperly as stated by a third party. That can be done only by substantive motion, which the member would be aware of.

Hon. BILL FORWOOD — Am I able to read Mr Carli's response, which was what I was intending to do?

The PRESIDENT — Order! I think the point of order by the Leader of the Government was about the comments about the member in the other place by a third person. That is the area of concern: saying that somebody else said it means the member is saying it. I am saying that cannot be the case. The member cannot suggest via a third party that a member has acted improperly. The quote that the member read out indicates that, and that is what the Leader of the Government took offence at and asked for a withdrawal of.

Hon. BILL FORWOOD — If the ruling of the Chair is that I am forced to withdraw paragraph 2.5 of this document written by a member of the Labor Party because the Chair thinks that I am imputing words or actions to Carlo Carli, then of course I withdraw out of deference to the Chair. But I make the point that I think this is a very odd way to behave. This is an important document which calls for an inquiry into activities of the Moreland City Council.

The PRESIDENT — Order! I have no problems with Mr Forwood's withdrawal. I have concerns about his comments about my ruling. I think his words were that it is a very odd way to do things. I do not like those comments. I ask him to — —

Hon. BILL FORWOOD — I apologise to the Chair. I am not trying to get into a row with the Chair over this. What I am trying to do is get on the record a problem here.

Hon. D. McL. Davis interjected.

Hon. BILL FORWOOD — Yes, to find a way through the issue. In the end there is a complaint and this complaint has gone to the chief executive officer. But more than that, the background to the complaint — and I propose to read parts of it if I am allowed to — under the heading 'Proposed overlay resumes land belonging to third party to aid developer at council expense' is:

> I have become aware of certain irregularities regarding a proposed urban planning overlay proposed for the area near Phoenix Street and Albert Street, Brunswick.
>
> ...
>
> This overlay change appears to have been initiated at the behest of Albert Street Nominees who are, I am led to believe, proposing a development in the area.
>
> ...
>
> The proposed overlay effectively resumes land of the Safeway site and turns it into a public road.
>
> ...
>
> A current Moreland councillor allegedly has a financial interest in this development and the overlay being approved.

These are really important issues of substance that do need to be investigated. There is a particular letter here, annexure A, of complaint to the Moreland City Council, claiming gross misconduct by various officers of the council.

The issue I wish to raise for the Minister for Local Government is: given this letter of 29 April going to the Moreland City Council complaining of these actions, what action has been taken by the Moreland City Council to deal, firstly, with the issues raised in this particular letter, and secondly, the allegations of the improper use of the council in relation to the proposed overlay development in the area?

Mental health: funding

Hon. J. H. EREN (Geelong) — I raise a matter for the attention of the Minister for Health in the other place. I understand that the 2004–05 state budget allocated an additional $15 million for mental health services and that this completes the last financial statement commitment to increase funding for mental health services by $30 million over the 2003–04 and 2004–05 budgets. I further understand that the additional funding includes $6 million in 2004–05 from the hospital demand management strategy and that the new funds will support implementation of the mental health strategy, which is addressing the growing need for mental health services across all age groups by freeing up acute capacity as well as expanding existing services. The strategy will continue the implementation of priorities for service development articulated in *New Directions for Mental Health Services — The Next Five Years*, which was released in September 2002. Additional services in the 2004–05 state budget will target complex clients, youth and older people.

I note that the Health and Community Services Union No. 2 branch has raised concerns on behalf of its members about the demand for mental health services in Victoria. According to HACSU, the fundamental building blocks for quality and responsive service delivery in mental health relate to work force. The crucial work force issues are about the provision of specialist psychiatric nurse training, staffing and case loads. I also know that the former government axed specialist psychiatric nurse training and this has failed nurse graduates by not preparing them as safe and competent-level psychiatric nurses. As a result those graduate nurses — —

Hon. D. McL. Davis — On a point of order, President, I want to make the point that Mr Eren is simply slavishly reading his presentation. This is a set speech. This is not the point in the day for a set speech and Mr Eren is reading material prepared for him by a group outside this Parliament.

