

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL**

**FIFTY-FOURTH PARLIAMENT**

**FIRST SESSION**

**31 October 2002**

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**Thursday, 31 October 2002**

The **PRESIDENT (Hon. B. A. Chamberlain)** took the chair at 12.03 p.m. and read the prayer.

**QUESTIONS WITHOUT NOTICE**

**Minister for Sport and Recreation: electorate officer**

**Hon. BILL FORWOOD** (Templestowe) — My question is to the Minister for Sport and Recreation. When did the minister first know that his electorate officer, Hakki Suleyman, was a member of the Ulusal Halk Hareketi (UHH)?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I am pleased to answer this question, Mr President, because this is a matter which is very serious and also very sensitive. I want to answer it in the most sensitive way possible.

The matter first came to my attention in the news article as was presented in the *Sunday Herald Sun* on Sunday. I have since spoken to my electorate officer, and I must say that he is quite traumatised, and so is his family, by the article that presented itself in the paper on Sunday. I understand Mr Suleyman is about to take legal action against the paper in relation to the allegations, seeking claims as a defamation case. On that basis I would prefer not to prejudice any of those legal proceedings which may take place.

Given that, though, I would also like to state that I have written to the director of the Victorian Office of Multicultural Affairs about this sensitive matter and asked for guidance in relation to it, and I have also written to Joint Services to clarify the situation in relation to my electorate officer, who is employed through Joint Services.

*Supplementary question*

**Hon. BILL FORWOOD** (Templestowe) — I thank the minister for his answer, which of course indicates that he first knew of this on Sunday of this week. An article that I have a copy of here, which is from a Cypriot newspaper dated 6 August 2002, says that Hakki Suleyman was the coordinator of UHH Australia. Is the minister saying to the house that despite the fact that he was well known as the coordinator, the minister was unaware of his activities until Sunday?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — Thank you very much. In all honesty I

can say I do not read the Cypriot papers. While I appreciate that Mr Suleyman has been a member of the Turkish community and works very hard for that community, I was unaware of any links to any organisation that those claims related to in those articles in the *Sunday Herald Sun* as recently as last Sunday.

**Petroleum: exploration**

**Hon. R. F. SMITH** (Chelsea) — Will the Minister for Energy and Resources advise the house of progress the Bracks government is making towards diversifying future sources of our energy supplies?

**Hon. C. C. BROAD** (Minister for Energy and Resources) — I thank the honourable member for his question, and I am very pleased to take this opportunity to remind the house that exploration — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! A question has been asked of the minister. I want to hear the answer. I ask other honourable members to keep out of it.

**Hon. C. C. BROAD** — I am pleased to take this opportunity to advise the house that exploration in petroleum is at record levels under the Bracks government. In 2001–02 the estimated exploration expenditure was \$202 million, representing a massive increase on the previous year's expenditure of some \$75 million. This builds on the previous year, and it should be remembered that the \$75 million figure was in itself the highest in a decade.

I am pleased to further advise the house that building on this work I was able to announce last week, along with the responsible commonwealth minister, the grant of a further offshore area for oil and gas exploration. The winning tenderer plans to spend an estimated \$76 million in exploration investment over the next six years. So this is truly a bumper year for exploration, with some \$152 million in expenditure planned for the three Victorian Otway areas offered in August, now being followed up with the \$76 million investment in the new Gippsland Basin permit. This fits very well with the Bracks government's plans to boost the security of gas supplies by increasing the diversity of where those supplies are sourced from.

The permit areas over the past six months range from frontier areas to mature provinces and will further the Bracks government's strategy to increase our knowledge of Victoria's offshore sedimentary basins. It is a further step in the Bracks government's plan to secure Victoria's future energy supplies.

The Bracks government welcomes responsible exploration as an effective way of securing gas supplies for our region and ensuring competition in the gas market. I take this opportunity to wish these investors and explorers every success in their endeavours. As part of the Bracks government's vision for Victoria as a state where sustainability is built into everything we do, the companies will be required to meet high standards of safety and environmental management prior to the approval of these licences. Under the Bracks government, Victoria is clearly seen as a place to do business in the gas and petroleum sector.

The question is: what policies does the opposition have about the future of oil and gas exploration in Victoria in the future? If we are to be guided by the so-called state platform released by the opposition, which is an A4 sheet, we see that there are no policies whatsoever in relation to this vital area of state activity.

I take this opportunity to call on the opposition to release any policies, if it can put them together, on what it has to say about gas and petroleum for the future of Victoria.

**Minister for Sport and Recreation: electorate officer**

**Hon. BILL FORWOOD** (Templestowe) — My question is a follow-up to my previous question to the Minister for Sport and Recreation. Given the minister's answer to my previous question, could he explain to the house why he stood Mr Suleyman down? Was it on his own initiative or was he instructed to do it?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — This is very grubby politics. It is very grubby politics because we have individuals in this circumstance who have been traumatised, and no doubt the Liberal opposition is happy to further traumatise this family and these individuals by the line of questioning it is taking.

It was decided by Mr Suleyman that he would take leave so that he could attend to his affairs to ensure that he could clear his name in relation to the defamatory remarks that he believed had been made in the *Sunday Herald Sun*.

*Supplementary question*

**Hon. BILL FORWOOD** (Templestowe) — Do I understand the Minister for Sport and Recreation to say that Mr Suleyman has not been stood down but that he has taken leave of his own accord?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — As I have mentioned previously, Mr Suleyman has taken leave of his position, and I also believe and understand that the Joint Services Department is also suspending that particular officer with pay until the issue is clarified in relation to clearing his name. Can I further reinforce that I believe this is very grubby politics and that the opposition is just reinforcing that these allegations may be racially based.

**Hon. Bill Forwood** — On a point of order, Mr President, the answer the minister gave was contradictory in that he said on the one hand — —

**Hon. C. C. Broad** — That's not a point of order.

**Hon. Bill Forwood** — I think the house is entitled to get a straight answer.

**Hon. C. C. Broad** — It's not a point of order.

**The PRESIDENT** — Order! It is not for anyone other than the Chair to judge whether it is a point of order, and until Mr Forwood articulates what he is trying to do, I have no way of doing it.

**Hon. Bill Forwood** — Thank you, Mr President. On the one hand the minister is suggesting to the house that Mr Suleyman has taken leave; on the other hand he is suggesting that the Joint Services Department has suspended him on full pay. What I am asking for is some clarification of which is the correct interpretation, both of which came in the one answer.

**The PRESIDENT** — Order! The honourable member is pointing to an apparent contradiction. That is a matter for the house to judge, but it is not a point of order as such. Whether Mr Forwood asks another question is up to him.

*Victorians. Bright Ideas. Brilliant Future.*

**Hon. E. C. CARBINES** (Geelong) — I refer my question to the Minister for Information and Communication Technology. This morning the Premier announced the government's new innovation statement, *Victorians. Bright Ideas. Brilliant Future*. The centrepiece of the innovation statement is a massive funding boost for science, technology and innovation. Will the minister explain to the house how the information, communications and technology sector may benefit from the innovation statement initiatives?

**Hon. M. R. THOMSON** (Minister for Information and Communication Technology) — I would like to thank the honourable member for her question. The

innovation statement contains \$310 million worth of new funding and brings the Bracks government's commitment to over \$900 million, positioning Victoria as a world leader in innovation.

The title of the innovation statement is indicative of the position of Victoria's information, communications and technology industry — bright ideas, brilliant future. ICT is identified within the innovation statement by the Bracks government as one of five priority sectors, and to support research and development in this sector \$10 million has been allocated to create a new ICT research and development centre.

The funding will be used to establish a centre to support the development of cutting-edge technologies. This will assist our capacity to attract and retain the brightest research minds and provide new opportunities to train postgraduate students and cement our position as Australia's leading producer of IT skills.

Research and development is critical to the growth of our ICT sector and is critical to seeing ICT integrated into the wider community. The innovation statement builds on other substantial ICT research and development investments that the Bracks government has made — investments such as the \$4 million that has gone to the Collaborative Optical Leading Testbed project to establish an optical network in Ballarat with fibre to home and business, and \$2.75 million to establish the Redlab test facility, a state-of-the-art, open-access advanced photonics and electronics testing facility.

The government and the ICT industry are also developing leading-edge e-government technologies. The Bracks government has a strong commitment to ensuring Victoria is a leader in e-government systems and applications, and the innovation statement contains e-government projects that build on that commitment. In particular, \$24 million has been allocated to the e-prescribing project, which involves the application of electronic prescribing technology to improve the accuracy and quality of prescribing medication in Victorian hospitals. This is a truly leading-edge IT application and will place Victoria at the forefront of this technology.

Through the innovation statement, through our commitment to developing ICT skills, our support of research and development and our position as a leader in the use of e-government applications, the Bracks government is delivering a brilliant future through bright ideas and cementing Victoria's position as Australia's ICT leader. What we see from the

opposition is still no policies, no commitment and no idea.

### **MCG: redevelopment**

**Hon. R. M. HALLAM** (Western) — My question is addressed to the Minister for Sport and Recreation. I want to again go to the issue of the funding for the Melbourne Cricket Ground redevelopment and the Bracks government's decision to knock back the \$90 million on offer from the commonwealth government. On Friday, 18 October, the minister explained to the chamber that acceptance of the commonwealth government's capital grant would 'set the project back six months'. I ask the minister to explain the basis of that report, and if that delay of six months is his own assessment, how he arrived at that conclusion?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I am happy to answer Mr Hallam's question because the Melbourne Cricket Ground project is a landmark development which this government and people of Victoria can be very proud of. It is very straightforward. The project tenders were called for, the tenders were returned and a short list of tenderers was determined. Following that process the federal government decided to attach certain requirements to the funding which would have required the re-tendering of the project in contradiction of its own guidelines on workplace relations.

To re-tender the project and have those prices returned would have taken in the order of six months. For the government to do that, when it already had a very tight time frame, would have set that project back six months, and it would have had to be concertinaed into the time frame between now and the Commonwealth Games, Mr Acting President. There was only one way to do that.

**The PRESIDENT** — Order! The President is in the chair. Please call him the President.

**Hon. J. M. MADDEN** — All right. Thank you, Mr President. There is only one way to make sure that that happens and that is to have people working longer hours and increase the size of the work force, resulting in a significant increase in the costs associated with the project.

May I say again how disappointed the government was, as I am sure the people of Victoria were, that the federal government was prepared to potentially sabotage the project by pursuing its own industrial agenda on a project of such great symbolism to the people of Victoria that Victorians would not expect the state

government to subject them and their great sporting icon to becoming a political football in the political game outlined by Mr Tony Abbott.

*Supplementary question*

**Hon. R. M. HALLAM** (Western) — On 18 October, during the same tortuous explanation, the minister also complained that acceptance of the funding from the commonwealth government would:

... increase the cost of the project.

My supplementary question to the minister is: when the minister did his sums to conclude that the cost would increase, did he count the \$90 million?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I advise Mr Hallam that that was taken into account. The cost imposition would have been so great that it would have threatened the viability of the project, because there were no guarantees that if the project had been set back six months it could have been delivered. That is why the government and Victorians were very disappointed with the federal government.

**Looking Out for Daniel program**

**Hon. G. D. ROMANES** (Melbourne) — My question is to the Minister for Youth Affairs. I understand that the Bracks government is committed to ensuring a whole-of-government approach is taken to youth affairs. Will the minister please inform the house of any recent examples of this approach, and in particular will she outline how programs are being jointly run across departments?

**Hon. M. M. GOULD** (Minister for Youth Affairs) — The Bracks government believes that a whole-of-government approach should be taken on youth affairs, and that is why the government established the Office for Youth. This is in stark contrast to the opposition, which believes that young people should only be thought of as having problems. However, the Bracks government has listened to this sector and it is acting. It has ensured that government departments are working in partnership to ensure that young members of the community receive the best start to their adult lives. One example of this collaboration is the work being done throughout regional and rural Victoria. The Department of Education and Training and the Department of Human Services have been working together to develop a program called Looking Out for Daniel.

I attended the Looking Out for Daniel joint forum at Beechworth. This initiative is about a fictitious

character named Daniel, who is at risk of dropping out of school. The forum focused on creating ways to support Daniel by ensuring that both government departments worked in partnership and that appropriate strategies were developed. One of the issues identified in the Wangaratta region during the forum was the shortage of people in the community prepared to become foster parents.

The departments ran a campaign in the region to increase the number of people who would be interested in undergoing it because they knew that if those young people needed to go into foster care they would be leaving their region, leaving their community and leaving their friends. They had identified that.

In the Beechworth area they identified that they needed to implement and outsource advocacy program, which concentrated on individually and independently case-managing students with a high risk of not attending school. That is what the Department of Education and Training and the Department of Human Services together are working on in regional and rural Victoria to ensure that our young people are appropriately looked after and receive the services they need.

Such partnerships are exactly what the Bracks government is about, and we will continue to encourage them. We know that young people are best supported when all services are working together to look after them. Victorians know that young people suffered under the previous Liberal government because it was all about breaking down collaboration and ensuring individualism. This government will continue to support initiatives that bring governments and departments together. We have listened to young people, and we have acted.

**Minister for Sport and Recreation: electorate officer**

**Hon. BILL FORWOOD** (Templestowe) — My question is again to the Minister for Sport and Recreation. So far this morning the minister has informed the house that Mr Suleyman has taken leave, and he has informed the house that Mr Suleyman has been suspended by Joint Services on full pay. The newspaper reports that Mr Suleyman has been stood down. Which of these versions is correct?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I am happy to clarify the situation for Mr Forwood. Mr Suleyman decided of his own accord to voluntarily stand aside after the article appeared. I have been informally advised since that time that Joint

Services will be suspending him pending investigation and clarification of those allegations.

*Supplementary question*

**Hon. BILL FORWOOD** (Templestowe) — The minister advised the house at the outset this morning that he had written seeking an investigation from the Victorian Office of Multicultural Affairs. Given that the honourable member for Sunshine in the other place has referred the allegations against Mr Capar to the police, will the minister advise why he did not choose that plan of action?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I am happy to clarify that. Mr Suleyman has worked in my office for a number of years, and he worked in that office prior to my taking up the position in that office. I understand him to be a man of good reputation. I also suspect that these allegations are racially based. Not being an expert on multicultural issues, I have referred the issue at hand to the Victorian Office of Multicultural Affairs in order to have clarification on the potential racial nature of these allegations and to be guided in terms of what further direction should take place.

**State soccer centre**

**Hon. T. C. THEOPHANOUS** (Jika Jika) — My question is to the Minister for Sport and Recreation and goes to that truly international sport — soccer. Will the minister inform the house in regard to the Bracks government's recent announcement to support the development of soccer in Victoria?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — Last Sunday I was very pleased to announce that the government will provide \$3.75 million towards the development of the state soccer centre in conjunction with a number of other stakeholders. The Victorian Soccer Federation will contribute \$1 million and the City of Darebin will contribute in the order of \$400 000. The City of Darebin will also provide the land plus an existing building on site valued at \$3.5 million.

This is a fantastic development because the centre will be built in Darebin at the John Cain Reserve. It will complement other facilities being developed there at the present time, such as the state training velodrome and the state lawn bowls centre. The combination of partnerships involved in funding these and the critical mass will ensure that we have a fantastic sporting precinct, probably the fourth-largest sporting precinct of state significance. Leaving aside the Melbourne Cricket Ground, the tennis centre, the Melbourne Sports and

Aquatic Centre and the State Netball and Hockey Centre this will be the fourth-largest facility in the state. I am pleased to announce that many of those facilities will be used in the lead-up to the Commonwealth Games, again underlining that the Commonwealth Games is an opportunity to reinvest in sport not only for today but also to ensure that there is a lasting legacy well beyond the Commonwealth Games.

I congratulate all the stakeholders, particularly the City of Darebin and the Victorian Soccer Federation, because this fantastic centre will allow the federation to improve the delivery of junior development and elite programs, provide better quality volunteer education and coaching programs as well as host international events, state competitions and carnivals. Not only will the local community benefit from it but so will the stakeholders throughout the state. This should be recognised together with the development that has taken place at a grassroots level in soccer over the past few years.

Over the last seven years soccer has experienced a 70 per cent growth in the number of registered teams. There are 60 000 boys and girls participating in school and junior competitions alone, and at the elite end 33 Victorians are currently playing in major leagues around the world, including the English Premier League. It is very heartening not only for soccer but also for sport in this state to see the government continuing to build on its reputation as a state, and particularly its reputation as not only a significant sporting centre but, more than that, probably as the sporting capital of Australia, if not beyond.

**Minister for Sport and Recreation: electorate officer**

**Hon. BILL FORWOOD** (Templestowe) — Can the Minister for Sport and Recreation give the house an assurance that his electorate office or its facilities have not been used for the purposes of the production or distribution of newsletters or other material promoting the Ulusal Halk Hareketi (UHH)?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I anticipate that those matters will be clarified in the fullness of time. I also appreciate the sensitivity of this matter. While the opposition is happy to trawl through these things, Mr Acting President — —

**The PRESIDENT** — Order! See if you can get it straight.

**Hon. J. M. MADDEN** — I appreciate your sensitivity, Mr President.

I remind the opposition that, whilst it might be happy to trawl through these issues there are individuals in this circumstance who are absolutely traumatised by this allegation, and their greater community is traumatised by these allegations. It shows the lack of sensitivity by the opposition in relation to these matters. I reinforce that these matters will be clarified within the fullness of time and that they will be addressed accordingly, and hence that is why Joint Services is involved in clarifying the situation with the relevant officers.

*Supplementary question*

**Hon. BILL FORWOOD** (Templestowe) — Every answer from the minister just makes the question murkier. Will the minister advise the house how much leave Mr Suleyman has and whether he expects him to return to work?

**Hon. M. M. Gould** interjected.

**The PRESIDENT** — Order! The question has been asked of the minister and I am sure he does not need assistance.

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I expect the electorate officer will require time to clear his name, and he has taken that leave. As I said, I understand Joint Services is also seeking clarification of that matter and hence has suspended the officers until the matter is clarified. The electorate officer has stood aside voluntarily, and since that time Joint Services has become involved in order that it can also clarify the situation.

**Boating: safety initiatives**

**Hon. S. M. NGUYEN** (Melbourne West) — Will the Minister for Ports advise the house what action the Bracks government is taking to improve marine safety and operator behaviour on Victoria's waterways over this coming boating season?

**Hon. C. C. BROAD** (Minister for Ports) — I thank the honourable member for his question on this very important matter of boating safety, which is a very strong priority of the Bracks government. I am pleased to inform the house today that I have launched a new package of boating safety initiative which builds on the work the Bracks government has undertaken over the past three years and which will make this summer even safer for Victorians who go boating.

Among the important safety initiatives planned for this coming summer are boat equipment safety checks throughout Victoria commencing in Boating Safety Week which begins at the end of November, and a statewide audit of all boating safety signage and navigational aids.

Representatives from Marine Safety Victoria and local waterway authorities will be on hand at boat ramps across Victoria to advise on the suitability of boating safety equipment through Boating Safety Week, delivering on this government's commitment to making summer safer for Victorian boaters.

I am pleased to indicate that the first 12 000 boat operators who participate in these boating safety equipment checks will receive a free safety grab bag that includes a number of very important safety items for all boaters. To complement the safety equipment checks, Marine Safety Victoria will also conduct an audit of boating safety signage and of navigational aids.

I am pleased to inform the house that regional Victoria, where boaters are often quite remote from other advice and assistance, is again a key focus for improved signage as well as navigational aids. The audit will assess all boating safety signage, focusing upon locations of signs and condition reports of signs and the accuracy of information provided and make recommendations for upgrades and replacements.

In addition to these actions the Bracks government is taking, the Life Jackets Save Lives campaign will reinforce the vital message that life jackets save lives and outline the important times when they should be worn. A licensing campaign will remind Victorians that they are required to hold recreational boat operator licences when operating powered recreational vessels after 1 February 2003.

These safety initiatives are funded from the Bracks government's boating safety funding program which is investing almost \$16 million over five years into boating safety initiatives that promote safer boating for all Victorians.

The recreational boat operator licence is an achievement of which the Bracks government is particularly proud as a means of improving boating safety. The actions of the Bracks government in promoting boating safety and putting resources behind this priority are in contrast — stark contrast, I might say — to the failure of the previous Liberal government to act in this area and to its neglect of our search and rescue organisations.

I am very proud that the government has improved boating safety in this state, will continue to do so and will continue to put the resources behind it to ensure that its priorities are delivered.

## MOTIONS TO TAKE NOTE OF ANSWERS

### MCG: redevelopment

**Hon. P. A. KATSAMBANIS** (Monash) — I move:

That the Council take note of the answer given by the Minister for Sport and Recreation to a question without notice asked by the Honourable R. M. Hallam relating to the MCG redevelopment project.

The minister has consistently said in this place that the government's commitment to the Melbourne Cricket Ground extends to the \$77 million payment the government will be making for the redevelopment of the northern and western part of the MCG. However, the tabling of the 2001–02 financial report earlier this week revealed the minister's answer to be a complete sham and to be a complete misleading of the house and of the public of Victoria.

That financial report revealed that the government had put in place a series of very complex financial arrangements in relation to the financing of the Melbourne Cricket Ground redevelopment for the purposes of holding the 2006 Commonwealth Games. There was a guarantee of the actual loan to be taken out by the Melbourne Cricket Club, and although I have great faith that the club will repay that loan in full, that guarantee has to be taken into account.

There are also a series of complex arrangements with the Australian Football League, which the government has not spelt out in full, for compensation resulting from dislocation of games during and after the 2006 Commonwealth Games, as well as compensation arrangements for lost seating for grand finals in 2003, 2004 and 2005 while the ground is being redeveloped.

The financial statement tells us that an offer has been made to the Australian Football League for such compensation, yet the government does not tell us what that offer is. It is incumbent on the government to reveal what that compensation is going to be.

Importantly, the most intriguing revelation of these financial reports is the indemnity that the government has given to the Melbourne Cricket Ground Trust and to the Melbourne Cricket Club in the event that the total project construction costs exceed \$450 million.

The way I see it is that the government and the MCC have built in a \$20 million contingency for normal cost overruns — that is pretty low; less than 5 per cent of the total projected cost of \$430 million — but once the magic figure of \$450 million is reached, exhausting the \$20 million excess contingency, which is very, very small anyway for a building project, it is not the Melbourne Cricket Club that is liable, it is not the Commonwealth Games organisers who are liable, it is the state of Victoria — the taxpayers of Victoria — that is liable for any cost overruns from there on. What is likely to lead to these cost overruns? We all know what is likely to lead to such cost overruns.

There is an indemnity where the total project construction costs exceed \$450 million. We have on record from the secretary of the Construction, Forestry, Mining and Energy Union in Victoria (CFMEU), Martin Kingham, that he knows that the pressure is on the builder to complete the project on time. The pressure is not on the builder any more. It is now shared between the builder and the taxpayers of Victoria: if the builder cannot complete the project on time and on budget, who pays? The taxpayers of Victoria! It is not me or the Liberal Party saying that; it is the 2001–02 financial report of this government saying it.

It is a blank cheque to the CFMEU and the government's friends in the trade union movement. It is a blank cheque for them to act indiscriminately, irrationally and against the best interests of the Victorian public in order to turn the Melbourne Cricket Ground into an industrial relations battleground. There is no cap on the indemnity; there is no cap on the militancy and lunacy of the CFMEU. Martin Kingham has already suggested that he is prepared to turn the MCG redevelopment into an industrial battleground. The western grandstand, the Ponsford Stand, has been partly demolished. It is already a building site yet we have no site agreement. There are already industrial relations problems at the MCG and this government is running to an early election partly to hide the series of industrial relations problems across the state and their impact on the economy because it wants to protect its union mates.

However, the public of Victoria will not be hoodwinked. The public of Victoria has been exposed financially by the revelations in this financial report. We will be watching very closely. We will watch the actions of the CFMEU but the best protection the public of Victoria can have is to get rid of this government so that its union mates will no longer be protected the way they are now.

**Hon. KAYE DARVENIZA** (Melbourne West) — I am pleased to be able to make a contribution on this debate. The Bracks government is proud of the Melbourne Football League redevelopment project and proud that Melbourne will be the host of the 2006 Commonwealth Games. Victorians are proud and are looking forward to these games taking place. The landmark redevelopment is necessary to ensure that the stadiums and grounds are prepared for the 2006 Commonwealth Games. The MCG plays a significant and important part in that event. We are extremely disappointed that the federal government decided it would play politics with the Commonwealth Games and the Victorian people by determining at the death knock, at the last minute, that it would put unacceptable restrictions on the way we could proceed.

This was done by the federal Minister for Employment and Workplace Relations, Tony Abbott, putting restrictive processes in place that were not part of the original agreement Victoria had with the federal government. It was unacceptable, and we are disappointed that the federal government refuses to support Victoria in its staging of the 2006 Commonwealth Games.

I cannot believe Mr Katsambanis and the way he goes on about what the CFMEU will and will not do. It is a fact that since this government came into office Victoria has achieved the lowest level of working days lost per 1000 employees. Between 1999 and 2001 the level has dropped by 44 per cent and has continued to drop. The Bracks government has almost halved the number of industrial disputes in the state since coming to office. The scaremongering by the opposition about the possibility of industrial chaos and disputation taking place around the development of the MCG is not based on fact. The number of days lost in this state due to industrial disputes since the government has come to office has reduced significantly when you compare it — —

**Hon. P. A. Katsambanis** interjected.

**The ACTING PRESIDENT**  
(**Hon. C. A. Strong**) — Order! Mr Katsambanis has had his chance.

**Hon. KAYE DARVENIZA** — When the opposition members and their mate Jeff Kennett were in office and running the state they had a much higher record of industrial disputation than we do. They hate it! They cannot stand it but it is the truth; it is a fact. There is less industrial disputation now than when the opposition was in government. They cannot stand it and do not like it but it is the truth.

We are proud that we are going to be staging the 2006 Commonwealth Games. It will be a fantastic opportunity to showcase Victoria and for the people of Victoria to attend the event, take pride in it and showcase their city. It will be an opportunity for people — not only from around Australia but also from overseas — to come to Victoria and experience all the fantastic things that we have to offer. We will be able to entertain international guests who will come to Victoria and see what a wonderful state Victoria is.

**Hon. I. J. COVER** (Geelong) — Thank you, Mr Acting President — which stands in stark contrast to Mr President, who was here earlier during question time!

I thank Ms Darveniza for her 5 minutes of light relief but I inform the house that this is a serious matter and should not be taken in such a light-hearted manner by the government. As has been revealed by the tabling of the 2001–02 financial report, incorporating the quarterly financial report no. 4, the Melbourne Cricket Ground redevelopment has a serious consequence for the taxpayers of Victoria, and that is exposure to cost overruns at the MCG redevelopment.

To this point in time the opposition had been under the impression that taxpayers were only up for the \$77 million that the state government has put in place because it rejected the \$90 million on offer from the federal government. In itself it is bad enough rejecting \$90 million of federal money, but this is new information in the report referred to by Mr Katsambanis in his contribution.

It is interesting that when the Minister for Commonwealth Games was giving his answer to Mr Hallam today he gave the same answer he has given to every question on this topic since the day it was announced that the government was putting up \$77 million of taxpayers' money. He has one answer to every question and that is all he has. Clearly, he either does not know much about the project and the way in which it will be financed or he does know a lot about it and is hiding what he knows.

Sadly for the minister some of these things are being revealed in reports such as this one today. He is not in the chamber but I imagine he has other matters to attend to, although I do not know what could be more serious than this Commonwealth Games–MCG redevelopment exposure to the taxpayer. Nevertheless, he is not here.

We had the contribution of Ms Darveniza who gives the same contribution on this topic every time, just as

the minister gives the same answer. However, things are occurring and being revealed about the way this project will inevitably be financed by taxpayers.

The opposition has been unable to establish who agreed to the indemnity. Was it the Minister for Commonwealth Games? He would not give us the answer even if we did ask the question; he would just give us the same answer about Tony Abbott, the federal funding and so on. I reckon he had nothing to do with the negotiations, anyway, because he revealed on one previous occasion when this topic was debated that decisions about financial considerations for both the MCG and the overall Commonwealth Games budget were made by a higher authority. Clearly, the minister does not move in the mover and shaker circles of the Bracks cabinet.

One would assume it is the Treasurer. He has been responsible for the quarterly financial report and he is the one who has revealed just what our exposure is to this indemnity. Perhaps it is about time the minister got himself up to speed on all the arrangements and financial considerations of the Commonwealth Games and MCG redevelopment.

As it stands, it would appear that this is simply an invitation to the unions in Victoria to milk the public purse. That is exactly what Mr Katsambanis was saying, and I want to reinforce the issue. In my area of Geelong, projects which have been very slow in recent years suddenly have workers working very quickly to get them finished because they all want to come up to Melbourne and get a job at the MCG. They know where the gravy train is and they all want to line up there. Now when they get confirmation of the opportunities available to milk the public purse through this document they will line up as quickly as possible.

Now that we have seen the revelations in this document we need to know what else the government might be hiding with respect to Commonwealth Games funding and whether the Victorian taxpayers will be exposed to and liable to cover overruns in other Commonwealth Games projects such as the games village — in which I am sure Ms Romanes who is in the chamber is taking a great interest — the extensions to the Melbourne Sports and Aquatic Centre and the establishment of the state lawn bowls centre in Northcote. These are all projects that we know about. It is a shame the minister is not here to explain the true position of the exposure to the Victorian taxpayer.

