PARLIAMENT OF VICTORIA

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE ASSEMBLY

## FIFTY-FOURTH PARLIAMENT

## FIRST SESSION

## Book 7

## 30 and 31 October, and 1 November 2001

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

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# Tuesday, 30 October 2001

**The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.05 p.m. and read the prayer.**

## QUESTIONS WITHOUT NOTICE

### Pakenham bypass

**Dr NAPTHINE** (Leader of the Opposition) — Will the Premier guarantee that in the next state budget his government will match the federal Liberal government's commitment to provide half the funding for the $200 million Pakenham bypass?

**Mr BRACKS** (Premier) — I thank the Leader of the Opposition for his question, and I welcome the fact that belatedly the federal coalition has agreed with the federal Labor Party. We are in the very happy position in Victoria where federal Labor has committed to the Pakenham bypass — and where, more recently, the federal coalition has been embarrassed into also committing to it.

We have said in response that we will examine our priorities on this matter — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition! The honourable member for Monbulk! I ask the house to come to order.

**Mr BRACKS** — We will examine our priorities and our capacity to match the funding. It is a road of national importance and has been declared as such by both parties. I welcome the fact that the federal coalition has joined with Labor on that matter.

### Alpine parks: grazing licences

**Mr RYAN** (Leader of the National Party) — My question is to the minister for natural resources and environment. Given that on 30 November 2000 — 11 months ago — the minister's alpine advisory committee approved the transfer of five alpine park grazing licences, can the minister advise the house whether she has acted on that advice, and if not, why not?

**Ms GARBUTT** (Minister for Environment and Conservation) — It is a pity that the Leader of the National Party does not do his homework and even get the ministry right. But leaving that to one side, yes, I have acted on that advice. I have approved four of those transfers. There has been some work done on the other one with the stakeholders to see if they can protect the environment a little more than was being suggested.

We have a very clear policy on this issue. We want the environment protected. I said in this house just a few week ago — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The honourable member for Doncaster!

**Ms GARBUTT** — I said in this house a few weeks ago that there would be no changes to those licences and that we would not be taking them back or changing them without the agreement of the alpine cattle graziers. This is a similar sort of question. I said to the honourable member at that time that he should listen carefully to the answer. Quite clearly he has not bothered to listen. He certainly has not learnt and he has not understood, so I hope he takes that message on board this time.

### Tourism: international flights

**Mrs MADDIGAN** (Essendon) — I refer the Premier to the government's drive to promote Victoria as a safe destination for international tourism. Will the Premier inform the house whether Victoria has been able to secure further international flights for Melbourne, despite the difficult industry situation?

**Mr BRACKS** (Premier) — I thank the honourable member for Essendon for her question. As a show of confidence in Victoria's quick and prompt response to the downtown in the tourism industry after 11 September and also the collapse of Ansett Australia with the government providing $10 million extra funding for tourism in Victoria, five major international airlines have announced new or additional services to Melbourne.

Australia is a safe destination. The government wants to promote Victoria as a safe destination and Melbourne as a bit of Europe. Melbourne is a great cosmopolitan destination, a great multicultural destination with a European feel. It is therefore attractive to a whole range of tourists, including those visiting Asia. As part of that I can announce that the five airlines which have increased major international air routes to Melbourne include Philippine Airlines, which from today will resume flights to Melbourne after a three-year absence, and that is extremely good news.

Air Canada, the first carrier to provide direct services between Toronto and Melbourne, will operate three weekly services via Honolulu, which will also provide

seamless connections from Vancouver. China Southern Airlines will from 20 November add an additional flight to its schedule, taking the number of its flights to three per week. United Airlines has announced that its daily Boeing 747 flights from San Francisco to Sydney will be extended to fly to Melbourne from the start of December. These new services add to United's daily 747 services from Los Angeles.

What is also pleasing is the fifth airline to increase its direct international flights and routes to Melbourne. In December Singapore Airlines will add five supplementary services between Melbourne and Singapore. I was very pleased to receive communication from Singapore Airlines of that matter over the last 24 hours, which will mean five extra direct flights to Singapore. That adds on to the direct marketing we are doing into Singapore for the 60 000 tourists we get a year, and it is very pleasing to have five international airlines showing faith in Victoria, faith in the fact that we have a $10 million new package for tourism and faith in our tourism industry in the state.

## Tipstar: revenue

**Mr BAILLIEU** (Hawthorn) — Can the Minister for Gaming inform the house exactly how much money promised from the revenue of Labor's footy tipping competition has gone into health, sports medicine, women in local sport and to save Waverley Park?

**Mr PANDAZOPOULOS** (Minister for Gaming) — I notice that the same question was asked in the upper house two weeks ago, but the shadow Minister for Gaming is a bit slow. When I — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order to allow the minister to answer.

**Mr PANDAZOPOULOS** — I know it is embarrassing being two weeks slower than the upper house but, nonetheless, Parliament will be advised of what those figures are. As yet I have not been formally advised in relation to the — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I cannot allow that barrage of interjection to continue.

*Honourable members interjecting.*

**The SPEAKER** — Order! The honourable member for Monbulk!

**Mr PANDAZOPOULOS** — The house may be aware that as part of the licence the financial returns are tabled in the house, and that will occur.

## Scoresby: integrated transport corridor

**Ms BARKER** (Oakleigh) — Can the Minister for Transport inform the house of joint funding arrangements the Victorian government has negotiated to deliver improved public transport in the Scoresby corridor?

**Mr Napthine** interjected.

**Mr BATCHELOR** (Minister for Transport) — The Leader of the Opposition asks about the Pakenham bypass. The federal Liberal government before the last election promised to deliver it during this last term, and how much has been delivered? Not 1 cent!

**Dr Napthine** interjected.

**Mr BATCHELOR** — Not 1 cent! John Howard lied before the last election!

**Dr Napthine** interjected.

**Mr BATCHELOR** — John Howard lied and delivered nothing!

**Dr Napthine** interjected.

**Mr BATCHELOR** — Not a cent! He lied; he did!

**The SPEAKER** — Order! I ask the Leader of the Opposition to cease interjecting, and I inform the Minister for Transport that responding to interjections is also disorderly. The minister, answering the question.

**Mr BATCHELOR** — I apologise, Honourable Speaker.

Honourable members would be aware that the Bracks government is committed to delivering an integrated transport solution to the Scoresby corridor, an integrated solution that includes not only the freeway but also a network of public transport improvements. This commitment by the Bracks government is supported by the 10 mayors throughout — —

*Honourable members interjecting.*

**Mr BATCHELOR** — This call for public transport is supported by the 10 mayors throughout the Scoresby transport corridor. They want both the freeway and the public transport upgrade.

In negotiations that have been taking place in the lead-up to the federal election, you would be aware, Honourable Speaker, that the federal Liberal government has refused to commit any funds to the public transport requirements of the Scoresby corridor. In fact, in the agreement that was entered into the federal Liberal government short-changed Victoria because it refused to make allowance for the $110 million worth of land that the state of Victoria has purchased. That is the attitude of the federal Liberal government. It is mean and tricky. It has short-changed Victoria.

We have continued negotiations at the national level. The federal Labor Party has given a commitment to put $55 million into public transport initiatives along the Scoresby corridor. I can advise this house that if there is a Beazley government — and that is odds-on at this stage — money will be made available for the people of Victoria to deliver public transport services into the Scoresby corridor. The $55 million is half the money — it is our share, and it is a fair share — or the splitting of the $110 million by which John Howard short-changed Victoria. Under the agreement that has been entered into with the Labor Party at the national level, Victorians will benefit through that $55 million being made available for public transport.

What does that mean? It means we can start the light rail extension from East Burwood out to the Vermont South shopping centre as the first stage of the extension to the Knox shopping centre. It also means we would be able to start a light rail extension from the Huntingdale railway station to Monash as the first stage of a light rail connection to Rowville. These are terrific announcements.

**Dr Napthine** interjected.

**Mr BATCHELOR** — The Leader of the Opposition wants to know if the light rail will go to Waverley Park. Of course it will go past Waverley Park. It will go out to Rowville. This just indicates that the Liberal Party here does not know where Rowville is, does not know where Monash University is and does not care about the south-eastern suburbs. That is why Labor will do well out in these suburbs. That is why Labor, at the state and national level, has got the best possible policy for delivering public transport initiatives.

**The SPEAKER** — Order! The minister should come back to answering the question.

**Mr BATCHELOR** — That is why the Labor Party at all levels will deliver public transport and not just the freeway upgrade. One wonders where that leaves people like the current federal member for Deakin, Mr Barresi, who said that the freeway should not be built unless there was a public transport upgrade — but his own party could not deliver it! I assume Mr Barresi will be voting for Helen Buckingham, the Labor Party candidate in his electorate, because she is the only one who will deliver — —

**Mr Ryan** — On a point of order, Mr Speaker, the minister is clearly debating the point. I ask you to have him return to the question or otherwise conclude his answer.

**The SPEAKER** — Order! I uphold the point of order and ask the minister to return to answering the question.

**Mr BATCHELOR** — The Scoresby transport corridor is required to be an integrated one which has as a prerequisite not just building the freeway — as important as it is — but also paying some attention to funding public transport. I have already mentioned the light rail initiatives. There will also be bus service improvements in terms of both infrastructure and service. This will be a real boost to the people of the eastern and south-eastern suburbs, but it will only be delivered if the federal Labor Party is returned to the government benches, where it rightly belongs, so it can help fund those projects.

## Blackwood Centre for Adolescent Development

**Ms DAVIES** (Gippsland West) — HIH Insurance was sponsoring the Blackwood Centre for Adolescent Development near Drouin to the tune of $42 000 a year, topping up Department of Human Services funding and enabling the employment of welfare staff. Will the Minister for Community Services guarantee an ongoing financial commitment from her department to the centre's vital work, including a commitment to make up the shortfall resulting from the demise of HIH?

**Ms CAMPBELL** (Minister for Community Services) — I thank the honourable member for her question. Funding for the youth worker at the Blackwood centre had been provided on an ongoing basis as a result of the commitment of HIH Insurance to that centre. All honourable members are conscious of what happened with HIH.

The Blackwood Centre for Adolescent Development primarily receives its funding through the Department of Education, Employment and Training (DEET) and its programs. The work of Blackwood is well recognised by both the Minister for Education and her department and me. We have extended funding through

the youth services grant program until the end of 2001, and we are looking at funding for Blackwood and other centres in the context of what will be available in the 2002 funding period.

Three programs at Blackwood are funded with support primarily from DEET. Those programs have been also been extended to Wonthaggi. I am pleased to inform the honourable member that the Minister for Education and I are looking carefully at this proposal, and we will be informing both the Blackwood centre and the honourable member when a resolution to this matter has been found.

## Tipstar: revenue

**Mr BAILLIEU** (Hawthorn) — I refer the Minister for Gaming to his claim that Labor's footy tipping competition would provide the Australian Football League with a revenue stream to save Waverley Park for AFL football, and I ask: will the minister confirm that after the first season the gross return to the AFL before expenses was barely $40 000 and the gross return to agencies selling Labor's footy tipping competition averaged less than $10 per week before wages, promotion and expenses?

**Mr McArthur** interjected.

**The SPEAKER** — Order! The honourable member for Monbulk is warned.

**Mr PANDAZOPOULOS** (Minister for Gaming) — The honourable member and the house would be aware that there was a tender process for a footy tipping-type product, and Tipstar won that tender. As long as it fulfils the requirements of the licence and the appropriate legislation it can do what it wants with it.

The election commitment of the government was that any revenue earned by the government will go into health and sports development. That is what our election commitment was about, and the financial returns from the licence will be tabled in the house at the appropriate time. It is up to the private sector company to manage its own product. It can run at a loss if it wants to.

## Manufacturing: federal policy

**Mr LONEY** (Geelong North) — I refer the Minister for State and Regional Development to an article in today's *Australian Financial Review* headed 'Manufacturers seek fresh agenda for tougher times', and I ask: how has the federal government's industry policy affected Victoria and does the minister endorse the call for a new national agenda?

**Mr BRUMBY** (Minister for State and Regional Development) — The honourable member for Geelong North has referred to an article in the *Australian Financial Review* headed 'Manufacturers seek fresh agenda for tougher times'. The first paragraph states:

> Australian manufacturers have called for a fresh industry agenda from the next federal government.

The Victorian government certainly echoes that call because the data provided to the Victorian government by Invest Australia shows that the state of Victoria is being dudded by the Howard government.

We know that Victoria is already dudded on commonwealth–state financial relations. We are dudded to the tune of $1 billion a year by the Howard government. We are dudded in the area of aged care, where we are being ripped off to the tune of $150 million per annum. Now we are able to produce data released by the federal government itself which shows beyond doubt that the Howard government is dudding Victoria in industry attraction and investment.

The data, which I am releasing today, is from Invest Australia, the commonwealth's investment facilitation body, which shows that only 16 of the 79 projects facilitated through the commonwealth in 2000–01 were in Victoria. What the data shows is that the Howard government — —

**Mr Perton** interjected.

**The SPEAKER** — Order! The honourable member for Doncaster!

**Mr BRUMBY** — I'll come to that. The data confirms that the Howard government continues to favour resource-sector projects in other states such as Queensland and Western Australia. The data for the last three financial years going back to 1998–99 shows that the Howard government is a serial offender when it comes to industry attraction and Victoria. In 1998–99 — —

**Ms Asher** interjected.

**Mr BRUMBY** — That was the last full year of the former discredited Kennett government, and we will see how that government performed. Only 11 out of 83 projects facilitated by the commonwealth were in Victoria. That is how effective the former Premier was in lobbying the then federal government to get projects. Only 171 of 6918 jobs resulting from those projects

were actually here in Victoria. All the rest were in other states, particularly resource-based projects in Queensland and Western Australia.

In 1999–2000, 15 of the 82 projects facilitated by the commonwealth were in Victoria — only 339 of 6435 jobs. In 2000–01 we are doing somewhat better: 16 of the 79 projects facilitated by the commonwealth were in Victoria — but 1005 jobs out of 4831! So we are doing a bit better than we did under the Kennett government. But the fact is we are being dudded by the Howard government. There is a continuing pattern of bias against Victoria. What the Victorian government wants, like the Australian Industry Group and other manufacturers in this state and across Australia — —

**Mr Ryan** — On a point of order, Mr Speaker, I refer to your directions to ministers on the time they take to answer questions. The minister has been speaking for in excess of 4 minutes. I ask you to have him conclude his answer.

**The SPEAKER** — Order! I am not prepared to uphold the point of order raised by the honourable Leader of the National Party.

**Mr BRUMBY** — Obviously this data embarrasses the coalition because it shows — —

*Honourable members interjecting.*

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

**Mr BRUMBY** — This embarrasses the coalition because no matter how you look at the data — and it is provided by Invest Australia, by the Howard government — it shows a consistent pattern of bias against investment in Victoria.

In this state we have the best economic fundamentals of any state in Australia, the best investment figures, the best building figures, the best gross domestic product figures, the best employment figures, and we have got the Better Business taxes — $774 million — so we are out there leading the Australian states, but imagine how much better again it could be if we got a fair deal from the Howard government. That is what we want.

*Honourable members interjecting.*

**Mr BRUMBY** — Here we go! The silent opposition! You talk about the Howard government, the Marcel Marceau of industry policy, all mime, no substance, no policy — —

**The SPEAKER** — Order! I ask the honourable minister to come back to answering the question.

**Mr BRUMBY** — What we want is simply a fair deal from the federal government. I would have thought the one thing the coalition — the opposition that stands for nothing — would stand for — —

**Mr Ryan** — My point of order has two bases, Mr Speaker: I ask you to have the minister return to the question because he is clearly debating; and secondly, he has now been speaking for in excess of 6 minutes and he should be sat down, with respect.

**The SPEAKER** — Order! The Chair has already asked the minister to come back to answering the question. On the latter part of the point of order raised by the Leader of the National Party, I remind the minister that he must be succinct, and I ask him to conclude his answer.

**Mr BRUMBY** — Honourable Speaker, I will conclude. This is obviously a key issue for Victoria. The opposition leader has been interjecting continually through this answer. He is full of bluster in the house. What Victorians want to know is why he has gone missing in the federal campaign. Why is he not out there supporting Howard. He has not been out there on a single day.

**The SPEAKER** — Order! I am now of the opinion that the minister is debating the question. I ask him to conclude his answer.

**Mr BRUMBY** — I will conclude, but I would have thought that on this issue the government would get the support of the opposition parties. The government is saying that Victoria wants a fair deal.

**Mr Ryan** — On a point of order, Mr Speaker, the minister is clearly debating the point. I ask you, Sir, to have him conclude his answer or return to the point of the question.

**The SPEAKER** — Order! I am not prepared to uphold that point of order; the minister had just been called to the microphone.

**Mr BRUMBY** — Members opposite hate the answer. The government is looking forward to the opposition's support for a fair deal from the Howard government in relation to this. The government is looking for a fair deal from whoever forms the next federal government. We want a decent deal for Victoria and an end to this policy under which Victoria has been robbed, cheated and dudded of decent investment attraction proposals.

## Health: services

**Mr DOYLE** (Malvern) — I refer the Minister for Health to the fact that over the last financial year the number of patients waiting too long for elective surgery increased by 15 per cent, the number of ambulance bypasses increased by 50 per cent and the number of people waiting on trolleys increased by 84 per cent, and to yesterday's financial report that shows that the Department of Human Services budget blew out so the department was over budget by more than $500 million. Is all this another example of the Bracks government spending more but delivering less?

**Mr THWAITES** (Minister for Health) — We have heard from the whispering honourable member for Malvern. Honourable members all know why he whispers — because he is so used to whispering behind his leader's back! He is whispering that his leader has until the federal election and that's it, because then he is coming to get him. Have honourable members noticed how many press releases the honourable member for Malvern has put out and how much the Leader of the Opposition has been doing? The Leader of the Opposition has gone completely missing during the federal election campaign.

However, as usual the honourable member for Malvern has got his facts wrong. First, in the past 12 months waiting lists have decreased. For the first time in a generation we have seen an improvement.

*Honourable members interjecting*.

**Mr THWAITES** — Members opposite do not like being told that there has been an improvement, but that is the fact. The honourable member for Malvern talks about year-on-year figures, but in the last year of the Kennett government when the honourable member was the parliamentary secretary responsible for this area there was an increase in ambulance bypasses of 1860 per cent. Where was the honourable member then? What was he doing as they went through the roof?

**Mr Doyle** interjected.

**Mr THWAITES** — The honourable member has his facts wrong this time — and he has his facts wrong most times. This government, unlike the previous government, is putting more resources into our hospitals. It is opening more beds and employing more nurses to get a better quality of care — something, I might say, we never hear about from the opposition. We have not heard anything from the opposition about quality of care!

The most incredible thing of all is that during this federal election campaign, where health is a major issue, we have had the Liberal Party, which this member represents, saying that our public hospitals do not deserve a penny more. That is what the Prime Minister, Mr Howard, is saying. Whereas a federal Labor government working with a state Labor government will ensure — —

**Dr Napthine** — On a point of order, Mr Speaker, the minister is now debating the question. Kim Beazley has said the health system has got worse in the past two years under this — —

**The SPEAKER** — Order! The Leader of the Opposition raised a point of order and then proceeded to make a point in debate. He will not be allowed to do so. I ask the minister to come back to answering the question.

**Mr THWAITES** — I thank the Leader of the Opposition for making his first comment on health during the election campaign — well done! Mr Speaker, unlike opposition members, we are supporting our hospitals and putting more money, more nurses and more beds into them. We will continue to do so.

## Dogs: control

**Ms LINDELL** (Carrum) — I draw the attention of the Minister for Agriculture to the strong community concern regarding dog attacks, and I ask the minister what action the government will take to better protect our community from aggressive dogs.

**Mr HAMILTON** (Minister for Agriculture) — I thank the honourable member for her question and for her interest, and the interest of other honourable members on the issue of reducing dog attacks. It is a serious concern to the government and to the broader community. Over many years it has been demonstrated that companion animals are a great health benefit, especially to the elderly, and they are also great for kids. Unfortunately, when dogs are associated with humans, attacks will take place.

The government is responding to that concern by introducing ways to reduce the number of aggressive dogs in the community, which will in turn reduce the number of dog attacks. The attacks involve attacks on other dogs as well as on humans, and because neither situation is acceptable the government intends to stamp out these attacks.

A three-pronged approach will be used. The government believes education programs such as the

responsible pet ownership program in schools will be an extremely important part of the strategy. The legislation needs to be beefed up, and we need to make sure that enforcement does take place.

**Dr Napthine** interjected.

**Mr HAMILTON** — As the Leader of the Opposition says, we will give the legislation more teeth to deal with these problems.

It will be an offence to attend a dog fight. Currently dog fights are illegal and have been illegal in this state for many years, but it is not an offence to attend dog fights. The legislation will make it an offence to attend such fights. That will discourage dog fights and the breeding of fighting dog types. A fine of up to $6000 will be imposed to discourage people from supporting what is an obscene blood sport.

The penalties for dog attacks will be increased from the current $500 maximum to a $12 000 maximum, and that gives a very clear indication that the government considers it to be an extremely serious issue. Victoria's legislation will be aligned with commonwealth legislation on pit bull terriers. Pit bull terriers will be declared as a restricted breed, and a number of provisions in the legislation will discourage breeding of the pit bull terrier, which is known to be one of the most aggressive dogs bred for fighting, and certainly one that needs to be controlled.

The declaration of the pit bull as a restricted breed will require owners to be more responsible and to make sure that their dogs are managed properly. The legislation will restrict ownership of pit bull terriers and management of them in public places to people who are over 17 years of age. We do not believe this breed should be in the hands of young adults.

The government will ensure that this legislation is monitored. We hope to have the cooperation of all dog owners, all animal welfare organisations, the Victorian Canine Association and, most importantly, all local government organisations within the state because local government is responsible for implementing this legislation. We would certainly be working closely with local government. Providing additional resources to make sure of this partnership to manage aggressive dogs, to reduce their numbers and therefore reduce dog attacks on the public is something that I think this Parliament will support strongly.

## PERSONAL EXPLANATION

**Ms DAVIES** (Gippsland West) — During my contribution on the Statute Law Further Amendment (Relationships) Bill on 17 October 2001 I referred on two occasions to advice I stated I received from the Family Court. I wish to correct the record. The person referred to briefed me as a representative of the non-government organisation, Defence for Children International, not specifically as a representative of the Family Court.

## PETITIONS

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

### Yarra Ranges: Upper Yarra

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

The humble petition of the undersigned citizens of the state of Victoria showeth that the citizens call upon the Shire of Yarra Ranges and Victorian state government to change the classification of the Upper Yarra area (incorporating the former shires of Healesville and Upper Yarra) from metropolitan to rural in order to provide access to many important federal and state government programs and initiatives for rural and regional areas, including:

health and after hours emergency services;

rural industry and tourism;

emergency services.

Your petitioners therefore pray that the Parliament of Victoria examines the role of the Shire of Yarra Ranges in this discrimination of services and development against the citizens of the Upper Yarra region.

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

**By Mrs FYFFE (Evelyn) (2545 signatures)**

### Eastern Freeway: extension

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

The humble petition of the undersigned citizens in the City of Manningham sheweth that there is a prospect that the Eastern Freeway extension to Ringwood crossing beneath Park Road may, upon direction of the relevant minister, include vehicle ramp connectivity with Park Road.

Your petitioners therefore pray that there be no vehicle ramp connectivity by reason that:

Park Road is unsuitable in terms of both design and topography for use other than as a local collector road, traversing as it does the Whitefriars Secondary College, Mullum Mullum Creek valley via steep grades, Park Orchards Village, comprising primary school,

community house, kindergarten, recreation complexes and local shops, all abutting Park Road, bisecting the Park Orchards residential community and also connecting with the equally unsuitable Heads Road, both being on maximum steep grades, with narrow and bending road pavements, resulting in poor sight distances;

Park Road is already amongst the few roads in Manningham with one of the highest casualty rates, although presently carrying below 6000 vehicles per day, 24 hours two-way count.

The community and environmental amenities of both the Donvale and Park Orchards areas will be forever adversely affected by through traffic seeking to exit and enter the freeway via the aforesaid unsuitable roads, particularly given the lack of clear run exit on the Ringwood bypass end of the freeway and in the absence of any connection to Maroondah Highway and the proposed Scoresby freeway.

The honourable minister for infrastructure and the honourable Minister for Transport take all necessary steps to ensure that there is no vehicle connectivity between Park Road and the Eastern Freeway extension beneath.

