PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

4 May 2004

(extract from Book 3)

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By authority of the Victorian Government Printer

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

Hansard — Chief Reporter: Ms C. J. Williams

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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

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Member	Province	Party	Member	Province	Party
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Carbines, Mrs Elaine Cafferty	Geelong	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
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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
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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

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TUESDAY, 4 MAY 2004

Tuesday, 4 May 2004

The PRESIDENT (Hon. M. M. Gould) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Gas Industry (Residual Provisions) (Amendment) Act
Land Tax (Amendment) Act
Public Prosecutions (Amendment) Act
Unclaimed Moneys (Amendment) Act
Wrongs (Remarriage Discount) Act.

QUESTIONS WITHOUT NOTICE

Consumer and tenancy services: delivery

Hon. A. P. OLEXANDER (Silvan) — I direct my question without notice to Mr Lenders, Minister for Consumer Affairs. I refer the minister to his answer to a question from the Honourable Bill Baxter on 22 April. The minister stated:

> ... Mr Scheffer, in his consultations, has met with every agency in Victoria ...

Of course the minister was referring to consumer and tenancy services. Will the minister advise the house whether he still stands by this statement?

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Olexander for his question and his new-found interest in these areas. I notice he roams around the state promising money in all sorts of places, which I am sure Mr Clark, the shadow Treasurer, will be interested in documenting.

Specifically in response to Mr Baxter's question the other day, which was in the context of how we consulted and how the government made up its mind on this, I advised that I had been to some geographical areas. I also advised that numerous meetings with 22 agencies had been convened by Mr Scheffer.

I have not kept an attendance list as to whether people from all the 22 agencies turned up to all of the meetings, but I know that on multiple occasions the agency committees of management and the agency workers were invited to join sessions to discuss the issues with Mr Scheffer and to discuss with me on a number of occasions how best we could deliver consumer and tenancy services in Victoria with a particular focus on vulnerable consumers. All 22 agencies were invited to these sessions. In direct response to Mr Olexander I did not keep an attendance list to tick whether they had all turned up or who had turned up, but I know that all committees of management and all workers were invited to join in the consultation on this important issue.

Supplementary question

Hon. A. P. OLEXANDER (Silvan) — I quoted the minister directly from *Hansard*. He said that Mr Scheffer had met with every agency. Consumer and tenancy services in many parts of Victoria have indicated to the opposition that they were never visited by Mr Scheffer, so will the minister now admit that he has misled the house, or does he think that these services are lying?

Mr LENDERS (Minister for Consumer Affairs) — I think Mr Olexander dreams of one day being the spelling and grammar officer of the Liberal Party by being an absolute pedant. My indications to this house on every single occasion have unequivocally been that as part of the process of dealing with consumer and tenancy services in Victoria this government has gone out and engaged. This minister has been out to many, many geographical areas — in fact, all the agencies. Mr Scheffer has invited and met on a number of occasions the workers and the committees of management. Whether or not he met with or visited them — if that is a critical issue — perhaps we can find that answer for Mr Olexander. In developing policy, on going out on consultation, this government has met with every agency. This government has consulted and will continue to do so.

Aged care: government initiatives

Ms CARBINES (Geelong) — I refer my question to the Minister for Aged Care, Mr Gavin Jennings. I am sure today's budget will build on the strong record of the Bracks government in getting on with the job of government and delivering quality services for all Victorians. Before our attention turns to the next stage, will the minister outline to the house some of the recent initiatives in the aged care portfolio which exemplify this record of getting on with government?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank the member for Geelong for that eloquent, if flowery, question that provides me with an opportunity to do a recap of how the Bracks government has got on with the job and delivered to older members of our community in the preceding years to this important budget that is going to be

announced very shortly in the other place by my colleague the Treasurer.

Indeed, in its first four years the Bracks government committed $138 million to capital reinvestment in residential aged care in Victoria. In the last budget we allocated $25.5 million to undertake redevelopments at Red Cliffs, Eildon, Numurkah and Trafalgar. It has been my good fortune in recent times to visit some of those locations to see where that work has been successfully commenced and will deliver results to those communities in the far-flung regions of Victoria.

In the last few weeks I have had the good fortune of opening a nursing home in Natimuk, and Mr Koch had the good fortune to join me and members of his community at that time. Last week Mr Philip Davis joined me in Sale to open Wilson Lodge, an important new 60-bed facility in the Sale community; and last Friday the Premier joined with me in Bendigo to open the Joan Pinder nursing home — a demonstration of the Bracks government delivering quality residential aged care throughout the spread of regional and provincial Victoria.

That is not the only measure of our commitment. Victoria, under the Bracks government, is one of the few states, if not the only state, that more than matches the cost it is required to contribute to home and community care — it goes far beyond its matching component. We are a state that recognises the importance of funding beyond our requirement to match the commonwealth to provide quality home and community care throughout regional Victoria and the metropolitan area, and we are delivering this service every day.

I remind members that in the last parliamentary sitting week I reported to the house where I had squirrelled away some of those important funds so as to be able to provide quality new services to members of — —

Hon. Bill Forwood — Squirrelled?

Mr GAVIN JENNINGS — Squirrelled away — to identify a critical mass of funding to improve dental care. That scheme I announced in April this year will provide 1300 dentures to older members of our community who have been on the waiting list for dental care, and that is an issue with which I am pleased to have been associated. Another initiative has added $1 million for community buses through the home and community care program.

Last Wednesday in this very chamber I had the good fortune, in the company of hundreds — I think our estimate was 200 — of members of our older community who had gathered together in an ageing seminar, to announce a $710 000 commitment to Well for Life, a fantastic program which will provide opportunities for older members of our community to get out and about, to provide them with a healthy and active lifestyle and encourage them to remain physically well and to eat well now and into the future. Indeed I was called upon to make a sacrifice of my own personal and other people's perceptions of my physical attributes, and I had to demonstrate them at some stage in the course of the event. I have already apologised to the Clerk for using his table for demonstration purposes. I thank the members of the community for this important initiative.

Chief electrical inspector: appointment

Hon. BILL FORWOOD (Templestowe) — I direct my question without notice to the Minister for Energy Industries. Given Victoria's good record of electrical safety, why has the government decided to remove the chief electrical inspector, Ian Graham?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Yes, it is true that Victoria has a very good safety record in relation to electricity. There has been one death in the last three years, which was unfortunate. This has been as a result of significant effort on the part of government to promote a range of safety initiatives and practices throughout the industry. We will continue to try to do that, including such things as promoting the installation of safety switches in homes to prevent electrocution. The honourable member would be aware that something like half the houses in Victoria have safety switches, but we still have some way to go because the other half do not have such safety switches.

The operation of the Office of the Chief Electrical Inspector is obviously a team effort, and I congratulate all the people there for the work done over the years. As to the question raised by the honourable member, no decision about the appointment or reappointment in relation to that position has been made.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I thank the Minister for Energy Industries for his answer and am pleased that at least the final decision has not been made. Given his answer, I ask the minister: is it true that Graeme Watson, a senior official with the Victorian electrical branch of the Communications, Electrical and Plumbing Union, and a good mate of Dean Mighell, is to be appointed to Mr Graham's position?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — It is this kind of advance information which shows why Mr Forwood is in his present position, because once again it appears he is the last person to find out anything in the Liberal Party. And that, I think, extends to his position as shadow minister. The answer to the question is no.

Consumer affairs: consumer protection

Hon. KAYE DARVENIZA (Melbourne West) — I refer my question to the Minister for Consumer Affairs. Can the minister advise the house how the Bracks government is getting on with the job of governing for all of Victoria, but more specifically can he outline any initiatives by Consumer Affairs Victoria which are ensuring that consumers remain both empowered and protected?

Mr LENDERS (Minister for Consumer Affairs) — Thank you to Ms Darveniza for her ongoing interest in consumers across the whole state and particularly the very pertinent question about how consumers remain empowered and how consumers remain protected.

In the portfolio of consumer affairs one needs to look at the goals to find out what achievements are sought. I remember that Mr Olexander — before he took on the role of spelling officer for the Liberal Party — asked a question very early on in this Parliament about the objectives of various ministers. Ministers and departments look at how they can best deliver their services. One of the aims of consumer affairs now is to ask how to get the best range of services and use them most effectively in a community to empower consumers and to protect consumers.

I am pleased to report to the house today that — as we speak — in Bendigo departmental staff in all different parts of Consumer Affairs Victoria are now proceeding to look after consumers. They are doing a few things: consumer affairs officials are looking at compliance with relevant acts of Parliament. Therefore staff are visiting real estate agents, travel agents, motor car traders, second-hand dealers, pawnbrokers, fundraisers, introduction agents and even checking that the law is being dealt with properly at prostitution service providers. They are also visiting funeral directors.

This is all important, because these organisations need to open their books for inspection. They have been advised that we are checking that the trust accounts are in order, that correct displays are up and that consumers are being looked after. Also we have product safety and trade measurement inspectors in Bendigo as we speak checking that there are no banned products on the shelves. They are checking for correct weights and measures and checking petrol pumps and other things. We also have our inspectors going to pubs and clubs to check that the laws are being applied. We have even got people going to larger incorporated associations to check for compliance with the law.

Hon. B. N. Atkinson interjected.

Mr LENDERS — It is interesting that Mr Atkinson mocks in this chamber the very fact that consumer affairs would send inspectors to a town to try to look after consumers. It goes right to the nature of empowering and protecting consumers. Firstly it is quite timely. Seven complaints about motor vehicle odometers being wound back are being dealt with in the Magistrates Court in Bendigo today.

Mr Atkinson mocks Consumer Affairs Victoria being proactive in looking after vulnerable consumers. The blitz in Bendigo, which is innovative, does two things: firstly, it alerts consumers by educating them whether it be in liquor licensing, trade measurement, product safety or any of the licensed bodies such as motor car traders and estate agents. Consumer Affairs Victoria is there for consumers. It has an educative function which is very important. Secondly, businesses that follow the law will welcome this because they do not want rogues competing with them and taking advantage of consumers. Vulnerable consumers are looked after, and the education process continues.

Finally, it is a way we can make markets work. Honest competition is good for consumers. The government gets on with the business of government and gets on with the job to deliver to consumers in Bendigo and the rest of Victoria.

Environment: greenhouse gas tax

Hon. P. R. HALL (Gippsland) — My question is to the Minister for Energy Industries. Is it true that the government is considering introducing a carbon tax on greenhouse emissions?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — What is true is that the National Party has decided to embark on a huge scare campaign in Gippsland and in the Latrobe Valley to try to convince people there that somehow they should vote for Howard and his cronies. That is what this is all about. Senator McGauran went to the Latrobe Valley the other day and tried to tell people in the Latrobe Valley — —

Hon. P. R. Hall — On a point of order, President, the minister has strayed far and wide from anywhere near a direct answer to the question. Further, he is

embarking on extensive debate on this question, which is not allowed. I ask that you rule the minister's answer out of order.

Hon. T. C. THEOPHANOUS — On the point of order, President, this was a question directed at me which refers to the issue of a carbon tax. It is appropriate for me to be talking about a colleague in the party that the honourable member represents who was in the Latrobe Valley only yesterday talking about the same issue of greenhouse and carbon emissions.

It is appropriate for me to be talking about that in the background and in the lead-up to my answering the question the honourable member has put to me. I put it to you, President, that if we are not going to be able to discuss factual occurrences, such as what happened with Senator McGauran — which is a factual occurrence — then we will not be able to answer questions appropriately in this house. I ask you, President, to rule the objection out of order.

The PRESIDENT — Order! Standing order 6.02 states:

> In answering any such question, the minister will not debate the matter to which it refers.

That relates to the point of order raised by the Leader of The Nationals. The question referred to a carbon tax on greenhouse emissions. The minister has been on his feet for 42 seconds giving background on carbon taxes and greenhouse emissions. I do not uphold the point of order, and I ask the minister to continue to respond to the question.

Hon. Bill Forwood — On a point of order, President, in the minister's wind-up he referred to the Prime Minister of this country as 'Howard'. I ask, President, that you instruct him that in this place we have some manners.

The PRESIDENT — Order! I am sure we do not want name calling across the chamber. All honourable members on both sides of the house are aware of the decorum that is expected of them when referring to parliamentary colleagues in this place or another.

Hon. T. C. THEOPHANOUS — Thank you, President. In future I will not refer to the honourable member as 'Howard's man' but as 'Mr Howard's man'!

This issue of greenhouse emissions and carbon emissions is an important issue which faces the whole country and us in Victoria as well. In the Latrobe Valley where we have big brown coal power stations it is a special issue because of the level of emissions that take place. When you are trying to debate and balance the issues of whether, for example, we decide to sign on to the Kyoto protocols or not, you have to balance and educate the community about our responsibilities in relation to emission controls and why it is that if we take up those responsibilities for emission controls and do it properly going forward and address the issues we actually secure the industry in the Latrobe Valley; we do not damage the industry in the Latrobe Valley.

Yet The Nationals here and federally are getting up and trying to scare people down in the Latrobe Valley by putting forward the idea that if we try and address carbon emissions in some way, somehow we are going to damage industry in the Latrobe Valley. Nothing could be further from the truth. It is irresponsible for Mr McGauran and it is irresponsible of The Nationals in this place to be talking about carbon emissions in a way that suggests we should not be trying to address carbon emissions from our power stations.

It is true that we on this side of the house put out a discussion paper called *The Greenhouse Challenge for Energy*. Under that paper we are canvassing a range of options and ideas in terms of how we address these issues. There is a working party working on a range of issues. This idea of a carbon tax, as far as I am aware, is not at the forefront of the working group that has been looking at this. It is certainly not something that it is considering, but it is something which The Nationals are happy to put up to try and frighten people in the state, just as they are happy to put up that if we sign on to Kyoto somehow that is going to damage industry in the Latrobe Valley.

Let me tell you that people in the Latrobe Valley understand very clearly what is required to secure the future of their industries. They care about the environment, Mr Hall, just like other people in the state. They do not take too kindly to people coming there and trying to scare them with the sort of nonsense that you and your colleagues are trying to do.

The PRESIDENT — Order! Through the Chair!

Supplementary question

Hon. P. R. HALL (Gippsland) — I refer the minister to an article that appeared in the *Herald Sun* of Monday, 26 April. It speaks about the Allen Consulting Group having been commissioned by the government. I quote from the article:

> Allen's executive director, Jon Stanford, confirmed that his firm had been commissioned by the government, that a

carbon tax was on the agenda, but it 'was the least likely option'.

I ask the minister: what is the Allen Consulting Group working on, and what are the options it is considering?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I do not know what to conclude from that — either you are a complete idiot or you have come into this place in an attempt to mislead the house because your original question was to try and suggest that we were considering a carbon tax when in the article that you quote from it says it is the 'least likely option'. Yet you still come in and ask the ridiculous question that you did. If you do not understand 'the least likely option' — —

The PRESIDENT — Order! The minister should address the Chair.

Hon. T. C. THEOPHANOUS — He should be able to understand that. That is pretty well kindergarten stuff. As far as the other options are concerned, Mr Hall will be able to consider those just like all other Victorians who will consider the way in which we will responsibly address emissions in this state — something which he failed to do.

Government: financial management

Ms HADDEN (Ballarat) — I refer my question to the Minister for Finance. Can the minister please outline to the house how the Bracks government is committed to getting on with the job by outlining any niche savings targets that have been met within the government?

Mr LENDERS (Minister for Finance) — I thank Ms Hadden for her question and for her interest in sound government administration. The question deals with the government's capacity for dealing with niche savings in government.

One of the things one quite often finds in government is that because of their size — we are talking about $26 billion or $27 billion worth of government expenditure — departments can often lose focus that every dollar in government can be used in service delivery. Often when people are talking in hundreds of millions of dollars or thousands of millions of dollars they forget that common, sensible housekeeping practices that anyone could do in their private life could also apply to government. I am pleased to report to the house that within the Victorian government a review has been done of our use of the Telstra *White Pages*. I know that some of the Nationals are quite interested in this topic.

Honourable members interjecting.

Mr LENDERS — Some members laugh, but they ought to think about the fact that an organisation the size of the government has not seriously looked at how it operates something as basic as the *White Pages* for 15 to 20 years. Any normal consumer who saw entries in the *White Pages* that were duplicated — some of them in very big print and sometimes in multiple places — would probably prudently say, 'Do I need to spend this money?'. Sadly, this has not been done for many years. A single employee in government decided to look at it. They sat down and worked with a group called Sensis to see if there could be a consistent format for government departments, and there is now an integrated approach.

Honourable members interjecting.

Mr LENDERS — Members opposite mock these savings, but this government gets on with the job of governing. I say to members of this house that if they or each person in their electorate were given a choice of spending $40 000 on services or programs in that electorate, through government saving that money by more efficiently using the *White Pages*, cutting out duplication and having a standard policy, I think most people would say, 'Get on with the job of government; do not waste money'.

I need to report that through this process the government has saved $820 000 without diminishing a single service across the state. Five departments have more than halved the cost of their *White Pages* listings. Members opposite may mock, and they may think that the details of the business of getting on with government are not important, but any government committed to sound financial management and the prudent use of taxpayer funds so they can be targeted to community programs and to service delivery needs to look at these niche areas as well as the big picture.

Across all government departments we have made significant savings that can be redirected to needy programs and causes by commonsense housekeeping practices. This government is getting on with the job of government. We will cut out waste and we will deliver services to all Victorians.

Libraries: funding

Hon. DAVID KOCH (Western) — I direct my question without notice to the Minister for Local Government. Last year the cost of running Victoria's public libraries was estimated to be $112 million, to which the Bracks government contributed a miserable

20 per cent or $22 million. Last Saturday the government announced that it would provide an additional $4 million over four years. I ask the minister: is it not true that the state funding will actually be reduced by 6 per cent down to 14 per cent over the next four years under its proposed increased funding regime?

Ms BROAD (Minister for Local Government) — I welcome the opportunity to again talk about the actions the Bracks government has taken since it has been in government to support our very important public libraries. I note with interest the fact that this question does not come from the opposition spokesperson on local government — —

An honourable member interjected.

Ms BROAD — I look forward to the 'better' question that is coming next from the other side — hopefully also on the question of our very important public libraries.

As I have outlined to the house previously, under the Bracks government there has been a record $25.8 million allocated to public libraries in the current financial year, and that represents an increase in every year this government has been in office. That says something — that says a lot, in fact — about what was happening to the funding of public libraries under the former Kennett government.

In addition to the funding which the Bracks government has provided to public libraries for running costs there has been a number of very important one-off grants to our public libraries to assist them with materials. There will be a further $5 million from July this year to assist libraries with purchases of books and materials. That does not take into account the $12 million allocated under the Living Libraries program for additions and upgrades to the physical infrastructure of our public libraries — a program which will see half of all our councils and shires across Victoria receiving capital funding grants for public libraries, again a very significant change from what occurred under the former government.

I expect that very shortly — indeed, if the Treasurer is not already on his feet in the lower house — the budget will be delivered with further increases in funding to public libraries in Victoria. I welcome those increases under the budget for both further capital grants and for the running costs of libraries. When it has been delivered by the Treasurer in the other house, I look forward to further opportunities to address the house about those very important initiatives in the 2004–05 budget.

Supplementary question

Hon. DAVID KOCH (Western) — Ghosting does not put new books on shelves in our public libraries! If the Bracks government is genuine in supporting libraries, why has it not matched the Liberal Party's plan to increase library funding by 80 per cent — an extra $50 million — a real library funding increase?

Ms BROAD (Minister for Local Government) — If the Liberal Party thinks making promises to local government is going to overcome the actions it took when it was last in government when it sacked every council in this state, then it must think that local government has a very short memory indeed. I assure the members opposite that that is not the case. There is a very big gap between promises and performance, and the Liberal Party has a long way to go — a very long way to go — if it is to ever restore the confidence of local government given its performance when it was last in government. This government has performed, and it has delivered to libraries. We will again in today's budget.

Australian Energy Regulator: establishment

Hon. C. D. HIRSH (Silvan) — My question without notice is to the Minister for Energy Industries, Mr Theo Theophanous. Can the minister inform the house about the outcome of the recent Ministerial Council on Energy and how the Bracks government is getting on with the job of government?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for her question. The Ministerial Council on Energy is a very important forum which had the task of developing the national regulation of energy — something I have been involved in for some years. After trying to get a national regulator of energy for quite a few years I am very pleased to inform the house that decisions were made to establish a national regulator and that at the recent Ministerial Council on Energy meeting held in Canberra, Victoria walked away with a great win. In the face of what was stiff opposition from other states we were able to secure the proposed Australian Energy Regulator (AER) for Melbourne.

This is a very important development and means that Melbourne will be the home of the two major national market regulators — the Australian Competition and Consumer Commission and now the Australian Energy

Regulator. Along with the AER comes the creation of about 150 jobs by 2006.

This is a significant win from the point of view of employment and puts Victoria at the centre of regulation not just of electricity but also of gas, because the new regulator will cover both electricity and gas. Initially the AER will regulate transmission and wholesale but it will later, as honourable members might know, do distribution and ultimately even retail.

This is a great success for Victoria and shows that this government is getting on with the job of government and bringing real victories and important institutions like this to the state. It is only appropriate, because Victoria has been at the forefront of driving national energy market reform. We pushed the other states and the commonwealth to put in place these regulatory reforms — —

Hon. Bill Forwood interjected.

Hon. T. C. THEOPHANOUS — If you listen you might learn something about it!

As I said, national energy market reform is of fundamental importance to the long-term economic wellbeing not just of Victoria but of the nation. Instead of talking Victoria down, as the opposition does, I call on it to welcome the establishment of the AER in Melbourne.

Hon. R. G. Mitchell interjected.

Hon. T. C. THEOPHANOUS — Bill is probably prepared to welcome the establishment of the regulator in Victoria — —

Hon. Bill Forwood interjected.

Hon. T. C. THEOPHANOUS — It would be good if the opposition not only was prepared — not just Bill Forwood, but a few others as well — to welcome something like this but also took the opportunity to pick up the phone and in welcoming this approach speak to their federal counterparts and tell them that they should give back some of the $1.7 billion of Victorian GST that they have ripped off Victorian taxpayers. That would be acting in the interests of Victoria — something which the opposition does not know how to do.

Aged care: medication administration

Hon. ANDREA COOTE (Monash) — I direct my question without notice to the Minister for Aged Care. On 6 April 2004, Justice Ryan of the Federal Court said 'that for the purposes of subregulation 4 (1) of the Drugs, Poisons and Controlled Substances Regulations 1995 the respondent Alcheringa Hostel Incorporated is a health service'.

The minister subsequently promised the Victorian Association of Health and Extended Care that he would ensure 'health services' is clearly defined to reflect its intended application and that he would do this quickly. What is the time line for implementation of the changes to the regulations, and by what date will they be completed?

Mr GAVIN JENNINGS (Minister for Aged Care) — As a starting point I am concerned that Mr Vogels has misled the house by indicating that he would ask the next question. Notwithstanding that, the shadow spokesperson is asking a serious question about an important decision handed down in the Federal Court on 6 April.

The member and other members may or may not know of the actions of the Alcheringa Hostel Incorporated health service in Swan Hill which occurred a bit over a year ago. It sacked some division 2 nurses and then subsequently tried to re-employ them as personal care workers on the assumption that the health service would be provided with the opportunity to use these workers to administer medication in a way they were previously not able to do. In the subsequent period of time since that action was taken by Alcheringa — which all members of the community said was an inexcusable act and totally inappropriate in terms of industrial relations practices and hopefully will never be repeated by that service or by any other in the future — the Victorian Parliament has passed legislation to increase the scope of practice for division 2 nurses. The bill passed recently and includes a regulatory impact statement which on completion will enable the implementation of a new regime of scope of practice for division 2 nurses. It is the intention of the government to facilitate that training at the earliest opportunity. Action has been taken to address the threshold question by which Alcheringa took that totally inappropriate action.

Following the decision of Justice Ryan in the Federal Court of Australia, I held discussions with the industry — the Victorian Association of Health and Extended Care, as has been mentioned by the shadow spokesperson — on this question and provided it with a degree of certainty that there would not be any provocative action or industrial relations practice taking place to unravel this issue in the industry.

The reason I was able to do that is that I had received an undertaking from the Australian Nursing Federation that it would not take industrial action, organise or prosecute any other service on the basis that it recognises that the state will act to amend those regulations under the Drugs, Poisons and Controlled Substances Act which have been in place since 1995 and notwithstanding the fact that Justice Ryan indicated that his determination was only understood to apply in the case of Alcheringa, it could potentially mean that the regulation would be challenged in other circumstances and become unworkable. The undertakings that have been made to the sector and to me culminate at the beginning of May. It is my intention to address those issues shortly. The industry is very clear on the timetable and that those decisions and that regulatory reform is imminent, and I will not — —

Hon. Andrea Coote — The date?

Mr GAVIN JENNINGS — I will not specify a date; however, it is imminent —

Hon. Andrea Coote — Six months?

Mr GAVIN JENNINGS — No, it will be introduced in a timely way so that certainty is provided within the industry and it allows for the appropriate rollout of the scope for medication administration by division 2 nurses. It will be done in a secure and certain way.

Supplementary question

Hon. ANDREA COOTE (Monash) — In relation to the same issue, how does the minister define the status quo in relation to medication administration in aged care facilities?

Mr GAVIN JENNINGS (Minister for Aged Care) — The honourable member is encouraging me to become a judge of the Federal Court of Australia, because that was one of the matters — —

Hon. Andrea Coote interjected.

Mr GAVIN JENNINGS — I am not going to give the easy answer. The house should understand that I gave a pretty fulsome and detailed answer to the member's question, and the member is now asking me for a legal opinion. I could refer to the standing orders and use my prerogative to sit down on the basis of my not providing a legal opinion. I will take the opportunity to say that the prevailing issue is in relation to how section 45 of the Drugs, Poisons and Controlled Substances Act operates and that it is incumbent upon managers of certain facilities to ensure that the appropriate nurse guidelines are satisfied.

Small Business Commissioner: performance

Ms MIKAKOS (Jika Jika) — I refer my question to the Minister for Small Business. A year ago Victoria led the way with the creation of an Australian first — the Office of the Small Business Commissioner. Can the minister please give the house an update on how the office has been assisting the small businesses of Victoria?

Hon. M. R. THOMSON (Minister for Small Business) — I thank the member for her question, because this is quite a momentous time. On 12 May we celebrate one year since the establishment of the office. During that time we have seen a lot of activity out of the Office of the Small Business Commissioner. We saw the appointment of Mr Mark Brennan as the commissioner and the staffing of that office. Over 440 retail tenancy and small business disputes have now been brought to the Small Business Commissioner. Over two-thirds of those have been resolved without much need to go to the Victorian Civil and Administrative Tribunal or to require additional costs or formal legal proceedings. I think everyone in the house would agree that it is a good outcome for small business to see those sorts of figures. In fact, they have exceeded what we expected would occur, which means that small businesses are the beneficiaries of a low-cost dispute resolution mechanism.

The Office of the Small Business Commissioner has registered over 8200 retail leases, and 3700 inquiries have been made through the Victorian Business Line. The commissioner and staff have made over 40 presentations to various industry groups and business groups right across the state, and that program continues to be rolled out. In addition they have undertaken over 30 investigations that have been brought to the attention of the Small Business Commissioner.

It does not stop there. In the next 12 months the commissioner will bring his attention and the attention of his officers to the establishment of the small business charters with departments and agencies. Members will be aware that the Small Business Commissioner has a responsibility to monitor the effectiveness of those small business charters, and we look forward to the progression of those and the rollout of those across government.

When you take into account the recent Australian Bureau of Statistics figures in relation to small business,

since 2001–03 the number of small business operators across Australia fell by 0.4 per cent; but in Victoria the number rose by 6 per cent. When you couple that with the actions of the Bracks government through the establishment of the Small Business Commissioner, with the recent economic statement *Victoria — Leading the Way* announced by the Premier and the Treasurer, the proposed establishment of the Victorian Competition and Efficiency Commission and the creation of business impact tests for major legislation it is no wonder that Victoria is the place to be for small business.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 1259, 1274, 1336, 1453, 1575, 1577, 1579, 1587, 1636, 1637, 1645–50, 1653, 1656, 1658, 1661, 1663.

MEMBERS STATEMENTS

South East Province: freight cartage

Hon. R. H. BOWDEN (South Eastern) — Last week I attended a seminar arranged by the Victorian Sea Freight Industry Council in the Dandenong area and found it most interesting. One of the clear results of that seminar, which was attended by approximately 80 people, was the lack of integrated freight in the south-eastern parts of the city. There is very poor integration between roads, rail and other necessary commercial freight arrangements to make the south-eastern part of this city, particularly where we have a lot of manufacturing and commerce, efficient in terms of international and national freight.

I suggest to honourable members that the road system in the south-eastern part of Melbourne definitely requires urgent attention by VicRoads and the state government. It is absolutely disgraceful that VicRoads and the state government cannot get their act together and provide adequate, long-term integrated plans to upgrade the road and rail infrastructures so that Melbourne with its pre-eminent sourcing and arrival destination pattern for international trade is protected in the south-eastern part.

Further, I condemn the lack of interest by VicRoads and the City of Casey in relation to the clogging of the Western Port Highway.

Community housing: Elm Road, Glen Iris

Mr SCHEFFER (Monash) — I extend my congratulations to MECWA and the Victorian government on the official opening of the Elm Road community housing development in Glen Iris last Thursday morning.

Elm Road, situated in Monash Province, is a prime example of a joint venture, with MECWA contributing land valued at approximately $1 million and the Victorian government providing the $2.3 million construction costs. The 21 independent living units were completed last June and are now occupied. The units at Elm Road community housing are south of Gardiners Creek and the adjacent reserves that provide a stunning wooded setting for residents. The units themselves are spacious, secure and affordable, with private gardens and communal courtyards.

I especially congratulate the wonderful work of the MECWA board led by Robin Syme, chief executive officer, Judith Congalton, and Helen Russell from the Department of Human Services who steered the project through. Judith Congalton heads up a team of MECWA staff that provides personal support services from MECWA community care. I commend the way Ms Congalton and her people foster personal relationships with residents. It is a great example of community building. I had great pleasure in meeting Mrs Audrey Goldie, who showed the minister and me through her immaculate apartment, and I thank her for her generosity.

In the end, the success of a housing development is measured by the quality of life of the residents. By any measure the recent marriage of Patricia and Graham, who actually met at Elm Road, must mean something is working marvellously well there. It was wonderful to meet Patricia and Graham, and I extend my warmest congratulations to them both.