**Motion agreed to.**

**Sitting suspended 1.00 p.m. until 2.02 p.m.**

## MEMBERS STATEMENTS

### Volunteers: community safety

**Hon. R. H. BOWDEN** (South Eastern) — My statement today is to remind honourable members that with the approach of summer the amount of recreational activity in the community dramatically increases. I record my respect for and the value of the contribution of volunteers in our community, particularly those in the State Emergency Service (SES), the Country Fire Authority (CFA), volunteer lifesaving groups, the volunteer coastguard and many other volunteer organisations, who take such good care of us all.

In advance of summer I want to record the hope that everyone enjoys their summertime recreation and their various activities and that the call on those valuable and much-appreciated volunteers is minimised. In summer it is particularly the SES and CFA volunteers who are called to situations where they are required which often call for extraordinary feats of sacrifice — sacrifice that is made without any hesitancy. I recognise the valuable contribution that our volunteers bring to the community, and I wish them well for a safe summer.

### Creswick Forestry Fiesta

**Hon. D. G. HADDEN** (Ballarat) — On Sunday, 27 October 2002, I had the very great honour of opening the seventh Creswick Forestry Fiesta and the rededicating of the recently restored 1897 bandstand. The historic bandstand was erected in the town's Market Square to commemorate Queen Victoria's diamond jubilee. It was built from funds raised in the community by a group of influential leading ladies of the time — Mrs Northcott, Mrs Broadbent and Mrs Gibson. They were led by Mayoress W. P. Northcott, who laid the foundation stone on 21 June 1897. The original foundation stone and silver trowel are on display at the Creswick Historical Museum. The restoration work on the bandstand was made possible by \$55 000 in joint funding from the state government and Hepburn Shire Council as part of the streetscape upgrade of the southern end of Albert Street.

The forest fiesta's highlight was the 15th Brackenbury Classic footrace through the Creswick State Forest, up to Brackenbury's Lookout, which is named after Creswick's first gold commissioner. The grand street parade, along with the flower show, arts show, the Victoria Police Show Band, the woodchop competition and a variety of stalls with lots of community spirit made for another successful forestry fiesta.

### **Goulburn Valley Water: achievements**

**Hon. W. R. BAXTER** (North Eastern) — I draw the attention of the house to the extraordinary achievements of Goulburn Valley Water since its formation some years ago. That authority took over a number of very small water trusts, many of which were struggling. It has certainly done a great deal of good work in Tatura, for example, where the waste water sewers were in very poor condition and were falling in. They have been replaced. A new freshwater supply has been brought to the township of Violet Town. More than 2500 homes in small towns have been sewered since the formation of the authority. Since Goulburn Valley Regional Water Authority took over from the Mid-Goulburn Regional Water Board it has repaid \$40 million of debt, invested \$100 million in water and waste water facilities and is currently spending \$10 million on land-based reuse facilities in Kilmore and Wallan.

I pay particular tribute to the chairman of the authority, Mr Mijo Darveniza, and I pay tribute to the chief executive officer, Mr Laurie Gleeson, and the authority's board and staff. They have been world leaders in the provision of water and the treatment of waste water. They can be very proud indeed of the achievements of their board over that time — the way they have repaid debt, increased services and facilities and kept the rate burden down. I pay them a great tribute.

### **Timber industry: restructure**

**Hon. PHILIP DAVIS** (Gippsland) — I draw the attention of the house to the difficulties being experienced across Victoria by the government's restructure of the timber industry, particularly in Gippsland, where there has been a cut of 50 per cent in access to timber resources. Typically the communities which are particularly hard pressed are those that are primarily reliant on the timber industry for business activity. In particular I mention towns like Orbost and Cann River in East Gippsland, but Noojee, Rokeby and other small towns in West Gippsland are also doing it hard.

The sector that has been hit particularly badly is the harvesting and haulage sector. In fact this sector has been left in the lurch by the government's response.

Many of those who have large investments in equipment and significant debt obviously associated with the purchase of that equipment have nowhere to go in terms of this restructuring process. I am looking forward later today to talking to representatives from

Orbost about the East Gippsland situation, and I indicate that it is important that the house be aware that the government has not responded effectively to the impacts on local communities.

### **Bellarine Peninsula Community Health Service**

**Hon. E. C. CARBINES** (Geelong) — Last Friday I accompanied the Minister for Health in the other place to the annual general meeting of Bellarine Peninsula Community Health Service. It is a wonderful service and is held in extremely high regard across the Bellarine Peninsula as providing primary health and residential aged care.

The annual general meeting was very well attended, which is indicative of the high level of support the Bellarine community affords Bellarine Peninsula Community Health Service. The minister had the pleasure of launching *The Golden Thread of Care*, a history of the 10 years of excellent service given to residents by community health service, which was written by local historian Susie Zada.

The minister then announced a \$250 000 grant to Bellarine Peninsula Community Health Service to launch its fundraising effort to extend Ann Nichol House, the residential aged care facility located in Portarlington. This news was enthusiastically received by all present as the federal government has, disappointingly, refused to allocate any funding to assist this project despite granting the service 30 new bed licences.

I thank the minister for his support of Bellarine Peninsula Community Health Service and extend my congratulations to its president, Jenny Gibbs; chief executive officer, Moyneen Curtis; and all associated with the community health service. On behalf of the Bellarine Peninsula community I thank them for all their efforts.

### **Peninsula Health Care Network**

**Hon. B. C. BOARDMAN** (Chelsea) — I refer the house to matters raised on two previous adjournment debates relating to a number of matters at the Frankston Hospital. In particular, I wish to advise that I am now in possession of information that has revealed that the allegations relating to Mr Paul Fraser published on the crikey.com web site on 10 October 2002 are without substance. Those allegations, as I detailed in the house on the previous occasions, have hurt Mr Fraser and his family. That was never my intention as I sought only to have the minister respond to the allegations on crikey.com. If my comments in the house have hurt

Mr Fraser or damaged his personal or professional reputation, I apologise unreservedly.

At all stages my only intention was to have the Minister for Health investigate the allegations contained in a public document. I never intended to suggest that the allegations against Mr Fraser were correct. I regret that my actions have been interpreted otherwise. It is still important for the Minister for Health to respond formally on these issues and clear the air on the remaining allegations.

### State soccer centre

**Hon. JENNY MIKAKOS** (Jika Jika) — I want to place on record my gratitude to the Minister for Sport and Recreation and Minister for the Commonwealth Games for his strong personal support of and his announcement on last Sunday, 27 October, of a new \$5.2 million state soccer centre to be established at Northcote, which includes \$3.75 million by way of a Victorian government contribution from the Community Support Fund.

The state soccer centre will add to the new lawn bowls centre and indoor training velodrome under construction for the Commonwealth Games and will turn the John Cain Reserve into a significant sports precinct. The project involves six pitches, including one with an all-weather synthetic surface. It will enable Victorian soccer to host international and state competitions as well as to foster elite player development.

I wish to thank the Victorian Soccer Federation, and in particular Geoff Miles, for this exciting proposal and its \$1 million contribution to the project, which will see the John Cain Reserve become its administrative headquarters. My thanks also go to Darebin City Council — in particular to Stuart Burdack — for its strong support of this project from the outset and its \$500 000 direct financial contribution, as well as the land and pavilion valued at \$3.5 million. The new state soccer centre will benefit soccer at the grassroots as well as elite levels and will be a significant asset for the local community.

### Fishing: commercial licences

**Hon. P. R. HALL** (Gippsland) — I wish to comment on the government's announcement of 3 October of its disgraceful decision to compulsorily acquire seven commercial fishing licences currently operating in Mallacoota and Lake Tyers.

I wish to make two points about this. Firstly, there was no consultation with licensees prior to this

announcement, and it was not until they received letters signed by the minister, dated 20 October — almost three weeks later — that they were officially notified that they and their families and the families of their employees were about to lose their livelihoods.

The second point I wish to make refers to a report signed by the minister on 15 October entitled *A Report to Each House of Parliament on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2001–02*. The report was tabled in Parliament on 15 October. Page 3 of the report sets out future commitments of the recreational fishing licence (RFL) fund, including:

... the buy-out of all remaining inland fishery access licences

There is absolutely no mention of using RFL funds to buy out other commercial bay and inlet licences. One can only conclude that this is another example of policy being set on the run and policy being made for purely political purposes. Professional licence-holders have been treated with utter disregard by the Bracks government — an occurrence that is happening all too frequently of late.

### Surf Coast: inspector's report

**Hon. I. J. COVER** (Geelong) — This is a sham of a farce of a travesty of a government. All it tends to do is review things, and I have the latest example.

Today the Inspector of Municipal Administration, who investigated the Surf Coast Shire council, has tabled a report which, among other things, recommends:

The principles contained in this report be adopted in preparing the plan ...

for the future. It recommends also that the council:

... minimise increases in rates and charges ...

which is, in fact, adopting Liberal Party policy so far as rates are concerned. This comes only shortly after the Minister for Local Government in the other place had rubbished the Liberal Party policy only last week. It is good to see that he is now playing catch-up, but in accepting this report the minister has announced a commission of inquiry to follow up the work done by the Inspector of Municipal Administration in tabling the report. The minister said that the commission would look into other things, including the viability of the council in its current form, and the services and infrastructure it provides.

This follows hot on the heels of a visit last week by the Minister for Health in the other place, as mentioned

earlier by the other member representing Geelong Province, to the Bellarine Peninsula. He turned the first sod at the Grace McKellar Centre redevelopment — and turning the first sod was described as a major step!

The minister said at the time that stage 1A was complete, but had he looked at the signs around the project site he would have seen that the completion date was August, yet the project is still in the stage 1 phase. The government needs to get on with it. So far it has spent only \$6 million out of a \$97 million project.

### Inner Western Region Migrant Resource Centre

**Hon. S. M. NGUYEN** (Melbourne West) — I take this opportunity to thank the Inner Western Region Migrant Resource Centre for its work. I attended its 21st anniversary celebrations on 19 October last. The function was chaired by community leaders and about 400 people attended.

I was with other members of Parliament, councillors and other friends of the western suburbs. The migrant resource centre has done a lot of work over its 21 years to help many in the migrant community to settle in the western suburbs of Melbourne and to help many community organisations get funding and help with community projects. The western suburbs of Melbourne are committed to multiculturalism. I also thank the Victorian Multicultural Commission for helping many community organisations through giving them some funding or grants to help migrants settle in Victoria. I have seen the continuation of the funding this year, as was recently announced by the Minister for Multicultural Affairs in the other house.

**The PRESIDENT** — Time!

## QUESTIONS ON NOTICE

### Answers

**Hon. M. M. GOULD** (Minister for Education Services) — I have answers to the following questions on notice: 3432, 3433 and 3435–8.

**Hon. B. C. BOARDMAN** (Chelsea) — I seek an explanation from the minister about unanswered questions on notice 2480 and, I think, 2883.

**Hon. M. M. Gould** — Who were they directed to?

**The PRESIDENT** — Can Mr Boardman confirm he has written to the minister?

**Hon. B. C. BOARDMAN** — Not only can I confirm I have written to the Minister for Sport and Recreation, but this is the third occasion I have raised this issue in the house and sought an explanation from the minister. I understand the minister is not in the chamber at the moment, but maybe the Leader of the Government would like to respond on his behalf. Before I am given the opportunity for such an explanation I again firmly place on the record that yesterday in Benalla we had a lengthy debate on these unanswered questions. It is totally — —

**An honourable member** interjected.

**Hon. B. C. BOARDMAN** — Yes, the Liberal candidate for Benalla, Andrew Dwyer, was there and was listening to the debate.

**The PRESIDENT** — Order! The guidelines printed briefly on this paper say that the member can ask for an explanation. I think he has asked for an explanation.

**Hon. M. M. GOULD** (Minister for Education Services) — I believe the minister has made inquiries with respect to those questions, and he will endeavour to get them to the honourable member as soon as possible.

**Hon. B. C. BOARDMAN** (Chelsea) — I move:

That the Council take note of the explanation.

That is the same answer I have now had on three separate occasions. I reiterate that, considering the climate this house is now faced with and the potential for this to be the last sitting day, I raised this issue not only in the last sitting week but also yesterday and again today. That is not satisfactory. It is a complete abuse of the processes of this house. It is holding the house and yourself, Mr President, in contempt and I find the government's actions in the circumstances totally reprehensible.

I will simply place the following on the record. There is not much point further debating this because the government is confirming how lazy, inept, incompetent and contemptuous it is of the Parliament, the people of Victoria, and the Liberal candidate for Benalla. I simply say that we will note this, the public of Victoria will note this, and this will become an issue during the forthcoming election.

**Motion agreed to.**

**Hon. N. B. LUCAS** (Eumemmerring) — I seek an explanation from the Leader of the Government about a matter I raised with her yesterday on four unanswered questions which I submitted on 4 June and 5 June —

3103, 3105, 3113 and 3125. The four questions were addressed to the Minister for Sport and Recreation. Two of them were for forwarding on to the Minister for Local Government and the other two were to go to the Minister for Planning. I wrote to the minister on this issue and raised it subsequently on the next four sitting days seeking an explanation. I seek a further explanation now.

**Hon. M. M. GOULD** (Minister for Education Services) — I have been in touch with the respective ministers and asked them to get those answers to the house as soon as possible.

**Hon. G. B. ASHMAN** (Koonung) — I wish to raise with the Leader of the Government two questions on notice — 3167 and 3168 — directed to her in her capacity as the representative of the Premier. The questions relate to the Metropolitan Ambulance Service Royal Commission. I seek an explanation as to why these questions, which were placed on the notice paper on 12 June, have not been responded to.

**Hon. M. M. GOULD** (Minister for Education Services) — I raised these outstanding questions with the Premier and asked that he respond as soon as possible. I give an undertaking that I will get them to the honourable member as soon as possible.

**Hon. G. B. ASHMAN** (Koonung) — I now direct a query to the Minister for Small Business in her capacity as the representative of the Minister for Health. Question 3169 was placed on the notice paper on 12 June, and again it goes to the question of the Metropolitan Ambulance Service Royal Commission. I seek from her an explanation as to why we have no answer to this question.

**Hon. M. R. THOMSON** (Minister for Small Business) — I have sought a response from the minister concerned in relation to the answer to this question. I will endeavour to find out what has occurred with that and get that answer to the honourable member as soon as possible.

**Hon. P. A. KATSAMBANIS** (Monash) — I seek an explanation from the Leader of the Government on question on notice 2627 dated 5 December 2001. I raised this issue yesterday in Benalla in conjunction with issues relating to other questions. I notice that at least this minister, the Leader of the Government, has decided to furnish answers today. I have looked at the answers and they look very detailed and complete. It is clear that the answers could not have been produced overnight — even if hundreds of public servants were burning the midnight oil.

Question 2627 has now been on the notice paper for 47 weeks. Yesterday when I asked the minister she said she would use her best endeavours. She refused to give an undertaking that she would track down the answer and present it today. It is an important answer because it goes to the cost of government advertising. I seek an explanation from the minister as to why we do not have an answer and an undertaking that she will present it before the house rises today.

**The PRESIDENT** — Order! Can you confirm the minister to whom the question was ultimately directed?

**Hon. P. A. KATSAMBANIS** — It was for the Premier.

**Hon. M. M. GOULD** (Minister for Education Services) — As I have indicated with respect to all unanswered questions, I have spoken to the Premier's office and asked it to get the answer to that question so I can present it to the house and to the honourable member as soon as possible.

## PETITION

### Telstra: Creswick and Clunes

**Hon. D. G. HADDEN** (Ballarat) presented a petition from certain citizens of Victoria requesting that the Parliament of Victoria oppose any further sale of Telstra until such a time as proper broadband Internet infrastructure such as ADSL-enabled local telephone exchanges have been provided in Creswick and Clunes and throughout regional Victoria (122 signatures).

Laid on table.

## PARLIAMENTARY DEPARTMENTS

### Annual reports

**Hon. B. W. BISHOP** (North Western) — By leave, I move:

That there be laid before this house a copy of the report of —

- (a) the Clerk on the operations of the Department of the Legislative Council for 2001–02;
- (b) the Parliamentary Librarian on the operations of the Parliamentary Library for 2001–02;
- (c) the Chief Reporter on the operations of the Department of Victorian Parliamentary Debates for 2001–02;
- (d) the joint secretaries on the operations of the Joint Services Department for 2001–02.

Motion agreed to.

Laid on table.

## AUDITOR-GENERAL'S REPORTS

### Response by Minister for Finance

For **Hon. C. C. BROAD** (Minister for Energy and Resources), **Hon. M. M. Gould** (Minister for Education Services) — By leave, I move:

That there be laid before this house a copy of the response by the Minister for Finance to the Auditor-General's report tabled during 2001–02.

Motion agreed to.

Laid on table.

## DRUGS AND CRIME PREVENTION COMMITTEE

### Crime: trends

**Hon. B. C. BOARDMAN** (Chelsea) presented report, together with appendices, extracts from proceedings, minority report and minutes of evidence.

Laid on table.

Ordered that report, appendices, extracts from proceedings and minority report be printed.

**Hon. B. C. BOARDMAN** (Chelsea) — I move:

That the Council take note of the report.

In doing so, I highlight that this is a significant report to the Parliament concerning crime statistics, the way they are collected, the policies that are surrounded by them and also the way that the government and the police themselves publicly release the information.

There are four parts to the report, the first being a comparison between Victoria Police statistics and Australian Bureau of Statistics statistics on a national basis. The second part is a comparison, or an attempt to compare, Victoria Police crime data on a local level with identification of the local government area, being the boundaries that are used for that process. The third part of the report is an analysis of the Australian Institute of Criminology *Review of Victoria Police Crime Statistics*, which is a significant part of this report, and I will comment substantially on that in just a moment. The fourth part, which is one which honourable members should very much familiarise themselves with, is the part that concerns the case for an independent bureau of crime statistical management

and research. I would like to commence by saying that in comparison with other states — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! The honourable member is in the process of tabling an important report. I ask the house to give him courtesy and the following speakers to speak on the issue.

**Hon. B. C. BOARDMAN** — In comparison with people in other states Victorians lack access to detailed and accurate independent information about many aspects of the criminal justice system. It is also a widely held view that production and dissemination of crime data in Victoria is open to perceptions of bias and does not satisfy what can be considered best practice standards. Crime statistics are an important and critical public interest issue, and the committee's recommendations are therefore targeted to address and provide a basis of moving forward in that regard.

I would like in the time available to talk about the Australian Institute of Criminology review of Victoria Police crime statistics. I place firmly on the record my disappointment with the Victoria Police for not publicly releasing this report. It is an exceptionally critical report that ascertains and evaluates the methods, policies and practices of the Victoria Police in collecting its crime statistics, how it manages them and what it does with them once they are in the system to publicly release them.

You would think that that is a critical public interest issue. For the Victoria Police not to publicly release this report that will enable concerned stakeholders to read it and to disseminate and interpret the information it contains with a view to trying to get a better picture on what is the real situation with regard to Victoria Police crime statistics is inexcusable. I place firmly on the record my disappointment with the Victoria Police for not allowing that.

I am equally disappointed that when the Chief Commissioner of Police decided to comment publicly on this report — and I note that the committee had some difficulties in obtaining a copy of this report — her media release of 11 October was not reflective of the contents of the Australian Institute of Criminology (AIC) review from what I consider to be an accurate basis.

The chief commissioner's press release of 11 October states that the report found that the Victoria Police crime statistics figures were accurate, but it goes on to contradict itself in the body of the press release, saying that there are levels of error in the records used to

produce the statistics; however, they are negligible, and that the methods that the Victoria Police adopt keep these error rates low.

That begs the question: how can the chief commissioner say on the one hand that the figures are accurate, but by way of her own public admission suggest that there are some levels of error that need to be discussed? The only way of answering these questions is for this report to be publicly released to allow members of the public an opportunity to interpret that themselves.

One of the best ways of highlighting this is shown on page 49 of the Drugs and Crime Prevention Committee's report, which states, in direct reference to the Australian Institute of Criminology report:

Its findings show that, in general, LEAP data processing and data management is carried out professionally and with a high standard of accuracy and efficiency. However, the AIC report also indicates that there are significant problems with the processes whereby police identify crime incidents as appropriate for recording as crime statistics. These findings do not support the contention of the chief commissioner that the AIC report 'showed that the crime statistics published by Victoria Police are accurate' or that 'Victorians can be confident that Victoria Police crime statistics are accurate'.

That is in the body of the report of the Drugs and Crime Prevention Committee, and I highlight the fact that that particular section of the report is not subject to the minority report that government members have subsequently placed on the record.

Even the findings of the AIC report highlight where some of the problems and flaws lie. It talks about the different models of adaptation of crime statistics in Victoria in comparison with other police services vis-a-vis a prima facie model, which is the national standard, and an evidential model, which is the basis of what Victoria Police in fact do. Basically, it is a comparison of call for services on a national basis and what the police interpret as being an incident that warrants a crime statistic being recorded. That will lead to levels of error. It will also lead to national comparisons being not systematic and not reasonably comparable.

A number of issues in this report make it fundamental reading, not only for members of Parliament, but for all interested stakeholders to get a greater appreciation of what is happening with crime statistics.

However, I lament one specific aspect. I raised the issue of the AIC report with the Minister for Police and Emergency Services some months ago — in the autumn session of Parliament — calling for this report

to be released publicly. The Minister for Police and Emergency Services did not respond to that request, and as can be seen from the issues that I have outlined briefly this afternoon it is important that the minister does respond to that request and highlight why he is not in fact outlining that.

I do, however, take the opportunity very sincerely, as this may be the last time to do that, to thank the committee staff — Sandy Cook, Michelle Heane and Pete Johnston — who have been tireless workers, and additionally, Stuart Ross and Dennis Challenger for their consultancy to this report. It is a vital read.

**Hon. S. M. NGUYEN** (Melbourne West) — The report of the Drugs and Crime Prevention Committee was done by members of Parliament on both sides, but this report is different to the other report because it is very one-sided and biased. I would like to ask the members to read the minority report, which is at the end of the report.

I would like to put the record straight. Unfortunately the report that the chairman and his conservative colleagues have decided to use their numbers to produce is a one-sided and biased report. It is a cheap political stunt to do with the state election, and I would like — —

*Honourable members interjecting.*

**The PRESIDENT** — Order!

**Hon. S. M. NGUYEN** — It is a misreporting, used to attack the comment of the Chief Commissioner of Police, Christine Nixon. I think they deliberately have misled Victorians by suggesting that Ms Nixon was subjected to political interference when in fact she was talking about a program in New South Wales. In fact, she said:

In this state I released the crime statistics, with the minister's knowledge but not interference in any way at all.

This clearly shows that the member had misled the community on this report, and it is — —

**Hon. B. C. Boardman** — On a point of order, Mr President, the honourable member has just made a comment that 'the member' — I suspect he is referring to a member of Parliament — has misled the public or misled the house.

**Hon. S. M. NGUYEN** — The community.

**Hon. B. C. Boardman** — The community. Thank you for qualifying that, Mr Nguyen. I would like him to repeat that allegation and to substantiate it further.

**The PRESIDENT** — Order! There is no point of order in the sense that under the procedures of the house I am required to protect members of this house or the other house, but not members of the public. The fact that someone might have misled members of the public is not a hanging offence.

**Hon. B. C. Boardman** — Who is he referring to?

**The PRESIDENT** — Order! I do not know, and it is better the member does not ask.

*Honourable members interjecting.*

**The PRESIDENT** — Order! The Honourable Sang Nguyen, to continue.

**Hon. S. M. NGUYEN** — I would like to keep going. I refer to the *Review of Victoria Police Crime Statistics*, a report prepared by the Australian Institute of Criminology (AIC) for the Chief Commissioner of Police in July 2002. On page 7, under the heading ‘Major findings and recommendations’ it states:

1. The crime statistics published by Victoria Police accurately reflect the counting rules and crime classifications that are applied to those ‘matters’ recorded as crimes in the LEAP database.

Further:

5. Victoria Police meets national standards in the provision of data to the Australian Bureau of Statistics (ABS). However, there are differences between the crime counts derived from Victoria Police data and those published by the Australian Bureau of Statistics. Victoria Police produce statistics primarily on an offence-based method. It also produces victim, offender and incident counts to service external clients and internal operational needs. The ABS counts offences based on victims only. It counts only the most serious offence within the ASOC ...

And lastly:

8. Victoria Police meets its own needs by publishing the most comprehensive set of crime statistics in the country. However, as members, stakeholders and the community demand more, not less, ‘crime’ related data there are opportunities to improve future levels of service. There would, however, be additional costs associated with the provision of improved levels of service.

I ask honourable members to read the minority report. I would like to thank all the committee members and especially the staff for their work in producing this report. The minority report was prepared by Labor members of Parliament — Bruce Mildenhall and Richard Wynne, the honourable members for Footscray and Richmond respectively in the other place, and me.

**Motion agreed to.**

## ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

### Fishing: charter industry

**Hon. E. G. STONEY (Central Highlands)** presented report, together with appendices and minutes of evidence.

**Laid on table.**

**Ordered that report and appendices be printed.**

**Hon. E. G. STONEY (Central Highlands)** — I move:

That the Council take note of the report.

It is with much pleasure that I present this report on the inquiry into the management of the fishing charter industry. As usual the committee went to a great deal of trouble to meet with representatives from the industry and to speak to those involved throughout Victoria. The committee met with fishing guides on inland waters as well as charter operators who work in Victoria’s bays and inlets and further out into the ocean. The committee had an opportunity to visit government and fishing charter businesses and organisations in New South Wales to learn of the operation of the licensing system that was recently introduced into that state.

The report deals with a number of key factors affecting the industry, including sustainable fishing practices, which includes the need for charter operators to have reliable access to fish. Other key factors were business management, safety and service standards. The committee investigated a number of possible options for enhancing the management of fishing charters and associated industries, including the possible introduction of licences.

The report being tabled today outlines the conclusions of the inquiry. The committee’s recommended system of management involves: the registration of charter vessels; a voluntary accreditation program; and the use of voluntary catch and effort log books.

I put on record my thanks to the committee’s staff, particularly our research officer, Mr Jim Sisson, who went beyond the call of duty to finish this report under very difficult circumstances. I commend the report to the house.

**Motion agreed to.**

## LAW REFORM COMMITTEE

### Multicultural affairs: oaths, statutory declarations and affidavits

**Hon. D. G. HADDEN (Ballarat)** presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

**Hon. D. G. HADDEN (Ballarat)** — I move:

That the Council take note of the report.

I am very pleased to present the report of the Victorian Parliament's Law Reform Committee following its inquiry into oaths and affirmations with reference to the multicultural community. The committee found that current legislation and associated practices could be improved in a number of respects and it believes a legislative regime which treats the oath and the affirmation as equal options would be more appropriate and have the added benefit of consistency with the commonwealth legislation.

The committee found that any legislative reforms must be supported at the same time by improvements in the practice and procedures adopted by courts, tribunals and persons authorised to witness affidavits. The report contains 20 recommendations for improving the information on oaths and affirmations provided to witnesses and others required to make oaths or affirmations, the content of manuals and the cultural awareness training provided to court officers and persons permitted to witness affidavits.

During the inquiry four main options for reform were identified, and these are referred to in chapter 10 of the report.

In brief they were: firstly, the retention of the status quo, which accords statutory priority to the oath on the Bible; secondly, the adoption of the relevant provisions in the commonwealth Evidence Act 1995, which treat the oath and the affirmation as equal options; thirdly, the reversal of the current order of priority so that the affirmation has statutory priority over the oath; and fourthly, the removal of the religious oath and its replacement with a secular affirmation or promise to tell the truth.

The committee considered the arguments advanced in support of the various options as well as the views of other authors and law reform agencies. The Law Reform Committee concluded that the commonwealth model is the one which best reflects the multicultural

principle of respect for diversity which has informed other recommendations in this report. The committee makes two main recommendations, which provide for oaths and affirmations in the Victorian Evidence Act 1958 to be repealed and replaced by provisions reflecting the relevant sections of the commonwealth Evidence Act 1995; also that the Juries Act 2000 be amended to ensure that jurors have the right to choose to make either an oath or an affirmation.

The Law Reform Committee's inquiry generated a considerable degree of interest. It received 52 written submissions and 29 witnesses representing 17 organisations attended its public hearings. In addition, over 50 people attended and contributed to a community consultation forum which was co-convened by the Victorian Multicultural Commission and the Ethnic Communities Council of Victoria.

Finally, I would like to thank the members of the Law Reform Committee, and I will name them. Our chairperson was Mr Murray Thompson, the honourable member for Sandringham in the other place; the Honourable Ron Bowden; the Honourable Peter Katsambanis; and Mr Telmo Languiller, Mr Bob Stensholt and Ms Andrea McCall, the honourable members for Sunshine, Burwood and Frankston respectively in the other place. We all worked diligently and well together, and if I can give a plug to lawyers, it was probably because the majority of the committee were lawyers and so had an intimate knowledge of court practices.

I also sincerely thank Ms Kristin Giles, our legal research officer for this inquiry, and Ms Sue Kaufmann, the legal research officer in relation to the committee's inquiry into forensic sampling and deoxyribonucleic acid or DNA databases in criminal investigation. I also thank Ms Merrin Mason, the executive officer of the committee, and Ms Jaime Cook, the committee's office manager. Committee members all worked hard, but the staff and the research staff worked like Trojans to get this report into its final form.

I commend the report to the Parliament.