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

**By Mr HONEYWOOD (Warrandyte) (661 signatures)**

**Laid on table.**

**Ordered that petition presented by honourable member for Evelyn be considered next day on motion of Mrs FYFFE (Evelyn).**

**Ordered that petition presented by honourable member for Warrandyte be considered next day on motion of Mr HONEYWOOD (Warrandyte).**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 12

**Ms GILLETT (Werribee) presented *Alert Digest* No. 12 of 2001 on:**

**Energy Legislation (Miscellaneous Amendments) Bill**
**Gene Technology Bill**
**Judicial Remuneration Tribunal (Amendment) Bill**
**Livestock Disease Control (Amendment) Bill**
**Marine (Further Amendment) Bill**
**Melbourne City Link (Further Amendment) Bill**
**Petroleum (Submerged Lands) (Amendment) Bill**
**Retail Tenancies Reform (Amendment) Bill**
**State Taxation Legislation (Amendment) Bill**
**Transport (Alcohol and Drug Controls) Bill**

**together with appendices.**

**Laid on table.**

**Ordered to be printed.**

## PAPERS

**Laid on table by Clerk:**

Agriculture Victoria Services Pty Ltd — Report for the year 2000–2001

*Audit Act 1994* — Report on the Performance Audit of the Victorian Auditor-General's Office, October 2001

Bendigo Health Care Group — Report for the year 2000–2001

Chief Electrical Inspector — Report of the Office for the year 2000–2001

City West Water Limited — Report for the year 2000–2001

Corangamite Catchment Management Authority — Report for the year 2000–2001

Emergency Services Superannuation Scheme — Report for the year 2000–2001

Environment Protection Authority — Report for the year 2000–2001

*Financial Management Act 1994*:

Financial Report for the State of Victoria, incorporating the Quarterly Financial Report No. 4 for the Victorian Budget Sector for the year 2000–2001 — Ordered to be printed

Report from the Minister for Agriculture that he had received the 2000–2001 annual report of the Victorian Broiler Industry Development Committee

Report from the Minister for Environment and Conservation that she had received the 2000–2001 annual report of the Trust for Nature

Report from the Minister for Finance advising of the delay in tabling the annual report of the Government Superannuation Office

Reports from the Minister for Health that he had received the 2000–2001 annual reports of the:

Timboon and District Healthcare Service

Osteopaths Registration Board

Gascor Pty Ltd — Report for the year 2000–2001

Gas Safety Office — Report for the year 2000–2001

Kerang and District Hospital — Report for the year 2000–2001 (two papers)

Maldon Hospital — Report for the year 2000–2001

Mallee Catchment Management Authority — Report for the year 2000–2001

Mallee Track Health and Community Service — Report for the year 2000–2001

Maryborough District Health Service — Report for the year 2000–2001 (two papers)

Melbourne Market Authority — Report for the year 2000–2001

Mt Alexander Hospital — Report for the year 2000–2001

Parliamentary Contributory Superannuation Fund — Report for the year 2000–2001

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

Casey Planning Scheme — No. C37

Cardinia Planning Scheme — No. C2

Darebin Planning Scheme — No. C33

East Gippsland Planning Scheme — No. C9

Horsham Planning Scheme — No. C6

La Trobe Planning Scheme — No. C13

Moreland Planning Scheme — No. C7

South Gippsland Planning Scheme — No. C2

Whitehorse Planning Scheme — No. C37

Whittlesea Planning Scheme — No. C14

Police Appeals Board — Report for the year 2000–2001

Port Phillip and Westernport Catchment and Land Protection Board — Report for the year 2000–2001

Queen Victoria Women's Centre Trust — Report for the year 2000–2001

South East Water Limited — Report for the year 2000–2001

South Eastern Medical Complex Limited — Report for the year 2000–2001

State Electricity Commission of Victoria — Report for the year 2000–2001

Statutory Rules under the following Acts:

*Cemeteries Act 1958* — SR No. 109

*Discharged Servicemen's Preference Act 1943* — SR No. 110

*Evidence Act 1958* — SR No. 105

*Magistrates' Court Act 1989* — SR No. 106

*Motor Car Traders Act 1986* — SR No. 107

*Pharmacists Act 1974* — SR No. 108

*Subordinate Legislation Act 1994*:

Ministers' exception certificates in relation to Statutory Rule Nos 107, 108

Ministers' exemption certificates in relation to Statutory Rule Nos 105, 106, 109, 110

Sustainable Energy Authority Victoria — Report for the year 2000–2001

Swan Hill District Hospital — Report for the year 2000–2001

Victorian Funds Management Corporation — Report for the year 2000–2001

Victorian Casino and Gaming Authority — Report for the year 2000–2001

Victorian Coastal Council — Report for the year 2000–2001

Victorian Electoral Commission — Report for the year 2000–2001

Victorian Government Purchasing Board — Report for the year 2000–2001

Victorian Managed Insurance Authority — Report for the year 2000–2001

Victorian Workcover Authority — Report for the year 2000–2001

Yarra Valley Water Limited — Report for the year 2000–2001.

## ROYAL ASSENT

**Message read advising royal assent to:**

**23 October 2001**

**Drugs, Poisons and Controlled Substances (Amendment) Bill**
**Essential Services Commission Bill**
**Retail Tenancies Reform (Amendment) Bill**
**Roman Catholic Trusts (Amendment) Bill**
**Telecommunications (Interception) (State Provisions) (Amendment) Bill**
**Victorian Arts Centre (Amendment) Bill.**

**30 October 2001**

**Gene Technology Bill**

## APPROPRIATION MESSAGES

**Messages read recommending appropriations for:**

**Marine (Further Amendment) Bill**
**Melbourne City Link (Further Amendment) Bill**
**Petroleum (Submerged Lands) (Amendment) Bill**

## BUSINESS OF THE HOUSE

### Program

**Mr BATCHELOR** (Minister for Transport) — I move:

> That pursuant to sessional order 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 1 November 2001:
>
> Marine Safety Legislation (Lakes Hume and Mulwala) Bill
>
> Legal Aid (Amendment) Bill
>
> Health Services (Conciliation and Review) (Amendment) Bill
>
> Fundraising Appeals (Amendment) Bill
>
> State Taxation Legislation (Amendment) Bill.

In briefly speaking to this motion I point out that it is our intention to have these five pieces of legislation dealt with during the course of this parliamentary week and to subject them to the guillotine at 4.00 p.m. on Thursday. It is also our intention this week to have discussions on what has been colloquially referred to as the farm dams bill — that is, the Water (Irrigation Farm Dams) Bill — with the objective of progressing it right through the committee stage to a vote.

As I understand it, at this late stage we have been advised that there are a number of amendments circulating around, so we have chosen not to include that bill on the government business program and have it subject to the guillotine. But it was always our intention to have some part of the this week's legislative program devoted to farm dams, so by way of explanation to the house I make it quite clear that we will be debating the farm dams bills although we have not included it on the government business program.

**Mr McARTHUR** (Monbulk) — The Liberal Party will not oppose this business program. I welcome the comments of the Leader of the House on the issue, particularly in relation to the farm dams legislation. The minister is right. There has been a good deal of discussion about this. I believe a number of amendments are coming from several different directions, so clearly it is the intent of many people in this place that that bill be taken into committee, and I understand the government has its own amendments, so it will be necessary to go into committee. That being the case it is sensible that it not be included in the guillotine. That is consistent with an assurance given to the house. When the minister made the second-reading speech on this bill she assured us that it would not be rushed through or guillotined, and I am pleased to see that the Leader of the House is now confirming that to be the case. It will allow members from all parties and organisations, and all the Independents if they so wish, an opportunity to contribute to the debate and to contribute during the committee stage.

For the opposition's part, I can assure the Leader of the House that we will do what we can to make sure that the legislative program goes through in a reasonable manner and that we deal with those bills that are to be guillotined at 4 o'clock by giving them a reasonable amount of time as well as devoting a substantial amount of time to the farm dams legislation.

**Mr MAUGHAN** (Rodney) — Members of the National Party certainly do not oppose the government's business program; we support it. I thank the Leader of the House for honouring assurances that were given to the National Party earlier in the day regarding the Water (Irrigation Farm Dams) Bill. We are more than happy to debate that bill this week, although we would really like more time. There are some very fundamental changes. I personally have not yet seen the amendments, and representing as I do an irrigation area where the issues in the bill are absolutely critical, as today is the first time that people in my electorate have become aware of the amendments, I can say that we need more time to discuss their implications.

Members of the National Party are therefore happy to facilitate the five pieces of legislation included in the government's business program. We have no difficulty with that at all. We are more than happy to commence the debate on the farm dams bill, and we look forward to that, but I simply make the point that we have not had anything like adequate time to consult with my constituents and my colleagues' constituents in northern Victoria in particular on the very fundamental changes in the amendments that I understand will be moved this week.

Although we will cooperate with the government, I express concern about trying to get the farm dams bill through this week. The National Party would certainly like more time to consult with its constituents, to consult with interested parties and to look at the implications. It is not a simple piece of legislation, as those who have been grappling with it well know. It is complex to understand all the implications and to get a balance between the rights of those in the upper catchment and those in the irrigation areas. Nonetheless the bill is on the notice paper and we are prepared to

debate it, but obviously there will be discussions during the week and we will see how they go. We support the government's business program.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Road safety: driver drug testing

**Mr WELLS** (Wantirna) — This statement condemns the Minister for Police and the Bracks Labor government for their abject failure and incompetence in botching the implementation of driver drug testing in Victoria, which has unduly pressured the rising road toll.

This is just another example of the do-nothing Bracks government taking its eyes off the real issues affecting all Victorians. The Minister for Police and Emergency Services has clearly dragged his heels ever since the enactment of the driver drug testing amendments to the Road Safety Act in December last year. He has failed to provide Victoria Police with sufficient procedural support and resources to effectively implement the new provisions, particularly in rural Victoria.

Between December last year and 31 August this year, 139 offenders were charged, only 21 from rural Victoria. Of the 139 only 17 successful convictions have been made, with 122 still awaiting prosecution. This is why only 21 rural Victorians have been charged with drug-driving offences in nine months. There are simply not enough trained police officers across rural and regional Victoria to adequately cope with driver drug testing.

While there are regionally based officers trained to perform drug assessment tests, in reality when these officers are not available or simply not contactable officers have to urgently respond from Melbourne in order to meet the 3-hour time limit for drug tests.

### Darebin: travel plan

**Mr LEIGHTON** (Preston) — Last Friday I attended the very successful launch of the Darebin Integrated Travel Plan. The City of Darebin's plan, entitled 'Going places', was launched by the Minister for Transport. The document quite rightly contained the word 'travel' rather than 'transport' to recognise that people commute not only by vehicle or public transport but also in other ways such as by bicycle and on foot.

The report points out that 22 per cent of households in Darebin are without a vehicle and that a further 37 per cent of households have only one vehicle. The implication is that those without cars, especially the elderly and disabled, can easily be housebound, and if one resident of a one-car household takes the car to go to work the remaining residents can be housebound. In my view this is much more of a problem in the part of the city I represent, the northern end, rather than in the southern end, which is closer to the central business district.

The strength of the report is in the emphasis it places on the relationship between medium-density housing and public transport as an alternative to the urban sprawl. While recognising the strength of our existing public transport infrastructure in Darebin, the travel plan nevertheless advocates further improvements to public transport. One I emphasise is the extension of the tram service along Gilbert Road up to Edwards Street. This was promised in the 1940s when that residential area was built. Many of those residents are now in their 70s and 80s and do not have ready access to transport for their shopping.

### Premier: federal election campaign

**Mr RYAN** (Leader of the National Party) — I rise to support the Independent members of this Parliament in their expression of concern about the confusion created in voters' minds between state politics and federal politics. I do so in circumstances where country Victorians are faced with the unedifying spectacle of the Premier of the state of Victoria endorsing Labor Party candidates for a federal election, and of course it is creating dreadful confusion in the minds of voters.

The Independent members of Parliament are right, and one would have to wonder why the leader of the federal Labor Party, Mr Beazley, is not out there endorsing those candidates whom he nominally at least has standing on behalf of the Labor Party in the various areas of Victoria, particularly country Victoria, where they have nominated. Is it the fact that the leader of the federal Labor Party feels he is unable to bring himself to endorse those candidates? Is there some sort of problem about them of which we are unaware?

Whatever might be the case, it is most unfortunate that the Premier of Victoria should engage in this unedifying spectacle. Instead of using his services for the purposes of the people of Victoria, who are paying him his weekly wage to look after the interests of this state nominally at least, he is appearing on television screens across country Victoria, backing up the federal Labor candidate when the federal Labor leader will not do it.

## Warragul Regional College

**Mr MAXFIELD** (Narracan) — The Warragul Regional College has won the 2001 languages other than English (LOTE) award for secondary schools. The Minister for Education presented the award recently at Parliament House in recognition of excellence in teaching and learning languages other than English. Warragul Regional College has shown once again that it is a provider of quality education, this time in the area of LOTE. This is a school of which Narracan can be very proud. The Warragul Regional College received the sum of $5000 for the LOTE award.

I congratulate the students, who worked together to design a CD cover that promotes LOTE. They can be very proud of their achievements. Not only do we have a school offering quality LOTE programs, Warragul Regional College also has the best Indonesian teacher in the education system. Robyn Buckeridge received the LOTE teaching award for Indonesian. Congratulations Robyn! Robyn Buckeridge receives an international study tour to Indonesia of two to three weeks duration.

The principal of the Warragul Regional College, Russell Monson, is leading a talented and committed team of teachers who have worked under great difficulty due to a massive rebuilding program. Stage 2 of the $2 million development is now being finished and will be opened by the Minister for Education next month.

As well as that, stage 2 will shortly start at the school. With a total cost of over $3.5 million, the project is a wonderful Bracks government contribution to education in my electorate.

## Minister for Corrections: staff

**Ms McCALL** (Frankston) — The open, trustworthy, honest and accountable Labor government!

*Honourable members interjecting.*

**Ms McCALL** — Last week the shadow Minister for Corrections and I made a third attempt to visit a justice centre controlled by the current Labor government. For the third time — —

**An honourable member** interjected.

**Ms McCALL** — We found our way there quite adequately. What appeared to be the problem was that no ministerial staffer could find their way and that, due to bungling in the minister's office, nobody expected our arrival. There we were — honest, open and accountable members of the opposition — to learn about how well these centres were being run and how organised the administration of these environments was. So imagine our horror, confusion and embarrassment — including our embarrassment on behalf of the administration of the juvenile justice centre and the Deer Park women's prison — to discover that, through the bungling of the minister's office, nobody had bothered to tell them that we were coming and nobody had bothered to organise a ministerial staffer to be present while we were there.

However, we did not mind wasting our time, because it gave us an excellent opportunity to remind members opposite that if you want to be remembered as open and accountable, you need to be organised as well.

**The ACTING SPEAKER (Mr Nardella)** — Order! The honourable member's time has expired.

## Republic of Turkey: anniversary

**Mr LANGUILLER** (Sunshine) — I was delighted to represent the Premier in conveying greetings to Victoria's Turkish community and the Consul-General of the Republic of Turkey, Mr Hasan Asan, on the 78th anniversary of Turkish independence. The anniversary celebrates the birth of modern Turkey under the leadership of the first President of Turkey, Mustafa Kemal Ataturk. His vision for the future of his country is reflected in Turkey's present achievements.

The history Australia and Turkey share is significant. It was during the First World War that the countries first came into contact on the battlefields of Gallipoli. It was there that Turkish and Australian soldiers earned each other's respect and admiration, while Gallipoli became a defining moment in the histories of both nations.

Half a century later, in 1968, a bilateral agreement on migration was signed between the two countries. It was then that the first significant migration of Turks to Australia began. We are proud that more than half of Australia's Turkish immigrants have chosen to live in Victoria. Turkish migrants have added greatly to this state, culturally, socially and economically.

On behalf of the Victorian government I pay tribute to the local Turkish community for its contribution to the growth of our state over the past three decades. This government recognises that our culturally and linguistically diverse communities are one of Victoria's greatest assets. It realises the importance to each community of maintaining and celebrating its distinct cultural background.

Congratulations to the Republic of Turkey on reaching this milestone and to Victoria's Turkish community. Cumhuriyet Bayraminiz kutlu olsun!

## Yarra Ranges: Upper Yarra

**Mrs FYFFE** (Evelyn) — Today a petition was tabled in my name, signed by 2545 citizens of the Yarra Valley, that calls on the Victorian government and the Shire of Yarra Ranges to change the classification of the Upper Yarra area from metro to rural to provide access to the many state and federal government funding initiatives available to rural and regional areas, particularly for health and after-hours service.

The lack of health facilities in the Upper Yarra Valley shire is appalling. The lack of understanding of the state Minister for Health is beyond belief. He gives no consideration to the things that are happening to the people of the Upper Yarra.

I commend the hardworking federal member for McEwen, Fran Bailey, for her encouragement of and support for the organisers of the petition. Fran knows the needs of her electorate, understands all the issues and works tirelessly for her constituents. She is a politician who gets down to work and gets the job done — unlike Andrew McLeod, the ALP candidate for McEwen, who does not understand the issues facing the Yarra Valley. He repeatedly blames the federal government when it is the Bracks Labor government's policies which are discriminating against the people of the Yarra Valley. The Bracks government's regional and rural Victoria policies begin and end in Bendigo, Ballarat and Geelong. The Upper Yarra Valley does not get a zack from this government.

## Ivan Pavlovic

**Mr SEITZ** (Keilor) — I rise today to put on the public record my appreciation of the work of Ivan Pavlovic, who has been an activist within our Croatian community in the western suburbs. Like so many postwar migrants, Ivan came here with basically nothing but a suitcase and the clothes on his back.

Ivan is a husband, a father and a grandfather. He has spent his entire working life within his own community, whether it has involved the church, soccer, folkloric dancing groups or his children as they went through school — where I met him first — and later on, his grandchildren.

Now that Ivan Pavlovic has reached the age of 65, has he intimated that he will stop his community work and activities? Not so. He is still involved every day of the week at the Melbourne Knights Soccer Club. He is continuously working within his community in a voluntary capacity, as he has done for many years.

As honourable members would know, volunteers are not paid, and for someone who has a young family to bring up while trying to get established in this country, that is a great sacrifice. Ivan has certainly made that sacrifice for his community. The Croatian community should appreciate the work Ivan Pavlovic has carried out in this area. No doubt if his health keeps up he will continue to do that even in his semi-retirement years.

## Council for the Encouragement of Philanthropy in Australia

**Mr ASHLEY** (Bayswater) — Traditionally Australia has not really shone when it comes to individual philanthropy. More disturbingly, recent research indicates that Australian corporate philanthropy has declined steadily over the past three years.

That is all the more reason for giving public recognition to the inspiring efforts of one of Australia's all-time great athletes, Ron Clarke, in establishing CEPA, the Council for the Encouragement of Philanthropy in Australia. CEPA's mission, a world first, is to stimulate philanthropy by mobilising Australians, corporate and private, to press on towards a better, fairer and more decent world by enabling many more people to help themselves.

Council members and contributors are directly involved in evaluating the worthiness of different project submissions put to CEPA, including voting for those they prefer. At its recent launch, CEPA announced an inaugural distribution of over $2 million. The largest single grant, of $731 000 over three years, went to the Irabina autistic children's centre in the Bayswater electorate. For the next three years Irabina will now be able to provide early intervention services to the many families on its waiting list, who it has not been able to help given current levels of state government funding.

I congratulate Ron Clarke and commend him on setting out on this his most auspicious marathon.

## Connect a Kid program

**Ms GILLETT** (Werribee) — I place on the record my thanks to a wonderful group of people in my community. The group has been brought together in a joint initiative of the Department of Health and the Department of Education. Through that historic combination the departments have combined to create a program called Connect a Kid.

It was my privilege to be at the launch of this program at the Hoppers Crossing Secondary College two weeks ago. At the launch we heard from some magnificent and dynamic people who have put the program together. The team is headed by Dr Harry Gelder from the Royal Children's Hospital.

The program essentially connects mentor teachers with children who have found themselves in somewhat difficult circumstances. It has been a spectacular success, as was evidenced by the young children who spoke about their experiences on the program. It was wonderful to hear that the children found it beneficial to have someone to talk to and listen to. It is a simple program, but it has been a spectacular success in my community. I recommend it to all members of the house.

## MARINE SAFETY LEGISLATION (LAKES HUME AND MULWALA) BILL

*Second reading*

**Debate resumed from 27 September; motion of Mr BATCHELOR (Minister for Transport).**

**Mr PLOWMAN** (Benambra) — The Marine Safety Legislation (Lakes Hume and Mulwala) Bill is designed to make the current requirements for marine safety clearer, simpler and more effective on Lake Hume and Lake Mulwala. At present the border between Victoria and New South Wales follows the high-water level, or as it is put in the bill, 'the top of the bank on the Victorian side of the Murray River'. It was determined in *Ward v. The Queen*, which introduced the understanding of where the legal requirements were on either side of the river once it was submerged by either or both lakes.

As honourable members would appreciate, when you are out on either lake there is no way possible for you to know where the riverbed lies underneath you. In some cases you can see the tops of the red gums, which are still clearly apparent, and from them you can see where the river runs. In the deeper waters, going down 200 feet, there is absolutely no way to appreciate where you are in respect of the true state border.

It has been said that if you are of a mind to commit a murder, the place to do it would be somewhere in those waters and then to drop the body overboard somewhere near where you think the high-water level of the Murray River on the Victorian side is. It would be almost impossible to say which jurisdiction would be responsible for administering the case against the murderer. I raise the point in jest of course, but it highlights the difficulties faced by the coastguards and the water police from both states who are responsible for enforcing marine safety on either lake.

This is a sensible piece of legislation that assists in overcoming some of the anomalies continually faced on the state border by people wanting to follow recreational pursuits such as boating, fishing or any other activities on the water where there is a requirement for marine safety.

The bill deals quite extensively with the definitions associated with what parts of the lakes come under the jurisdiction of New South Wales law and what parts come under the jurisdiction of Victorian law. Put quite simply, the Bethanga Bridge crosses between New South Wales and Victoria. It is the longest inland bridge in Australia and clearly defines the areas the bill stipulates as being New South Wales water and Victorian water. Under the bill, on Lake Hume everything on the upstream side of the Bethanga Bridge is regarded as New South Wales water and everything downstream, including the Mitta Mitta Arm, which runs up to Tallangatta, is deemed to be Victorian water. It makes a bit of sense, because to get from one side to the other anywhere on Lake Hume you must cross under that bridge, so quite clearly anyone travelling on Lake Hume would know that they were within one jurisdiction or the other.

However, it strikes me as a bit strange, because the government has introduced changes to fishing licences, that on Lake Hume all fishing licences are Victorian licences and on Lake Mulwala all fishing licences are New South Wales licences. I am not sure why the government did not follow that lead when looking at marine safety for boaters. There tends to be some confusion. Boaters are out on the water to enjoy themselves, they are not there to know the letter of the law. It would be far simpler and less complicated if all the laws associated with boat use on either magnificent lake or reservoir were the same, so that ideally on Lake Hume fishing licences and marine safety legislation would both be Victorian requirements. There would then be a need for only one lot of water police and one set of regulations. The Albury-Wodonga coastguard, which is operated by volunteers, would only have one lot of police to refer to. It would make it clearer and easier not only for them but for all the people wishing to use that area for boating pursuits.

It is far simpler and more accommodating for boat users on Lake Mulwala, where all of the lake is determined to be New South Wales water, even running up the Ovens River as far as the Murray Valley Highway bridge, so that everything on the north of the Murray Valley

Highway bridge going down the Ovens River and then into Lake Mulwala is determined to be New South Wales water. That applies for both fishing licences and marine safety legislation.

I think it is a mistake that a similar system is not followed with Lake Hume. Although the legislation has improved the situation, the government should have thought it through a bit more so there was consistency. For my money it is a pity that consistency has not been achieved.

Clause 4 refers to laws associated with marine safety legislation and provides that the laws in each state in each particular area of water be applied irrespective of whether it is New South Wales or Victorian territory. Under the proposed act if it is determined to be the responsibility of New South Wales then the New South Wales law will apply. Equally if the area is in the Victorian jurisdiction the Victorian law will apply.

There are two main parts of the bill: part 2 refers to the area transferred to New South Wales jurisdiction; and part 3 refers to the area transferred to Victorian jurisdiction. In both cases they are exactly the same, and reciprocal and matching legislation is being enacted in New South Wales. Maybe the Attorney-General will advise us as to when the legislation is due to go through the New South Wales Parliament. I understand it is to go through in this session.

Part 4 headed 'Miscellaneous' deals with the appointment of interstate officers, and this gets back to my earlier point. Clause 11 under part 4 states that a power under the marine safety legislation of Victoria is provided to appoint or authorise a person for the purposes of the enforcement of that legislation in Victoria or in the transferred New South Wales area and extends to the appointment or authorisation of a person who is a police officer of New South Wales or a member of the staff of the Waterways Authority of New South Wales or of any other authority of New South Wales. Equally this provision applies to Victoria. If the water body had been looked at as a whole that level of complication would not have been necessary.

The bill provides a simpler framework for marine safety to be conducted on both the lakes on the Murray River. Most people up there recognise that the state border is submerged, but there is confusion as to where the border lies. From the point of view of law enforcement officers, this is a great improvement because they will know where their jurisdiction lies.

The difficulty for boat owners is still prevalent. Over the past few years there were always questions such as: where can I fish; what fishing licence do I require; what boat owner's licence do I require; do I require a boat driver's licence; and what part of the lake that I wish to go on does the marine safety law affect? The boat registration licence should become reciprocal and I hope that will occur. The fishing licences are being rationalised and Lake Hume will be covered with the Victorian licence and Lake Mulwala with the New South Wales licence. I have to say again, why did the government not consider taking those same steps when it looked at the marine safety legislation?

The issue in respect of fishing licences came to a head under the John Landon case. John Landon put a boat into the water on the New South Wales side, fished on the Victorian side of Lake Hume, took a catch appropriate to the Victorian regulations, returned in his boat to New South Wales and, when bringing his boat up, was investigated by a New South Wales fisheries officer who said the catch was not appropriate for New South Wales law despite the fact that he had caught the fish in Victorian waters. The fact that he had brought his boat back into New South Wales led to a charge being laid against him. The story hit the headlines and consequently the anomaly which had existed forever on both those lakes has been fixed and that is a great improvement. It cost John Landon in that case despite there being no definition as to whether they were New South Wales or Victorian fish.

Over the past 10 years there has been considerable improvement to overcoming some of these anomalies in respect of boating laws. If a reciprocal boat driving licence is implemented it will overcome the differences between the licence requirements in New South Wales where a boat which travels at more than 10 knots is required to have registration while in Victoria there is no such requirement. Despite these differences and the inadequacies of the bill it will improve matters, and for that reason we support the bill.