Aboriginals: indigenous affairs report

Hon. W. A. LOVELL (North Eastern) — This afternoon I draw to the attention of the house the report entitled *Victorian Indigenous Affairs Policy: Assimilation, Self determination and Beyond*. It was authored by Emily Millane, one of the 2003 parliamentary interns in the office of the Minister for Aboriginal Affairs, Gavin Jennings. Ms Millane consulted with individuals and groups involved in indigenous affairs from both outside and inside Parliament to evaluate the success of the indigenous affairs policies of the Bracks Labor government.

Among the common findings of the report were comments that:

> Interviewees were united in their view that... official government policy ... is insufficient.
>
> ...
>
> One respondent described this as 'Bracks talks; he doesn't act'... creating a sense that communities were 'on their own'.
>
> ...
>
> Respondents were divided on how successful, if at all, the Bracks government's policies have been to date ... The minister himself was reluctant to characterise any policy as a 'success'.

This report is another confirmation of the failure of Minister Jennings and the Bracks Labor government's failure to develop and deliver policies for indigenous Victorians which improve the key areas of education, employment, health and community development.

Thompsons Road, Templestowe: action group

Ms ARGONDIZZO (Templestowe) — I wish to congratulate and acknowledge the work of the Thompson's Road action group. This is a community group that I have been involved with since my election. The group has worked tirelessly and its members have allocated a lot of their own funds towards trying to facilitate and lobby members for an upgrade of Thompsons Road. I had great pleasure last week in welcoming the Premier and the Minister for Transport when they announced a $12 million allocation for the reconstruction of this road.

I am extremely pleased with the result. It was a very happy week for me as well as for members of the group who have allocated a lot of their own funds to keep the group functioning. The road was promised 40 years ago and is finally going to be delivered. I am extremely pleased that a Labor government is delivering a road in a Liberal electorate.

Youth: rural and regional Victoria

Hon. A. P. OLEXANDER (Silvan) — Last week I toured a number of regional and rural areas of Victoria speaking with Victorian young people and finding out their concerns. They told me of their problems and ideas for a better Victoria. The responses were both disturbing and an indictment of the Bracks Labor government, in particular the Minister for Employment and Youth Affairs, Jacinta Allan.

Students from across Victoria said pretty much the same thing: the government is not listening to us. The Bracks government's youth round tables were branded a waste of time where no-one really listens and the government never replies to the issues raised. These young people are saying that every time they communicate their feelings and ideas it is a waste of time because the government does not care and does not listen. The Portland young people told me that when Jacinta Allan came to visit she thought she was in Port Fairy; she did not realise that she was in a completely different rural town. Certainly Minister Allan has no idea how to make the young people of Portland feel valued.

I call on the Bracks Labor government to start listening to young people in this state and to start acting on their ideas because Victoria's youth are talented, bright, energetic and have a lot to offer, if only this government would start listening.

Hospitals: neonatal intensive care units

Hon. J. G. HILTON (Western Port) — Last sitting week an honourable member in this house attempted to make political capital out of the tragic circumstances that are affecting our neonatal intensive care units, and I refer to the spread of the serratia infection, which has already claimed two lives. No-one can fail to be moved by seeing such helpless, totally vulnerable babies in their humidicribs relying absolutely on the care of nurses and the advanced technology that surrounds them; no-one can fail to comprehend the emotions of the babies' parents.

Politics obviously can be played very hard, but some issues should be beyond political exploitation. The comments of the honourable member brought no credit to him or his party.

Blue Hills Country Club, Cranbourne

Hon. ANDREA COOTE (Monash) — I congratulate the Clarkson family of Cranbourne. Last week, together with my colleague the Honourable David Davis, I had the pleasure of opening the Blue Hills Country Club in Cranbourne. This is a residence situated on 40 acres, 1.5 kilometres from the main street of Cranbourne. Currently Blue Hills is home to approximately 150 people; when the village is completed it will consist of about 202 luxurious independent live-in units.

The Blue Hills Country Club will have a whole range of facilities, including a hydrotherapy pool, cocktail bar, restaurant, library, cinema, poolroom, doctors surgery, hairdressing salon and much more. It is an excellent complex. It will also have outdoor facilities, including a tennis court, an additional swimming pool, trout-filled lakes, barbecue areas and a croquet pitch. A

120-bed nursing home facility is presently under construction.

I congratulate the Clarkson family and Jodie Johnson on an excellent development. It is certainly a benchmark in residential areas and facilities. As Victorians we can all look forward to this type of independent living. For older Victorians it is certainly a new way of living. I urge the Minister for Planning in another place to facilitate the planning processes for a number of these types of facilities, because this is important for Victoria — —

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

Darebin: family support innovations project

Ms MIKAKOS (Jika Jika) — On 27 April I had the pleasure of attending at the Preston town hall the launch of the Darebin family support innovations project by the Minister for Community Services, Sherryl Garbutt. This new initiative aims to address family welfare issues quickly and link families into support services before problems escalate and require the involvement of child protection services.

The Bracks government is providing $1.56 million to better support vulnerable families in the City of Darebin, one of eight local government areas to benefit from the $20 million family support innovations project. Two projects have been set up in Darebin: the Darebin integrated family service, focusing on the general population, which will be provided by Children's Protection Society, Anglicare Victoria, Kildonan Child and Family Services and Darebin City Council; and the Loorende gat innovation service, which targets the indigenous community and which will be delivered by the Victorian Aboriginal Child Care Agency.

While these are early days for the projects, statistics already show that child protection notification rates are dropping by an average of 7.5 per cent in areas where the innovation projects are under way. Clearly these types of projects are helping to strengthen Victorian families.

Kew War Memorial: relocation

Hon. RICHARD DALLA-RIVA (East Yarra) — I wish to raise an issue of great concern regarding any proposal to relocate the Kew War Memorial from its current site at Kew Junction. The memorial is adjacent to my office at the intersection of Cotham Road and High Street in Kew. My colleague the Honourable David Davis and the member for Kew in the other house are, like me, seriously concerned and are opposed to any suggestion that the war memorial be relocated.

This memorial, which was officially opened in 1925, is dedicated to the 523 local residents of Kew who served their country in World War I, 147 of whom did not return. Etched in the stone is a reminder of historic battles in World War I, including Gallipoli, France, Palestine and the North Sea. Recently I was pleased to march with the Kew sub-branch of the Returned and Services League during the week leading up to Anzac Day. It is important to acknowledge that there is still deep-felt sorrow about what this memorial stands for. Any suggestion of removing it will be vehemently opposed by me and the other members representing the area.

Consumer Affairs Victoria: staff

Mr VINEY (Chelsea) — I take this opportunity in members statements today to express my sincere support for Consumer Affairs Victoria staff and the important and very valuable work that they do as public servants of the people of Victoria. That is in stark contrast with Mr Atkinson's reference by interjection twice today in this house to consumer affairs staff being Gestapo. I found those references to be abhorrent and obnoxious. That is extraordinary coming from an opposition which, during question time, took points of order about civil behaviour. Members of this house have a special privilege: a privilege to be able to speak freely and express themselves without fear or favour in this chamber. It is appalling that a member of the opposition, through interjection, through cowardice and under the privilege of this place, should refer to valuable public servants in such an abhorrent and disgraceful manner.

Taxis: multipurpose program

Hon. B. W. BISHOP (North Western) — One of my constituents has written to me on behalf of her father, Mr Ray Lewis, a resident of Ouyen, who has applied to access the multipurpose taxi program. The application was not approved. A letter from the Department of Infrastructure states:

> As your medical condition was described by your medical practitioner as being moderate in nature, you do not qualify for admittance to the program.

Mr Ray Lewis is an 86-year-old war veteran who holds a veteran's gold pass card. He lives with his wife and both are self-sufficient but require transport to and from medical appointments and to do the shopping. Ouyen does not have any public transport so many people

benefited when Ouyen finally acquired a taxi service. However, the decision taken by the Department of Infrastructure to not let the scheme apply to active, although frail, members of the community will see people disadvantaged and unable to participate in social activities, a policy which this government has promoted time and again.

Hon. D. K. Drum — How old?

Hon. B. W. BISHOP — He is 86 years old, Mr Drum. This government is failing frail and aged senior citizens by setting these new guidelines. I ask the Minister for Transport in the other place, on behalf of those people in rural Victoria who have no public transport, to conduct an immediate review of the transport needs of our people with disabilities and the frail aged to align transport options with government policy.

PETITIONS

Fishing regulations

Hon. P. R. HALL (Gippsland) presented petition from certain citizens of Victoria requesting that the new Fisheries (Fees, Levies and Royalties) Regulations 2004, which are to be implemented in July 2004, be rejected and redrafted to more adequately represent the diversity of the fishing industry and to enable it to reach its potential growth (110 signatures).

Laid on table.

Planning: rural zones

Hon. P. R. HALL (Gippsland) presented petition from certain citizens of Victoria requesting that the Victorian government withdraw and redraft the new rural planning zones and introduce a new planning system (50 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 4

Ms ARGONDIZZO (Templestowe) presented *Alert Digest* No. 4 of 2004, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Adult Multicultural Education Services — Report, 2003.

Bendigo Regional Institute of TAFE — Report, 2003.

Box Hill Institute of TAFE — Report, 2003.

Central Gippsland Institute of TAFE — Report, 2003.

Centre for Adult Education — Report, 2003.

Chisholm Institute of TAFE — Report, 2003.

Commonwealth Games Arrangements Act 2001 — Designated Access Area Orders — Amendments, pursuant to section 18 of the Act (three papers).

Driver Education Centre of Australia Limited — Report, 2003.

East Gippsland Institute of TAFE — Report, 2003.

Geelong Cemeteries Trust — Report, 2003.

Gordon Ovens Institute of TAFE — Report, 2003.

Goulburn Institute of TAFE — Report, 2003.

Holmesglen Institute of TAFE — Report, 2003.

Kangan Batman Institute of TAFE — Report, 2003.

Lilydale Memorial Park and Cemetery — Minister for Health's report of receipt of 2003 report.

Municipal Association of Victoria Insurance — Report, 2002–03.

Northern Melbourne Institute of TAFE — Report, 2003.

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

Banyule Planning Scheme — Amendment C43.

Baw Baw Planning Scheme — Amendment C27.

Bendigo — Greater Bendigo Planning Scheme — Amendment C55.

Campaspe Planning Scheme — Amendment C28.

Casey Planning Scheme — Amendment C69.

Darebin Planning Scheme — Amendment C60.

Macedon Ranges Planning Scheme — Amendments C14 and C32.

Port Phillip Planning Scheme — Amendment C44.

Swan Hill Planning Scheme — Amendment C16.

Yarra Planning Scheme — Amendment C70.

Yarra Ranges Planning Scheme — Amendment C37.

Preston Cemetery Trust — Minister for Health's report of receipt of 2003 report.

South West Institute of TAFE — Report, 2003.

Statutory Rules under the following Acts of Parliament:

Local Government Act 1989 — No. 30.

Victorian Civil and Administrative Tribunal Act 1998 — No. 29.

Subordinate Legislation Act 1994 —

Minister's exception certificates under section 8(4) in respect of Statutory Rule No. 29.

Minister's exemption certificates under section 9(6) in respect of Statutory Rule No. 30.

Sunraysia Institute of TAFE — Report, 2003.

Victoria Law Foundation — Report, 2002-03.

William Angliss Institute of TAFE — Report, 2003.

Wodonga Institute of TAFE — Report, 2003 (two papers).

Wyndham Cemeteries Trust — Minister for Health's report of receipt of 2003 report.

NOTICES OF MOTION

Notices of motion given.

Hon. D. K. DRUM having given notice of motion:

The PRESIDENT — Order! Under the sessional orders members can only propose one report to be taken note of on Thursday next. Today the Leader of The Nationals and the Honourable Damian Drum gave more than one notice. Will they advise which ones they intend to make a statement on and put on the notice paper for next Thursday?

Hon. P. R. HALL (Gippsland) (*By leave*) — Can I ask a question in relation to these sessional orders and seek some clarification of them?

Mr LENDERS (Minister for Finance) (*By leave)* — If I could respond to Mr Hall, President. The intention of the sessional orders all along was simply that there be a clear delineation of what could be discussed in the reports, and every member would have the option of putting one item on the notice paper. They are not bound to speak to them but they have the option of only putting on one item a week. Clearly the wording of the sessional orders and their intention is that there would be a clear line of what a member would talk on and that would give the house notice. Under those terms there was simply one per member that could be put on notice.

Hon. P. R. HALL (Gippsland) (*By leave*) — I certainly understand that we are only allowed to speak on one of those motions and that 12 members of the house are given the option on Thursdays to speak on those. I am not aware of a limitation on members actually putting more than one item forward. If my memory is correct, I think there is a time limit of 15 minutes on the debate on statements, but I was not aware that we were restricted to only putting up one.

If there is a restriction of only putting one up it makes it fairly difficult when a paper is tabled the day before, on a Wednesday for example, that one does not have a chance to have a look at a report before giving notice of a motion to make a statement about that report. There are two reports that I am very interested in today and for obvious reasons I have put both of them up for consideration so that I might look at them at a later time and give some consideration to which I choose to speak about on the Thursday. I am just clarifying that. I know I am only allowed to speak on one on Thursday and I know there is 15-minute time limit for this part of our business program, but I was not aware there was a limitation of giving notice on only one report.

The PRESIDENT — Order! In clarification, sessional order 17 clearly states that a member must give not less than one day's notice of a report or paper proposed for discussion and may propose not more than one report or paper for discussion each week. A member may speak on more than one report on the Thursday in their time allocation of 5 minutes but they may only propose one report to be put on the notice paper in line with the sessional orders that have been passed by the house. I go back to the comment I made earlier — that the Leader of The Nationals and the Honourable Damian Drum need to identify which report they want to make a statement on — if another member is prepared to put something up, so be it — and we will ensure their preferred options appear on the notice paper for Thursday.

Hon. P. R. HALL (Gippsland) (*By leave*) — I withdraw the second notice that I gave about the Central Gippsland Institute of TAFE.

Hon. D. K. DRUM (North Western) (*By leave*) — I withdraw my second notice to discuss the 2003 report of Driver Education Centre of Australia Ltd.

Further notice of motion given.

BUSINESS OF THE HOUSE

Program

Mr LENDERS (Minister for Finance) — I move:

That, pursuant to sessional order 20, the notice of motion, government business, relating to the approval of amendment C66 to the Casey planning scheme and the orders of the day, government business, relating to the following bills be considered and completed by 4.30 p.m. on Thursday, 6 May 2004:

Control of Genetically Modified Crops Bill

Road Management Bill

Limitation of Actions (Amendment) Bill

Petroleum (Submerged Lands) (Amendment) Bill

Monetary Units Bill

Marine (Amendment) Bill.

Hon. PHILIP DAVIS (Gippsland) — I would like to say for the record that while there has been discussion between the leaders of the parties in relation to the government business program it is the opposition's contention that this is quite unnecessary. Given that the government has indicated it wishes to proceed with taking note of the budget papers later this week that would clearly imply there is absolutely no need for a government business program, so as a matter of formality we oppose it.

Motion agreed to.

CONTROL OF GENETICALLY MODIFIED CROPS BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The Control of Genetically Modified Crops Bill is to provide a framework and powers within which the Victorian government can regulate, for marketing purposes, the production and handling of all current and future genetically modified crops, including genetically modified canola, referred to as GM canola.

Government policy

By way of background, it is important to recognise that the broad principles underpinning this bill are those that underpin the government's policy on biotechnology, including genetically modified organisms. The principles include:

optimisation of the social, economic and environmental benefits available through biotechnology;

protection and promotion of the health of Victorians;

assurance of environmental safety and sustainability;

all actions undertaken within an ethical framework.

In regard to the application of this policy to the Victorian agricultural sector, the government's position continues to be one of ensuring any introduction of GM crop varieties is balanced with our biotechnology policy.

In order to give effect to its policies, the government has committed to participation in national arrangements for the regulation of gene technology and GM crops in relation to risks to food safety, human health and the environment. These arrangements include:

the national gene technology regulatory scheme, to deal with potential risks to human health and the environment through the commonwealth Gene Technology Act 2000 and mirror state legislation, and

national food safety and labelling regulation coordinated by Food Standards Australia New Zealand.

The commonwealth Gene Technology Act is administered by the Gene Technology Regulator, an Australian government statutory appointment.

During development of the national scheme, it was agreed that management of potential risks to agricultural production and markets posed by GM organisms, including GM crops, required a different approach that could be best managed in an agricultural context, at a state level, through full, self or co-regulation, determined on a crop-by-crop basis.

The states' and territories' role in the national regulatory framework in relation to market risks has been recognised by the establishment of a policy principle under the commonwealth Gene Technology Act. The Gene Technology (Recognition of Designated Areas) Principle 2003 recognises the right of state and territory governments to legislate to designate areas for GM and/or non-GM crop production for marketing purposes.

The control of GM crops bill has been framed in terms of this principle and is paralleled by similar legislative initiatives in some other states. The bill is consistent with and complements the national gene technology regulatory scheme.

The government is very aware of the need for a careful and considered approach to the introduction of GM crops into Victorian agriculture. The focus for our policy in applying this well-established position within the national regulatory framework is to ensure that our international markets for primary products are maintained.

Marketing issue — context

Whilst the commercial cultivation of two GM canola varieties in 2003 was approved by the national Gene Technology Regulator on health and environmental safety grounds,

questions from industry remained as to the potential impact of the release of GM canola on our export markets.

Other issues in regard to the marketing of GM grain varieties have been raised in discussions with industry about the impact of the application of the technology on markets, growers incomes and the timing of any commercialisation of the technology.

Market review

In 2003 the government took action in relation to the potential market risks from the release of GM canola when key grain industry stakeholders expressed concern over its prospective commercialisation.

On 7 May 2003, the government announced a one-year, voluntary moratorium on the commercial release of GM canola. At the same time, the government initiated a review of the potential market impact of the full commercial release of GM canola, overseen by an interdepartmental committee of the Victorian public service.

The government also sought advice direct from key primary industry exporters about potential marketing risks from the introduction of any general release of GM canola, including new information not available at the time of the review.

The bill comes as a consequence of that review and consultation process. Based on this process and the general considered and careful approach by the government to any commercial release of GM canola, we do not believe that the timing is appropriate for the full commercial release of the two varieties of GM canola currently released by the federal regulator.

Purpose of the legislation

In relation to the marketing of GM crops, the bill provides for the creation of orders under which a part or all of the state of Victoria may be declared as an area where specified activities, or dealings, involving some or all GM crops or related material may be controlled or prohibited. It allows for the identity preservation, for marketing purposes, of crops as either GM or non-GM.

The bill is broad in its scope to ensure that the government has the power to deal with any aspect of the utilisation of GM crops that may negatively impact on the market competitiveness of any product. It is non-prescriptive to ensure that any regulatory response can be tailored to a particular crop and/or a particular region. The use of orders to implement regulatory controls will allow a timely response to the prevailing circumstance, and will ensure that necessary controls are in place when needed. This will allow the government to respond to concerns and issues about the potential commercialisation of GM crop varieties that industry brings to the attention of government. In relation to such concerns, the responsible minister, the Minister for Agriculture, may issue an order to deal with market risks and/or issues.

Checks and balances

As previously noted, the bill has been designed to be broad in its scope, non-prescriptive and responsive to market needs. The flexibility available to the minister will be balanced by analysis to ensure that regulation is applied judiciously, effectively and for marketing purposes.

Any order or exemption from an order for cultivation and/or dealings with a specified GM crop may contain conditions attached to that order. These may be along a spectrum of control measures. They may vary from the restriction on the general commercial release of a product to trials of a non-commercial nature to measures such as requiring compliance with industry guidelines, crop management plans, auditing, payment of fees and other matters.

Operation of the legislation

In practice, if a particular GM crop was to be released by the Gene Technology Regulator, there could, for example, be a risk of losing a particular market. In such a case, the minister could issue an order temporarily prohibiting the general release of the GM crop while more information was collected through measures such as trials, research and analysis. On the presentation of more evidence on issues such as the changing market conditions and/or relevant standards regarding acceptable levels of adventitious presence of GM grains in other grains, the prohibition order could then be revoked, varied or replaced, depending upon the particular circumstances at the time. Alternatively, the exemption provision could be used.

In general, there will be an onus on persons or groups concerned with production and/or marketing to advise the minister about any market risk, and to demonstrate that the extent of this requires the minister to issue an order under the act.

In the future, some GM crops may be readily produced and managed without market risks, thus, an order requiring controls would not be needed. Equally, some GM crops approved by the federal Gene Technology Regulator demonstrably could have a market impact of a clear and profound kind requiring an order to be made immediately to protect market access.

Each crop variety approved by the federal regulator will be considered on its merits in relation to the need for an order under the legislation.

Fees

It is government's intention to undertake cost recovery from the industry through fees for services provided in administration of the legislation; moneys raised would be appropriated to the Department of Primary Industries for use solely in administration of the act. However, it is this government's clear expectation that the grains and GM crop technology industries will take action to implement systems of quality assurance and auditing that will necessitate only minimal oversight by government agencies.

Where industry is able, for a particular GM crop or a particular circumstance, to put in place arrangements to deal with market risks, and the government is convinced there are no market issues of significance preventing a general commercial release, such arrangements would be allowed. Such arrangements might need only minimal government oversight and be less costly to both industry and government. Indeed, the legislative framework provided by the bill is such that it will allow industry self-regulation through, for example, the operation of a third party-audited quality assurance scheme.

Liability

Liability in relation to damage that may result from the growing and use of GM crops and other GM organisms is an issue that has been of concern to a number of gene technology stakeholder groups. Liability in relation to GM canola is a matter that the government's review has highlighted as an unresolved area. Whilst any damage to human health or the environment flowing from the use of GM organisms is the province of the Australian government, provisions have been included within the bill to ensure proper accountability where there are risks to markets. This accountability includes a specific offence for gene technology providers who sell a genetically modified organism to a person knowing that the person intends to use the genetically modified organism in contravention of an order made under the legislation.

Application of the legislation to GM canola

GM canola is the first grain variety used primarily as a food crop that has been approved for general release into the Australian environment by the Gene Technology Regulator. Under these circumstances, it is not surprising that there is a high level of community and industry concern about its release, not the least of which concern has been about the possible impacts of GM canola on our markets for grains and dairy products. These concerns about the possible impact of the general commercial release of GM canola on markets have been raised directly with the government by these industries.

As far as food crops go, Australia is viewed as GM-free. This status is an important marketing tool, which may secure premiums or prevent discounts in many of our markets. It is likely that world trade will take a few years before approaches to GM grains become clearer. At this stage, it is the government's view that the only prudent way forward is to hold off on the commercialisation of GM canola, as the unfettered release will mean permanent loss of our GM-free status. The government has listened to key rural exporters on this issue.

The government has, therefore, decided to retain a moratorium on commercialisation of GM canola for the next four years, over which time market trends should become clearer. To effect this immediately, provisions have been included in the bill, via a schedule, to provide for the prohibition of the commercialisation of GM canola in Victoria. The schedule is deemed under the bill to be an order for the purposes of the legislation. The government will be able under this legislation, to approve non-commercial, research trials for GM canola. The specific nature of any such trials would depend on the application by industry to seek exemption from the order. It would need to take into account stated government policy in regards to marketing risks associated with GM canola. The order in the bill will ensure that a moratorium continues from the time the act commences to 29 February 2008 under a mandatory regime, rather than under voluntary arrangements such as those currently prevailing.

During the course of this moratorium, the government will determine specific arrangements regarding oversight and monitoring of limited scale research and development trials.

Conclusion

Overall, while the provisions of this bill may not be called upon in relation to the release of all GM crops, the government believes that the bill provides an important tool which can be called upon when necessary in the management of GM crops. It provides for significant market-related safeguards for participants in the production, handling and marketing of crops in this state.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

HERITAGE (FURTHER 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 makes a number of changes to enhance the clarity, efficiency and transparency of the administrative and decision-making processes in the Heritage Act 1995.

Victorians care about their special heritage places and the survival of unique heritage icons can be very important for assisting communities to grow and prosper. The survival of cultural heritage assets is important whether it is the Supreme Court of Victoria or the local town hall. Cultural heritage icons serve as markers in people's lives and their retention as part of the local community reinforces its identity and sense of place and gives it the security to adapt to rapid change.

The conservation of heritage places provides an opportunity for communities to revitalise themselves. The bolstering of the social and economic fabric through the conservation of important heritage places should not be underestimated. The conservation of heritage places and heritage objects is about assisting the sustainability of communities in Victoria. Through the recognition and support for owners of heritage places and objects the government is able to assist communities to protect and maintain their heritage.

Victoria's greatest assets are its rich wealth of heritage places. The survival of great 19th century architecture in Melbourne and regional centres is unique to Victoria and is treasured both by its inhabitants and increasingly by interstate and overseas visitors. It is an asset which is worth treasuring.

Victoria's rich heritage is one of the reasons why tourists come to see Victoria. Heritage places are an economic driver for Victoria. This is understood by our own tourism commission which emphasises this in its overseas and interstate marketing campaigns. Interstate and international visitors marvel at the wealth of heritage which surrounds all

Victorians. They appreciate how Victorians have been able to adapt these precious icons to the needs and necessities of modern life.

The adaptation and reuse of heritage places to accommodate all necessities of modern lives such as airconditioning, water recycling and computer facilities are constantly undertaken to ensure that the heritage icons are sustained and continue to be part of every Victorian's environment. These buildings represent a major investment in natural and human resources. Maintenance and conservation drastically reduces or eliminates the need for demolition and new construction waste. It conserves the embodied energy in the existing buildings and reduces the need to use scarce resources in new buildings. Victorians have worked hard to ensure that the investment of past generations is able to be sustained and passed onto future generations.

Much of Victoria's heritage is managed and cared for by community organisations and private individuals. The community needs to see that they are not alone in caring for Victoria's heritage but that the government supports them in this work. The recently announced Victorian heritage program grants show that the government supports communities in regional and metropolitan Melbourne in caring for their and our heritage.

The government is also planning for the future of heritage in Victoria. The Heritage Council is working on developing for the government a new Victorian heritage strategy. This will enable the government to continue to support the rich and varied heritage of the state of Victoria by developing strategic heritage priorities for the government to assist in future funding for heritage in Victoria. The development of the strategy has ensured that Victorians have had an opportunity to shape the government's future heritage strategy. It has broad community support and the government looks forward to delivering it.

Victoria's cultural heritage is represented by far more than heritage places. Much of the state's heritage comes in the form of objects of historical significance. There are many important heritage objects in Victoria which are dear to the hearts of Victorians. They treasure them, yet the government has been unable to officially recognise their importance to the community. We are reminded of important events through these objects. Some are well known and obvious to all the community such as the Eureka flag and W-class trams, while others are hidden treasures cared for by public corporations, community groups or individuals.

Equally Phar Lap is beloved by all Victorians and is lovingly and well looked after by the Museum of Victoria yet officially it is merely one of the thousands of precious objects housed at Melbourne Museum. This amendment will enable the government to recognise the iconic value of Phar Lap in the Victorian Heritage Register. Members of the Victorian community could not understand why the Eureka Stockade site could be listed in the Victorian Heritage Register yet the flag which flew at the stockade and witnessed one of Victoria's defining moments could not be recognised as important in its own right. These amendments introduced by this bill will enable heritage objects which are important in their own right to be recognised officially by being included in the Victorian Heritage Register.

The government is serious about ensuring that Victoria's heritage is protected for future generations. Last year the government enacted stronger penalties for breaches of the Heritage Act. Following the proclamation of the tougher penalties it was suggested that broader sentencing powers should be given to the courts to bring the Heritage Act into alignment with that of the Environment Protection Act. For this reason the bill will increase the range of orders available to a court when sentencing an offender. Amongst the sentencing powers of the courts is the ability to require an offender to publish their actions in a public notice and to carry out or provide funding for a heritage project for public benefit. This program has been a very successful tool for the protection of the environment. The government believes it will equally be a successful tool in heritage protection.

The bill also introduces amendments to make the permit process more flexible for applicants. Under the provisions of the Heritage Act the executive director determines an application for permits to alter or demolish a heritage place. The Heritage Council must determine on permit appeals within 60 statutory days. The 60-day period starts the day that an appellant lodges an appeal.

While the Heritage Council can stop the clock if it needs further information to assist it in its deliberations there is no provision for the appellant to seek a delay in the process. This has created some concerns as often the appellant finds it difficult to meet the tight timeframes which the Heritage Council must adhere to. Appellants might wish to seek further professional reports or experts to support their appeal or wish the services of a particular lawyer familiar with the issues. For a developer to not have access to all supporting material to bring to their case could create an unnecessary economic burden. Recognising this procedural unfairness the government will assist by enabling the Heritage Council to stop the clock at the request of the appellant for no longer than six months on the basis of a reasonable request.

Members of the Parliament's Law Reform Committee will be pleased to note that the Heritage Act will no longer automatically enable the appointment of inspectors under the Heritage Act. Instead, consistent with its recommendations, all inspectors must be specifically appointed. This will enable that all inspectors prior to appointment will have undergone the appropriate training as was also recommended.

This bill represents a further achievement of the government's commitment to the protection of the state's cultural heritage, in recognition of the importance placed on that protection by the Victorian community.

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.

LAND (MISCELLANEOUS) 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.

A bill of this type is required at various times to support government objectives which require changes in the status of land. At some times these can be wide-ranging government priorities, while at other times changes in land status may be to assist local communities and individuals within those communities.

This bill supports the following changes.

First, it provides for rationalisation of a stratum of land at the Melbourne Cricket Ground. When the Melbourne Cricket Ground southern stand was developed areas were excised from Yarra Park and included in the Melbourne Cricket Ground reservation and Crown grant. The act provided for the excision of the two strata of land from Yarra Park and their subsequent inclusion in the Melbourne Cricket Ground. One of these strata was subsequently provided for in 1996, but the second was not, for reasons which have not been ascertained.

Following consultation with my colleague the Minister for Sport and Recreation, it has been agreed that this bill will give the remaining stratum the same status as the area set aside for the Melbourne Cricket Ground in 1934. This will enable the Melbourne Cricket Ground Trust to enforce its act and regulations over the stratum.

The Melbourne Cricket Ground is, of course, an icon for Melbourne and will be essential for the 2006 Commonwealth Games. Clarifying the status of this stratum will support the effective management of the Melbourne Cricket Ground in the interests of Victoria.

Secondly, the bill provides for effective management of Birrarung Marr. The Bracks government will observe an agreement entered into between the previous government and the City of Melbourne to permanently reserve Birrarung Marr for public recreation purposes and to appoint the council of the City of Melbourne as committee of management of the park. The council has been managing the land via a temporary arrangement, but this does not fully reflect the spirit of this agreement with the council.

The Bracks government is therefore taking action to ensure that the agreement is fully implemented. To do this it is necessary to revoke existing permanent reservations. The land will be temporarily re-reserved in the short term because the footprint of the bridge from the Melbourne Cricket Ground has not been finalised and this area will need to be revoked from the reservation. Therefore I am giving the house a commitment that following resolution of this matter I will submit to the Governor in Council a recommendation that the Birrarung Marr land be permanently reserved.