**Hon. P. A. KATSAMBANIS (Monash)** — I also commend the report to the house. It is an important report about the use of oaths and affirmations in our legal process. As Ms Hadden outlined the operations of the report in great detail, I will not go into the detail except to say that I think that among the people who should make this report compulsory reading are all those who are involved in the judicial process in Victoria, because in its inquiries the committee discovered that unfortunately oaths and affirmations in

Victoria seem to run off a manual that was produced back in 1971. That manual may not reflect the multicultural and diverse nature of our society as it is comprised more than 30 years later.

I, too, would like to thank the staff of the Law Reform Committee. I take this opportunity today because it may be the last opportunity we have to sit in this place and thank the staff of the committee for the work that they have done over the last few years. It has been a pleasure to serve on the committee. I record my thanks to the executive officer, Merrin Mason; to the researchers, Kristin Giles and Sue Kaufmann; and to the administrative officer, Jaime Cook, for their hard work.

I also thank all the committee members: Ms Hadden; Mr Bowden; the chairman, the honourable member for Sandringham in the other place Mr Thompson; and Mr Languiller, Mr Stensholt and Ms McCall, the honourable members for Sunshine, Burwood and Frankston respectively in the other place. The way we have worked as a committee shows how parliamentarians from different political parties can get together on a parliamentary committee and cast their partisan politics aside and work towards a good outcome to benefit the people of Victoria. Too often committee work is taken for granted by the general public. I know parliamentarians consider committee work to be the highlight of their parliamentary careers because of its very nature. It is not adversarial but works towards a positive outcome and a betterment of the society in which we live.

It appears that this may be the last opportunity we get to thank the Law Reform Committee for its work. It is imperative that a parliamentary law reform committee in a similar form to the present one be part of our parliamentary committee structure going forward. I hope that in Parliaments to come members of this place and the other place take that into account when they determine the make-up of parliamentary committees. The parliamentary Law Reform Committee does different work to the Law Reform Commission, and that should be recognised. The position of the Law Reform Committee within the parliamentary committee structure should be given strong consideration to make sure that the work of Law Reform Committees from James Guest's days through Victor Perton's day to this one is continued into the future.

**Motion agreed to.**

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Public service: review

**Hon. R. M. HALLAM (Western) presented report, together with appendices.**

**Laid on table.**

**Ordered to be printed.**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### Anzac Day

**Hon. M. A. BIRRELL (East Yarra) presented report, together with appendices and minutes of evidence.**

**Laid on table.**

**Ordered that report and appendices be printed.**

**Hon. M. A. BIRRELL (East Yarra) — I move:**

That the Council take note of the report.

In late 2001, at my request a motion was moved in this place to establish an all-party joint house review of the laws that affect Anzac Day. This report constitutes the first revision and update of the legislation and programs that impact upon Anzac Day, and it does so in the context of this being Australia's national day of commemoration.

I have pleasure in presenting the report because it is unanimous and reflects the all-party views on how we should strengthen and better protect Anzac Day. We speak on behalf of all Victorians when we say that we want to sustainably reflect in legislation the deep level of support for the day and the unparalleled community interest in the Anzac legacy and the Anzac story.

I congratulate the other committee members who worked on this report, particularly my co-chair, the honourable member for Tullamarine in the other place, the professional consultant who was of such outstanding assistance to the committee, Mr Mark Brennan, and the assistant executive officer of the committee, Mr Simon Dinsbergs.

The Anzac spirit is elusive of definition, and perhaps is best described using the words of the great historian Charles Bean from his one volume short history of Australia in World War I, called *Anzac to Amiens*. C. E. W. Bean said:

But Anzac stood, and still stands, for reckless valour in a good cause, for enterprise, resourcefulness, fidelity, comradeship, and endurance that will never own defeat.

There is no doubt that today's generation of Australians is ready to take over from the sadly dwindling number of diggers who fought for our country and who were the original custodians of Anzac Day. This report has had a catalytic effect in moving the Victorian public service and Victorian authorities to update and consolidate our laws and to bring down a set of laws and plans for government programs that are consistent with the mood of the Victorian and broader Australian communities.

The Anzac spirit that we seek to protect is about love of country, duty, honour, courage, inventiveness and teamwork. I was struck by the words of General Cosgrove, whom we interviewed in Canberra, among many others, when he said, 'No-one owns Anzac Day, and that is its great strength'. I agree with that, and I do not believe Parliament should seek to own Anzac Day, nor that any government should seek to do so. Its strength is its breadth of support and the spontaneous emotion it invokes. What is uplifting is that today's generation is attracted to the Anzac story, the Anzac history and the Anzac spirit, as were the original Anzacs.

The recommendations of this report are within that context, and they are unanimous. In particular we recommend that the nine separate laws that currently control Anzac Day should be replaced with a single new act, and that that new act should be the responsibility of the Premier, not the responsibility of the eight different state ministers who currently take charge of Anzac Day laws of one type or another. We also recommend the updating of the Anzac legislation so that it refers to the service of Australians in all conflicts, including peace-keeping efforts, and does not simply refer to the sacrifice of Australians in World War I, as is the case with the current act.

We recommend the creation of a statutory Anzac Day education and commemoration committee, which would allocate increased funds for activities on the day, for other commemorative purposes and for education. We also recommend that more funding be available overall. Finally, we recommend that Anzac Day between the hours of 5.00 a.m. and 1.00 p.m. be legally protected as a period of solemn reflection.

I hope that all these recommendations are embraced by whoever governs this state in the future. I believe they already enjoy the support of all political parties. It is time for the next generation to ensure that we never forget.

**Motion agreed to.**

### **Electronic democracy**

**Hon. A. P. OLEXANDER (Silvan) presented report, together with appendix.**

**Laid on table.**

**Ordered to be printed.**

**Hon. A. P. OLEXANDER (Silvan) — I move:**

That the Council take note of the report.

On 19 February 2002 the Scrutiny of Acts and Regulations Committee received from the Governor in Council a reference to inquire into electronic democracy. The reference raises issues regarding the use of information and communication technologies, especially the Internet, to enhance representative democracy in this state. These new technologies have the potential to increase people's access to, and participation in, the processes of Parliament and government.

Research identified several European countries as leaders in the application of electronic democracy. The committee chair, the honourable member for Werribee in the other place, me and the honourable member for Tullamarine in the other place, took evidence in some of these jurisdictions between 24 June and 9 July 2002. The committee visited the United Kingdom principally to learn at first hand about e-democracy in the British Parliament and the trials of alternative voting technologies there in May 2002.

The Swedish government and Parliament demonstrated their democracy-enhancing projects, and a rural municipal council explained its online consultation. The Swedish justice ministry offered a simple test for all new initiatives in this area, and that was, 'Will it make things better for the citizens? Will it help democracy?'

From the German government the committee learned of technology being applied to give MPs the tools they need to serve their constituencies more efficiently and comprehensively. While the German Parliament does support a number of applications of information and communication technologies, caution was expressed about electronic voting in general elections.

The French municipality of Issy-les-Moulineaux in Paris is a leading high-tech region. The city council is a leading example for the application of e-democracy in local government. The committee also visited the French privacy authority, the Commission Nationale de l'Informatique et des Libertés, or CNIL, where detailed

discussions were held regarding e-voting trials in national elections that took place in 2002.

The European Parliament explained to us how the application of information and communication technologies assisted in overcoming regional and geographic differences to keep its widely dispersed members connected. The European Parliament also accepts electronic petitions from the public. The committee met with the European Commission about its extensive policy development online. The committee also visited a community involvement project in online consultation in Antwerp.

In the final meeting, the Organisation for Economic Cooperation and Development discussed a regulatory framework for e-democracy and highlighted best practice techniques which could be applied to provide maximum benefits from public consultation.

The terms of reference for the inquiry asked the committee to consider the perspectives of both Parliament and government. In seeking the views of the Parliament and government in each jurisdiction, the committee found common issues and areas of difference. This inquiry is examining information and communication technologies to recommend ways here in Victoria to improve and enhance the quality of communication and involvement between citizens and their government and citizens and this Parliament. The evidence obtained in Europe is of great assistance to the committee. It will contribute to the quality and practicability of the committee's final recommendations to Parliament on electronic democracy.

Importantly the committee is now reviewing submissions from Victorians regarding their vision for a better engagement with their Parliament and government by the appropriate application of information and communication technologies. The committee looks forward to producing its final report to this Parliament some time in December 2002.

I place on the record my personal thanks and congratulations to Mr Andrew Monaghan, the senior policy adviser to the committee, who worked tirelessly in pursuit of this brief. His assistance and professionalism were recognised by all who were involved in this electronic democracy inquiry, and we thank him profusely for his efforts. I commend this report to the chamber as compulsory reading for all members.

**Hon. C. A. STRONG** (Higinbotham) — I also rise to support this motion to take note of the report on e-democracy. The impact of technology on the

democratic process has always been one of change and redefinition of that process through technical and technological developments. We have seen this occur with newspapers, radio and television and in the mobility of the population through different modes of transport, which has clearly changed the way democracy works and is carried out. The e-technology advances will also have an impact on the democratic process, and therefore this report is timely and useful in helping us shape our responses to the likely impact on democracy of these latest technological changes.

I am, however, somewhat disappointed in the narrow nature of the evidence that has been taken by the inquiry so far. As the Deputy Chairman of the committee noted, the committee travelled to Europe and took evidence. What the Deputy Chairman did not mention is that at the very last minute he, as a member of that delegation — which, for the record, I was not — stood in for the Chairman, who unexpectedly went missing during the European Union and German parts of the trip.

Although the European experience is important, the United States of America is seen as a leader in most things 'e', and of course it has a rich and vibrant tradition in democracy and in the public involvement in the democratic process. The committee's consultant advised us that the collection of evidence from the USA was key to the inquiry. Accordingly a visit to the USA was scheduled for the committee to collect evidence, and funds were allocated for that. It is therefore unfortunate that this critical evidence was not collected because the chairman personally decided she did not want to go to the USA. Notwithstanding this unfortunate omission, the e-democracy report is a useful first step, and I commend it to the house.

**Motion agreed to.**

### *Alert Digest No. 9*

**Hon. A. P. OLEXANDER (Silvan)** presented *Alert Digest No. 9 of 2002, together with appendices.*

**Laid on table.**

**Ordered to be printed.**

## PAPERS

**Laid on table by Clerk:**

Adult, Community and Further Education Board — Report, 2001-2002.

Alpine Resorts Coordinating Council — Minister for Environment and Conservation's report of receipt of the 2001–2002 report.

Agriculture Victoria Services Pty Ltd — Report, 2001-2002.

Albury-Wodonga Development Corporation — Report, 2001-2002.

Auditor-General — Report on Community Dental Services, October 2002.

Auditor-General — Report on the Finances of the State of Victoria 2001-2002, October 2002.

Auditor-General — Report on Management of Food Safety in Victoria, October 2002.

Australian Food Industry Science Centre — Report, 2001-2002.

Australian Grand Prix Corporation — Report, 2001-2002.

Ballarat Health Services — Report, 2001-2002.

Barwon Region Water Authority — Report, 2001-2002.

Benalla and District Memorial Hospital — Report, 2001-2002.

Budget Sector — Financial Report, 2001-2002, incorporating Quarterly Financial Report No. 4.

Casey's Weir and Major Creek Rural Water Authority — Minister for Environment and Conservation's report of 30 October 2002 of receipt of the 2001-2002 report.

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## STANDING ORDERS AND RULES OF PRACTICE

### Adoption

**Hon. M. M. GOULD** (Minister for Education Services) — I move:

That:

- (a) the draft standing orders and rules of practice, recommended by the Standing Orders Committee in its *Report on a Review of the Standing Orders*, September 2002, be adopted as the standing orders and rules of practice of the Council; and
- (b) the new standing orders and rules of practice come into operation on the first sitting day in 2003.

**Hon. G. D. ROMANES** (Melbourne) — I rise to speak on the motion before the house which deals with the report of the Standing Orders Committee on its review of the standing orders of this house. Before I was elected to this house as a member of Parliament I had a conversation with the Honourable Alan Hunt, a former President of the Legislative Council, who spoke to me about the special role of the Legislative Council within this Parliament. In that conversation he emphasised the importance of the standing orders and sessional orders to the workings of this chamber.

I recall as a new member of Parliament back in October–November 1999 trying to make preparations for my participation in the first sitting of the house in the current Parliament and finding that the standing orders were quite labyrinthine and tortuous to read and that the terminology was rather antiquated. I am aware from my experience in this chamber over the past three years that it is often only after long periods in the chamber that a member might happen to witness the application of some of the more obscure provisions of the standing orders, and through such experiences have revealed some of the mysteries buried within the standing orders as they currently stand.

The last major review of the standing orders was way back in 1924, although there have been some minor revisions in the meantime, and it has been increasingly apparent that the standing orders are long overdue for a major overhaul and that there is a need to make the standing orders more modern, accessible and useful rules for this house.

Following the motion passed by the Legislative Council on 20 June 2001, members of the government — the Honourable Gavin Jennings, the Honourable Jenny Mikakos and me — joined members of the opposition — the Deputy President, the Honourable Barry Bishop, and the Honourables Gerald Ashman and Ken Smith — under your chairmanship, Mr President, to undertake a review of the standing orders of this house and to address the terms of reference which are outlined on page 1 of the report before the house today.

As members of the Standing Orders Committee we undertook this task and endeavoured to apply a commonsense approach, and above all the test of whether each of the standing orders reflects current practice in the house. That was a very important test that was applied.

At times the committee drew on the experience of other jurisdictions and most often was assisted by the Western Australian Legislative Council. It provided a clear, straightforward approach in the presentation of its

standing orders which have been recently reviewed and revised.

The first cut of the new standing orders was provided to the committee by Mr Allan Bray, the former Clerk of this place, who was able to use his keen eye, intimate knowledge and a little distance in compiling the first draft. The committee worked over the draft of new standing orders produced by Mr Bray until it reached a unanimous recommendation on a new set of standing orders, and that is the report presented to the house today.

The report outlines the committee's recommendations and the reasons for the recommendation to omit 33 obsolete standing orders. It sets out the rationale for the addition of 37 standing orders which have been placed in a more logical fashion under a new chapter structure.

The recommendations for change include some important improvements and I outline one example on page 13 of chapter 9 entitled 'Debate'. The new standing order provides for the right of reply to a member who has moved the second reading of a bill. This extension is intended to replace the existing practice whereby a limited reply is permitted on the third reading when the committee stage is bypassed or on clause 2 during the consideration of the bill in the committee of the whole. That is an example of one of the key improvements that comes with the changes — giving the mover of the second reading a more extensive opportunity to reply at the end of the debate on a bill. There are many other improvements and refinements in the standing orders as recommended by the committee.

One of the issues for the committee was what to do with the trial sessional orders that we have operated under during 2002. At the end of last year these new sessional orders were introduced by the opposition. In 2002 they came into operation and were largely based on Senate practices. After some discussion, agreement was reached to incorporate some of those trial sessional orders. They include members statements and debate on motions to take note of reports. The recommendation is in keeping with the practice of the house which has been to put on trial any new sessional orders, and over time, as the house has the opportunity to see how they improve efficiency, to make a decision whether or not to adopt them as standing orders. Agreement was reached to incorporate some of those trial sessional orders but for others, such as the supplementary questions and motions to take note, it was considered that there had been insufficient time to assess whether they contribute to a more effective

Legislative Council and warrant incorporation on a more permanent basis into the standing orders.

There is a recommendation to continue the work with a review of the joint standing orders of the Legislative Assembly and the Legislative Council. The report draws the attention of members of the house to the absence of joint standing orders that govern the operations of the joint select committees.

This has been a large task and one that has been undertaken with some diligence on the part of members of the standing committee under your chairmanship, Mr President. All members of the committee would like to thank the Clerk, Mr Wayne Tunnecliffe, and the Deputy Clerk, Mr Matthew Tricarico for their meticulous work in bringing this all together and for their guidance through what was a long and detailed exercise.

Putting aside some of the sessional orders we are currently using but were not prepared to incorporate into the standing orders at this point in time, the report before the house is unanimous. The committee recommends these new standing orders to the Legislative Council for incorporation and use at the start of the Parliament in 2003. I commend the motion to the house.

**Hon. G. B. ASHMAN** (Koonung) — I rise to make a small contribution to the debate on this report from the Standing Orders Committee and its review of standing orders. As has been said by earlier speakers, this is the first time the standing orders have been reviewed in 78 years. The last review occurred in 1924.

When one looks at the standing orders as they are today the language in many respects is quaint. They are also quite sexist and gender specific in the way they are worded. The brief of the committee was to update the standing orders to make them reflect the 21st century and put them into an order that made them far more easily understood.

The committee met on 18 occasions and members had some interesting discussions about a number of standing orders and whether we would continue with them or delete them. Indeed, some fascinating moments were had as we tried to work out what a few of them meant! There were some strange clauses that had probably been in place since the 1880s. One in particular that I recall was the calling of the roll which, as we understood it, was last used on 27 November 1888.

**Hon. M. M. Gould** — A bit before my time.

**Hon. G. B. ASHMAN** — A fraction before most of our time, I think. There might be one or two around — —

**An honourable member** interjected.

**Hon. G. B. ASHMAN** — It would be fascinating to see the process. If we had the calling of the roll now it might cause some consternation among the clerks. However, it would be an interesting process.

The committee was very well assisted by the Clerk, Wayne Tunnecliffe, and the Deputy Clerk, Matthew Tricarico, and ably assisted by the former Clerk, Allan Bray who made a very significant contribution. The work he prepared for the committee proved to be the initial foundation for the committee's review.

The new standing orders now before the house for agreement are in plain English and are no longer gender specific. A number of obsolete standing orders have been removed, but I think the most important change that has occurred is the ordering of the standing orders. Rather than having the 317 standing orders in our current standing orders book we now have 12 chapters which are set out, I believe, in a much more logical sequence. Standing orders that relate to particular functions or activities of the chamber are contained in specific chapters. That will make it much easier for all members to understand.

The committee did not pick up the trial sessional orders or make any changes that would restrict the introduction of sessional orders. That was a very conscious decision of the committee as its members understood that the sessional orders under which we are currently operating are a trial and have been introduced for a 12-month period which has not yet expired. Some future Standing Orders Committee may look at those sessional orders and consider whether they could be incorporated in part or in total into the new standing orders.

This has been a pet project of yours, Mr President, and the result that is now before the chamber is something of which you can be particularly proud. When we consider that it is 78 years since standing orders were last reviewed it was a process that was long overdue.

If today is, as seems to be suggested around the place from time to time, the last day of this Parliament, new members will return to a new set of standing orders which are simpler, much easier to use and will, I believe, make the house a much more efficient house in the way it functions. With those few words I add my support to the adoption of the new standing orders.

**Hon. P. R. HALL** (Gippsland) — This afternoon I would like to briefly indicate the National Party's strong support for the new set of standing orders being adopted today. I have been in this place for 14 years and I still find it very difficult to understand the wording of some of the current standing orders and, indeed, sometimes their intent. It is not an easy document to read and understand fully. My colleague the Honourable Barry Bishop tabled the report of the review on 8 October, and it has been well received by all. I am pleased to hear today that all parties are prepared to support that report.

It is a credit to you, Mr President, for driving this process and the National Party congratulates you on seeing this project through to fruition this afternoon. I also pay credit to the others involved with the committee: the Deputy President, the Honourable Barry Bishop, and members of the review committee, the Honourables Gerald Ashman, Gavin Jennings, Jenny Mikakos, Glenyys Romanes and Ken Smith. I congratulate them all on coming up with a unanimous report. It has been difficult at times and the process has been a long one, but for an all-party committee to come up with a unanimous report on such a controversial issue as standing orders is quite a remarkable achievement.

I also acknowledge the input and experience of Mr Allan Bray, a former Clerk of this house, who briefed me on some of his proposals some time ago. I know his experience was well utilised by the committee. I also acknowledge the significant input of the Clerk, Wayne Tunnecliffe, and the Deputy Clerk, Matthew Tricarico, into the development of these new standing orders.

I look forward to the first sitting day of 2003. Some of us will have some homework to do over the summer break to get used to a new set of rules by which we will need to abide when we come back. My only great wish is that I am back here to experience these new standing orders on the first day of 2003.

**Hon. K. M. SMITH** (South Eastern) — It was a great honour to be able to serve on the committee that made the changes to the standing orders after 78 years. I think I have said once before that I looked at the standing orders when they were presented to me and thought, 'This is a pretty flash book. This will tell me all about what we are going to do when we go into the Parliament'. But it was not easy to follow the directions and the standing orders in the little red book that had been formally handed out to us.

I hope and trust that when the new Parliament is in place the standing orders will make it easier for people to be able to understand the workings of the Parliament, particularly the members of Parliament. Often we are able to run in here on the basis that we think we know what we are talking about when we get up, but we do not necessarily know what the standing order is.

The review of the standing orders has been an important issue for you, Mr President. This will remain as one of the important things that was achieved in your period of time as President. You certainly cajoled the committee. You got us in; you offered us free food and drink to come along to your committee meetings, for which we are very grateful. And it worked! We nearly had a full committee each time.

The committee worked extremely well together, considering that I had to sit down with three members of the Labor Party. We actually worked well together. That was quite an achievement in itself.

**Hon. M. M. Gould** — That's a compliment to the Labor Party.

**Hon. K. M. SMITH** — Even if we have got the standing orders together, that was an achievement, I can tell you!

I could have given the clerks a bit of a tough time, but they worked extremely hard on this project, and it was done with the great guidance of Wayne Tunnecliffe and Matthew Tricarico, even though Matthew went off to Italy at some stage in the middle of it and we were floundering for some small time. Of course Wayne Tunnecliffe saw us through and helped us put all the words together, which was very good, and they are understandable.

To Ms Romanes, Ms Mikakos and Mr Jennings; to my colleagues Mr Ashman and Mr Bishop; and to you, Mr President, I can only say, 'Well done!'. We achieved what we set out to do, which was to make a set of standing orders that the Parliament, the members, and the public — if they ever wish to read them — are able to understand. I congratulate you again, Mr President, on the achievement of putting these standing orders together.

**The PRESIDENT** — Thank you. Before putting the motion I would like to personally congratulate the members of the team. It was a delight to lead a team which was so determined to come out with a good result. We bent over backwards to accommodate each other's views, and given the flying start given to us by Allan Bray and the constant professional guidance of the Clerk, Wayne Tunnecliffe, with Matthew Tricarico

as his deputy, there was no doubt we were going to get there. It was a lot of work, but it was done in great spirit, and I thank the members of the house for their support. Those who are here for the next Parliament will appreciate the work that has been carried out on behalf of all of us.

**Motion agreed to.**

## GAS INDUSTRY (RESIDUAL PROVISIONS) (AMENDMENT) BILL

*Second reading*

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

That this bill be now read a second time.

The purpose of this bill is to amend the Gas Industry (Residual Provisions) Act 1994 (the act) to provide for the transfer of certain property, rights and liabilities from Gascor to another state-owned entity.

Gascor acts as a gas wholesaler. It purchases gas from Esso/BHP-Billiton and on-sells it to private sector gas retailers Origin Energy (Vic) Pty Ltd, AGL Victoria Pty Ltd and TXU Australia Pty Ltd. Until the onset of full retail contestability (FRC) on 1 October 2002, each of the retailers had an exclusive right in a geographical area to supply gas as an agent of Gascor to non-contestable customers. The retailers paid agency fees to Gascor in return. On commencement of FRC the retailers' obligation to pay agency fees to Gascor lapsed.

When the Bracks government came to power in October 1999 the gas industry (apart from Gascor) had passed to private ownership. Pre-existing contractual arrangements established as part of the reform process provided the state with options exercisable until 31 December 2002 to transfer one third of the shares in Gascor to each of the retailers.

The government is currently reviewing its position with respect to the options and will reach a decision on whether to transfer Gascor to the retailers after consultation with stakeholders. In addition, certain steps are required before the government is in a position to exercise the options should it determine to do so. In particular, under the options the state warranted that if and when Gascor is transferred to the retailers it would have no contingent, accrued or prospective liabilities (apart from certain defined liabilities related to its respective contracts with Esso/BHP-Billiton and the retailers).

Gascor (together with 15 other state entities) is a party in the Longford class action. These proceedings arose over fire and explosions at the Esso/BHP–Billiton gas processing plant at Longford on 25 September 1998. This incident resulted in the tragic death of two Esso workers and the injury of several others. The class action is a claim by gas users and stood-down workers for damages relating to the 10-day cessation of gas supplies, which followed the events at Longford. As the matter is before the court I do not propose to comment further except to say that the state denies any liability in relation to the class action.

The purpose of this bill is to transfer Gascor's Longford class action interests, including any liability, to another state entity. This will ensure that if the government elects to exercise the option to transfer Gascor to the retailers the state will not be in breach of warranties contained in the options. Similarly it will ensure preservation of the interests of the state with respect to the class action.

I will now provide an outline of the bill.

Clauses 1 and 2 of the bill contain preliminary information including a statement of the purpose of the bill, which is to provide for the transfer of certain property, rights and liabilities of Gascor.

Clause 3 of the bill inserts in the act a new part 14 entitled 'Transfer of certain property of Gascor'.

New section 116 includes definitions of the property, rights and liabilities of Gascor to be transferred. In summary these are items arising out of or in connection with the fire and explosions at Longford on 25 September 1998 and the class action that followed these events. Collectively these are referred to in the bill as 'Longford assets' and 'Longford liabilities'. They include insurance rights, contractual rights, compensation rights, documents, any liabilities arising in connection with proceeding no. 5538 of 2001 and proceeding no. 5975 of 2001 in the Supreme Court, any similar proceedings, and any appeal from such proceedings.

New section 116(2) enables the minister to fix the date of transfer.

New section 117 provides that it is the intention of part 14 to provide for the transfer as a bundle in one transaction of the whole of the Longford assets and Longford liabilities to a transferee nominated by the minister. This provision has been included to make it clear that the state intends that Longford assets and Longford liabilities transferred under part 14 are not to be unbundled or separated from each other.

New section 119 provides that on the date fixed by the minister the Longford assets vest in the transferee and the Longford liabilities become liabilities of the transferee.

The government is committed to ensuring that Victorians enjoy the benefits of a competitive and efficient gas industry including the lowest sustainable gas prices and high standards of service. The market structure and independent regulatory arrangements allow industry participants to compete on an equal footing and protect consumers at the same time. The Essential Services Commission and the ACCC have the ability to oversee pricing arrangements, while Vencorp also acts as an independent system operator for market participants.

The government intends to firmly establish whether there is public benefit in transferring Gascor to the retailers in order to decide whether to exercise the options. Passage of the bill is necessary in order to enable the state to exercise the options if it decides to do so.

I commend the bill to the house.

**Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. P. R. Hall.**

**Debate adjourned until later this day.**

## LIMITATION OF ACTIONS (AMENDMENT) BILL

### *Second reading*

For **Hon. M. R. THOMSON** (Minister for Small Business), Hon. C. C. Broad (Minister for Energy and Resources — I move:

That this bill be now read a second time.

This is the second in a series of bills that are aimed at addressing problems regarding the availability and affordability of public liability insurance and medical indemnity cover.

The *Review of the Law of Negligence*, chaired by the Honourable Justice Ipp, was recently presented to commonwealth, state and territory governments.

This report makes a total of 61 recommendations to address problems in relation to insurance and medical indemnity. Governments across Australia are considering all of these recommendations. It is important to determine whether national uniformity in

this area is achievable. This will be considered by COAG shortly.

Governments are also considering a separate report prepared for the Australian Health Ministers Council by the Legal Process Reform Group, which was chaired by Professor Marcia Neave. The Neave report proposes a variety of measures relating to medical indemnity cover. This includes the desirability of establishing a scheme for catastrophic injuries.

The reports cover a broad range of legal and administrative reforms, including options to alter the law of torts. Victoria is assessing all of the proposals, and will consider what measures should be taken.

One of the key areas dealt with in these reports relates to establishing a nationally uniform law regarding limitation periods that would apply to proceedings where damages are sought for personal injury.

The government acknowledges that for some kinds of personal injury, a long time can elapse between an incident that is alleged to have caused the injury, and the determination of the claim by a court. For insurers and medical defence organisations, this can translate to a long tail in their claims portfolio. This creates significant financial uncertainty, which can contribute to premium increases, as insurers and medical defence organisations seek to ensure that adequate reserves are set aside to meet potential future liabilities.

The Ipp report refers to four rationales for having statutory limitation periods that govern when civil proceedings can be brought.

First, as time goes by relevant evidence is likely to be lost.

Second, it is oppressive to a defendant to allow an action to be brought long after the circumstances that gave rise to it occurred.

Third, it is desirable for people to be able to arrange their affairs and utilise their resources on the basis that claims can no longer be made against them after a certain time.

Fourth, the public interest requires that disputes be settled as quickly as possible.

These objectives need to be balanced with the interests of plaintiffs. The Ipp report notes that plaintiffs need sufficient time to appreciate that they have legal claims that can be pursued, investigate those claims, and commence proceedings.

Both reports set out extensive proposals relating to matters such as when a limitation period should start to operate, whether there should be an outside limit on when a personal injury claim would be statute barred (known as a long stop period), and what kind of rules should apply in the case of children and mentally impaired adults who are injured and have a right to sue.

As part of considering all of the recommendations in the two reports, the government will look at this extremely complex area of the law over the next few months to determine what legislative reform is required.

A thorough review is needed to assess whether alterations to the Victorian law regarding limitation of actions can assist in addressing problems regarding the availability and price of public liability and professional indemnity insurance, and medical indemnity cover. This involves balancing the interests of plaintiffs, defendants and the community as a whole.