Hon. J. H. EREN — On the point of order, President, this may be a very touchy subject for Mr Davis, but it is a very serious issue that has been raised with me and I am raising it genuinely with the Minister for Health in the other place.

The PRESIDENT — Order! The member was referring to copious notes, and I remind him and all members of this house that the adjournment should not be used as a debating exercise. I ask the honourable member to continue.

Hon. J. H. EREN — As a result those graduate nurses who consider mental health as a career option quickly leave the service not having been properly prepared for the mental health area nor equipped with the necessary, if not mandatory, skills to practise in this specialist profession. Quality service provision in mental health should have as its foundation a well-trained and supported work force.

Therefore I ask the minister to take action to ensure that the extra funds allocated in the 2004–05 state budget for mental health are used to address issues of increasing demand for services and the call by the Health and Community Services Union for further training and development initiatives for psychiatric nurses.

Bicycles: metropolitan trails

Hon. ANDREW BRIDESON (Waverley) — I raise an issue tonight for the Minister for Transport in another place concerning the planning, construction and completion of bike paths. I must say I was somewhat concerned, in fact stunned, to read the April 2004 edition of *BV News,* which is the publication of Bicycle Victoria. In an article on page 13 entitled 'Government ignores health fix while Victoria gets fatter' it says that the state government has stopped building bicycle and walking paths.

Further, according to this article, the government has not even committed funds to implement the metropolitan trail network which was outlined in the government's 2002 Linking People and Spaces strategy. I quote from page 13 of *BV News*:

> But the government has not committed the funds to make it happen and the network is less than half finished. At the current rate of progress it will be 80 years before most people get a place to ride.

Bicycle Victoria is calling for a lot more money to be spent on completing the bicycle network. It wants at least $5 million a year for the next five years to build that metropolitan trail network in Melbourne. It has asked for $1 million a year to build bicycle and walking paths to schools and wants $6 million a year for VicRoads to expand the principal network of bike lanes on roads, including an additional $2 million a year for bike routes into activity centres. I think these are appropriate and necessary requests given that on a previous occasion I have raised the issue of child obesity. I know from personal experience that one of the best ways of keeping fit is to use the marvellous network of bike paths.

I would like the Minister for Transport to advise me what bike trail projects were completed in the last 12 months, particularly in the first six months of this year, and what were the amounts spent on each project which is outlined in the VicRoads bicycle facilities program for 2003–04.

Health: vegetarian food

Hon. S. M. NGUYEN (Melbourne West) — I raise a matter for the Minister for Health in another place about the prevention of illness and the promotion of healthy lifestyles, which have been the hallmarks of Labor's public health strategies, including campaigns against smoking and heart disease, and the SunSmart program, with a range of sunscreening campaigns against skin cancer. These programs have been well received by the community and have been very effective in reducing risk and improving health. Substantial evidence is now emerging that lifestyle-related illnesses are increasing, in particular diabetes. The Bracks government has committed $10 million to implement major programs for the

prevention of illness with early detection strategies targeting diabetes and obesity.

Last month I attended many functions organised by Buddhist communities in Victoria to celebrate the birthday of the Buddha. The Buddhist community is very keen to work with the state government to promote vegetarian foods to help the many people suffering from obesity and diabetes and those who want to have a healthy lifestyle. I ask the minister to consult with these interested groups to promote or make the public aware of the value of vegetarian foods.

Freedom of information: guidelines

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to pose my query to the Attorney-General in the other place. It relates to the issue of the government's commitment to freedom of information (FOI) guidelines which it set down in 2000. As many members would know, under my scrutiny of government role FOI is an important part of the process of extracting information, especially from this government. More importantly the FOI officers are meant to act within the guidelines issued in 2000 by the Attorney-General, Rob Hulls.