A small portion of the land over which reservations are to be revoked will be granted to Federation Square management in order to rationalise the boundary of Federation Square.

The third outcome of the bill will be to support regional health outcomes and active management of surplus land. In May 2003 Kyneton District Health Services relocated from the former Kyneton hospital site to a new $13 million hospital. It is now proposed by the Department of Treasury and Finance that permanent reservations over the former Kyneton hospital site be revoked with a view to sale of part of the site.

The site includes the original bluestone hospital constructed in 1854 as well as two other buildings included on the Victorian Heritage Register. These listings will be maintained and the historical significance of the site will be protected. There has been extensive consultation with the Shire of Macedon Ranges over future use of the site and the Department of Treasury and Finance proposes to conduct a public expression of interest process in conjunction with the shire in order to identify viable proposals for future use.

The bill will also support the construction of a 24-hour police facility at Coburg. The land to be used for this facility is presently reserved as part of the Fawkner Crematorium and Memorial Park, but the relevant portion of the land has never been used for those purposes. The site has been identified as suitable for this facility for a number of reasons, including the management of traffic on and off the site. The trustees of the Fawkner Crematorium and Memorial Park have agreed to relinquish their interest in this land.

The facility was announced by my colleague the Minister for Police and Emergency Services in August last year in conjunction with the mayor of the City of Moreland. The Bracks government believes that the development of this facility will be very important in providing round the clock services to the citizens of this part of Melbourne.

I am pleased that this bill will also facilitate a land exchange at Queenscliff over part of the former commonwealth defence land for parcels of reserved land in the vicinity.

The former Crows Nest army barracks is no longer used and was recently sold by the commonwealth to a private sector entity. Much of the land contained within the former barracks site has been fully developed, but a portion of it contains valuable native vegetation and adjoins the coastal reserve. Sidcorp Pty Ltd has agreed with the state to exchange this portion of the land for two parcels of land with lesser conservation values currently owned by the state.

Following the exchange the former commonwealth land will be added to the foreshore reserve and will be available for use by the people of Victoria. I wish to publicly recognise the civic-mindedness of the directors of Sidcorp who have agreed to exchange the land at no cost to the state, notwithstanding that the land which they currently own has a higher monetary valuation than the land which will be exchanged.

The final item in this bill is one in which the government is pleased to support an individual and the local community in rationalising reservations. The Sandhurst water reserve contains within it a government road which provides the sole legal access to a freehold allotment. The former Rural Water Commission and its successor, Coliban Water, have been concerned that this local road is unsuitable for public use and could create difficulties for the authority in managing the reserve.

An alternative access route for the freehold landowner was constructed by the local government authority in 1986 over an underutilised part of the water reserve but the legal arrangements for this were never put in place. This bill provides for revocation of a portion of the permanent reservation and amendment of the Crown grant. This will enable subsequent proclamation of the new road. Both

Coliban Water and the City of Greater Bendigo, as well as the proprietor of the freehold land, support this action and the Bracks government is pleased to support local communities in the enhanced management of the land in their district.

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.

TRANSFER OF LAND (ELECTRONIC TRANSACTIONS) 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 bill is the culmination of over four years of consultation and partnership with the Victorian conveyancing industry. January and February this year saw my department undertake further significant stakeholder consultation relating specifically to the content of the bill and the associated supporting electronic systems. Stakeholder information sessions were held in eight regional centres and the metropolitan area. All sessions were well attended by conveyancers, legal practitioners and financial institutions and I would like to thank all of those stakeholders who gave their time to attend the sessions and provide input into the development of the bill.

In introducing electronic conveyancing, Victoria will lead Australia by being the first state to offer online property settlement, reducing the cost of conveyancing and providing potential savings through time savings and costs of about $100 million a year. Using the electronic conveyancing system will allow solicitors and conveyancers to do away with the need to physically meet in order to complete a property settlement. Instead the entire settlement transaction will be able to be completed online. Gone will be the days when a settlement required the drawing of high-value bank cheques and transporting them all over town. Instead settlement will simply occur through an electronic funds transfer, which will provide both the vendor and purchaser with more convenience and security.

The electronic conveyancing system will not replace the traditional paper-based conveyancing system, it will simply provide an alternative means of conducting conveyancing transactions, from settlement through to the registration of the instruments supporting the transaction. Those in the community who wish to continue using the paper-based conveyancing system will not be disadvantaged by the introduction of an electronic conveyancing system. Care has been taken to ensure that the government guarantee of title continues in the electronic title legislation system, but it has not been extended to the prelodgment component of conveyancing, particularly financial settlement and exchange of funds.

The Transfer of Land (Electronic Transactions) Bill is one of the most significant changes to property law in 100 years. If the estimated 400 000 annual property transactions able to be conducted online use the electronic system, then the savings in transaction time and paper alone would annually yield more than four times the $24 million investment the government is making in implementing this new system.

In developing the system, I would like to acknowledge the peak industry bodies who have worked on realising electronic conveyancing. I thank the Law Institute of Victoria, Victorian Conveyancing Association and the Institute of Legal Executives for their much-valued support. The government will continue to work closely with these bodies in the final implementation stages of the electronic conveyancing system. Without input from these stakeholders it is unlikely that an electronic conveyancing system would have been developed at all.

The purpose of this bill is to ensure that the handling and registration of electronic instruments relating to the transfer of land is validly authorised under Victorian statute. The bill further provides for improved security in the administration of the Torrens land registration system through the introduction of a new identity verification power.

I now turn to the specific provisions of the bill.

Verification of identity

Identity fraud is an emerging issue for many areas of the economy, the transfer of land being no exception. There have been a number of recent cases in other Australian jurisdictions where identity fraud has played a part in an unauthorised transfer and registration of interests in land. These fraudulent transactions have the potential to cost the government and mortgage providers millions of dollars and deprive landowners of their property.

In order to prevent unauthorised land transfers and protect the integrity of the register a new verification of identity will enable the registrar of titles to require a party to a land transaction (either paper-based or electronic) to provide evidence of their identity before the transaction instruments are registered. Once the registrar is satisfied that the transaction party or parties are clearly identified and entitled to deal with the property, the transaction can be registered in the normal manner. This provision is consistent with the recommendations of the recent inquiry into fraud and electronic commerce conducted by the Drugs and Crime Prevention Committee of Parliament.

Registrar may provide electronic lodgment network

In order to conduct electronic conveyancing a computer system is required to facilitate the electronic lodgment of electronic instruments. The registrar of titles will be specifically empowered to establish and maintain a computer system (known as the electronic lodgment network) for the purpose of accepting electronic instruments for lodgment and assessment of acceptability for registration.

Agents for lodging electronic instruments must be eligible persons

There will be a prohibition on the lodgment of electronic land transactions on behalf of any person unless there is a valid agency agreement between the network user (the agent) and his or her client (the principal). This prohibition will protect landowners from having their property transferred without valid authorisation. The provision also ensures that the formal authority requirements of the Instruments Act 1958 are complied with when the transaction is lodged electronically.

Duty of registrar in relation to priority of electronic instruments

The priority of electronic instrument lodgment will be exactly the same as for registration of paper applications. That is the instrument that is lodged first in time with the registrar will continue to have priority.

Evidence of registration of electronic instrument

The registrar of titles will be empowered to produce paper documents, which will be evidence of electronic instruments registered via the electronic lodgment network. These documents may be presented to the courts as direct evidence of the content of the electronic instruments.

The registrar may also produce an electronic record of any instrument lodged in the electronic lodgment network and certify its contents.

Registrar may require production of documents

The registrar will have the power to require the retention and production of any supporting or authenticating documentation relating to an electronic instrument. This power will ensure that the integrity of the electronic instrument lodgment system and the register is protected from being tainted by poor quality unauthenticated data. The provision will also provide a means of ensuring that all transactions lodged on the electronic registry network are validly authorised.

Registrar may specify matters to be certified

In the electronic conveyancing system there will be many cases where the supporting documentation to a transaction is not provided to the registrar with the electronic instruments. This is a significant change from the paper system where all of the supporting documentation is provided with the instruments. Thus the registrar will be provided with a power to require matters to be certified where the supporting documentation is absent.

An example of a circumstance where a certification is likely to be required is the transfer of land to a surviving spouse. In such a case the lodging party will be required to certify that she or he holds the death certificate of the deceased person.

Amendment to the Instruments Act 1958

Historically all dispositions of interests in land have had to be evidenced in writing in order to be valid. The law relating to this requirement is located in the Victorian Instruments Act 1958 at section 126. The condition is often referred to as the statute of frauds requirement because it originated from the English act of Parliament called the Statute of Frauds enacted in 1677.

Under the electronic conveyancing system dispositions will be evidenced by electronic instruments, which will be declared by law to meet the requirements of the statute of frauds. This will remove any doubt as to the instruments' validity because it is in an electronic form.

This bill will facilitate electronic conveyancing, a significant advance in the operation of the property market in Victoria. It will lead to benefits to property conveyancers, solicitors and financial institutions, which will in turn flow through to customers.

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.

CORRECTIONS (FURTHER AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) 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 Corrections Act 1986 in two areas with the intention of further strengthening the recognition that this government has given to the needs of victims. Firstly, the bill lays the legislative framework for the establishment of a victims register in Victoria. Secondly, the bill gives statutory recognition to the right of victims to lodge a victim submission with the Adult Parole Board.

Victims register

The victims register will operate by allowing specified victims to receive particular information during the administration of the offender's sentence of imprisonment. The information that a registered victim may receive will include the prisoner's earliest release date, eligibility for rehabilitation and reintegration permit programs, interstate or international transfer and other like information.

Potentially, some of the information to be released will be confidential. The release of confidential information is generally prohibited by section 30 of the Corrections Act, subject to several exceptions.

Section 30A of the Corrections Act would currently permit the release of the information to primary victims who were on the victims register. However, primary victims as defined in that section are a narrow group. For example, the family member of a deceased primary victim would not be able to request and receive information under section 30A of the act, nor would a victim of a criminal act of violence committed interstate but whose offender is serving a sentence of imprisonment for that crime in Victoria.

The victims register is intended to provide a service to a wider range of victims than those currently defined in section 30A. Therefore, amendment is required to the act.

The bill will increase the range of victims eligible to request information under section 30A. 'Victim' will now be defined as:

> a person who has had a criminal act of violence committed against him or her;
>
> a family member of a person who has died as a direct result of a criminal act of violence committed against that person;
>
> a family member of a person who —
>
> > has had a criminal act of violence committed against that person; and
> >
> > is under 18 years of age or is incapable because of mental impairment;
>
> a person who is or has been a spouse or domestic partner of the prisoner and has an intervention order (other than an interim intervention order) in force against the prisoner.

'Family member' under the provision has been defined broadly to encompass step-relatives and in-law relations along with spouses, children, parents, siblings, grandparents, grandchildren, uncles, aunts, nieces and nephews. However, in order for a family member to receive information from the secretary by virtue of being on the register, the family member must show, to the satisfaction of the secretary, that he or she is or was the primary care giver or next of kin of the person against whom the relevant criminal act of violence was committed.

A person who falls into the definition of 'victim' will be entitled to registration on the victims register. The victim need simply apply in writing to the secretary for inclusion on the victims register. However, the bill also provides some flexibility to persons who do not fall within the definition of 'victim' under section 30A but who would justifiably have a claim to information about a prisoner. The secretary is vested with discretion to approve the inclusion of a person on the victims register if that person:

> is not within the meaning of 'victim' under section 30A but can demonstrate, to the satisfaction of the secretary, a documented history of domestic violence being committed by a prisoner against that person; or
>
> can demonstrate, to the satisfaction of the secretary, a substantial connection to the offence for which the prisoner is serving the sentence of imprisonment.

The secretary will be able to develop guidelines, to be approved by the Minister for Corrections and the Attorney-General and be published in the *Government Gazette*, in relation to the exercise of this discretion. The secretary must also report annually to the Minister for Corrections and the Attorney-General in relation to the applications made under these categories and the incidences of approval.

Any person on the victims register will be permitted to name a nominee to receive information under section 30A on his or her behalf. However, when applying to do so the applicant must:

> give details of the nominee's relationship to the applicant; and
>
> give the reason that the applicant wishes the information to be disclosed to the nominee rather than directly to the applicant.

The intended nominee will also be required to give an undertaking, in a form to be prescribed, that he or she will not disclose information received under section 30A otherwise than in accordance with the act. This undertaking is to accompany the application.

The bill permits the secretary to include a nominee's details in respect of the applicant but also recognises that the secretary may refuse to include the nominee's details. The secretary may exclude the nominee's details where the secretary believes on reasonable grounds that the disclosure:

> may endanger the security of any prison, the safe custody and welfare of the prisoner or any other prisoner, or the safety and welfare of any other person;
>
> may result in contravention of the offences in relation to inappropriate use or disclosure of information relating to the personal affairs of a prisoner.

In recognising that some of the information released will be confidential information, the bill stipulates that a person included on the victims register and that person's nominee (if any) who receives information from the secretary under section 30A must treat that information in an appropriate manner that respects the confidential nature of the information. This general statement is also supported by the creation of several offences associated with inappropriate disclosure or use of information relating to the personal affairs of a prisoner. The bill provides that:

> a person must not publish, or cause to be published, in the print or electronic media any information relating to the personal affairs of a prisoner if that person knows that the information has been disclosed under section 30A;
>
> a person must not, for the purposes of publication in the print or electronic media, solicit or obtain information relating to the personal affairs of a prisoner from a person who is or was included on the victims register or that person's nominee;
>
> a person who is or was included on the victims register or that person's nominee must not disclose any information relating to the personal affairs of a prisoner which has been disclosed under section 30A if that person reasonably believes that the information is likely to be or will be published, or caused to be published, in the print or electronic media.

The prohibitions on inappropriate use or disclosure of information relating to the personal affairs of a prisoner will not prevent disclosure of such information to the person on whose behalf the nominee received the information or to an authorised person, such as a police officer investigating an offence or a registered medical practitioner during treatment in relation to the criminal act of violence inflicted on the victim.

The maximum penalty for committing an offence against these provisions will be 60 penalty units which is consistent with the penalty for existing offences in the Corrections Act. The first two offences will also carry a body corporate penalty of 1200 penalty units.

Victim submissions

Currently, the Adult Parole Board will accept submissions from victims regarding release on parole, but this process has developed in an ad hoc manner and is not a matter of right.

The bill amends this situation by giving a statutory right to persons included on the victims register to provide a written submission to the Adult Parole Board before it determines whether to make a parole order in respect of a prisoner. The bill provides that the victim submissions must address matters relating to the person's views about the effect that the potential release of the prisoner on parole will have on that person and may include comments from the person as to any terms and conditions to which the parole order may be subject. Regulations may be made to prescribe other requirements of a victim submission.

Once a victim submission is provided to the Adult Parole Board, the Adult Parole Board must consider the submission in relation to the matter being determined but may, in its absolute discretion, give that submission such weight as it sees fit.

The Adult Parole Board must not release the victim submission to the prisoner unless it is of the opinion that release of the submission is essential in the interests of fairness and justice and that the author of the submission has either:

given consent to the release of the submission;

amended the submission so that it can be released; or

withdrawn the submission from the Adult Parole Board's consideration.

Where no action is taken by the author on request, the Adult Parole Board is still not permitted to release the submission to the prisoner and must still consider the submission but may reduce the weight that it would otherwise have given to the submission.

Regulation-making power

While the act sets out who may be included on the victims register and the maximum scope of information that a registered person may receive, the regulations will be used to fix other necessary details of the register. Therefore, the bill will insert new provisions to provide that regulations may be made to:

regulate the establishment and keeping of a victims register;

regulate the manner of application for registration by persons wishing to be included on the victims register; and

regulate the manner and circumstances in which a person may be removed from the victims register.

The bill also includes provision for the making of regulations in relation to matters to be included in victim submissions.

The bill will come into operation on a date to be proclaimed. However, if the bill does not come into operation earlier, it will come into operation on 30 August 2004.

I commend the bill to the house.

Debate adjourned on motion of Hon. RICHARD DALLA-RIVA (East Yarra).

Debate adjourned until next day.

HEALTH SERVICES (SUPPORTED RESIDENTIAL SERVICES) BILL

Second reading

Ordered that second-reading speech be incorporated for Mr GAVIN JENNINGS (Minister for Aged Care) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The Health Services (Supported Residential Services) Bill amends the Health Services Act 1988. Under that act and the Health Services (Supported Residential Services) Regulations 2001, the government licenses and regulates supported residential services, known as SRSs. These facilities provide services to people in need of accommodation and assistance with daily living.

SRSs are generally privately owned and operated businesses that are required to be registered as health service establishments in accordance with part 4 of the act. A broad range of people may live within an SRS including older citizens who, due to increasing frailty, are no longer able to live independently and need assistance with daily activities such as washing, eating or mobility. Other residents may include people with a physical, psychiatric, intellectual or other disability who require care and support.

In October 2003 there were 216 registered SRSs throughout Victoria catering for up to 7184 residents. The vast majority of SRS proprietors provide a high quality service to their residents, and government is committed to working with the sector to ensure that residents receive the best possible care. There is, however, a need to ensure that where the care of residents is at risk, government has the necessary powers to take action.

The introduction of these amendments to the Health Services Act are only one part of our government's effort to work more effectively with the SRS industry. The government has made it a priority to work with the community visitors, industry representatives and resident representatives to improve government's regulatory role.

The government has established a comprehensive strategy that focuses on improving services for residents, supporting proprietors, facilitating industry sustainability, building

relationships with key stakeholders and improving regulatory practice.

Some of the initiatives in this area include:

- training SRS staff in relation to working with people with challenging behaviour and developing their care planning skills;
- development of forms and processes that will enable proprietors of SRSs to gain information about the needs of residents from other health practitioners, such as doctors and community health centres, who are involved with their care;
- information seminars for new and prospective proprietors about their responsibilities under the Health Services Act in becoming a proprietor;
- the SRS sector has also benefited from government expenditure of $30 million over three years (2000–01 to 2002–03) on targeted support services through such programs as home and community care, mental health programs and dental health programs, to support those people who are homeless and/or living in other low-cost accommodation settings such as boarding houses and SRSs.

Overall objective of the bill

As part of government's intention to improve the regulatory monitoring of the sector, the changes contained in the bill underpin these initiatives that, in line with government policy as expressed in *Growing Victoria Together*, enhance high-quality, accessible health and community services while promoting rights, respecting diversity and reducing inequalities within the community.

The roles and responsibilities of both the government as regulator and the proprietors of SRSs are articulated in the act and regulations, as are the overall objectives of the sector in providing accommodation and support to the residents, who include some of the more vulnerable members of our community.

The nature of the amendments

The principles applying to the provision of services to residents are found in section 10 of the act. In summary, all SRS residents are entitled to:

- respect, dignity and privacy;
- a safe and homelike environment;
- high-quality care appropriate to their needs;
- have an effective voice in matters that concern them; and
- social independence and freedom of choice to the extent that it does not reasonably infringe the rights of others.

The proposed amendments are intended to strengthen the standard of services to and the protections for residents of SRSs within that context.

They are intended to ensure that residents or others acting on their behalf are aware of which services are available at a particular residential facility so they can make an informed choice about which facility best meets a person's health and care needs, and that proprietors are accountable for the services they have offered.

The key amendments regarding services to residents are:

- proprietors will be required to provide prospective residents with accurate and up-to-date information about the services available at the SRS. This will better enable informed choices to be made;
- proprietors will be required, within 48 hours of a person taking up residence, to prepare an accurate written statement of the services to be provided, and the fees and charges applicable. This statement, known as a residential statement, will be required to be signed by both parties, and will serve as a record of the service agreement between the proprietor and the residents, who do not have the statutory protections of residential tenancies legislation;
- proprietors will be required, within 48 hours of a person taking up residence at an SRS, to prepare an interim care plan, identifying the immediate health and personal care needs of that person, and the services to be provided to address them. This will assist in these needs being able to be promptly addressed;
- within 30 days, an ongoing care plan must be developed that addresses all the special and personal care needs of the resident. Proprietors will be required to review and update the care plan at least every six months. Care plans are the basis of ensuring that residents receive the services appropriate to their changing needs;
- proprietors will be able to manage or control an amount of money on behalf of a resident, apart from moneys owing as fees for services, only with the consent of the resident or the resident's administrator and only up to a certain amount. However, proprietors cannot manage or control other assets of a resident, nor can a proprietor or an employee of an SRS accept appointment as the guardian or administrator of a resident of that SRS. These provisions are intended to remove any potential for conflict of interest;
- proprietors will have the responsibility of ensuring that any person employed in giving personal care is a fit and proper person to work with the residents of the SRS.

Proprietors

Other amendments focus more on proprietors. The secretary's role of assessing the fitness and propriety of prospective SRS proprietors is important in promoting quality care for residents. There is lack of clarity and consistency in the existing registration provisions that creates administrative difficulties for the regulating department and confusion for proprietors. A number of technical amendments seek to clarify these provisions and streamline their operation.

There is already in the act a power for the minister to appoint an administrator to an SRS. The current act sets out a number of circumstances in which an appointment can occur, and describes the role of the administrator as ensuring the maintenance of health services to the residents, whether in the same facility or by arrangements being made for their relocation elsewhere. There have been difficulties with the practical implementation of these provisions in their current

form, principally due to a lack of clarity about what powers the administrator can exercise in achieving the purpose of the administration and the nature of the relationship between the role of the administrator and the ongoing responsibilities of the proprietor during the period of administration.

The bill adds an additional ground for the appointment of an administrator, such that an appointment can be made if the minister believes it is necessary to protect the interests of the residents. This means that in circumstances where the proprietor, on a temporary basis, is unable to guarantee the continuation of such services to residents as assistance with the provision and eating of meals, or in taking medication or in maintaining health and personal hygiene on an everyday basis, an administrator can be appointed to operate these and other services until the proprietor is in a position to resume providing them.

The bill also sets out in more detail the functions and powers of an administrator. Under the current act, the proprietor is liable for the costs of the administration. The new provisions in the bill enable an administrator to take action to provide necessary goods and services, for example, or employ staff, in the name of, or as agent of, the proprietor. With this mechanism, the bill more explicitly empowers an administrator to do anything that it is necessary to do to maintain the accommodation and services to the residents that the proprietor had agreed to provide, without detracting from the continuing responsibilities of the proprietor during the period of administration.

The bill also provides that an administrator is subject to directions by the secretary and must abide by guidelines issued by the secretary regarding the role of administrators appointed to SRSs.

Monitoring of standards of care

Other amendments ensure that community visitors are able to continue to perform their valuable role as advocates for residents. The bill removes restrictions in the act on who may make a complaint to a visitor. The bill will also ensure that up-to-date records of residents and rostered staff are available to community visitors on request.

The government has consulted with the Association of Supportive Care Homes representing proprietors, and the public advocate and community visitors board representing residents, during the development of the amendments in this bill. We have received support from these groups on the bill that I speak to today.

The government takes this opportunity to recognise the work of SRS proprietors and community visitors and commends them for their commitment and willingness to work in an area that is often overlooked in its services to a vulnerable group of people.

I commend the bill to the house.

Debate adjourned on motion of Hon. ANDREA COOTE (Monash).

Debate adjourned until next day.

ESTATE AGENTS AND TRAVEL AGENTS ACTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Consumer Affairs).

Mr LENDERS (Minister for Consumer Affairs) — I move:

That the bill be now read a second time.

The primary purpose of the bill is to amend the Estate Agents Act 1980 to widen the general purposes for which the Estate Agents Guarantee Fund can be used, and to specify additional purposes to which excess moneys from the fund can be applied. Its secondary purpose is to amend the Travel Agents Act 1986 following its review under national competition policy.

Currently section 75 of the Estate Agents Act sets out the core consumer protection purposes of the fund, which are primarily to guarantee consumers against defalcations by estate agents and support the administration of the act. Section 76 sets out specified additional purposes to which excess moneys from the fund may be applied, such as promoting the mediation or conciliation of disputes between estate agents and the public.

The fund has been generating surpluses of the order of $25 million per year in recent years, and the current purposes under section 76 have been in place since 1994. In 2003, following the national competition policy review of the act, it was recognised that it was timely to reconsider the purposes of the fund. The fund is an important resource for the people of Victoria. The purposes therefore need to be updated to allow for a broader use for current social and community needs of users of land in Victoria. These include reviewing the regulation of the changing ways in which people are using land for accommodation. For example, an ageing population has highlighted the important role of retirement villages, and the trend towards high-density living arrangements has highlighted the role of bodies corporate.

The bill will broaden the operation of section 75 by expanding the general purposes of the fund to include other relevant consumer protection purposes. These include funding of the administration of the regulation of bodies corporate under the Subdivision Act 1988 and retirement villages under the Retirement Villages Act 1986. They also include the funding of the residential tenancies list at the Victorian Civil and Administrative Tribunal.

The range of purposes under section 76 will also be expanded. The proposed amendments will allow funds to be used to assist with dispute resolution and advocacy services for retirement villages and their residents and bodies corporate and their members. The proposed broader purposes also create the opportunity to use the fund to assist with the provision of housing for low-income or disadvantaged Victorians, to contribute to the development of environmentally sustainable housing and to the protection of Victoria's natural and architectural heritage. These changes

are consistent with the original objects of the fund before the 1994 amendments.

To reflect these broader purposes, the fund will be renamed the Victorian Property Fund.

Turning now to the Travel Agents Act 1986, the Centre for International Economics completed a review of the national scheme for the regulation of travel agents under the auspices of the Ministerial Council on Consumer Affairs in March 2000. It concluded that the principle of competitive neutrality required that government-owned travel agency businesses should face the same regulatory requirements as their privately owned equivalents. The bill implements the recommendations of the review by ensuring that the Crown is now bound by the act.

The bill otherwise makes some minor clarifying amendments to the Estate Agents Act 1980.

I commend the bill to the house.

Debate adjourned on motion of Hon. A. P. OLEXANDER (Silvan).

Debate adjourned until next day.

ROAD MANAGEMENT BILL

Second reading

Debate resumed from 21 April; motion of Ms BROAD (Minister for Local Government).

Hon. R. H. BOWDEN (South Eastern) — I rise to make a contribution on the Road Management Bill 2004. The first time I saw the second-reading speech, I must admit that I felt a sinking feeling based on several years of experience in this place, because, regretfully, it is true that when one sees a second-reading speech of this length it may contain spin and misconceptions, and often it runs the risk of embellishing the noble sentiments of those who support the bill.

Sure enough, page 2 of the 28 pages that comprise the second-reading speech has some bureaucratic buzzwords, such as:

... legal framework for the management of the public road network ... through the democratic process ... implement sound road management policies and practices.

Even before I got to page 3 I was becoming nervous for that reason. There is an interesting earlier paragraph — about paragraph 3 — on page 2 which talks about:

... assessment of needs... the setting of priorities... tasks that are best carried out by publicly accountable bodies. At a local level, this means councils...

and the accountability that councils have at the state level and state government agencies such as VicRoads. I am not a cynical person, and I hope I never become cynical, but I started to feel uneasy about this. Among the many councils in this state there are many fine councillors who are there for good and public service reasons and who are anxious to serve their communities. But regrettably some councils are unresponsive to the needs of communities, which I will come to later in my contribution.

To highlight VicRoads, from the experience I have had as a member representing a large electorate of approximately 150 000 voting constituents, I suggest to honourable members that VicRoads is not responsive in some aspects. On a personal level I have some real concerns about giving VicRoads some of the extra power, authority and discretion that is prescribed in the bill. I have made contributions several times in this chamber about the Western Port Highway and the unresponsiveness of VicRoads in relation to what is the worst intersection in my entire electorate, which is at Baxter. VicRoads is unresponsive and uncaring, and I am not interested in giving it any more power or authority until it proves to be more responsive to the needs of the community. In my book its recent performance is such that it should not be given extra power. Be that as it may, the bill provides for that.

The legislation is a clear indication that many government members have lost touch with reality. It is not in my opinion a roads bill; it is a very sophisticated tax grab. It is a bad example of shifting costs from one sector of the government to another. I understand and believe it will inevitably lead to bigger government, higher costs and much inefficiency. I suggest that the bill is more a Treasury bill than a roads bill. It is a tax grab by the state government, heavily disguised by shifting the responsibility of roads from the clearly understood, clearly delineated line responsibility of state government to a bureaucracy and also a co-bureaucracy, the council, that may be the road management authority delineated and defined for that particular area. To me it sends a loud signal that the government is more interested in providing funds for its warm, fuzzy social agenda where it can put spin and pronouncements leading to what it hopes is public praise. The normal responsibilities of infrastructure and the need to build better roads and improve the efficiency of our transportation system and our economy are somewhat neglected through this strategic approach. Therefore there are winners and losers in this bill.

This is a very important bill. I would suggest to honourable members that it is one of the most important bills that has been before this house for a long, long time. It joins that exclusive band of bills that are critical

to the operation of our economy. Given the size of the infrastructure that is represented by our roads network, this bill has importance way beyond that which has already been publicised. The winners in this bill are the Treasury, bureaucrats in both the state government and local government and VicRoads. They are clearly winners in their bureaucracies.

The losers are all other Victorians including road users and utility providers and ultimately, through that network, the average citizen of Victoria. They are the losers. But especially the losers will be those citizens living in rural and regional Victoria.

Councils should be very concerned. They will need to add to the cost structure in a significant way in order to meet the obligations that are being invested in them by the state government through the transmission of this bill into an act. On first reading — but they are well beyond that I believe — councils may say, 'This is great. We are having 14 000 kilometres of state roads transferred from councils to state government'. But on the other hand it is possible for VicRoads as the state agency to transfer any or all of those assets back to the council with a clear requirement that the council must provide adequate road management plans for safe transit. That has enormous cost implications. It not only has staffing implications but also all sorts of other considerations like standards, maintenance, the provision of safe passage over those roads and the development of what is expected to be a whole series of differing standards depending on the ability of a council to afford a standard of road that is required by the people who need to pass over that area. The mechanism for transferring roads back and forth is contained in clause 15, 'Arrangements between road authorities to transfer road management functions'. Clause 16 has the designated road provisions. These are on pages 30 and 31 of the bill. It is very clear that in clause 16 the minister may designate a road to be a project.

However, there are requirements for infrastructure and roads that are travelled over by the public to be considered in addition to what we would normally consider to be a road — the approaches to and from shopping centres and other large areas of land to which the public has regular and expected access. I will come to examples of that perhaps later in my contribution.