Different speed limits exist on Lake Hume. In those areas the different speed limits will become a single speed limit. Around the coast guard station the speed limit of 4 kilometres per hour will be increased to the speed limit of 5 kilometres per hour that exists around the swimming areas around Kookaburra Point.

I pay tribute to the work of the coast guard on inland waters. Very few people recognise that the coast guard has a role in regard to inland waters. We tend to think of the coast guard acting in bay and marine waters, but it provides a good service on those inland waters. It checks boats for fire extinguishers and life jackets. The composition of personal flotation devices (PFDs) is different in the two states. The requirement in Victoria

is that the PFD has part of its device behind the head of the person wearing it so the person's head is automatically up out of the water.

If an accident occurs and a person is rendered unconscious, that person has a better chance of survival with a PFD 1, which is the requirement in Victoria. People in New South Wales are required to have PFD 2 and PFD 3 units, which do not have the stabilising pads behind the head that force the head to be lifted out of the water. They are typical of the types of jackets people wear when waterskiing. I have done some ocean sailing, and I know the requirement on ocean sailing boats is to supply the PFD 1 jacket, because it lifts the head out of the water.

One of the problems faced by the coastguard in inland waters, as I am sure is the case with other marine areas, particularly in our bays, is jet skis. People are still coming to an understanding how their use can better conform with the activities of other water users. The problem is not the jet skis themselves, but the fact that in inland waters it is difficult to achieve a separation of water usage because of the restricted areas in which the jet skis can be used.

Last weekend an accident occurred near the boat haven on Lake Hume. A speedboat caught fire and the occupants had to jump into the water; the man was able to keep his young son afloat. The coastguard came to extinguish the fire, but almost immediately afterwards it received an emergency call to another accident caused when a jet skier hit and dislocated the shoulder of a swimmer. The coastguard was placed in difficult circumstances as it was called from one accident to the other. The second accident should not have occurred and is an example of the difficulty faced by the coastguard in separating jet skiers and swimmers on inland waters. I am sure the house will hear more about similar difficulties from my colleagues whose electorates are on the bays.

The jet skiers tend not to obey the rules, and often the noise levels are totally unacceptable. They should be kept to separate areas, which becomes more difficult on inland waters. Unfortunately the coastguard cannot enforce such separation. Its members can advise the jet skiers that they are breaking the law, but then they have to get the police or the water police to attend to enforce the law. The role of the coastguard is to educate and to engage in search and rescue. I suggest its members do an extraordinarily good job.

Last year the coastguard attended 12 emergency calls, including one death, on Lake Hume. The Marine Board of Victoria allocated a police boat to each of the coastguards at Lake Eppalock and Lake Hume. Both boats are all-weather craft, thereby increasing the opportunity for both coastguards to operate successfully and to achieve what they are there for — that is, search and rescue in any conditions. That move by the board was well received by the communities at Lake Eppalock and Lake Hume.

The coastguard is a magnificent volunteer organisation. The bill will help its members, as it will the water police and all other people responsible for marine safety legislation, to conduct their work on inland waters, particularly on Lake Hume and Lake Mulwala.

**Mr KILGOUR** (Shepparton) — It is with pleasure that I rise to speak today on marine safety legislation for Lake Hume and Lake Mulwala, two of the lakes in the north-east of Victoria that add a tremendous amount to the areas that surround those lakes through tourism and with irrigation. My own home town of Katamatite in the Murray Valley would not be as prosperous as it is today without the irrigation water from Lake Mulwala after the Yarrawonga Weir was built in the 1930s and 1940s.

Those waters turned what were dusty wheat and sheep paddocks into areas of magnificent green grass and gave the opportunity in the initial stages for fat lambs to be raised, followed by dairy farming. Today the area is rich and productive because of the irrigation water from Lake Mulwala and initially from Lake Hume. Today the community is engaged in much discussion about how much water should flow into those lakes and how much should come from the hills.

Today the house will decide on an extension of state borders, particularly around Lake Mulwala, as it has been hard to know where the border is located. Lake Mulwala is a wonderful place to be. Many thousands of people travel every year to visit it. Camping at the oval in Yarrawonga is a romantic place to be, with the willow trees around the lake. I have it on good authority that the honourable member for Mornington did a lot of his courting around Lake Mulwala; he may be able to contribute to debate on the bill and tell the house what Lake Mulwala means to him. I am sure on many a summer evening he would have walked and courted his present wife there — or maybe it happened in the back row of the Yarrawonga drive-in theatre!

**Mr Cooper** — Both places.

**Mr KILGOUR** — I'm sure! On many occasions I have visited Lake Mulwala — as well as the back row of the Yarrawonga drive-in! — and have always found it interesting to try to work out where the actual state

border lies and where you should fish. You have to work out whether you are fishing in New South Wales or Victoria.

On only a few occasions do you get the opportunity to see where the state border is actually marked, because Lake Mulwala is almost always full, although I have seen it on the few occasions when the lake has been drained so the authorities can carry out necessary works around its edges and in its centre. The lake has to be drained every 10 or 15 years for that work to be done. On those occasions it has been interesting to see where the original Murray River bank was located. However, when you are fishing from a boat on Lake Mulwala it is not easy to work out whether you are fishing in New South Wales or Victoria.

I am pleased that the bill will rationalise the application of marine legislation in Victoria and New South Wales so far as the Murray River border at Lake Hume and Lake Mulwala is concerned. Nobody can decipher a submerged border beneath a lake. As a young boy I often used to go to Yarrawonga to play football. My mates and I would walk across the bridge and try to work out whether we were in Victoria or New South Wales. Honourable members may know that the road bridge across the lake has a dip in it at the Yarrawonga end. The story goes that the person who designed the bridge jumped to his suicide from the bridge after he saw the dip in the road. It is interesting to watch cars, while crossing the bridge, encounter that dip.

Lake Mulwala is one of the best recreational playgrounds in Victoria, and the lake should be preserved. However, problems have arisen for people fishing and boating on the lake in working out whether they are fishing or boating in New South Wales or Victoria.

The honourable member for Benambra pointed out the anomaly about the man who caught a fish on the Victorian side and was then charged with an inappropriate catch when he got out of his boat on the New South Wales side.

The bill does not necessarily solve the issue for many people. I was very concerned when the government brought in legislation last year providing for the registration of all motorboats. I find it incongruous that we say we should rationalise issues as far as marine safety is concerned, but that the registration of motorboats is another story. New South Wales has a system by which if a motor is not capable of pushing the boat at more than 10 knots it does not have to be registered. The Victorian government has decided that all boats will be registered.

This legislation provides that somebody living in Yarrawonga could own an unregistered aluminium boat with a 5 horsepower motor that does not push it at any more than 10 knots and put the boat in the water on Lake Mulwala; but if that person takes the boat out of Lake Mulwala and moves it downstream to below the Yarrawonga Weir or into the massive channel that comes off the river for irrigation purposes they will be breaking the law. We still have a few things to sort out to ensure that we rationalise things perfectly. When the government brought in this legislation I thought it was silly that it did not make it the same as for New South Wales. It is always a problem around state borders working out where things are.

The situation at Lake Mulwala is quite clear. The New South Wales water to be policed by the New South Wales police or water police will be clearly defined. Everyone will know where the border is — namely, at the Murray Valley Highway bridge, which crosses between Yarrawonga and Rutherglen. The Ovens River is the border for policing purposes, and the Paralos, as it is known, will also be a part of New South Wales for the purposes of policing and New South Wales boating regulations. The Paralos is an area we might have called a delta if it had been part of a bigger river. The river branches out there into a number of waterways with land in between. Some good fishing has occurred there on occasions, particularly after a flood. By making the bridge that crosses the river at the Murray Valley Highway the border everyone will clearly understand the delineation between the states for the purpose of policing.

The two states have agreed to overcome the anomalies and rationalise the enforcement of marine safety on the two lakes. All of Lake Mulwala and that part of the Ovens River north of the Murray Valley Highway bridge known as the Paralos will become a part of New South Wales, as will the section of Lake Hume upstream of the Bethanga Bridge. In both cases there is a bridge to clearly mark the different zones. Victorian law will continue to apply to the remainder of the Ovens River upstream from the highway bridge, and on Lake Hume downstream from the Bethanga Bridge. In other words, some Victorian water will become New South Wales water, and on Lake Hume what is currently New South Wales water will become Victorian water.

I stress on the government the importance of advertising this new legislation when it comes in so that the fishermen — the boaties — who are either sailing or driving motorboats and so on will have a clear understanding of what laws will be in force in what parts of each lake. No doubt both lakes — Lake Hume

being the larger and Lake Mulwala the smaller — will have many people travelling to them and using them from both sides of the border. At least they will know, however, that when they reach the Bethanga Bridge at the upstream end of Lake Hume they are moving into New South Wales waters.

Officers of the New South Wales waterways authorities will undertake the primary enforcement role, and Victoria Police and other Victorian authorities under the Marine Act will also enforce New South Wales boating laws in those areas — that is, Victorian authorities will have a policing role under the New South Wales law. That is something different we will have to look out for, to see whether it works. I implore the government to ensure there will be negotiations with people who use the lakes and with the police officers in another 12 months or so to see if it actually works.

The second-reading speech refers to the differences between the boating laws being minor. It recognises that New South Wales boats do not have to be registered unless their motors can push them at more than 10 knots.

The legislation will solve a few problems for people who do not have the right understanding about where they should be fishing or boating. For many years we have had a problem of Victorians living on the Victorian side of the Murray River not being allowed to fish in the Murray River without having a New South Wales licence. That has always been deplorable. As a family who lived in Katamatite, 12 miles from the Murray River, we spent many days on the banks of the river — and caught many fish, I might say.

**Mr Plowman** interjected.

**Mr KILGOUR** — Yes, we did have licences; as a matter of fact I think I shared one with my twin brother for many years! We had a Victorian licence; but being twins one of us used to buy a Victorian licence and the other a New South Wales licence. We made sure we did not fish together for too long. That has always been a problem: living close to the border, having these anomalies and having to worry about New South Wales law when you are actually fishing in what we deemed to be Victorian waters because we threw our fishing lines in or put our boats in from the Victorian side of the border.

That does not solve the problem with the Murray River downstream from Lake Mulwala, and even between lakes Mulwala and Hume, but I guess this legislation will make it a bit clearer for people living in that area. I guess it will make it clear that both states can police those lakes, but obviously the New South Wales police will be more prevalent on Lake Mulwala and the Victorian police will be more prevalent on that part of Lake Hume that New South Wales used to police.

I wish the bill a speedy passage through the house. I hope that if they have not been to Lake Hume or Lake Mulwala members will take the opportunity to visit the area, which is a beautiful part of Victoria. I intend to take my yacht up to Mulwala over the summer and give it a run, so I hope we get some nice breezes. I have skied on Lake Mulwala on many occasions, and I have spent many a day enjoying the swimming and many an evening on the romantic banks of the lake. I hope we do not have too much confusion when this legislation is finally enacted and that people can easily understand the new state borders.

**Mr CARLI** (Coburg) — I am pleased to follow the honourable members for Benambra and Shepparton, but I do not pretend to have the same intimate knowledge of either Lake Hume or Lake Mulwala. I have been there as a tourist, but I cannot recall any intimate or romantic evenings on either lake, which is to my misfortune. The descriptions given by both honourable members show that there is a clear recognition of the anomaly in the area and the need to rationalise marine safety on the two lakes. It is good to see a level of cooperation between Victoria and New South Wales, including the two ministers and ultimately the two Labor governments, in sorting out an anomaly which has been present for a long time.

The need to rationalise marine safety on lakes Mulwala and Hume was identified by the Victorian and New South Wales Border Anomalies Committee. The anomaly is created by the fact that the interstate border lies along the banks of the Murray River, but the banks of lakes Mulwala and Hume are clearly submerged. The honourable member for Shepparton knows where the border is — he has seen it and he has seen Lake Mulwala drained — but very few people have that knowledge. It is an issue of great confusion for boaters and fishermen in the area, who do not know where the Victorian border is because it is submerged. Clearly there is a need to rationalise and define the jurisdictions so the waters are better policed. This is also an opportunity for users of the lakes to recognise which marine legislation applies to them. While there is much commonality between the marine safety legislation in New South Wales and Victoria, there are subtle differences, including who has actual authority over the lakes.

This issue was identified by the Border Anomalies Committee more than 10 years ago, and it has involved considerable debate between the two governments. The committee's work has led to this option of the Victorian and New South Wales parliaments passing complementary legislation so that if we do not know where the borders are at least we will know what the jurisdictions are and we can allocate some waterways to New South Wales and others to Victoria. With this legislation being passed in Victoria and complementary legislation being passed in New South Wales, all of Lake Mulwala, part of the Ovens River north of the Murray Valley Highway bridge and Lake Hume upstream of the Bethanga Bridge will be in New South Wales and Lake Hume downstream of the bridge will be part of Victoria.

This bill has important ramifications. It will allow the water police to apply the appropriate legislation, and it is an opportunity for boaters to get to know the legal environment. I appreciate the contributions made by the two previous members, who pointed out the need for education and publicity to ensure that the people using the lakes, including many thousands of tourists, are familiar with the new jurisdictional boundaries and the marine safety legislation that applies to the lakes.

The New South Wales waterway officers will have the primary enforcement role. In cases where Victorian enforcement officers operate under New South Wales waterway laws, they will enforce those New South Wales laws. That will clarify the question of which jurisdiction applies to which waterway. A memorandum of understanding is being developed, and a working party has been established by the various stakeholders — the police, the water authorities, local communities and interest groups — to deal with both the implementation of the legislation and the management of these waterways.

As was pointed out by the honourable member for Shepparton, the lakes are an important part of our tourism industry. They are major attractions in the state as well as being important for recreational fishing and irrigation. Therefore it is commendable that the Minister for Ports in another place and the New South Wales Minister for Transport were able to come to agreement and announce this important breakthrough. It has taken more than a decade of debate and discussion to arrive at, but it was certainly well worth the effort.

Judging by the contributions of the honourable members for Benambra and Shepparton, that effort has been appreciated by the Parliament. Clearly they have a greater knowledge of and interest in the lakes than I, and they see the importance of the rationalisation of marine safety. I can only commend this legislation to the house and wish it a swift passage. It is very good to see cooperation between the Labor governments of Victoria and New South Wales.

**Mr DIXON** (Dromana) — I too support this piece of legislation. It is fairly typical of the far-reaching and weighty legislation we have had to deal with in this place over the past few weeks! However, I recognise that it is important to those who fish in and enjoy boating recreation activities on lakes Hume and Mulwala.

In my brief contribution I wish to concentrate on the marine safety aspects of this bill and their wider ramifications. The licensing of those who operate power craft has been a very important step towards improving marine safety. It has been pointed out by previous speakers that there are still differences from state to state — and more importantly, as far as this bill is concerned, between New South Wales and Victoria. We have just had the introduction of boating licences in Victoria, but they have been in operation in New South Wales for quite a while. Jet ski operators and those aged 20 years and younger will be affected this year by the staged introduction of these licences.

The boating season is now upon us. No matter where you are boating, whether it be Port Phillip Bay or on the inland waters or lakes, there has been very little education or notification of those who will be affected by these changes. In addition, there is a real lack of flexibility in some aspects. People are vaguely aware that this is going to happen, but I can see a lot of confusion occurring. That confusion will be compounded on lakes Hume and Mulwala because of the differences between the states and the introduction of licences in Victoria.

As far as the flexibility is concerned, there are black and white rules as to who must have licences, but the issue of the people they affect has not been thought through. There are many retired people in that area of northern Victoria, and a lot of pensioners in my electorate like to go boating on inland waters as well as on the bay.

There is no concession for pensioners. As well as the concessional aspect, there is confusion about other matters. Many people have spoken to me, including one or two recently who approached me at the local boat ramp when I was launching my boat. They asked me what was happening with the laws and the introduction of the licence. They were not aware of the situation. They were not happy about the fact that when it is

introduced for them in the following year they will have to pay the full rates — there will be no concession. People who need to apply for boating licences this season need to know where and how to apply for those licences. They need to know how much it will cost and who must have a licence. There is confusion. Some pensioners believe it is their turn this year, and they want to know the test details — whether they have to do an examination or a practical course, how much it will cost and where they can do it. All these questions are being asked. No matter where you are boating, whether it be on the Mornington Peninsula or Port Phillip Bay or on inland lakes and waters, confusion is still there.

The honourable member for Benambra spoke about that wonderful voluntary organisation, the coastguard, and the work it does in inland waters. He is right. Not many people are aware of the work the coastguard does in our inland waters. The coastguard also works in Port Phillip Bay and off the coast of Victoria. The volunteer rescue organisations that operate in my electorate, and there would be equivalents in other areas around the bay and on inland waters, include the Southern Peninsula Rescue Squad. All the yacht clubs have powered patrol boats, and the surf lifesaving clubs have their patrol boats, which are usually rubber duckies. Operators under the age of 20 who are members of those voluntary organisations will be hit with that licence fee, even though they are working in a voluntary capacity saving people's lives, and many people have been saved. I believe it sends out the wrong message to these young volunteers that they will have to cough up for a licence.

However, I can understand that there will be some confusion. The legislation is going in the right direction, and I hope the rocky introduction of the marine licence becomes a lot smoother. I wish the bill well.

**Ms DUNCAN** (Gisborne) — I would like to respond to points made by the honourable member for Dromana. Firstly, the bill has nothing to do with either licensing or boat registration. Nonetheless the honourable member for Dromana stated that from his constituency's point of view there appeared to be a lot of confusion about the licensing laws recently introduced by the government. At the recent four-wheel-drive and fishing show it was demonstrated that there is an enormously high level of knowledge about these laws, and boat operators and fishermen know quite well what is required of them. There has been no change to boat licensing, and it is a fairly simple change to state that if your boat has a motor, you require a licence to operate it.

On that point, the honourable member for Shepparton seemed to be criticising the Victorian law and the fact that it is different from New South Wales law. I again emphasise that the bill is not about these licensing changes. The legislation that was adopted by Victoria was developed by the National Marine Safety Committee, which stated that all operators of mechanically propelled recreational boats should be licensed. Even New South Wales has endorsed those principles. Victoria has been the leader in adopting national principles, which were only developed back in 1999. Victoria is leading the way in boat safety legislation.

I am pleased to speak on the Marine Safety Legislation (Lakes Hume and Mulwala) Bill, not just because it finally addresses an anomaly that was identified about 10 years ago by the Border Anomalies Committee. It has taken cooperation between a New South Wales Labor government and a Victorian Labor government to finally address this longstanding anomaly. The changes are not exactly rocket science; they are quite sensible, and they are simply there to end confusion about the difficulties in determining where the New South Wales–Victorian border is when you are floating around Lake Hume or Lake Mulwala.

I will speak of my own knowledge of Lake Mulwala, because I have spent many weekends floating around it. My forebears were part of the very hard-working pioneer-spirited people who cleared the lake in the last century. It is very much home to me. There are many Duncans in Yarrawonga, and most of us have spent almost all of our summer and Easter breaks on Lake Mulwala.

**An honourable member** interjected.

**Ms DUNCAN** — I cannot attest to any romantic happenings on the lake; I was just a young gal, and I had a lot of fun just playing with the dogs. I am sorry I cannot share anything more.

The bill does some fairly simple things, and it does them well. It addresses the current confusing situation that has been identified for more than 10 years as being a problem. It is proposed that New South Wales laws will apply to all of Lake Mulwala, that part of the Ovens River north of the Murray Valley Highway bridge and the section of Lake Hume upstream of the Bethanga Bridge. The Victorian law will continue to apply on the remainder of the Ovens River and on Lake Hume downstream of the Bethanga Bridge. They are significant landmarks that people can readily identify with, which will enable them to understand exactly what state legislation applies.

On the issue of some of the anomalies that currently exist with the fishing laws that apply, the honourable member for Benambra raised concerns about recreational fishing. New South Wales and Victorian fishing agencies are currently working together to create some consistency between fishing laws in Lake Hume and Lake Mulwala. A fairly extensive community consultation program is commencing, which will resolve the differences and anomalies that relate to things like seasonal closures, bag limits, size limits and gear regulation. That will be done in consultation with all of the stakeholders so that those anomalies will be smoothed out and removed.

Administrative arrangements will be managed through a memorandum of understanding that will be signed by the Victorian Minister for Ports and the New South Wales Minister for Transport. The memorandum of understanding will focus on the administration of day-to-day activities, water management issues such as enforcement, resources and safety zones, and liaison with local communities and interest groups. A working party comprising officers from the New South Wales Waterway Authority, the Marine Board of Victoria, Victoria Police and Goulburn Murray Water will also be established. The bill has been introduced this week, and the New South Wales equivalent was passed last week. The timing has been designed for the legislation to come into effect for the 2001–02 boating season.

On the issue of the confusion that may be created with the introduction of the bill, the intention of the New South Wales body is to take an educative rather than an enforcement approach for the 2001–02 boating season in recognition of the fact that, although there is a huge consultation program going on, there may be some people participating in the boating season who are unfamiliar with the changes. New South Wales boating safety officers will also be meeting with Victorian boating and fishing clubs to explain to them the new requirements and the New South Wales law.

In regard to the amount of consultation on this proposed change and other recent changes referred to by the previous speaker, the Marine Board of Victoria is on average visiting one club a week in metropolitan and rural Victoria to remind people of the changes. That is part of what this bill will do in the future as well, through the memorandum of understanding and the other consultations that will continue to take place, to make sure that all the people who use these wonderful parts of Victoria are fully aware of these changes.

This bill will simply remove anomalies. There are no fundamental changes, and the inconsistencies that exist between Victoria and New South Wales are minor. As I said, the process still to take place will make sure that all interested parties are fully aware of the changes. It will only help improve marine safety overall by removing these border anomalies, and I commend the bill to the house.

**Mr COOPER** (Mornington) — I want to make a brief comment on the Marine Safety Legislation (Lakes Hume and Mulwala) Bill. I know a little bit about Lake Hume, but I know a lot about Lake Mulwala. I first visited Yarrawonga in 1956, and I have been a reasonably regular visitor to that area since that time as my wife comes from Yarrawonga. There is a family connection up there that takes us back quite regularly. In the 25 years or so following 1956 we went to Yarrawonga many times each year, and I have spent a lot of time on Lake Mulwala both sailing and powerboating. I have not done any fishing there, but I have eaten a lot of fish that have come out of the lake and the Murray River in the area.

I know a lot of people who use Lake Mulwala regularly as a holiday resort, as a recreational area, and I know from my personal observation and from what I have been told that about 80 per cent of the users of Lake Mulwala would be Victorians. It is from that point that I wish to speak, because I have a little apprehension about the application of New South Wales law and probably more particularly New South Wales policing of what is predominantly a Victorian sheet of water with the people using it being predominantly Victorians.

I note from the contribution by the honourable member for Gisborne that the government has had assurances from the New South Wales government that there will be a lot of education going on during the coming summer to accommodate the ignorance of people who do not pay particular attention to new laws. In this case it would be even more so, because basically Victorians will be subjected to New South Wales law. I hope that education does come to be, because if it does not we are going to have a lot of very concerned and angry Victorian boat owners who may well find themselves being apprehended at launching ramps or being pulled over by New South Wales police when they are unaware that they have broken the law.

They may not even be aware and probably will not be aware that they are able to be subjected to New South Wales law. There could certainly be some confrontations occurring unless an education program is put in place.

This education program is particularly important. I do not believe when it comes to the fact of policing that

police officers are necessarily going to be conciliatory or accommodating when they see the law being broken, regardless of whether it is a New South Wales person or a Victorian in the boat. It may well be they will be less accommodating and less conciliatory if they know it is a Victorian in the boat. So it is very important for this government to play a proactive role in ensuring that these new regulations and laws are smoothly brought in and that boat owners in Victoria are not put to the high jump automatically because they happen to be ignorant of the laws that are now going to apply.

I sought some information about the differences in the laws relating to boat owners in New South Wales and Victoria. The information that I have been provided with by my colleague the Honourable Philip Davis from the other place on drink-driving or alcohol laws seems to suggest that there should not be any problems in that regard, but I have not had any information provided to me on the other little bits and pieces that go to make up the complete breadth of laws in regard to marine safety. I do not know, for example, whether there is anything significant that can be done on Victorian waters that is illegal in New South Wales. If there are such matters, they certainly need to be addressed.

This legislation is certainly supportable and will receive the support of the opposition because it rationalises the application of law over a confused area. As the honourable member for Shepparton said, when you come to Lake Mulwala you have no idea where the banks of the Murray are. Locals can tell you in a fairly reasonable way where the river does meander through the lake, but the bulk of the water, as I understand it — and I am quite sure I am right in saying this — on the lake is on the Victorian side of the river. We have a confusing situation and it is good that both governments have got together and resolved this situation. I have no problems with that at all.

My problems relate to the way in which the law will be applied and the way in which it will be put into operation to ensure that boat owners, particularly Victorian boat owners, are not discriminated against over the first year or two of application. This puts an obligation upon the Victorian government to not just say, ‘We have done the job’, and walk away from it. I hope the Minister for Ports will keep a very careful eye on what goes on, particularly over the coming boating season, to ensure that Victorian boat owners are looked after properly. Other than that, I support the legislation.

**Mr TREZISE** (Geelong) — I stand in support of the Marine Safety Legislation (Lakes Hume and Mulwala) Bill. This bill does not affect greatly the safety of boaters on lakes Hume and Mulwala, but it will eradicate the confusion that probably confronts boaters or lake users in the duplication of laws, in making those two laws into one, with the New South Wales law taking over from those two laws. As the house is aware, both Lake Mulwala and Lake Hume straddle the New South Wales and Victorian borders. Currently two sets of laws apply to those waterways.

In a commonsense approach to this issue the New South Wales and Victorian Border Anomalies Committee has recommended that the anomaly of the two sets of laws applying to the waterways be replaced with one set of laws. Although it will probably not improve safety for boaters — it may to a small degree — it will eliminate any confusion that exists at the present time.