However, there is one key recommendation that warrants immediate action. Currently, the general limitation period for personal injury proceedings in Victoria is six years. Both reports propose that the limitation period for legally competent adults for these proceedings should be three years.

The government therefore proposes that this limitation period be reduced from six to three years. This is intended to assist public liability insurers and medical defence organisations in the management of their claims portfolios. It should enable them to recognise some of their potential liabilities more quickly. As a result it will give these organisations a greater level of certainty about their capacity to meet their future financial obligations.

The reduced time lag in the lodging of legal proceedings that are currently brought in years 4, 5 or 6, also assists in the cost effective management of claims. Knowledge of the circumstances that are alleged to have given rise to an injury should be clearer in people's minds, if proceedings are generally commenced within three years.

This allows for a more timely assessment of liability, and quicker estimation of the likely quantum of claims.

It is acknowledged that this change will not address all of the unpredictability of claims costs that applies to those organisations providing insurance or indemnity cover in long tail areas, such as medical negligence.

Nonetheless, the changes proposed will provide additional certainty to insurers and medical defence

organisations, as they will know that in this state the general limitations period is three years, as is the case in many other jurisdictions, including NSW.

It is necessary to further consider the impact of any law reform on persons who are under a legal disability. This vulnerable group includes children, and also adults who suffer from mental impairment or disabilities. Such injured persons are unable to bring legal proceedings on their own behalf.

The purpose of these amendments is therefore to reduce the limitation period to three years, but only for adults who are not under a disability, at the time when their cause of action accrues, or is taken to have accrued.

The limitation period for personal injury claims that have accrued in relation to persons under a disability is not altered by this bill. It will continue to be six years from the date on which the person ceases to be under a disability or dies. For example, if the cause of action for a minor accrues when the person is 17 years, proceedings seeking damages for personal injury can still be brought by or on behalf of that person from six years after they turn 18, that is, until they attain the age of 24 years.

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

This bill also preserves the ability of the courts to grant extensions of time in the circumstances set out in section 23A of the Limitation of Actions Act.

The alteration in the general limitation period from six to three years in the bill will not apply to certain legal proceedings in relation to workplace or motor vehicle injuries. The bill provides that the limitation period will remain at six years from the time when the cause of action accrues in the case of—

- (a) actions for damages to which part IV of the Accident Compensation Act 1985 applies;
- (b) actions for damages in respect of an injury, where that injury is such that it would entitle a worker — within the meaning of the Workers Compensation Act 1958 — to compensation under that act;
- (c) actions for damages to which part 6 or part 10 of the Transport Accident Act 1986 applies.

As I have indicated, reducing the general limitation period for personal injury proceedings will provide

additional certainty for insurers involved in medical indemnity and public liability insurance. The pressures on those classes of insurance are different to those affecting the Transport Accident Commission and the Victorian Workcover Authority in relation to transport and workplace injuries.

It is also important to ensure that injured persons are generally treated equally before the law. There are therefore good reasons for aligning, as far as practicable, the limitation periods for all personal injury litigation.

However, this must be done within the context of the statutory framework that applies to a particular class of injury. In addition, in the case of the Workcover and TAC legislation, additional procedures and requirements regulate the making of common law claims. It is important to build into the limitation period applicable to such cases sufficient time for these procedures to be conducted, to ensure that a claimant is not prevented from bringing legal proceedings simply as a result of delay that arises from complying with these statutory requirements.

For example, both current schemes limit common-law actions to certain categories of permanent impairment. Thus, before proceedings can be commenced, an assessment of the claimant's degree of impairment must have been undertaken. In addition, the Accident Compensation Act establishes a range of other pre-litigation procedures that must also be completed, prior to common law proceedings commencing.

It is also necessary to consider the impact on older common law claims referred to in the Workers Compensation Act.

For these reasons the government proposes to deal with the limitation period that should apply to transport and workplace related accidents by way of further legislative amendment next year. This will allow for further consideration, and consultation, regarding how to best achieve the goal of ensuring early resolution of common law actions in these areas within the statutory framework that governs those claims. Until Parliament considers this matter further, it is proposed that the general limitation period for this category of claims should remain at six years.

I wish to make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of this bill to alter or vary that section.

Clause 4 of the bill proposes to insert a new section 38 into the Limitation of Actions Act 1958. Proposed

section 38 states that it is the intention of section 5 (as amended by this bill) to alter or vary section 85 of the Constitution Act 1975. The amendments to section 5 involve the insertion of a new subsection (1AA) and amending subsection (1A). Proposed section 5(1AA) provides that an action for damages for personal injury whether founded on contract or tort, including actions for damages for breach of a statutory duty, may not be brought after the expiration of three years from the date on which the cause of action accrued. The amendment to section 5(1A) also limits the period for bringing actions to which that subsection applies to three years from the date on which the cause of action accrued. Proposed section 5(1AA) and section 5(1A) as proposed to be amended therefore have the effect of limiting the Supreme Court's jurisdiction to award damages in actions brought after the expiration of three years from the date on which the cause of action accrued.

The purpose of proposed section 5(1AA) and section 5(1A) as proposed to be amended is to reduce the time in which an action for damages for personal injury may be brought. The interests of the community as a whole are best served where a legally competent adult brings an action within three years, rather than six, from when the cause of action accrues. In the case of the contraction of a disease or disorder the three years will run from the date on which the injured person knows that he or she has suffered personal injuries and that those injuries were caused by the act or omission of some person.

This bill also inserts a new section 39 into the Limitation of Actions Act 1958. This is a transitional provision.

In cases other than contraction of a disease or disorder, the law provides that the cause of action normally accrues at the time of injury. In the case of a disease or a disorder that is contracted by a person, the cause of action is, by virtue of the current section 5(1A) of the Limitation of Actions Act, taken to have accrued on the day on which the injured person first becomes aware that he or she suffers from the disease or disorder, and that this was caused by the act or omission of some person.

The effect of new section 39, when read with the commencement clause in the bill, is to ensure that the amendments to sections 5, 23 and 23A of the Limitation of Actions Act will apply to causes of action that accrue — or in the case of a latent disorder or disease, a cause of action that is taken to have accrued — on, or after, the day that is after the day on which the bill receives the royal assent. In other words,

the amendments do not apply to causes of action that accrue, or are taken to have accrued, before the commencement of these amendments.

In conclusion, I note that this bill reflects a further major step in the process of altering the law to act in the interests of the Victorian community and deal with current problems regarding medical indemnity and insurance. The government has decided that reform of the general limitation period for legally competent adults is an important measure that can be adopted at this stage. It is committed to considering what further reforms are required, in the forthcoming months.

I commend the bill to the house.

**Debate adjourned on motion of Hon. M. T. LUCKINS (Waverley).**

**Debate adjourned until later this day.**

## TRANSPORT (HIGHWAY RULE) BILL

### *Second reading*

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

That this bill be now read a second time.

This bill aims to restate in legislative form, and as an interim measure only, the former rule of common law known as the 'highway rule', which was overturned by the High Court last year in the case of Brodie and Singleton Shire Council.

In the longer term, the government proposes to bring in legislation to facilitate better road management and that will provide greater certainty in relation to the legal duties of road authorities. In the meantime, the temporary return to the former law will overcome the retrospective effect of the court's ruling, and will provide breathing space to enable road authorities to adjust their policies and programs to their new legal duties.

### **What was the highway rule, why was it abolished and what has been the result?**

The Chief Justice of the High Court summarised the highway rule in Brodie's case in the following terms:

The essence of the rule is that a highway authority may owe to an individual road user a duty of care, breach of which will give rise to liability in damages, when it exercises its powers, but it cannot be made so liable in respect of a mere failure to act.

In other words, under the former law, a highway authority could be sued for poor performance, which was called ‘misfeasance’, but not for non-performance, which was called ‘nonfeasance’.

The court decided to abolish the highway rule by a majority of four to three. However, it is important to note that all of the justices acknowledged the defects of the former highway rule.

First, the rule did not work well in practice. It was often unclear whether or not the highway rule applied. For example, in principle the rule applied only to the road itself and not to non-road infrastructure, but it was often hard to tell which was which. Further, the rule only applied when the authority was acting as a highway authority, not in some other capacity, but the distinction was sometimes hard to draw. Finally, the line between poor performance, or misfeasance, and non-performance, or nonfeasance, was often blurred.

Secondly, a number of the justices considered that the rule was out of keeping with general legal principles. It gave road authorities special exemption for wrongs that other persons do not have and could result in injustice in cases of clear-cut negligence on the part of a road authority. And the uncertainty of the rule and its many qualifications and exceptions had the effect of encouraging rather than discouraging litigation and reduced the rule’s practical benefit for authorities.

If the former rule did not work well, criticisms may also be made of the current law. First, there is a lack of certainty in relation to the standard of care that a highway authority must exercise when carrying out its road management functions such as design, construction, inspection, repair and maintenance. Roads vary widely in the standard of their construction and in the type and volume of traffic that uses them. So do the resources and priorities of the various road authorities and the communities they serve. In determining priorities and allocating resources, authorities have regard to their system-wide responsibilities. Under the current law, however, what standard the authority should have applied, what should have been done, falls to be decided by the courts after the event on a case-by-case basis. Road authorities need to know in advance what standard of care the law expects of them so that they can allocate resources and set priorities accordingly. It is one thing for an authority to be accountable for not carrying out its legal obligations, but those legal obligations need to be clear.

Another difficulty with the current situation is that, for practical purposes, the highway rule was abolished retrospectively. This exposed councils, Vicroads and

other highway authorities to claims for past events, during a period in which everyone concerned believed the highway rule applied and arranged their affairs accordingly.

The result has been that highway authorities face increased exposure to claims and lack certainty in carrying out their functions. Rural municipalities in particular face a growing gap between what is expected of them and the resources available to carry out their functions.

### **The way forward**

In the government’s view, reinstatement of the highway rule is not a viable long-term option. Its uncertainty and unfairness was not in the best interests of either highway authorities or road users. Reinstating the highway rule would not lead to the best results in terms of providing a safe road network.

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

For this reason, the government intends to bring in legislation next year to deal comprehensively with road management and related issues.

An important principle is that the assessment of needs and the setting of priorities are tasks that are best carried out by publicly accountable bodies.

At a local level, this means councils, elected by and accountable to their local communities. At a state level, it means state government agencies, such as Vicroads, that are ultimately accountable to this Parliament.

Consistent with the proposals set out in the discussion paper published by the Department of Infrastructure in June, this new legislation would provide a framework by which authorities would develop and publish management plans. These plans would articulate the policies, budgets and operating standards for roads under the authority’s control.

The courts would then be required to have regard to these management plans in determining whether the road authority had or had not been negligent in the performance of its functions in any particular case.

Councils and other road authorities would have clear accountability for how well they carry out their functions. But they would also determine standards that best suit their local needs and priorities, and could plan

accordingly in the knowledge that they would be protected from legal liability if their standards are reasonable and they adhere to them in practice.

It is not possible to have one set of standards that applies to all roads across the state. The diversity of roads and of road authorities is too great. However, it is proposed that the legislation provide a framework for the development and implementation by individual authorities of road management plans. This framework would be set out in a code of practice or guidelines, to be approved by the relevant ministers and tabled in Parliament. These would not specify actual legal rights and duties. Rather they would set benchmarks for good practice and would provide guidelines and principles to be followed in carrying out road management functions and in preparing management plans. While a code of practice would not be legally binding, it would be a relevant consideration if it were suggested a road authority had been negligent.

In general terms, it is expected that the code of practice or guidelines would be similar to the *Code of Practice for Maintenance Management*, which is published by the United Kingdom Institution of Highways and Transportation.

I should point out that this approach is broadly similar to the recommendations of the recent report of the New South Wales Legislative Assembly's Public Bodies Review Committee on the effects on government agencies of the abolition of nonfeasance immunity.

The issue of liability of public authorities was also considered by the panel appointed by the commonwealth government in July to review the law of negligence, which was chaired by Justice Ipp of the New South Wales Court of Appeal. The panel's final report was recently published. That report did not support the reinstatement of the highway rule, which it said was 'subject to many qualifications which were difficult to apply or to justify in a principled way'.

However, the panel's report also concluded that the abolition of the highway rule had had some undesirable consequences. Courts have to consider whether, in the words of the report, 'the authority's conduct in relation to the risk in question was reasonable given the other demands on the resources available to the authority'. The panel considered that this was undesirable in at least three respects. To quote the report again:

First, courts are not well qualified, either in terms of expertise or procedure, to adjudicate upon the reasonableness of decisions that are essentially political in nature. Secondly, courts are inappropriate bodies to consider the reasonableness of such decisions because they are neither politically

representative nor politically responsible. Thirdly, proper consideration of the reasonableness of such decisions may be very expensive and time consuming.

The panel recommended that new legislation should embody the principle that a policy decision based substantially on financial, economic, political or social factors or constraints cannot support a finding of negligent performance or non-performance of a public function unless the decision was so unreasonable that no reasonable authority could have made such a decision.

The conclusions and recommendations of the panel's report are therefore consistent with the direction being taken by the Victorian government in relation to highway authorities.

The new legislation will also contain a number of other measures to reform the law relating to the management of roads. These include ensuring that road authorities' powers match their responsibilities, and that utilities and other bodies that carry out roadworks are subject to similar principles.

### **The contents of this bill**

The government will be carrying out further consultation over the detail of this new approach, with a view to bringing in legislation next year.

In the meantime, road authorities are grappling with the effects of a major change to the law that was not only made with no notice, but retrospectively. What is needed is breathing space so that the transition to the new arrangements can be conducted and managed in an orderly fashion. To this end, this bill proposes to confer on road authorities a statutory immunity from civil liability in respect of non-performance of their functions in relation to inspection and repair of roads. It is intended that, as near as practicable, this statutory immunity will have the same effect as the former common-law highway rule.

This is an interim measure only. The statutory immunity will sunset on 1 January 2005. It is intended that the new road management legislation, outlined earlier, would take effect before that date. This will give councils and other road authorities time to put in place management arrangements that reflect the new law, including the adoption of management plans under the proposed new legislation if they wish.

As already mentioned, the High Court's decision in Brodie's case was retrospective in its practical effect. This is a significant problem for councils and other road authorities, which had arranged their affairs in good

faith on the basis of the former law. For this reason, the bill proposes that the new statutory immunity will apply to all legal proceedings, including those where the cause of action arose prior to the legislation taking effect. However, this will not apply where legal proceedings had actually begun prior to the introduction of this bill into Parliament, so as to avoid disadvantaging plaintiffs who have already begun proceedings in reliance on the law as expressed in Brodie's case.

### Section 85 statement

I wish to make a statement for the purposes of section 85 of the Constitution Act 1975.

Clause 3 of the bill proposes to insert a new section 37A into the Transport Act 1983. That new section will provide that certain persons and bodies carrying out functions of a highway authority will not be liable in any civil proceedings for failing to repair, or keep in repair, a highway or for failing to inspect it for that purpose. Clause 5 of the bill proposes to insert a new section 255F into the Transport Act 1983, which states that it is the intention of the new section 37A to alter or vary section 85 of the Constitution Act 1975.

The reasons for this proposal are as follows. In the case of Brodie and Singleton Shire Council, the High Court held that the rule that highway authorities were not liable in damages in respect of failure to repair a highway no longer formed part of the common law of Australia.

The change in the law in this manner has had a number of undesirable consequences. The decision had retrospective effect for practical purposes, applying to causes of action that arose before, as well as after, the court's decision. Further, road authorities had arranged their affairs on the basis of the law as it was formerly understood and have had difficulty in adjusting their arrangements to the new requirements.

To overcome these undesirable consequences, the amendments will provide statutory immunity in similar terms to the former highway rule. This immunity will apply to all causes of action, whether arising before or after the commencement of the legislation, so as to negate the retrospective effect of the judgment. The immunity will continue until 1 January 2005, but will not apply to causes of action arising on or after that date. This will provide a transitional period during which highway authorities may continue to manage their affairs on the basis of the former law whilst having time to make appropriate arrangements to carry out their responsibilities under the new law.

### Conclusion

The High Court decision in Brodie's case made plain the defects of the former highway rule. The new law, however, provides road authorities with insufficient certainty. Councils and similar bodies make their decisions on the allocation of limited public monies amongst competing priorities and across the whole range of their responsibilities. Any assessment of whether an authority has been negligent in a particular case needs to take into account these wider issues. To this end the law needs to provide a better framework for road management, one that optimises the best outcomes having regard to local needs and priorities. The government is committed to developing and implementing such a framework.

In the meantime, under this bill, councils and other road authorities will be able to carry out their functions on the basis of the former law.

I commend the bill to the house.

**Debate adjourned on motion of Hon. G. B. ASHMAN (Koonung).**

**Debate adjourned until later this day.**

## GAS INDUSTRY (RESIDUAL PROVISIONS) (AMENDMENT) BILL

*Second reading*

**Debate resumed from earlier this day; motion of Hon. C. C. BROAD (Minister for Energy and Resources).**

**Hon. D. McL. DAVIS** (East Yarra) — I rise to make a contribution on the Gas Industry (Residual Provisions) (Amendment) Bill. I note that the opposition does not oppose this bill, and I understand that there have been a number of discussions between the Treasurer and the opposition's Treasury spokesperson about this bill and the need to deal with it expeditiously.

There are a number of issues surrounding the bill, but basically it is not a complex one. It seeks to, in a sense, tidy up some provisions that followed the reform of the gas industry during the time of the previous government. At the same time there are one or two important issues to deal with. I know there are legal issues that the opposition has sought and obtained assurances about with respect to the Longford litigation cases. Gascor has been joined in those actions.

The Longford incident was a significant one for Victorians, particularly in respect of those who were

killed or injured. I understand that a number of actions are under way that may result in Gascor having either rights or liabilities. I also understand that assurances have been obtained by the shadow Treasurer with respect to those and the fact that this bill, which seeks to apportion Gascor effectively into three parts of three shares each, meaning nine shares, will in no way affect those actions, either adding to or subtracting from the legal rights that exist with respect to those cases.

It is important to place this industry in a broader context and to state that the gas industry, like the electricity industry and a number of other significant sections of the Victorian economy, was reformed during the period of the last government.

Those reforms were significant in delivering a competitive Victorian economy, an economy that provides the right base for Victorian businesses and consumers to go forward in the right way. Without a competitive energy base in our economy, Victorian businesses that need energy — that is, all businesses to a greater or lesser degree — would not be able to compete adequately either internally or offshore. I know some criticise privatisation programs, but I believe those privatisations undertaken during the period of the Kennett government have played a significant role in ensuring that we have the right economic base in Victoria.

Victoria's strength even today, despite the activities of the government, is in no small measure due to those economic reforms that were introduced during that period. I know the importance of energy in that process. A number of Victoria's manufacturing industries in particular are energy intensive industries, and we need to have the proper arrangements in place.

To the extent that Gascor is now in a sense a shell it is somewhat after the fact for that reform, but nonetheless it is important to place that on the record. I note that not so long ago a bill was introduced in this place to set up the Essential Services Commission to regulate a number of these industries, and I read with interest today aspects of the commission's annual report.

As I leaf through the report — it is not a complete examination — the size of the consultancies section is noticeable. Appendix F shows that there has been a significant number of consultancies both under \$100 000 and in excess of that figure. In fact there has been more than \$3 million worth of consultancies. While there is every justification for consultancies in this area from time to time, I note that that is a significant figure, and I will look with interest at the annual reports as they come down through this period,

and hopefully today because today is the deadline under the Financial Management Act for annual reports. I will be looking with some interest at a number of annual reports that relate to the energy sector.

I do not believe there is a great deal more I need to say about the bill. The opposition does not oppose the changes because they are, in a sense, a straightforward step. The adequate protections that were discussed between the opposition and the government with respect to Longford liabilities are important, and adequate assurances, as I understand it, have been provided. Without further comment, I point out that the opposition does not oppose the bill.

**Hon. P. R. HALL** (Gippsland) — The Gas Industry (Residual Provisions)(Amendment) Bill is a small bill but it is a big embarrassment to the government to have to introduce it this afternoon. I say it is an embarrassment on two counts: firstly, it exposes the government for the hypocrisy that it pronounces about the issue of privatisation. The Bracks government has reserved its strongest condemnation for privatisation undertaken by the former Kennett government, particularly in relation to privatisation of the electricity and gas industries. It forgets that when we came to government in 1992 there was a state debt of \$32 billion which has now been reduced to the order of \$4 billion or \$5 billion, and privatisation was a necessary process that was undertaken by the former government to enable the reduction of the state debt.

The Bracks government has continued to criticise the former government at every opportunity for privatisation, particularly of the electricity and gas industries, yet with this bill it is openly paving the way for further privatisation within the gas industry — which is exactly what it is doing. I refer honourable members to page 2 of the second-reading speech which states:

The purpose of this bill is to transfer Gascor's Longford class action interests, including any liability, to another state entity.

Nowhere in the bill or in the second-reading speech does it tell us what that other state entity is. It could be anything — a department, another corporation, who knows! There is no specification as to what the new state entity is proposed to be. Page 1 of the second-reading speech tells us why the government is transferring the liabilities of Gascor to another state entity, and states:

When the Bracks government came to power in October 1999 the gas industry (apart from Gascor) had passed to private ownership. Pre-existing contractual arrangements established as part of the reform process provided the state with options

exercisable until 31 December 2002 to transfer one-third of the shares in Gascor to each of the retailers.

It referred to the previous three retailers. It is saying that the bill has been introduced so that the government has the option of transferring — that is, privatising — Gascor in the name of three gas utility distribution companies. It is giving itself that option.

I would have thought that if the government wanted to match its actions with its anti-privatisation rhetoric that it espouses at every opportunity it would have exercised an option this afternoon, and that option would have been to rule out any privatisation of Gascor, but no, it wants to give itself the option of privatising the last remaining public component of the gas industry in Victoria.

Let it be well known from the start that this debate is all about the Bracks government wishing to privatise a component of the gas industry. That is why it is so hypocritical of the government to condemn the previous government for its privatisation program when the government this afternoon with the passage of the bill is facilitating further privatisation within the gas industry. For that hypocrisy it stands condemned.

The other point on which the government should be embarrassed to introduce this bill this afternoon is the time frame in which we are being required to debate it. The bill was passed in the Legislative Assembly on Tuesday, was second read less than 45 minutes ago and is now being debated. Once again it is an illustration of the government's incompetency to properly manage its business program.

The second-reading speech says that the exercisable options had a deadline of 31 December 2002. The government has known about that since October 1999, which is about the time it came to government. For a little over three years the government has had the opportunity to exercise those options and put in place the legislation, but it is leaving it to the last minute, the last sitting day of the Parliament in this particular year, and is proposing to rush through legislation at the eleventh hour because it has been so tardy in not organising its business program to have the bill passed earlier with more timely debate.

For those two reasons the government should be embarrassed about having to pass this bill this afternoon. We should make no mistake, it is a privatisation bill — a commitment by the Bracks government to the further privatisation of the gas industry in Victoria.

The National Party will not oppose the bill because, as has been said in the second-reading speech and in comments made by the lead opposition speaker, there is a critical issue in regard to the Longford class action applying back to the accident that occurred on 25 September 1998. In no way would I like anybody, individual or company to be disadvantaged because of this government's tardiness with respect to that particular tragic incident.

That is why the National Party will not oppose the bill. However, it strongly condemns the government for its hypocritical attitude towards privatisation and, further, its tardiness in getting this legislation before the Parliament.

**Hon. E. C. CARBINES** (Geelong) — I am pleased to speak in support of the Gas Industry (Residual Provisions) (Amendment) Bill on behalf of the government. The Bracks government inherited a gas industry privatised by the former Kennett government, and under arrangements set in place by the previous government a right was created for the government to transfer Gascor as an entity to the gas retailers AGL, TXU and Origin Energy, which right can be exercised up until the end of this year. As the second-reading speech explains, if and when Gascor is transferred to the retailers it will have no contingent, accrued or prospective liabilities.

This bill has become necessary due to the gas explosion at Longford in September 1998 in which two workers, Peter Wilson and John Lowery, tragically lost their lives and in which other workers were injured both physically and psychologically.

As Gascor is a party in the class action concerning the Longford explosion, it is necessary to separate any liabilities that may be associated with this action from that which will be transferred to the gas retailers. The Gas Industry (Residual Provisions) (Amendment) Bill will ensure that separation of the Gascor liabilities and will allow for the transfer of Gascor should the government decide to exercise this option at the end of the year.

Residents of Geelong Province take a real interest in the gas industry and in particular the provision of natural gas, as there are a number of areas in Geelong Province that have not been able to access a reticulated gas supply. Members of this house will have heard me speak many times about this issue and, indeed, the Bracks government's election commitment to the people of Bellarine concerning the townships of Portarlington, Indented Head and St Leonards to

subsidise the extension of natural gas to their townships.

The government in fact provided \$1.75 million from the Regional Infrastructure Development Fund to keep its promise to the people of Bellarine, and the great news is that TXU is now ahead of schedule with this project and gas is already flowing to many homes in Portarlington, with supply to Indented Head and St Leonards to follow in stages 2 and 3 next year and the following year.

What is particularly satisfying about this project is that the Bracks government has achieved what the former Kennett government refused to do. For seven years people in the local community on the Bellarine Peninsula had been seeking access to natural gas. They approached the Kennett government on two separate occasions for assistance with this project, once in 1997 and again in 1999, but instead of finding a way to help, what did the former Kennett government do? It turned its back on the residents of the Bellarine Peninsula and said, 'Forget it'.

It took a change of government and the election of the Bracks government to deliver gas to the north Bellarine area. This project has created jobs and provided a stimulus for development, and it will save residents up to \$1200 a year on bottled gas prices.

Yesterday this house passed the Regional Development Victoria Bill, which will provide for the establishment of a statutory body by the Bracks government to facilitate and attract investment in rural and regional Victoria. One of the highest priorities of the new Regional Development Victoria body will be to investigate and advise the government on the extension of natural gas into regional Victoria. I look forward to further representing my constituents in relation to this matter — constituents such as the residents of Barwon Heads, who have sought —

**Hon. P. R. Hall** — On a point of order, Mr Acting Speaker, I put to you that this is a very narrow bill and neither the second-reading speech nor the bill makes any reference at all to expansion of gas distribution networks. That has absolutely nothing to do with the content of the bill, and I ask you to rule the honourable member out of order.

**Hon. E. C. CARBINES** — On the point of order, Mr Acting President, I am clearly speaking in relation to the gas industry and the Bracks Labor government's commitment to the gas industry, which is clearly the content of this bill.

### The ACTING PRESIDENT

**(Hon. G. B. Ashman)** — Order! I do not uphold the point of order, but I suggest that the member has strayed from the core of the bill and has spent some minutes now talking about local issues.

**Hon. E. C. CARBINES** — I know the truth hurts. National Party members do not like hearing about the Bracks government's achievements and I know it hurts them, but it is a great pity that they do not support the Bracks government's attempts to assist the residents in my electorate. I am sure the residents of Geelong Province know that the National Party has no interest in their concerns.

The Bracks government is keen to assist all residents across regional and rural Victoria. We are very disappointed in the approach of the privatised gas industry to the provision of natural gas to communities such as mine in Geelong Province. The government will work with Victorian communities and with the privatised gas industry to make sure that we find ways of extending the gas to those communities.

The bill before us today is necessary to allow the government to properly assess whether or not it will be beneficial to the people of Victoria to transfer Gascor to the gas retailers. Its passage will enable the government to exercise this option should it choose to do so, and I therefore commend the bill to the house.

**Hon. W. R. BAXTER** (North Eastern) — One cannot let the remarks of Mrs Carbines go by without some sort of response, because we have heard it all before. They had nothing to do with this bill, which further privatises the gas industry — which the Labor Party and Mrs Carbines in particular constantly talk about as being an evil action of the former government, notwithstanding that it enabled the debts of the state to be repaid and that it meant that a lot of communities got gas. As Mr Hall has outlined to the house, this bill simply extends that privatisation process.

I say to Mrs Carbines, who has gone on at length about gas for the Bellarine Peninsula, which is an area quite near Melbourne, that she might well look at the actions of this government and at whether it has done anything at all to uphold contractual arrangements entered into by the previous government to extend gas to country towns. I refer in particular to the township of Nathalia, because the previous government had contracted, as part of its natural gas extensions throughout country Victoria, to have gas supplied from Cobram to Strathmerton, Numurkah, Waaiia and Nathalia. Prior to the election of this government gas had actually got to Numurkah, but where has it gone since under this

government? Nowhere. We are still waiting in Nathalia for gas to be extended, despite the fact that there was a contractual arrangement to extend it there.

I know that the gas company has been privatised, and Origin Energy has certainly reneged on what I think was its contractual undertakings, but have this government and this minister used any persuasion — moral or otherwise — to support the people of Nathalia to get natural gas, to get their expectations realised and to get some justice? No.

I have raised this issue in this house several times. The member for Rodney in the other place has written to this minister 15 times, I suspect, and keeps getting this brush-off answer, 'Nothing to do with us. Nothing to do with the Bracks government. This is all the Kennett government's fault'. That is the basis and the genesis of the replies we get from the Bracks government. It is not interested in extending natural gas to Nathalia. It is not interested in making sure that contracts entered into in good faith are upheld. It is not prepared to exercise any sort of authority, pressure or persuasion at all to see that that is done. It has simply said, 'There is nothing we can do about it' and it has washed its hands of it. I am exceedingly disappointed in the government for so doing and I am exceedingly disappointed that Mrs Carbines comes in so regularly and talks about what her government is supposedly doing to get gas to country towns while the people of Nathalia, the Shire of Moira and the proposed industries in Nathalia, under a contract entered into in good faith, have been hung out to dry.