In the first Bracks government the Honourable Bob Cameron was the Minister assisting the Minister for Transport regarding Roads. I note with regret that the present state government does not have a minister for roads specifically. Roads are incorporated in the transport ministry and so, yes, there is a minister responsible for roads. Ultimately it is the Minister for Transport. But in that large ministry the minister has to administer there are major segments such as ports and roads where before there were separate ministries. The Honourable Candy Broad, who is in the chamber this afternoon, was a previous Minister for Ports. I had the opportunity to work with her on one or two items involving the coastguard, and there were some very satisfactory outcomes to those negotiations.

Today we do not have that. In the present Bracks government we have the Minister for Transport, but these very large and very important infrastructure sections such as ports and roads are not headed up specifically in that section of the administration by a responsible minister on a day-to-day basis. They are under the encompassing ministry of transport. I think that is extremely important, because the decisions that are made by the VicRoads administration can and will have enormous cost implications for ordinary users of our road network. The abilities of VicRoads under the provisions of this bill will have great cause for concern for property owners in terms of cost recovery for future investment in infrastructure.

Difficulties are also expected with councils because when they are declared to be road management authorities for the roads in their geographic area, the councils will be required to develop road management plans, and I understand those road management plans are required to be available by 1 July. In South Eastern Province several councils have large road networks of enormously varying quality. Many kilometres are unsealed and many are sealed to a very limited nature. In other parts of Victoria there are huge council areas with extremely long roads which require constant maintenance and upgrade. The difficulty is that once responsibility for the management of a road plan is transferred to a council, then the cost implications for the management, supervision and maintenance of that road network under that plan become part of the council's financial obligations. Therefore there is expected to be a large impact on the cost structure and the ability of councils that have these responsibilities being brought forward, to the point where that impact may present great hardship for rural ratepayers in particular.

I do not believe this will have a huge impact on the municipalities that are extremely close to the central business district which already have their road structure and infrastructure in place and where upgrades happen on a regular basis. The need for constant improvement in our road structure is greater in the outer suburban, regional and rural areas, and at times those councils are the least equipped to maintain, plan, inspect and organise an orderly road system.

If one made a trip from Melbourne to the South Australian border, and did not stay on the main highway, under the provisions of this bill it is possible that as you move from one council jurisdiction to another you may travel on a lesser standard of road, a lesser-maintained standard of road or a better standard of road depending on the economic circumstances of a council, and that is most regrettable. One of the aspects of travelling across Victoria today is that whilst the roads in rural Victoria in particular may not be wonderful — or even very good in some places — at least there is some standardisation by category of road.

One of the negatives and a difficult aspect to accept about this bill is that over a short time — a few years — each council in the rural areas will have to accept either modest or lesser standards of roads depending on its ability to fund road construction and maintenance. That will be very much to the detriment of our communications and our road system. Opposition members are very concerned about the impact on councils and the impact on costs that this will imply. Regrettably there will ultimately be a situation where courts will have to decide whether an individual council's road standard and management practices were adequate.

It may be that on a road trip across Victoria, travellers driving through the area of a certain council and moving across a boundary into another council's area might have an accident or find that some difficulty arises and there is damage or people are hurt and so forth, and a court case arises. After a lengthy process of delay and cost, the courts will have to decide whether the road was or is adequate and whether it was or is maintained properly, and all of those things. That is certainly possible under the provisions of this bill.

I suggest to honourable members that this is a retrograde step; it is not a good thing from the point of consistency and transferring cost from normal state budgeting across to council budgets for a large portion of Victoria. Councils have indicated to members on this side of the house their real fear and their clear reluctance to wholeheartedly embrace the concept that the government is putting forth through the provisions of this bill. The opposition suggests to the government that this is not a good bill for the reasons that I have spoken about so far. We believe that the arrangements where VicRoads can make very strategic decisions affecting a council, as to whether a road is or is not part of its system but without appeal except to the minister, is cause for difficulty.

One of the aspects of the bill we are quite concerned about is that it appears the only avenue of appeal is to the minister. If a council is unhappy with the high cost or the impost of a responsibility for a certain road, then the only avenue of appeal — apart from trying to negotiate through the VicRoads system — is to the minister at the time. The appeal mechanism is limited. It is by no means predictable, and we are uncomfortable with that as an appeal mechanism since it is so singular and since it is not subject to a check or balance — or at least to some further, wider ability to have the case argued other than before the minister.

When it comes to the principles of transferring responsibility for the roads, on first reading it seems interesting and perhaps good that this huge 14 000 kilometre section of road is coming back to the state government, but I suggest that they are probably the best roads and the ones that need the least maintenance. As honourable members will probably realise and accept, it is not necessarily the cost of building a road that is the biggest cost; over time the biggest cost is its maintenance.

Members may like to cast their minds back to the corrugations they have seen on gravel roads they have travelled on from time to time. A good gravel road which has been recently maintained is smooth and quite reliable, but after a short time you get corrugations, and that changes the whole nature of the road. Inevitably there will be occasions where councils may want to downgrade their roads and take off the asphalt because they cannot afford to maintain the asphalt cover, and as part of their management plans they will want to go back to having gravel or dirt roads. But that is a very retrograde step. Some suggestions have already come through from different parts of Victoria that some councils, simply on the basis of affordability, will have to do that. If councils are required to do that, we would all be the poorer for it.

I would like to mention the situation that affects utilities. Some councillors believe that utilities have had a very favourable set of circumstances that gives them access to infrastructure belonging to municipalities and that they have not paid their fair share of the costs for the rights to use the space or infrastructure involved. Part of this bill relates to the ability of councils to invoice and charge utilities on an assessed basis. This is cause for real concern and reflection, and there is a high degree of doubt as to its desirability. For instance, councils are now able to require a very detailed assessment and access permit application process. Councils can now require utilities to provide a very detailed program notification as to the work they will do. And under the provisions of the bill councils have the right to inspect, approve, authorise and totally

supervise utilities in the use of resources they seek to, and ultimately do, gain access to.

On the one hand that is arguably not unreasonable, but on the other hand there is a serious aspect that we need to be quite concerned about. In the main, utility providers — whether for electricity, gas or water — are implementing programs and resources based on technology. High-voltage technology is often involved in delivering electricity through our grid, the gas industry requires sophisticated pipes and pressure-controlled systems and water is much the same. It is possible to conclude from reading this bill that councils will have the right to set standards. I think that is entirely inappropriate, because I do not believe that councils — even with the best of wills, best of wishes and so forth — have the resources, technology, staff and ability to suggest to utilities what they should do and to control what utilities do in a given council area. The principle is understandable; the practice could be very difficult.

One of the problems with this is that in terms of the application process there could be undue delay in a utility getting legal access to the council's resource or land. There could also be differences of opinion between the council and the utility as to the technology to be used. Councils will inevitably place restrictions on permits to utilities that will have, I expect, a negative impact on work practices, the availability of suitable labour and the access utilities require for emergency repairs. The conditions councils will place on utilities will not only drive up costs but may in several instances add to delays in providing the necessary service, which is often of an essential type. In the case of the utilities providing electricity through the grid, delays of that kind could have an enormous negative impact on commercial businesses, enterprises and indeed the health of many thousands of constituents if it is a wide area, because some people require a reliable supply of electricity for health equipment and machinery. Our economy has a high degree of computerisation, so it is important that if there is a fault in the system we do not have unnecessary bureaucratic delays in access and restoration of the essential service, whatever it is.

I am very concerned about the ability of councils to influence the cost and the system that the utilities will have to follow. I suggest to honourable members that utilities are equally concerned. Whilst they are in the business of providing essential services, in the main they are very acutely aware of the impact their costs and ultimate pricing have on the community. Over many decades we have developed an expectation as a community in Victoria — and indeed throughout Australia — that our electricity, gas and water utilities will provide high-quality, reliable, essential services at a cost the community can afford. I suggest to honourable members that the provisions of this bill that enable councils to charge without constraint for access to their areas should be viewed as a danger and a warning sign. There is no such thing as a free lunch — we have all heard about that — and there is no such thing as councils just charging utilities for the cost of access and of other services they may provide. It will inevitably lead, through the cost process, to higher electricity, gas and water charges.

It is naive in the extreme for the people who prepared the bill and for the government to believe that those costs can be transferred to the utilities without the impact of raising the essential service price for consumers. The opposition is extremely concerned about that. There will be multiple consent and inspection processes, which in turn will inevitably mean that councils will have larger staffs. Apart from larger staffs, the additional specialist technical and administrative people required under the provisions of the bill will be paid for under the rate process, I assume, and therefore the cost level and the impost of the cost structures through the staffing processes of a given council would need to be carefully considered.

Firstly, we have the unwelcome pattern emerging where roads will be in the care of councils in a large part of the state. Councils will probably not, in many cases, be able to afford to pick up the costs but will have to pass them on to their ratepayers. VicRoads is happy because in many cases it is able to get rid of high maintenance roads and, under this bill, it has the right to do that. Councils will be left with unhappy ratepayers because they are picking up this situation.

The bill also raises concerns about the basic access to roads and right of passage. The second-reading speech states in part:

> The bill sets out the basic rights and responsibilities of road users. It confirms the fundamental common-law principles that roads are public open space, made available for use by members of the public, and that all individuals have a right to travel over public roads.

I do not know if all members of the chamber saw a newspaper article in the last few weeks about a council — I will not name the council because I am not entirely sure which one it was — which had Victoria Police issuing tickets to drivers because they were travelling through the council's roads when they could have used CityLink travelling to the airport. Those traffic infringement notices issued by Victoria Police were in the vicinity of $110. That is a warning sign. Under the provisions of this bill Victorian councils will

have the ability to implement road management plans, and if they follow the lead of that council, which is putting restrictions on normal legal traffic on its roads for ordinary motorists in the Melbourne area, we can expect a great deal of trouble. A council may say that local residents can travel down roads 1, 2 and 3, but visitors cannot. This is a straw in the wind. I would be only too pleased to do the required research and let honourable members know of the council mentioned in this article and the fact that Victoria Police issued traffic infringement notices on the insistence of the council for vehicles using its streets. That is unacceptable behaviour by a council and is unacceptable in principle when people are legally driving, fully licensed, with registered vehicles under the road traffic regulations. I suggest to honourable members that we do not want each council having its own set of road rules and regulations, yet under the road management plans that is potentially possible. That is totally undesirable.

Another aspect of the bill that I believe is very difficult is where we have the circumstance of several councils indicating common concerns. I will summarise the concerns given to the opposition. With arterial roads, there are concerns on funding levels — is it cost shifting to local government? What are the roles and responsibilities? There is also the power of designation of VicRoads and the fact that there is no independent appeal mechanism other than to the minister. There is also streetlighting which many places throughout the state require. Who will be responsible for streetlighting and what are the costs? There is vegetation and trees and concerns about who will be responsible if a roadside tree falls with delays in traffic and costs. What are the responsibilities of landowners? With the process of public consultation and consultation with councils, what are the clear mechanisms for review?

When will those reviews take place? What are the problems if the bill causes disruption with traffic programs and traffic access to roads? What is the public consultation process to be? Concern has also been raised about VicRoads granting permits for street festivals and other similar uses without a council's knowledge or consent. VicRoads is able to design and provide infrastructure, but under the provisions of the bill there is no clear requirement for VicRoads to consider specialised aspects of urban design and the character and regional characteristics of the area. In respect of council finances, what will happen if there are unexpected restraints on councils by other disasters? Will it mean that the maintenance and standard of roads will fall and affect management plans? There are many downstream and worthy concerns provided by many councils on aspects of this bill.

The major concern of many members of the opposition is the ability within the provisions of the bill for VicRoads to require the payment of levies by developers and landowners who are owners and occupiers of land adjacent to VicRoads infrastructure, improvements or roads managed by VicRoads. For instance, a small subdivision may be completed, marketed and occupied by first home buyers or people of limited means living the Australian dream of obtaining their own homes and building for the future. The subdivision and the land within it would have gone through all the acknowledged processes to the satisfaction of all the correct requirements and legislative provisions. If VicRoads wants to improve, upgrade or change the infrastructure related to that subdivision, it can do so, as authorised by the provisions of this bill. Those extra costs can be recovered and claimed against property owners. It raises the important question: what do I get for my taxes?

Clause 122 headed 'Power to charge fees', on page 110 of the bill, states:

> (1) If authorised under the regulations, a road authority may charge and recover reasonable fees for —

and several paragraphs follow. There is also provision for cost recovery from utilities. I have spoken at length on that and the impact it will have on the cost of our services and ultimately the cost of production and consumption of goods and services within the state.

I come back to clause 56 headed 'Development contribution', which states:

> (1) A State road authority that intends to undertake the construction of a new public road which will benefit adjacent land may, by notice in writing, require the owner of the land to meet or contribute to the present day cost of the road construction.

That is cause for very real concern in rural Victoria. We may have a circumstance where VicRoads decides to upgrade an asphalt road that has for many years been used as a highway or a major road in rural or regional Victoria. It could be that an extra lane is to be added. Under clause 56 VicRoads could pass that cost on to the adjacent land-holders. I think that is cause for real concern because where you have a rural land-holding with a genuine agricultural and rural industry active on the land the cost per kilometre could be astronomical and could affect the ability of the land-holder to pay. I do not know what the cost is per kilometre of asphalt road, but I believe that it is very expensive. If the cost of VicRoads improving a road in rural or regional Victoria could be flicked over and passed onto the adjacent land-holders that may be totally against the

economic interests of not only the land-holder but also the economy of the local area, the region and ultimately the state. It is not a good thing. I am part of a generation which believes that when you pay your taxes you expect government to provide reasonable quality services. I do not believe this bill will provide a fair outcome for the average Victorian taxpayer in the provision of roads under the taxation regime in this state.

It seems to me that in the last few years the money provided to VicRoads by the state government has been less than adequate. The provisions of this bill allow a huge potential for cost shifting from the state government to councils, but ultimately it will come back to individuals — land-holders and road users — having to pay. This will inevitably drive up the cost of those goods and services. It is not possible in reading this bill in detail and looking for the spirit of the bill to come away with a conclusion that it has been properly thought out in terms of its impact on the cost structure of the state. It means that the state government is giving VicRoads and councils the responsibility to develop and implement road infrastructure management plans and so forth but that it is also giving councils and VicRoads the ability to go to land-holders, in particular rural land-holders, whose welfare I am really concerned about, and say to them, 'You owe us a lot of money — pay up!'. That is in addition to the taxes, charges, fees and all of the cost elements that we pay today, and have traditionally paid for a long time.

Interestingly enough when we come back to the consideration of utilities, the utilities that we require for our standard of living are extremely important to our economy. One of the very difficult things to accept in this bill is that there will be occasions when councils give their extra costs and charges to the utilities and the utilities pass these on to the landowners. It will happen particularly in rural Victoria when there is a new connection or an upgrade to an agricultural business. When the utility passes that cost, which on many occasions will be high, to the rural business proprietor, the utility will simply say, 'The law requires us to do this; we can do it. The council have given us these costs and charges, and we have no choice. Here is your invoice for these extra costs'. The utilities may or may not go beyond that but they might say, 'We have no choice and we can charge you for these connection services'. It is quite possible that in rural areas, regional rural areas in particular, dairy farms, horticultural enterprises, vegetable enterprises and many other rural activities will be badly hurt by the high cost of the infrastructure needed to bring electricity and water in particular to their businesses and commercial agricultural enterprises. The ability of councils and utilities to pass on these costs to the agricultural sector is a real worry. When it is added to the extra concerns that come from VicRoads being able to upgrade a road and then pass that cost on to the adjacent land-holder, it is doubly worrying. I think it almost borders on being irresponsible.

I come back to some of my opening comments. I mentioned in my members statement that last week I went to a seminar sponsored by the Victorian Sea Freight Industry Council in the Dandenong area. The seminar was to discuss some of the options for freight and to examine some of the influences affecting the movement of freight and goods and services in the south-eastern part of Melbourne. One of the clear indications at that seminar was that the south-eastern part of Melbourne is relatively poorly served in the integration of rail and road infrastructure and in the capacity of the road system out towards the general area of Dandenong, Springvale and Cranbourne to allow efficient freight movement. A statistical fact was presented to this meeting that in the next 10 years we can expect at least a 90 per cent increase — I will repeat that figure; a 90 per cent increase — in the number and volume of commercial freight transport movements in that region.

I can say to honourable members that this is a real worry, because there does not appear today to be an integrated plan or even a visible concern by the present state government of what that 90 per cent increase over the next few years in the movement of goods and services will mean to our economy.

This morning it took me more than 2 hours to drive the 67 kilometres from my home on the Mornington Peninsula to Parliament House. I came up the Western Port Highway, entered the Monash Freeway and accurately measured on the computer in the car my average speed on the section between the Princes Highway and Stud Road. It was just over 20 kilometres an hour, and from Stud Road, Dandenong, to Warrigal Road it was 31.3 kilometres an hour. I can assure you that no speeding tickets were handed out on the section I drove on this morning! That delay is of concern. That is a multi-lane road. The Monash is clogged; it is at absolute capacity for many hours of the day, inbound in the morning and outbound in the afternoon. The vital seminar that was held last week was attended by other honourable members, including the Honourable Geoff Hilton. It was a warning to all of the legislature that the south-eastern part of Melbourne is under served when it comes to road infrastructure for freight transport and commerce, commuter traffic and private traffic.

I know honourable members would be disappointed if I did not mention my concerns about the combined effect of the naive and unacceptable plans of the City of Casey and VicRoads to put traffic lights on the Western Port Highway. I do not want that to happen because it will cause great harm to the traffic-flow capability of the highway. Because the Western Port Highway will in the future serve all of Victoria as a result of the inevitable development of the port of Hastings, if we are not careful to include checks and balances in the powers we give to councils and VicRoads, we will end up with what is happening down in the south-east where councils are just desperate to be seen, for their own purposes, to be the hosts of these fast-growing communities. That is terrific, that is great and supportable; but the infrastructure care, the strategic infrastructure and the important decisions are not being correctly made by VicRoads and the councils to meet the requirements of the area. That is happening in other parts of Victoria, but I am acutely aware of it down in the electorate that I have the privilege of representing.

What if VicRoads and the City of Casey in particular wanted to expand the Western Port Highway or wanted to make improvements to the South Gippsland Highway, which has been destroyed in its efficiency in my opinion by multiple traffic lights at every significant intersection? What if the City of Casey and VicRoads decided to improve those two roads? Under this legislation either VicRoads and/or the City of Casey could bring enormous cost impacts back to the owner — unexpected and unreasonable cost impacts — and, I suggest to honourable members, cost impacts born out of irresponsible behaviour through unprofessional and poor planning in the past by VicRoads in particular.

It may sound as if I am being harsh or heavy in my criticism, but I am not trying to be that. I am trying to sound a very clear warning that to give these powers to an agency such as VicRoads, which does not have on a daily basis a minister with direct, immediate responsibility, is unwise and unsupportable. As a single member here in this chamber I find it unacceptable and unsupportable. As a member representing approximately 150 000 constituents, I find the performance of certain councils and VicRoads to be unacceptable. VicRoads is not exhibiting, nor is it considering, any vision in relation to its responsibilities. I am reluctant, as an individual member of this chamber, to suggest to honourable members that it is wise for this bill to provide more powers, I do not think it is; but this is the government's bill and we are addressing that.

In the short time remaining I want to reiterate a major concern I have with the bill. I suggest to honourable members on the government side that it is completely unacceptable for a design process and an approval process to be carried out by councils, VicRoads, the Department of Infrastructure and so forth ending up with a subdivision or a development. It is unacceptable to have a situation after the land is sold off to the purchasers where the roads management authority can come along and without approval of the landowners make major changes and then give the account to the landowners. This bill will give a blank cheque to the government. It seems to me that with the relatively poor performance in strategic design of VicRoads and councils in several instances we are not only giving VicRoads and councils a blank cheque but also there is no demonstrated performance of care and responsibility by VicRoads. I will give the house a classic example of that. There is an intersection in the south-eastern part of Melbourne where Thompsons Road intersects the Western Port Highway. It is a simple, straight-out 90-degree cross intersection. During peak times in the morning and afternoon that intersection is absolutely and totally clogged with traffic; it is dangerous and difficult. I understand that in time — it may be a few years, but it is not so far ahead — the plan is for VicRoads to install lights there. That would be catastrophic. It is bad enough now. I am not exaggerating. Of an afternoon because of the traffic crossing Thompsons Road, I have seen the traffic southbound on the Western Port Highway build up for 1.5 kilometres or maybe 2 kilometres on the Melbourne side, and it is just awful. The answer is an overpass arrangement; it is not being done, and I am not aware of any plans for that. I cannot see any serious concern for the strategic implications of the high level of growth in the south-eastern part of Melbourne on the part of Department of Infrastructure or VicRoads management. That is a direct concern connected with this bill. The bill is saying that we are going to give the strategic care and construction rights to VicRoads so that it can have its way with the road networks across Victoria. On my experience that is unwise, but the bill is before us.

In conclusion, the bill will have a huge, unfortunate and negative impact on many rural and regional communities. It is not a good thing. It is cost shifting from the state government to councils. It is giving far too much authority without full and adequate supervision to VicRoads, and on its present performance I am not convinced that VicRoads deserves that extra authority. The provisions that allow VicRoads on behalf of the state government and councils to put costs on to utilities and therefore raise the costs of essential services and to allow agencies of

the state such as VicRoads to go back to communities and put their costs up when they want to do works is not a good thing. The opposition does not think it is a good thing; it thinks it is a cause for real concern, and the agencies mentioned, in particular VicRoads, need to be very mindful that there are concerns about their ability to meet the expectations and the power given to them in the bill.

Hon. B. W. BISHOP (North Western) — I rise on behalf of The Nationals to speak on the Road Management Bill. And what a bill it is — 208 pages! Not many bills of that size and perhaps complexity come to this house. When I looked at the bill I thought I would read into *Hansard* the general part of the bill on the front page. It states:

> The Road Management Bill ('the Bill') will establish a coordinated management system for the road network, facilitating coordination of the various uses of road reserves. It is a new public general Act, to operate consistently with other statutes such as the Road Safety Act 1986, the Transport Act 1983 and the Local Government Act 1989.

The dot points set out the structure of the bill. Rather than have a go at the whole 15 dot points, I thought I would bring the first two and the third-last dot points to the attention of the house. The first and second dot points state that the bill:

> establishes a new statutory framework for the management of the road network which facilitates the coordination of the various uses of road reserves for roadways, pathways, infrastructure and similar purposes;
>
> sets out rights of road users and amends the Road Safety Act 1986 to provide a statement of obligations of road users (which will be relevant to negligence actions) ...

The third-last dot point says this:

> provides for issues relating to civil liability arising out of road management;

It is a very complicated bill. It is a very important bill, as my colleague the Honourable Ron Bowden said. When the Nationals looked at it we asked, for a start, 'What does it mean?'. It is a reasonable question that this house should always address when it has a bill before it. The Nationals then asked about the cost; that is another good question members should address when we look at legislation in this house. Then we got down to the practical stuff, and we asked ourselves, 'How will it work?'. That tested us a bit, but the most important question we asked ourselves was, 'Will it work?'. That is a very important issue which all of us should have foremost in our minds when we stand up in this place in relation to legislation that we are charged with the responsibility of ensuring has a practical approach for the communities we live in.

There is a huge bank of unanswered questions in this particular bill. However, what we do know we are quite sure of and that is that it will impose huge loads on our councils. The bill will impose quite heavy loads in work, in resources and no doubt in extra cost. However, you have to translate that further than councils, you have to translate that into our communities and into the people in our communities. It has been pretty tough going in rural Victoria over the last few years. We have had the drought and other incidents that have come across our areas that have certainly made it difficult for us to be viable as we have struggled to maintain our lifestyle and our communities into the future.

Hon. J. M. McQuilten — We still have the drought in parts of Victoria.

Hon. B. W. BISHOP — My word we do, Mr McQuilten. On our farm at the moment we are planting some crops dry, very much in the hope that it will rain because of the time element; we are very conscious of that. In fact it has been one of the driest periods in this early run-up to the year that many of us have ever seen. That is creating enormous nervousness in most parts of rural Victoria and in other areas as well. We are conscious of that, and we are conscious of the terms of trade in our rural areas that have been quite tough on our farm industries and also on the service industries that look after us so well.

That is what the Nationals thought about the bill. Then we dug a bit further. My good friend and colleague the Honourable Bill Baxter, who has a way with words, said in his own inimitable way when we were discussing this — I hope he will use this phrase again — 'This is a barristers' banquet', and that is exactly what it is. There is no doubt that they shall grow fat and rich on this bill.

Hon. J. A. Vogels — They are jumping with glee waiting for this to go through.

Hon. B. W. BISHOP — Thank you, Mr Vogels.

With that very short lead-up, The Nationals oppose this bill. We oppose it very strongly, but we do not do that lightly because we have considered all the issues we believe we can. For Mr McQuilten: we do not do it in a negative fashion; we hope we do it in a positive way. We believe we can clearly put on the record today that we have always taken a positive view in relation to this issue. We call on the government today to restore the nonfeasance defence but still allow a right of action in misfeasance. In fact, we introduced a private members bill into this house in 2002 that set that out very clearly. We are on the record and there is no doubt about where

The Nationals stand. When we looked at the other states — it is not a bad idea to look at other states and see what they are doing and test out their programs — we saw that they are not going down this precise path at all. We will talk a bit more about that later.

As I said, it is absolutely true that The Nationals have led the charge on this issue. We have led it inside the house with various things apart from the private members bill in 2002, and we have led it outside the Parliament as well. We have been out and about among our councils and our communities; it is a complicated issue but over time our councils have come to understand this issue particularly well. We did that because we wanted to ensure that our councils were not disadvantaged or exposed while this bill was being discussed and proposed to be put in place.

It is interesting to have a look at the history. This issue arose following the *Brodie v. Singleton Shire Council* High Court decision. It should be clearly noted by the house that that High Court decision was four to three.

Hon. Bill Forwood — It is enough.

Hon. B. W. BISHOP — That decision abolished the nonfeasance defence.

Hon. W. R. Baxter — It did that with native title too.

Hon. B. W. BISHOP — You will probably get your chance on that later, Mr Baxter, I would assume.

In August 1992 — a fair while ago — Mr Brodie drove a truck of about 22 tonnes over a 50-year-old bridge. The bridge collapsed, the truck went into a creek and Mr Brodie was injured. The question always arises in these incidents: who is to blame? That is a tough question. It is always a hard question and one that is often settled in the courts.

Hon. J. A. Vogels — It is pretty obvious who is to blame when there is a 15-tonne load limit.

Hon. B. W. BISHOP — If this bill goes through this house we believe there will be a lot more of these things settled in the courts. It appears, or we are advised, that earlier Mr Brodie took his truck over a bridge that had a 15-tonne limit. We are also advised that the Singleton Shire Council inspected the bridges four times a year, which is a fair bit when you come to think of it. The council did a visual inspection; it believed that was appropriate. It probably was but it turned out to be not appropriate — —

Hon. W. R. Baxter — According to the High Court.

Hon. B. W. BISHOP — The High Court said it was not appropriate. You would have thought that experienced people having a decent look at a bridge would have been able to do that, but the High Court said that was not the case.

I come back to the result in the High Court — four to three. As Mr Forwood said, you cannot get any closer than that. A decision of 4 to 3 removed nonfeasance in the form we had known it in that particular instance. We say you cannot get any closer than 4 to 3. The other research we did indicated that one of the dissenting judges made some comments to the effect of, 'We should leave these laws alone, we should respect the immunity and leave that to the Parliament'. We in the National Party agree with that. We urge the government to do that and to not go down the path proposed in the Road Management Bill we are debating today.

I think we have given enough reasons. There will certainly be an ongoing and very difficult legal battle if this bill goes through. Again we see a huge cost to our councils, but more importantly, as we have talked about, in councils there has been a huge level of uncertainty. They are quite concerned about the possibility of huge legal costs, and it is very difficult to judge what those costs will be: once the ball starts to roll, as we said before, the barristers' banquet will begin.

Hon. J. M. McQuilten interjected.

Hon. B. W. BISHOP — We looked at the issue and asked, 'Will this provide more money for roads for our people?'. It is obvious that it will not; it is not going to and you cannot say it will. It does not matter whom you talk to — even the most enthusiastic supporter of this bill would not agree with that. We have established that there will be less money for the roads that our people, particularly the people in rural Victoria, very much need in their everyday lives.

I mentioned the Brodie case fairly briefly. Legislation in other areas is not the same as ours. It is my understanding that New South Wales has just changed its legislation and our advice is that it is a jolly sight better than what we are talking about today. Whatever the effect of the Brodie case, it has echoed all around this country.

We asked some questions during our research on this bill. A number of us did not know — and I for one did not know — where nonfeasance came from; how it happened and why it occurred. We were to learn that in fact it started in England a couple of hundred years ago in those early days when they were encouraged to build

roads. They worked out that there were not enough resources to build the roads and also be responsible for any cost of any action that those roads might incur relating to the repair and maintenance areas, and also any action in relation to the safety of those roads. Basically, as we stand here today, our councils are not liable for those particular issues now, but this bill will put into place some severe changes. As we stand at this point in time, providing councils do not cause or contribute to a defect or problem, nonfeasance in fact protects them from any attack in that area.

About 40 years ago it disappeared in the United Kingdom, and our understanding of the view at that time was that it thought it had enough resources then to keep the roads in good order and to good standards, and to also pick up that extra responsibility. I think all members would agree that Australia has substantially different conditions to those in the United Kingdom. That is an undeniable fact. Victoria, of course, has different road structures and geographic and demographic conditions to other states as well.

That was a bit of a snapshot of the history of nonfeasance, which has served us well for many years. The Nationals are really concerned about the ramifications of this bill which will remove nonfeasance protection out of the system. As I said before, we have been absolutely consistent in our approach to this issue. In fact it was back in 2001 when a former member of this place, the Honourable Jeanette Powell, wrote to the Minister for Local Government at the time urging him to address the problem as soon as possible. I am also certain that our leader in the other place, Peter Ryan, did the same thing.

In November 2001 The Nationals moved a motion in the Legislative Council calling on the Labor government to urgently legislate to ensure that municipal councils in Victoria could continue to rely on the defence of nonfeasance. The Liberal Party joined with The Nationals and supported that motion. The Labor government in this house did not support it, but moved an amendment calling on the Australian Transport Council of ministers to consider the High Court decision regarding the defence of nonfeasance with a view to reaching a consensus about action to be taken as it applied to all roads throughout Australia. That led us nowhere; nothing happened in relation to that.

Hon. P. R. Hall — The Bracks government, leading the way to nowhere.

Hon. B. W. BISHOP — Leading the way, but you might ask, Mr Hall, to where? It certainly did not lead us anywhere then.

To again confirm the consistency of The Nationals on this issue, in October 2002 the Leader of The Nationals in the upper house, the Honourable Peter Hall, introduced a private members bill titled the Highway Authority Protection Bill. It was quite a good bill, Mr Hall. We were proud of you when you moved that.