The timing of the bill is appropriate in that both the New South Wales and Victorian parliaments are debating their respective bills in the spring session, ensuring that the laws are in place for the coming summer when, being the holiday season, hundreds, if not thousands, of boaters will be heading to the two lakes. I have had the pleasure of spending a couple of long weekends on Lake Mulwala; to say it is a popular spot for boaters is probably an understatement.

I am pleased to speak on this bill because I can relate to the problem of various laws applying to the one body of water and the confusion that can cause. Prior to becoming the honourable member for Geelong I was employed by Toll Geelong Port as the shipping manager. In that role I was responsible for or managed the marine-based activities that occurred within Toll Geelong Port, or the old Port of Geelong Authority, as we knew it before it was privatised by the then Kennett government. Given that the marine responsibility activity was really the interface between the land-based port owner or operator and the many water organisations, a number of regulations and laws did intertwine — for example, there was always ongoing discussion and debate between the port operator and the Victorian Channels Authority about who was responsible for what when it came to berthing a vessel. In that debate there was always a grey area about what laws or regulations applied and to which bodies they applied. It was not just the Victorian Channels Authority that was involved. There was also the Marine Board of Victoria, a number of oil regulatory bodies, Toll Geelong Port, perhaps the tug operators and the stevedores. There were a number of bodies and a number of laws that did intertwine.

It did not to any great extent affect the safety or the safe movement of vessels, but it provided numerous

administrative and legal headaches for the operators involved, including myself in my role as the shipping manager. So although this legislation before us may not significantly improve water-based safety, it will provide for clearer laws and better enforcement on the two lakes that we are talking about today — Lake Mulwala and Lake Hume. Perhaps to some degree I am selling short the impact of safety with regard to this legislation because, while there is confusion surrounding applicable laws and responsibilities, there always is the potential for an incident or accident. No matter how big or small that potential may be, that potential is there, and this legislation is about minimising the incidents or accidents that may occur.

Again my experience within the port of Geelong provides me with some practical examples. As I said before, the berthing of a vessel is an example that comes to mind. In the port there was always the grey area involving unclear responsibilities and legal issues at the interface between the land-based port and the water-based authorities when a vessel was being berthed, although I must say the lines of responsibility are far clearer today than what they were.

In the early days of port privatisation that was not the case. There were particular grey areas, and the potential for an incident or an accident in berthing a vessel was there. There were concerns due to duplicated laws or responsibilities. I well remember the day a phosphate vessel was berthing at our Lascelles wharf when the vessel T-boned the wharf, which means that the bow of the ship was driven 10 metres into the berth creating a massive hole in the wharf. Fortunately nobody was hurt, but both the wharf and the ship were damaged, and there was the potential for an enormous gantry crane to topple and for a pipe carrying thousands of litres of oil to break and cause a major oil spill in the port. The investigation that subsequently took place gave rise to concern about the duplication of laws as they related to the legal responsibilities between the captain of the ship and the tug operator. That is one example I have been involved with of duplication of laws relating to an accident on water.

The legislation proposes that the New South Wales law applies to Lake Mulwala and the Ovens River north of the Murray Valley Highway bridge and the Lake Hume upstream of Bethanga Bridge. Because the two lakes will be covered by a New South Wales law, New South Wales waterways will provide the primary enforcement role on the lakes.

This is good legislation because its primary purpose is to eliminate confusion that applies to the laws. In this case we eliminate confusion for boaters who will be using both Lake Mulwala and Lake Hume, and we ensure that water users are aware of changes in laws. I am sure that public consultation and the public campaign will ensure that people are aware of those changing laws. With those few words, I commend the bill to the house.

**Mr THOMPSON** (Sandringham) — I am pleased to join the debate. It is worth noting that since 1989–90 more than 120 recreational boating fatalities have occurred in Victoria. The importance of legislation such as this which clarifies the laws in an anomalous border circumstance is of great importance.

Before commenting on the bill I would like to allude to the outstanding record of achievement on the part of the Royal Life Saving Society and other lifesaving organisations in this state which have overseen a diminution in deaths by drowning over the last 12 months.

I will comment on a number of issues about the bill, the first being one of the anomalies indicated in the second-reading speech which refers to a clarification of the law while at the same time pointing out that as a consequence of our federal system there is a discrepancy in the fee that is paid for a boat operator licence. The second-reading speech refers to the fact that the main difference in legislation between New South Wales and Victoria relates to licensing. In New South Wales only operators on vessels travelling over 10 knots require licences whereas in Victoria all powered recreational boat operators require a licence. This issue was debated in the house last year, and in recent times the opposition has expressed dismay at the position of the government on boat operator licence concessions and specifically on the unfair financial impost imposed on pensioners.

It is the view of yachting organisations and owners of small boats that there is a high level of concern about the effect that boat operator licensing would have on their sport and recreation activities. Originally it might have been envisaged that when the licensing scheme was introduced a concession scheme might have applied so that those people who drive motorboats for short distances or at low speeds might have the opportunity to pay a lesser fee than those who drive personal watercraft or larger vessels. Initially yachting bodies, club members and owners of small boats generally supported the safety aspects of the original Marine Act amendments; however, they are now increasingly concerned about the discrepancy in the fees that will be applied. The opposition has also sought concessions on behalf of the Australian Volunteer

Coast Guard, the State Emergency Service operators and lifesaving clubs from the payment of licence fees.

In the electorate of Sandringham there are some outstanding lifesaving clubs with long histories going over 80 or 90 years where many volunteers give their time to supervise safety on the water. A constituent provided me with a very good letter earlier in October in which he noted his concern regarding the applicability of the licence across the board. Mr David Judkins indicated that he and his wife own a small trailer-sailer with a 5 horse power outboard motor which is used mainly to get the boat in and out of the marina launching area. At full revs the boat is propelled at about 5 knots and cumulatively over a full year it would be operated for little more than 3 hours total. He indicates that his situation is typical of many small boat owners.

In the light of the above he strenuously objects to the proposed legislation under the Marine Act for its being illogical, ill considered and unfairly punitive and discriminatory. He indicates that a boat such as his creates no danger, as the records would show. He says that the reasoning behind the proposal is flawed and that most accidents and incidents involve craft such as jet skis and high-speed powerboats. He states further that the effects of the legislation would have the impact of terminating a harmless and environmentally friendly leisure activity on his part and on the part of the others, and the jet ski-powerboat incident rate would be unchanged unless there are accompanying controls and penalties. Interestingly, he recommends the under 10-knot scheme — which includes trailerable yachts with auxiliary outboard motors — which in New South Wales does not require a licence, be applied in Victoria.

This highlights the anomaly in the second-reading speech to which I alluded earlier, that at the same time that governments are trying to address anomalies and uncertainties between borders, a boat owner who launches his boat on the Victorian side of the border will be paying a different licence fee from that paid by a boat owner launching the same vessel on the New South Wales side of the border. Such differentials seem to be unfortunate.

In commenting on the outstanding records of other organisations that look after boating safety, I draw attention to the fact that in 2000–01 the Victorian drowning toll was 45, which is 10 less than the 55 of the previous year. The previous 20th century low was 49 recorded in 1998–99. This has been a most encouraging development. I point out that the former coalition government initiated a Play it Safe by the Water scheme which directed some $6 million towards advertising to highlight concerns regarding the importance of care when engaging in water-based activities, particularly swimming in this case. Another Lifesaving into the 21st Century scheme saw some $6 million invested in the upgrade and improvement of lifesaving club infrastructure. I pay tribute to the excellent work undertaken by the Royal Life Saving Society, its current chair, Mrs Dianne Montalto, and its chief executive officer, Mr Norm Farmer, for their excellent work in trying to drive water safety reforms in this state which will impact on the welfare of many Victorian families as a consequence of the reduced rate of death by drowning.

The bill before the house clarifies a range of anomalies regarding lakes Hume and Mulwala. In the north wing of the parliamentary library there is a fine portrait of Hamilton Hume holding a map. With the assistance of the parliamentary library staff I discovered that it is a map of Port Phillip Bay, Corio Bay and Western Port Bay.

It is notable that the Murray River was originally named the Hume River. There was a level of controversy about the Hume and Hovell expedition to Victoria, because they arrived not at Western Port Bay, which they reported to government officials they had arrived at, but at Corio Bay in the fine electorate of the honourable member for Bellarine. This matter led to some longstanding disputation between Hume and Hovell over the years, which I do not think was ever fully clarified.

The bill before the house clarifies a number of border anomalies but, as I restate to the house, not all anomalies. It is a pity that in this day and age, when it is possible to get good template legislation, there will be ongoing anomalies such as the one which boating enthusiasts such as Mr Judkins of Beaumaris have drawn attention to, where a person launching a boat on the New South Wales side of the border will pay a reduced fee compared to his Victorian counterpart.

**Mr HOWARD** (Ballarat East) — I am pleased to speak on the Marine Safety Legislation (Lakes Hume and Mulwala) Bill. As we have heard from previous speakers, this bill acts upon the recommendations brought to the government by the Victoria–New South Wales border anomalies committee.

From the feedback the committee has gained from law enforcement officers who are required to enforce boating safety issues on lakes Mulwala and Hume, it has been clear for some time that there are complications with the present border. As most people would know, the present state border was determined

based on the high-tide level on the Victorian side of the Murray River. Of course at that stage of the borders being established, lakes Mulwala and Hume did not exist. But once they did, the border ran through the middle of Lake Mulwala and through a significant part of Lake Hume. For law enforcement officers who find people doing the wrong thing when boating, there are complications about where they are in regard to state boundaries when they are apprehended and where any action against them should proceed. There is also confusion among boat owners about which laws they should follow when they are on those lakes.

The proposal will significantly simplify in which state people are when they are on those lakes. Effectively it will mean that all of Lake Mulwala will now be in New South Wales, as the effective border for boating issues will be at the Murray Valley Highway bridge on the Ovens River to the south of Lake Mulwala. Lake Hume has two significant sections: the section to the north of the Bethanga Bridge will be considered part of New South Wales, and the other arm of Lake Hume, to the south of the Bethanga Bridge, will be considered part of Victoria.

This is not of great interest for many constituents in my electorate of Ballarat East. There are not many boating opportunities for them in Ballarat East, although there are lovely lakes such as Lake Daylesford and Jubilee Lake. But Lake Wendouree, which happens to be in the electorate of the honourable member for Ballarat West, is a place where people can enjoy boating, wind surfing and other activities. It is certainly a great asset to the City of Ballarat. Other boating can take place outside the city at lakes Learmonth and Burrumbeet, presuming there is enough water in them. Fortunately in recent months the level of water in those lakes has risen, so people can now enjoy boating — certainly on Lake Burrumbeet. Certainly some of the people from my electorate have enjoyed the opportunity of boating on lakes Mulwala and Hume, and this legislation will be of some interest to them.

As I have done every time I have talked in this house about any legislation that has been brought forward by the Bracks government, I draw members' attention to the level of consultation which the government ensures is undertaken before legislation is introduced. It is a hallmark of the Bracks government that before it brings forward legislation it ensures significant consultation takes place so that it hears from interested parties about their concerns, which it is then able to respond to.

There was substantial initial consultation with the Victorian and New South Wales government agencies which operate in this area. Back in March this year the general public was also alerted to the change, when information was released in the media about the proposed amendments. The State Boating Council, which clearly has an interest as a representative body of recreational boating in Victoria, was also consulted, and it endorses this initiative. The chief executive of the Marine Board of Victoria wrote to the north-east municipalities network to formally advise them of the proposed changes, and no negative response was received. The other significant body which needed to be consulted on this matter was Goulburn Murray Water, the current waterway manager for both lakes. It then informally consulted with waterways users to gain feedback from them. It is clear that in this case there have been no adverse comments about this legislation. It comes forward with good popular support, and it is a commonsense measure.

Unfortunately there are still some differences between the boating safety regulations in New South Wales and those in Victoria, but the differences are not great. One of the main differences relates to the need in Victoria to licence all boats which can be mechanically powered. That is not the case for New South Wales, where only boats that can travel at a speed above 10 knots need to be licensed. Therefore, people using any form of mechanically powered boat on the southern section of Lake Hume would need to be licensed. That is one difference.

The only other difference I have noted relates to the blood alcohol counts allowable for boat users in each state. For people above 21 years of age there is no significant difference. The blood alcohol count, levels above which are considered illegal and incur fines, is 0.05 per cent. In New South Wales people at or below the age of 18 need to have a blood alcohol count of less than 0.02 per cent. But in Victoria a person at or below 21 years of age is not allowed to have any alcohol in their blood; it is only people over 21 years of age who encounter the 0.05 level. Anybody on the southern section of Lake Hume who is below 21 years of age should not have been consuming any alcohol if they are in control of a boat, whereas the requirements in New South Wales are slightly different.

That is one of the main differences. Other speakers have said that Victorian enforcement officers can still enforce law in New South Wales waters but must operate under New South Wales boat laws rather than Victorian ones. Those sorts of issues have been worked through so that we understand how the laws can be appropriately enforced and the boating community supports the changes.

I am pleased that the legislation has finally come forward. It is not major legislation but it is significant in dealing with an anomaly that has been brought to the government. I am pleased that the government has been able to respond appropriately and I support the legislation.

**Mr SPRY** (Bellarine) — I rise as a member with one of the greatest interests in recreational boating because my electorate is almost entirely surrounded by water, whether it is the river, the waters of Bass Strait or Port Phillip and Corio bays. All but a couple of kilometres are surrounded by water, so naturally the people of my electorate have a keen interest in recreational boating, whether it is motorboating, sailing or — —

**Mr Wells** — Canoeing!

**Mr SPRY** — Or canoeing, as the honourable member for Wantirna interjects. He and I tried to paddle around the entire Bellarine Peninsula some years ago to highlight what a great recreational boating area we come from. It is interesting to hear the honourable member for Ballarat East, who I often follow in debate, refer to some of the boating interests of his own electorate. I would like him to know that many visitors from Ballarat come down to the Bellarine Peninsula to enjoy their summer holidays. Those people are always very welcome in my area of the world.

The Marine Safety Legislation (Lakes Hume and Mulwala) Bill highlights one aspect of the legislative anomalies which exist between the borders of the states and the Commonwealth of Australia, this time in water safety legislation as it relates to boating. Before I make a few brief comments that are pertinent to the bill I would like to commend the honourable member for Benambra, whose electorate this legislation directly affects, for the work he has done to make life easier for residents on both sides of the border in Albury and Wodonga. The work he did in trying to amalgamate the two cities has largely gone unrecognised. When the premiers of New South Wales and Victoria announced the amalgamation would proceed, virtually no mention was made of the work of the honourable member for Benambra. I would like to commend him for it.

I return to boating and water safety. New South Wales and Victoria have marginally different boating laws in that in New South Wales operator licences are only required for boats travelling at speeds over 10 knots whereas in Victoria all powered recreational boat operators must have a licence with the anomalous exception of those who, for example, operate hired personal water craft, or jet skis as they are more commonly known. On the Bellarine Peninsula jet skis need to be very tightly controlled, especially on traditional family beaches where often children are learning to swim. I am talking of beaches like Portarlington, St Leonards, Indented Head and the Queenscliff front beach. Those areas have gentle water, are not affected by the ocean waters and are frequented by many families and young children, who are all very much aware of jet skis and the threat that they sometimes pose if they are handled by inexperienced boat operators.

One could argue that this bill should have been in the form of an amendment to bring Victorian laws into line with their New South Wales counterparts, particularly with regard to operating vehicles under power. But in the absence of such a simple and obvious solution, this legislation will at least be supported by local boat operators on the two lakes concerned. As the honourable member for Benambra pointed out, since the river waters have been submerged by the creation of the two lakes the state boundaries are difficult to identify, especially if you are on the water in a recreational vessel. The legislation makes it clear where the enforcement jurisdiction lies and is therefore supported by this side of the house, despite doing absolutely nothing to standardise boat safety laws in both states.

**Mr SEITZ** (Keilor) — I rise to support the Marine Safety Legislation (Lakes Hume and Mulwala) Bill. The history of Lake Hume is of particular interest to the people of my electorate. It played an important role in the 1950s because it was the first lake established in Victoria with fish stock in it. Lake Eppalock and Lake Eildon came on stream much later.

Lake Hume was important to the migrant community because the Bonegilla migrant camp was there. As soon as people from the Mediterranean in particular were able to afford a boat and a car, they would head to Lake Hume for fishing holidays. It caused untold confusion because they were not aware of the underwater borders that existed. They were not even aware that there were two states because they assumed that New South Wales and Victoria were two different countries. Most European countries do not have the three-tier government we have here. In the main there is one government for the country and local government, so the provincial laws do not apply across the borders.

Furthermore, when they did get into strife with the enforcement regimes — it was the police who policed the waterways then — it was difficult to find a lawyer who could represent them because the act that applied depended on which side of the border it was on. A

Victorian lawyer registered in Victoria, particularly in my electorate, could not represent clients on the other side of the border in the New South Wales courts. They had to get another lawyer and barrister registered in New South Wales to represent them. That created further confusion for those people.

Imagine the confusion created for those people at that time. You have just come to this country and you are not familiar with it and you have been brought up living in one country — which you assumed Australia is — that had one standard law. It spoilt their leisure and their pleasure. When Lake Eppalock came on stream and the government of the day allowed leases for fishing clubs and ski clubs in the area, they all gathered around there to start building their own clubrooms and clubhouses because there was less confusion for them. So I am pleased and happy to see that some 40 years later we are unravelling the mystery for those people and introducing some reasonable and standard understanding of where the borders and boundaries are and which law will apply.

It is also important to ensure there is enough communication with the people — that the community education process take place once the legislation is gazetted and has passed the Governor in Council — not only in the region of Lake Hume, Lake Mulwala and the part of the Murray River that is affected but also with boat users in other parts of the state. My electorate, particularly Mill Park and Thomastown, has one of the highest registrations of boats on trailers. According to Vicroads, a high percentage of trailer boats are registered in that region. Many of the people are from the Mediterranean and are interested in what they think of as the safer fishing of the lakes compared to Port Phillip Bay, which has always been said to be treacherous and dangerous as the weather can change and make it very choppy. Most have opted to go fishing in the lakes, and groups from my electorate still have regular fishing trips to the Hume and enjoy the fishing in that area. I hope the clarification of the legislation will make it easier for them and for people who have to enforce the law such as fisheries officers, not just the police.

As previous speakers pointed out, the alcohol limits and licensing have always created a problem. Again it is to be hoped that that will be explained and we will get enough literature out to enable the community to understand those issues. If you are out fishing with the family, it is so easy for the young people who are aboard to get into strife if they have a drink. Somebody has a rod out with a fish on the end of it, and somebody else happens to put their hand on the throttle and all of a sudden they are in charge of the boat and they find themselves in strife because of the alcohol limits. Those things are important.

Victoria will also licence boat operators, and that will bring a closer understanding of the situation in the other states. It is important that we have uniform laws across the Australian states. After all, we are one country, and agreement on uniform laws on those issues, particularly in border towns, is very important. Some European people like catching the carp. They might not like to eat them, but they still like catching the carp on the Murray, and there is a problem with understanding where the border is. You cannot depend on which way the river has washed the bank away and changed the boundary. At different times the flow of the river has changed. There are still anomalies in that situation. Although recently I have not had any complaints or visits from people coming to see me about infringement notices for not complying with the rules on that issue, I have had them in the past.

Anything the government can do — not only through legislation — to remove those anomalies and make the law standard across the country and between the states is important. It is also important that we make sure that the officers who have to uphold the fishing and recreation laws know what the rules are, where they are and what law applies, because it is really a question of where you have to front up when you get an infringement notice and, if you want to contest it, whether it is a Victorian court or a New South Wales court that you have to appear in.

All those matters are important to the community, and the simpler we can make the explanation of the legislation to the people, the better they can enjoy their recreation time and facilities. Quality time is scarce today, because we all work more hours and life is faster. The bit of leisure time available to people should not be spoilt by unpleasant registration legislation that cannot be understood and leads to people getting infringement notices through no fault of their own. With those few words I wish the bill a speedy passage through the house.

**Mr SMITH** (Glen Waverley) — I have pleasure in supporting the bill, particularly as I have had a long association with that area of the Murray at both Lake Mulwala and Lake Hume. I was a teacher at the high school in Albury many years ago. I see the Minister for Agriculture looking over. I can discuss how many years ago with him later.

**Mr Hamilton** interjected.

**Mr SMITH** — Teaching was a good starting thing for lots of professions. Much more recently, there have been visits to Talmalmo Station, which is about 5 miles downstream from Jingellic and is one of the most historic homesteads in the area. Talmalmo is owned by that erudite, octogenarian patriarch, Bob Smithwick. A lot of us will be going up there at Christmas time to go fishing in the lake, which we have a close association with. The group includes a wine and food society president from Sydney, John Pola.

People are very keen to know what the rules are. The Murray River is the only river in the world that I am aware of that serves as a border where the middle of it is not the boundary. When New South Wales handed self-government to Victoria in the 1850s the whole of the river up to the high watermark on the Victorian side was deemed as part of New South Wales. That complication has created lots of boundary problems in both Lake Hume and Lake Mulwala ever since.

It is odd having the minister responsible for ports and harbours looking after the bill. We have nearly got it right, but we need a few more details. The honourable member for Benambra and the honourable member for Murray Valley, who will follow me in this debate, are both great experts on the subject. No doubt the honourable member for Murray Valley will give us chapter and verse on how things should be. The problem is with the different jurisdictions for fishing and boating. However, we are heading in the right direction.

The area is, for the people who live there, a most magnificent place. We have friends on Lake Mulwala too. Bruce and Nola Parry, who have been commodores of the yacht club there, show us just how much people can enjoy the facilities, which are fabulous.

As a result of this bill we are well on the way to getting it right both for the fishermen and for the people who use watercraft on both lakes. Eventually we will get it exactly right, and then there will be no boundary or jurisdictional problems for the people using the facilities. The bill has the support of both the Liberal and National parties because it is getting it right for the recreational users of the area and for the people for whom the area is part of their livelihood.

Some of us have been fortunate enough to meet Bob Smithwick and read some of his books. Bob, who is now at least 84 years old, has been there all his life. He knows that part of the world like the back of his hand. He will be pleased to know we are sorting out the jurisdiction for craft on the Murray and on the Ovens adjacent to Lake Hume. The government is to be commended for getting the legislation to this stage. There are further problems to be sorted out, so let us hope that in the next little while legislation dealing with them also will be brought before the house. I wish the bill a speedy passage.

**Mr JASPER** (Murray Valley) — Border anomalies are a huge problem for those of us who live on the border between Victoria and New South Wales. The northern border of the electorate of Murray Valley, the Murray River, is approximately 200 kilometres long and constitutes also a large part of the border between Victoria and New South Wales. Ever since I entered the Parliament in 1976 border anomalies have been a huge issue of concern. They have been brought to my attention by a number of people living within my electorate and have been addressed by successive Victorian governments.

Last Monday I was a guest speaker at the Numurkah Rotary Club, where I spoke on the history of border anomalies. I mentioned the fact that the border anomalies committee involving the Victorian and New South Wales governments was set up in 1979 under the then Premier of Victoria, Rupert Hamer. I went through the 10th annual report of the committee, produced in 1990, to look at the many border anomalies listed since 1980 on which corrective action had been taken, along with those on which action still needs to be taken. When I spoke to the Numurkah Rotary Club I provided detailed background information on the establishment of the committee and the subsequent action that had been taken by the two states to eliminate border anomalies along the Murray. I mentioned in particular the problems that had been brought to my attention in latter years, on which corrective action had been taken. In the question time that followed the questions that were put to me indicated clearly that a huge list of border anomalies still need to be addressed.

As I said, I have been making representations on border anomalies over all the years I have been in Parliament. Even with the corrective action that has been taken, there are still a huge number of anomalies for those of us who live along the border between Victoria and New South Wales to resolve. I guess for those members living in metropolitan Melbourne and representing seats in metropolitan Melbourne — and, indeed, in the southern part of the state — it is not a huge problem, because they do not come across these anomalies. However, if you live along the border you are dealing with these border anomalies all the time.

The classic example is daylight saving. We had an issue some years ago when the Honourable Jeff Kennett was Premier of this state. He indicated to us as the

coalition — the Liberal and National parties — that no action would be taken on daylight saving unless there were discussions in the coalition party room and that we would seek the elimination of the border anomaly which we had because Victoria began daylight saving approximately one month earlier than New South Wales.

We had this crazy situation where the two states had a 1-hour time difference due to daylight saving. The then Premier undertook discussions with South Australia and Tasmania and declared when daylight saving would start. We had quite a debate in the coalition room the following week because the members representing seats on the New South Wales–Victorian border were quite concerned that no discussion had taken place. However, despite the strong arguments we put in the coalition room we did not win when it came to a vote.

**Mr Hamilton** — Shame!

**Mr JASPER** — I agree with the Minister for Agriculture when he says shame. We lost the argument when it came to a vote because there were too many members living in the southern part of the state. However, I give due credit because the times were brought into line the next year and we now have uniformity in the timing of daylight saving, which began last Sunday in this state and in New South Wales.

I referred earlier to the 1990 report of the Border Anomalies Committee. It listed 131 border anomalies. I wish to digress for a few minutes and talk about specific border anomalies, because they relate to this legislation. I will mention some of the issues raised in the report covering the first 10 years of operation of the Border Anomalies Committee. One was pensioner fare concession for travel on private buses between Victoria and New South Wales. Another was applications to the Victorian housing authority by persons residing in New South Wales — that is, if someone had lived in Victoria and went to live in Mulwala, just across the border from Yarrawonga, he could not apply for a housing authority house in Yarrawonga because he was a resident of New South Wales. That has been corrected.