What is the National Party doing about it? As part of our platform for the coming election we have announced \$150 million over four years to extend natural gas to country towns. That is going down really well in country Victoria because people are sick and tired of hearing from the Bracks government the great things it is allegedly doing for country Victoria when not a thing has been done. In the same way not a sleeper has yet been laid for the so-called fast train project and not a thing has been done in a whole range of areas. The constituents of country Victoria are looking forward to the election so they can put in place a National Party policy which will see them get natural gas in towns like Nathalia.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## LIMITATION OF ACTIONS (AMENDMENT) BILL

*Second reading*

**Debate resumed from earlier this day; motion of  
Hon. M. R. THOMSON (Minister for Small Business).**

**Hon. M. T. LUCKINS** (Waverley) — The opposition does not oppose the Limitation of Actions (Amendment) Bill. Before I go through the provisions of the bill I would like to take this opportunity to note that this is probably my last contribution on a second-reading debate in the upper house prior to the impending election.

One of the reasons we are debating this bill so quickly is because of the impending election. Rather than allowing the opposition proper time for consultation the government has rushed the bill through the lower house in undue haste in two days. It was introduced and read a second time only one hour ago, and here we are debating it. The government says that the bill must pass today. The opposition says, 'Why not next week?'. But I think everyone in the chamber knows the answer — we will be straight into an election campaign.

Another query on this bill is why it is a health bill not a finance bill. It relates to indemnity insurance, and while it relates to medical indemnity traditionally these bills have been the responsibility of the Minister for Finance.

This matter and the amendments made in the bill could also have been made under the Wrongs and Other Acts (Public Liability Insurance Reform) Bill that was passed on 16 October and received royal assent on 22 October, but the government failed to act in time. It failed to consult and failed to get its act together to make these provisions part of that wider bill.

The fact that the bill is being rushed through the upper house today has a further impact because the government has not consulted with the stakeholders who are affected by it. The opposition has received submissions and complaints from the Australian Medical Association, the Australian Plaintiff Lawyers Association and the Law Institute of Victoria, all of which have raised significant concerns with the bill. Some of the matters of concern have been addressed in amendments in the lower house, but clearly the government has failed to consult adequately and it remains to be seen whether the amendment will help the industry it purports to assist.

The bill before us results from a review of the law of negligence which was chaired by Justice Ipp and 61 recommendations were presented to the

commonwealth government and all state and territory governments relating to insurance and medical indemnity. The government has made it clear in the second-reading speech that the Council of Australian Governments (COAG) is yet to consider the recommendations of the report, which seeks to attain national uniformity in the area of medical negligence. In Victoria the current provisions of the Limitation of Actions Act 1958 allow actions to be taken within six years of an alleged negligent incident. That is consistent with Western Australia and the Australian Capital Territory, while in New South Wales, South Australia, Queensland and the Northern Territory the limit is three years. Through the provisions in the bill we are being brought into line with the majority of states — those other than Western Australia and the Australian Capital Territory.

The Australian health ministerial council also commissioned a report from the legal process reform group which was chaired by Professor Marcia Neave, and that has also been circulated to all Australian governments for consideration. The Neave report, as it is known, deals with issues related to medical indemnity cover, provisions for catastrophic injuries and the inadequacy in the law of torts in this area.

In the second-reading speech the government advises that it is assessing this report and its recommendations as well as the recommendations of the Ipp report. With undue haste we are debating a bill which has been passed into law following royal assent in most states and which seeks national uniformity — and yes we will match the majority of the states — but there has been no agreement between the states and the commonwealth on this area of law and insurance at all.

While the bill is technical it is relatively simple. The main change to the act is contained in proposed section 5(1AA), which is inserted by clause 3(2). It states:

... an action for damages in respect of personal injuries must not be brought after the expiration of 3 years from the date on which the cause of action accrued.

Prior to the early 1980s it was three years in Victorian legislation, and that was amended to six years.

Clause 3 of the bill ensures that it is quite clear that in certain circumstances a person's right to have his or her action taken after the statutory period is preserved.

Clause 4 deals with the act and its application to those with a disability, whether physical or intellectual; it also ensures that only competent adults are covered by the provisions of this amendment to the act. Children are

also seen as having less capacity to represent their own interests. Nothing there has been changed.

The transitional arrangements are also quite clear. Basically they apply to proceedings after the commencement of the legislation, with royal assent, which we anticipate will be soon, otherwise why would the government be rushing the bill through! I am advised that the legal term is 'cause of action accrual'. The bill also makes it clear that once people find they are suffering from a disease or disorder they have three years from becoming aware of this fact to lodge a claim, even if the allegedly negligent incident occurred well before that time.

Clause 4 also introduces some new amendments through the Legislative Assembly which were passed the other day and which are pretty much in response to the concerns of the legal profession, the Law Institute of Victoria and the Australian Plaintiff Lawyers Association. I have also received a letter from a Labor law firm which I will not name but which highlights these exact matters as issues that had not been taken into account.

**Hon. Jenny Mikakos** interjected.

**Hon. M. T. LUCKINS** — They might get the sack if I tell you who gave me the information, so I won't. We know how the Labor Party works, Ms Mikakos.

New section 40 will ensure that common-law actions are preserved when they relate to the Accident Compensation Act 1985, the Workers Compensation Act 1958 and the Transport Accident Act 1986. Anyone who is injured or becomes ill after an allegedly negligent event and who is covered by those three acts continues to be exempt from the provisions of this bill.

The bill is not retrospective and will come into force on royal assent. Potentially, if people are injured this week they are entitled to apply for compensation or to launch legal action for up to six years from the cause of action; after royal assent, which may be next week, they will be limited to three years. That is the intention of the bill and it is true to that.

The bill contains a section 85 provision that requires a statutory majority. On a final note I bring to the attention of the government that when the former Kennett government was in power the Labor Party was extremely critical about the use of section 85 statements. However, there has been no reduction in their use since the Bracks government came to power and is a further example of a Labor government and the Labor Party misleading the public on issues which are

the responsibility of the government and which it cannot or is clearly unwilling to change.

On that note I conclude what I anticipate will be my last response to a second-reading speech in the upper house. I look forward to making contributions in the lower house after 30 November.

**Hon. Jenny Mikakos** interjected.

**Hon. M. T. LUCKINS** — I don't think any of us are, Jenny. If we are here we're here. If we will be here next week why are we debating and passing this bill today?

**Hon. M. R. Thomson** — I thought it was the preserve of the Premier.

**Hon. R. M. HALLAM** (Western) — I am delighted to be able to reinforce the fact that I was here and heard the Honourable Sang Nguyen announce the election. I can put that beyond doubt.

**Hon. Jenny Mikakos** — It was news to all of us!

**Hon. R. M. HALLAM** — It was certainly news to me. Mr Deputy President, I rise to report that the National Party shall not be opposing the Limitation of Actions (Amendment) Bill currently before the chamber. It does so purely on the basis of its conclusion that half a loaf is better than none at all.

The National Party remembers that the concept underpinning this bill was originally canvassed with it as an amendment to the Wrongs and Other Acts (Public Liability Insurance Reform) Bill which, as has been reported, was considered and passed by this chamber on 16 October. We said then that we were prepared to consider an 11th-hour amendment and that we would not imperil the passage of the bill then being debated by the chamber. As it turns out we did not actually see the amendment, but from the way it was described to us we understand that this bill is identical to the concept that was being canvassed at that time.

By way of reassurance to the house I do not intend to regurgitate all of the issues that were canvassed during the earlier debate given that this bill is really an addendum to the earlier bill; it is a rider. As I have reported, the National Party has already agreed to the passage of the concept involved.

I cannot help but remark on the circumstances that bring this bill before the chamber. Not only do we now have a separate bill when we were earlier considering an amendment to a further bill, but it comes to us under

the sponsorship of a different minister. I really wonder what is going on at cabinet level.

By way of general background I simply say that we in the National Party have long since passed the point of acknowledging the need for drastic remedial action to protect our communities from the emerging crisis in public liability and professional indemnity insurance. As you would be well aware, Mr Deputy President, we drafted a private members bill entitled the Civil Liabilities (Damages) Bill 2002 which was designed to address that very issue. That has been in the marketplace for some time.

By way of background I make the point that that bill specifically covered the issues of both public liability and professional indemnity insurance, but it was designed to capture each category of claim which may result in indemnity payments. It was to have application across the whole spectrum of personal injury claims. In other words we saw that as being the appropriate coverage, acknowledging that there be exclusions only for workers compensation and compulsory third-party transport accident cover.

The National Party's concept included a maximum cap of \$4.5 million at the top end of the scale of compensation. We introduced some quite radical provisions regarding the computation of damages in each case, particularly including the discount rate of 6 per cent to be applied to that computation. But most importantly our bill included the concept of a threshold. In this case it was set at \$36 000. Why is that so important? As we explained at the time, it is important because it is at the bottom end of the range of claims where the real pressure emerges. That is where the driver of the ever-increasing premiums resides, and not at the top end as would appear most obvious to the average observer. It is actually at the bottom end where the real costs are the major concern. Worse still, as I explained earlier, the cost of defending a claim has of itself an established break-even which drives the avalanche of small claims and the compensation culture on which our no-win, no-fee lawyers feast.

The insurers are better off to pay those small claims rather than incur the cost of defending them. The lawyers know that and we have seen the establishment of a very lucrative industry based on that reality of the economics involved. Our bill would simply take that industry out. We know that is a very tough call, and we agonised over it. It is not something we did lightly. Unless we are prepared to address the real costs in the insurance sector, the rest of it is pretend. That is what the Bracks government needs to come to grips with.

There is no chance of reducing premiums unless we actually address the issue of costs across the industry.

I hesitate to use such a terrible mixture of metaphors, but what this government has done is like a chicken with its head chopped off picking cherries at the same time, running around the countryside and just grabbing where it can. There is no rhyme or reason, there is no consistency, there is no rationale and there is no articulation of the background to it.

I remind the chamber that it was not all that long ago that this same government was blaming the insurance industry for the problem. The government was out there stoutly defending the legal profession and blaming the insurance industry for exploiting what it called the marketing opportunity set to emerge from 11 September and the other major factors that we all recognise. The government was saying the insurance industry was exploiting the opportunity to increase premiums.

I said then that the comments coming from some of our most senior members of the Bracks government, including the Attorney-General — our most senior legal officer — were not only unbecoming of the office, but incongruous. They were unfair on the industry and they were absolutely ridiculous as well. We should all acknowledge that we have problems with premium levels, and we are all concerned about the direction of those premiums across the entire public liability insurance sector.

If what we are seeing is nothing more than marketing opportunism rather than some sort of reflection of the underlying costs, why is investment not flooding into that sector of the insurance industry? Why isn't there a mad scramble for the new business? The facts are there is not.

The bottom line is that out there in the real world the problem is not only that of exploding premiums, there is an attendant problem that we all recognise — that is, the difficulty to get any cover at all. The government would do well to remember that the insurance industry must assess the underlying risk. That is what they do to survive, that is what they punt on and that is what their business is. If they are declining the business that to me is a pretty salient pointer.

The government responded by bringing in the Wrongs and Other Acts (Public Liability Insurance Reform) Bill, but it did not have a threshold. The National Party's argument is that without that threshold there is no real prospect of reversing the current cost driver. What is amazing is that a quick call to the industry

would have established the truth in respect of the premium movements. So instead of vilifying the insurance industry the government might have actually gone and consulted with it. The government says in every other context that it is big on consultation, so why has it not been talking to the insurance sector? When the National Party did so in the drafting of its bill, that sector had not heard from the government.

My point is: why would we go through this entire charade if the government is not convinced that what we are doing will reduce the pressure on premiums, and if the government itself is not convinced that the underlying costs will be shifted in the right direction?

Now we have this bill before us — out of the blue and from a different ministry. Talk about piecemeal! It addresses only one particular aspect of medical indemnity. It reduces from six years to three years the limitation period in respect of claims relating to medical indemnity, but it does so only for competent adults. I agree with the Honourable Maree Luckins: we can acknowledge that this is consistent with some other states across this great nation. We have no argument with the shift from six to three, but it specifically excludes minors, adults with disabilities or those who suffer impairment. In addition to that it provides an opt-out discretion for courts to override the reduced limit anyway.

You do not have to be a Rhodes scholar to work out where the costs are being driven in the medical indemnity field. It is no wonder the Australian Medical Association is unhappy with this bill. The reality is that our medical profession is being torn apart by professional indemnity premiums. More and more of the most valuable members of our country communities are giving up their professional careers.

They are going into alternative careers and are certainly leaving the most litigious areas of medicine. Try getting an obstetrician in country Victoria! They are almost a thing of the past. As each year goes past more and more of our country hospitals are simply not providing maternity wards. The doctors themselves are saying, 'We must go to the major medical centres where the best of medical equipment is because of the fear of litigation'.

We are actually destroying the services across the face of country Victoria for exactly the reasons the bill is before the chamber today. It is becoming more and more difficult to recruit staff to our country hospitals. The irony is that this bill actually acknowledges that reality, but it addresses only the most superficial component of the problem and quite deliberately skirts

the real issues of cost. I say to the chamber that this is the classic example of policy on the run, of a government making it up as it goes along. I know we should be grateful for small mercies but this is too little too late, and it is tokenistic.

The government tells us that it has the benefit of two quite separate reviews. The first was conducted by Justice Ipp and the second is that chaired by Professor Marcia Neave. We are told that both of those reviews acknowledged the need to review the application of the law of torts across our nation. Then we are told, again even in the second-reading speech attending the bill, that we should be acknowledging the need for national uniformity. Then we see the arguments which go to the need, as stated at page 4 of the second-reading speech:

... to assess whether alterations to the Victorian law regarding limitation of actions can assist in addressing problems regarding the availability and price of public liability and professional indemnity insurance, and medical indemnity cover.

I would love to know who wrote that rubbish. Where have they been? We are going to have a review to find out whether it could be done! Don't they understand anything about the industry? Have they been living in a vacuum for the last five years? It is amazing! I would love to know who wrote this stupidity, this insult; and then to have it brought before the chamber to have it support a bill to restrict the application of common law — that is what we are being asked to do — by a Labor government is nonsense! Then the government says, 'By the way, now we are going to pick up a particular component of both of those reports'. What a joke! I do not deny any of the arguments put forward in the papers; I could have written them, in fact I could have written them better, but I acknowledge the need to change those circumstances in which civil proceedings can be brought.

We are told in the second-reading speech that:

First, as time goes by relevant evidence is likely to be lost.

Hear, hear! I have no argument with that. Then we are told:

Second, it is oppressive to a defendant to allow an action to be brought long after the circumstances that gave rise to it occurred.

Right. Hear, hear! Then it says:

Third, it is desirable for people to be able to arrange their affairs and utilise their resources on the basis that claims can no longer be made against them after a certain time.

In other words, it gets rid of the uncertainty. Well done and hear, hear! Congratulations! Then it says:

Fourth, the public interest requires that disputes be settled as quickly as possible.

Again, I applaud that, but why is it applied only to one small component of the entire field? If that argument is so good why not apply it across the board? There is simply no logic to the way in which this bill is framed. If it is such a compelling argument then why not apply to the other options that have been canvassed when the government itself acknowledges that those options would go further than those being addressed by the bill. It is nonsense!

Why act in advance of other jurisdictions when you so enthusiastically promote the need for national uniformity? We are told there will be a further review and that the states need to act in concert. Why, then, get ahead of the ruck and defeat your own argument? This really is cherry picking; it is piecemeal. Even the second-reading speech itself acknowledges that it will not address all the unpredictability in the sector.

But I make the point, Mr Deputy President, as I did when the major bill came before the chamber: at least it does cross the threshold of common law. At least it embraces the concept that there be some restriction to unfettered access to the courts. It is a further incursion on the holy Grail of the Labor movement. It is further evidence that the Bracks government is at least hesitating before it capitulates to the litigation lawyers. That of itself is a welcome turnaround, and we should take some heart from that. Maybe having taken those early steps the Bracks government may eventually recognise that the real villain in the blow-out in community expectation that every mishap and every misfortune should carry a right to financial compensation is the no win, no fee brigade in the legal fraternity.

We could do something about that blight on our community. We could do something about it; it would not be too hard. It would have to be fairly brave but it would not be hard. I again extol the government to acknowledge the reality of that which is bedevilling our community, particularly our country communities. I know it would require this government to tread on a few toes amongst Labor's traditional supporters. On that basis, I will not hold my breath.

I end where I started. This bill is half a loaf but it is better than none. On that basis, it shall not be opposed.

**Hon. JENNY MIKAKOS** (Jika Jika) — I rise to make a contribution on behalf of the government on the Limitation of Actions (Amendment) Bill. While it is a relatively short bill it is important legislation as it comprises a further step in the government's program

for addressing problems associated with the availability and affordability of public liability insurance and medical indemnity cover.

This bill builds on the legislative reforms introduced in the amendments in the Wrongs and Other Acts (Public Liability Insurance Reform) Bill that Parliament debated recently. I do not want to canvass in detail the reasons I outlined as part of my contribution to that debate as to why we are currently facing high levels of insurance premiums and lack of insurance cover for some types of risk, but I want to note that the insurance industry does not escape any blame despite the comments made by the Honourable Roger Hallam in his contribution.

It has been clearly demonstrated that one element of the problems being experienced at present by the insurance market includes the failure of adequate numbers of underwriters to be prepared to enter the Australian insurance industry and offer affordable public liability insurance. These issues are being examined at the moment by the royal commission investigating the collapse of the HIH companies, which has been the largest corporate collapse in Australian history. The recommendations that the royal commission arrives at will form a very important component in ensuring that that type of corporate collapse does not occur again.

These issues relate to the proper regulation and prudential supervision of the insurance market by the Australian Prudential Regulation Authority (APRA). The other issues that have clearly contributed to the current levels experienced in terms of insurance premiums relate to matters to do with terrorist attacks in recent times and also, it is to be acknowledged, a steady increase in the number of claims and the average cost of claims above inflation over the last few decades.

I acknowledge that that is the case, and the findings of the Trowbridge report were presented to the federal working party finance ministers in recent times. The government has been very prudent in seeking further information from the insurance industry to document the level and cost of claims in determining the appropriate policy response to these issues.

The government has seen the Trowbridge report, and has also taken into consideration the recommendations of the review of the law of negligence, chaired by Justice Ipp, which were recently presented to commonwealth, state and territory governments.

In response to the problems the government has also made a number of administrative reforms. For example, it has offered to extend hospital cover to bush nursing

hospitals under the Department of Human Services health care agencies insurance program.

The Ipp report emphasises the importance of achieving national uniformity wherever possible. It is important that we achieve national uniformity to avoid forum shopping by potential plaintiffs across jurisdictions. The Ipp and Neave reports have recommended a three-year limitations period, and the Bracks government hopes the other jurisdictions will follow Victoria's lead in this respect.

I note that Mr Hallam was critical of the Victorian government for going ahead and legislating in this area. But shortly the Ipp committee recommendations will be discussed by the standing committee of finance ministers and by the Council of Australian Governments. It is hoped that those other jurisdictions will take up this recommendation of the Ipp and Neave reports as it relates to the limitations period.

As I have indicated, the government has considered the recommendations of the Ipp report. It has also considered the recommendations of the Neave report in relation to medical indemnity. The Neave report looks at the desirability of establishing a scheme that would apply to catastrophic injuries, and the Bracks Labor government is looking to the commonwealth for a commitment to such a scheme.

The issue of medical indemnity and certain kinds of public liability insurance presents a specific set of problems unique to what are known as long-tail insurance. For some personal injury claims, including those said to arise from medical negligence, a long time can elapse between an incident that is alleged to have caused an injury, the making of a claim, and, where that claim is not settled, its resolution in the courts.

Where insured activities have resulted in claims that have been incurred but not reported, the insurer must set aside sufficient reserves to pay out such claims, even though the nature of the claims and extent of potential liability are unknown. Such incidents may only be the subject of a claim many years into the future; that is what is producing the long tail of claims. It creates a major level of financial uncertainty for insurers. It also plays a role in premium increases, as insurers and medical defence organisations must seek to ensure that adequate reserves are set aside to meet these potential future liabilities based on actuarial advice.

The purpose of this bill is to reduce the general limitation period that governs when legal proceedings can be brought seeking damages for personal injury. Currently the period that applies is six years from the

time when the cause of action or right to sue arises. Both the Ipp and Neave reports recommended that the general limitation period for legally competent adults should be three years rather than six years. I note that the bill seeks to reduce the limitation period from six years to three years for causes of action that accrue on or after the commencement of the legislation. The legislation will not have any retrospective effect.

I note also that the limitations period as it applies to minors, or adults with a legal disability, will not be affected, nor will the court's powers to grant an extension of time in the circumstances set out in section 23 of the Limitation of Actions Act, as both of these matters require further consideration.

I also note that in the case of a person contracting a disease or disorder, the three years will continue to run from the date on which the disease manifests itself, and from the time the injured person becomes aware they have a potential claim against another person. These current rights are not affected by this bill.

The bill also excludes any change to the limitation period for damages under the TAC and Workcover schemes, as these statutory compensation schemes have certain requirements that a plaintiff is required to meet. Whether the limitation periods under these statutory schemes will need to be changed is a matter the Minister for Workcover has already committed to reviewing in his contribution to the debate on this bill in the other place.

I note that Mr Hallam queried why the Minister for Health introduced this legislation in the Legislative Assembly. It was because the Bracks government is concerned about the current level of medical negligence cases and the lack of affordability surrounding medical indemnity insurance cover. It is a matter the government views with a great deal of concern. It is obviously having some impact, particularly in rural and regional Victoria. For example, the government is very concerned about the lack of obstetricians in some parts of the state. This is a way the government is seeking to address the current concerns in the medical profession about the costs of medical indemnity insurance.

The bill is intended to provide greater certainty for insurers and medical defence organisations in the management of claims and claims costs. Of course no one measure will fix the current problems regarding affordability of medical indemnity insurance. This bill will not of itself remove all the unpredictability of costs relating to unreported claims for medical defence organisations and insurers.

In her contribution the Honourable Maree Luckins raised issues concerning consultation. It should be pointed out that there is a medical indemnity working group, which is an advisory committee to the Minister for Health. The working group includes representatives from the Australian Plaintiff Lawyers Association, the Law Institute of Victoria, the Australian Medical Association, and the medical defence organisations. The working group has considered the Ipp recommendations in general, including those recommendations that relate to the statute of limitations period.

The matters before the house are of an urgent nature. I therefore want to put on the record the government's appreciation of the opposition and the National Party allowing the debate to be brought on today. As the matters are of an urgent nature it is very important that they be addressed to provide a greater degree of certainty to insurers and medical defence organisations.

The government is prepared to consider other aspects of limitation of actions reform after further discussions over the coming months at the COAG and national committee of finance ministers level. It may well be the case that further legislation comes before Parliament. I reiterate the government's appreciation of the bill being allowed to be debated in an expedited manner. I wish the bill a speedy passage.

**The DEPUTY PRESIDENT** — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority, so I ask the Clerk to ring the bells.

**Bells rung.**

**Members having assembled in chamber:**

**The DEPUTY PRESIDENT** — Order! So that I may ascertain whether the required majority has been attained, I ask those members who are in favour of the question to stand where they are.

**Required number of members having risen:**

**Motion agreed to by absolute majority.**

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

*Third reading*

**Hon. M. R. THOMSON** (Minister for Small Business) — By leave, I move:

That this bill be now read a third time.

In so doing I thank honourable members for their contributions.

**The DEPUTY PRESIDENT** — Order! I am of the opinion that the third reading of the bill requires to be passed by an absolute majority. I again ask honourable members who are in favour of the question to stand in their places.

**Required number of members having risen:**

**Motion agreed to by absolute majority.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## TRANSPORT (HIGHWAY RULE) BILL

*Second reading*

**Debate resumed from earlier this day; motion of Hon. C. C. BROAD (Minister for Energy and Resources).**

**Hon. G. B. ASHMAN** (Koonung) — We are now debating a bill introduced to this house just over an hour ago in most unusual circumstances.

We have had three pieces of legislation introduced to this chamber today and be declared urgent by the government, with the government calling for their passage by this evening. This is happening notwithstanding that we are not on the last day of a sitting — we have 15 scheduled days to go — but we are here under some pressure to pass this legislation today.

The opposition accepts that this legislation, whilst it is relatively minor, is important. It facilitates the reintroduction of what has been generally known as the highway rule. The highway rule was changed by a High Court decision late last year in the case of *Brodie v. Singleton Shire Council*. That judgment found in broad terms that a council could be held responsible for its performance in relation to road repairs. Indeed, in this case it was found liable for its failure to repair a highway.

The legislation does have a retrospective element to it, and that element prevents anyone who does not currently have an action before the courts from implementing action against the state government or a local government body for any damages resulting from an agency's failure to keep a highway or road under good repair. It does not prevent an action that is currently listed with the courts continuing. It is important to make that point. It is not a particularly satisfactory outcome, because I think most people

would agree that this common law is outmoded and requires some new legislation to provide better redress for those who incur loss or damage as a result of negligence on the part of a highway authority. The way the law is at the moment highway authorities have not been subject to a private right of action for negligence to maintain or repair; they have only been negligent in the course of exercising their powers or performing their duties with reference to the maintenance and repair of highways.

A number of questions are raised when we look at this, and I would be appreciative if the minister in responding at the third-reading stage might offer a clearer definition of what is constituted as 'the road'. There was, as I understand it, a case back in the mid-1930s where the drain at the roadside was deemed to be part of the road. There is now some question as to whether a drain at the side of a road is part of the road construction — part of the roadway — or is a separate asset for the purposes of this act. That does need clarification. It is an issue that has not been clarified by the courts over the years, but it would be useful if we could get some indication as to what the government's long-term intention is in relation to drains and other constructions on or adjacent to the roadway.

The bill has a sunset clause. It sunsets on 1 January 2005. This is a provision that will provide sufficient time for Vicroads, for local government, for Melbourne City Link and for government agencies with road infrastructure to address the matters raised in relation to the Brodie case and to put in train management plans for these really quite valuable community assets.

As the opposition we would expect that the government will be back next year — it will probably be a Liberal-National Party government back next year — with legislation to address these problems.

In concluding, Mr Deputy President, it is interesting to note that this bill has enormous similarities to a bill that was introduced by the Honourable Peter Hall as a private member's bill not so many weeks ago. When that was introduced the government did not choose to proceed with it. I would have imagined with it having passed through this chamber that it might have been quite simple to have it proceed through the Assembly — and to just implement that piece of legislation. But the government has come back with a bill of its own, and as I flip through this bill and Mr Hall's bill I note a significant similarity in the wording. I do not know whether they used the same counsel to draft the legislation, but I suppose it is possible.

The Liberal Party is not opposing this legislation. It understands the need for it to go through and it is assisting the government with the rapid passage of the bill. But I conclude by noting as I did at the commencement of my contribution that this piece of legislation is being rushed through with 15 sitting days still scheduled for this sitting.

**Hon. E. J. POWELL** (North Eastern) — The National Party has much pleasure in supporting this bill because in effect it is the National Party's bill. The National Party fought for this legislation almost 12 months ago in this house. The government has now declared that it needs to be passed urgently so we can only conclude that this must be the last day of sitting.

This legislation temporarily reinstates the highway rule defence which was available to councils before the High Court ruling on 31 May 2001, at which time that defence was abolished during the *Brodie v. Singleton Shire Council* case. This has had a huge impact on councils right throughout Victoria, but more importantly, councils in country Victoria.

I was first made aware of this issue when I received a letter just after the High Court judgment on 16 July 2001. Since then many councils have spoken to me and to my National Party colleagues, expressing their concern about the impact of the abolition of this nonfeasance defence, which has been available to councils acting as road authorities for the past 100 years.

I would like to explain the nonfeasance defence. This immunity was established in England about 200 years ago. The reason for the establishment of this immunity was that local councils were encouraged to build roads within and between local villages. However, it was felt that they did not have the resources to adequately repair and maintain these roads. It was therefore considered inappropriate for a council, acting as a road authority, to be held liable for failure to repair or maintain those roads. Where a council acting as a road authority does not cause or contribute to the road problem that causes a liability claim for loss or injury that council should be immune from a law suit.

The nonfeasance defence has been abolished in the United Kingdom for about the last forty years. It is believed now that councils do have the resources to repair and maintain their roads and footpaths to the standard their communities require.

In Australia the situation is somewhat different. Because of its large geographic area and size and the smaller population it is believed there is still not enough

money to keep our roads, bridges and footpaths in perfect condition. Ratepayers do not want all their rates to be spent on roads, bridges and footpaths. In fact councils are expected to provide many human services such as Meals on Wheels, home help, aged care services, preschool services and library services. The abolition of this defence would mean that councils would have to spend more of their budgets on public liability premiums — if they can get public liability. Councils would have to provide more inspections and inspectors and they would be exposed to more insurance or negligence claims even if the accident is not their fault.

It is important to understand that the nonfeasance defence is only available to councils if the accident or the loss is not the council's fault. Councils do have a duty of care and many in the community would understand that if it were the council's fault of course the council should be liable. But if it is not the council's fault we all have our own duty of care to be responsible for our own actions. If the accident or loss is caused by the council's negligence or actions, the council should be liable to pay compensation. That is misfeasance which means wrongdoing.