Hon. P. R. Hall — It was a bit simpler than this bill.

Hon. B. W. BISHOP — It was much more practical than this bill, there is no doubt about that. Clause 4 of that bill would no doubt have given our councils strong protection on the issue we are debating today. I wish to read into *Hansard* some parts of clause 4 for the purpose of this debate. The first part stated:

> No proceedings may be brought against a highway authority to recover damages in respect of any failure by the highway authority to make or repair a public highway or part of a public highway over which that highway authority has the care and management.

The second part stated:

> The immunity set out in sub-section (1) shall be confined to the nonfeasance of a highway authority and shall not affect any action arising from circumstances where a highway authority has negligently made or negligently repaired a public highway or part of a public highway over which that highway authority has the care and management.

If the Highway Authority Protection Bill had been passed I suspect we would not be here debating this bill today. But of course it did not proceed, which was a great pity.

The motion moved by the Honourable Jeanette Powell passed through the house, if my memory serves me right, but of course languished in the Assembly where it did not get a run, which was more the pity. After The Nationals having led the way, if I might say so — surprise, surprise! — a few days later the government in the Assembly introduced the Transport (Highway Rule) Bill, which I am sure all honourable members interested in this issue would remember. It was much the same as the bill moved by the Honourable Peter Hall. The only difference was that it retained nonfeasance only until January 2005. We of course believe that is not far enough, so here we are today.

We have heard about the history and we have listened to our councils, as I am sure our colleagues in the Liberal Party have listened to their councils, and we are concerned about this issue. And it does not matter if they are big or small councils; some councils have said

to us, 'This will occasion us to have two more people on our staff checking, inspecting, documenting and making sure we have it okay'.

Mr Pullen — Which council said that?

Hon. B. W. BISHOP — A number that we have talked to, and I will refer to the North West Municipalities Association, whom we have met, and certainly the smaller ones are most concerned about it. I am surprised that Mr Pullen has not picked that up in his polling. I am sure he will mention it when he makes his contribution. Councils that have mentioned the issue include the Horsham Rural City Council, Hepburn Shire Council, the Moira Shire Council — I could read on; there are pages of them. No doubt we could add those later on if Mr Pullen wishes. Many councils are concerned about this issue.

When we talked to some of the larger councils, like the Mildura Rural City Council, and asked them if they would be ready for this particular issue, they told us that they thought while it might be tough going they could probably get themselves ready for what they need to do. But during the briefing we were told that, I think, 25 councils will be up for election at the end of this year and of course they will need to hurry themselves along because we understand they cannot make any decisions in those major policy areas three months prior to their election. That will put a bit of pressure on those councils. We are advised that VicRoads will work closely with those councils in an attempt to get them ready.

It is not only the councils we are concerned about. They accurately reflect what our communities are saying and of course the cost is against our communities as well. A number of our smaller councils believe they are not well enough resourced to take on this workload and they certainly have not had enough time. They have struggled with some of the issues which in fact have become quite difficult for them. As I commented to a colleague Mr Pullen, the North West Municipalities Association — —

Hon. Bill Forwood — Glad you called him a colleague.

Hon. B. W. BISHOP — He is a colleague, Mr Forwood — and it was an interesting meeting when we went to the North West Municipalities Association — —

Mr Pullen interjected.

Hon. B. W. BISHOP — You should have called in, we would have given you a cup of tea! A number of us went to that meeting, including the member for Swan Hill in the other place, Peter Walsh, the Honourable Damian Drum, me and others who included the Municipal Association of Victoria whose chief executive officer, Rob Spence, gave a very strong message to that meeting about where it should go. I think the message given that day was so strong that it pushed the North West Municipalities Association to write a couple of letters, which I might read to the house.

The first is to me from Gary Larmour, who is the secretary of the North West Municipalities Association:

> Re: the nonfeasance provisions of the Transport Act
>
> At the last meeting of the association, members requested that I write to the government asking them to extend the nonfeasance provisions of the Transport Act 1983 for a further two-year period.
>
> The request resulted from concern that local government has not been given sufficient time to compile and complete their road management plans in accordance with the provisions of the Road Management Act.
>
> I have enclosed a copy of the letter written to Minister Batchelor for your information.
>
> The association members would appreciate your support in lobbying the ministers and the government for this extension to allow council sufficient time to develop effective, functional road management plans that will benefit road users and councils alike.

I will not for the sake of time read the letter that the North West Municipalities Association under the signature of Gary Larmour wrote to the minister, but it goes along the same lines and obviously expresses the same concerns.

Mr Pullen should note that these councils are under the pump, there is no doubt about that; otherwise they would not have written those letters. They got a pretty solid pounding from the MAV at that meeting, and I think they probably resisted and wrote the letters. Good on them for standing up for themselves! They are not alone, there are heaps of other councils around the place that are really quite concerned about that.

In a technical sense, when you talk to the engineers, planners and others in the councils I think they have said to themselves, 'This appears to be the way we have got to go, we have got to go with the flow, we have got to do the work'. Someone said they have got to do the work and so they are into it as hard as they can go doing that work and trying to do the best they can. We in The Nationals do not blame them at all, they are doing their best and doing their job.

But in relation to the issue, we thought we had better have a look around in other states and were advised at the briefing that most states — Queensland, New South Wales and Western Australia — have put in place legislation that basically retains nonfeasance, and I believe that is right. The Northern Territory is having a look at these; Tasmania has no change as we understand it; it still has nonfeasance. We are told South Australia is looking to bring back nonfeasance as well. Why are we leading the way?

Hon. J. M. McQuilten interjected.

Hon. B. W. BISHOP — Well you might ask, Mr McQuilten — and thank you for the interjection about leading the way. Let me give you an example. I can remember being in this place and attending briefings where we discussed the issues of licensing operators of motor-powered boats. The Nationals were told very clearly that we would not lead the way because New South Wales — of course that issue concerns the Murray River — was going to do exactly the same thing. What do you think happened, Mr McQuilten? We led the way and now we are costing our families who use these small motor-powered boats quite a lot of money for their fun and entertainment. But what do you think New South Wales has done? Nothing! So do not talk to me about leading the way because we have paid the price for that when we were told, 'Leading the way, leading the way with others'.

Let us have a bit of a think about the whole process. Does one size fit all? We are a bit concerned about that in the National Party. Of course it does not. Smaller rural councils that are sparsely populated — —

Hon. P. R. Hall interjected.

Hon. B. W. BISHOP — We were at Gippsland East not so long ago, Mr Hall, we had a parliamentary party meeting there, and they are really worried up there because they have a huge area to cover. It is simply a practical issue for them of how they can inspect their roads. Some of those roads are far flung and they might only inspect them every couple of years. They find a problem, tag the problem, tell the contractor but the contractor gets held up for some reason or other — which could be any reason at all. There may be an accident. Who then is responsible? In that example everyone has done their job but who is responsible? Again our lawyers and barristers will be rubbing their hands together with absolute glee. That reminds me of the $1000 threshold, but I am not sure where the $1000 came from.

Hon. J. A. Vogels interjected.

Hon. B. W. BISHOP — But I reckon, Mr Vogels, that there will be a heap of claims just over the $1000. It is the sad part of our society that public councils will pay, because they do not want to be involved with a legal challenge; they do not want to be involved with that cost and I suspect that if they do pay the $1000 threshold they will almost be accepting responsibility in some way or another, whilst they are trying to avoid wearing the legal cost.

We suspect that what will occur out of that is it will ratchet the insurance premiums up as it does in all of these instances so that we all pay a bit more. I suppose this is the same as it is in life — it is all by degree.

Most councils we spoke to were happy to implement a road management plan because it is an operational matter where they can get a grip on where the roads are and know how to manage them in an operational sense, but they are scared stiff of having a road management plan that has to stand up to a legal defence. That is the issue. For example, it costs the Yarriambiack Shire Council, which is a long, narrow municipality, over $300 a head to service its road costs. I suspect there is a huge amount of difference in the amount of money that is required to service road costs in that shire compared with smaller or metropolitan councils. From what we saw the operational plans were tough enough and the councils were prepared to implement them, but our people thought a legal defence was impossible.

The bill sets up consultative processes to undertake road management plans. Councils obviously want to build as many roads as possible and do the best thing for their communities, but it is difficult to strike a balance and know where to set the bar to get that balance. The other day at a town near our farm, Swan Hill Rural City Council officers were out. They had a meeting with residents in the area and discussed the consultative process. The officers said that the council would have to close roads because it could not afford them. One of the roads to be closed was a very important one that farmers use for transferring machinery from one property to another. I am sure the Swan Hill Rural City Council will listen to farmers and not close the road, but that is the pressure that councils are under in relation to this particular bill. It will be difficult for councils to strike the right balance.

Hon. P. R. Hall — Do you have a consultative committee for every road?

Hon. B. W. BISHOP — That particular council had a consultative committee, which invited constituents to

a meeting, and a number went, but it will be a complex process to work that through in relation to the views of the community. I have been fortunate as a member of the Road Safety Committee to travel around the state and look at a number of roads. There are issues raised such as trees. The committee is looking at roadside objects and risk, and obviously trees is one type of such objects. The general view of councils is that if they have a tree that they think is unsafe then they want to remove it, which is a sensible approach. Councils are not silly about it and do not want to take out heaps of trees; they only want to take out the ones they consider to be unsafe. To do that they have to go through a permit process, and when the process gets to the Department of Sustainability and Environment it is tough going. Councils say that they have to slog their way through the process. In some cases they have to plant 100 or 200 trees to remove 1 tree, or perhaps they are not allowed to take out the tree at all. If a council says a tree is unsafe, and surely it should know, and the department says that it is not allowed to be taken out, then who is responsible at the end of the day?

Hon. J. A. Vogels interjected.

Hon. B. W. BISHOP — That is a very good question. Again, I suspect it will be sorted out in the courts. Again I suspect our lawyers and barristers will have a wonderful time and increase their work force immensely — although probably not in country areas but in other areas. We see this as a minefield on such issues.

The Honourable Ron Bowden spoke about utilities. I believe utilities are in an ordinary position because the bill gives a fair bit of power to councils, and if a utility provider wants access then it has to get a permit at a cost and there will be paperwork. I can see it now: there will be another little business and bureaucracy spring up out of this; you can see it coming. But guess who pays? The consumer, the community — all of us as people, we are the ones who will pay. Be it a power pole, a pipeline, a channel or whatever, it adds to the complexities of the whole business.

We wondered how many sorts of roads there would be. Would it be 4 sorts, 6 sorts or 10 sorts? There would be sealed roads, some not; gravel roads, some not; and some straight up and down dirt roads. On the trip to East Gippsland we saw a good example of the difference in roads. The councils in Gippsland were concerned about a wet winter and the effect it would have on their roads. We would love a wet winter in the Mallee, and if we could get one we would be pleased as punch. The fact is that in the Mallee dry roads are the problem. A totally different approach needs to be looked at in this bill. We wondered how one would manage the differences between Gippsland and the Mallee, which respectively have dramatically different requirements as to the maintenance, upgrading and safety of roads. We wondered whether you would have a Gippslander decision or a Mallee decision? Many concerns were expressed, and we were getting more questions than answers. I will put one question raised by the councils, because it is not a bad one, regarding the power of councils to set their own road construction and maintenance standards. I will not read the whole lot because it goes on, but councils were concerned that through this bill the minister would have the opportunity to impose road standards on them. I will supply the minister with a copy of the concerns raised and invite her to respond in relation to that issue.

The other question raised as an example was about utilities and how they would manage their processes with the councils. I will make that document available to the responsible minister in this place for when she is summing up on the bill. I am sure she will have time to look at those concerns because many members will be speaking on the bill.

We believe there has not been a start in regard to legal actions, but councils are concerned about what they might be facing in the future. They are concerned at the ongoing costs — they are not one-off costs — of setting up processes to inspect and maintain their road structures to a legal level, not to an operational level. We are concerned about the cost to our communities. Our resistance does not mean that councils should not do up the roads. That is not the case, because in the past we can and as communities have worked through those particular issues in a democratic way. We have seen that happen. I have seen it when a council proposed to close a street in a particular town and there was uproar from constituents. Eventually the street remained open, but at the election not many councillors remained. That issue had an influence at a democratic election. We do not believe the stance we take would see road maintenance, safety and upgrading decrease, and it is well and truly within the democratic processes we enjoy across local government areas at this point.

Hon. P. R. Hall — Councils might have more money to put into roads!

Hon. B. W. BISHOP — That is a very good point, Mr Hall.

I have made it clear during my contribution, and no doubt others will, that this will be a cost and that money will then not be available for the practical purposes of

maintaining, upgrading and certainly increasing the safety of our roads.

I am sure the councils are much more aware now than they were a couple of years ago when this debate was first thought of, but I still think they are quite concerned. These councils are not incompetent. They have good people. They understand the processes and practicalities of it, but we are sailing into brand new waters. The Nationals without fear or favour oppose this bill. We believe it has minefields everywhere through it, and we do not know how it is going to be managed.

On a positive note, because we believe the problem can be solved, we urge the government to drop this bill and introduce a bill to restore the defence of nonfeasance so that our councils and our communities can have this impossible, bureaucratic workload of inspections and documentation and legal challenge removed. Again I make the point that this is not an operational plan; this is a plan that has a legal determination in it. We can also remove the legal chopping block that we have all been quite concerned about.

We believe this bill will not provide us with better roads. Sadly it will soak up resources we need for roads, and those resources will be required to provide our councils with a protective legal framework. So The Nationals oppose this bill and call on the government to restore nonfeasance in the manner we suggested in 2002.

Ms ROMANES (Melbourne) — I am pleased to have the opportunity to speak on the Road Management Bill before the house. The purpose of the Road Management Act 2004 will be to reform the law relating to road management in Victoria and to make related amendments to certain acts. Victoria is the first state to introduce a comprehensive response to the High Court decision in the case of *Brodie v. Singleton Shire Council* in 2001. This bill before the house replaces the old highway rule which the High Court found was unfair and outdated and prevented users from recovering damages where accidents occurred on a road that had deteriorated through lack of care or maintenance.

The new laws will mean that road authorities are more accountable for the work they do. They have to maintain roads to a certain standard, a standard determined by a local road management plan, instead of relying on nonfeasance which currently exempts road authorities from civil liability for failing to maintain or repair a road. It is the government's view that under the old law, road authorities were able to do nothing and to take no responsibility for failure to act. It is therefore the government's intention to put in place a road management regime where responsibility is allocated and actions are taken to maintain the road network in a safe and effective manner. It is the intention of the government to provide for Victorians an improved and more consistent standard of roads under this new legislation, with each road authority being encouraged to develop and implement localised road management plans. The road management plans that are to be developed by the respective road authorities are designed to put in place a regime for management, for construction, for planning and for maintenance which can realistically achieve or respond to the need but at a level which the local councils can afford. This will be effected through the $1000 excess on claims that is provided in the bill and also the policy defence that is there. This enables the management of civil liability for roads.

It is important to be aware that some local councils have already put in place road management plans. The Rural City of Ararat has already published a comprehensive draft road management plan on its web site, and the City of Melbourne in my own electorate has also prepared a draft road management plan. Many other councils in Melbourne and in regional cities are in the process of preparing their road management plans. A meeting was held recently at the City of Hobsons Bay where various councils give presentations on their work so far on road management plans. Amongst those were many rural councils. So councils are already making preparations for the new processes and looking at ways to set the parameters for their own local areas. The road management plans will include such matters as inspection frequency, deciding which defects require repair at which point and various priorities and time lines for repair and maintenance of roads. As well as managing the civil liability for roads, the legislation clarifies responsibility between various authorities for the hierarchy of roads in the roads network. That is outlined clearly in clause 37 of the bill. It divides these responsibilities between VicRoads and local government. When we talk about roads the term equates to road reserves. It is therefore important to remember that the responsibilities encompass something broader than the actual roadway. They also include footpaths, service roads and parking.

Mr Bowden made a point about extending powers into other areas which provide for an increased level of fines. The article he referred to, I believe, may refer to fines relating to the enforcement of 'no right turn' and 'no left turn' signs erected by the Moreland council along Bell Street. The power to erect signs does not relate to this act but to the Road Safety Act, and those

signs are in place to keep cars from rat-running through local streets and to keep them on arterial roads and CityLink, which was constructed precisely for carrying heavy through traffic. That whole area of traffic management and managing the local priorities is one which local councils and the state government attend to through powers outside of this bill.

As a result of this bill, there will be a transfer of 11 000 kilometres of main roads from councils to VicRoads. This should lead to more consistent management and standards on the state arterial road network, but it should not, as Mr Bowden indicated, lead to cost shifting from the state government to local councils, because main roads would probably require greater resourcing than local roads and all of the road maintenance is currently provided for by the state. The administrative and other costs should shift to the state with the transfer of the 11 000 kilometres, with those responsibilities reflecting the changes in costs.

A third purpose of the bill is to improve the coordination of management systems. Many people in this house would be aware of the difficulty that is currently experienced when roads are opened in installing services such as telecommunications cables, electricity and gas. It is estimated that one utility is involved with about 100 000 road openings a year. This costs the state and councils millions of dollars through the impact on the road surface and, as a result, the need for increased maintenance in the future. Rather than adding to the cost in this area the procedures in place in the bill for the opening up of roads — including notification of concerns and negotiations with stakeholders, and the requirement for the reinstatement of damaged roads, which in my view appears to be a very fair measure — through a more coordinated approach have the potential for great savings. They will do this by making sure that a council does not spend $250 000 on a road, which it saved up many years to pay for, only to have a gas or electricity company come along and rip it up a couple of months later, drastically affecting the state of the road and opening up the possibility of deterioration. Those provisions are very important, and a utilities infrastructure reference panel is proposed for continuing dialogue between the stakeholders and advice through to the minister.

One of the main issues that has been brought to my attention is a fear that this bill represents a further accumulation of control by VicRoads. That fear is manifested in the very controversial issue of clearways. There is concern in some quarters, such as local government, environment groups and traders, that the transfer of some main roads to VicRoads signifies VicRoads' intention to extend clearways. In particular there is a fear in the inner parts of the city that this will kill off strip shopping centres. VicRoads will continue to manage arterial roads to ensure the flow of peak hour traffic, but it will also balance that with the desire to ensure a freer flow of public transport because 80 per cent of our public transport — trams and buses — is on roads. Increasingly over the last couple of years VicRoads has been doing more on-road public transport work. In fact, the technology is now in place and there is a budget commitment from the government to provide greater signal priority to trams and buses in the metropolitan area because they are the prime movers of people. Today's budget contains an announcement of a $3 million tram red spot program to remove bottlenecks and provide a freer flow for public transport, and of course that also means a freer flow for the cars sitting behind them.

It is not anticipated that there will be any widespread or major changes in terms of clearways, but if there are to be any proposals for variations of existing clearways or installation of new clearways, a proposed ministerial code of practice on clearways on declared arterial roads has been developed. The proposed code would require extensive consultation with trader groups, property owners and occupiers, local government, public transport companies and various community stakeholders before any change could take place. The plan is that any VicRoads recommendation together with the issues raised by the community must go in its advice to the Minister for Transport, and that before the minister makes any decision he must seek comment from the Minister for Local Government, because there are a lot of issues at stake when a clearway proposal is being developed in terms of local amenity and access into a local area.

Concern has also been expressed to me that the bill is not explicit enough about the wider use of roads other than just expediting motor traffic. In particular, there is a concern that road management needs to take into account integration with adjoining land users and with other planning decisions. This bill is about the better management and coordination of road reserves for all forms of transport, including pedestrians, cyclists, public transport and private vehicles; it is not just about facilitating roads for cars, but it has to be seen in context. VicRoads must operate within state policies and comply with them. It should comply with important policies like Melbourne 2030, which has as a priority more integrated land-use and transport planning and a strong emphasis on a more compact city and less car dependence. It must comply with other policies for livable and healthy communities, where people can walk, cycle and use open spaces that are more accessible.

The bill is explicit in division 2 of part 4, which is headed 'General Functions and Powers of Road Authorities' that those powers cannot be exercised without giving regard to such matters. Clause 38(1)(e) states:

> policies and priorities in relation to transport, the environment and other matters determined by the government of Victoria ...

Clause 38(1)(h) states:

> any roadside management plan developed to protect flora and fauna ...

Clause 38(1)(i) states:

> any matters arising from consultation — —

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! I thank the honourable member for her contribution.

Hon. DAVID KOCH (Western) — It gives me pleasure to make a contribution to the debate on the Road Management Bill. In doing so, as was stated in the other place by the shadow Minister for Transport and by my colleague the Honourable Ron Bowden here this afternoon, the Liberal Party opposes the Road Management Bill on a number of grounds.

The method for determining classification as set out in this legislation should be talking about regional, economic and tourism significance, not the so-called statewide significance that is stressed in the bill. There are many roads throughout Victoria that are not considered of statewide significance, yet they have regional, economic and tourism significance. In Western Province alone there are major tourist roads within the Grampians National Park linking Dunkeld in the south to Stawell in the north and the Victoria Valley Road in the west. Nearer to the coast there is the Winnap to Nelson and the Nelson to Portland roads, which were originally constructed for and are regularly travelled by tourists.

Of major concern to local government is its ability to afford and accept greater financial or management responsibility for roads not currently managed by local government. Local councils are already overstretched in maintaining the roads they have now. It would be unreasonable to expect ratepayers to fund the maintenance of roads when VicRoads declares it has no further responsibility.

At least 16 municipalities have written to the shadow spokesperson for local government, my colleague from Western Province, the Honourable John Vogels, indicating the need to maintain nonfeasance protection. The proposed abolition of nonfeasance using the *Brodie v. Singleton Shire Council* case, which was very accurately portrayed in this house this afternoon by the Honourable Barry Bishop — and which, I might add, was won on a 4-3 decision — demonstrates what impact road management systems may have on local councils.

Obviously nonfeasance is not bulletproof, but in the past it has gone a long way towards sheltering road managers from a litany of unnecessary small claims. We have to draw a clear distinction between nonfeasance and misfeasance. Nonfeasance is a deliberate attempt by local government authorities to inspect and maintain those roads they are responsible for, as opposed to misfeasance, which indicates no intent to carry out those activities. We want to be pretty clear about what we are talking about with nonfeasance.

We also have to look at the impact of deleting the concept of nonfeasance. The ongoing cost of inspection, maintenance and the possible ongoing liability as a result of personal injury or damage to vehicles is unaffordable within the current boundaries of local government budgets.

Councils, and especially rural councils, are already having an enormous amount of trouble resourcing road management. These changes will cause further difficulties in terms of higher labour demands and on-costs in addition to the increases in infrastructure costs just to develop and implement road management plans. For example, the West Wimmera shire on the South Australian border runs approximately 200 kilometres north to south and 85 kilometres west to east, and it has a huge unsealed road network. How does a large rural municipality such as the West Wimmera Shire Council implement the road management plan given that there are currently no industry or statewide standards? In trying to establish a road management plan, does the council decide that carrying out grading and elementary maintenance twice yearly is a suitable standard? Will this be affordable? Will the community, and indeed the courts, accept this? What if the road becomes unsafe? How will the council deal with this concern?

The Liberal Party has received correspondence from Australian Forest Growers. It has registered its concern about clause 112 of the bill, which relates to extraordinary expenses incurred as a result of extraordinary traffic on roads. I quote from the correspondence received from Mr S. J. Ruglen, who is the president of the Melbourne branch of Australian Forest Growers:

> I draw your attention to S. 112 ... 'Right to recover for damage to road' and in particular wherein 'a road authority incurs extraordinary expenses ... as a result of extraordinary traffic'.
>
> ...
>
> To the best of my knowledge timber is the only category of bulk commodity which is defined as 'extraordinary traffic' in this way. As such the timber industry is being singled out, in comparison with other industries, to repair roads damaged by heavy cartage.
>
> Heavy cartage on roads by users other than the timber industry can be on a regular basis, depending on the industry (for example, dairy tankers several times a week or grain cartage over a concentrated period during the harvest period). This traffic is likely to have a similar if not greater effect on the condition of the roads than that associated with the cartage of timber at harvest operations which will occur over a relatively short period every ... 15 years for thinning operations or 25 years for final harvesting.

Mr Ruglen goes on to say:

> It is unclear as to whom and what size of operations the term 'extraordinary traffic' applies. Prima facie the term 'extraordinary traffic' applies to both the large and the smaller operation — in other words the term appears to include small holdings where the volume of timber harvested may only be nominal and the sophistication of equipment used smaller, and is clearly inappropriate.
>
> Funding for roads comes from local government rates, vehicle registration and diesel fuel excise. Local government rates are paid, quite often over an extended period, even though the use of the road may have been virtually non-existent over that period. Truck registration and diesel fuel excise are paid in the normal manner — as such it is inequitable that the timber industry is being singled out in this manner in regard to the repair of roads.

Australian Forest Growers therefore requests:

> ... that the timber industry and the cartage of timber associated with harvesting operations be treated in a similar manner to other agricultural industries.

Australian Forest Growers further states:

> We recommend that all those responsible for the traversing of heavy vehicles along a road be held responsible for the reparation of damage to those roads, or that no industry be singled out.

It certainly recommends that the words 'extraordinary traffic or' be deleted from clause 112 entitled 'Right to recover for damage to road' and that that provision be amended to read:

> This section applies if a road authority incurs extraordinary expenses in repairing a road that has been damaged as a result of the passage of excessive mass along the road.

The other concern is in relation to clause 56. Under the heading 'Division 6 — Development Contributions' clause 56(1) states:

> A State road authority that intends to undertake the construction of a new public road which will benefit adjacent land may, by notice in writing, require the owner of the land to meet or contribute to the present day cost of the road construction.

Our concern obviously is that we are unaware as to what contribution may be expected, over what distance and of what categories or classification of roads. That is certainly giving the opposition quite some concern.

The Road Management Bill delivers no real outcomes or gains for rural Victorians. As I openly enjoy the challenges of representing a constituency that covers over 30 per cent of Victoria's land mass, I wonder if members are aware how big some of these road networks are within rural municipalities. I assure members that the 64 000 square kilometres associated with Western Province has in the order of 15 municipalities in it, which gives some indication of the road networks that the responsible authorities have under management. The only outcome that I can see is that road management plans will lead to country ratepayers being poorer but may well lead to lower maintenance, repair and safety standards for country roads.

I have no doubt paper warfare will win. More documentation will be needed, more invisible management-associated costs will lead to less on-ground works. Country councils will have no alternative but to re-rate or increase rates on land-holders so that the proper maintenance of country roads can be performed to limit litigation and to protect themselves. It is most unlikely that the state government will financially support the production of the road management plans or, indeed, offer extra funding for road maintenance.

VicRoads may well increase the movement of road status responsibility towards local government, which will cause more concern for the responsible road managers. In the past the road hierarchy has been decided, regrettably, by the stroke of a pen. VicRoads is the holder of the chequebook, and regrettably little or no negotiation has taken place in the past with local government. Those most affected, as I mentioned earlier, will be the larger municipalities, which have a higher percentage of unsealed road networks like West Wimmera, Buloke, Yarriambiack and Hindmarsh shires in our west.

In the late 1980s movement took place between VicRoads and local government in relation to the reclassification of many roads. In my earlier time with the Shire of Wannon, our ratepayers suffered this consequence when many roads were reclassified,

particularly those that were former tourist roads or were roads that led to larger community centres. Road management and road maintenance involves not only road pavements but footpaths, bridges, signage, irrigation channel crossings and railway crossings. We have to accept and acknowledge that all those that fall under the regional road planning strategies and many areas not only from the road point of view but those with unsafe crossings and bridges — such as Strathbogie shire with many timber bridges — will have major concerns if nonfeasance is removed from the legislation.

Ultimately what will the public gain from this bill? I believe very strongly that nonfeasance will have to remain if liability is to be maintained by road managers. Road management plans will only be a bandaid in the bigger game. There will be cost shifting to local government, and at this stage we see that as not affordable under the bill. Councils have left us in little doubt that that is the case. On those grounds the opposition opposes the bill.

Ms HADDEN (Ballarat) — I rise to speak in support of the Road Management Bill, a very important and timely bill which establishes a coordinated managed system for the road networks throughout the state and facilitates coordination of the various users of road reserves. It is a new public general act and will operate consistently with other statutes such as the Road Safety Act, the Transport Act and the Local Government Act.

The bill replaces the old highway rule, which the High Court found in its decision in 2001 in the case of *Brodie v. Singleton Shire Council* to be unfair and outdated. The new laws mean road authorities are more accountable for the work they do. In the past, road authorities were legally responsible only for work they had done badly or poorly. Road users could not recover damages where an accident occurred on a road that had not been repaired or maintained. If road authorities do not maintain roads to a certain standard under the new law, they will be called to account. Under the old law they were able to do nothing and could sit on their hands. The new law will remove previous grey areas and gives clear direction about who is responsible for which roads. There can be no buck-passing between different authorities. Victorians will have an improved and more consistent standard of roads under this new legislation, with each road authority being encouraged to develop and implement a road management plan that is local to its area. The responsibility for 11 000 kilometres of main roads will transfer from councils to VicRoads. This will mean more consistent management and standards on our state arterial road network. There will be better coordination of infrastructure of Victoria's road reserves. This will improve road safety, ensure better coordination of utility and road works and minimise disruption to members of the public.

A discussion paper was released by the Bracks government in April 2003 for local government authorities, the Municipal Association of Victoria and VicRoads to have a joint action plan for road management across the state. In this Parliament in October 2002 a bill was passed which temporarily reinstated the highway immunity rule until 1 January 2005 following the abolition of this special legal protection by the High Court in the 2001 case of *Brodie v. Singleton Shire Council* (2001) 206 CLR 512. That High Court decision meant that the old, unjust laws giving road authorities protection were no longer valid. They were temporarily reinstated, as I said, until 1 January 2005 to provide an adjustment period that enables road authorities and others to prepare for the new road management plan framework.

Victoria is the first state to introduce a comprehensive response to the High Court decision in the Brodie case. The government has listened to the High Court, which decided that the highway rule was outdated, unjust and encouraged poor road management practices, and we will abolish it from 1 January 2005.

This government has designed a new scheme that will result in better road management and a fairer system for motorists and road users. Also, councils and road authorities will develop localised road management plans based on the resources and the function of the roads within each municipality they manage, so this law allows for a more realistic assessment of how they handle the funds they have. Throughout this process VicRoads, to its great credit, has worked with local councils across this state to ensure they have been involved and had a very positive chance to have input into shaping this law. Better road management will mean better use of existing road funds.

Road management plans under the bill are voluntary. No council or road authority is required to have one. If a road authority does not adopt a road management plan, then the general law as determined by the Brodie decision will apply. A council can choose whether to do or not do that. I refer to clauses 39 and 41 in the bill.