Reciprocity in the licensing of auctioneers and estate agents is another issue that has been corrected over the years. I am pulling out a few that I think are important and worth mentioning, such as portability of long service leave in the building industry for building industry workers and disparity in daylight saving arrangements between Victoria and New South Wales, which I have already mentioned.

Reciprocity in the recognition of fishing licences issued between Victoria and New South Wales continues to be a problem. I recall representations being made to the New South Wales government in the 1980s to provide reciprocity for those who held a Victorian licence and allow them to fish in New South Wales. The New South Wales government responded by saying that it was quite happy to ensure that there was reciprocity of fishing licences between the two states provided the Victorian government reimbursed it for the costs it estimated of those Victorians fishing in New South Wales. Of course the Victorian government did not respond to that, on the basis that it believed there should be reciprocity of licences and not an amount paid by the Victorian government that allowed Victorians to fish in New South Wales, remembering that if you are fishing in the Murray River you are fishing in New South Wales.

Reciprocity of recognition of free ambulance transport for pensioners in New South Wales and Victoria was a big issue that has been corrected. Progress has been made on the reciprocal recognition of shooters licences. Dual payment of payroll tax was another issue raised in this report that goes back to 1980. As I indicated, 131 issues were mentioned as border anomalies. Many of them have been corrected, but we have the continuing problem of border anomalies between Victoria and New South Wales.

I want to mention one particular border anomaly which was bought to my attention approximately 18 months ago. A person was apprehended in Albury in New South Wales where he was a passenger in a car being driven by a person on L-plates. In New South Wales that is illegal if you are over .05. The passenger was apprehended in that vehicle with the driver on L-plates. He was charged in New South Wales, went to court and was fined $1200 and had his licence suspended for 18 months because it is illegal in New South Wales for the passenger of an L-plated driver to be over .05 as far as the legal alcohol content goes. However, no such legislation applied in Victoria.

It was brought to my attention that a person in north-eastern Victoria regularly travelled to a hotel in a nearby town with his daughter who was on L-plates. He drove the car into town, she was a sporting lady and would go and play tennis or netball while her father spent the afternoon in the hotel watching the replay of the races, putting a few bets on and having a few drinks. Late in the afternoon he would be reasonably inebriated and his 17-year-old daughter on her L-plates would then drive him home. It was legal in Victoria but illegal in New South Wales. I raised that issue with the Attorney-General and corrective action has been taken.

That legislation has been reciprocated in Victoria and it is illegal for an L-plated driver to have a passenger over .05 as far as alcohol content is concerned.

I turn now to the Marine (Amendment) Act passed last year. I strongly supported that legislation which sought to introduce a licensing system for people operating powerboats in Victoria. I believed it was essential that such legislation be introduced in Victoria. I made representations to the Victorian government over many years on the basis that it needed to do something about this and introduce a licensing system for boat operators in Victoria. The anomaly of course is it applies to all boat operators in Victoria but in New South Wales those who are operating boats under 10 knots do not have to be licensed. We still have that anomaly between Victoria and New South Wales.

The licensing system to be introduced in Victoria has a commencement date for testing of 3 December 2001. It will first require the licensing of those under 21 years of age. That is to be introduced on 1 February 2002 and licensing is to be completed for all boat operators from 2 February 2003. We will continue to have a border anomaly between the two states with the licensing system not reciprocating from one state to the other.

Then we have the communiqué presented by the premiers of New South Wales and Victoria earlier this year when they met at Albury-Wodonga. It indicated that the states would be introducing legislation to provide reciprocity for licensed boat owners operating on lakes Mulwala and Hume. I supported that and thought it was important legislation to eliminate a further border anomaly. Recreational fishing licences were also referred to and there is no doubt that the continuing anomaly between Victoria and New South Wales on that issue needs to be addressed. It is an issue which was mentioned in the communiqué, at least to get this reciprocity working on lakes Hume and Mulwala.

The legislation before us this evening is an important step in looking to get reciprocal arrangements for those people operating boats on lakes Mulwala and Hume. Previous speakers have mentioned that the reciprocity means that New South Wales licensing arrangements will apply to Lake Mulwala, to the Ovens River up to Paralos Bridge across the Ovens River on the Murray Valley Highway, and the section of Lake Hume upstream of the Bethanga Bridge. The Victorian licensing system will apply downstream of the Bethanga Bridge. Although I support the legislation and believe it is a move in the right direction, there is no doubt in my mind that major anomalies still exist.

I turn to the boating and licensing systems. Although I indicate again my strong support for the introduction of a licensing system in Victoria, the anomaly still exists in that those operating boats under 10 knots do not have to have a licence. I refer to Lake Hume where there is a dual licensing system. Anyone travelling on Lake Hume would understand that the Bethanga Bridge is only just north of the Hume Weir wall and there is a large portion of Lake Hume which still falls under the New South Wales licensing system. But if you travel under the Bethanga Bridge into the southern part of Lake Hume you are under the Victorian licensing system. The anomaly still exists for people who wish to fish or undertake boating activities on Lake Hume. They need to be very careful of where they are operating and it will be necessary for people policing the system to have some flexibility and consideration for those operating along the border to the Bethanga Bridge, which is the demarcation between the New South Wales and the Victorian licensing systems.

A huge number of border anomalies still exist along the New South Wales–Victoria border. As I indicated earlier in my contribution, when I spoke to the Numurkah Rotary Club last Monday night on border anomalies, I thought I had covered fairly well the number of anomalies we have in Victoria as opposed to those across the border in New South Wales. However, when people spoke on the issues and questioned me they came up with a large number of additional border anomalies that will need to be addressed.

For those of us living along the border between the two states it is a continuing issue, and one we will need to keep addressing. The New South Wales and Victorian Border Anomalies Committee has undertaken extensive work since it was first established in 1979 and it has knocked out a large number of anomalies between the two states. However, the problem continues and more work needs to be undertaken.

The bill is a step in the right direction. It recognises the communiqué that was put out by the two premiers when the New South Wales and Victoria cabinets met at Albury-Wodonga earlier this year. Recreational fishing was added to it, and I believe extensive work needs to be undertaken on this issue to make sure we eliminate further border anomalies and make it easier for people living along the border.

Recently I had a situation brought to my attention where people living at Mulwala paid the financial institutions duty (FID), which was eliminated on 1 July this year, twice. Cheques were drawn in Mulwala but paid into bank accounts in Yarrawonga, so the people concerned paid the FID twice. Another issue raised was

stamp duty, which is being looked at by the Attorney-General, and hopefully some credit will be provided through the State Revenue Office to take account of the anomaly in that situation.

It is worth while to put on the record that people who operate businesses in the motor industry, in which I have a deep and abiding and family interest, whether they operate as used car dealerships or new motor vehicle operations, have huge problems moving cars between the two states. If you have an operation in one state with another part of the dealership in the other state, when you shift cars between say Albury and Wodonga you have to enter in a licence book change of that vehicle from one used car dealer to another, even if it is owned by the same people and the same dealership. Those issues need to be addressed.

I have sympathy for people who operate businesses on the border between the two states, and boat operators will need to be very careful about whether they are licensed and where they are operating their boats. Although Lake Mulwala and Lake Hume are included in the legislation, if you move further along the Murray River you will still have the continuing problem of the border anomaly. On Lake Hume you will still be in great difficulty because of the Bethanga Bridge being the demarcation of whether you need a New South Wales or Victorian license system for the boat operator. However, the legislation is a move in the right direction and I applaud it. Let us see that we keep moving in making sure we address additional border anomalies and eliminate the problems for people living along the border between Victoria and New South Wales.

**Mr BATCHELOR** (Minister for Transport) — In closing the debate for the government I thank the members of Parliament who have contributed. It is a bill on which there is furious agreement, although comments honourable members have made during the course of the debate are of interest and worthy of being made. I thank the honourable members for Coburg, Gisborne, Geelong, Ballarat East, Keilor, Benambra, Shepparton, Dromana, Mornington, Sandringham, Bellarine, Glen Waverley and Murray Valley. One can see by the wide spread of speakers on this issue that while it is a bill that deals with a very specific geographic application there is apparently widespread interest in the issue, and I thank honourable members for their contributions.

The bill will rationalise the application of the marine safety legislation of Victoria and New South Wales in Lake Hume and Lake Mulwala on the Murray River border. It results from, firstly, decisions that have been agreed at the national level. National principles have been agreed upon at meetings of the transport ministers and ministers responsible for this type of legislation from around Australia at meetings in the Australian Capital Territory, and as a result the Victorian and New South Wales governments have agreed to the rationalisation of these marine safety enforcement issues in the areas where the state borders are difficult to identify.

Victorian law will continue to apply on the remainder of the Ovens River and on Lake Hume downstream of the Bethanga Bridge. Under the agreement officers of the Waterways Authority of New South Wales will undertake the primary enforcement role. Victorian enforcement officers will also enforce New South Wales boating safety laws where that is necessary. It is sensible legislation. Honourable members have suggested some additional matters, and they will be considered over time. The bill stems from agreements that have been reached at the national level, so in that context it is appropriate we put in place those national agreements. If other issues arise in the future, future governments of New South Wales and Victoria can address them. I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## HEALTH SERVICES (CONCILIATION AND REVIEW) (AMENDMENT) BILL

*Second reading*

**Debate resumed from 27 September; motion of Mr THWAITES (Minister for Health).**

**Mr DOYLE** (Malvern) — This surely must be the last of the government bills in which I have some sort of proprietary interest. This bill originated three years ago under the previous government. It was a process that I initiated, as I recall, in the first year that the present Health Services Commissioner, Beth Wilson, took up her post. During that time I attended an all-day workshop with the Health Services Review Council to get this process under way. A small election loss intervened, and sure enough, two years later the bill pops up as a government bill. Surely after two years this must be the last of the government bills in which I have some proprietary interest!

I pay tribute to the chair of the Health Services Review Council at the time, now the Honourable Andrea Coote

in another place. She did an excellent job, and she has been most ably succeeded by Michael Gorton. Both of them deserve great commendation. It is no small thing to chair a council of that importance, and as I said, the Honourable Andrea Coote in another place did that extremely well.

This is a series of extremely sensible amendments which give some flexibility to both the office and the council, although I will make some points later about how in many ways my opinion on a couple of these issues has changed in the last three years. That is not to say in any way that we cavil at this bill, but some things that this house and our community need to think about can be flagged during our discussion of it.

The bill redefines health services to include things like social work, which is very sensible. It also includes psychotherapeutic services and laundry, cleaning and even catering services where they affect the health care or treatment of a person receiving a health service. The most important part is the addition of 'therapeutic counselling' to the definitions. That is an area to which we need to turn our minds. While I certainly applaud the move to bring counselling into the general ambit of the responsibility of the commissioner and the council, I do not think adequate attention has been paid — I do not say this by way of criticism — to what 'therapeutic' might mean and how wide the net might be. I will come back to that towards the conclusion of my contribution because as a Parliament we need to give consideration to the direction we take in this area.

The definition of 'provider' has also been amended to allow a complaint to be made against a group of people who hold themselves up as providing a health service although they are not defined as health service providers — that is, in circumstances where people have a reasonable expectation that a health service is being provided. That not only reflects more modern terminology but also refers to a group of people who may not be defined as a health service but yet may be the sort of people whom we wish to catch by the provisions the Health Service Commissioner has before her.

The definition of 'user' is amended by the bill to ensure that a complaint can be made by a person in relation to the past use or receipt of a health service or who wishes to complain that he or she has been unreasonably denied a health service, and that too seems to me to be important. Sometimes the fact that someone did not get a service could be the legitimate subject of a complaint to the commissioner — again, a very sensible process. The bill gives the commissioner the functions of providing education, information and training and of conducting research into complaints relating to health services.

It also clarifies part of the wording in the act which I must say is unclear by making it clear that the commissioner can refer issues to the council for advice. I believe that creates a much more intellectual and symbiotic relationship between the council and the commissioner, or between the active arm, the advisory arm and the governing arm, and that seems to me to be sensible.

I hope that gives the commissioner great scope. Being able to research complaints is an important area for the Health Services Commissioner, particularly when the commissioner sees a trend of complaint arising. Often this is the most immediate indicator of problems in the health service or indeed with providers of a wider and more general nature. A couple of years ago we had dental care being provided by unregistered and untrained pseudo-dentists. That spate of illegal activity resulted in police prosecution, but it would be very useful, not just in cases of that seriousness but where other trends develop, for the commissioner to be able to institute research into why they are happening and how we can go about preventing disasters in the health system.

The bill gives the commissioner power to encourage providers to distribute information produced by her office on the resolution of complaints. Again that seems to me to be sensible. The more we can promulgate information about complaint resolution the better that complaint resolution will be.

The bill also sets outs the circumstances in which the commissioner may name a person, either in her annual report or as the subject of a special report to a house of Parliament, and it also outlines the procedure the commissioner must follow before doing so. This is one of the things I wish to take up, which I flagged earlier in talking about therapeutic counselling, the ambit of the act and what it allows the commissioner to do. I will also take up a little later on clauses 7 and 17, which pick up this power of naming in Parliament and dealing with unregistered providers.

There is also the issue of the grounds on which the minister may remove a member of the council. I do not believe that power currently exists, but I believe it should. The bill gives the council additional functions to allow it to provide expertise and advice to the commissioner and to assist the commissioner in the operation of her office and the guiding principles of that office. Again that seems to me to be reasonable. In concluding I will also talk about the greater

expectations that the public has of the health system and how in monitoring complaints we need to ensure the processes are appropriate. It seems to me that this amendment is sensible in helping us achieve that goal.

Another amendment enables a person to make a complaint on behalf of a user who has died if the commissioner recognises the complainant as the user's representative. That also seems to be sensible. In some cases closure needs to be brought about or further damage needs to be prevented, or at least some concerns need to be conciliated. That should not stop because the person who initially received or, as the amendment would provide, did not receive a health service has died. Again that seems to me to be a sensible amendment. It ensures that a complaint can be made by a user's representative in relation to a health service provided before or after the user died.

A further part of the bill permits the commissioner to reject a complaint if it is misconceived or lacking in substance. The current wording I believe is something like 'frivolous or vexatious'. That reflects more modern wording, but although it may be only seen as a wording change, it sends a clear message to people about the sorts of complaints that would be quite properly rejected by the commissioner because they are lacking in substance. It seems to me to be better wording, and again we welcome that change to the act.

Another interesting part — this is something that perhaps our colleagues in the Department of Justice and their shadows need to give some thought to — talks about the commissioner rejecting a complaint to the extent that it relates to an issue that has already been determined by a coroner. I understand this is due to the finding in a recent court case involving the ruling on a coroner's decision. We are getting onto fairly difficult ground there. Whether the coroner and the coroner's findings are court findings has been the subject of considerable legal discussion.

Of course a distinction is made between the investigative arm of the coroner and when a more inquisitorial process is involved. It is about whether that is considered administrative or judicial — and about whether it is considered judicial when the coroner acts in a more adversarial role in presenting debate and argument. In this instance I do not wish to get into the debate about what standing a coroner's decision has, but it would be a concern if someone were to complain to the Health Services Commissioner about an issue that had already been determined by the coroner. This just ensures that the commissioner's office is not required to investigate such complaints. Again that seems to be reasonable.

The bill also allows the commissioner to give any information that she believes is relevant to a complaint to a registration board or any other person, organisation or agency if the commissioner has referred the complaint to that board, person, organisation or agency. That is very difficult in the health system, because there are so many statutory authorities, office-bearers, registration boards and other bodies to whom one can complain. We do not want a type of forum shopping, but neither do we want people to fall through the cracks in the system. We need to ensure there is maximum communication between all those bodies who hold responsibility in this area. This seems to me to be a sensible amendment that takes us a step closer to that.

A further amendment enables the commissioner to extend by 28 days the period in which the user or the user's representative may take reasonable steps to resolve the complaint through the conciliation process. That gives the office of the commissioner a little more flexibility, and I am sure will be welcome. Another sensible thing is to allow the commissioner to split a complaint into a number of different parts that can be treated separately. Again that offers the commissioner reasonable flexibility.

One reason why I know the commissioner will be keen to see this bill pass is the ability it will give her to ask a conciliator to provide a report on the progress of conciliation. It expands the recommendations which the conciliator can make in such a report and provides the commissioner with powers in relation to the new recommendations. Complaints are sometimes very complex, difficult and charged with emotion, and this will give the commissioner the power to look at the process as it unfolds. That seems again to be a sensible provision.

One other thing we must say, however, is that the commissioner should have the power to stop dealing with a complaint if she believes it cannot be conciliated or that no further action is warranted. Again the bill makes provision for that, and that is sensible. The other side of that, of course, is that once a complaint has been closed it may well be, given further evidence or new or additional information, that the commissioner may need to reopen the case. Again the bill allows that. It is a very sensible balancing of powers to allow the commissioner to bring something to closure if information suggests it should not be taken further or to reopen it if new information is brought to hand.

Conciliators are to be given the power to discuss cases amongst themselves. There is always a concern about conciliators breaching the confidentiality of complainants or other users of the system, but there are

instances in which conciliators need to discuss those cases among themselves. The bill sensibly provides that power.

There is an amendment that says that if during the investigation process, which can be quite lengthy, the commissioner believes that a complaint would be better dealt with or is suitable for conciliation, she has to refer that complaint to conciliation without delay — again a sensible provision.

One issue that I mentioned briefly — I apologise to the house for dealing with this in little bits, but I will address them all together shortly — is that the bill increases penalties substantially. Where a provider has been told to take action or it is recommended that action be taken, they must provide a report to the commissioner on what they have done to remedy a complaint which has been found to be justified. At the moment the penalty for not reporting is 10 penalty units, or $1000. That has been increased to $6000. While that is welcome, some of the suggestions I have to make later will relate not to the fact that the penalty has been increased but to what it is we are asking of someone against whom a complaint is found to be justified.

One other thing the commissioner can do is make repeated requests for information from a provider about the action they have taken on a complaint, including any action to remedy a complaint which has been found to be justified. That will be the subject of my remarks later too.

We must remember that the Health Services Review Council and the office of the commissioner sometimes deal with very confidential information indeed, and it is always problematic as to when that confidential information may be disclosed. The bill provides for three circumstances in which confidential information can be disclosed: when it is in the public interest, when it is necessary in a criminal case and when the user and the provider have authorised disclosure. All three of those things seem to me to be reasonable. The minister is given power under the public interest to waive that confidentiality requirement, and all those powers seem to me to be reasonable, given that they are in the public interest, of course.

In total, although the bill seems to be a bit of a grab bag of amendments to the Health Services (Conciliation and Review) Act, all the amendments are sensible and provide greater flexibility for the office of the commissioner and the commissioner herself, and all deserve our commendation. Certainly all are welcomed by both the commissioner and the council. The range of people with whom I have consulted, including those from the Australian Medical Association and the Royal Australian College of General Practitioners and providers like the health care networks, say that this will add to the efficacy of the office of the commissioner.

In my contribution I mentioned one area where I do have concern. What I am about to say is not to criticise the bill; it concerns something where I think my own views have probably changed over the last three years. I refer to what is contained in clauses 7 and 17 of the bill, as well as many other areas to which I will refer later in this contribution.

Clause 7 allows the commissioner, under subsections 11(1) or (2), to name a person if the commissioner believes on reasonable grounds that naming the person is reasonably necessary to prevent or lessen the risk of a serious threat to the life, health, safety or welfare of any person or the public or the person is a provider who has unreasonably failed to take action that has been specified in a notice under section 22(6) of the act to remedy a complaint and has been given a notice to remedy a complaint under section 22(12).

Many people take this power very seriously. I do not wish to minimise the importance of being able to name somebody in Parliament. It says that this is the highest law-making body in the state and that to name and therefore shame someone in this forum is a serious sanction indeed, and I agree that that is so. But in fact the commissioner already has this power. It has never been used. So while the provisions make the process clearer and more appropriate, this power of naming in the Parliament has never been taken up by the Health Services Commissioner, and perhaps we could ask ourselves why that is so.

**An honourable member** interjected.

**Mr DOYLE** — We could ask ourselves that, but perhaps later. I should have resisted that phrase!

The second area about which I have more serious concern goes to powers relating to evidence and investigations. This is an interesting one. Clause 17 deals with the commissioner's inquiries into actions taken by a provider following notice of a decision under section 22(6) requiring action to be taken and the commissioner's inquiries pursuant to section 9(1)(1). It says that if the commissioner has found that a complaint is justified — if someone has done the wrong thing — the commissioner has then through the whole process of investigation and conciliation made some recommendations about what that provider should do.

There is now a penalty of $6000 under the act — 60 penalty units, not 10 penalty units — but it is not for not taking action. Rather, the penalty is only for not reporting on what action that provider has taken.

So in a terrible case the provider could say, 'Well, I have not taken very much action at all. I have done X, Y and Z', and that person may have actually provided the report that is required by the act. They have reported on the action they have been asked to take, but the report has said, 'I have not done much'. So they have fulfilled the requirements of the act. There is no enforceable power to make a provider do what the commissioner has recommended through the conciliation process. Certainly this bill allows the commissioner to go back and ask that provider again and again what action they have taken and require them to report on that, but really that is no more, if I may say, than a power to nag. That may be effective, but it may not.

I do not criticise that; I think it is a step forward. However, the point I wish to raise and the point I have been alluding to throughout this contribution is that we are a little unsure and the community is a little unsure about whether we expect the Health Services Commissioner to be a conciliator or an arbiter. Do we want the Health Services Commissioner to investigate complaints, bring the parties together — which the commissioner can do compulsorily, that can be subpoenaed — and then make recommendations but stop short of saying, 'We are going to make those recommendations enforceable'? Because all we are doing is saying, 'You have to report on those recommendations and what action you have taken, but you do not have to take the action'.

This is a difficult question, and I am not suggesting there is a correct answer to it, but I am saying that unless we decide that we do not ever wish to give enforceable powers to the commissioner, then we have not gone far enough with this bill. There are still people out there who are going to prey upon some of the most vulnerable people in the community. I regret to say there is, if I could be a little unkind, a cohort of new-age, psycho-babbling con artists out there who will prey upon the weakest and most vulnerable in our community under the guise of counselling, and they will do enormous harm. Quite rightly the commissioner will censure them and make recommendations about what actions can be taken.

I do not say this is a particular problem of the present government because this is one of the problems that we wrestled with as well. On the one hand we can say, 'If it is serious enough the police will take an interest under the Crimes Act'. And so it is with people providing, for example, dentistry, who are completely untrained and unregistered. The police will take an interest in that because harm has been done. At the very lowest end, yes, conciliation and the commissioner nagging at a person and that person being named in Parliament may well have the effect of straightening up somebody who is not doing the right thing. But in the middle I fear is a group of people who will prey upon the public and who will seek to evade the powers of the commissioner and keep themselves below the threshold above which the police will get interested.

What are we going to do about those people? Unfortunately they often operate in this realm of therapeutic counselling or psychotherapy. I am suggesting that there should be something between a wrist slap on the one hand and jail on the other so that we can bring these people back into line to protect the public, because that is what these acts are all about. One thing that was not considered — I do not think — in the consultation paper was whether, for instance, we would make it a contempt of the commissioner not to follow the recommended actions, and make the power enforceable; indeed, make it an offence and say, 'If the commissioner makes certain recommendations and you ignore those recommendations, then you have committed an offence'. That is not the track the bill goes down, and I understand the good reasons why not, but it may be something we have to visit in the future.

One other thing I would flag is that we have a whole swathe of unregistered providers of health services. Because of Council of Australian Governments agreements we are not going to register new health providers. I remember well the very lengthy process we went through with all the states and the commonwealth to register practitioners of Chinese medicine. That bill was given expression in this house with support from all sides, but it was an anomaly. It has not been done in other jurisdictions, and it will be very rare in the future for other health providers to be registered.

So what sanctions do we have for those who are providing health services — therapeutic counselling is a very good example — but who are not under the aegis of any registration board? As I say, they fall between that slap on the wrist or police action. I hope the extra powers afforded to the commissioner will mean that happens less and less, but it is also something that this house has to face up to; there are people out there who prey upon people at their most vulnerable, and they can do enormous damage. At the moment, I regret to say, some of them get away with it. We should be looking at what we can do through acts such as this one to make sure they do not get away with it and to protect the

public. I do not offer that as criticism of the bill in any way. I just say that in this instance we have not gone down that track and that it is something we may need to consider.

I will throw up one further idea, which I have thought of often over the past three years when considering where we would go with this legislation. Maybe it is time for us, as other states have done, to consider a board for unregistered providers so that we would almost have a general catch-all board — not with registration powers by any means — which would be a protector of the public against the shonks who seek to prey upon vulnerable members of the public. I am not sure that such a board would sit very comfortably with the model set up for the Health Services Commissioner, given that it is a conciliation model, and that is reasonable. But I still know of the council's frustration and the commissioner's frustration that sometimes these most recalcitrant and difficult of practitioners who come before them can escape with a very limited punishment, and in some cases can escape altogether and go on preying on the public. As I have said, that is not meant to be any criticism of the legislation, because I think it moves us forward.

In conclusion I say that this piece of legislation will expand the role of the Health Services Review Council to ensure it can offer guidance to the commissioner and promote the work of the commissioner and the principles of the act. It provides new functions of education, training and research for the commissioner, and includes therapeutic counselling and psychotherapeutic services along with social work in the commissioner's responsibilities. It provides better procedures for the complaint, investigation and conciliation processes. It also provides a power to refer matters to a registration board or other authority.

It provides the power which I have been talking about, of requiring proof of the implementation of recommendations through reporting how much action has been taken on a complaint, and it may attract a penalty of up to $6000 if such a report is not forthcoming to the commissioner. It provides the power to name a person when making a report to the Parliament. It also provides that the exempting of some information from confidentiality rules, particularly when it deals with criminal cases, is with the consent of all parties, or is upon a decision of the minister.