The *Brodie v. Singleton Shire Council* High Court decision found four to three that the Singleton Shire Council had been negligent. Of the 7 High Court judges, 4 found the council negligent and 3 did not agree with that view.

On 19 August 1992, Mr Brodie drove his 22-tonne truck onto a 50-year-old bridge, which was designed to carry a load limit of 15 tonnes. The bridge collapsed, the truck fell into the creek and was damaged, and Mr Brodie was injured. It is interesting to note that earlier that day Mr Brodie, in his 22-tonne truck, had gone across a wooden bridge that was signed '15-tonne load limit'. Mr Brodie went across that bridge, which was appropriately signed to say it was a 15-tonne bridge. He then crossed the second bridge which was not signed, and that is where the accident happened. The fact that the second bridge was not signed seemed to give some weight to the argument that Mr Brodie had a case to answer. But I think some councils are concerned that even if they do the right thing and place load limit signs on bridges, it does not necessarily mean they will be exempt from liability.

The second bridge suffered from what is called piping. Dry rot or white ants rot out the centre of the timbers. All timber bridges in the shire were inspected about four times a year. However, they were only visually appraised and the inspectors should have hit the girders with hammers or driven spokes into them to detect any

problems. The problem with the second bridge was not detectable by the eye.

I have had a number of discussions with the Municipal Association of Victoria, which is the peak body for local government. It did some research on behalf of its member councils to see the impact of the abolition of their defence. I would like to congratulate the MAV on the work it did with its member councils.

I also spoke to the council's insurers, Civic Mutual Plus. Mr Graeme Lemmer, who is the scheme manager, spoke to me on Melbourne Cup Day last year. He interrupted his Cup Day activities to give me some information, and I appreciated that. It is interesting that it is almost 12 months since I spoke to Mr Lemmer and he made me aware of the issues that are facing councils, including increased insurance premiums. Fewer underwriters are prepared to write local government premiums and give appropriate cover to them. They did so before the abolition of the nonfeasance defence because they had that defence and it was felt that fewer claims would be made on councils because of that defence if they were not responsible.

The insurers also were concerned that a number of roads would have to be closed because they were not able to be maintained to the standard that perhaps the travelling community would expect. Worse still, a number of bridges would either have to have reduced load limits or would have to close. That has caused huge concern in rural areas, because in some cases people can only get across to the other side of a river by crossing those bridges. It would impede buses, milk tankers, grain trucks and all those trucks that might have higher load limits. A number of tankers and trucks would have to go further around a property to reach their destination, which would increase the cost of transport of grain, milk and so forth. There was some concern that the reintroduction of section 205(2)(c) of the Local Government Act may not give protection, given the interpretation that was given by the High Court.

On behalf of the National Party I moved a motion in this house on 7 November 2001. It said:

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

The Liberal Party supported the motion but the Labor Party opposed it, so I hope that today the Liberal Party will support the legislation; it is very similar to the National Party's motion.

After the motion was passed I sent a letter to the Premier urging him to bring in the legislation. I also wrote to the 47 rural councils asking them to write to the Premier to tell him how important it was that that defence be reintroduced, and I know that many of the councils did write. I received a letter of response from the Minister for Local Government on 15 January. It is quite telling and says in part:

Thank you for your letter dated 29 November 2001 regarding the High Court decision abolishing the principle of nonfeasance.

Following the handing down of the High Court's decision, a whole-of-government investigation of the decision and the implications, if any, for councils and other highway authorities was commenced. The investigation is being coordinated by executive and legal branch, Department of Infrastructure with staff from the local government division and key stakeholders participating to ensure that all concerns are addressed.

That letter proves that the minister was not aware that there were going to be any implications on councils. The minister must surely now understand that the implications are quite horrendous for local councils, but more importantly for their communities.

The National Party decided to draft legislation to reinstate the nonfeasance defence because it did not receive word back from the government that it was going to bring in legislation to reinstate the immunity for councils. The Honourable Peter Hall introduced that legislation into this house as a private member's bill on behalf of the National Party, and it is still item 14 on the notice paper — the Highway Authority Protection Bill. The bill and second-reading speech were circulated in this house on 9 October. There was no response or acknowledgment from the government about whether it would accept the bill. But it was interesting that on 11 October the minister second read the bill being debated today, which is almost identical to the National Party's bill. The difference between the government's bill and the National Party's bill is that this bill is retrospective.

The National Party does not normally support retrospective bills but it has been assured that no-one will be affected by this provision. It protects councils from claims from authorities such as the Transport Accident Commission or the Victorian Workcover Authority during the time that they were vulnerable when the nonfeasance defence was abolished. So the National Party supports that part of the bill being retrospective.

An amendment was passed in the Legislative Assembly to change the date in the sunset clause from 1 July 2004 to 1 January 2005. The National Party supports that

amendment because it means that councils will have time to comply with the conditions in the new bill. This is interim legislation while further legislation is drafted to protect councils. It is felt that just the reintroduction of the nonfeasance principle will not protect councils because of the interpretation at law.

I am pleased that the government has finally brought in legislation to protect local councils from damage claims if they are not responsible, and I wish the bill a speedy passage.

**Hon. D. G. HADDEN** (Ballarat) — I rise to speak in support of this very important Transport (Highway Rule) Bill. I will address a few matters. I should give a dissertation on the High Court decision in the cases of Brodie and Ghantous, but I will not. I have read those decisions very thoroughly and made my own study notes, as well as many of the other decisions that are summarised and referred to in the bill's explanatory memorandum.

The main purpose of the bill is to amend the Transport Act 1983 to provide a statutory immunity from civil liability in line with what is known as the common-law or highway immunity rule as enunciated in the High Court decisions of Brodie and Ghantous.

The statutory immunity in clause 4 was extended to come into operation until 1 January 2005 instead of 1 July 2004.

The reason is to enable all local and road authorities to use the extra time to ensure that they are able to prepare the necessary road standards, asset management road management plans in partnership with the Municipal Association of Victoria and the state government.

The transition period until 1 January 2005 will enable a working group to be established between the relevant bodies, such as the Municipal Association of Victoria, Vicroads and the state government, to oversee the transition to a new road management framework.

The new legislative framework, the proposed road management act, is to be released as an exposure draft in February next year, and the legislation is proposed to be introduced in the autumn sitting of next year's Parliament. As well, draft guidelines are proposed and will be released for consultation and for use by local government authorities to prepare their road asset management plans. This will be on the understanding that the former common-law highway rule, or the statutory immunity provided in the bill in proposed section 37A(1), will be removed with effect on and from 1 January 2005.

This is an important but short bill which restates the common-law highway rule which is clearly and succinctly set out in the bill's explanatory memorandum, which comprises some eight pages. It sets out the case law, court decisions, definitions and so on that have evolved under case law.

In relation to the aspect of retrospectivity, once it comes into operation on the day following royal assent, the bill will have retrospectivity in order to counter other retrospectivity to restore the status quo. This is because new section 37A(3) states that the restriction on the liability of highway authorities applies to any cause of action whenever it arose. The restriction on liability applies in respect of causes of action that arose prior to the act's commencement, as well as to those which will arise in the future. Although retrospective legislation is generally regarded as undesirable, the effect is to counteract the retrospectivity of the High Court's decision to abolish the highway rule in the joint decisions of *Brodie v. Singleton Shire Council* and *Ghantous v. Hawkesbury Shire Council*, of 31 May 2001.

By the re-establishment of a highway rule cases will be determined on the basis of the law as it was understood to exist at the time of the relevant incident. Although technically retrospective, the actual effect is to counteract a retrospective change in law. The change will not affect legal actions begun prior to the bill's second-reading speech in the other place on 10 October 2002.

The Scrutiny of Acts and Regulations Committee in its *Alert Digest* No. 9 of 2002 notes the retrospective operation of the amendments and notes the special circumstances that arose as a result of the High Court decision of Brodie as explained in the explanatory memorandum of the bill. The committee accepts the retrospective operation of the amendments as justified in these circumstances.

It is also to be noted that the New South Wales Parliament in its Public Bodies Review Committee report released in September of this year, also looked at the abolition of the nonfeasance immunity rule as a consequence of the High Court decisions in Brodie and Ghantous. Because road authorities want certainty as to costs and expenses in the maintenance of their local roads as well as the extent of their duty of care, that committee has recommended that a good road inspection and maintenance regime should be incorporated into the regulations proposed to be incorporated into the New South Wales Roads Act 1993. That New South Wales committee's report also

recommends new legislation to provide greater protection for road authorities from negligence actions.

That New South Wales committee said the road authorities want certainty because there is only a pool of money that has to meet the needs of the ratepayers of local government areas. The money of road authorities is limited and competes with other important resources within the rate pool.

A commonwealth government review of the immunity rule, chaired by Justice Ipp, who is on the New South Wales Court of Appeal, was set up to review the law of negligence. That was reported in September of this year. In particular, chapter 10 of that report looks at the High Court decision in Brodie and says that reinstatement of the highway immunity rule is not a viable option and would be too difficult to apply to justify in a principled way.

A section 85 statement contained in clause 3 of the bill proposes to insert a new section 37A into the Transport Act 1983, which deals with statutory immunity, and clause 5 of the bill proposes to insert a new section 255F into the Transport Act, which states that:

It is the intention of section 37A to alter or vary section 85 of the Constitution Act 1975.

The government's action plan in relation to looking at road management and immunity of local authorities and their ability to maintain and repair local roads was released in a discussion paper in July of this year called *Road Standards and the Legal Duties of Road Authorities*. That discussion paper resulted in a series of regional workshops around the state and some 87 submissions. Those submissions are available for perusal in the parliamentary library.

I noted that the Honourable Gerald Ashman queried, if I recall it correctly, the definition of 'road'. In particular, the definition section which begins on page 4 of the explanatory memorandum goes through the definitions and supporting case citations of 'highway'; it goes through the common-law doctrine and sets out the relevant legislation and case citations for those definitions. On page 6 it looks at the definition of 'artificial structures' and it refers, as I said, to case law, in particular Brodie's case and the South Australian case of *Webb v. The State of South Australia*, which is a High Court decision of 1982.

I am sure that if the Honourable Gerald Ashman were to read the very thorough explanatory memorandum in the bill it would answer his queries. I do not wish to read into the *Hansard* record what is stated in the explanatory memorandum, but the definitions are there

as well as specific references to page numbers and paragraphs in judgments.

As I said, this is a very important bill. The National Party's private members bill that was introduced in this house earlier this month certainly went too far. It wanted a highway immunity rule to continue forever, but the discussion paper and the reports of the New South Wales Parliament and the commonwealth have all indicated that that is not the way to go and that the issue of management of local roads by local authorities needs to be managed in a systematic way. I commend the bill to the house.

**Hon. N. B. LUCAS** (Eumemmerring) — The government is rushing to an election, and here we are with three bills before us today which the government wants to rush through. The Transport (Highway Rule) Bill is one of those three that the government is rushing through this house, having been through the other place earlier today. It is a disgrace, because we debated this very subject in this house on 7 November last year and it has taken the government 12 months to come back with a bill to solve the problem we discussed at that time. I have been reading the speech I made in that debate and I recommend it to honourable members because I am not going to have time today to tell the house what I think about this bill.

The government is rushing in with an interim measure to reinstate the highway rule, and it is a strange style of certainty that it is providing for local government in this bill. The second-reading speech says that local governments need to have their legal obligations made clear: it is a strange style of certainty and clarity that is being provided by the government today.

The other thing I want to say — and I hope the National Party does not hold me to this — is that the National Party did a good job bringing the government kicking and screaming to this Parliament with this bill. A word or two has been changed slightly and a word has been cut out here and there, but basically this is the legislation that the National Party proposed just a few weeks ago.

The day before the balloon goes up, just about, here we are in this house with this bill — one of three — being rushed through. This bill suggests that the government will do a study, form a committee and do something or other else to fix this all up, but it will not be in government. When the legislation comes forward next year to fix up this problem, it will be coming from a Liberal government which will give careful consideration, I am sure, to the issues involved in this area.

There are a whole lot of problems with the highway law. The highway law has been interpreted by courts for a long, long time. In one case a bridge was deemed to be part of the highway; in another case a bridge was deemed not to be part of the highway; and in another case a drain crossing a road was deemed not to be part of the road. The issue of who is responsible for injuries and accidents and other situations that arise on highways has built up over centuries, but now the government is saying, 'Well, we're not going to address this problem in any detail. We're going to bring the highway law back on a temporary basis'.

I would love to go into committee on this one and ask a number of questions of the minister about what is deemed to be part of a highway and what is not deemed to be part of a highway. I could also ask the minister if the road surface is part of the highway and the answer would be yes; the footpath, yes; the kerb and channel, yes. But then you get onto the difficult things like drains, signposts, no-standing signs and other items such as steps and handrails, rubbish bins and seats, and all sorts of things that have been introduced onto the highways between the boundaries of property as defined.

Whether or not these items are part of the infrastructure of the road becomes a very interesting question. Has the Labor government sorted this one out for us? No, it has not. We are not going to get any answers to this question, and we are certainly not going to get any answers from Ms Hadden — we never get any answers from her!

**Hon. D. G. Hadden** — Ask the High Court!

**Hon. N. B. LUCAS** — All she is interested in is parking her car, certainly, and the underground water aquifers.

This bill could have been more specific and we could have had better definitions, but we have not. We are going to go back to a situation where we will be subject to case law, and as all honourable members know, case law is something that courts interpret one way one day and another way the next. Local government will have this same uncertainty.

We have a new proposal for a code of practice and a new proposal for a set of standards which are meant to be reasonable and which are meant to be adhered to by local councils, by local authorities, by Vicroads and by all, but in the second-reading speech it says this:

... Courts have to consider whether ... 'the authority's conduct in relation to the risk in question was reasonable

given the other demands on the resources available to the authority'.

We will still have a situation in the future under a code of practice where there will still have to be an interpretation of whether the authority has been reasonable in its works, reasonable in the money provided for the roads, reasonable in the way it has carried out its inspections, et cetera, and we will still have this uncertainty.

A fine balance is being set up. The councils will face the dilemma that was referred to by Mrs Powell earlier where they will not know whether to close roads or close bridges because of the possibility of some sort of litigation, or whether to provide funds and fix them up.

We all know that councils, particularly those in rural areas, find it very hard to provide sufficient funds to make every road to the sort of standard they would like to, so we will still have this problem of councils not knowing which roads to keep open.

The funding for roads in the Shire of Cardinia is certainly something the council has followed very carefully, and it anticipates that it will take 100 years to get just the major roads sealed if the funding continues the way it is at the moment. So there is a dilemma for councils.

What local government needs is certainty. What local government needs is an idea that something specific will be used in determining whether or not they have any liability in relation to instances on roads which result in litigation. What local government needs is a government that can sort this out. Labor has procrastinated on this matter now for 12 months, and that is not good enough. The Labor government has replaced uncertainty with transitional uncertainty, and next year, if it were to be elected to government again — which it will not be — it would replace this transitional uncertainty with permanent uncertainty. To me, that is not what local government needs or desires, and that is not what a Parliament should place before local government.

I hope that this will all be sorted out. It has not been sorted out. This is a temporary measure by a government rushing to an election and trying to put something in place to hold back the tide. The tide is coming in on the people in government in more ways than one. The tide is coming around the corner, and I hope that when it comes it will wash them down the slippery slope they are looking at at the moment. Their time is just about up, and I hope that when the election comes along we will get some decent people over here

in the opposition while we are over there in government.

**The PRESIDENT** — Order! I am of the opinion that the passage of the legislation requires an absolute majority. As there is not an absolute majority present, I ask the Clerk to ring the bells.

**Bells rung.**

**Members having assembled in chamber:**

**The PRESIDENT** — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members supporting the motion to rise in their places.

**Required number of members having risen:**

**Motion agreed to by absolute majority.**

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

*Third reading*

**The PRESIDENT** — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members to rise in their places.

**Required number of members having risen:**

**Motion agreed to by absolute majority.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

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

*Introduction and first reading*

**Received from Assembly.**

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

**ESTATE AGENTS AND SALE OF LAND  
ACTS (AMENDMENT) BILL**

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Hon. M. R. THOMSON  
(Minister for Small Business).**

**RETAIL LEASES BILL**

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Hon. M. R. THOMSON  
(Minister for Small Business).**

**OUTWORKERS (IMPROVED  
PROTECTION) BILL**

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Hon. M. R. THOMSON  
(Minister for Small Business).**

**LOCAL GOVERNMENT (UPDATE) BILL**

*Assembly's amendments*

**Returned from Assembly with message relating to  
amendments.**

**Ordered to be considered next day.**

**PAPERS**

**Laid on table by Clerk:**

Environment Protection Authority — Report, 2001–02.

Victorian Managed Insurance Authority — Report, 2001–02.

Victorian Relief Committee — Report, 2001–02.

**Hon. D. McL. DAVIS** (East Yarra) — I seek leave to ask a question of the Leader of the Government regarding the annual reports that were tabled today. It concerns a number of reports that have not been tabled.

**Leave refused.**

**BUSINESS OF THE HOUSE**

**Adjournment**

**Hon. M. M. GOULD** (Minister for Education Services) — I move:

That the Council, at its rising, adjourn until Wednesday next.

**Hon. BILL FORWOOD** (Templestowe) — I know it is unusual to rise to speak on a motion such as this, but given the indications that are before the people of Victoria in relation to an imminent election I have just

been informed that the honourable member for Benalla in another place has just farewelled the Speaker. If that has occurred I might take the opportunity tonight to farewell some people who, should an early election be called, will not be with us again.

I realise that this is a trifle risky because the Premier is yet to decide whether he will call an election, but if you look at today's notice paper and note that we have the Gas Industry (Residual Provisions) (Amendment) Bill, the Limitation of Actions (Amendment) Bill and the Transport (Highway Rule) Bill, all of which by agreement with the government were read a second time and then debated today, one senses that the government is clearing the decks.

I thought I would take this opportunity to briefly mention the nine people who, should an election be called soon, will not be with us next week, and to say a few quiet words about each of them. Three of those members came into this place in 1996 and a further three — not the same three — are seeking to leave us to go to another place. I make the point that Mr President, who has announced that he will not be continuing, came the other way when he arrived in 1976, having served three years in the Assembly.

Ms Luckins unfortunately cannot be with us tonight as she is standing for the safe Liberal seat of Narre Warren North. The Whip and I decided that she could leave early so she will not hear the words that we say about her. Ms Luckins was the one person who joined us in the party room in 1992 when we thought she had won the seat of Dandenong North. Unfortunately she had to wait until 1996 before she entered this place as an honourable member for Waverley Province. We wish her the best in her move to the Assembly, and she will still be around the place.

Similarly Mrs Powell, who is seeking to move from this place to the seat of Shepparton.

**Hon. W. R. Baxter** — A safe National Party seat.

**Hon. BILL FORWOOD** — A safe National Party seat; thank you, Mr Baxter. She follows in the footsteps of Don Kilgour, who is retiring. The last I heard about the contest there was that the local mayor was intending to run, and there is a very good Liberal candidate. I understand that the Labor Party intends to field a candidate, and I heard there is also a Greens candidate. We wish you all the best, Mrs Powell, and thank you for your contribution. Some of us will remember forever your speech about your visits to houses of ill repute when you were doing research work. It was one of the funniest speeches ever given in this place.

Mr Ken Smith is the other member of this house who is leaving.

*Honourable members interjecting.*

**Hon. BILL FORWOOD** — I arrived in this place 10 years ago as a naive young lad out of the Northern Territory. I found myself sitting in the seat currently occupied by Mr Bob Smith, and on my left-hand side I had Mr Smith and on my right-hand side I had someone else who we are farewelling tonight — Mr Craige.

**Hon. G. R. Craige** — Not on your left, I feel.

**Hon. BILL FORWOOD** — You were on my right, as is in good keeping for a man from the Federated Clerks Union. I was taught a salutary lesson, and most of the things that I learnt in this place came from Mr Craige and Mr Smith, when they educated me. Haddon Storey sat in front of me and he was deaf by the time he left. It was not because of anything from me; it came more from Mr Smith.

We are delighted that you have decided to move to the Assembly, Mr Smith. It is welcome to you, and I am sure you will also be well heard there. You have served the Liberal Party very well as the Whip in this place for many years, and we thank you for your energy. You have always brought significant panache to this place, and we look forward to meeting you in the dining room at a later date.

The other member of the 96ers is Dr John Ross, who unfortunately is leaving us through different circumstances. The other people are choosing to leave — which not many people do in our line of work — either by retirement or moving to another place, but John is leaving because of ill health. Our thoughts go with you and we thank you very much for your very significant contribution, particularly during the drug debate. Many of us got to know you very well at that time. Thank you for your contribution, and as I said, we wish you all the best in the future.

**Honourable Members** — Hear, hear!

*Honourable members applauded.*

**Hon. BILL FORWOOD** — I need to touch briefly on two of the 88ers. Mr Craige made a significant contribution to the Parliament not just in this place but also as the former Minister for Roads and Ports.

**Hon. G. R. Craige** — Don't tell the yarns.

**Hon. BILL FORWOOD** — I will not tell any yarns except the best one, which was the day we were at the

opening of the traffic lights at Doncaster Road. As the minister, Mr Craige said, 'Don't turn the lights on; we're just here to announce they are there'.

**Hon. G. R. Craige** — No stunts.

**Hon. BILL FORWOOD** — 'No stunts' were his words, to which a bureaucrat talking to the TV cameras said, 'Oh no, we have to make them work', so they turned the lights on. A car came along and stopped and the car behind was looking at us and drove into the back of it. It was extraordinary to watch. Craige, good fishing, and we thank you for your contribution.

I should say to Mr Best, who is sort of a member of the National Party but well liked by some in the Liberal Party.

**An Honourable Member** — Name names.

**Hon. BILL FORWOOD** — Name names, all right — someone down in the Assembly likes you.

Ron, thank you for your contribution. We have had a lot of fun here together — and we have played a lot of golf together as well, also with Mr Chamberlain. One of the things about this place is that you can make a contribution in different ways. Our best wishes go to you in your retirement. We think we will see a lot more of you because you will not be in Bendigo quite as much. Thank you very much for your contribution. We wish you all the best.

I have been fortunate in getting to know Roger Hallam over the years. When Roger came in here in 1985 I had a bit to do with some of the finance stuff and got to know him very well. A number of people have thanked him for his contribution to the Public Accounts and Estimates Committee, but his work on the state's finances will stand it in good stead for a very long time. The reforms that you took on in so many difficult areas are a lasting contribution to Victoria. I know that you thought you might have gone a bit earlier than this, but we are grateful for the fact that you have stayed and for the contribution you have continued to make.

**Honourable Members** — Hear, hear!

*Honourable members applauded.*

**Hon. BILL FORWOOD** — Good hunting, Roger!

**Hon. R. M. Hallam** — Thank you.

**Hon. BILL FORWOOD** — It is difficult to know what to say about Mr Birrell. A roast is definitely in order, but I am not brave enough because he has the right of reply. That will come later. Mark contributed to

the Liberal Party as a young lad when he was president of the Young Liberal Movement at both state and federal levels before he was elected to Parliament. He arrived here at the age of 25 years and was secretary to the shadow cabinet within a year or two. He became the Leader of the Opposition in this house in 1988, and remained as Liberal Party leader until September last year. His is an extraordinary record, both in opposition and in government. In so many fields his contribution is unparalleled. You can pick bits like shop trading hours and the transference of industrial relations powers, and the parks work he did as well.

**An Honourable Member** — The City Circle tram.

**Hon. BILL FORWOOD** — Yes, and the work he did with major projects. There are a few buildings around town that he will be able to take his great-grandchildren to as an old man. Of course Mark is leaving us in time to have another career, because he is still younger than most of us in the room after having served in this place for 20 years. I should also say that after I became the leader Mark's support and insights were invaluable to me, and I thank him very much for that.

Mr President, 30 years, nearly, is a long time and we congratulate you on an outstanding career in this place. I suspect it is 10 years — either this week or last week — since you started serving as President of this chamber. Despite the fact that Mr Theophanous is not here tonight, I do wish to say — without, for once, having a motion of dissent moved on any of your rulings — that you have served the Parliament well, you have served this chamber well and you have been very even-handed in the way that you have administered it.

I know you are very pleased that finally today, by agreement between the parties, we did get the revised standing orders of this place through. That is another lasting legacy. I know that you are disappointed that we did not bring to fruition the Parliament House Reconstruction Authority — —

**The PRESIDENT** — That is for Mr Baxter.

**Hon. BILL FORWOOD** — For all your work in this place, we thank you very much.

There is one thing that the nine people we farewell tonight have in common, and that is a proud record of service to the people of Victoria. On behalf of us here, I say thank you to one and all.

**Honourable Members** — Hear, hear!

*Honourable members applauded.*

**Hon. P. R. HALL** (Gippsland) — I am also going to apply the precautionary principle here this evening and take a somewhat educated punt in wishing farewell to those honourable members who are knowingly leaving this chamber. Of course there probably will be others of us who unknowingly may leave the chamber as well, but at least tonight it would be remiss if there were not some formal recognition of the contribution that at least nine of our members have made to this Parliament.

On behalf of my National Party colleagues, I wish my very best to six members of the Liberal Party who will be retiring; and first of all to you, Mr President. We appreciate the great contribution that you have made to this Parliament and certainly I enjoyed the four years that I had as your Deputy President. I learnt a lot from you. We have all learnt a lot from your astute leadership from the Chair of this chamber. We wish you well in your retirement. All the other members received good wishes for a recreational pursuit. I am sure your golf will improve immensely upon your retirement. We wish you well.

The Honourable Mark Birrell is one of those from whom we have all learnt much, particularly during his time as both Leader of the Government and Leader of the Opposition. Mark was a very impressive performer in this Parliament, and we can all take lessons from and model ourselves on aspects of his contribution to the Parliament. We greatly appreciate that. We will miss you, Mark. We wish you the very best for your retirement.

The Honourable Geoff Craige entered this Parliament on the same day that I did. We have sparred on a few issues over that time. We have not always seen eye to eye, but we have kept up a very good comradeship and remained good friends. Beyond all of that, Geoff also served four years as a minister of the Crown, and did so with distinction. We wish you all the best in your retirement, Geoff.

The Honourable John Ross has not spent as long in this Parliament as some of the others, but I concur with the sentiments expressed by the Leader of the Opposition in congratulating him on the very earnest and valuable contribution he has made during his period here. We wish you all the best in your retirement.

The Honourable Maree Luckins and the Honourable Ken Smith are both intending to transfer to the lower house after the election. We have a great deal of hope and anticipation for their doing so. I expect we will see them both as colleagues, albeit in the green chamber

rather than the red chamber. We wish them well with their lower house ambitions and trust we will all be back here to see them next time around.

Fifty per cent of the National Party is changing over at the next election — three of the six of us. I know we will find replacements, although it will be very difficult because we have three people who are of a very high calibre and who are either changing houses, as in Jeanette's case, or retiring, as are Ron and Roger.

I thank the Honourable Jeanette Powell sincerely for her time serving in this place. She has added a different viewpoint from that of her National Party colleagues by offering the perspective of a woman. Sometimes that has caused great debates amongst our ranks, I can assure you, but it has been very good for us indeed. Jeanette, as the serving deputy for the last 12 months or more, has been the most reliable person I could ever have expected to have as my deputy. We will be welcoming Jeanette as the new honourable member for Shepparton in the other house after the next election, and I look forward to that continued relationship, albeit with her in the other house.

As for my good friends sitting behind me, I was interested when Bill Forwood made the comment earlier that when he sat beside the Honourable Haddon Storey he noticed that Haddon left this Parliament with a deal of deafness. I can tell the house that Jeanette and I have also suffered a level of hearing impairment at various times, too, with Roger Hallam and Ron Best sitting behind us!

**Hon. M. A. Birrell** — Industrial deafness.

**Hon. P. R. HALL** — Yes, industrial deafness. I particularly thank Ron Best, who entered this Parliament on the same day I did. We have been terrific mates over that period and have helped each other along the way. Bestie has certainly helped me and I hope I have helped him, also.

Ron has been secretary of the National Party for some time and has served in the role with distinction. As has been said already, Ron Best has some very good friends on both sides of the chamber — he is probably friendlier than some of us in the National Party — but, Bestie, it is a credit to you and you should feel proud of the 14 years service you have given to the Victorian Parliament. We thank you sincerely.

To my colleague the Honourable Roger Hallam: I can only speak in the highest terms of the contribution Roger has made to the people of Victoria in his 17 years or more as a member of this Parliament, with more than seven of those years as a minister of the

Crown. He has made a great contribution. I put the Honourable Roger Hallam in the same category as the Honourable Mark Birrell in terms of being a role model and somebody we can all learn from. They have different styles to some extent, but Roger makes a great contribution in the Parliament and is, indeed, a great entertainer as well. That is important and it certainly makes the contributions we hear in Parliament far more interesting for both us and the public.

Roger, we will miss you sincerely, but we thank you for the great contribution you have made to the National Party and to the Parliament of Victoria.

To all those nine members: my sincere best wishes for your retirement or your challenge in another place.

**Hon. R. A. BEST** (North Western) — Thank you very much, Mr President. I also thank the house for its indulgence tonight, because I do not think every retiring member of Parliament has the opportunity to bid farewell and to offer the thanks that are necessary, having pursued their political career and served their constituents within their electorate.