Approximately 72 of the 79 municipalities in Victoria have been implementing the road management Step program, and the City of Ararat in my electorate has published a comprehensive draft road management plan

on its web site, again to its credit. The Ararat Rural City Council is very progressive.

The question has been asked, 'Why change the law set out in the High Court's Brodie decision?'. The High Court ruled that a road authority must actively manage its roads. It cannot sit back and do nothing. It must take active steps to inspect, repair and maintain the roads to a reasonable standard. If it does not do this and a person is injured or killed or suffers loss because of the authority's neglect, then the authority should be liable. The government accepts this principle. A road authority should be liable for its negligence in the same way as any other organisation or individual in the community.

It has been suggested that the highway rule should be reinstated. This government does not accept that proposal. The highway rule was that a highway authority — that is, VicRoads and local government — were exempt from civil liability for failing to maintain or repair a road, which is known as nonfeasance; as opposed to poor design or construction, which is known as misfeasance.

There appears to be a poor level of understanding about what the High Court actually decided. The High Court decision was a majority of four to three and the important point that is often missed in this case is that the whole court acknowledged that the highway rule was antiquated, uncertain and unfair in the 21st century. The difference between the majority and minority judgments was not whether the rule was a good thing; it was generally accepted that it was bad law in today's climate. The difference was whether it was up to the courts or the parliaments to fix the problems, and clearly it is parliaments' problem to change the law and make it relevant to the 21 century.

The next issue I wish to speak about is on what is called the policy defence area, which is more specifically set out in clause 103 of the bill, and a road management plan which gives road authorities legal protection.

The debate about civil liability for road management shows how it can sometimes be difficult to determine the proper boundary between policy decisions of governments and the resolution of legal disputes by the courts. Can a court say that a policy decision by a state or local government is negligent? The review of public liability laws leading to the October 2002 report of Justice Ipp on the reform of negligence law recommended the introduction of a policy defence. The Ipp report recommended adoption by legislation the United Kingdom common law set out in the House of Lords decision in *Stovin v. Wise.*

The policy defence protects public authorities from liability if they carry out their functions in accordance with a reasonable policy, having regard to their functions and available budgets. Courts may not decide whether actions that are in accordance with government policy are negligent. To do this the court would in effect be determining policy, and that is the realm of Parliament and governments.

What the phrase 'policy defence' means in relation to the context of road management is that state and local governments can make policy about how to manage their road systems. Courts may not rule that a state or government agency is negligent for acting in accordance with these policies. This does not affect or impact upon a court's power to overturn an absurd policy as unlawful, but it respects the separation of powers between governments and the courts. Governments make policy and courts administer the law. State or local governments can make road management policies provided they act lawfully. Under the nonfeasance rule, or the highway rule, if a court finds that a road authority is negligent in the way it has acted, that authority is liable for the consequences of its acts. If a road authority is found negligent by not acting, it is not liable. Under the High Court Brodie decision, if the court finds that a road authority is negligent, the authority is liable. Under the Road Management Bill if a road authority followed a valid state or local government policy then it would not be liable. If a court found a road authority negligent and there was no valid state or local government policy then it would be liable.

How it works in practice is in the Ipp report description of how the policy defence would work. An example will illustrate the way the principles contained in recommendation 39 of the report are intended to operate. Assume that a public authority was sued for negligently failing to repair a pothole that caused a motor accident in which the plaintiff was injured. Assume that the authority led evidence to the effect that it did not know about the pothole and hence did not repair it; it maintains 10 000 kilometres of roads and inspects its roads on a six-monthly cycle. Assume, given the budget allocation for roads approved by the resolution of councillors, that it could not afford a more frequent inspection cycle and that the pothole developed after last inspection. On these facts it would not be open to the court to find that the budget decision constituted negligent conduct on the part of the defendant, unless the decision was one that no reasonable public authority in the position of the defendant could have made.

This bill focuses on the standard of public roads across this state. The bill is about facilitating better road

management for Victorian communities by establishing clear processes for setting goals, establishing policies and standards and implementing sound management techniques. The road management plans under this bill are a very good thing. I think it is proper management.

Hon. W. R. Baxter — It is cost shifting again.

Ms HADDEN — It is not cost shifting; it is about proper management and having proper plans in place to make sure our roads in this state are safe and that what ratepayers pay to their local governments is used in proper fashion. I commend the bill to the house.

Hon. E. G. STONEY (Central Highlands) — I would like to say at the outset that I oppose this bill for many reasons. I would also would like to make the observation that roads are a wonderful asset for the community, and they are also very dangerous. In fact 73 per cent of country road fatalities involve country people. That is a very grim statistic, and a large part of that statistic involves accidents at rail crossings.

Tonight I will confine my remarks to the contentious issue largely forgotten in this bill — that of railway crossings. This bill overlooks railway crossings — I do not believe they are even alluded to in the minister's second-reading speech — but they are a very big issue in my electorate. There are 43 crossings in the Shire of Strathbogie alone, most of them unprotected and without bells, lights or any sort of barrier.

An honourable member — How many bridges are there?

Hon. E. G. STONEY — We have a lot more bridges than that; it would probably be 300.

Earlier this year a popular and very capable councillor, Kevin Verge, died in his loaded truck at the Nagambie railway crossing. It is very sad, but it highlights how vulnerable we are. Mr Verge was just a few kilometres from his home.

I refer to a letter dated February 2003 from Helen Newton, who lives at Avenel. She states:

> In recent weeks we have written letters to both Mr Bill Sykes and Mr Ben Hardman about the very dangerous condition of the three railway crossings at Avenel. Our major concern is the state of the crossing in Aerodrome Road.
>
> Every person who travels over this crossing is put at risk. The 'road' surface is really a series of enormous potholes. One would be at least 1 metre wide and around 25 centimetres deep! It is not unusual for sections of the railway line to be unsupported — no sleepers, no gravel, not even any dirt. Recently there was a hole under the line we estimated would be large enough for a rabbit to fit through.
>
> ...
>
> Last week a farmer's trailer became unhitched through all the jolting and pitching as he crossed the line. As it had a full tank of water for his stock on board, the trailer was too heavy for him to rehitch. He was in the process of decanting some of the water, when a passenger train came down the line.
>
> Fortunately, he was quick-witted enough to turn his vehicle around and give his trailer three hefty blows with his bullbar to knock it clear of the line. By then the train was a maximum of 100 metres away.

For the record, I raised this in Parliament last autumn. The Minister for Transport responded, but yesterday I checked and the crossing is still in the same state of very bad repair, which is very concerning.

This bill is supposed to establish a coordinated management system for the road network, which includes roadways at railway lines, but in my opinion it does not coordinate the management of non-road infrastructure, especially railway level crossings. As I said, there is no mention of railway crossings in the second-reading speech, and it appears to me that the importance of such crossings has been overlooked. Reading the bill I cannot work out how the responsible manager can be directed to improve maintenance, and I cannot work out who will direct the company responsible for that maintenance. I point out further that this bill really only legislates what is currently in existence, and many crossings are just not up to scratch, as Mrs Newton said in her letter. In fact, on Monday my office spoke to the mayor of Strathbogie, Cr Robin Steers, who made a few very important points. The shire has 43 crossings to worry about. The main issue is public awareness of the actual crossings. There is a lack of signage and maintenance, and the crossings are in a terrible state. At Avenel the traffic is growing and the crossings are very bad and getting worse.

The mayor also mentioned the tragic death of Cr Verge. He said that the main issue in that accident was visibility and that there is nothing at the crossing except a stop sign. He made the observation that all railway crossings should have bells and boom gates; and he made the very important point that it is not the shire's responsibility. The shire has no say — and in fact it is a liability issue if it gets involved. We asked the mayor what he would do if the shire had to complain. He said, 'I do not really know'. He said they got nowhere the last time they inquired. They were referred from one department to another, and then were told it was not the second department's responsibility. Then they were told the second department had no money to fix it anyway. Eventually they were referred to the railway company, which conveniently forgot about it. It appears to me that this issue falls into a black hole and that rural Victoria

is suffering because of lack of attention to these railway crossings.

I contacted Kevin Hannagan, the chief executive officer at Strathbogie shire. He had the same story — poor maintenance standards on crossings. He said it was a very important point that under the relevant legislation shires are actually precluded from doing anything. He said it was clearly a railway issue, but the shire never knows which railway company or department to contact. He also said that safety is the shire's main concern: only 8 out of 43 crossings have flashing lights; the rest allegedly have signs.

I rang Helen Newton, who lives near this particular crossing, just to double-check whether anything had changed. She said that the railway crossings in Avenel in general are:

> ... Dreadful; the ups and downs are shocking; there are potholes everywhere; it is a challenge to find a smooth track to cross.

She told me that in January at one of the bad crossings there were trucks with 'Welders' written on the side. The locals thought something was being done about it, but the crew just filled the potholes with dirt which lasted about as long as it took to fill them in.
Mrs Newton's sister was visiting from Wangaratta and she assumed all railway crossings had signals. As she went over the crossing she looked down the line and was surprised to see a train almost on her, because she was watching the potholes as she was crossing the line.

Hon. Andrea Coote interjected.

Hon. E. G. STONEY — Yes it is a gruesome story, Mrs Coote, and I will get to my point eventually, but I am painting a scene. I wish I had more time.

At Ewings Road, Avenel, children and the local postal delivery lady use the crossing on a daily basis. There are no facilities for pedestrians to cross. Recently the local postal delivery lady's mail bounced out of her basket over one of the railway crossings, and she had to stop and collect the mail off the railway line — luckily no trains were going through at the time! Mrs Newton told me that most visitors do not know the train timetables, and they are unaware that there is potential for a train that is not scheduled. She said the locals are becoming blasé as they think they know the timetable, when in fact freight trains can have varying timetables.

I have outlined a scenario we have at present with railway crossings. The bill outlines who is responsible for railway lines and crossings. The explanatory memorandum to schedule 7 states:

> Clause 6 imposes various duties on infrastructure managers and works managers in relation to maintaining non-road infrastructure. They are —
>
> > to maintain the infrastructure and related works to a satisfactory state of repair;
> >
> > to avoid causing damage to the road or other infrastructure;
> >
> > .....
> >
> > in the case of a road used for rail infrastructure (such as a tramline or a level crossing), to ensure that the surface of the road is maintained to a satisfactory standard, equivalent to the adjacent sections of roadway.

Clause 3 includes the following definitions:

> "infrastructure manager" means —
>
> (a) in relation to road infrastructure, the responsible road authority under section 37; or
>
> (b) in relation to non-road infrastructure, the person or body that is responsible for the provision, installation, maintenance or operation of the non-road infrastructure;
>
> "non-road infrastructure" means infrastructure in, on, under or over a road which is not road infrastructure ...

Rail infrastructure includes boom gates, level crossing and tram safety zones.

Schedule 7, part 1, clause 6 outlines the reasonable measures expected of an infrastructure manager. Duties include the maintenance of works, repair of damage to the railway, taking reasonable precautions that nothing is placed on the railway and avoiding danger to persons with a disability. Subclause (f) states:

> ... in the case of any part of a road used for rail infrastructure, ensure that the condition of the surface is maintained to a standard which is equivalent to the standard of the adjacent road surface.

Having listed the requirements of the responsible infrastructure manager, I think there is still a question over who retains the ultimate responsibility to maintain railway level crossings. I point out again that the bill only puts into legislation what happens now. I do not believe it will improve the situation. It is a bureaucratic nightmare, as pointed out by the mayor and chief executive officer of the Shire of Strathbogie — it depends on where the railway crossing is and on which company is leasing the lines that run across the crossing. In the case of the Avenel crossing, two companies are involved. One line is with one company, and another line is with a second company. It is probably no-man's-land in between with no-one else allowed to touch the couple of metres on either side. It is full of potholes.

Everybody is passing the buck to the department, to the minister, or to the freight companies, and nothing gets done. It is the same dog, probably a different day, but in this case I do not believe the dog has any teeth. It appears the government has missed a golden opportunity to fix up a problem that has been there for some time. It is unlikely that the bill will do anything to assist in that process. It is unlikely to force any higher priority for railway crossings by the responsible infrastructure managers, and this gives me grave concern.

In the short time I have left I also want to refer to a letter from the Australian Forest Growers — a national association representing and promoting private forestry and commercial tree-growing interests in Australia — which was mentioned by my colleague Mr Koch, who I thought made a very good contribution. A copy of the letter has been forwarded to a lot of people, including ministers and members of the opposition.

The association is concerned about clause 112(1) 'Right to recover for damage to road', which states, in part:

> ... a road authority incurs extraordinary expenses ... as a result of extraordinary traffic ...

The letter explains:

> ... timber is the only category of bulk commodity which is defined as 'extraordinary traffic' in this way. As such the timber industry is being singled out, in comparison with other industries, to repair roads damaged by heavy cartage.

Mr Koch quoted extensively from that letter, and I will not repeat it and take up the house's time. I will, however, mention the association's request:

> We would therefore request that the timber industry and the cartage of timber associated with harvesting operations be treated in a similar manner to other agricultural industries. We recommend that all those responsible for the traversing of heavy vehicles along a road be held responsible for the reparation of damage to those roads, or, no industry be singled out.

That is a very reasonable request by the group. I ask the government to look at the request as outlined in the letter and as mentioned by my colleague the Honourable David Koch. On that note I conclude my remarks. As I said earlier, I oppose the bill.

Mr SCHEFFER (Monash) — This bill has been some 18 months in public consultation and development. The position paper was released in May 2003. The draft proposals issued for public consultation were released some months later. There has been thorough public discussion and consultation with stakeholders, and changes have been made to the draft legislation. It is fair to say that there is broad community agreement that the Road Management Bill should be passed into law.

Notwithstanding this, the opposition says the consultation has been inadequate and that the public and local government has no idea of the implications of the bill. Those opposite say that the provisions of the bill will lead to increased rates. They believe councils should remain immune from legal challenges for failing to maintain roads for which they are responsible. They lament the fact that councils should fairly and reasonably participate in maintaining municipal roads.

The opposition believes that VicRoads will declare roads that are too costly to maintain to be municipal roads and that councils will have to raise rates to pay for them or risk legal challenges if their failure to keep roads in good repair leads to an accident. The opposition sees this as cost shifting.

The opposition is also concerned that road management plans will not work, because they are to be based on the level of available resources and that rural councils in particular do not have the resources to maintain roads in their areas. The opposition is alarmed that councils will have to divert money from roadworks to preparing management plans and audits. They think the bill is about raising taxes for the government, and indeed Mr Bowden described it as a tax grab and as a Treasury bill.

The opposition also believes that local councils across Victoria have been conned. Nothing is further from the truth. This legislation has widespread support. That is not to say that every detail is totally agreed on. As with every ambitious initiative, experience may lead to further changes and modifications, but that is perfectly acceptable provided there is broad agreement that it is time to go forward — and this is what leadership is about.

The present classification of state roads is complex. The respective responsibilities of VicRoads and councils can be unclear and often lead to useless legal contests to sort out which body is responsible for the upkeep of any given road or section of road. Last year in my electorate of Monash Province the Stonnington council, for example, was involved in a wrangle with the City of Yarra and VicRoads over a $4 million repair bill for the heritage-listed Church Street bridge. Yarra and Stonnington argued that the bridge was the responsibility of VicRoads, and in the end they won the argument, and the bridge and Church Street were assigned to VicRoads.

The Road Management Bill seeks to simplify the system so that meanings and responsibilities are clearer. It seeks to set out a new framework for the management of Victoria's state and local road systems. But will the provisions of this bill, as the opposition says, impose a financial burden on local councils?

The bill encourages road authorities such as local government to make policy decisions about construction and maintenance standards for their roads. The standards will be set by each authority and will be developed in the context of the available resources, competing priorities and community needs and expectations. They will be included in a road management plan. I understand the biggest cost will involve implementing the road management plan and the development of the assets register.

The present lack of adequate asset management on the part of local government has been highlighted by the Victorian Auditor-General, who has recommended that the matter needs to be addressed by local government. The implementation of soundly based road management arrangements makes documentation an essential part of good road management practice. It enables road authorities to maintain appropriate road standards and better target their funding and resources.

It stands to reason that there will be new upfront start-up costs, but these will be offset in the longer term by better use of funds through targeting works and improved asset management practices. Codes of practice will be developed to give practical guidance to road authorities in carrying out road management functions. The codes will be developed in consultation with the community and stakeholders. Local governments will, I expect, already have the data on which their road management plans can be based, and they will have the skills to refine this data into policy and plans. Ms Romanes earlier referred to some councils that already had road management plans or are in the process of developing them, and that is heartening to hear.

The opposition has said that the provisions of the bill will expose councils to increased legal liability resulting from the condition of the roads for which they are responsible. Would it not be better to protect councils from any liability and just let this protection encourage poor road maintenance practices?

The High Court's abolition of the nonfeasance immunity of highway authorities required the government to respond, and it did so in the form of the Transport (Highway Rule) Act 2002. The provisions of that act will remain in effect until January 2005, and that has temporarily reinstated the immunity.

But the introduction of the Road Management Bill will prove to be a long-term solution to a number of management issues. The High Court determined that the highway rule was outdated, unjust and encouraged poor road management practices. One of the strengths of this bill is that the road authorities will have a duty to maintain, inspect and repair public roads for which they are responsible. Under the provisions of this bill a road authority is protected against action for damages if it can point to a policy that addresses the issue, and can also indicate that it has complied with the provisions of that policy. Road authorities will not be liable for damages where the value of the damage is less than $1000. This will avoid expensive legal costs involved in defending small claims, which could be a waste of money.

The City of Glen Eira, which forms part of Monash Province, is also taking the provisions of the bill in its stride and believes that the new law will not trigger a surge of lawsuits as the opposition fears.

In relation to the extensive consultations that have taken place with the stakeholders over the 18 months, it is important to place on record that the Municipal Association of Victoria believes that the Road Management Bill contains commonsense reforms. The MAV says that the provisions of the bill are a commonsense solution to a complex legal issue. Mr Brad Matheson said that the new legislation will provide protection to councils that have policies in place and will comply with time lines for inspection and maintenance, as set out in their road management plans.

Hon. Bill Forwood — Where did he say that?

Mr SCHEFFER — I can find the source for you, Mr Forwood.

This level of support is the result of the Victorian government working closely in partnership with local governments. They have been kept fully informed of the development of the legislative proposals and have been confident that their issues have been taken seriously. This cooperation is continuing through the development and finalisation of the codes of practice that will cover a breadth of issues. As well, practical guidance for councils will be provided through workshops and conferences. This is practical listening and acting.

Environment Victoria has raised some issues with me. It felt that the bill should reflect Victorian government

policies and strategies such as Melbourne 2030 and policies for more sustainable transport and planning. The bill addresses itself to all modes of transport, including public transport, cyclists and pedestrians. The bill requires a road authority to have regard to relevant government policies in relation to transport and land-use planning, and sustainable objectives in Melbourne 2030 will govern transport proposals.

Under the provisions of the bill, road authorities will be required to manage public roads in a manner that does not negatively impact on the environment. Road authorities must have regard to environmental legislation and apply for all necessary permits.

There are no exemptions. But key environmental legislation continues to drive the sustainable agenda in Victoria, and there is no need to replicate all of that in this bill. Under the provisions of this bill much will be clarified, and there will be considerable benefits to all Victorians. I commend this bill to the house.

Hon. J. A. VOGELS (Western) — I would like to say at the outset that I also oppose the bill. I heard the previous speaker talking about the Municipal Association of Victoria (MAV) supporting the bill. I could just as easily say I have got a press release here from the Victorian Local Governance Association, which says 'Road Management Bill: wrong way — go back'. The opposition has said it does not support this bill. I have visited most councils across Victoria over the past 12 months, and it is quite obvious that many councils are very nervous about this bill. Some do support it lukewarmly but basically councils, especially rural councils, are very nervous about this bill. It goes from downright opposition to lukewarm support.

I have a letter from the North West Municipalities Association to the minister. Other speakers have mentioned it so I will not have to go through it all, but in it and through its letter to me it asks the minister not to go ahead with this bill. The association says it is not ready and that it will take another two years for the management plans to be up to scratch before it can even look at the bill. The association wants the protection of nonfeasance for at least another two years. I also have a copy of a letter from the Gippsland Local Government Network saying basically the same thing — that it is very concerned about this bill and wants the protection of nonfeasance into the foreseeable future.

Ever since the *Brodie v. Singleton Shire Council* case local government across Australia has waited for state governments to protect it, to restore the defence of nonfeasance while preserving the right of action in cases of misfeasance. It is not true, as some speakers for the Labor Party have said, that you could not sue councils in the past. You could sue councils, and many councils have been sued in the past for not looking after their road networks properly. This was even commented on, as was mentioned, by one of the judges of the High Court who gave a dissenting ruling on this case four to three. This common-law change with respect to immunity in the highway rule should be left to Parliament and not to the High Court.

Will this legislation protect councils? Obviously other Australian states do not believe so because they are all going down the path of bringing back legislation which will give councils nonfeasance immunity. The question needs to be asked: why is Victoria alone heading down this path? The obvious answer is an opportunity to cost shift responsibilities onto local government. Over the past few years councils across Victoria have spent millions of dollars preparing road asset management plans through a program called Step, which I think was a good thing. The Step program is there to assist councils to achieve a minimum standard of asset management. The key objective is to have standards that will stand up in a court of law. When tested this program will enable councils to prove they have demonstrated a duty of care to the public; they will therefore be safer if they have to go to litigation. But if they are taken to a court of law, will the law be on their side?

All this work over the past few years has left councils knowing much better what their assets are, but they also know a lot more about their liabilities — and that is of concern to them. Councils were told that this new road management scheme will be cost neutral. There will be no more money put in by the government so it has to be cost neutral. If there are infrastructure problems in the future — and we all know they are out there — the only way these problems will be fixed if they have to be cost neutral to the state government is by finding funds through Roads to Recovery money or by increases in rates.

For interest's sake, I noticed in the budget today that this year's budget funding for local roads has been restored to $160 million. Two years ago local road funding was $156 million. Last year the state government reduced funding to $140 million, a 10 per cent drop, but this year funding has been restored back to $160 million, which is about a 1 per cent or 2 per cent increase on 2002 figures. The government will say this is a fantastic increase, but it is just above the figure for 2002. In the forward estimates there is no increase; it stays there, and we all know how costs are rising.

What guarantee is there that even if the 79 councils draw up their management plans, which they obviously have to, there will be 79 different management plans, because you can only have asset management plans according to the funds you have got to fix your problems? You are going to have to go out, look at the roads and say that with the funds coming in the benchmark can only be set at whatever that level is for each council. If that amount is different from the amount of the council beside you, or what VicRoads believes it should be, or some judge in a court of law decides it should be, how is this going to stand up?

To go back to where all this started, which was the *Brodie v. Singleton Shire Council* case, a truck driver was travelling down a local road with signs on the bridges saying 'Limit 15 tonnes'. This driver had already crossed one bridge and then proceeded to cross another bridge driving a 22-tonne truck. The bridge collapsed taking him and the truck to the bottom of the creek. The truck was no doubt a write-off and he was badly injured, which was sad. This truck driver then decided to sue the council. One would have to say if there is a 15-tonne load limit on a local road and you are driving a 22-tonne truck, do not cross the bridge! What is more, although the council proved in a court of law it had inspected its bridges four times a year still the High Court ruled four to three in favour of Mr Brodie. I can just see a judge saying: 'This is a court of law, not a court of justice', as he gave his decision.

Only a lawyer could give you that answer. Why would you suggest that just because you have the best asset management plans in Australia, with signs everywhere and have done everything you could to prove to anybody using your roads that these are the bench marks, people will be safe? Why would you be when you see a decision like that?

I have two examples of asset management documents detailing the road and footpath inspections that councils are supposed to carry out. The first is headed 'Asset condition and inspection regimes'. It deals with roads and says, for example, that the condition of main roads has to be looked at annually and the safety of the road every six months. The condition of arterial roads has to be inspected annually and for safety every six months. The condition of local access roads must be inspected every 36 months and for safety every 18 months.

The second one beats the lot. It is headed 'Asset condition and inspection regimes', and it is for footpaths. The person who inspects footpaths must identify the footpath. The subheadings are 'location — start and finish' and 'general location e.g. outside no. 10'. The inspector must then describe the footpath type according to the following categories: 'sunken'; 'cracked'; 'heaved'; 'moundings and/or depressions 25 mm over 1.2 m'; 'lips exceed 10 mm (actual height to be stated:' and so on. All inspectors throughout Victoria will be measuring footpaths and, as this says, noting whether the footpath is slippery, free draining, or has vegetation lower than 2 metres or overhanging branches, amongst other comments. This type of rubbish is what council officers will be doing instead of spending ratepayers money on fixing roads, footpaths or whatever. You would hope that such reports stand up in a court of law.

The councils that are most concerned are rural councils. I have a list of the 79 councils and their road networks. Some city counterparts, such as the City of Boroondara, have only local roads and footpaths to look after, but the Shire of Buloke, for example, has in excess of 5000 kilometres of local roads, as has the Mildura Rural City Council.

Campaspe, Loddon and Yarriambiack councils all have more than 4500 kilometres of local roads. East Gippsland, Hindmarsh, Moira, Moyne, Northern Grampians, Southern Grampians, Swan Hill and Wellington councils have around 3000 kilometres of roads, and the councils of Ararat, Corangamite, Gannawarra, Glenelg, Greater Bendigo, Greater Geelong, Greater Shepparton, Horsham, Pyrenees, South Gippsland, Strathbogie, Wangaratta and West Wimmera have over 2000 kilometres of roads. There is another raft of councils with more than 1000 kilometres of roads.

All in all local councils are responsible for 128 394 kilometres of local roads, which is at least three times around the world, and they have to inspect for potholes, tree limbs and branches, and signage every six months and sometimes every year. If there is a flood then the culverts will have to be inspected because if someone falls through a culvert, the council will be liable.

VicRoads has generously offered to take back 11 000 kilometres of this network — that is not even 10 per cent! One can be sure that the 10 per cent that VicRoads takes back will be the best 10 per cent. The legislation also says that VicRoads can hand back or deem certain roads now to be the responsibility of local government, and no correspondence will be entered into. You can be sure which roads VicRoads will hand back — they will not be the best ones.

So far I have concentrated on the road network, but we know that this whole saga started with a bridge collapsing. There are thousands of bridges in Victoria.

The Strathbogie Shire Council has 360 bridges, one for every day of the year. Most of the bridges need major repair. There are also tunnels, traffic signs, guardrails, light poles, culverts, footpaths, nature strips and trees — you name it! — which will all be the responsibility of local government.

Roads and asset management have and always will be drawn up based on the available resources of a council. Councils do not have the luxury available to the Bracks Labor government, which continually increases taxes and charges and cost shifts responsibilities to other forms of government. Councils are at the coalface. When local bridges or roads become too dangerous and do not meet the management plans they will have to be closed. Those councillors will then have to face the wrath of the community when they say, 'Sorry, this bridge now has a 12-tonne load limit'. If an empty milk tanker, for example, weighs 16 tonnes it may have to travel more than 50 kilometres out of its way to get to the dairy farm — if it can get to the dairy farm.

The opposition does not support the bill, because it is plain to see — and all rural councils understand — that this is a cost-shifting exercise on to local government.

Sitting suspended 6.32 p.m. until 8.07 p.m.

Hon. W. R. BAXTER (North Eastern) — I am pleased to contribute to this debate, but I make it clear at the outset that I share the sentiments expressed by the Honourable Mr Bishop in his contribution on behalf of The Nationals. We will be opposing this legislation not because we disagree necessarily with what the government is trying to achieve; we just do not believe that this is an appropriate way to go at this point.

There is no doubt that roads are a fundamental piece of infrastructure in the state of Victoria and the nation. There have been some interesting books written over the years about the history of roads. They make fascinating reading. I recall two books in particular written by Dr Max Lay, a very senior officer at VicRoads for a number of years and more recently engaged in overviewing the CityLink project as the official reviewer. Dr Lay has written one particular book that I recall, entitled *Ways of the World*, which is a fascinating account of the development of roads over history.

He has also written several other books, one on the road system of the city of Melbourne. It is clear that the task of moving freight in the future is going to increase enormously and that our road network, along with our rail network, will need to be constantly upgraded.

I do not think there is any doubt that there have been tremendous improvements in the road system in Victoria over the last 50 years, since the Second World War. I know we complain bitterly in this house regularly about particular sections of road which are overdue for repair, but I think we would all acknowledge that the improvements made to roads in our lifetime have been phenomenal. To some extent that is due to the fact that Victoria has been well served by road-building bodies, with the then Country Roads Board having been formed in about 1915 with Mr Calder as its chairman, succeeded in due course by the Roads Corporation, which is now known as VicRoads.

I certainly commend the engineers and the staff — the divisional engineers, the regional managers and the like — in VicRoads because I think they can hold their heads high as being part of the best road-building authority in Australia. I am not the only one who would give them that accolade. Over periods of time governments have given roads the sort of priority that they need and require. While I was roads minister I was pleased to have something to do with bringing into being the Better Roads program. I think that fund, which is still going — it was mentioned in the budget handed down today — has been instrumental in improving the road system in Victoria. The federal government has on occasions introduced various programs including the Roads to Recovery program; it has established roads of national importance, and so on, which have been very significant and helpful to this state.

I do not think there is any doubt that as far as the average person in the street is concerned we have a somewhat confusing road system in the state of Victoria. Some roads are funded by the federal government, some by the state government and many by local government. We have various classifications: arterial roads, main roads and local roads. This bill does not rectify that confusion. Certainly it makes some name changes but we will still have these various classifications, and the funding by and large will remain under the same sort of formula.

I concede that this bill is an attempt by the government to put in place a substitute for the nonfeasance circumstance which has served us pretty well for a long time but which was overruled by the High Court in the *Brodie v. Singleton* case. The government has got it wrong in what it is trying to achieve as I think it is putting in place a bureaucratic nightmare. In his contribution Mr Bishop gave me some credit for calling it a 'barristers banquet'. I certainly think it will be that.

Hon. B. W. Bishop — And rightly so, too!

Hon. W. R. BAXTER — But I have to acknowledge, Mr Bishop, that that was not an original saying. In fact a former Leader of the Opposition in this place, the Honourable Bill Landeryou, was very fond of referring to legislation — —

Hon. J. M. McQuilten — A good man!

Hon. W. R. BAXTER — Yes, a good man, Mr McQuilten! He was fond of referring to legislation introduced by then Liberal government as being a 'barristers banquet'.