Overall, within the present model of the Health Services Commissioner and the Health Services Review Council, the changes will provide greater flexibility for the commissioner. They are sensible changes, which reflect overall changes in our community about our approach and attitudes to and expectations of the health system. They follow the modern trends of increased disclosure in the health system and increased accountability for health care providers.

As I said earlier, overall the aim of this legislation is very worthy indeed. One of the most important things in the health system is to identify, to monitor and to manage complaints in the system. The Health Services Commissioner is a vital arm of that, with the Health Services Review Council. I believe this bill will be a step forward for both the council and the commissioner in identifying, monitoring and managing complaints about our health system.

**Mr DELAHUNTY** (Wimmera) — On behalf of the National Party I am pleased to speak on this bill which amends the Health Services (Conciliation and Review) Act 1987. From my research I am informed that the Victorian act was the first in Australia to create a Health Services Commissioner. That again shows that Victoria has led the country in many aspects of legislation and activity, and I only hope it can continue. As someone said, we hope the brakes are not on and that Victoria keeps moving forward.

The purpose of the bill is to amend the Health Services (Conciliation and Review) Act 1987 on three major points — firstly, to expand the functions performed under this act; secondly, to improve the effectiveness of the act; and thirdly, to provide the commissioner with additional powers.

From my research I am aware that there is a nine-person board, the Health Services Review Council, appointed by the minister. The composition of the council is: three persons who, in the minister's opinion, have experience of and are able to express the interests of the providers — which covers the providers' area; three persons who, in the minister's opinion, have experience of and are able to express the interests of users — the majority of us are users of health services; and thirdly, another three persons who, in the minister's opinion, are not affiliated with any association which acts as a representative, advocate or adviser for providers or users — so they are the independent people.

I am informed that the term of a person's appointment to this office is three years from the date of the appointment. I have a list of the council members. Its president is Mr Michael Gorton, and his term will expire on 8 June 2003. The list goes on. I see that the board has diversity with both males and females, which is good to have because I know that women particularly

have a great concern about health. We men do not take our health seriously enough until it hits us. We can learn a lot from the female sector of our community about looking after our health.

I inquired as to whether the Health Services Review Council members are paid a sitting fee, and was informed that they are not. Members were paid a sitting fee prior to 1994, but that was discontinued due to constraints on the budget of the office of the Health Services Commissioner back in those days. Because of the perilous state in which the government was left right across Victoria, the sitting fees had to be abandoned. I am not sure whether the government will change that. The nine-person council has a very important role, and we wish it all the best in that.

The National Party — particularly me, now that I am shadow minister in the area — consulted widely with the Victorian Healthcare Association; the Wimmera Health Care Group; West Wimmera health services; the Stawell District Hospital; Warracknabeal and Edenhope district hospitals; the Lister House doctors' surgery, which is a major doctors' clinic in Horsham; the Westvic Division of Health Practitioners; and many others. I received only one letter in response. It was from the Wimmera Health Care Group's chief executive, Mr John F. Krygger, who says:

> Re: Health Services (Conciliation and Review) Amendment Bill
>
> Thank you for sending me a copy of the above bill for comment. The bill has been the result of wide consultation and essentially relates to the role of the Health Services Commissioner.
>
> I believe it to be sound legislation.

That was the only response I had, which did not help me a lot in the consultation phase. But members of the National Party have spoken to a lot of other people. We had a good briefing from the minister's staff and staff of the Health Services Commissioner. We will not oppose this legislation.

We were interested to see that the bill makes amendments to address issues canvassed in a discussion paper released in September 2000. The issues include: whether the functions of the Health Services Commissioner and the Health Services Review Council should be expanded — and I will come back to that a little later; whether amendments should be made to improve the effective operation of the act; and the capacity of the commissioner to deal with complaints against an unregistered provider of health services. As we know, when a complaint is made it goes to the commissioner and it could go to the council. My understanding is that if people are not happy they can even take it to the Victorian Civil and Administrative Tribunal.

The National Party has some concerns about the bill. One is about the confidentiality provisions, where the second-reading speech states that the Minister for Health can decide that disclosure would be in the public interest. I will refer later to some of the concerns we have raised and the comments we have received about that.

Our other concern is about parliamentary privilege. As honourable members know, in this place they have parliamentary privilege and they do not want to see that abused. We are concerned about how the bill will insert grounds on which the commissioner may name a person when making a report to Parliament.

The National Party has had concerns about dealing with unregistered providers of health services, and we asked for some clarification about that. Clause 4 amends the definition of 'health service' to include: social work services, therapeutic counselling, psychotherapeutic services and laundry, and cleaning and catering services when they are associated with health care treatment.

I am informed that it is planned to include Chinese medicine at a later stage, and the honourable member for Frankston East may cover that in more detail.

In relation to the concerns about unregistered providers, the National Party was advised that research by the department supports the view of the New South Wales Joint Committee on Health Care Complaints Commission that it is very difficult to establish the nature and extent of complaints concerning the provision of health services by unregistered providers. The discussion paper outlines the commissioner's view that while the proportion of complaints against unregistered providers is low, the issues raised are often serious. The National Party asked for some examples and I will give some of them to highlight the concerns raised.

The first example was of a therapist who invited a woman who suffered from muscular problems to attend him for assistance. He told her that her problem arose from sexual repression and then assaulted her. The matter was referred to the police and charges were laid. The second example was of a woman who attended a therapist who advised that she needed to see him for ongoing care. The person performed a breast examination and asked questions of a sexual nature. The woman complained to the commissioner and the provider subsequently moved to another state. I am sure

there are other examples which are also very serious in nature.

The Health Services Review Council consists of nine persons appointed by the minister for a period of up to three years. They do not receive a sitting fee. Clause 8 inserts proposed subsection (7A) and provides grounds on which the minister may remove a member of the Health Services Review Council for a good cause. I am aware that this is in many other acts of Parliament and the National Party sees no problem with its inclusion.

The National Party had some concerns about freedom of information (FOI) and the relationship between this bill and the Freedom of Information Act 1982. There are a number of provisions in the Freedom of Information Act which exempt documents from disclosure under that act. One of the provisions is section 38, which exempts documents from disclosure under the FOI act if there is an enactment applying specifically to information of a kind contained in the document and prohibiting disclosure of that information. The National Party is comfortable with the bill as it relates to the FOI act and also in relation to the process going through Parliament.

I raised earlier the issue of confidentiality. The second-reading speech states:

> Nevertheless, confidentiality must sometimes yield to the public interest.
>
> The bill provides that information which would otherwise be confidential may be disclosed in three circumstances: firstly, in the course of criminal proceedings —

all honourable members would agree strongly with that —

> secondly, where the Minister for Health decides that disclosure would be in the public interest —

the National Party has some concerns about that and I will come back to them later —

> and, finally, with the written consent of both the health service user and the provider of the service.

The National Party has no problem with that. On the second point, National Party members raised concerns and were told that the minister would act on the advice of the Health Services Commissioner and the department in exercising that discretion. We call on the minister to make sure that he uses his authority and discretion wisely.

A situation in which the minister may consider exercising his power is if the commissioner becomes aware that an unregistered provider is engaging in serious, unethical behaviour which does not amount to criminal behaviour. An example is where an unregistered provider is engaging in sexual relations with his or her patients where those patients have a mental impairment. We encourage the minister to use his power in that regard. The National Party was also informed of two other acts within the health portfolio which give the minister power to authorise disclosure of confidential information in the public interest.

Clause 7 amends section 11(5) of the principal act by outlining the circumstances in which the commissioner may name a person in an annual report or a report to a house of Parliament. The clause also provides a statutory process for ensuring the commissioner exercises natural justice before exercising this power. The National Party supports that. During the consultation and research process we were informed that the ombudsman has similar powers to lay a report before each house of Parliament. Again the National Party has no problem in supporting that clause.

In further consultation, National Party members spoke to the Honourable Andrea Coote in another place, who was a former president of the Health Services Review Council. She informed me about Beth Wilson, who is a lawyer. I have often had a bit of a go at the lawyers here, saying there is a plethora of experience that it is always their fault if something goes wrong!

I am sure the honourable member for Frankston East is itching to get to his feet — —

**An honourable member** interjected.

**Mr DELAHUNTY** — Have a belt at the lawyers? I do not want to get my leader back in here to defend those people. I am informed that Beth Wilson is a lawyer and that she is doing a fairly good job in her position. I am informed that there were a number of abnormalities in the previous act that the council was pushing to change. Some people we had discussions with believe the bill could have gone much further.

The Health Services Commissioner provides an excellent service and is a great vehicle for making complaints. In looking at other states, we were informed that the New South Wales service has a much bigger operation with over 70 staff and a larger budget. It looks into a lot of other health services that are not covered by the act of the Health Services Commissioner.

I want to touch on a couple of other clauses before I hand over to the honourable member for Frankston East. Clause 2 states that the amendments come into operation on proclamation or no later than 1 December

2002. The Liberal and National parties will not oppose the bill, so I am sure it will move quickly through the upper house too.

Clause 6 amends section 10 of the principal act to give the commissioner additional power to encourage providers to distribute and display information produced by the commissioner's office in relation to the resolution of complaints. This goes back to the educative role of the commission in providing information to consumers and providers. As the old adage says, if we do not have the information we cannot enforce or implement it. I strongly support the continuation of that role to a much greater extent than happens now.

Clause 11 amends section 19 of the principal act to permit the commissioner to reject a complaint if it is misconceived or lacking in substance, in addition to the existing ground of being frivolous or vexatious. These amendments are commonsense and appropriate. Clause 11 amends section 19 to provide that the commissioner must reject a complaint to the extent that it relates to an issue which has already been determined by the coroner. Again that is commonsense.

Clauses 13 and 15 deal with the commissioner's powers of conciliation and the handling of complaints. The Honourable Andrea Coote in another place said that a lot of work is going on in relation to conciliation. That can only be helpful in bringing the complainants together to resolve the issue before it goes further — and it could go on to the Victorian Civil and Administrative Tribunal.

The National Party believes the bill, which deals with the Health Services Commissioner and the role her office and the council plays, is commonsense legislation. The nine members of the council do good work, and we hope that continues. The Health Services Act has provided an independent and informal way of resolving complaints about health services and promoting better medical practice, and all honourable members would support that. With that I trust the bill has a speedy passage through the chamber.

**Debate interrupted.**

## DISTINGUISHED VISITORS

**The ACTING SPEAKER (Mr Phillips)** — Order! Before I call the next speaker, I take the opportunity to welcome the students, teachers and parents from Eltham East, one of my local primary schools. They will entertain us during the dinner break.

**Debate resumed.**

**Mr VINEY** (Frankston East) — I join with you, Mr Acting Speaker, in your welcome to the students. It is one of the bigger audiences I have had in this chamber for some time!

I rise in support of the legislation, and in doing so I note the comment of the honourable member for Malvern that he was following through on work he had been involved in while in my current position as parliamentary secretary. In acknowledging that and in recognising a degree of bipartisan support for the legislation, I would add that it follows a proud tradition of the Labor Party in the area. In 1987 the position of Health Services Commissioner was created in legislation introduced by the Labor government of the time. These amendments largely follow through on the Bracks Labor government's 1999 health policy commitment to enhance consumer protection and community participation in our health services. They do that by clarifying the powers and the role of the Health Services Commissioner so the commissioner can address systematic problems in the health system as well as individual complaints. They also expand the function and role of the Health Services Review Council so it can advise and assist the commissioner in her role.

These measures will ensure a strong and independent complaints system. In making that comment I pick up further on some of the other issues raised by the honourable member for Malvern. I do so in a genuine spirit of bipartisanship and in acknowledgment of the role of Parliament in regulating an industry and of the role of government in regulating industry and professional practice. The legislation on the role of the Health Services Commissioner is an attempt to introduce a system of conciliation into a complex range of professions in the health sector. In part the legislation broadens the definition of a health service to ensure that the commissioner is able to investigate complaints on areas such as counselling.

The honourable member for Malvern questioned whether the government is seeking to have the role defined as that of a conciliator or an arbiter. He asked whether it was about trying to bring parties together to reach agreement or whether we wanted the Health Services Commissioner to act as an enforcer of good practice. The question raised by the honourable member for Malvern is important. Over the coming years, as we continue to modify, change and amend the legislation covering the professions, it will be an important question for the Parliament to consider.

In many ways the matter of conciliation is where the balance of the Health Services Commissioner legislation sits. The legislation is about enhancing the powers of the commissioner to act as a conciliator. It gives the commissioner the power to enforce conciliation rather than enforce an outcome.

If we are to have a role for a conciliator, that is probably the correct direction in which to head because to give a conciliator power to enforce an action or outcome shifts the focus, as the honourable member for Malvern said, to that of an arbiter. If that were done it would probably diminish the preparedness of the parties to subject themselves to conciliation in the first place. There is great benefit in having the roles and functions of the Health Services Commissioner and the Health Services Review Council to be about bringing parties together, conciliation of complaints and finding, where possible, some agreed resolution to what are often quite serious complaints and concerns raised in the community.

I appreciated the points made by the honourable member for Malvern and I am happy to continue along the path of an open bipartisan discussion on those aspects.

In concluding my comments on that part of my contribution, I indicate that the Health Services Commissioner has power within the legislation to report a matter or a complaint that has been brought before her to a relevant professional body such as the Medical Practitioners Board of Victoria or the Psychologists Registration Board of Victoria. There is a powerful ability within the legislation for the commissioner, if not to act as an arbiter, certainly to report a matter for consideration of a professional board, which may then take action against a practitioner.

Within those other complementary pieces of legislation that action can range from a whole series of possibilities, including the ultimate sanction of deregistration of a practitioner in a range of fields. A registration board may include the requirement for a practitioner to undergo further training or some other form of activity.

The core issue raised by the honourable member for Malvern about conciliation and arbitration is important. Victoria has the balance right with the Health Services Commissioner's position and the legislation in that the balance is in conciliation but the powers of the commissioner are designed to force parties to come to conciliation, to provide information and to be open. Where the commissioner believes a matter is serious, it is within the commissioner's powers to provide that information relevant to it to an appropriate board or authority; and, as has been mentioned in the debate, it is also open to the commissioner to include matters in a report to Parliament, which is a sanction that should not be underestimated. Reporting matters to Parliament can have quite significant implications for practitioners.

In the few minutes remaining for my contribution I will summarise the elements of the legislation and some of the reasons the government has proceeded with it. Essentially, the legislation has five main categories. A range of matters relate to definitions in the health service. As I said earlier, it is about expanding and clarifying some of the definitions of the health service to better reflect changes in the delivery of health services since the act commenced in 1987.

It also corrects an inadvertent error in the 1998 public sector reform legislation which had the effect of removing services provided by the Department of Human Services or the Secretary to the Department of Human Services from the definition of a health service. That is inappropriate. The government believes even though services are provided by itself through its department, they should be subject to the capacity of the Health Services Commissioner to investigate and take evidence on.

The second group of amendments relate to the functions of the commissioner, recognising her role in the provision of information education and training, permitting her to conduct research into complaints, and requiring her to encourage health service providers to distribute information produced by her office. They also relate to the functions of the Health Services Review Council, particularly giving the council a clear guidance that part of its function is the promotion of the office of the Health Services Commissioner and its guiding principles.

The third group of amendments relate to improving the operational efficiency of the act. They cover a range of things including the power to reject a complaint to which it relates if it is misconceived or lacking in substance; and a range of powers about clarifying material that the commissioner may forward when referring a complaint to a registration board or another body; to request a conciliator to provide a report on the progress of the conciliation process; and to allow the commissioner to use existing investigative powers to compel attendance and call for evidence and documents when she is conducting an inquiry into a matter referred by the council or into broader issues of health care.

Some amendments relate to confidentiality. Finally, a group of amendments are concerned with strengthening the commissioner's powers.

The bill strengthens the commissioner's powers in the event that she finds a complaint is justified. At present a provider must report to the commissioner within 45 days of receiving a notice about the action the commissioner considers ought be taken to remedy a complaint. The legislation increases the penalty from 10 to 60 units.

The bill contains a range of amendments to the act that go to the heart of the government's commitment to ensure the community and consumers are protected through a process of conciliation but ultimately with some powers of arbitration, by referring a matter to a registration board or a professional body. That mix of power and capacity of conciliation and arbitration through professional bodies is the right mix. I commend the bill to the house.

**Debate adjourned on motion of Mr McARTHUR (Monbulk).**

**Debate adjourned until later this day.**

**Sitting suspended 6.29 p.m. until 8.02 p.m.**

## WATER (IRRIGATION FARM DAMS) BILL

*Second reading*

**Debate resumed from 27 September; motion of Ms GARBUTT (Minister for Environment and Conservation).**

**Opposition amendments circulated by Mr McARTHUR (Monbulk) pursuant to sessional orders.**

**National Party amendments circulated by Mr STEGGALL (Swan Hill) pursuant to sessional orders.**

**Mr McARTHUR** (Monbulk) — It is a pleasure to respond on the Water (Irrigation Farm Dams) Bill on behalf of the Liberal Party. Let me state clearly from the outset that the intent and direction of the legislation is supported by the Liberal Party. Liberal Party members think the aims the government is trying to achieve are worthy and very worth while.

As you are aware, Mr Acting Speaker, I will turn later to some amendments circulated by the Liberal Party for which we seek the support of honourable members. I point out to the government that the amendments are offered in a spirit of cooperation to try to improve some of the drafting of the legislation and to assist the government in achieving what, as I have already said, are very worthwhile aims.

As background, many honourable members — particularly members from country areas — are well aware of some of the problems that have arisen since the introduction of the 1989 Water Act. Those honourable members who were here in 1989 — and there are not all that many left — will remember that that was a very long debate. It excited more than a little passion, and there were some memorable speeches from people who stood on various stumps and proclaimed the rights and wrongs of various provisions in the legislation. During the course of that debate several hundred amendments were included in the legislation.

Without doubt some of those amendments improved the workings of the act, and some of them may have had a questionable effect. Nevertheless, some deficiencies have become clear for all to see over the 12 years since the passage of the 1989 Water Act. They have become clear for all of us who have an involvement in this issue, whether as a farmer who has a diversion licence, a manager of a water authority, a parliamentarian who has an interest in water resource management or a member of one of the other organisations and community groups with an interest in the field. Those of us who look at this regularly are well aware of the deficiencies of the 1989 act and the need to update and improve it. To that extent I welcome the government's initiative.

One of the principal problems that has surfaced since the passage of the 1989 act is the definition of 'waterway'. I refer honourable members to the definition, which is very broad. It is so broad that it takes up more than a page and a half of the act. It covers a range of different types of waterway, including the standard things that everybody out there on the street would clearly understand. They are the sorts of waterways that have beds and banks and defined streams and names like Sandy Creek, Boggy Creek or Six Mile Creek. The part of the waterway definition which has caused the most problems is paragraph (b), which refers to:

> a natural channel in which water regularly flows, whether or not the flow is continuous …

That is such a broad definition that a waterway has become like beauty — it is in the eye of the beholder. It depends who you ask about whether a particular body is a waterway, but more of that later. The definition has resulted in considerable confusion and has led to a range of different interpretations across different regions of the state administered by different regional

water authorities — and indeed it has led to differing interpretations within the coverage area of a single regional water authority. This has led to discontent and inconsistency. I am sure the government does not appreciate that. Certainly the opposition does not, and neither do the farmers and administrators who have to deal with it.

In the mid-1990s we saw the agreement on the Murray–Darling Basin cap involving a range of state and territory governments and the federal government. In layman's terms that agreement capped the consumptive use within the Murray–Darling Basin at a particular year's level. It said no state or agency could use more water beyond, I think, that 1995 level.

**Mr Steggall** interjected.

**Mr McARTHUR** — The honourable member for Swan Hill has advised me that it was the 1993–94 level, and I am happy to have that corrected. Coupled with that we had an increasing interest in cool climate irrigation. Cool climate wineries and olive groves were increasing rapidly in areas which had previously been devoted to pastoral industry — that is, sheep and cattle country. The sheep and cattle industries were not travelling too well at that time, and the wine industry and the growers of olives and other exotic crops were travelling very well, so there was substantial interest in developing those enterprises in areas which had not traditionally been irrigated.

There was also significant improvement in people's capacity to build dams in areas which had not been irrigated before and to distribute and use the water for irrigation. Advancements in pumping technology and dripper and spray irrigation systems made high country and cool climate wineries very viable and attractive propositions in traditional pastoral areas, so we saw rapid expansion in those areas. We also had a series of years of very much below-average rainfall, which led to the imposition of the Murray–Darling Basin cap and an increasing demand for access to irrigation water but a reduction in the supply of irrigation water on a year-to-year basis. As a result we had no more water to allocate other than through a market mechanism.

That bumped up hard against the statutory right in section 8 of the act — that is, the right of a landowner to collect and use any of the rainfall or water that flowed across his or her property subject to one condition. That condition was that it had to be collected and stored prior to it getting into a waterway. That is one of the essential issues this legislation aims to resolve.

In her second-reading speech the Minister for Environment and Conservation pointed out that a series of reviews, studies and consultation programs have tried to resolve this issue. Those of us who are involved in this area are all familiar with the Baxter committee, the Heeps committee, the Hill committee and finally the Blackmore committee. The Baxter, Heeps and Hill committees were all established by the previous government to look at specific aspects of this issue in specific regions or locations. The Blackmore committee was formed by the Minister for Environment and Conservation in April of last year, and it had the responsibility of considering this issue in the statewide context and coming up with recommendations that could be applied statewide. That was a divergence from what had been attempted before.

The Heeps committee looked at four separate locations in the Grampians and Pyrenees in order to come up with a reasonable approach to and a consistent interpretation of the waterway definition. But to put it bluntly, the committee could not agree on any one of the four locations, and if it could not agree it is fairly difficult to expect that the water authority and the farmer would ever agree.

Bill Hill's committee looked at the issue in the high-catchment areas in the north-east and proposed a set of recommendations which were similar in their impact to the current provisions in New South Wales. Before that the Baxter committee also looked at this issue in the north-east and proposed a bulk allocation of water which should be made available to the north-east and high-catchment irrigators. It involved a proposal for 10 000 megalitres to be made available by way of bulk entitlement.

There is some belief in the community that that bulk entitlement was in fact made available. I have heard all sorts of stories saying that it was done but that it has been spirited off somewhere and should be returned to the north-east and made available to the high-catchment areas. I have made inquiries about this and have been assured by both the department and senior managers in the Goulburn-Murray Valley Rural Water Authority that while the intent was to create that 10 000 megalitre bulk water entitlement for the north-east it was never actually done. I can only take that advice on trust; I have no reason to doubt the veracity of the information those people gave me.

This is a very difficult and complex issue which people have tried to resolve for a number of years. It has caused heated argument between farmers and the irrigation authority, and it has caused heated arguments around the dinner table and, I imagine, around the bar

on Friday nights in lots of areas. So far it has been beyond any single person or group to come up with an easy solution. Before they get too wedded to the notion of an easy solution to this, I remind honourable members of the words of H. L. Mencken, who early last century said, 'To every complex problem there is a solution which is simple, neat and wrong'. For quite some time people have been attracted to the idea of a series of alternate, simple solutions.

I do not think any of them work completely for all areas of the state, and to that extent I think we need to recognise that the government's response on this issue has a range of approaches to it. I would like to point out to the minister that in proposing some amendments to the government's legislation the Liberal Party also appreciates that this is a multifaceted area that needs a response that is not just a simple and single issue but addresses the range of problems we face, which differ from area to area and can only be resolved by approaches that differ from area to area.

In her second-reading speech the minister said that the primary purpose of the bill is to better manage Victoria's water resources and that the government is strongly committed to regional development and wishes to avoid future fights for water that drive investment away. She went on to say that a sound, well-regulated system is needed that will provide security for existing water users and provide opportunities for future development. As the Liberal spokesman on this issue I can only say that I think they are very worthy aims, and I agree completely with them. I do not think anybody in the broader community would disagree with the minister's aims. All Victorians want to see water managed well and wisely; we want to see water managed sustainably. After all, we live in the driest inhabited continent on earth. Water is our most precious resource, and the potential for arguments and fights over water is increasing as our wish for development increases, as our population increases and as our demand increases.

This is not an open-ended game. There is a limit to the available resource, and if the community is to benefit generally we must have a resource management strategy and a resource management mechanism that is sensible, rational and sustainable, but above all it must also be fair and reasonable to the people involved. It needs to provide security for people who currently have licences and entitlements to use water across the state, but it should also provide a reasonable, sensible and equitable avenue for new entrants into the water market or irrigation industries. If it can achieve that, it will serve the state well and it will serve the community well for many years to come.

In dealing with the detail of the legislation later on I will turn to the amendments. First of all let us look at what the Blackmore committee said. Before going to the recommendations I will read from the final report of the Blackmore committee. The key findings of the committee were that water is and will continue to be a scarce resource and that the legal and administration framework needs to recognise this by managing all of the water in a catchment. It then went on to say that the priority for access to water should be first of all domestic and stock; secondly, water to sustain rivers and creeks; and thirdly, water for irrigation and commercial use. The fourth finding was that existing water users should have their rights protected. I can find no fault with those findings. I have not heard any significant agency, organisation or spokesperson criticise those findings; they are sensible. However, we need to judge the outcome of the Blackmore committee on the recommendations it has put forward to achieve those aims and put them into practice.