In part the FOI guidelines ask the officers to reflect a willingness to disclose information, and it is interesting that last year the former Ombudsman, Barry Perry, criticised the government over its terrible FOI record after finding what I am sure many on this side of the house have found: that many requests were taking 100 days or more to be processed, which is longer than the statutory period of 45 days. Without question many of my FOI applications, once they have been through the clarification process — on clarifying what 'clarify' means, for example — then begins the 45-day process. The guidelines have been set down and the *Age* of 10 May reported a government spokeswoman as saying that Mr Hulls had met the previous Ombudsman several times to discuss FOI and was always looking at ways to improve it.

Given that the Attorney-General is keen to look at improving the government's FOI relationship with the opposition, will he be taking action to ensure that the FOI officers are re-educated in the FOI guidelines as laid down in 2000 by the Attorney-General?

Hazardous waste: Nowingi

Hon. B. W. BISHOP (North Western) — My adjournment issue tonight is directed to the Premier. I think back to the night of a public meeting in Ouyen which followed the government's announcements it would investigate toxic waste dumps in Violet Town, Pittong and Tiega. Over 700 concerned and angry people were at that meeting, and they put to the Minister for Transport and the Minister for Manufacturing and Export their views on the government's toxic waste dump proposal. They made it quite clear that they would fight the proposal tooth and nail. Those rural communities won the fight — —

Hon. W. R. Baxter interjected.

Hon. B. W. BISHOP — They did win, Mr Baxter. They convinced the Bracks government to look elsewhere for a site on Crown land and to stay away from productive farmland. But did the government proceed to look at the 7.8 million hectares of Crown land that covers 34 per cent of the state? The answer is no. A full search was not undertaken, as the Premier admitted in response to a question from the Leader of The Nationals in the other place, Peter Ryan. Instead the Bracks government selected a site at Nowingi, close to Mildura. It is close to the Murray River, with its intensive irrigation production, adjacent to broadacre farming production and — wait for it — right next to two national parks. These are the Murray-Sunset National Park and the Hattah-Kulkyne National Park, which is internationally recognised under the Ramsar convention on wetlands, and is a tourist icon.

It is not just me who finds the site highly suspicious. It is situated 500 kilometres from Melbourne, the source of most of the waste. It is very conveniently located at the hub of three states, right on a railway line. Many people have asked if the residents of north-western Victoria are to be compensated for having this toxic waste dump by this government finally honouring its promise to upgrade and standardise the rail line.

This decision has prompted another public meeting, called by the Mildura Rural City Council. It will be held at the Red Cliffs Civic Centre at 7.00 p.m. on Wednesday, 2 June, which is tomorrow night. Like the Minister for Transport and the Minister for Manufacturing and Export, who confronted the residents suffering from the first flawed decision in Ouyen, I request that the Premier — who announced that the toxic dump is to be sited at Nowingi — attend this important meeting to observe first hand the human face of this decision and to hear of the damage the toxic waste dump will do to the area's image as a clean, green food bowl and its status as a tourist mecca.

Wangaratta: performing arts centre

Hon. W. A. LOVELL (North Eastern) — Tonight I wish to raise a matter for the Minister for the Arts in the

other place, Mary Delahunty. The Rural City of Wangaratta has applied to Arts Victoria for a $2.5 million grant to match the $2.5 million committed by the council to upgrade the Wangaratta Performing Arts Centre. The 2004–05 state budget failed to specify whether this important arts precinct upgrade will be funded by the state government in the coming financial year.

The community of Wangaratta and surrounding towns offer some brilliant artistic talent, and it is important to support and foster these talents with appropriate exhibition and performing arts facilities. It is also important that the local community is afforded the opportunity to attract touring exhibitions and performances to the Wangaratta arts precinct. I mention this because not all exhibitions and performances are suitable for the current precinct. By the government matching the council funding for this redevelopment more exhibitions and performances will be available to Wangaratta.