I was drawing on Bill Landeryou's comment when I said that, but I honestly believe that that would be the result. It is going to require more staff, more files and more council cars, but it will not fill one pothole on any road anywhere. In fact, it is likely to have the opposite result because the volume of resources — the number of dollars — that will be chewed up in all the paper warfare that is going on with the compiling, filing and checking of reports and the going around inspecting thousands of kilometres of some pretty back roads, in some cases, is going to be very costly, and that can only have one result — that is; less money spent actually fixing the roads. That is an entirely counterproductive way to go, and we should not go down that track.

As I said before, maybe the government has a genuine desire to put in a substitute for the feasance provisions. I do not necessarily subscribe to some of the views that may have been put in the debate today, that this is some sort of conspiracy theory to cost-shift, because the when the main roads are handed back to VicRoads; the funding will go with it, and that should be largely cost neutral. I have a couple of concerns with the provisions in the bill which might allow VicRoads to reclassify some other roads and possibly hand them back to local government without sufficient consultation, but I am not saying that that is the aim of this bill although it might be an incidental element or outcome of it.

I am prepared to give the government the benefit of the doubt and say that it has made what in its view is a genuine attempt to address the findings of the High Court in the Brodie case. But it is the typical Labor response to these things, that, 'We will not worry about what might be practical; we will just put in place a very complex paper trail'. And an extraordinary paper trail would be the consequence of this bill, with all the inspections and policy documents that that would require. As Mr Vogels rightly noted, we have 79 municipalities; we are going to have 79 different paper trails, 79 different policies and frankly, it is going to be a dog's breakfast. I simply do not think that it is a practical way of going.

Is it going to end litigation? I do not think so. I think it will increase litigation because we will have court cases to contest whether the policy of a particular municipality was adhered to. We will have debate in the courts on whether the policy was appropriate. We will have contests in the courts as to whether the plaintiff was driving appropriately for the condition of the road or the weather conditions at the time. We will have all those sorts of arguments, and it is going to get very confused.

I suppose the logic of putting the $1000 threshold in was to say to people, 'If you get a punctured tyre or a broken windscreen, it is no good going to the council and blaming it because it is under $1000'. That is so, but it is flying in the face of what we are trying to do in every other piece of liability legislation, where we are trying to take the small claims out of the system because they are the costly ones to handle. The result will be people claiming damages of about $1000 or $1100. Councils and their insurance companies will pay up because it is cheaper than defending it. That will build up a sort of precedent where people will make a meal of all of this, but they will be able to claim it from the council because they know the council will lie down, pay up and shut up.

We will have the guy who is half stung and driving home from a hotel one night, driving inappropriately for the road conditions — perhaps on a corrugated gravel road — who swipes a guide post, runs into a tree and does $1500 damage to his car. He will go to the council, make a claim, and he will have every chance that the council will pay up. That will lead to rorting and fraud, and we should not be inviting that.

The immediate solution is to restore the nonfeasance defence at least for the time being, if not indefinitely. We have a precedent for that, because Mr Hall attempted to do it through a private member's bill not so long ago. The government picked it up after a while and reinstated the nonfeasance defence for a short time while it worked its way through the legislation. The nonfeasance defence has served us well; it has been around for a long time.

Hon. P. R. Hall — It is a simple solution.

Hon. W. R. BAXTER — It is a simple solution, Mr Hall. It is all very well for the High Court to say that it is outdated and we should do something different. I am not sure that the High Court came up with any solutions; it more or less handpassed it back to the

parliaments to come up with a solution. Here is the solution brought in by this government; I give it credit for bringing in a solution, but I do not think that this is a practical solution. I do not think the house should go along with it tonight.

The Queen's highway is there for everyone's use. We all have to take some risks and we all have to drive appropriately for the condition of the road. Earlier tonight we heard Mr Scheffer talk about the City of Stonnington; it is not too worried about it. I dare say that the City of Stonnington — Glen Eira — does not have one gravel road in the whole of its municipality. It is an urban built-up area with sealed roads. I represent councils that have thousands of kilometres of gravel road. I live on a gravel road, and I know the problems of maintaining it. I know the problems and the expense that would be involved if the council had to go out and inspect those roads under some artificial policy document arrangement. It would be very difficult for the council to do that and to make it stand up in court if it were challenged on whether it had followed the letter of the policy. It and the ratepayers of those municipalities would be exposed, and I simply do not like it.

Hon. Bill Forwood — Ms Hadden liked it!

Hon. W. R. BAXTER — Yes, she said it was a good bill. The government should restore the nonfeasance defence for the time being while it goes back to the drawing board to see if it can find a better way of doing it. I will give an example. When Jim Kennan was the Attorney-General in the Cain government he amended the laws of negligence under the Wrongs Act with regard to stock straying on highways — again, a defence that had been in the law since, I think, the 1820s.

Hon. C. D. Hirsh — It is now the 21st century!

Hon. W. R. BAXTER — That is exactly the point I am making. Jim Kennan amended the law of negligence with regard to animals on highways. We all accepted it was time that it was reviewed, and we all accepted what Jim Kennan did. It did not involve farmers coming up with some great policy document; it did not involve them going around and inspecting their fences, making files and notations that the fences were in good order.

I am saying that there is a precedent: We do not have to go down this track of paperwork, artificial policies and the make believe that somehow or other if you have a policy in the top drawer of the filing cabinet, everything is going to be hunky-dory. Of course it is not. This is simply imposing costs on councils, and that reflects on rates.

The Shire of Moira is about to put up its rates by 16 per cent. It needs to do an infrastructure upgrade of mighty proportions because it is dead worried about this particular bill coming in. It thinks it is exposed, so this year it is going to put the rates up by 16 per cent and then for the next five years, by the consumer price index plus 3 per cent. So you can imagine what my poor farmer ratepayers in the Shire of Moira are thinking at this time, particularly those in the dairy industry who are staring down the barrel of pretty low prices and the irrigators who are staring down the barrel of 20 per cent increases in water prices.

We should not be going down the track of imposing extra costs on municipalities when it is not going to achieve anything but is in fact going to be counterproductive. I call on the government to withdraw the bill and reinstate nonfeasance for the time being. If it wants, it can have a look at a more practical solution for the future.

Hon. J. M. McQUILTEN (Ballarat) — I have some sympathy with some of the arguments being put to the house tonight in relation to this bill. It is a hard issue for country MPs of any persuasion to handle.

It is about leadership and saving lives. It is also about being sensible and rational about who looks after which road. I think the approach that has been taken by the government with this bill is long overdue, yet I agree with some of the arguments that have been put tonight about the possible barristers' banquet. That is a worry, but if we do not do something like what we are doing tonight it will equally be a barristers' banquet. One of the major problems I see in our society is the propensity to take problems to court.

Hon. Bill Forwood — Yes, when in doubt, sue!

Hon. J. M. McQUILTEN — When in doubt, sue. It is what is happening in America — and it is happening there too much. I do not want to see that happen in this country. This is something we have to work to avoid. The bill before the house tonight may not be a perfect answer, but it is an attempt. I think it is a good attempt, as a first way. I am of the view that the rest of Australia is watching what we are doing; that is why I referred to leadership. Leadership is what this bill is about. It does go into some areas that we have not experienced before, that we have not tested, but I really think it is necessary.

We listened to the Honourable Barry Bishop's contribution earlier. I received all the same letters from the north-west councils. I was concerned, and I listened

to what they were saying. I had more than that in terms of correspondence and contacts with country councils. My reading of what I saw from those country councils was that they had some legitimate concerns — like council elections coming up and only having three months. All those issues are fair dinkum. But generally all the councils that have contacted me and with which I have had discussions are basically in favour of the general direction in which we are going. Because of that — I have been asked to make this contribution brief, and I will — I think we ought to support it, but we need to watch what happens. The real issue — and why I am standing here tonight — is that we cannot go down the track of America. We have to start really trying not to be a litigious state. It is just crazy for us to go down that track.

When the idea of the barristers' banquet was brought up I was extremely concerned, because I have the same concerns as members of the opposition. But I think this is a way of proceeding that we need to trial. I think it can work. There are problems — I agree there are problems — and we have to try to overcome those problems, but on balance I think the house ought to support this bill.

Hon. BILL FORWOOD (Templestowe) — It is always a pleasure to follow Mr McQuilten. You know that what he says, he means and he always tries to find the way to express those views in a genuine manner. I take a different view, and he will not be surprised that I say that.

I wish to make two comments about this bill. The first is in relation to cost shifting from local government. I know that the minister at the table, the Minister for Local Government, who has responsibility for this bill, is a great denier of cost shifting occurring — she says that the federal government would not do it and that the state government does not do it, despite the evidence to the contrary. I quote from a letter dated 1 September 2003 addressed to me from the Manningham City Council on the then proposed bill:

> While Manningham council is supportive of the principles of the bill, Manningham is concerned with the increase in powers which are to be provided to state road authorities, in particular the areas of responsibility which are currently the domain of local government and the likely cost shift in the determination of road standards on arterial roads and the administrative arrangements of the arterial road network. Council is also concerned with the mechanisms for consultation, communication and appeal rights in the determination of any road improvement proposals on arterial roads which impact on local residents.
>
> Accordingly, council have requested that the interests of Manningham be considered in the debate, discussion and adoption of the new Road Management Bill to ensure that there is no cost shift to local government and that the new legislation embraces the principles of consultation, communication and appeal rights ...

I look forward to the minister, in her summing-up tonight or in the committee stage indicating that there is no cost shifting, that cost shifting will not occur and that councils will not be disadvantaged by the bill before the house today.

The second reason I am speaking on this bill is in my capacity as shadow minister for resources and energy. Members would know that there has been considerable concern, particularly about part 4 and schedule 7 of the bill, from the utility companies. While I am happy to accept, as most members are, that there is a case for bringing the Brodie decision before the Parliament, to my knowledge no-one has yet told me or the Parliament why there should be included in this bill anything to do with the functions of utilities. That has nothing to do with Brodie, so why have we decided, as part of this legislation, we will move down this particular route? I know the proponents of this legislation will say that the relationship between utilities on the road or in and around the road is an important part of the Brodie case, but I think that has yet to be demonstrated. To my knowledge, as I said, no-one from the government side has dealt with that particular issue.

The other thing is that I believe less than full consultation has taken place with the utilities. I know the Minister for Local Government will reject that, and I look forward to her doing so. I have met with the utility companies, and I am sure they would say they were notified that the bill was being prepared last year, but all of a sudden in March this year they were presented virtually with a fait accompli. One of the reasons I have decided on behalf of the opposition that we will take this bill to the committee stage is to explore some of the issues related to the way the regulations and code of practice will impact upon the utility companies.

I have received advice from some of the utility companies. I will quote this briefing that they provided to me in March this year, when they state:

> ... a component of the bill was developed to give road authorities a coordinating role in relation to utility assets, which effectively puts control of essential service infrastructure in the hands of VicRoads and local councils.
>
> This control has been achieved by including in the bill a requirement for utilities to obtain the consent of the road authorities for any works in, on, under or over a public road. In order to implement this, the bill also includes changes to section 93 of the Electricity Industry Act and section 149(1) of the Gas Industry Act, which presently give distributors the

power to undertake works on public or private land or roads, making these acts subject to the Road Management Act.

What we have done is reverse the process. In the past these activities were governed by the Electricity Industry Act and the Gas Industry Act, but now they will be governed by the proposed Road Management Act. I put it to the house that we have had a notification system in the past that worked. What we will now have is a switch to a consent-based system. That consent-based system turns the past process on its head. It does so at a time as schedules 7 and various clauses of the bill, particularly the clauses dealing with the code of practice and the regulation, make clear, when no code of practice and no regulation, to my knowledge, have yet been developed and put before the Parliament.

I am not saying necessarily that I object to this, but I think a case can be made that if we are going to go from a notification to a consent-based system, people ought to know what the rules are. People ought to have some idea about the way this will actually work. Do they or do they not know that? We will find that out during the committee stage of the debate.

For example, what has been put to me on a number of occasions is that there will be substantial costs which can potentially pass through to customers. I have been given a list, which includes permit fees, preparation of additional plans and consent applications, and the redesign of works to meet road authority criteria. I pause briefly. What capacity necessarily does a road authority have to design, comment on, criticise or even amend the designs put forward by the utility companies? Is this an area of expertise that they have? I do not know. Another of the dot points includes more expensive construction techniques, delays in the work process and waiting for consent and then negotiating conditions. I know the bill contains a provision where if you have not responded within 21 days, I think, it is automatically taken to have been deemed to be agreed. But 21 days is 21 days, and that means an application for consent goes in and they have to wait 21 days before action takes place. Blind Freddy can see that will add costs to the utilities.

The list of substantially increased costs to customers that I have includes changes in work times — changes in times works are able to be conducted, increased connection costs, costs associated with notification on completion of work, increased reinstatement costs and total redesign of work practices. All these are legitimate concerns from the utility companies. From what I know and from what government members know, despite the best endeavours of the Minister for Energy Industries, the Honourable Theo Theophanous, he got rolled in cabinet. We know he tried to get himself written in to the bill, but he got rolled, and I am very sad about that. At least he is an advocate for his industry, unlike the Minister for Local Government who is the minister against local government rather than for local government, but more about that at another time.

I am disappointed that Mr Theophanous got rolled in the process of trying to put first the interests of the utility companies, consumers, customers and clients of the water authorities, the electricity companies, the gas companies and the telecommunication companies, but they will miss out because of this decision of the government, unrelated, as I put to the house earlier, to Brodie to move from a notification to a consent-based system. There is no doubt there will be delays and some of those delays will be due to the consent or delays in complying within the required timeframes for connecting customers.

Again we do not yet know, because to my knowledge the regulations and the codes of practice have yet to be distributed to people such as me, but maybe the minister will be able to table them tonight at the same time that she tells us what the fees will be. She may be able to outline how the codes of practice will work and how the regulations will work, so people signing up to the legislation will have some idea how it will work in practice. I guess I am in the 'Don't hold your breath, Bill' category, but it would be nice if the minister could indicate these things to us today.

Let me touch on a number of things. No-one quite knows, to my knowledge, how the fee structure will work. Members of this place will not be surprised to know that the Moreland City Council decided earlier this year to require a bond for roadworks undertaken by utilities. My understanding is the bond was $1000, so before any utility did any work it had to lodge a bond of $1000. I understand the bond was to be returned after reinstatement of the road in question.

I understand also that the reinstatement work had been outsourced to the City of Moreland so that it was taking $1000 up front to ensure that the reinstatement works were done properly, but my understanding is that they were the people doing the reinstatement works. This is the sort of nonsense that this nanny legislation leads us to.

I go back to my original point: I would like the minister to explain tonight why it is important that the utilities and a consent regime be brought into the legislation. I think that is a legitimate issue that has not been adequately dealt with in the debate to date.

One of the things I remain concerned about is that to my knowledge there are 79 local councils, VicRoads and other authorities, but what process does the government intend to put into place to ensure there will be one standard or one process across the whole area? Or, as I read the bill, is it possible or even likely that each of the authorities could have the capacity to produce its own set of standards or processes? What are we doing? Why have we decided to go down this route?

Hon. W. R. Baxter — We haven't; this lot have!

Hon. BILL FORWOOD — I am sorry, why has the Parliament been put in this position? Thank you, Mr Baxter. 'This lot' is a good expression; I think Mr Baxter means the government. It has, and we have decided that we will oppose it doing it, and we look forward to sitting with you, Mr Baxter, when we vote no on this particular piece of legislation.

I am disappointed that a piece of legislation that is important has been so poorly thought through. I am disappointed that the legitimate concerns of the utility companies have been so blatantly disregarded in the course of the preparation of this legislation.

I confidently predict that the result of the bill before the house will be an increase in cost to consumers of water, electricity, gas and telecommunications — —

An honourable member — And rates!

Hon. BILL FORWOOD — And rates, because as night follows day, the more paperwork you put in front of these companies as they go about their legitimate work, the more you are likely to get increased costs. And where are those costs going? They are going to flow through to the consumers. They are going to flow through to the customers of each of these services. I look forward to a brief committee stage tonight when I will be asking some relatively pertinent questions about the codes of practice and the regulations, the utilities infrastructure panel, the fees that will be set and the exemption that apparently will be available but which is yet to be adumbrated before the house. Who will get an exemption and under what circumstances? I look forward to a brief committee stage when these issues can be fully investigated by this Parliament.

Hon. W. A. LOVELL (North Eastern) — It is a pleasure to contribute to the debate on this bill and say that the opposition is opposing it for many reasons. This legislation will establish a new framework for the management of Victoria's roads. It will transfer 14 000 kilometres of arterial roads from council management to VicRoads and, like Mr Forwood before me, I have many concerns about the implications of this legislation.

Firstly, once this legislation is passed Victorian councils and ratepayers will be subject to a new law about which they were not properly consulted. This legislation will impose more administration and general costs on to councils and the end result will be higher rates for taxpayers. Like Mr Baxter, I represent the people of Moira who are currently facing a 16 per cent hike in their rates. They will not be happy to know that this legislation will probably push their rates up even higher next year.

The time it will take to fix road problems will significantly increase under this legislation as consumers are forced to deal with myriad bureaucracies to report and have paperwork completed to repair local roads. We already know that VicRoads is rather slow in reacting to the repair needs of many of our local roads in country Victoria. An example of this has been the Peter Ross-Edwards Causeway, which has caused great concern to the people of the city of Greater Shepparton for many years. It was only after years of community concern that a safety audit was finally conducted on the causeway in 2001, and that safety audit labelled the road as completely inadequate. Yet to this date we have only seen minor, cosmetic improvements made to the road. The Bracks Labor government has been complicit with VicRoads in failing to upgrade this particular section of the Midland Highway.

Today, Victorian state budget day, the Bracks government allocated $6.3 million to this project, but it falls far short of the $17.7 million that is required to provide a safer road that would service our community into the future. This morning the transport minister is reported in the *Shepparton News* as saying that the:

> ... more expensive VicRoads options ... were not necessary because the federally funded Goulburn Valley Highway Shepparton bypass will be built, in up to a decade's time ... it would ease traffic on the causeway.

This statement by the minister was in direct contradiction to the causeway planning study of 2002, which states:

> ... the causeway may not provide an adequate level of service within 20 years, with or without the bypass.

Minister Brumby's funding will only improve safety on the causeway by 19 per cent. If the government had gone for the preferred option, we would have had a safety increase of 38 per cent, but once again the Bracks Labor government is prepared to risk local lives in rural Victoria.

Just a couple of weeks ago I was contacted by a constituent of mine who told me about the intersections of Poplar Avenue and Doyles Road and Orrvale and Benalla roads. Both of these roads will fall under this legislation and pass on to VicRoads. Mrs Searle was very concerned. She had already spoken to VicRoads about this intersection, and the VicRoads office was completely unaware of the dangers of these two sections. As a local, Mrs Searle was very well aware of the dangers of those intersections, as was our local council, but VicRoads is one step removed from our local community and was unaware. Again there will be a tremendous burden on local councils and local people to make VicRoads understand the significant issues to do with roads in country communities.

The councils are currently receiving an income stream from utility companies when those companies wish to carry out works, and this will be removed. That will result in VicRoads dealing with the utility companies, which means that a huge bureaucracy without local knowledge will be managing contracts with utility companies, opening the floodgates for errors and removing an important revenue stream from local councils. Several of my local councils have raised with me their concerns about the loss of income this will cause and about the extra burden of reporting that will be placed upon them. For those reasons the opposition opposes the bill.

Hon. P. R. HALL (Gippsland) — Those of us in this house who represent areas of country Victoria as part of our electorates would acknowledge the importance of having good infrastructure in the form of roads and bridges for the people we represent. Roads in country Victoria are a vital issue. Roads are a lifeline for rural people to access regional centres and other parts of the state, consequently the issue of roads and bridges occurs very frequently in discussions our constituents have with us as members of Parliament who represent country Victoria. We have heard tonight from members of all sides who represent country electorates. I notice that we have heard from Mr McQuilten and Ms Hadden from the government side, both of whom represent country electorates and readily acknowledge the importance of having good road and bridge infrastructure in our electorates.

There has been a lot of funding pressure on local councils to maintain the sections of roads for which they are responsible. All of us who represent country Victoria will be familiar with the arguments put forward by local councils concerning the funding requirements to maintain road infrastructure, and that is why they have applauded various programs by, I admit, governments of all persuasions. Mr Baxter spoke about the Better Roads program that he introduced when he was a minister. This government has introduced some black spot funding for roads, which I acknowledge has been good, and the federal government has recently extended its Roads to Recovery program, which has also been an excellent funding mechanism to assist councils in their task of maintaining local roads. All of those have been very helpful.

However, The Nationals do not think that the legislation we have before us tonight will help local councils at all in maintaining their roads. In fact we oppose the bill on the basis that we see its impact as diverting funds away from road maintenance and into paperwork about roads. This legislation takes funding away from important roadworks in country Victoria and there is no way that we in The Nationals can support it. For that reason principally, and for some others reasons which my colleagues have touched on and I will also touch on, we have come to a position of opposition to the legislation.

As country members we have all received representations from the various municipalities we represent. Even Mr McQuilten said some of the shires in the north-west had expressed to him their concerns about this legislation. Certainly members of the Liberals and The Nationals during the course of this debate have conveyed to the house details of some of the representations they have received from their respective municipalities. I have received some too, and I know the Gippsland Municipalities Association, representing the six municipalities in Gippsland, has written to me and other local members of Parliament expressing its concerns about this legislation and arguing very strongly that we should return to the nonfeasance proposals that this government eliminated from the Local Government Act. As my colleagues Mr Bishop and Mr Baxter have strongly argued during this debate, what we have said consistently, not only tonight but in previous years when this topic has been discussed, is that there should be an actual return to putting the nonfeasance section back into the Local Government Act and giving local government the protection it seeks in this matter. Mr Bishop has related some of the history of our efforts to introduce that provision by way of private members bills within the last 18 months or so.

There is probably a lot I could say, but I only have limited time tonight so I will talk about the four points the East Gippsland Shire Council made in response to consultation it had with The Nationals on the Road Management Bill. About five or six weeks ago the Nationals visited Bairnsdale for one of our party meetings. On that occasion we met with the council as

well as with a number of other organisations and individuals. The entire parliamentary party met with the East Gippsland council to talk about a number of issues, and one of the first on the list was the Road Management Bill. The councillors spoke extensively about it, and as a follow-up to that visit they wrote back to our leader, Mr Peter Ryan, the member for Gippsland South in the other place, and succinctly put their opposition to the bill on four points. I will comment on those four points, but first, to set the agenda, perhaps if we consider its road infrastructure honourable members will understand why the East Gippsland Shire Council is concerned.

The Shire of East Gippsland is relatively small in population but is one of the biggest, if not the biggest, shires in this state in geographical area. East Gippsland shire has responsibility for 995 kilometres of sealed roads and 1798 kilometres of unsealed roads. As Mr Baxter commented, when members who represent metropolitan areas speak on this bill they should think about the impact it will have on country councils, particularly in places like East Gippsland where there are so many unsealed roads to consider. The maintenance of those unsealed roads is necessarily required to be more regular and the condition of those roads needs to be monitored more regularly to ensure that they are still safe for people to travel on. Country councils have infinitely more responsibility in maintaining unsealed roads than metropolitan councils have in maintaining the sealed roads in their municipalities.

East Gippsland council made four points in its letter of 22 April to Mr Ryan. The first point concerned the requirement for councils to establish road management plans as a potential defence against litigation and the uncertainty that this brings. My colleague Mr Bishop made the point in his contribution that councils already have road management plans, and they take their responsibility of maintaining and monitoring the conditions of the roads seriously, but probably their plans are not sufficient to provide them with a legal policy defence. We agree with the Shire of East Gippsland that all councils should have management plans for their roads, but not necessarily to the same degree as that required to provide a legal defence.

As has been mentioned before, the phrase ‘barristers banquet’ has been used during the course of this debate. Looking at the bill itself, clauses 97 to 116 at least are all to do with that legal liability aspect. We in the National Party say that at the very least those clauses relating to legal liability — clauses 97 to 116 — make this a very complicated bill and perhaps if those provisions were eliminated other provisions would not be necessary.

The second point made by the East Gippsland Shire Council is that it is concerned about the cost of preparation and implementation of administrative processes to meet the requirements of the new legislation. I would like to make it very clear to the house that the view expressed to the Nationals when we visited the East Gippsland Shire Council is that the shire would be required to employ two people full time purely to keep the paper records of this new system of management planning et cetera. The shire does not have any more money that it can dedicate to roads; two people would be taken away from actual roadworks and road maintenance in the shire and put permanently in the head office of the shire purely to maintain the paper records of the road infrastructure. That is the point I made before — that is, this is purely a diversion of funds away from direct road maintenance back into record keeping.

The third point that the shire makes is that it is concerned that the rest of Australia has legislated to overcome the problems that the High Court decision caused through the removal of the nonfeasance protection for government bodies. In September 2002 on behalf of The Nationals I moved a private members bill that essentially reinstated the nonfeasance provisions in the Local Government Act. If my memory is correct, the bill contained about four clauses, and it achieved what councils in country Victoria are asking of us. Once again I say that had that bill been enacted by this Parliament at least clauses 97 through to 116 in this piece of legislation would not have been necessary. We presented to Parliament a simple solution, which was rejected by the government; now we have a very cumbersome, complicated solution to the problem which I do not think is anywhere near as tight as the provisions suggested by us in the private members bill.

I note in passing that only a month or two after failing to transmit our private members bill to the Assembly the government introduced into the Assembly its own bill called the Transport (Highway Rule) Bill, which essentially did exactly the same thing, only it extended the nonfeasance section through to 1 January 2005. So it can be done. A solution was found; it was put by The Nationals and adopted by the government for a limited time. But we say that provision should be adopted on a permanent basis.

The fourth concern expressed by the East Gippsland Shire Council is that the reclassification process gives the government the power to pass state-funded roads back to councils at will. Again, along with a number of

other shires throughout the state, the shire is concerned that these new measures will lead to cost shifting between the state and local government. During the course of the debate government speakers have been saying that that has not been the case. Maybe so, but we seek guarantees that that will not happen.

Mr McQuilten said that this bill may not be the perfect answer. We in The Nationals agree with that comment, and that is why we say, 'Let us mark time for a bit longer and put in place an extension to those nonfeasance provisions while we work out something better'. As the member said, it is not the perfect solution. We can do better, and from the point of view of The Nationals we do not believe we should be passing second-rate legislation through this house, particularly when measures can be put in place in an interim period until we sort out something better.

Mr McQuilten also made the comment that we do not want to be like America and facilitate more litigation with respect to roads and bridges. Once again we agree entirely, but as Mr Baxter pointed out in his contribution, the exact opposite may well be the case. Now we have a complicated, prescriptive set of procedures described in this legislation, and the lawyers will have a picnic with it. I expect that there will be no reduction in the amount of litigation associated with road conditions; rather it provides an opportunity for more litigation. We agree with the point made by Mr McQuilten, but we do not believe this legislation goes to the issue he talked about. We do not believe the legislation will lead to the conclusion he suggested in his comments.

Ms Hadden — What about my comments?

Hon. P. R. HALL — I did not listen to all of yours, Ms Hadden. I am afraid I was not here all the time. I listened carefully to Mr McQuilten. I did commend you for at least standing up as a member representing country areas of Victoria and speaking on the bill. Early on in my piece I mentioned both you and Mr McQuilten.

Let me say in conclusion that the overwhelming reason why The Nationals cannot support this legislation through the Parliament tonight is simply that issue about diverting precious road funding moneys away from actual operational spending into the head offices of local councils all around country Victoria.

Ms Hadden interjected.

Hon. P. R. HALL — Yes, they need to have road management plans, and as I said they do that already, but they do not need to expend as much energy as will be required under this legislation to have satisfactory road management plans. Moreover the important thing that the people we represent want to see is council workers out there actually fixing roads, not sitting in the office developing road plans.

House divided on motion:

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

Pair

Buckingham, Ms	Brideson, Mr

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms BROAD (Minister for Local Government) — By way of introduction to this committee stage of the bill I wish to make some comments on clause 1. It is important for the chamber to be reminded in this committee stage of the benefits which flow from this bill. Victorians will have an improved and more consistent standard of roads under this new legislation with each road authority being encouraged to develop and implement localised road management plans. Some 11 000 kilometres of main roads will transfer, in terms of responsibility for those roads, from councils to VicRoads, and that will mean more consistent management and standards on our state arterial road network. There will also be better coordination of

infrastructure on Victoria's road reserves, and this will improve road safety, ensure better coordination of utility and roadworks and minimise disruptions to members of the public.

I also wish to make some reference to consultation. Notwithstanding some of the references to consultation in the course of the second-reading debate, consultation by this government commenced around this set of issues almost two years ago. There has been very extensive consultation by this government with all affected stakeholders, including utilities, and as a result of that consultation changes have been made to proposals along the way through various stages of discussion papers and draft legislation right up to and including the bill which is now before the chamber. So the government, in line with its general approach to governing, has not only consulted but has listened to what has been said in those consultations, and it has made changes to take into account issues that have been raised.

The other matter I wish to comment on is the matter of costs, particularly costs to local government. As a result of the regime to be brought into place through this bill, councils will develop localised road management plans based on the resources and the functions of the roads they manage. This will allow councils and shires to make a more realistic assessment of how they handle the funds they have, and of course better road management will mean better use of existing road funds.

In my own consultations with a whole range of councils and shires across Victoria on the matters included in this bill councils have indicated to me that, whilst they would possibly have preferred that the High Court decision had not been made, they acknowledge that there is a silver lining in all the steps which have been taken in preparation for the new regime to be put in place by this bill. That includes the establishment of proper road registers: asset registers which actually allow councils to clearly identify their most important and significant assets — namely, their roads; to identify the life of those assets; to properly cost for capital, maintenance and replacement costs of those assets; and to make that information much clearer and more transparent to their communities. When councils come to the business of putting in place the council plans — their resource plans and their annual budgets — they will be in a much better position to be able to explain to their local communities the very important assets they have in their roads and the resources which are needed to fund them.

I have to say that there is a certain amount of hypocrisy about some of the comments from the other side of the house relating to concerns about the resources which councils need to fund these road assets, particularly when you bear in mind that under the former government councils not only had their rates capped but were forced to make very substantial cuts to their budgets, which had very significant implications for councils' assets, including their road assets. Many councils and shires have told me they are still recovering from the cuts which they were forced to make by the former government and which they are now still recovering from in order to ensure that their assets, including their road assets, which are their biggest and most important assets, are properly funded.

Hon. BILL FORWOOD (Templestowe) — I want to speak briefly on clause 1. I thank the Minister for Local Government for her comments.

In relation to consultation, this government makes much of its consultation programs. However, I put it to the house that one of the things that consultation requires is not just sitting down with someone; it is actually listening to what they say. What happened, particularly in the case of the utilities, was that they were given a hearing but no-one listened to what they said. They went with particular things that they wished to raise, and I am advised that as far as they were concerned no-one had the slightest bit of interest in listening to what they said. The government did pay lip-service to a consultation process but did it actually consult? The answer is no.