The first recommendation of the committee was in effect to change the threshold for licensing the use of water. In the past the threshold was made up of a mixture of topographical and usage parameters. The first recommendation of the Blackmore committee is to remove the existing statutory right of a farmer or landowner to build a dam off a waterway, collect water in that dam and use it for any purpose free of licensing requirements and free of charge. I have already explained the difficulty in determining what is or is not a waterway and the problems that has caused around various areas of the state. The Blackmore committee's first recommendation removes the issue of whether the dam is on a waterway, and its intent is to change the critical issue that triggers the need for a licence from where the dam is sited to what the water is used for.

If the legislation goes through in its present form it will no longer be an issue of whether a farmer builds a dam on a waterway; that will not trigger the need for a licence. What will trigger the need for a licence is whether the farmer intends to use the water for irrigation or commercial purposes. If the answer to that question is yes, then the farmer will need a licence for that use. Depending on where the farm is, other requirements come into play.

If it is in the Murray–Darling Basin catchment area, the farmer will also need to purchase entitlement that is equivalent to the licence volume. If the farm is south of the Great Dividing Range at present there will be no requirement to purchase entitlement, but there will be a requirement to go through the licensing process with the regional water authority and to pay whatever fees are associated with that licensing.

The Blackmore committee made a total of 19 recommendations, all of which were accepted by the minister. In the government's response the minister clearly stated that the government accepted all of those recommendations, but then went on in outlining the government's response to make some minor variations to the implementation process recommended by Don Blackmore. I will deal with those issues later in more detail.

In relation to the principal recommendations, on the removal of the current statutory right I clearly state that it is the belief of Liberal Party members that governments should remove statutory rights only in cases where there is an overwhelming public benefit from the removal of the rights and where the government is prepared to provide reasonable recompense to those who lose their rights. It is not something that should be undertaken lightly; it is not something the community accepts lightly. I can remember in the years between 1992 and 1999 members of the Labor Party making a lot of noise on this side of the house about attacks on rights. Often the noise they made was a spurious argument about imagined attacks on rights, and there were all sorts of trumped up claims about a reduction of democratic rights or processes.

Let there be no mistake about this: this is an actual removal of a statutory right. There is no question about that. The legislation specifically and deliberately removes an existing statutory right, and if that is the case the government needs to do two things. Firstly, it has a responsibility to demonstrate that the removal of that right is in the overall community interest and that there will be a broad community benefit from the reduction of the rights that people have enjoyed. In saying that, let us remember that it was the Labor Party that established or reiterated or restated this right in 1989 when it introduced the original Water Act, to which we are now discussing amendments. So, this is not a right established by the minister's political opponents; this is not a right established by somebody she does not trust or agree with. This is a right established by the minister's predecessor, John Cain. It is a right established during the Cain government, and it is a right the minister should not lightly throw away without first justifying it and giving the reasons and without providing reasonable recompense to the people whose rights are being taken away.

I will debate the merits of the recompense at a later stage, because the situation is not clear. Public statements have been made about what the government intends to do to recompense farmers for the loss of this right, but it is not in the legislation, and people across country Victoria who are considering whether the government has justified its case are being asked to take the government on trust. They are being asked to accept the minister's word that she has the capacity to drive what the government is calling a transition package through the budget and the economic review process and that she can convince the Treasurer that these funds should be made available. I have no reason at this stage to doubt the minister, but she must be aware that she is asking people to take her on trust on this matter.

**Ms Delahunty** — And I think that is a good thing.

**The ACTING SPEAKER (Mr Kilgour)** — Order! The Minister for Education knows full well that interjections across the table are disorderly.

**Mr McARTHUR** — It is a good thing if you can take a minister on trust, but if you look at some of the media coverage on this you see that the measure of this minister is already in question. The measure of this minister in the future will be very clearly judged on her ability to deliver those benefits which she has promised. If she does it, that is fine.

Let us look at some of the other effects of this legislation. First of all, it requires the licensing of all new irrigation farm dams in Victoria, regardless of where they are. Some of them will need two licences if they are built on a waterway: a section 67 construction licence and a section 51 take-and-use licence — that is, a licence to use the water within the dam, also called a volumetric licence.

Secondly, it offers a grandfather provision for farmers who have existing dams. Where the water is used for commercial irrigation, it allows the farmer to choose between registering those dams or going through the full section 51 licence process. If the farmer chooses to register, the registration should be for a five-year period. The government is prepared to pick up the cost of that first five years but after that expects the farmer to pay a five-yearly charge that approximates the administrative cost of maintaining the database or register. I shall say more about that later.

Thirdly, this legislation extends the current ground water protection regime to include surface water. It has essentially just photocopied the old ground water protection mechanism and said it now applies to surface water or ground water or both. Those of us who are involved in and interested in this legislation will know these procedures well.

Fourthly, the legislation improves the regulation, monitoring and control of hazardous dams. There are private dams in various locations around the state

which pose a threat to people downstream if the dam wall should fail. The safety and security of some dams have been severely questioned in recent years, and it has been shown that the current Water Act is deficient in allowing the minister, the government or the water authority appropriate powers and mechanisms to deal with that hazard and to protect public safety. So those changes are welcomed and sensible.

Fifthly, this legislation improves the regulation of licensed drillers. There is a deficiency in the Water Act 1989. If a farmer wants to sink a bore on his farm, he has to get a section 67 licence to construct the bore. However, in most cases it will not be the farmer who sinks the bore; it will be a licensed driller. In fact the farmer cannot sink the bore unless he is also a licensed driller, so in most cases the farmer organises a contract driller to come in and sink a licensed bore. The current Water Act has the capacity to require conditions on the section 67 licence for the construction of the bore. But those conditions bind the licensee, the landowner, the farmer; they do not bind the driller, the person who is actually sinking the bore and putting in the casing and the screening. So firstly, if the driller breaches the conditions, it is the farmer who is liable for the breach. Secondly, it is difficult for the water authority to take appropriate action against the driller.

The only real action available under the legislation is to either suspend or cancel that driller's licence. Most people would think that was a bit severe for an inadvertent breach. You probably would not need to cancel a driller's licence unless that driller consistently and deliberately breached licence conditions. This legislation brings in some penalty provisions which require the licensed driller to abide by the conditions on a section 67 licence and imposes a penalty on the licensed driller if the conditions are breached.

Finally, the legislation deals with a problem in relation to state observation bores. State observation bores are there for the measurement and assessment of ground water and salinity and for a range of hydrological issues around the state. They are regularly used as a method of research, testing and assurance of proper management of the system. State observation bores are generally sunk on Crown land, but over the years some of that Crown land has been sold off. It has been old public purpose reserve or roadway land which has been excess to requirements and has been sold off. The water authority responsible for a state observation bore has not always been advised of the sale, so some of those bores are now fenced in, in farmers' paddocks.

This legislation provides that the water authority's officers can get access to that bore for the purposes of monitoring and maintenance. It provides that if that imposes a cost on the farmer — if the farmer has to put a gate in his new fence — there will be compensation. It further provides for the protection of those bores so that anybody who deliberately damages them is liable to penalties, and it provides that if the person on whose land the bore is situated wants to use some of the water, they need to do so by negotiation and licence with the responsible regional water authority.

They are the basic thrusts of the legislation. This house has been able to examine it for just over a month now. The bill was introduced into the Parliament on 26 September. It is the government's solution to a problem which has grown over a period of more than a decade and which involves and affects people from a wide range of communities around Victoria. The initial proposal of the government was to debate this within two weeks. We sought an extension on that. We sought agreement from the government that it would not immediately debate the legislation when the two weeks was up. That was for the simple reason that by the time you get hold of copies of this sort of legislation, always on a Thursday evening fairly late, and find the various mailing addresses when you get back to your office on the Friday, it will not get to the people who are critically interested in it before, at the very earliest, the following Monday, but more likely Tuesday or Wednesday if they live in remote areas of the state. That then means that in the normal circumstance those people have only a week to read the bill, to try to understand what it means and to formulate some response.

We have in the consultation process discussed this issue with the Victorian Farmers Federation, Flowers Victoria, which is the horticultural industry arm of the VFF, the United Dairyfarmers of Victoria, the Nursery Industry Association of Victoria, the High Catchment Committee and the VFF Wodonga district council. I have sent copies of it or web access links to 55 rural and interface municipalities, to all catchment management authorities and to all regional water authorities, and I have sought as wide a comment as it is possible to seek. I have also had comments from university hydrologists who have been involved in lifelong studies of ground water and ground water management. Some of the comment I received back was not always absolutely supportive of some of the actions of the department and its contractors. Perhaps I will also mention those matters later.

The advice we received in response to this consultation was generally in support of the legislation. The statewide peak industry bodies all said they thought the legislation was an improvement on the current act and

that they would like to see it passed through the Parliament. Nevertheless most of them pointed to some deficiencies within the legislation as it applied to their particular area or industry and sought our assistance in either negotiating or by way of amendment improving and trying to resolve those deficiencies.

We also had comment from the Shire of Towong, the VFF branches from the north-east and the Wodonga district council, and the High Catchment Committee, which strongly argued for the retention of some form of statutory right. I will get to the detail of our response to that when I discuss the legislation in committee.

As a result the Liberal Party has decided that it will propose a set of amendments, and I have asked for them to be circulated. I will briefly outline the intent of those amendments. Five of them deal with clause 10. For the benefit of honourable members, clause 10 is a fairly large clause. One of the glories of legislative amending bills is that a single clause can insert virtually half a new act. In this case clause 10 substitutes a proposed new division 3 of part 3. It is the section which sets up the water supply protection areas and provides for the declaration of those areas, the formation of the local management committee, the tasks of the local management committee, the processes that the local management committee is to go through, the reporting mechanism for the local management committee, and the approval process and implementation of the draft management plans. This single clause starts on page 7 and goes to page 23, so it is a significant part of the bill.

We have five amendments to clause 10. They fall into two separate categories. Firstly, we are seeking to improve the workings of some of the operations of clause 10 — the water supply protection area regime. Secondly, we are seeking to improve the transparency and accountability of parliamentary scrutiny of that process.

There are two amendments relating to the improvement of scrutiny and allowing the Parliament a voice in this process. The first is to require that when the minister makes a declaration of a water supply protection area, he or she is required to gazette that order and then to advertise it in a newspaper circulating in the local region that that water supply protection area declaration affects. We have an amendment which will also require the minister to table that declaration in the house. The declaration of a water supply protection area is the trigger to a whole process which lasts upwards of two years.

There is a 60-day-by-60-day notification process. Then you have the formation of the local committee. The local committee will have 18 months to complete its task. It then refers its response back to the minister and the minister must make a decision, so it is likely this process will take upwards of two years. I think it is reasonable, if you are going to start such a lengthy process which is so critical to water management in any region, that the Parliament is advised that that process is started and that local members whose constituents may be affected are also advised and alerted that they need to take an interest in the issue.

The second amendment in relation to parliamentary scrutiny is about the end of that process when the local committee has done its work and prepared the draft management plan and supplied that draft plan to the minister. The legislation provides the minister with only two options. The bill says the minister can approve the draft management plan or reject the draft management plan, but the minister may not amend it. If the minister rejects it she is required to give reasons, but if the minister approves it then the plan goes into effect.

The Liberal Party believes that as part of the approval process the minister should bring that approved draft management plan into Parliament and table it, and Parliament should then have the opportunity of passing a motion supporting that plan. That is similar to an existing process, and I refer honourable members to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. When the Liberal Party entrenched that planning mechanism in the Planning and Environment Act it inserted a requirement that any minister who in future amended that plan had to seek the approval of both houses of Parliament before such an amendment became effective. This is in effect the same mechanism. If a minister approves a draft water supply management plan, we believe it is reasonable to bring that plan to Parliament and let Parliament have some oversight of it.

I do not expect there to be many occasions when Parliament has any reason to alter that draft management plan or reject it. After all, it will be drawn up by a committee of largely local people with in most cases a majority of practising farmers, so it is likely to be fairly practical and sensible and well thought out and argued, and it is unlikely that Parliament will want to toss it out. Nevertheless, in the event that a committee goes off the rails and gets approved a management plan that unfairly or unduly penalises or diminishes the interests of one individual or a small group of individuals, it is reasonable that those people should be able to take it up with their local parliamentarian and say, ‘Look, I have been done over in this. I want you to take this up in Parliament and argue the case for me’. It

is only sensible that we give those people that opportunity on those rare occasions.

The other three amendments to clause 10 deal with drafting changes which members of the opposition believe will improve the operation of the legislation. Clause 10 says that at least 50 per cent of local management committees will be practising farmers when the declared water supply protection area is wholly or predominantly a farming area. Concern has been expressed in the community about what 'wholly or predominantly a farming area' means. If you have a water supply protection area that includes, say, the town of Hamilton or Benalla, is that wholly or predominantly farming? If not, what will the make-up of the local committee be? If it is, there is no question; but if it is not, what will the make-up of the committee be?

We therefore propose an amendment which would resolve that issue of deciding what 'wholly or predominantly' means. We suggest that the government reverse the test and say, 'Unless it is a wholly urban area, then at least 50 per cent of the membership of the local committee must be practising farmers appointed after consultation with the Victorian Farmers Federation (VFF)'. That would remove all doubt about the intent of the legislation and the operation of the membership provision the minister is seeking to include. I offer that to her for her consideration.

I referred earlier to the difficulty of dealing with the definition of 'waterway' in the current act. Despite the fact that a good deal of this issue rests on that definition and has been caused by that definition, the government's response does not amend the definition of 'waterway' at all; it does not affect it by even a word. Its response has been to say, 'Let us take "waterway" out of the equation and require all irrigation to be licensed'. But that does not end the definition of 'waterway'. The 'waterway' definition is also used in relation to construction licences. The opposition has an amendment it believes will help to resolve that.

Where a water supply protection area is declared, we believe the local committee should map all the waterways in that water supply protection area. After all, the local committee is made up of local people with local knowledge. They will have the advantages of 21st century technology and the geographic information system. They will have their local knowledge and experience as well as the advantage of some very sophisticated mapping data within the department and within universities. It is reasonable to require them to map the waterways in their area to remove the doubt that has been left by the 'waterway' definition, which has not been amended by the government.

There is also an amendment that deals with the ability of regional water authorities to enforce the local plan and the water supply management plan. The amendment will prevent them from demolishing a farm dam. Under the act a regional water authority has the capacity to order the removal or alteration of works. 'Works' includes a farm dam, and the amendment is to ensure that farmers who are covered by a plan will not be unreasonably expected to remove a dam that has been on the property for decades or perhaps for generations.

The other three amendments deal with the licensing and registration issue and with the statutory right issue. I have already mentioned that one of the options the government is providing to farmers who use water from existing dams for commercial irrigation purposes is to register those dams. The government has made it clear that a single registration will cover multiple dams on the same property, but in order to qualify for a registration a farmer must have used the water from those dams for commercial or irrigation purposes in the last five years.

We think that a 5-year period is a little short, and we are proposing an extension to 10 years, which would provide greater comfort to people from the wetter areas where there are less frequent droughts but who nevertheless from time to time use water from what is normally a stock and domestic dam to keep the lucerne crop alive in a dry summer or the stud rams alive in a dry time. We think that by extending this to a 10-year period you provide better coverage for people who have an occasional use of water from a farm dam. That is the intent of that amendment.

The second amendment relates to the requirement for the registration to be five yearly, with the government providing the first five years free and then farmers paying a fee five yearly thereafter. It has been put to us, certainly by the VFF — and I think there is justice in this argument — that these dams already exist. In my experience travelling around the country I have never seen a dam get up and walk away. They do not move.

**Mr Steggall** — They move. One end of them moves.

**Mr McARTHUR** — The honourable member says one end of them moves occasionally. Yes indeed, but they are a different dam then, and a slightly larger dam.

The dams are there; they do not move. People do not fill them in. They do extend them from time to time, but that is a different argument. Given that they are there and will not shift, given that they will not be filled in,

the maintenance of this register is a very simple operation indeed. It will virtually be a static register. The only times there will be changes to the register are when farmer A sells his farm to farmer B, and then there is an automatic transfer of the registration into the new owner's name, and when a farmer who has registered dams in the past chooses to move into the full licensing system and wants a section 51 take-and-use licence for whatever reason — it may be to enter into the irrigation trading market if it is established in that area or it may simply be for greater flexibility in the use of the water — and then that farmer will be removed from the register. They will be the only variations to the register, once it is established. The government has already offered the first five years free, so the register will be established in that period.

Farmers have only 12 months to apply for registration, so it will be fully established by early 2003. If that is the case there will be very little maintenance of the register and very little need for five-yearly fees. It is our contention that the government should allow for the permanent and free registration of existing irrigation and commercial uses from farm dams. That would provide a proper grandfathering arrangement. It would mean there would be absolutely no retrospective effect on existing users.

The final amendment relates to statutory rights. As I pointed out earlier, the government is very clearly, very deliberately and very distinctly removing an existing statutory right. It has been put to the opposition, particularly by people from the north-east and from some areas in the south-west, that that should be replaced with another right. In its official policy, which I think was decided some 12 or 18 months ago, the Victorian Farmers Federation opted for the replacement of a right to a percentage of run-off from a farm.

The Liberal Party proposal on this is similar to but different in detail from that. The proposal is that landowners should have the right to use up to 3 per cent of the rain that falls on their property for irrigation or commercial purposes, that the right should be in addition to that for stock and domestic use and that it should be subject to a water supply management plan.

Those are the bases of our response to the legislation. We have consulted widely in relation to this. We support the government's intent in introducing this legislation, and we agree that the proper, rational and sustainable use of water is in the best interests of the community, both now and into the future. However, we believe our amendments will improve the operation of this legislation. We believe they will assist by providing increased transparency in and some level of parliamentary scrutiny and control over the water supply management and protection process and will clarify some ambiguities in the government's drafting process.

The Water Act is not recommended bedtime reading. If you suffer from insomnia I can guarantee that this will put you to sleep within 15 minutes. It is hard to read, it is randomly constructed and it is very difficult for the layman to interpret — and let's face it, many of the people who depend on access to water for their livelihoods are laymen. They are not lawyers and they are not bureaucrats; they are people with ordinary educations and ordinary qualifications but with extraordinary skills on the land. If we can help to make the legislation a little clearer and understandable for people, then I think that is a benefit.

The other thing that needs to be remembered is that the new water supply protection area and management process aims at promoting reasonable debate at the local level. The very act of saying to local users that a local committee will be appointed whose job it will be to draft a plan which will determine how they manage water resources in their area in the future is aimed at sponsoring debate. The people who form those committees will have no easy task. The debates will be long, difficult, sometimes angry and, I imagine, often passionate, because people's livelihoods and long-held ambitions and rights are involved. So it will not be a simple process to manage.

If that is to happen it is sensible that we try to make the legislation and its operation as clear as possible, that we promote sensible debate, that the legislation should have the clear aim of providing for everybody in an area where a resource is overused and stretched, and that those people get a fair share of it in the future.

**Mr STEGGALL** (Swan Hill) — I rise to support this legislation. The National Party has three amendments which I have circulated for the consideration of the Parliament and which I believe will improve the legislation.

The purpose of the Water (Irrigation Farm Dams) Bill is to better manage Victoria's water resources by providing security for existing users and opportunities for future investment in irrigation development in the upper catchments. The bill fills in a vacuum we have left as we have made our water laws over the years. That vacuum has been there because we did not know how to fill it, and that is because we did not know the best way to handle these issues. The issues did not come through to us from the upper catchments. While we were wrestling with the water law across the state

we always knew that one day we would have to go back and tackle this issue.

As the honourable member for Monbulk said, there have been four reports into this issue — the Baxter report, the Heeps report, the Hill report and the Blackmore report. With all those reports playing a role in this, at long last we have come to a pretty good solution. It is true that this bill takes away a statutory right — it certainly sets out to do that — and it also takes away some of the obstacles that have plagued users in the upper catchments concerning their rights and their understanding of water.

I should also point out that this is the first time in the 100-odd years since 1886 that Parliament has ever compensated for a change in the right to water. As has been mentioned, while a compensation package is not in the legislation it has been discussed in the government's response, and this Parliament will make sure the government of the day lives up to it — as I am sure it will. Through that package some compensation will be given to those people who have not taken up a statutory right that has been available to them for many years and who feel, because technology and opportunities have come along, a little peeved by the fact that this right is now being taken away. When you look at and wrestle with the best way to handle the legislation, you can see that that is not an unreasonable way to go.

I remind honourable members that only three or four years ago we took 20 per cent of the water sale rights away from all the Murray irrigators from Nyah to Hume. We also took 100 per cent of water sale entitlements, or rights, away from people from Nyah to the South Australian border, all without compensation but through negotiation and a process which we called the Murray River bulk entitlement operation.

I thought I would use this opportunity to travel over a little bit of ground. I have never had an opportunity to explain the cap, particularly the Murray cap. As the legislation we have operates with stream flow management plans, governments of the future will introduce caps for all the rivers and streams throughout the state. They will operate as the cap has operated in the Murray River, with some differences. I will turn to the Murray River, because the upper catchment in the north-east of Victoria is impacting on the Murray River flows, and that is a vital part of this debate.

Water extractions from the basin more than trebled in the 50 years to 1994. By the early 1990s it was obvious that the Darling and the Murray rivers were under extreme stress. Honourable members might remember the 1000 kilometres of toxic algal bloom in the Darling River in 1991. From 1988 to 1994 water consumption in the basin increased by 8 per cent overall. Under the 1994 level of development, medium annual flows from the basin to the sea were only 21 per cent of what they would have been naturally. Honourable members should remember that when they are thinking about the debate this Parliament has had from time to time on the Snowy River, the natural percentage flow of which is in the high 50s.

The frequency and scale of floods have fallen so significantly in the Murray–Darling Basin that the lower reaches of the Murray River now experience severe drought-like flows in over 60 per cent of years compared with 5 per cent of years under natural conditions. The 1995 audit of water use in the basin was a watershed in the development of a common and agreed understanding between member governments on resource sustainability. This has got to be seen as an Australian issue, not just a Victorian one.

The audit found that in the five years before only 63 per cent of the water permitted to be used was in fact used, leaving scope for further increases in consumption without any changes in entitlement. The audit also found that average diversions could increase by a further 25 per cent if all water rights were taken up, jeopardising the rights and water security of existing irrigators. That is where we moved in with the bulk entitlements issue.

At its June 1995 meeting the Murray-Darling Basin Ministerial Council decided to introduce a permanent basin-wide cap on diversions in response to declining river health and the erosion of security of supply for irrigators. It was seen as an essential first step to achieving healthy rivers and sustainable consumptive use. The cap is not an end in itself but is the first time that the governments of Australia have joined together in tackling head-on the health and the consumptive use of the rivers for the betterment of their future. The cap itself is the most vital change we have seen. It has started to deliver, and I will get to some of the reasons for that later.

For the first two years interim arrangements were put in place. In December 1996 the partner governments confirmed there would be a permanent effective cap from 1 July 1997. Its implementation is the responsibility of the individual states, and water monitoring reports are prepared on an annual basis. Since 1996 the ministerial council of the Murray-Darling Basin Commission has used the following definition of the cap, remembering that

Victoria is very much a member of that council. It states:

> The cap is the volume of water that would have been diverted under the 1993–94 levels of development in unregulated rivers. This cap may be expressed as an end-of-valley flow regime.

In other words, where there is a non-regulated stream it is measured by the water coming out the end, in most cases into the Murray River. With small variations this definition has prevailed. This does not mean the volume of water that was used in 1993–94. The cap in any year is the volume of water that would have been used with the infrastructure and management rules that existed in 1993–94, assuming similar climatic and hydrological conditions to those experienced then.

So the cap provides scope for greater water use in some years and less in others. The cap does not attempt to reduce basin diversions, just to prevent them from increasing. The cap should restrain diversions, not restrain development. New developments are possible under the cap through improving water use efficiencies or purchasing water from existing developments. There is no certainty that the cap has been placed in the correct place. New knowledge may lead to the lowering of the cap in some valleys. As we saw with the report last week, that work will go on into the future to make sure that we look after our river valleys and look after and better understand consumptive use and its impact on the environment and the health of the river.

The cap must use the principle of balancing development and the environmental uses of water. The cap has provided a basin-wide framework to coordinate actions between states and catchments. It strengthens and reinforces existing reform initiatives and really is the benchmark of all our regulation. The cap is what we are using in the northern rivers as the benchmark for all future directions. It ensures compliance, monitoring and publicity in all 22 major systems of the Murray–Darling Basin.

One might ask if it has put a lid on consumption, and it is interesting to have a look at what has gone on in that regard. At best the cap would have restricted diversions from increasing beyond the climate-adjusted levels of 1993–94. This has not happened, because in the northern basin diversions have continued to rise, and compliance in the middle sections of the basin — that is, in New South Wales and Queensland — is regularly in question. Rising diversions are impacting downstream in South Australia, and particularly in Adelaide. There is a big issue in the Murray–Darling Basin and in this chamber about the actions of Queensland in particular and New South Wales to a lesser extent, and the integrity which they put into implementing the cap.

The cap for Queensland is expected to be announced any day. In the southern section of the basin, diversions from the River Murray may have been constrained by the amount of water in storage, not by the level at which the cap was set. It is not possible to determine whether at the basin scale the cap has been exceeded because computer simulation models for determining cap compliance are still being determined. Only 4 of the 22 valleys — that is, 18 per cent of the operation — had draft models submitted to the commission in August 2000. The cap level has yet to be determined for the Australian Capital Territory and Queensland. I hope the minister and this government are playing a positive role in ensuring that Queensland, and to a lesser extent the ACT, will play their role in the integrity of our inland water system, the Murray–Darling Basin, by getting those caps in place and starting to run them.

Until all this information is available it will not be possible to determine if the cap has been successful. In water law Victoria is a mile and a half ahead of every state, South Australia being close alongside. New South Wales, Queensland and the Australian Capital Territory are travelling in slightly different time zones and in a slightly different manner. Queensland particularly is the one we hope will improve its position.