I was first elected in 1988, at the same time as the Honourable Peter Hall, as Peter has just mentioned. We entered this place with two rowdy blokes and one quiet bloke, because sitting between Geoff Craige and Ken Smith was Gerald Ashman! They used to sit up the back, and I will never forget the maiden speeches of Ken and Geoff. They were, if I could use the term, vitriolic — and that would not be overstating the term. But they left the government benches in no doubt about what they intended to do to them over the next period of time.

I do not think the way they have spoken in the house on various debates has changed all that much. I was particularly reminded of Ken's contribution and style yesterday in Benalla when he left no-one in any doubt about his position.

**Hon. P. R. Hall** — It's been the same speech for 14 years!

**Hon. R. A. BEST** — Yes! I came into this place without having had any experience with the political system nor through local government, so it has been something of a learning curve for me all the way through. I can particularly sympathise with some of the Labor members who have come into this place, particularly some of the ministers who have come into this place with very little parliamentary experience.

Parliament can be a very daunting place. Whilst I absolutely love the ambience, the interchange and the

way in which the chamber interacts across party lines, this house can be somewhat daunting. When I first came to this place we were faced with a fantastically talented Labor front bench — Evan Walker, David White, Caroline Hogg, Jim Kennan and Bill Landeryou — and a whole range of people who in their own styles and ways contributed enormously and richly to the way in which debate occurred in this chamber.

It occurred also for the Labor Party in 1992 with the wealth of talent assembled on the front benches of the Liberal Party and the National Party. One thing that the system and this house present is the opportunity for a rotation of members to stay on and to add their wealth of experience to that of those on the back bench or the junior members of their parties.

I would particularly like to thank the many people in this chamber I have been able to make friendships with. As I said, I was very raw in 1988 but have benefited through their good attitude and generosity with their time and their friendships, and their being prepared to listen, to encourage and engage — it has been absolutely fabulous.

I particularly thank my colleagues in the National Party, who have been terrific. Pound for pound I do not reckon we are a bad lot, because we have to handle every piece of legislation that comes through this house — and sometimes that is quite daunting, particularly when your colleagues in the lower house forget to give you any notes on debate or the position the party is taking.

**Hon. G. R. Craige** — That happens with you, too?

**Hon. R. A. BEST** — Yes. I know the respect in which Roger Hallam and Bill Baxter in particular are held, and how Peter, Barry and Jeanette are respected for the way they perform. They are not only colleagues, they are very good friends. The National Party is a very special party and I thank the members particularly, but I also thank the many friends I have made in the Liberal Party and those on the Labor Party benches.

**Hon. M. M. Gould** — Any in particular?

**Hon. R. A. BEST** — I will get to that in a minute, but thank you for the cue. During the committee stage of bills in this house, which I think is an important process in this place in particular, you learn to appreciate the philosophical beliefs of people, the way in which they present their arguments and the rigour of their debate. That is a great part of our political system.

This house has a special place in my heart because that seat over there was where I first asked my wife out. She happened to sit up the back there — —

**An honourable member** interjected.

**Hon. R. A. BEST** — Not from the gallery, thank heavens! She was passing through the gate there, and I think the rest is history. The one thing that I am always pleased about is that it took everybody in this place, bar a very, very select few, at least two and a half years to find out what was happening.

**An honourable member** interjected.

**Hon. R. A. BEST** — It was a skill, believe me, and a lot of friends have helped us along the way.

The decision to retire for me was difficult, but it is those personal circumstances that have changed in the last 18 months that have given me the opportunity to make the decision, and now I am pleased that if the events unfold the way we expect them to unfold they will bring closure to my parliamentary career.

I wish all honourable members who are leaving the best in the future. Being an MP is a fantastic job, but it is demanding. I respect every member of Parliament for the work ethic that is required to do their job because it puts enormous strains on personal relationships, on family — and you need their support, friendship and understanding to do your job properly.

I wish honourable members all the best and thank them enormously for the tolerance they have shown me in this place. I think the rigour with which I spoke on my passion for this place last week might have troubled a few friendships, but as is the case with true friendships I think people understood the passion I have.

Finally I congratulate you, Mr President, on your retirement, and thank you for your guidance over the years and your friendship on the golf course.

I thank the people in my local community of North Western Province, who have been terrific to me. I have had a wonderful relationship with my community.

The party membership, which we all need, and the party faithful, have been terrific. I thank my parliamentary colleagues. My electorate staffer, Noel Rankin, has been a wonderfully faithful person.

I particularly thank all the people who work here and assist us in doing our job: from the clerks at the table through to the attendants; the catering staff — Linda and John — and the ladies who serve on our National

Party table — Shirl the Girl, Blanka and Jackie; Curtis, who always ensures that at 25 minutes past 6 o'clock Mr Hallam and I have a very cold VB on the bar; and of course the chef, Malcolm. It is not an easy occupation. I wish you all the best in the future.

I hope this house continues to operate in a way that gives everybody the opportunity of being able to represent the people who elect them.

**Hon. E. J. POWELL** (North Eastern) — I take this opportunity to say a few words about my leaving this place. You stand here thinking that this could be the last time that you actually are speaking in this place and you do not come to that realisation until the minute that somebody tells you that it could be the last time.

As the only National Party member who came in in the class of 1996, I can say that it was a great year. I came in when we were in coalition. I was the only National Party member who came in that year with the Liberal Party. I think I must have blended in so well that members of the Liberal Party forgot that I was a National Party person. I remember one time having a chat with the Honourable Cameron Boardman when we were walking up the street going for dinner somewhere. He said, 'You know Jeanette, I used to think that you were a Nat'. And I had to tell him that I was.

On the issue of being the first woman in the National Party in the Victorian Parliament, that gives me a great deal of pleasure. To be the first at anything these days is a great honour. I thank my National Party colleagues very much. People often say to me, 'What's it like being the only woman in the National Party with all those men?'. I often say to people, 'I don't have any brothers, but if I did I think they would all be like my other 11 National Party men because they have been absolutely fantastic' — as are most of the other men in this chamber. I find that if women here do the right thing and earn respect then they gain that respect. I think that is what being a member of Parliament is about. It is not about gender, race or colour; it is about having the skills to present yourself for your electorate in the best possible place, which is this house.

When the honourable member for Shepparton, Don Kilgour, decided to retire I was given the opportunity to stand for the seat of Shepparton. I was quite happy standing for North Eastern Province, but when the opportunity came up to stand for the seat of Shepparton it was too good to miss out on. I live in Shepparton, and it is a great opportunity for me.

While I will be leaving this place I hope I will be the first female — if not one of more than one female —

representing the National Party in the other place. Can I say to the members of this chamber how much I have enjoyed the company of all of you. We have had some great camaraderie; we have all had each other's respect. I will miss this place. I will miss the clerks, who are always very helpful; the staff, who are also helpful; and members of the government and of the opposition. On a day like today we should look to our future and say that hopefully those people who are standing again will be returned. Hopefully we will see you all again — maybe next week, maybe not, or maybe later on.

*Honourable members applauded.*

**Hon. G. R. CRAIGE** (Central Highlands) — I would like to thank the house for giving me this opportunity. As Ron and others have said, you do not very often get the chance to thank so many people who have been instrumental in your life in this very special place. My colleagues, whether they be from the Labor, Liberal or National parties, will know what I mean when I say that being in politics can be exciting, it can be fun, it can also be challenging and it can be very informative; and that you are given opportunities that no-one else, unless they are a member of Parliament, is ever given. All I can say to all of you is: use those opportunities because they are very, very special.

I would like to thank you all for being very tolerant and understanding, because at times you have had to be. I know, I understand and I accept that.

I would also like to thank a few people. Firstly, I thank my colleagues in particular who came in with me in 1988. It is always difficult in these circumstances to name people because you then feel as though you have missed someone out, but there are people who have a special place in your heart. To the other two of the three of us who came in in 1988 I say: what a challenge walking into this place! Can you imagine it? It was a very staid organisation. In fact, Mark was even a member and part of that staid conservatism at that stage in 1988. There were no coloured ties; it was all pin-striped suits. And coloured socks — no such things! But we brought flair to this place in 1988, not only with our ties and socks but also with the level of debate that occurred!

To Gerald and Ken I say: thank you for your friendship, particularly during the period between 1988 and 1992 when we were in opposition. Those times were a lot different, and things do change. One thing about politics is that you always have to be prepared to change.

I would also like to place on record — and I know both Gerald and Ken would like me to say this — a special thanks to Rob Knowles, Haddon Storey and Mark Birrell. They gave us so much time. You all know that at times it is difficult getting a lot of time from your colleagues because they are very, very busy, but I would like to acknowledge on record the time they gave so freely to we three guys when we first came in. They never ever shirked at giving us that time and the benefit of their wisdom and advice, and it was very much appreciated.

I could tell some yarns. The reality is that there are many things that happen here with your colleagues that are not only exciting but also challenging and different. I have many filing cabinet drawers of speeches that were never delivered, as we all have, from times when we were asked to prepare something. One day Knowlesy asked me to quickly prepare something on shark quotas. Not knowing anything about sharks and not knowing anywhere to go, I decided — —

**Hon. J. M. McQuilten** — Hang on, you're in the Liberal Party!

**Hon. G. R. CRAIGE** — In the Liberal Party, yeah. I know that's unusual, John, but that was the challenge in itself!

Having to hurriedly find information about sharks, I then spent my 20 minutes talking about the mating habits of sharks. I learnt a lot, and so did other people.

I would like to also mention that you do strike up many friendships in this place, and one special friendship has been with Ken Smith. You all know that we have had a very close relationship since 1998. I did not know Ken. Ken was a plumber and I was a few other things as well. I place on record that I thank you, Ken, for all the time, patience and understanding. We handled a lot of things; we have had a lot of good times together. I will particularly miss people like you when I leave this place, because you are a very special person to me.

To Graeme Stoney, my colleague and our own man from Snowy River: I will always remember the special times that we have had together. It has been really fantastic. He has taught me so much about things I knew very little about. This may astound you, but I have learnt a lot more about the state in which we live and the fragile environment we live in as well. Graeme Stoney knows this country better than anyone I have ever met. I thank you for giving me the time and for giving me all that wisdom about how magnificent this state is and showing me some very special places. Thanks for all your support.

To my ministerial colleagues Roger Hallam and Mark Birrell: I want to thank you both for your time and the patience you showed a fair few new kids on the block coming into cabinet. We always looked up to and learnt from you. You had so much to give us, and you willingly did that. Roger, you should have been a Liberal, and we all know that in this place! But let me just say thank you for all your time.

To you, Mark Birrell: it is very difficult when you come into a place like this with very little knowledge. I think Bestie and I have something in common — that is, we came in here not knowing a lot about politics or the way it operated. But to see Mark Birrell was just fantastic. Mark, I have, and will always have, the greatest respect for you not only as a person but also as somebody who has made a most significant contribution to this place. People may not know it, but Mark and I have different views on some issues. But the great thing about this place is that you can have the argument and then get over it. I will never forget that a very old friend of mine in the trade union movement used to say that this was one of the great things about politics. I remember walking into the Trades Hall Council one day, and he showed me the bullet holes in the stairwell as we walked up and explained how that all happened. One of the things he said about this game is that you can have your stoush, settle the issue and then just get on with the job. I think that is the great thing about this place, and it is the great thing that Mark Birrell —

**Hon. Kaye Darveniza** interjected.

**Hon. G. R. CRAIGE** — I could go into the yarns, but I won't.

Mark, I have the greatest respect for you. I wish you so much for your future — I hope it is good for you — as I do with you, Roger, as well. To all my colleagues who are making choices, I wish you well.

To John Ross, I want to say I hope we are there and in with a chance with the mighty Carlton. With a bit of luck we will sort out the blues we have and get on with the job. I hope I can see you sitting in the grandstand next year, and we can be barracking with all the best that we can do to get them somewhere. Thanks for your friendship, John. I recognise the significant contribution you have made. We have had many a long chat about some of those things, and I thank you for that.

I would also like to thank my staff. Importantly, we are only as good as the staff at our electorate offices and the people we employ. No matter how good we think we are, let me say we are nothing without other people

around us. We might like to think we are, but at the end of the day if you do not have good people — people who are loyal, faithful and understanding — really it does not make a lot of sense because I do not believe that we as individuals have all those rights. I would like to name them because I would like to place it on record: Graeme Hamilton, Rosie Taylor, Cathy Jago, Lina Valeri and David Brownsworth, and my electorate officers, Pauline Bennett, Anne Buisink, Bernie Herlihy and Carmel Clancy. A special thankyou to Carmel and a special thankyou to Julieanne Crawley. I would like to say to Julieanne, thank you for the loyal, faithful service you have given me. I appreciate it. And to you, Carmel, thank you for all your service as well.

I thank the Parliament House staff here in the Legislative Council going back to 1988, the library, catering and also the Department of Parliamentary Services.

I would also like to thank the Liberal Party for giving me the opportunity to serve the party here. It has been a privilege. I place on record that we are so fortunate to have dedicated supporters and branch people who continue to support our party in the way they do, as I know people in the National Party and Labor Party have as well. Without them, we would be in a lot of trouble, and they are people we need to recognise for their tireless work.

To the people who worked with me in Vicroads, in the Victorian Taxi Directorate, in the Department of Infrastructure — and I could go and on with the different departments — I want to thank them so much for what they gave and how they gave it.

I think far too often today we do not give consideration to the people who work within government departments. They are the backbone of what happens in government, and I think they can make lot of difference, and sometimes they do make a lot of difference, but without them a lot of the work is not and cannot be done.

I make a special mention of Colin Jordan, who is now the chief executive of the Royal Automobile Club of Victoria. I will always treasure his professionalism, and importantly, the relationship and the friendship that we developed through his reign as chief executive of Vicroads.

To those people in industry — whether it be bus, heavy vehicles, taxis, City Link or local government — I thank all of you for the way you gave so willingly and freely to me to make my job so much easier during my period of 14 years in this place.

One of the things I will miss is you and your union mates — youse over there! I will never forget Bruce Chamberlain one day said to me, ‘Geoff, you are going to have to start to make sure you refer to people by names rather than ‘youse’. Bruce, thank you for your tolerance and all the wisdom and guidance you have given me over the years — and I did listen to it occasionally!

To all the people in my electorate, to all those who have supported me and to all of those in Central Highlands Province, I thank you.

Turning to my family, I might first just mention my two great companions, Karsha and Colonel, the dogs in our family whom I have spent many hours talking to on many issues and whose advice has been very sound!

I know all honourable members would say, if given the opportunity, exactly the same thing as I am going to say. This is not a job or a 9 to 5 situation; this is a profession, a vocation. It is all encompassing and takes in your family. It takes in your friends, too, but importantly your family. There is at times, especially in the media, a lack of understanding of how important families are to members of Parliament. It would be good if at some time in the future we could work hard at illustrating to the community and to the media that our families are special to us for many reasons.

One of the things our families give us is support. They support us absolutely. There is a strength of wisdom from our families. They are always very willing to tell us when we are wrong and willing to discuss the issues with us and tell us when we are right. When you have such a close family relationship, as I am sure all of us do, it is something special — whether it be my mother-in-law, Mollie, who lives in Bendigo, who has been a tireless supporter and always makes sure I know exactly what is going on in Bendigo at all times — —

**Hon. T. C. Theophanous** — You would be in trouble if you did not mention the mother-in-law!

**Hon. G. R. CRAIGE** — Absolutely! And may I say I have never missed an opportunity, and it has always got me on the front page of the *Bendigo Advertiser*. To my wife Annette — —

**Hon. R. F. Smith** — A saint!

**Hon. G. R. CRAIGE** — She is a saint. To her, thank you so much for everything you have given me. In our family we refer to Annette as the rock, and she has been a rock. During my time here so much of the burden of raising the family has been placed on her. I want to thank her for the time and the effort she has

given so willingly without ever asking for anything in return. That is very special to me. I am sure I will have more time to spend with you, Annette, when the election is called and over.

Annette and I have had many discussions on many issues. I will never forget the day we made a bit of a decision in the Liberal Party over an issue. When she heard about it her first words to me were, ‘Why didn’t you ring me? I would have given you different advice on what to do’. And I thought, ‘That is fairly true’. Quite often you go into those party room meetings without having fully researched or understood the issue. Honourable members all know what it is like; we have all been in there. We can get a lot of information from our families and certainly get help in understanding the issues.

To my children, Melanie, Rebecca and Luke — Melanie and Luke are here tonight, and Rebecca is working; if she could be here I am sure she would be — to you three guys, you have been an inspiration to me. You have been so many things to me as an individual. You have changed my mind on things. We have had discussions on all sorts of issues, and those issues have been resolved. Melanie, Rebecca and Luke, thank you for all the support and the unconditional love. We will need to talk in the future about those years between 1988 and 1999 when I was not at home. Those 10 years were very hectic and we missed a lot so we have to make up for all that time. I want to say to you three, ‘I love you so much and thank you for everything that you have given to me’. I wish you all well in your future lives, whatever they bring you.

In conclusion I thank you all, each and every one of you. To my colleagues from all political persuasions, I have enjoyed being here and it has been a privilege for me to have served the people of this state. I will miss you all and thank you very much.

*Honourable members applauded.*

**Hon. J. W. G. ROSS** (Higinbotham) — I thank you, Mr President, and I thank the house for the opportunity to make some brief remarks on what is almost certainly my final speech in this 54th Parliament.

It was always my intention to seek re-election, but the diagnosis of a probably unforgiving form of leukaemia has made that impossible. My presence in this place has been one of the great privileges of my life. Throughout my illness my earnest wish has been to honour the contract that I made with the electors of Higinbotham and to deliver them the right to select my successor at a general election. I genuinely feared the impact that a

by-election might have had on my constituents at the very time the upper house was under the careful scrutiny of a constitutional commission.

To that end I must thank you, Mr President, my Liberal colleagues, members of the National Party and not least the government for the consideration that I have been given this year. To whatever degree I have been able to sustain some semblance of health, I thank my medical advisers, but no less is the encouragement, forbearance and support I have enjoyed from every member in this Parliament.

I would also like to make particular mention of the staff and professional officers throughout this Parliament and within my electorate office.

I would like to acknowledge the Victorian division of the Liberal Party and the loyal branch members for their support during my time as the member for Higinbotham Province. However, the person to whom I owe most is my electorate council chairman, Mr Norman Loader.

My wife, Faye, is the foundation upon which my parliamentary career was built. She accompanied me to nearly every branch meeting, party and civic function — simply to be with me. Her usual comment was if she did not go to those meetings she would never see me. Politics is not her vocation: she did it for me and I thank her. My children, Simon, Christopher, Lynda and Lisa have supported me in almost every way imaginable. Whether it was my sons upping the ante at a fundraising event, Lynda with statistical and computing support or Lisa working at my electorate office, I thank them and their spouses.

My grandchildren, Dylan, Stephanie, Brent and Blake, have inspired me to try to make at least some contribution to a better future for all Victorians. This evening probably marks not only the closing chapter of my parliamentary service but also of my academic and working life. I have cherished every moment of it.

*Honourable members applauded.*

**Hon. R. M. HALLAM** (Western) — I too recognise this to be a really quite special occasion and opportunity for me, and I thank the house for the courtesy. Over my years I have seen a number of members of this place have their membership terminated both unwillingly and unwittingly and have retirement come upon them as a rude shock. I recognise that some of us might be quite sheepish if Premier Bracks does not make that anticipated call to Governor Landy early next week.

I regard my time here as an exciting journey. It has been a special thrill and honour to have been entrusted with the responsibility of representing the people of south-west Victoria.

As I hope you remember, Mr President, I came here in 1985 with absolutely no pretensions. I arrived as an accountant from the bush. At one stage in my career I became the finance minister and got to be in charge of the rule book in respect of public sector accounting and reporting. It was like a dream come true. I ran as hard as I could and I hope there is still a bit of my thumbprint there for others to see. I also look back on many other challenges in local government, regional development, workers compensation and gaming; there have been some pretty exciting times.

However, beyond that, politics is about people. I have enjoyed meeting so many people whom I would not have had the chance to meet in any other circumstance. Like others have said before me, I have enjoyed the chance to make friends right across the political spectrum. Beyond that I have enjoyed more than anything else the chance to help those who turn up, as they do, every day at our electorate offices. I know I speak for every member of this chamber when I acknowledge that there is no better reward than to be able to say, 'I think I might just have helped'. I reckon that makes this a very special place to work and a very special opportunity.

As each of you I am absolutely reliant on the support base I have at home. Marlene has not just been my best supporter but has shouldered the bulk of the work in raising our six boys. I say again, she is simply the wind beneath my wings. She is not too sure about this retirement bit. The prospect of having me home full time is a bit daunting. However, we are not planning our retirement — we are looking at the next exciting chapter of our lives. There is so much we want to do and we have our first grandchild to spoil.

Of course, as has been suggested today, we shall all miss this place with its bizarre mixture of confrontation and cooperation, the turn from reverence one minute to ribaldry the next. But it works and it works because while we may differ in opinion — and passionately so at times — we come together with a common objective of serving our community to the best of our ability. I want to particularly mention the parliamentary committees where I have seen disarming non-partisanship. I reckon they are the best example of our Parliament at work and I thoroughly enjoyed the chance to serve in that committee structure over the years.

I shall particularly miss my National Party colleagues. We would love to have more members but the trade-off for that is that we are not much bigger than the average family. I will miss the mateship that that allows us in the party room and at the dinner table.

I extend good luck to each member of this chamber. Like every good accountant, I want to put a disclaimer at the foot of the bill: you will forgive me for differentiating just slightly on the dimension of good luck I extend at an individual level. I thank the Honourables Bill Forwood, Peter Hall and Geoff Craige for their very kind words and I extend my very best wishes to every member of the chamber. I particularly mention those who are leaving us and I particularly want to include every single staff member who has supported me so very well over my career.

*Honourable members applauded.*

**Hon. K. M. SMITH** (South Eastern) — It is funny, it has sort of caught up with me a bit today that this is the last day I will be here. I was doing pretty well until the Honourable John Ross got on his feet — that knocked me a bit.

Let me start from here. To the members of the Guilty Party on the other side I say — come next week when suddenly it is decided there will be an election we are going to take you on. We are going to take you on in the trenches, we will take you on in the roads and we are going to defeat you and you will be on this side. Members opposite will be on this side of the chamber and I am going to be down in the other house with the commoners. I know we are all going to have a really good time. We are going to enjoy getting back into government and fixing up all the things Labor has done wrong. Never ever think I have gone away — I will be here! I will be outside the back door waiting and watching what you lot are up to.

I have had the great privilege and honour of being in the Legislative Council for 14 years and 1 month. I have served with some terrific people, particularly the two leaders, the Honourable Mark Birrell for 10 or 11 years, which has been fantastic, and the Honourable Bill Forwood. When Bill became leader we were not too sure how he would go, but I reckon he has done a good job. Bill has been prepared to make some changes to the operation of this house and to the standing orders. We are a little different. Then again, when the Honourable Geoff Craige, the Honourable Gerald Ashman and I came into this place in 1988 we were a little different also because we were prepared to push the envelope further because we thought it was worth while.

I would like to think that all honourable members have probably benefited from what we did in 1988. We have loosened things up a bit in this house and we are able to enjoy ourselves a little more. I think we have all made good friends in this place, even some of you lot on the other side, and your union mates!

I have also served under two Presidents: you, Mr President, and my colleague from South Eastern Province, the Honourable Alan Hunt, for whom I have always had a lot of respect. I know a couple of my colleagues in this place and I have expressed thoughts on Alan, but he always gave me good advice, and that is probably why I am here — to apologise to you for all the things I have done over the years. Alan gave me lots of good advice, as did you, Mr President, which I have very much appreciated.

None of us appreciate the fact that the Labor Party has taken away the chance for you, Mr President, to have another President's dinner, which we all enjoy, but then again it is probably not too late. There is always tonight, I suppose!

Many colleagues have come and gone over time: some have lasted a long period and others have served for a short period, but each has been a parliamentary colleague. No matter what side of the house they come from, there is something about members of Parliament. We can have great relationships even though we are from different tribes. We have good relationships and understand that we come to this place to try to represent our constituents, to provide a better life for our communities and therefore to improve the lives of Victorians, which is important.

I have always hung a little bit on the clerks, but they are the ones who are here. The clerks' rule is that politicians come and go but the clerks are here forever. We know that is true, and we know why — because they look after us and ensure that both sides of the house have the right information on which to make judgments or tough decisions. No matter whether we are in government or in opposition we always seek the advice of the clerks, who always treat matters confidentially.

The Hansard staff are amazing people, because some of my speeches are so much better when I read them than they were when I actually made them.

**Hon. I. J. Cover** — What about yesterday?

**Hon. K. M. SMITH** — I have not read it, but I think yesterday's speech may be a classic!

I say thank you to the clerks, Wayne and Matthew, for what they have done, and I thank Ray Wright for what he has done.

Bruce Davidson is retiring from the library, as we have all been made aware, which is a little bit sad. He has given great professional service to all of us here in the Parliament. I think the turning point was when I exposed Bruce putting cheap chocolates in the room where members sit and do their photocopying. He was only putting out black and gold chocolates when they should have been decent scorched almonds!

*Honourable members interjecting.*

**Hon. K. M. SMITH** — Well, we are members of Parliament and we deserve something decent, don't we? So Bruce decided it was time to go, and I can only wish him the very best because he is an extremely professional person.

To people who served on parliamentary committees with me, I enjoyed my time there. To those who have joined me when we have been overseas — and I know that what goes on overseas stays overseas, so we will just keep all of those things to ourselves — they have been great times, because as members of Parliament we have been able to go to other parts of the world and learn a bit about the culture in other countries and to experience life outside Australia. Sometimes you have got to get out of the forest to see the trees. Members of the Drugs and Crime Prevention Committee learnt so much when they were overseas, and in fact they came back and wrote a very good report. It was just unfortunate that the government did not pick it up at the time.

I have had a good time. Craigie, you have been a great mate. Gerald, you have been a great mate too. To all of my colleagues here, thank you. It has been really good to serve with you.

I look forward to being in the other house, although I am not looking forward to the hours they sit over there. There will be a lot of new faces on the other side. There will be a lot more of the Guilty Party on the other side. We will fix them up, I can tell you. They will be on this side and we will be over there. I will be having a good time, and I only hope you can hear me over here!

**Hon. M. A. BIRRELL** (East Yarra) — I thank the house and the Leader of the Government in particular for the indulgence of being able to make a speech on this occasion.

It has been an honour to serve as a member for East Yarra Province. I particularly want to pay tribute to the

other retiring members and on behalf of everyone to say in particular to John Ross how much we feel for him, and how much we know that he will forever be remembered for his authority and the respect which we all have for his thoughts and policy ideas.

I entered this place at the age of 25 and spent the majority of the last 20 years as the leader in some capacity in this place or on the front bench. I have certainly been proud to serve here in the Victorian Parliament. All of us enjoy coming to work, which is the best test of anything, but we have a higher duty and we enjoy being able to contribute.

It has been an enormous privilege to work with a number of people in this chamber from both sides of politics. I think of working with truly great ministers like Rob Knowles, Haddon Storey, Joan Kirner and Caroline Hogg. You do not get better than those four. It was my privilege and good fortune to meet them here and to regard them as friends. Even though there is a political difference with two of them, there is always a sense of kindness and generosity of spirit which indicates that you can make strong friends across political boundaries and you can enjoy that relationship despite distinct political differences.

I also learnt a great deal here, because this is a place of extraordinarily robust debate. For good or bad, I will never forget the debates I have had or witnessed with people like David White, Jim Kennan, Bill Landeryou and a number of others. Those were heady times with the most aggressive of debaters and the parliamentary rules being used to their maximum flexibility, but in the end I think the state is probably better as a result of those debates rather than not.

David White was, in fact, the Labor leader here for much of the early time when I was the Liberal leader, and I found him a formidable opponent, but never so much that the cross-party camaraderie was compromised. There is a friendship and goodwill that the public does not understand between people who work in politics for some time and an admiration for people who share some challenges. I have enjoyed working in a political environment where you can have an on-the-record and an off-the-record relationship with people who are sometimes your opponents. That can take people a time to understand, and sometimes you do not even say it, but I put on the record here my admiration for the way that ministers who came in after the 1999 election had to deal with quite formidable obstacles in a foreign environment. I quietly watched and saw them learning and growing, and I did it from a perspective where there was no political advantage in my putting it on the record and therefore I have delayed

doing so, but as a former minister I know just what they were going through.

To me, public life is very important. I had the opportunity a few days ago at a function in Queen's Hall to talk about public life, and I will not belabour it, but I believe it is a noble pursuit. Even in these cynical and often insecure times you should come into this place because you are idealistic or at least because you are optimistic. There is a chance to do some good. Unfortunately my observation is that while members of Parliament are well motivated and keen there is an overall public view of politics which is driven by superficiality, triviality, sarcasm and a belief that everything in life is short term.

I believe that the level of cynicism is now much higher than when I came into this place, and the requirement to achieve everything within the 24-hour window of the electronic media has brought us down to the lowest common denominator. It used to be an aspiration of backbenchers — as I was in 1983 — to get an article on a policy issue onto the state political pages of the *Age*, the *Sun* or the *Herald*, or if you were really trying, to get a feature piece or even just a vignette of an issue in one of those newspapers or on the television. It was possible then, but those days are gone. There are no state pages as a matter of course in our newspapers, and television is dominated by the political news out of Canberra. The moment has passed, and we have to try to drag back a sense of regionality in politics because that makes it far more relevant. In particular, the focus on all issues being resolved in Canberra is wrong, but it is one that is all pervading.