Clause agreed to; clauses 2 to 21 agreed to.

Clause 22

Hon. BILL FORWOOD (Templestowe) — Clause 22 of the bill concerns the power of ministers to give directions. I make the point at the outset that the Minister for Local Government is the relevant minister in terms of giving directions to local government, and I would like the minister to explain to the house under what circumstances it is likely that directions will be given?

Ms BROAD (Minister for Local Government) — As the member has indicated, clause 22 enables the relevant road minister — depending on the roads in question there are a number of relevant road ministers — if it is considered to be in the public interest to do so to direct a road authority to perform or indeed to refrain from performing a function under this act. I advise the house that this power is similar to the power set out already in section 249 of the Transport

Act 1983, which enables the Governor in Council on the recommendation of the minister administering the Transport Act to direct road authorities in relation to the exercise of their powers. In exercising such a direction, the minister must enable a road authority to comment on the proposed direction before issuing it, and a direction has to be in writing and may include conditions.

On the question of accountability, the road authority, if it receives such a direction, is required to publish a copy or a summary of the direction in its annual report so that it is completely transparent in relation to a ministerial direction, which is a common provision in a range of acts. That provision is to ensure appropriate accountability; to enable state interests to be taken account of. It is an exceptional power.

Hon. BILL FORWOOD (Templestowe) — I take it that by 'exceptional power' the minister meant to indicate that on the commencement of operation of this bill there will not be any directions automatically given to any of the road authorities?

Ms BROAD (Minister for Local Government) — That is correct.

Clause agreed to.

Clause 23

Hon. BILL FORWOOD (Templestowe) — Clause 23 is the power of the Governor in Council to give an exemption. It details how an exemption should be given. I wonder if the minister could indicate to the committee under what circumstances it is likely that an exemption would be given.

Ms BROAD (Minister for Local Government) — I am advised that the purpose of the provision is in relation to the facilitation of urgent works in particular, and also in order under certain circumstances to fast track major works. That is not restricted to road works but could be works in relation to gas, electricity or water — the sorts of matters which utilities are particularly interested in and works which the government considers it desirable to facilitate.

It is important to note that orders under this clause must be tabled in Parliament, and the disallowance provisions apply in the same way as they do for regulations. This means that there is direct accountability to Parliament in relation to any exercise of these provisions.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her response. I take it again that this is an exceptional circumstance-type clause, and the intention is that no exemptions will automatically come into effect on the commencement of the act?

Ms BROAD (Minister for Local Government) — No. However, schedule 10 relates to some major gas projects that are already under way, of which the member should be aware.

Clause agreed to.

Clause 24

Hon. BILL FORWOOD (Templestowe) — Clause 24 deals with the purposes of codes of practice, and clause 25 deals with what a code of practice can include. Clauses 26, 27, 28 and 29 all deal with codes of practice. My general inquiry about codes of practice is: how many are there likely to be? On what topics are they likely to be? What is the process of developing them at the moment? And when are we likely to see them? Can the minister outline her understanding of the role of codes of practice in this legislation that might help the committee?

Ms BROAD (Minister for Local Government) — I have a good deal of information about codes of practice, and I am endeavouring to find a summary way of presenting it to the committee. A whole range of codes of practice are to be developed and a set of processes for how that is to be done. I am not aware of anywhere that will allow me to give the member a precise number at this point. Again these are subject to the direct scrutiny of the house and subject to disallowance. There is a consultation process with the utilities and the Municipal Association of Victoria (MAV) in relation to the preparation of codes.

I have a set of information about the purpose, the reasons for having codes and maintaining roads to a particular benchmark as we go through these clauses. Rather than going through all of this information, if there are more specific questions then I can deal with those more expeditiously.

Hon. BILL FORWOOD (Templestowe) — That is probably the best way to go about it. Would it be possible for the minister to provide the committee later with a list of topics about which the codes of practice will be prepared rather than going through them tonight?

Ms BROAD (Minister for Local Government) — Yes.

Hon. BILL FORWOOD (Templestowe) — My understanding is that the codes of practice are intended to start on 1 January 2005. Is that correct?

Ms BROAD (Minister for Local Government) — The answer is yes and no. As I indicated earlier, a consultation process is under way in relation to the preparation of the codes. Some of them will come into effect this year when the bill is passed and comes into effect in the middle of this year, and some will come in on 1 January 2005. It will depend on the code as to the commencement date.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her answer. My understanding is that the codes that deal with the utilities will commence on 1 January 2005?

Ms BROAD (Minister for Local Government) — Yes.

Hon. BILL FORWOOD (Templestowe) — That being the case, will the minister advise the committee of the process of consultation that will take place with the utilities between now and 1 January 2005? Obviously the codes of practice are of particular interest and concern to the utility companies.

Ms BROAD (Minister for Local Government) — In relation to concerns raised, in particular by the energy utilities, and the way in which the bill addresses those concerns, the bill establishes a utilities infrastructure reference panel. I am advised that the Minister for Energy Industries, who is also the Minister for Resources, will have five nominees on that panel as well as the chairperson of the Essential Services Commission. The panel's function, amongst other things, will include advising the Minister for Transport on codes.

As well as consulting with the panel, the Minister for Transport will also consult with the utilities' ministers, because there are in addition to the energy utilities other utilities, before the codes of practice are made. Prior to the draft codes going through this process there will be direct consultation with the utilities and the MAV in the preparation of the draft codes. A number of steps must be taken for the consultation to apply.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her answer. I will not delay the committee any further on this clause other than to say I hope that in the course of the consultation on the draft codes of practice there is a genuine process which enables the utilities not just to have their say but to be listened to.

Hon. J. A. VOGELS (Western) — It is my understanding that each council can develop its own code of practice but that it is not necessary for them to do so, and there might be some councils that do not develop a code in the foreseeable future — it is up to the councils. I do not think there is a standard that says councils have to have a code of practice by a certain date. Is that right?

Ms BROAD (Minister for Local Government) — In relation to the power of councils to set their own standards — I think that is the matter the member is raising and it has also been raised by Mr Bishop — the bill confers on councils and other road authorities the power to determine their own standards and policies for road management. Therefore, while there will be codes of practice, they will not directly impose duties or obligations on any road authority, including councils and shires. Rather the codes will give practical guidance to road authorities. The consultation processes I have already referred to will apply and that will ensure that the codes are subject to a great deal of scrutiny before they are put in place and applied.

Councils and shires have told us through the very lengthy consultations we have had in getting to this point with the bill that they wish to have that capacity to set standards and policies for road management themselves. They will be guided in that by what applies through the codes. That will certainly give them practical assistance in terms of determining their own standards and policies but it will not oblige them to have a one-size-fits-all standard that applies across the state. As a number of members have acknowledged in their contributions, that would not be appropriate given that different road systems apply across the state.

Clause agreed to; clauses 25 to 30 agreed to.

Clause 31

Hon. BILL FORWOOD (Templestowe) — Clause 31 establishes the utilities infrastructure reference panel. It is my understanding that an interim utilities infrastructure reference panel has already been put in place comprising Liz Roadley, John Sutton, Bruce Van Every, Ken Ogden, John Watson, Bill Greenland, Garry Audley, Ken Gardner, Peter Magarry, Denis Cavagna, Ken King, Randall Straw, John Hennessey and Peter Walshe. I wonder whether the interim utilities infrastructure reference panel will become the utilities infrastructure reference panel once the bill is passed.

Ms BROAD (Minister for Local Government) — In response, I can confirm that the membership of the

interim panel is the same as is provided under the bill for the panel. Of course, this is a matter for the Minister for Transport, but I am advised that it is unlikely to change significantly unless the various organisations wish to change membership.

Hon. BILL FORWOOD (Templestowe) — I thank the minister. The point I was getting to was that if these are the people who are doing the work between now and then, it would be useful if they continued in that job.

Clause agreed to; clauses 32 to 55 agreed to.

Clause 56

Hon. R. H. BOWDEN (South Eastern) — Clause 56(1) in division 6 gives the state authority the ability, by notice in writing, to require the owner of adjacent land to meet or contribute to the present-day costs. I was wondering whether the Minister for Local Government could assist members by indicating whether there is a time limit within which that notification of request for payment must be made. Is it able to be defined or recorded in some way? Is there a time limit for the bill to be sent? Would the government have the ability to consider a review of this policy matter after a period of years?

The other issue is to do with distance. When we are talking about 'adjacent land' for a road constructed by a state road authority, it may very well be the case that the nearest private land may not literally be exactly adjacent to the roadway or the highway and there may be considerable Crown land between the road and the adjacent private land. Could the minister perhaps indicate both the timing exposure of private owners and also the distance factor?

Ms BROAD (Minister for Local Government) — In response, I indicate that 'adjacent' has a very literal interpretation to mean it must abut; that is a very clear definition. In relation to timing, it must be prior to the road being constructed. That also provides a very clear cut-off for the timing of this.

Hon. R. H. BOWDEN (South Eastern) — Is it possible to get a comment about the possible policy matter of a review of the policy to charge the private land-holders for a contribution?

Ms BROAD (Minister for Local Government) — It is not clear to me whether the member is referring to a review of the provisions in the bill or whether he is talking about an appeal process, which I believe is provided for already.

Hon. R. H. BOWDEN (South Eastern) — I am really interested in whether the government would consider a time-based review — three years, five years after the passing of the bill — so that one could see and consider the impact. That is my purpose in raising that point.

Ms BROAD (Minister for Local Government) — I take it then that the member is referring generally to a review of the provisions in the bill. I can indicate to the member that this is major legislation, and the government will be monitoring closely how the bill works. If there is a need to consider refinements of the legislation, as is good practice in government, then the government will consider those matters as we go. There are no plans to have any specific periods of review on the legislation, but the government certainly will be monitoring closely how it works in practice and considering any refinements that are necessary as we go on.

Clause agreed to; clauses 57 to 111 agreed to.

Clause 112

Hon. DAVID KOCH (Western) — The minister has also received correspondence from the Australian Forest Growers. It draws our attention to the term 'extraordinary traffic'. Clause 112 states:

> (1) This section applies if a road authority incurs extraordinary expenses in repairing a road that has been damaged as a result of the passage of extraordinary traffic or excessive mass along the road.

The letter seeks from the minister a definition of the term 'extraordinary traffic.' The organisation also brings to our attention that to the best of its knowledge timber is the only category of bulk commodity that is defined as extraordinary traffic in this way. It is under section 52.18.4 of the Victoria planning provisions as:

> The cartage of timber associated with harvesting operations …

Could we have a definition?

Ms BROAD (Minister for Local Government) — The advice I have on this clause is that there is no reference to timber roads, and this is about ensuring that the new provisions will apply to all roads in a consistent way. At present we have a situation where the Local Government Act at, I believe it is, section 207F applies to local roads. The action that has been taken under this bill is that rather than having some roads covered by the Local Government Act, some by the Transport Act and some not at all, these new provisions will apply to all roads, and the definitions which are here are those

which apply already under variously the Local Government Act and the Transport Act. So other than seeking consistency this is not a change relative to the provisions which currently apply under the two acts to certain roads.

Hon. DAVID KOCH (Western) — It draws our attention to the question: is it certain there will be a difference between extraordinary traffic and excessive mass? As the minister is aware, there is a suggested amendment from the Australian Forest Growers that it would consider worthy of consideration. That is particularly in the arena of excessive mass.

Ms BROAD (Minister for Local Government) — The advice to me is that the wording of this clause is identical to section 207F of the Local Government Act. So this wording has been in place in relation to existing roads and no change is being made in terms of the definitions that apply here.

Hon. DAVID KOCH (Western) — The only other thing I would like to bring to the minister's attention is for my information only — —

Hon. Bill Forwood — And the committee's!

Hon. DAVID KOCH — And the committee's! I apologise. The terms 'Link corporation' and 'extension corporation' — what are those bodies?

Ms BROAD (Minister for Local Government) — The Link corporation is the body that administers CityLink. The other reference is to the Batman Avenue-Exhibition Street extension.

Hon. DAVID KOCH (Western) — I thank the minister for her responses.

Clause agreed to; clauses 113 to 121 agreed to.

Clause 122

Hon. BILL FORWOOD (Templestowe) — Clause 122 is headed 'Power to charge fees' as set by the regulations. Clause 123 is headed 'Power to charge for services'. With the agreement of the committee I might deal with them together rather than separately. One of the concerns the utility companies have is that they are moving from a notification-based system to a consent-based system, where road authorities will be able to charge fees and charge for services. These are the two clauses that authorise that to happen through the regulations.

The first question I ask in relation to both of these clauses is whether there is a list available that the committee could consider, if not now then at some later time, of the types of activities and charges which will be possible and which will be set under the regulations. The second question is: what levels of charges are likely to be set? The concern that is expressed and that I raised in my second-reading contribution is in relation to the $1000 bond that the City of Moreland has applied to the opening of roads. Firstly, there is genuine concern about the types of fees and charges that may come about; the second question is about the actual amount of the fees and charges that will be set.

Ms BROAD (Minister for Local Government) — Firstly, can I draw the member's attention to the points listed in clause 122(1) as to the charges that can be recovered. Secondly, I indicate to the member that fees cannot exceed the amounts prescribed in the regulations under this section, which are all about recovering costs only. The regulations will, of course, be subject to the usual regulatory impact statement processes, including parliamentary scrutiny. As well as that the utilities infrastructure reference panel, which we discussed earlier in the committee stage, will advise on the fees regulations; and also the utilities ministers must be consulted before fees regulations are made. There is a whole series of steps to ensure that the costs which are proposed to be recovered under this clause are very well scrutinised and do not go beyond the points which are listed in this clause.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her answer. I understood her to say that this is purely about cost recovery and that it is not about an opportunity for a road authority to, in essence, make money out of the fact that we are moving from a notification regime to a consent regime. If that is the case, then the utilities will take some comfort from the fact. I wonder what the minister thinks about the $1000 bond in the Moreland example which I quoted, which as she would know is an actual example. That does not strike me as being cost recovery.

Ms BROAD (Minister for Local Government) — The example which the member provided is not a matter which I have any information or advice about at this time, so it is not a matter I wish to comment on. But I wish to reaffirm what has been indicated in consultations with the utilities as to the purpose of this, and the fact that fees and other charges cannot be imposed other than by this regulatory process.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her answer. Even though these fees and the power to charge for services will be limited to cost recovery, has the government done a cost-impact

statement on what this change is likely to mean in terms of costs to utilities?

Ms BROAD (Minister for Local Government) — As I have indicated, these fees regulations will be subject to a full regulatory impact statement process, so they will be fully scrutinised as they move through the regulatory impact statement.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her answer, and look forward to seeing that when it happens. The point that I am getting to is that we are about to pass the bill that will enable the regulations to come into effect. It will allow for the power to charge fees and the power to charge for services. As we move to this change system, I wonder whether an estimate has been made of what the actual cost is likely to be to utilities, and what will be passed through to consumers.

Ms BROAD (Minister for Local Government) — We are talking about the provision of services to the utilities, and until we go through the regulatory impact statement process it will not be possible for either utilities or councils to respond fully to the question that the member asks. It will vary depending on what the services are that are being provided to utilities in accordance with the matters set out in this clause.

Clause agreed to; clauses 123 to 131 agreed to.

Clause 132

Hon. BILL FORWOOD (Templestowe) — Clause 132 is the regulations clause, and as honourable members know it is substantial and goes for a number of pages in the bill — 5 or 6 or probably even more. One of the issues I wish to raise in relation to the regulations is that they can exclude works from the obligation for utilities to obtain permission from or notify road authorities in relation to certain works. My recollection is that in the second-reading speech an example was given of a house connection to electricity. I wonder if the minister could advise the committee of what works are likely to be exempted, and when the list will be known?

Ms BROAD (Minister for Local Government) — As the member has identified, essentially consent will only be required where works have significant impacts on road safety, traffic or infrastructure. So the exemption provided for under this regulatory clause is for non-significant works which do not impact on road safety, traffic or infrastructure. The exemption regulations are being developed by the interim panel, so work is already under way, and it will advise the transport minister on the exemption regulations. Again, they will be subject to the regulatory impact statement process, including parliamentary scrutiny.

As to the exact timing of that, they will be in place by 1 January.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her answer. I make the general point that we are passing tonight a significant piece of legislation that changes the regime. So much of it depends upon codes of practice and regulation. The minister says that the regulations will come back here, and of course they will, but we are passing a significant piece of legislation, and I put it to the committee that in some senses we are flying blind — we do not actually know. Yes, processes have been put into place to do this work, and it will be done by 1 January next year, but we are passing a bill tonight with a considerable amount of detailed operation we are yet to be advised on.

Ms BROAD (Minister for Local Government) — I respond to that by indicating that the member has expressed one view, which is that a great deal of detail should be included in legislation. I contend that there is an equally strong view about good governance that says legislation should not provide for that level of detail and that it is perfectly appropriate for regulations to go to the detailed implementation of legislation and to be subjected to scrutiny in all the ways that are set out for regulations.

Hon. BILL FORWOOD (Templestowe) — I do not disagree with the minister. My quibble is that today I have asked for some information about the codes of practice and about the regulations, which I think would inform the debate, but it is not yet ready. I do not quibble with good governance — I am a great supporter of it — but I believe the Parliament of the people of Victoria would be better served if when we were bringing in a bill like this, we were to attach to it some idea of what the codes of practice might say, how many there would be, what the regulations would be and the sorts of fees that would be attached. I do not quibble with the minister's comment; I would just like to see it work a bit better.

Clause agreed to.

The CHAIR — Order! Pursuant to sessional order 14 I have to report progress.

Progress reported.

Business interrupted pursuant to sessional orders.

Sitting continued on motion of Hon. M. R. THOMSON (Minister for Small Business).

Committee

Resumed from earlier this day.

Clauses 133 to 179 agreed to; schedules 1 to 6 agreed to.

Schedule 7

Hon. BILL FORWOOD (Templestowe) — I will be very brief. On page 185 of the bill, clause 10 of schedule 7 is headed 'Duty to consult members of the public'. It states:

> (1) This clause applies if an infrastructure manager or works manager is proposing to install non-road infrastructure ...

It talks about consultation with 'occupiers or owners' or a 'class of road users' and says:

> (2) If practicable, the infrastructure manager or works manager should conduct appropriate consultation ...

I wonder if the minister could outline to the committee the extent of the consultation that would be required by utilities as they go about their ordinary work. In the past they have got on and done the job. One wonders whether this will be another significant impediment on the utilities going through the process of keeping us in water, gas, electricity and telecommunications.

Ms BROAD (Minister for Local Government) — What I can indicate to the member is that this applies to works that are likely to have a significant impact. They are the sorts of matters that are likely to be the subject of codes that will go through the utilities infrastructure reference panel, where the utilities will have the opportunity to shape those codes that apply to guide this.

Hon. BILL FORWOOD (Templestowe) — I have finished. I put on the record my thanks to the minister for her cooperation.

Schedule agreed to; schedules 8 to 10 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Ms BROAD (Minister for Local Government) — I move:

> That the bill be now read a third time.

In doing so, I thank members for their contributions to the debate.

The PRESIDENT — Order! I am of the opinion that the third reading of this bill is required to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Hon. Bill Forwood — On a point of order, President, I want to know how long the Clerk intends to ring the bells!

The PRESIDENT — Order! I have asked the Clerk to ring the bells and I am ensuring that the house can get an absolute majority as required. In respect to the point of order raised by the Honourable Bill Forwood, there is no point of order in the sense that there is no time limit for the ringing of the bells. I will indicate to the Clerk when the bells are to be switched off in the next minute and a half.

Hon. Bill Forwood — On a point of order, President, we want to know what is going on. The issue is that the government has not got the capacity to pass this bill with a statutory majority. If the government cannot organise itself to get its members in here — it has the numbers — why should the rest of us sit around while the bells keep ringing?

The PRESIDENT — Order! I ask the Clerk to stop ringing the bells. The question is: that the bill be now read a third time. I am of the opinion that the third reading of the bill requires to be passed by an absolute majority. In order that I may ascertain whether the required majority has been obtained, I ask those members in favour of the question to stand where they are.

Members having risen:

The PRESIDENT — An absolute majority has not been obtained; therefore the question is lost.

Read third time without absolute majority.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

> That the house do now adjourn.

Barmah State Forest: management

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the attention of the Attorney-General in another place. I refer to the Attorney-General's announcement on late Friday afternoon, reported in the *Age* on Saturday, of an agreement having been reached with the Yorta Yorta people as to the future management regime of the Barmah forest and certain other areas of public land in an area covering some 6000 square kilometres in northern Victoria.

I want to protest and lodge a complaint under the rules of the adjournment debate about the fact that this agreement was made behind closed doors and a number of interested stakeholders were excluded from the negotiations. I refer in particular to the sawmillers, the Stockowners Association of Victoria, the Barmah Forest Preservation League and recreational users such as fishermen, bush walkers, birdwatchers and the like. I also add that many of my local newspaper journalists were very concerned that they were kept in the dark as well and only the *Age* was informed.

It appears that some people were on the inside, particularly the Friends of the Earth and the Victorian National Parks Association, and clearly knew about this in advance on Friday. It is also interesting to note that the announcement was made late on Friday when the musterers were out in the bush for the annual muster and could not be contacted to make a comment on it. It also interesting that the announcement was made on the very day there was a large gathering at the Barmah muster yards of all sorts of interested groups to discuss the future management regime of the Barmah State Forest and the Barmah State Park. It does seem much more than a coincidence that this particular timing was chosen to exclude many interest groups from being involved at all. There is no doubt that many of the interest groups have every reason to feel dudded: this case went to the Federal Court, where a decision was given; it was then taken on appeal to the High Court, and again the case was lost; yet those who lost have actually been able to engage in a backroom deal and come out the winners. I think that is very disappointing indeed, and I am concerned about the process.

I therefore ask the Attorney-General to convene an urgent meeting of all the stakeholders who were excluded from the negotiations so that they can be properly briefed as to what this agreement will mean for them in the future and for the economy of northern Victoria.

Consumer and tenancy services: delivery

Hon. A. P. OLEXANDER (Silvan) — Tonight I wish to raise for the attention of the Minister for Consumer Affairs his decision to close local consumer and tenancy services across metropolitan, rural and regional Victoria. The consultation process which was undertaken by the minister and Mr Scheffer has been clearly exposed on numerous occasions in this chamber as a flawed sham. The lack of meetings, the misleading statements and claims of a hidden empire building agenda for Consumer Affairs Victoria in Melbourne have been revealed here. Since the minister's announcement of an intention to close these services communities right across Victoria have written numerous letters to the minister; and they have written to me and to local papers pleading for his decision to be reversed.

It is the opposition's understanding from extensive consultations that we have undertaken in Gippsland, south-west Victoria and north-eastern Victoria that lifetime voters of the Australian Labor Party will not be voting for Labor again, and a formal motion will be moved at the upcoming ALP state conference condemning Minister Lenders for his decision. Many ALP members have actually resigned from the Labor Party in protest.

I ask the Minister for Consumer Affairs, given the condemnation of his decision by the Victorian Council of Social Service, the Financial and Consumer Rights Council of Victoria, local communities and local councils, the state opposition and now significant elements within the ALP, whether he will reverse his foolish and ill-considered decision to close these services.

Hazardous waste: Pittong

Hon. DAVID KOCH (Western) — My matter is for the Minister for Major Projects in another place and relates to the criteria used by his department to determine the potential sites for establishing toxic waste dumps in regional Victoria. Finally, after five agonising months for the communities of Linton, Snake Valley, Skipton and Pittong, the Premier has agreed to review the criteria which included Pittong as a potential site for a toxic waste dump. The efforts of the Pittong Action Group are to be applauded. It was the time and trouble of its members that brought this about, and I am sure they would welcome a visit from the Premier so that he could see for himself the flaws in the criteria that allowed this proposal to proceed.

Having earlier in the same week celebrated the 10th anniversary of the community's Landcare successes at Woady Yaloak it is only fitting that the Premier reconsider the flawed process that has been put in place to determine toxic waste dump locations. Ten years of actively tackling land degradation by the Woady Yaloak catchment group has been very successful in encouraging community participation in undertaking major Landcare projects. The group's efforts in sustainable catchment earned it the Victorian Landcare award for Victorian catchments for 2003. The award recognises the outstanding contribution of volunteers in promoting the sustainable management of Victoria's natural resources.

But the success of this proactive catchment group and all the community's hard work in reversing environmental damage within the catchment is threatened by a government that wants to locate a toxic waste dump at the headwaters of this pristine waterway. Members of the Pittong community are to be congratulated on their land management skills. They are to be congratulated on their unwavering commitment to land management, which has gained national and international recognition in restoring significant land degradation, and they should not be penalised by having imposed upon them the demoralising threat of having Victoria's toxic waste dumped on their site.

Like me, a member for Ballarat Province, Dianne Hadden, is rock solid in being critical of the illogical and unwarranted threat that is likely to undo this rejuvenated agricultural landscape. The Woady Yaloak and the Mount Emu Creek catchments must be spared from this environmental risk. The Premier and Major Projects Victoria know there are alternatives that can and should be examined before any conclusion is reached on locating a toxic waste dump at Pittong. Will the Minister for Major Projects act on the acknowledged flaws in the existing selection criteria used for proposed toxic waste sites in regional Victoria by exploring other site options, including Crown land?

Melbourne: Flinders Street art display

Hon. ANDREA COOTE (Monash) — I direct my question to the Minister for the Arts. On Sunday, 18 April, I attended a most memorable and very moving ceremony in the Robert Blackwood Hall at Monash University. It was the Jewish day of remembrance, Yom Hashoa. This event commemorates the lives of all those Jews who lost their lives in the pogroms, the Holocaust and the cleansings in the concentration camps in World War II. The evening commenced with a very powerful and moving speech from Michael Lipshutz, who encouraged us all to remember the Holocaust and pledge to ensure that it never, never be repeated. There was an emphasis on young people — the hope for the future but with a deep understanding of the dreadful impact of the past. The audience was expressly asked not to applaud, and this had the most poignant effect and impact on the entire audience.

It was therefore with horror that I learnt of the display in the Flinders Street window of the so-called piece of art. This offensive depiction of Israel is outright propaganda and has no place in Melbourne, a city that has welcomed and embraced more Holocaust survivors than any other place outside Israel. We pride ourselves on living in total harmony with our Jewish community. which ironically has been one of the major supporters of the arts in this state. That this was officially sponsored by an $8000 grant is totally inappropriate, and I call upon the Lord Mayor, John So, to review his policy on public funding of public art, and I ask the minister to urge the City of Melbourne to remove this offensive artwork immediately.

Community regional industry skills program: Robinvale coordinator

Hon. B. W. BISHOP (North Western) — My adjournment issue tonight is directed to the Minister for Victorian Communities in another place. Mr Graham Kelly, the chief executive officer of the Robinvale District Health Service, has been instrumental in applying for assistance from the community regional industry skills program (CRISP) to employ a facilitator/coordinator in the Robinvale area. The person's task would be to bring to the table the Department of Immigration and Multicultural and Indigenous Affairs to work together in a combined effort to resolve the issues involving our legal immigrants. The issues are many and involve placement and integration of immigrants into the community, solving the short and long-term housing issues and addressing the short and long-term employment opportunities, of which there are many.

Places like Robinvale are now not simply short-term labour places. Because of the huge expansion of irrigated horticulture and viticulture we now see labour required over the full year. This approach would address in a positive way the expanding employment requirement, which is essential for Robinvale in particular because it is a huge table grape area which requires a high component of labour. This type of initiative would also address in a positive way the illegal immigrant situation and be an important link in the chain of managing this sometimes difficult area.

It is proposed that this project would coordinate and work cooperatively with local government, police, schools health service providers and the various community groups. Given the number of nationalities now residing and working in Robinvale this is a good concept. My real concern is that time is marching on and that the project applications were due to be finalised in February. We still have no answer, so I request the minister to step in to ensure these applications are finalised by the end of the month so work can proceed on this essential program.

Schools: maintenance

Hon. B. N. ATKINSON (Koonung) — I raise a matter with the Minister for Energy Industries as the representative of the Minister for Education and Training in another place. I wish to indicate that yesterday I visited several of the primary schools in my electorate partly in anticipation of the budget announcements today and of what might be available in terms of maintenance budgets. I am very concerned about the circumstances in a couple of those schools, particularly the Springview Primary School, where concrete tiles are falling off a wall and it is so dangerous for the students that the principal and staff have put witches' hats out in front of one particular wall to ensure that students do not walk near it and face the prospect of being injured by falling panels.

I went to Nunawading Primary School and faced a similar situation, where orange road plastic was being used to cordon off an area of asphalt which was dangerous to students, parents and teachers. Indeed there have been a number of accidents already, including, as I understand it, one involving a potential WorkCover claim as a result of the asphalt problem.

I am concerned that the government appears to have cut the maintenance budget. Most of the schools that I visited have expressed real concerns about their ability to fund maintenance works. At both Springview and Nunawading primary schools it has been suggested that they will need to come up with one-third of the budget for any works that need to be done.

Given that I can raise only one matter on the adjournment tonight, I obviously do not want to pursue the problems at both Springview and Nunawading primary schools, so I ask the minister if she is prepared to fund a lot more witches hats and a lot more of that orange plastic that is used as a safety element in road works particularly, to ensure that other schools in my electorate can cordon off areas that are dangerous to their students and to visitors to their schools where the Department of Education and Training is not providing funds to undertake maintenance works that are overdue and urgent at those schools.

Responses

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Bill Baxter raised a matter for the attention of the Attorney-General in the other place in relation to the agreement reached with the Yorta Yorta tribe on the Barmah forest and consultation with stakeholders. I will pass that on to the minister.

The Honourable Andrew Olexander raised a matter for the Minister for Consumer Affairs concerning local consumer affairs and tenancy agencies. I will pass that on to the minister.

The Honourable David Koch raised a matter for the Minister for Major Projects in the other place in relation to the criteria for hazardous waste containment facilities, and I will pass that on to the minister.

The Honourable Andrea Coote raised a matter for the Minister for the Arts in the other place in relation to recent publicity over a display that is appearing in Flinders Street. I will pass that on to the minister, but I understand from comments recently made that the Melbourne City Council is also aware of the issue.

The Honourable Barry Bishop raised a matter for the Minister for Victorian Communities in the other place in relation to the submission from Robinvale District Health Service for a facilitation officer under CRISP — community regional industry skills program — funding, and that will be passed on to the minister to expedite that matter.

The Honourable Bruce Atkinson raised a matter for the Minister for Education and Training in the other place in relation to school maintenance, and that will be passed on to the minister.

Motion agreed to.

House adjourned 10.29 p.m.