Wangaratta is also home to the Wangaratta Festival of Jazz, an annual jazz and blues festival that has become the premier jazz event in Australia and is renowned internationally. Since its inception in 1990 the festival has grown to include 90 events and over 350 national and international artists each year. The Wangaratta Festival of Jazz also hosts the National Jazz Awards, youth jazz workshops, masterclasses and events throughout Wangaratta and the surrounding wine districts. In 1999 the festival won a National Tourism Award and was inducted into the Victorian Tourism Hall of Fame. In 2000 the Wangaratta Festival of Jazz was elevated to the status of one of Victoria's Hallmark Events. When the upgrade of the performing arts centre is completed the facility — —

Mr LENDERS — On a point of order, President, I draw your attention to the fact that the Honourable Wendy Lovell is reading from a set speech. I urge you to have her treat the adjournment debate as is appropriate.

Hon. Andrea Coote — On the point of order, President, I think Ms Lovell is giving us a very good example of what Wangaratta is about. She is developing her adjournment matter.

The PRESIDENT — Order! I think the honourable member was referring to copious notes. I again remind all honourable members that they should not develop their arguments or requests for ministers to take action into a set speech during the adjournment debate.

Hon. W. A. LOVELL — When the upgrade of the performing arts centre is completed this facility will provide a first-class venue for Australian and international performers, both during the Wangaratta jazz festival and at other times of the year. I call on the minister to consider the benefits the upgrade to the facility would bring to the arts in rural and regional Victoria and support the application by the Rural City of Wangaratta for funding to upgrade the Wangaratta Performing Arts Centre.

Pharmacies: legislative reform

Hon. D. McL. DAVIS (East Yarra) — My adjournment matter is for the attention of the Minister for Health. It concerns the position of pharmacies in this state and the government's plans, including the Pharmacy Practice Bill and reforms to pharmacy regulation in this state. In particular the state Liberal Party and I strongly believe it is important to protect community pharmacies.

There is a loophole in the current law which allows friendly societies to continue expanding without restriction, thereby competing unfairly with local community pharmacies and placing their viability at risk. I ask the minister to examine this, and I will comment further on what I think she should do. In passing I pay a compliment to the Prime Minister, John Howard, who has moved decisively to protect community pharmacies, capping nationally at five the number of pharmacies that any individual pharmacist can own and strongly ruling out the involvement of supermarkets and large chains in pharmacy. That is a stand that the Liberal Party strongly supports. I compliment the Prime Minister on this decisive action.

The Liberal Party is very concerned about the future of community pharmacies. It believes they have a very strong role in the community and an expanding role not only in terms of health promotion but also in terms of advice to customers. They are a key part of the health delivery service in this state and indeed I might say nationally. The Liberal Party believes quality pharmacies are about having community pharmacists who are able to give advice to people and are able to do that in such a way as to very strongly advance the health interests of the community.

I call on the Minister for Health to look again at the issue of community pharmacies and ways of protecting them. I ask whether she would be prepared to move decisively and support the Liberal Party at both the federal and state level in its decision to ensure that the number of pharmacies owned by friendly societies with respect to that loophole is capped, and capped at the

current level. If the Minister for Health was concerned to see the quality of health care, the quality of services with respect to drug dispensing and other advice in the community reinforced in this state, she would be prepared to look at this anew and join the Liberal Party in capping the number of pharmacies which friendly societies are able to own.

Lincoln Causeway: speed limits

Hon. W. R. BAXTER (North Eastern) — I desire to raise a matter for the attention of the Minister for Transport in another place. Most honourable members would be aware that Albury and Wodonga are connected by a divided section of the Hume Highway known as the Lincoln Causeway, which carries about 40 000 vehicles a day. For a long time there has been an 80-kilometre-an-hour speed limit on that section of road. In recent times VicRoads has installed variable speed signs in order to reduce the speed limit to 60 kilometres per hour during morning and afternoon peaks in an endeavour to lessen the number of nose-to-tail crashes which have been occurring. I do not dispute the good intentions of VicRoads in that regard.