I am also concerned about the relative worth that ordinary citizens — perhaps uninformed, but nevertheless inevitably — place on public life. Relative worth can be measured in many ways, not all of them financial, but it strikes me as curious that today premiers and prime ministers are paid less than newsreaders; that the people who make the news are paid less than the people who read the news; that ministers are paid less than the public servants who advise them; and that members of Parliament are paid less than Australian Football League footballers. We are not alone; others are in the same boat. You can earn more money running a fast-food outlet than you can working as a teacher in a state school; judges find themselves being paid less than the barristers who constantly appear before them; and the carers, the nurses and the community service teams in our community are grossly undervalued. Worst of all is that the worth of the volunteers, who are not paid at all, is devalued by being formally ignored in the national

balance sheets and the accounts and official statistics of the nation.

These are relativities that have worsened demonstrably in the period of time I have been in Parliament, and they should be a worry because we risk our great institutions — the parliaments, the schools, the courts and more — being run down in direct proportion to the rise in cynicism and short-termism that now pervades public debate. That does not help the institutions, and it does not help the very people who are cynical. We can try to address it as much as we can through substantive achievement, practical initiatives and relevant local action plans, but in particular we need to deal with the fact that the media has driven a 24-hour and often fashion-driven analysis of politics that cuts at the core of what we stand for, regardless of our politics.

There are a number of motives for political involvement. Mine were to be involved in policy development, and then through that, project implementation. I found that being a member for East Yarra Province was a rare privilege. It gave me a huge freedom to move, and it gave me a great deal of capacity to focus on personal issues of interest in terms of the future. I was able to pursue my interest in areas like infrastructure for our capital city, environmental projects for the state and enlargements of things like innovation programs.

To have had the chance in August of 1991 to outline publicly a plan for revitalising Melbourne was a seminal moment in my life. This was an action taken in opposition, not in government, and it was an action that could only be afforded to an elected representative. It makes you feel almost light headed that you can have such an influence on civic discourse and civic outcomes, but that is the privilege of being elected. We have to get the cynics to understand the rewards, the importance, the significance and the measure of what elected representatives can do to improve their environment, and then perhaps they will drop some of that cynicism.

Being able to make that speech in 1991 allowed me to then implement a policy after 1992 for a range of projects like the exhibition centre, the museum, the Regent Theatre and others. For me, therefore, it was an opportunity of a lifetime as someone who could enter young and then see my dreams come true. That should motivate anyone who wants to get into Parliament.

Of course, it is a team effort and nothing but that. In particular, I want to place on the record my admiration for the career public servants who advised me, guided me and safeguarded me in a highly professional

manner. Those career public servants are the best administrators I have seen — better than anything in the private sector — and they deserve great respect.

To the specialists that we brought in, to my parliamentary colleagues who tolerated my being obsessed with some projects, it gave me a sense of opportunity and also provided the checks and balances. Also, of course, I thank my personal staff: Yvonne Thompson, my longest serving staff member, has worked with me for 19½ years — you do not get more dedication than that; Cathy Buchanan has worked with me for 10 years, ostensibly as my driver, but she is the best self-trained information technology expert I have ever met.

At this time of reflection one inevitably also recalls what has happened in the Parliament. I of course want to recall the better times. Legislation is important, particularly pieces you bring in, but perhaps the most important piece of legislation I worked on was a Labor Party initiative, not my own. That was in the 1980s when there was an early bipartisan opportunity to bring in what was, at its time, the world's best health prevention initiative. The Tobacco Bill 1987 was a marvellous opportunity to work together in an extremely difficult and controversial environment to pass legislation that set the pace on reducing the most preventable cause of death in our community. I thoroughly enjoyed that time, even though it was character building and very risky. I was able to use my position in this house in a way that I think was beneficial, and I was pleased to be able to support what the Labor Party brought in at the time. There are other examples of that sort, like the legislation involving alpine parks and the National Parks (Amendment) Bill.

In the 1990s I drew particular satisfaction from being able to introduce legislation like the shop trading reforms, but also perhaps less publicised ones like the state's first coastal legislation. I would hope for those people who want to enter Parliament to introduce legislation of that bent that they can see that there are so many opportunities. They do have to get through a few tests — preselection, winning their seat and so on — but it is worth it, and it is a noble pursuit.

I have had the time of my life here, and I have grown up in this place. I entered here at the age of 25 when I was single. Since that time I have married, the best decision I ever made, and there are our greatest loves, Emma and Molly. That is what you look forward to, and for me, I am looking forward to the time with them and the time to have another stage in a career. Thank you very much.

*Honourable members applauded.*

**The PRESIDENT** — I thank the government leader and members of the house for the opportunity to join in this farewell to many friends across all party lines. As the Leader of the Opposition said, last week I clicked over my 10th year as President of this chamber. I belong to an endangered species — that is, a Liberal presiding officer in an Australian state legislature, and you are looking at him; I am the only one left. This position obviously has provided me with great opportunity and great personal satisfaction.

I have worked with three speakers of the Legislative Assembly during that time — the Honourable John Delzoppo, the Honourable Jim Plowman and the Honourable Alex Andrianopoulos — and have developed great respect and affection for those three men and for their commitment to the Victorian Parliament. I pay particular tribute to Speaker Alex Andrianopoulos, who is also leaving the Parliament at this election. I respected Alex before he became Speaker, and my respect for him has grown.

Although we came to office as members of our respective parties there has never been an occasion on which we have disagreed on political grounds. Perhaps there is an exception in a certain letter he wrote in relation to a parliamentary committee, but I will skip by that one. I might add that we both have some significantly juicy stories about the members of each other's party, but we are sworn to secrecy and will never reveal those. I wish Alex and Virginia well in their life after Parliament.

I thank the Speaker's orderly, Kate Murray, who has been of tremendous personal assistance as the intermediary between the houses, and his personal assistant, Lilian Topic. I pay tribute also to the Clerk of the Parliaments, Ray Purdey.

The position I am in — I am the longest serving presiding officer in all of the parliaments of Australasia and the South Pacific — has led me to some opportunities which I perhaps could not have dreamed of. One has been to be involved in some international work with the National Democratic Institute for International Affairs, which works out of Washington. That has provided me with the opportunity, for instance, to travel to Bangladesh on a couple of occasions and to provide workshops for members of all political parties and to members of the community throughout the countryside in Bangladesh. I was there in early September last year and I was due to go back at the end of September and head up an international commission overseeing the election. The other person

to lead that delegation was to be one Jimmy Carter, and I was looking forward to working with a former President of the United States. However, the events of 11 September and the advice of the Secret Service changed that opportunity, but I am hoping that in my afterlife, as I refer to it, that is work I might continue to do.

My role as a presiding officer has given me the opportunity to speak at various conferences, like recently at the National Conference of State Legislatures in the United States where I was invited to give an Australian perspective on United States trade policies, and I was fairly unkind to the US during the course of that dissertation.

The Clerk and I have had the opportunity to visit five legislatures and to look at the practices of those legislatures. We will shortly be providing to the Parliament a detailed report of our findings with a significant number of recommendations in relation to best practice.

There is a very large diplomatic role as a presiding officer. We are constantly receiving visits from diplomats and foreign delegations, and that is one of the aspects of this job that I am going to really miss.

We have a very strong relationship with Jiangsu Province in China, which goes back to an agreement signed in 1980 by former Premier the Honourable Dick Hamer, and also a strong sister-state relationship with Aichi Prefecture, an agreement signed at about the same time. Recently, with the Speaker, I led a delegation from all the parties to Aichi and was able to utilise one of the hobbies that I have developed in recent years, with the assistance of people like the Honourable Phil Honeywood in another place, to deliver speeches in Japanese to the Governor, to the chairman of the Prefectural Assembly and others, and to have them congratulate me on my very good Japanese. Thank you to Phil and others for that opportunity.

During my time as President there have been two government leaders: the Honourable Mark Birrell from October 1992 to October 1999; and the Honourable Monica Gould from 20 October 1999 to the present time. The Leaders of the Opposition during that time were the Honourable David White from October 1992 to December 1993; the Honourable Theo Theophanous, December 1993 to February 1999; and the Honourable Monica Gould from February 1999 to September of that year; the Honourable Mark Birrell from October 1999 to 2001 and the Honourable Bill Forwood since September 2001.

I would like to make some comment about the officers of the Parliament and the fact that we are fortunate to be served by officers who provide us with professional apolitical advice. They are respected among their peers in other parliaments, and that was one of the matters that came home to me strongly when we visited the legislature of California, which has a population of 32 million. We were shown the greatest courtesy in the day we spent through all the departments of that legislature.

I record those I have been most closely associated with: Allan Bray, who was here as our Clerk until 1999, and Wayne Tunnecliffe since Mr Bray's retirement. Wayne Tunnecliffe is currently president of the Clerks at Table for the whole of Australasia. Returning to Mr Bray, after his retirement, he assisted us to prepare the standing orders reform which was approved by the house today.

During my time the Ushers of the Black Rod were Matthew Tricarico, now the Deputy Clerk; Dr Ray Wright; and we have been joined by Dr Stephen Redenbach. We are extraordinarily well serviced by the professionalism of these people supported by the other members of the Legislative Council staff, and we saw them all working tirelessly to ensure that we had a most successful sitting in Benalla yesterday.

I have had the chance to work closely for the past 10 years with Bruce Davidson, the parliamentary librarian, as I am the president of the Library Committee. He and Gail Dunston, his deputy, have provided professional service of the highest order to members and I wish Bruce well in his future life.

In Hansard I have worked with Eric Woodward, who retired in August 1997; and Carolyn Williams, who for the past five years since that time has had the important position of Editor of Debates. I thank them and their staff for their very professional support.

I pay tribute to Paul Gallagher and the garden unit; to Brian Bourke and the engineering group; and to Steven Aird and Graeme Spurr, the director of corporate services and the director of infrastructure services respectively.

In the dining room we have John Isherwood and chef Malcolm Sellar, who set great standards. The recent Italian week brought out the best in them — as Matthew Tricarico can testify, being an expert on all Italian food.

I thank all other staff at Parliament — I thank them for their courtesy.

On a personal note I pay tribute to Yolande Henderson, who has been my personal assistant for the past 10 years; and to Geoff Barnett who, as I have said before, is not only the orderly to the President but does untiring work for all members of the house.

**Honourable Members** — Hear, hear!

**The PRESIDENT** — Prior to Geoff, my orderly was Wayne McKenzie, who was here for some four years during my time.

I would also like to pay tribute to my driver, Mark Culleton, and to my former driver, Andrew Cannard. I have to say, of all the things I am going to miss from this place it is the car and the driver I will miss the most.

I pay tribute to the Deputy President, the Honourable Barry Bishop, for his professional and personal support.

**Honourable Members** — Hear, hear!

**The PRESIDENT** — I also pay tribute to his predecessors in my time, David Evans and Peter Hall.

On the personal front, I would like to thank my secretaries in Hamilton, Jenny Menzel and Anne Milne, for their great assistance; and my first secretary, Marie Robinson, who worked for me for 20 years. She beat Mr Birrell's secretary Yvonne by six months, by the sound of it. I also thank my electorate chairman, George Armstrong and my former electorate officer, Kaye Scholfield.

I pay particular tribute to a couple of the members of this house — and that is very difficult. I pay tribute to the Honourable Mark Birrell and the Honourable Roger Hallam for their contributions to this house and to the state of Victoria. On Monday night a gathering in Queen's Hall paid tribute to Mark's work. He and Roger have every right to feel proud of their record of public office in this state, and I wish them both well in their future careers.

I also pay tribute to my colleague Mr Baxter, who joined the Legislative Assembly on the same day I did, a long time ago in 1973. I join others in paying tribute to Dr John Ross. In his short time here he has impressed us with his decency and knowledge, and many of his contributions during that time will be referred to in future.

Honourable members, it has been my singular honour to have been your President of this house for the past 10 years. I could only have done so with the unwavering support of my wife Paula and my four

children, Jenny, Matthew, Peter and Louise. The four children grew up in this Parliament, and I am always pleased when I see other honourable members with children or grandchildren running around this place — it brings back great memories. My grandchildren, Timothy and Kate, have had a couple of runs around already. Thank you very much.

*Honourable members applauded.*

## ADJOURNMENT

**Hon. M. M. GOULD** (Minister for Youth Affairs) — I move:

That the house do now adjourn.

### **Whitehorse Road—Cochrane Street—Cook Road, Mitcham: safety**

**Hon. G. B. ASHMAN** (Koonung) — This may or may not be the last day of sitting, and the business of the Parliament needs to continue. I wish to address a matter to the Leader of the Government for reference to the Minister for Transport. It relates to black spot funding for an intersection in Mitcham at the corner of Whitehorse Road, Cochrane Street and Cook Road.

I understand that this was initially on the list of black spot funding but that it has for some inexplicable reason been dropped from the list of works which has now been approved. I seek some form of explanation as to where the money that was to go to this project has been allocated and as to whether we can get a date for when this intersection will receive traffic signals.

### **Snowy River: rehabilitation plan**

**Hon. PHILIP DAVIS** (Gippsland) — What would a day in the Legislative Council be without reference to the Snowy River? We have not had one today, so I must proceed.

On 17 March 2000 the Minister for Energy and Resources — who I note is not present this evening, but I am sure the Minister for Education Services, who is at the table, will pass on this matter to her — announced on behalf of the Bracks government the Snowy River rehabilitation plan and the initial provision of \$464 000 followed by a further \$1.3 million. She also announced on that day an advisory panel which would be set up to oversee the two-year pilot program and to report back to the government.

As a consequence of this arrangement an unsustainable management structure was created within the East Gippsland Catchment Management Authority. The authority notionally auspiced the project, but effectively it was under the control of a cabal of certain people, who were the chairman of the authority, another board member and the honourable member for Gippsland East in the other place. The project manager reports to the chairman of the authority and not to the board. I mention this because there have been problems arising with the management of the program. The community of East Gippsland, the Orbost district in particular, is outraged at the way this program is being managed. For instance a petition to the Premier signed by 97 farmers — nearly all of the farmers affected by the rehabilitation program on the Snowy flats — said:

The water flow estimated in the 1971 flood by the Bureau of Meteorology at 648 gegalitres per day — equivalent to the entire Jindabyne dam — races down the narrow gorge of the river, dropping 2000 to 3000 feet, and bursts out into the valley at Bete Bolong, 15 kilometres north of Orbost.

The petition continues:

We the undersigned land-holders are concerned that there are proposals being put forward by people, not one of whom has ever experienced or even seen a flood, to put 'engineered logjams and instream structures' in the river between the gauging station and the bridge.

We are concerned that such structures will cause an increased welling effect, endanger the adjacent stream banks and various protective banks — built at great cost — and which when breached will cause untold long-term damage and long-term total loss of production.

It ends:

We ask that this proposed program cease.

May I point out that the ineffective management of this program has caused real heartache and concern for the people of Orbost, and I ask the Premier to respond to the petition which was presented to him some months ago and to which he has failed to respond.

### **Monash: traffic flow**

**Hon. R. H. BOWDEN** (South Eastern) — I raise with the Minister for Transport an issue which is causing very great concern to my constituents and many others — that is, the obvious limitations and restrictions on traffic flow on the Monash Freeway.

It does not matter whether one is travelling from Dandenong to Warrigal Road or along Warrigal Road to Dandenong, travelling in each direction is difficult. It is perfectly obvious that there should be plans under way or indeed construction of an extra north-south lane

or one in the opposite direction, because at peak traffic times it does not matter which direction one is travelling in between Dandenong and Warrigal Road, it is perfectly obvious that the Monash Freeway is completely up to capacity. As a regular traveller on the Monash, Mr President, I can assure you that tens of thousands of constituents from several parts of Melbourne are being inconvenienced, the cost to our economy is substantial and one has only to look at the lack of investment that has been envisaged in the last three years to see that it is completely unacceptable.

The constraints on and constrictions of the traffic flow in the area between Dandenong and Warrigal Road are such that the Monash Freeway is unreliable. If you have a plane to catch or a very important commitment in the city it is no longer to be relied upon as a major artery. There is no question that adequate land is available. There is plenty of space, and between Dandenong and Warrigal Road an extra lane could be added with very little engineering. Extra lanes are required. They are necessary. I cannot for the life of me understand why there is no cohesive plan to increase the capacity of the Monash Freeway.

Will the Minister for Transport urgently make sure that the plans are in place and that construction begins quickly on an extra lane on the Monash Freeway between Dandenong and Warrigal Road?

### **Natural Resources and Environment: electoral maps**

**Hon. D. McL. DAVIS** (East Yarra) — My matter is for the attention of the Minister for Conservation and Environment in the other place. It concerns the mapping services provided by the section in the Department of Natural Resources and Environment section known as the land information group. In particular I draw the house's attention to the production of electoral maps by the land information group that show an overlay of proposed federal electoral boundaries with the recently promulgated state electoral boundaries.

I am informed that the maps have been produced at the request of the office of a Victorian senator and are clearly designed to advantage the Labor Party. I condemn the breaking of confidentiality clauses in the Australian Electoral Commission contract with the land information group and what is clearly an attempt by the Labor Party to use Victorian public resources for partisan political advantage.

I ask the minister to investigate the matters surrounding the production of these maps by the land information

group at, I am informed, the request of Senator Steven Conroy — as to whether a misuse of public resources for partisan political gain has occurred — and to ensure that it is not repeated and that the Victorian community can be fully informed about the involvement of Senator Steven Conroy in the production of these maps that go to the heart of our democratic system.

### **Community services: Wonthaggi residential unit**

**Hon. K. M. SMITH** (South Eastern) — I raise a matter with the Minister for Community Services in another place. I wrote to the minister about a residential unit in White Road, Wonthaggi, which is run by Berry Street Victoria. It is for kids who have got themselves into a fair amount of trouble over a period of time and have been placed in homes. This residence has been going for some years and it was my understanding when it was originally set up as a home that it was going to be for babies and children up to age 10. Since then a large number of children have gone through that home and have caused great grief in this residential area. I can assure you that the language they use would curl the hair of a plumber.

They have set fire to neighbours' fences and harassed the people next door, and this has been going on for years. They have abused the neighbours, thrown rocks onto their roofs and damaged them, stolen things from the neighbours, played loud music day and night, damaged the house and car of the supervisor, and had regular police visits — 2, 3 and 4 times a week. Not so long ago they were involved in chroming, which was in fact monitored by one of their supervisors. The young man involved in that with his girlfriend nearly died and an ambulance had to be called for him. It was very sad.

The neighbours have had to endure several incidents occurring in front of them, their children and grandchildren. In recent times young men and women have had sex in the street, on the front lawn and against the neighbours' fences. They have frightened the neighbours to the extent that they are afraid to leave their houses. They stay locked up in their houses. If the husbands go out the wives will stay inside because they are frightened.

In my letter to the Minister for Community Services I said that I had a meeting recently with Sandie De Wolfe, the chief executive officer at Berry Street, and Jenny Cummings, who is the regional director for Gippsland and the southern area of Berry Street's operations. The neighbours explained to them the behaviour, but although Sandie De Wolfe was very nice

to the people I do not think she had a real understanding of the problem.

What I am asking is that the home be closed as quickly as possible and that more suitable premises be found. We are not saying 'Move them out' because we know that they are kids in need. The neighbours are also very understanding about that, but their lives have been made a nightmare. These kids are a nightmare. They are the neighbours from hell, and something should be done about it.

### **Drought: grant application form**

**Hon. E. J. POWELL** (North Eastern) — I wish to raise a matter for the Minister for Agriculture. At the recent annual general meeting of Tatura Milk Industries a number of initiatives were discussed as to how farmers could be supported through the drought. The industry has 400 suppliers, and I think they were all there. The assembly was certainly quite large. Tatura Milk was talking about the support it could provide and there was an unusual motion of confidence in the board from the floor because the company had been taking a number of initiatives to lower its prices to give farmers a better cash flow.

The sorts of initiatives Tatura Milk representatives were talking about included giving help with a feed plan budget and also giving support for a financial budget. One initiative they spoke about was offering their field officers to help their members fill in the farm business support grant forms, which is costly if an accountant has to complete them. One of a number of questions from the floor was not to the board but to me. Mr Evatt Worm asked me to make a commitment that I would raise in this Parliament with the minister that the application form should be simplified. There was loud applause when that request was made, so obviously a lot of people agreed with him.

One of the people had their bank prepare the financial information that was required and was told that was not good enough, that they must fill out the form. They wanted to know why so much information was required to receive the grant. Farmers are busy trying to survive this drought without this added burden. I therefore ask the minister to urgently direct his department to simplify the application for the farm business support grant so that the farmers can access this drought assistance that is so badly needed.

### **Responses**

**Hon. M. M. GOULD** (Minister for Education Services) — The Honourable Gerald Ashman raised a

matter for the Minister for Transport in the other place, and I will ask him to respond in the usual manner.

The Honourable Philip Davis raised a matter for the Minister for Energy and Resources, and I will ask her to respond in the usual manner.

The Honourable Ron Bowden raised a matter for the Minister for Transport in the other place, and I will ask him to respond in the usual manner.

The Honourable David Davis raised a matter for the Minister for Environment and Conservation in the other place, and I will ask her to respond in the usual manner.

The Honourable Ken Smith raised a matter for the Minister for Community Services in the other place, and I will ask her to respond in the usual manner.

The Honourable Jeanette Powell raised a matter for the Minister for Agriculture in the other place, and I will ask him to respond in the usual manner.

**Motion agreed to.**

**House adjourned at 7.50 p.m.**

**QUESTIONS ON NOTICE**

*Answers to the following questions on notice were circulated on the date shown.  
 Questions have been incorporated from the notice paper of the Legislative Council.  
 Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.  
 The portfolio of the minister answering the question on notice starts each heading.*

**Thursday, 31 October 2002**

**Education Services: Essential Media Communications — contracts**

**3432. THE HON. P. A. KATSAMBANIS** — To ask the Honourable the Minister for Education Services: What are the details of every contract entered into between the Minister’s department or the Minister’s office and the firm Essential Media Communications between 20 October 1999 and 31 May 2002 indicating the — (i) date the contract was entered into; (ii) value of the contract; (iii) nature of the tasks performed under the contract; (iv) results of the tasks performed under the contract; (v) process undertaken to award this contract to the firm; and (vi) date and amount of each payment made to the firm under the contract, including any periodic payments.

**ANSWER:**

I am informed as follows:

The Department of Education and Training has entered into the following contracts with the firm Essential Media Communications between 20 October 1999 and 31 May 2002:

<b>Date</b>	<b>Value</b>	<b>Key activity</b>
28 April 2000	\$23,843.30	Government Employment Schemes promotional material: design, write, compile and edit
28 April 2000	\$18,733.01	Government Employment Schemes promotional material: print
17 May 2000	\$14,153.20	Production of ‘Skilling Victoria’ kits
20 June 2000	\$21,000.00	To provide initial communications strategy for the Ministerial Advisory Committee (MACVIT) for the Victorian Institute of Teaching (VIT)
26 July 2000	\$21,104.00	Government Employment Schemes promotional material: re-print
21 August 2000	\$6,769.90	Government Employment Schemes promotional material: re-print
6 September 2001	\$5,500.00	Development of a communications plan for school global budget
12 September 2001	\$17,050.00	Conduct market research and report on assessment of Victorian Institute of Teaching (VIT) proposals after Ministerial Advisory Committee (MACVIT) consultation program
15 October 2001	\$13,200.00	Conduct market research and report to evaluate possible advertisements

Date	Value	Key activity
		for Victorian Institute of Teaching (VIT) announcement
14 November 2001	\$2,818.75	Meetings and advice in relation to options for media campaign for Victorian Institute of Teaching (VIT) legislation
18 December 2001	\$48,678.95	Development and implementation of Ministerial Advisory Committee (MACVIT) consultation program
22 May 2002	\$11,000.00	Develop a communications strategy for the launch of the Victorian Institute of Teaching (VIT)

In relation to parts (iv), (v) and (vi) of the question, I am advised that the Department of Education and Training has complied with section 54L of the *Financial Management Act* 1994. Supply policies and associated best practice guidelines are publicly available on the Victorian Government Purchasing Board's web site at [www.vgpb.vic.gov.au/polguid/polmenu.htm](http://www.vgpb.vic.gov.au/polguid/polmenu.htm).

My Office has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

**Premier: Essential Media Communications — contracts**

**3433. THE HON. P. A. KATSAMBANIS** — To ask the Honourable the Minister for Education Services (for the Honourable the Premier): What are the details of every contract entered into between the Premier's department or the Premier's office and the firm Essential Media Communications between 20 October 1999 and 31 May 2002 indicating the — (i) date the contract was entered into; (ii) value of the contract; (iii) nature of the tasks performed under the contract; (iv) results of the tasks performed under the contract; (v) process undertaken to award this contract to the firm; and (vi) date and amount of each payment made to the firm under the contract, including any periodic payments.

**ANSWER:**

The Department of Premier and Cabinet has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

My Office has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

**Manufacturing Industry: Essential Media Communications — contracts**

**3435. THE HON. P. A. KATSAMBANIS** — To ask the Honourable the Minister for Education Services (for the Honourable the Minister for Manufacturing Industry): What are the details of every contract entered into between the Minister's department or the Minister's office and the firm Essential Media Communications between 20 October 1999 and 31 May 2002 indicating the — (i) date the contract was entered into; (ii) value of the contract; (iii) nature of the tasks performed under the contract; (iv) results of the tasks performed under the contract; (v) process undertaken to award this contract to the firm; and (vi) date and amount of each payment made to the firm under the contract, including any periodic payments.

**ANSWER:**

I am informed as follows:

No departmental unit within the parameters of my portfolio entered into contracts with the firm Essential Media Communications between 20 October 1999 and 31 May 2002.

Inquiries of the remaining areas within the Department of Innovation, Industry and Regional Development (IIRD) show that no contracts were entered into between the Department and Essential Media Communications between 5 March 2002, the date the Department was established, and 31 May 2002

IIRD was established in March 2002 as a result of the split of the former Department of State and Regional Development (DSRD) into two departments.

Between 20 October 1999 and 4 March 2002, the former DSRD entered into two contracts with Essential Media Communications: one on 6 September 2000, valued at \$14,475, to communicate the report of the Industrial Relations Taskforce; and the other on 22 January 2001, to the value of \$95,000, to develop and implement the Youth Rights at Work Campaign.

In relation to parts (iv), (v) and (vi) of the question, I am advised that the former DSRD complied with section 54L of the Financial Management Act 1994. Supply policies and the associated best practice guidelines are publicly available on the Victorian Government Purchasing Board's web site at [www.vgpb.vic.gov.au/polguid/polmenu.htm](http://www.vgpb.vic.gov.au/polguid/polmenu.htm).

My Office has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

#### **Multicultural Affairs: Essential Media Communications — contracts**

**3436. THE HON. P. A. KATSAMBANIS** — To ask the Honourable the Minister for Education Services (for the Honourable the Minister for Multicultural Affairs): What are the details of every contract entered into between the Minister's department or the Minister's office and the firm Essential Media Communications between 20 October 1999 and 31 May 2002 indicating the — (i) date the contract was entered into; (ii) value of the contract; (iii) nature of the tasks performed under the contract; (iv) results of the tasks performed under the contract; (v) process undertaken to award this contract to the firm; and (vi) date and amount of each payment made to the firm under the contract, including any periodic payments.

**ANSWER:**

The Department of Premier and Cabinet has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

My Office has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

#### **Women's Affairs: Essential Media Communications — contracts**

**3437. THE HON. P. A. KATSAMBANIS** — To ask the Honourable the Minister for Education Services (for the Honourable the Minister for Women's Affairs): What are the details of every contract entered into between the Minister's department or the Minister's office and the firm Essential Media Communications between 20 October 1999 and 31 May 2002 indicating the — (i) date the contract was entered into; (ii) value of the contract; (iii) nature of the tasks performed under the contract; (iv) results of the tasks performed under the contract; (v) process undertaken to award this contract to the firm; and (vi) date and amount of each payment made to the firm under the contract, including any periodic payments.

**ANSWER:**

The Department of Premier and Cabinet has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

My Office has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.

**Workcover: Essential Media Communications — contracts**

**3438. THE HON. P. A. KATSAMBANIS** — To ask the Honourable the Minister for Education Services (for the Honourable the Minister for Workcover): What are the details of every contract entered into between the Minister's department or the Minister's office and the firm Essential Media Communications between 20 October 1999 and 31 May 2002 indicating the — (i) date the contract was entered into; (ii) value of the contract; (iii) nature of the tasks performed under the contract; (iv) results of the tasks performed under the contract; (v) process undertaken to award this contract to the firm; and (vi) date and amount of each payment made to the firm under the contract, including any periodic payments.

**ANSWER:**

I am informed that:

(i) 19/7/2000.

(ii) \$13,737.

(iii) Communication Consultation.

(iv) Support for a Statewide Community Consultation program for the review of State Business Taxes.

In relation to part (v) and (vi) of the question, I am advised that the Department of Treasury and Finance has complied with section 54L of the *Financial Management Act 1994*. Supply policies and the associated best practice guidelines are publicly available on the Victorian Government Purchasing Board's web site at [www.vgpb.vic.gov.au/polguid/polmenu.htm](http://www.vgpb.vic.gov.au/polguid/polmenu.htm).

My Office has not entered into any contracts with Essential Media Communications between 20 October 1999 and 31 May 2002.