The problem is there seems to be an immense amount of difficulty in having these variable speed signs operate correctly and uniformly. I, for instance, crossed there last week on a Sunday morning and the signs were showing 60 when clearly they should have been at 80. Worse still, one day last week on the left-hand side of the carriageway the signs were showing 60 and on the right-hand side they were showing 80. There is no doubt that there are a number of significant problems with this. I am not sure whether the problem lies with the supplier or VicRoads, but I ask the Minister for Transport to issue the necessary instructions to ensure that these problems — teething problems they may be, I do not know — are given the utmost attention so this can be rectified within days rather than weeks.

Bendigo: water strategy

Hon. D. K. DRUM (North Western) — My adjournment matter is for the Minister for Water in another place, John Thwaites. Bendigo and the surrounding region has been forced into stage 4 water restrictions by the total water capacity of Coliban Water dropping down to as low as 20 per cent of capacity. Coliban Water supplies water to Kyneton, Castlemaine, Tooborac and Bendigo as well as a lot of other towns, and those four towns are now on stage 4 restrictions. Coliban Water also supplies water to Bridgewater, Inglewood, Serpentine and Wedderburn, and the towns in that area are now on stage 3 water restrictions. Other towns and cities to the north of the state which are also covered by Coliban Water are now on stage 1 water restrictions.

There is growing pressure from the community to ensure that the Bendigo and central Victoria region has a strategy not only for current demand but one which will take the Bendigo region into the future and allow for the 50 per cent future growth which is expected to take place in that region over the next 20 to 30 years. Pressure is growing not only from the electronic and print media but more importantly from industry and civic leaders to come up with a plausible water strategy. The situation is so desperate now that our industry leaders can clearly see that the development and growth of central Victoria and the Bendigo area will be stifled unless prospective investors and employers can be given security in the availability of water.

I call on the Minister for Water to initiate a community working party to create a water strategy that will secure water availability in the Bendigo region into the future. The water experts from Coliban Water and Goulburn Valley Water would obviously play a lead role in any working party or group. Councillors from the City of Greater Bendigo and the shires of Mount Alexander, Loddon and Campaspe would also be keen to be involved in strategy development. Industry leaders would also be calling for an opportunity to be part of creating such a strategy. I believe we need to involve the community leaders in this process. Will the minister initiate a community working group consisting of water experts, elected representatives and industry and community leaders to deliver a water security strategy that can take Bendigo and central Victoria into the future?

Responses

Mr LENDERS (Minister for Finance) — There were three issues for the Minister for Transport in the other place: Mrs Coote regarding the Brighton Road crossing; Mr Brideson regarding bike paths in our shared electorate, and I urge him to encourage the Minister for Transport, who is a very keen cyclist, to look at some of these areas; and Mr Baxter regarding the Lincoln Causeway speed limits. I will pass those three matters onto the Minister for Transport.

Ms Hadden had an issue regarding water levels in Lake Wendouree, and Mr Drum had an issue regarding a water strategy for the Bendigo region, and I will refer those to the Minister for Water in the other place.

Mr Forwood had an issue for the Minister for Local Government regarding the Moreland City Council, and I will certainly refer that to her.

Mr Eren had an issue regarding mental health funding, Mr Nguyen regarding vegetarian foods and health promotion, and Mr David Davis regarding pharmacy issues, and I will pass those onto the Minister for Health in the other place and draw her attention to Mr Davis's reading from his press release, which was very impressive.

Mr Dalla-Riva had an issue regarding freedom of information for the attention of the Attorney-General in the other place, and I will raise that with the Attorney-General.

Mr Bishop had an issue regarding Mallee sites, and I will raise that with the Premier.

Ms Lovell had an issue regarding the Wangaratta Performing Arts Centre, and I will raise that with the Minister for the Arts in the other place.

House adjourned 10.58 p.m.