In 2000 there was a major review of the operation of the cap following on from detailed annual audits by the independent audit group. After five years of the cap it noted that the cap has supported the Murray-Darling Basin Commission Ministerial Council's aim of achieving ecological sustainability. While the cap does not necessarily provide for a sustainable basin ecosystem, it has been an essential first step. All water users throughout the basin need to recognise that the water they use is part of the reduced water available to the environment and that without the cap significantly increased risks or worse environmental degradation of the river will occur. The cap represents no certainty of a sustainable level of diversions and even at this level of diversions degradation may escalate. The report that has just been released suggests that reports that talk about doom and gloom in the river systems in the future fail to take into account that governments, landowners and river dwellers will change their operations over future years to make sure that does not happen.

The good outcomes of the cap have created an awareness that water is a finite resource. It has heightened understanding of the value of the riverine environment and has guaranteed security of water at the valley level. It has improved the codification of

property rights and entitlements over water — something we can discuss later — and it has accelerated the water trade. Up until this debate it has reduced tensions between irrigator groups and urban and rural Australia, and it has encouraged sustainable development. For example, in northern Victoria where I come from, and in Shepparton, Swan Hill, Robinvale, Mildura and Boort, we are seeing very fast development and investment. We now know that is something that can be achieved. The proposed legislation is trying to give the upper catchments the ability to have that increased and fast development. Victoria needs that development and so do the regions.

The independent audit group review in 2000 found that Victoria's water diversions from the Murray and Goulburn river systems in 1998–99 were 1 per cent above the state's climate-adjusted cap target and that this was within acceptable bounds for cap management. It said that Victoria's implementation of the cap has been exemplary, with models now developed for the state's main river systems and a management regime based on bulk water entitlements in place for major water users. It also said that Victoria had made substantial progress on models and frameworks to comply with the cap and that it has a reliable monitoring and reporting system in place for its major water users.

I am proud that at the end of our term of government we left the natural resource of the River Murray in that situation. I am pleased that the present government has carried that on and not tried to change it in any way.

Let us look quickly at the cap from another point of view. I refer to the 'Sharing the Murray' document which the former government issued as a discussion paper for the bulk water entitlements of the Murray:

> We do know that, if the weather in the future is the same as over the last 100 years —

I ask those people who are very interested in the cap to take note of this so that they will understand it; it is a problem when honourable members in particular do not understand the cap —

> then Victoria's use of Murray water has to stay at 1621 GL a year on average. This is the average use that would have occurred over the last 100 years if Hume and Dartmouth and all the present-day farms had been there for the whole of that time — i.e., they had been there at the 1993–94 levels of development.

The next part is interesting and confuses some people:

> The peak use would have been 2045 GL in 1957–58 — this was a dry year, and the dams were full after floods — the floods of 1956 —
>
> a year earlier. Lowest use would have been 960 GL in 1973–74 …

That was a very wet year and gave us some flood problems in the north. So the cap has a huge variance. Honourable members should remember that it operates on the average flow of how much water would have been used depending on the climatic circumstances of each year based on the development of 1993 and 1994.

And how will the cap work? In the future the underlying upward trend in each state's use of water has to flatten out and become a horizontal line. In a particular year, however, what is allowed to be used may be considerably above or below that line — which in our case is 1621 gigalitres. It will be calculated using the same model that estimated what would have been used over the last 100 years given the 1993–94 levels of development, but the model will be extended to take in the weather conditions right up to and covering that future year. Obviously the cap for a particular year will not be known until the year has ended, and accordingly there needs to be some latitude to go over it.

At the same time, if we were allowed to go over the cap every year there would be no cap. The ministerial council has now decided that any overrun of the cap incurred after July 1997 will need to be repaid by staying correspondingly below a later year's cap. How quickly any overrun must be repaid and what the limit for accumulated overruns should be, along with other implementation matters, had until recently not been agreed to by the ministerial council — although I think they would have been agreed to by now.

When people are looking at and thinking about the stream flow management plans we are going to have developed — not by this legislation, although the bill is highlighting them — they will realise there are a lot of ways in which we manage water for environmental and consumption use.

In Victoria the cap will be adhered to on a year-by-year basis by adjusting seasonal allocations of sales. That will bring in some interesting discussion later on: we have a sales component, as we call it, in our northern waters, which is the balancing factor in our water allocation system. In deciding on allocations account will be taken not only of how much resource is available in storages but also whether Victoria has clocked up a debit with respect to the cap. There will be a single cap for all of Victoria's Murray use, and 1621 gigalitres will be the average.

Australia, as we all know, is the driest continent on earth. It stores more water than any other country — more than 4 million litres for each person. We store 79 000 gigalitres in 447 large dams for urban, irrigation and hydro-electric purposes, and 2000 gigalitres is stored in farm dams. There are some 90 000 farm dams in the Murray system from the upper catchment to the South Australian border. The legislation leaves those stock and domestic dams untouched.

Between 1983 and 1997 New South Wales used 9000 gigalitres of surface water each year and 1008 gigalitres of ground water.

**Mr Lenders** interjected.

**Mr STEGGALL** — We measure it.

**Mr Lenders** interjected.

**Mr STEGGALL** — The question is, 'Who measures it?'. What a lot of people in Melbourne do not realise is that the resources we are using throughout Australia, and particularly in Victoria, are very closely monitored and measured. When we look at some of the criticism we get about natural resource management from people who do not realise how the system is working we get a little upset.

In New South Wales during the years 1983 to 1997, 8643 gigalitres were used for irrigation, and between those years total water use increased by 60 per cent. I came into the Parliament in 1983, and between then and 1997 New South Wales increased its total water use by 60 per cent. During the same period Victoria increased its water use by 48 per cent. Queensland, which is the area we are still having trouble with, increased its water use between 1983 and 1997 by 97 per cent. Queenslanders will argue that they had not done it until then and it was about time they got started. South Australia, which because of its geographic location is a highly regulated area, increased its water use by only 12 per cent.

One-third of Victoria's ground water is now overallocated, or close to it, and we are having some difficulties, as the minister is aware, with some of our ground water operations.

I will close now with a couple of quotes from the Deakin lectures given by Don Blackmore a couple of years ago:

> We cannot continue to drive a research agenda largely on the back of a definition of sustainability built only around the relationship of a farmer and bank manager. We need to reset the agenda. Much more of our research should focus on establishing farming and forestry which more mimics natural systems.

I quote further from the same document:

> The vast majority of Australians believe that small changes to land management will bring us into harmony with the natural capacity of the Australian landscape. It is simply not true in many areas, and a long-term institutional response is needed to manage the change process.

We have introduced a great deal of understanding through Landcare, salinity plans and the catchment management authorities, and we need to understand that the next change to really get sustainable land use is going to be in far larger land use changes.

Don Blackmore went on to say:

> We are now at a point where it will not be possible to deliver win-win outcomes for all states in the future. The current debates on environmental flows to the Snowy River, vegetation clearing controls [and] the cap in Queensland are a few examples of issues that tear at the fabric of the political commitment necessary to manage for basin outcomes rather than for more narrowly focused state and regional outcomes.

That is a summary of the position Victoria finds itself in when dealing with the legislation before us.

The cap and its position are vital to where we are going. Our measurement, management and understanding of our water systems is vital. The bit that has been missing for all these years is our upper catchments, and this legislation is going back to pick them up.

On the issue of the statutory right to water, the fact sheets put out by the Victorian Farm Dams (Irrigation) Review Committee and the response by the government to the committee's report are excellent documents which people should glance through to get some understanding of the issue. I will go through some of the history of the issue in this place. More than 100 years ago the efforts of Alfred Deakin — standing just across where I am now — led to the Irrigation Act 1886, which gave the state the power to control Victoria's surface water resources.

Alfred Deakin's royal commission, which led to the Irrigation Act, identified the legislation's basic principles. They included the notion that water, like air, is in an important sense a public community resource which ought not to be susceptible to private ownership or domination in the same way as other forms of private property. Also, in the public interest it is important that mechanisms exist to ensure that water sources are protected against overuse and degradation and that private uses are consistent with the long-term protection of the resource. It is therefore necessary that the state have supervening powers to intervene when necessary

to ensure that the resource is equitably distributed and properly protected and that individual entitlements are also protected. That was a pretty good set of principles in 1886. They were strongly debated in this chamber, with just about everyone agreeing with Deakin's outcome. They are the principles on which our water law has been written. They are also the principles by which we have moved the act through its many and various stages over almost 120 years.

This legislation is another one of those changes. It is a change which, as was mentioned earlier, removes a statutory right which some people have not exercised for 120 years. Similar changes were made through the Murray River bulk water entitlements to improve the control and quality of the river and to stop the overutilisation of the resource to ensure that we knew where we were going and what we were doing.

The National Party asked for a couple of things to be provided before the debate, and I thank the government for releasing some information on them. Firstly, we asked for the principles of the stream flow management plans, and they have been provided. Honourable members also have a copy of the stream flow management framework which spells them out. There are currently 20 principles in place for the stream flow management plan. I would have thought the debate about this subject over the last year or so might have led to a slowing of those stream flow management plan outcomes, but it is still a very good process. Amendments were suggested during the interim stage when this report came through, and the government has picked up most of them, particularly those the National Party put forward. The amendments before the house tonight contain some suggested changes, and the Parliament will work out how it wishes to go about the process.

I do not intend to go through the stream flow management principles at this stage, but they spell out the details so people can understand what we are trying to get to in these areas. Each unregulated stream will have a minimum flow, a harvestable amount of water and an environmental flow regime. That will be managed within a time frame. In certain places it will be a time frame aimed around winter flows, and that will be discussed and thrashed out by the local communities — I hope with better understanding than we have today. The operation is not designed to give the environmental movement a free kick towards the great desire some people have of knocking out consumptive use. The principles in the stream flow management plans are there to ensure that harvestable amounts are properly identified and rules are put in place. We talked earlier about the Murray–Darling Basin cap, which moves and wanders. The rules are not rigidly set, so the cap wanders with the environment, the seasons and circumstances. These stream flow management plans will do the same.

The National Party has asked that the management plans come before the Parliament before they are approved. The National Party will propose an amendment that the plans be tabled so that any member of this place who has a constituent with a grievance about a stream flow management plan and believes that issues have not been fairly dealt with will have a right to raise it properly in this place. The government has two choices with the amendments in front of it, so we will see how we go in the committee stage.

I do not agree with the honourable member for Monbulk that the Water Act is so complicated that no-one understands it. As people work with the act and rely upon it for their future livelihood, they get to understand it and ensure it works. The stream flow management plans are there to help us design our way through and ensure that we have a proper system in our country areas that provides security. That is vital for the unregulated streams in the upper catchments, and it is crucial that people play a role in those communities.

We have recently had a debate about a prescribed formula based on 3 per cent of rainfall. Honourable members would know that New South Wales has a formula of 10 per cent of run-off and that it is far from successful. I confidently believe that New South Wales will have to revisit that, because the harvestable amounts of water in its valleys and rivers are completely out of hand in many cases. The New South Wales government will have to find a method to manage that situation.

Like many other members of this Parliament I have met and had discussions and debates with people from the upper catchment. The 3 per cent issue came up just recently, and I note with interest that an amendment to introduce this concept has been circulated by the Liberal Party. I have a huge amount of difficulty with that, and I am very surprised that it is here. The figures we were given in relation to the 3 per cent are so huge that I have some difficulty with them, so I have dropped them down to between 250 000 and 350 000 megalitres of water. That is the amount of rain which under this process would become a water right on agricultural land in the north-east.

To put it into perspective, that is more than the total amount of diversion licences on the Goulburn-Broken, the Campaspe, the Loddon, the Murray, the Mitta Mitta and the King rivers. It would equate to 25 per cent of all

Goulburn Murray irrigation district water rights. Three per cent of rainfall would deliver property rights to people who have never been entitled to them under 120 years of Victorian water law. It would create new property rights in a huge area of Victoria. One can use a figure of in excess of 350 000 megalitres, which is part of the cap I mentioned before. I went through the details of the cap to explain that if this system were to come into place we would have to take at least 350 000 megalitres of water from existing users in this country.

**Mr Plowman** interjected.

**Mr STEGGALL** — You will have your turn, my friend. You'll be able to go for your life, and I look forward to it! Under this concept we have the issue of how you measure it and how you deliver that right, because this government is part of the Council of Australian Governments agreement. Under the COAG agreement on water rights, no property right will be given to anyone other than by tender or by auction. That is what we agreed to, and that is what the government is agreeing to today. A new property right in water will have to be delivered in that way or we are going to have quite a debate on our hands about the water law.

It is unclear at the moment — and we will listen to the debate later on in the committee stage — whether a right over agricultural land in the upper catchment would put a contingent liability on the state to deliver that water to the people who own that land. I do not believe that is feasible. In talking about the pressures and tensions brought on by a water debate, I can assure honourable members that, having seen the television news — of which I was not part — temperatures in the irrigation areas of this state are a lot higher tonight than they were last evening. I believe we should have the debate, and I look forward to it, but if you are going to have a property right and that property right under our law is a tradable right — let us just use a figure of 350 000 megalitres — if you are not going to use it you should have the ability under our law to trade it.

**Mr Plowman** — You can't trade it.

**Mr STEGGALL** — I hear somebody saying that I can't trade it. I can assure the honourable member, through you, Mr Acting Speaker, that the law of equity says that if people have property rights to water in this state — and even if this Parliament were to try to deny the people who hold those rights the right to trade them — I am pretty sure that you would find that under common law and under Victorian law this government would be forced to trade in those property rights. I would suggest that we ought to have a bit of a look at and a think about all of that to work out what it means, because if you take 350 000 megalitres away from the dairy industry you can multiply the 350 000 by, say, $500 a megalitre to find what that means. If you like you can take 350 000 megalitres away from the horticultural areas of this state, then multiply that figure by $3000 a megalitre and see what you come up with.

What we are trying to do with the legislation is put in place a comprehensible water law for the upper catchment so that those types of developments are properly protected without any misunderstanding, without any form of skewing of the cap and without changing the system of water law in Australia or sharing the facilities we have with New South Wales, Queensland, the Australian Capital Territory and South Australia.

We have a pretty good thing going in Victoria. People from all over the world come and look at our water law, and up until now we have had very good results. It is only since 1992 that we have started using our property water rights for the development of our country communities. One of the things that has made me wild over that time is that people in the upper catchment have not been able to do that. The upper catchment has not had the ability nor the confidence to have that investment developed, and we need the cold climate operations to produce high-value, high-quality products. We need it to make sure that we have a proper spread of our wine grape industry and our cold-climate wines, and we need it for horticulture and a spread of crops whose products will have a greater selling period for us and for the rest of Australia.

I look forward to listening to the arguments on the 3 per cent issue, but I hope we will not go ahead and bring things to a position where people are going to feel threatened and where we are going to have a difficult time. It equates to transferring 25 per cent of the Goulburn Murray irrigation district's water right to property rights in the upper catchment areas, whose people have not exercised those rights in 120 years. As we go through the discussion I hope we will have come to a clear understanding, and I hope that when the minister responds she will put a clear statement down as to exactly what that operation means.

While we are on controversial issues, let us have a crack at the exchange rates, which were part of the committee's report. They were also part of our request to the committee, which the government accepted. The development of exchange rates is vital not only for this argument but also for interstate trade. We have exchange rates operating between South Australia, Victoria and New South Wales, and we have

permanent interstate trading downstream of Nyah. It is a trial operation, and there are reports and documentation on it if anyone wants to go into it.

We need exchange rates in the other areas, and in particular we need exchange rates for 5 basic products. Oils ain't oils, and water ain't water when it comes to irrigation or transferring water. There are 5 basic products, but we probably have closer to 20 products in New South Wales and Victoria. We need exchange rates in those areas so we know that when water is traded it is not going to impact on the cap and will maintain the equity of our operation. We will have a set of rules that people can understand so we will not have a pig in a poke with people hoping they will get the best deal of the day by political influence, or whatever it might be.

The person in the upper catchment wishing to purchase water will have five basic choices. They will be able to purchase a water right between, say, Hume and Nyah with a full sales component to it. That will apply to the Goulburn Valley and the Murray Valley. There are other products that have water rights without sales components. Remember that we took the sales from the people downstream of Nyah and did not compensate them. They do not have a sales component, so if you go there to buy your water you will not have the sales component. We have diversion licences with sales components. A diversion licence applies where the pumper pumps directly from the river. It is a little different. They do not get a sales outcome until the gravity irrigator has received 30 per cent of their water right in sales. So we have a different regime, or a different product, with a diversion licence.

And then, of course, we have the diversion licence without sales. Most of the developments downstream of Swan Hill, for example, have exactly that product, a diversion licence without sales. And then we have the diversion licence from the unregulated stream, usually in the mid to upper catchment areas. So those are the areas in which we need to have it.

We have asked the government to give us some idea of the top exchange rate that might be expected, so that people understand what we and they are talking about and so that when an upper catchment person, and I am thinking of the 3 per cent, wants to sell water right out of that area under the new conditions that will be created, they will sell it at a lesser volume than they would buy it. Let me put it this way. If an upper catchment person is purchasing water from the Boort water irrigation district, which has the highest reliability and the highest level of product, it would be somewhere about 1.85 — in other words, for every megalitre they purchased in the Boort–Pyramid irrigation area, and there is a lot of water in there, they would have delivered on their property 1.85 megalitres.

**An honourable member** interjected.

**Mr STEGGALL** — Yes, Macorna is in the Boort–Pyramid irrigation area, and I know that you will be delighted to know that in your old place someone buying a megalitre would receive, in their upper catchment area, 1.85 megalitres. If they were looking at selling water from the catchment they would have to sell 1.85 megalitres to deliver 1 megalitre. So what goes up comes down, and the exchange rate works both ways. As water is traded and people get more confidence in the trading of water, and as we get in to the system, I believe the next review we will have will be the retail entitlement review to reform sales of water. These things become more and more important.

The government has agreed to exchange rates which I am informed will be about that — 1.85 for the highest value water product is not bad. That will go right down to 1 in other areas. For example, with buying and taking of water from the unregulated stream it would be 1 for 1. We look forward to the development of that, which has been a process at the Murray-Darling Basin Commission level and which we need to achieve at the Victorian level.

Then we go to the issue of the dams and the registration of the dams. We were looking at asking the government to have an amnesty — and the government might still decide to do this — for some of the people with dams who have not registered or who are having trouble registering or changing over to a licence. The bill has the potential to create difficulty for a small number of farmers who have existing dams that were not caught up with during the amnesty some years ago. We have already had amnesties on these things. In most cases these dams were not reported to Goulburn Murray Water during the amnesty because either the owner did not believe it was sited on a waterway or did not perceive that the use was anything beyond stock and domestic, even though the use may have included watering around the house for fire prevention. In fact many such dams are located at sites which will fall within the 'waterway' definition as currently applied and thus should have been licensed during the amnesty, but they were not. We believe we need a further amnesty to enable all such dams to be registered or licensed. Another amnesty can be justified on the grounds that the rules are changing and we should give everyone a chance to regularise their situation so we can start with a clean slate.

With that in mind we have circulated amendments that will give people the ability to register their dams where there is a doubt on a waterway and where there is a blatantly illegal dam — that is the downside of our amendment.

The illegal dam that is blatantly there will be able to be legally registered. I believe we should have a clean slate and start again. Then we would have a dam which is not on a waterway and is not registered. The bill aims to do that, and the amendment picks up those matters. I hope with the amnesty area we will be able to tackle it in that way. We will present those amendments in the committee stage. If the government wishes to travel that course, we would be most grateful. If it does not, I believe a full amnesty should be put in place.

You will also notice, Mr Acting Speaker, we have amendments to the definition of 'domestic and stock use'. Amendment 1 states that:

> … in the case of the curtilage of a house and any outbuilding, watering an area not exceeding 1.2 hectares for fire prevention purposes with water obtained from a spring or soak or water from a dam …

will be a use for domestic and stock. The object there is that we have in our upper catchments quite a few people with soaks and springs who trickle water around the house and look after their interests. Under the current act that system could be deemed an irrigation system and a licence would be demanded. The opposition believes that is not required and we should have a facility whereby people who are steering a bit of water around from a soak or using water from their stock and domestic dam for fire prevention purposes to 1.2 hectares, or 3 acres, should be tolerated. We hope to pick up those people who have been caught in that area.

The other amendment is the one that has been mentioned where the changes to the water supply protection areas would be tabled in the Parliament. Any member of Parliament would have the opportunity then to raise an issue of grievance to put a case, so a minister would not have a clean slate and an easy run on that sort of thing.

The Water Act was changed in 1989 — and I keep saying this, I suppose, but we should keep saying it. In the old days we had the State Rivers and Water Supply Commission, with commissioners sitting out there who made decisions on irrigation and water use in Victoria. We had a lot of trouble with that, because there was no political accountability. The ministers of the day, and the members of Parliament of the day, would say, 'We agree with you, but the state rivers and water supply commissioners have the power for that, so we should rely on them to do it'. We changed that in 1989 to make the minister responsible. If you look at the way the Water Act is written, you see that the minister is the final arbiter in a lot of things. It is designed so that this Parliament will be used to protect any person who has a grievance under the Water Act about changes or about whatever might happen to them.

Likewise, as was mentioned with the concept of having the Essential Services Commission come in, the Treasurer announced he was going to bring in legislation next year to have the Essential Services Commission do all the economic regulation on the government-owned rural and urban water authorities. That is why we opposed that concept. If it occurred, we could not ever get any accountability in the Parliament because the Essential Services Commission out there would perform that task. I hope government members, particularly the backbenchers, will understand our angst about the Essential Services Commission taking the responsibility away from the Parliament in dealing with totally government-owned enterprises.

The other issue raised in the legislation is the issue of drilling and changes to the principal act. We have had discussions with members of the drilling industry and they are quite pleased with those changes. I believe ground water will be a subject that is debated further in this Parliament because our ground water management is not quite as good as it needs to be.

In summarising the issues of this legislation, the unregulated development of the water resource in the upper catchment jeopardises the security of the Murray–Darling Basin cap and needs to be fixed. This legislation will do that. It does not need the 3 per cent concept. That is an absolutely unworkable operation. The waterway definition has become unworkable, as upper catchment operators will tell you. It has become unworkable because as water becomes scarce, bureaucrats are forced to screw down on the additional use of water, and that is why the problem needs to be remedied. Total water resources of the catchment are now included in the water allocation regime. That is vital. Stream flow management plans will pick those up.

The bill will expand licensing arrangements to include all new irrigation and commercial water use in a catchment. For the first time we are introducing legislation which has a licence by use. It is a commercial use. If you have water and use it for commercial use, whether it is irrigation, dairy wash-down or industrial, you must license it — not as we used to have it. This legislation is introducing a new concept which I think is pretty good. Domestic and

stock dams are excluded from the new arrangements. I have noted the comments of the honourable member for Benambra in the media on that, and I believe him to be wrong, but the domestic and stock dams exclusion is a vital part of this, remembering that in the River Murray system we have about 90 000 dams between the upper catchment and the South Australian border.

The planning process for multiple light rural and residential subdivisions is new and has a reference only to local government, which I believe is adequate and which will be fine. New water users can apply for a registration licence issued for five years, with the cost of the nominal fee to renew to be met by government for the first five years. The Liberal Party has introduced amendments which would omit the five years in that area. That matter will be handled later in committee. No water trading is allowed by registered water users. There will be a single licence only for multiple commercial dams on a property.

We have, particularly in the Colac area, in the Ballarat area and in western Victoria with the internal drainage systems, people with multiple dams that they do not use every year for commercial purposes — sometimes they do with some of the aquaculture ones. There is now a single licence for multiple commercial dams on property, which I think is very good. Metering is only required on new dams when licence entitlement is less than the dam capacity or when the entitlement exceeds 20 megalitres. We have a fear for some reason in Victoria that you should not meter dams — that you are going to hide something. I have the opposite view.

Metering protects those people with a water right and makes sure they have the right entitlement to get it. Re-use dams need no licence subject to reasonable criteria — that is, they are not built on a catchment picking up a whole heap of water flowing downhill other than from the irrigation. The system of exchange rates has been developed, and the bill provides for specification of permissible annual volumes for both surface and ground water resources.

The water supply protection area plans are introduced for both surface and ground water resources and a combination of both where it is needed. There will be transition packages in capped catchments, which we will debate later in the committee stage, and a transition package in both capped and uncapped catchments for farm plans and engineering design for dams and that type of thing, which is in the package.

I look forward to the debate. I hope it is a good and solid one. I hope I have not missed out on too much. We will pick up other issues in the committee stage of the bill. I commend the bill to the house.

**Mr HOWARD** (Ballarat East) — I am pleased to start speaking on the Water (Irrigation Farm Dams) Bill, which is a very significant bill.

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

**Debate interrupted pursuant to sessional orders.**

## ADJOURNMENT

### Planning: restrictive covenants

**Mr COOPER** (Mornington) — I seek action from the Minister for Planning to overcome the problems created for many property owners by a dead man's covenant.

As an example of the problem, I cite a situation facing one couple who live at Mount Eliza and who applied to the Mornington Peninsula Shire Council for a planning permit to extend their home. In accordance with the Planning and Environment (Restrictive Covenants) Act 2000 the council then sought and was given a full copy of the property title. It was then discovered that the property was burdened by a covenant that states in part:

> … no building shall be commenced to be erected or reconstructed on the said land without first obtaining the consent and approval in writing of John Edmund Taylor …

That covenant was put in place in 1933 when the Mr Taylor mentioned was the authorised officer of the company that owned a lot of properties and enacted the covenant on many titles. Mr Taylor died in 1943 and there are now some 300 or possibly more individuals who are the beneficiaries of the covenant.

The council has apologetically advised this couple that it is bound by the requirements of the Planning and Environment (Restrictive Covenants) Act 2000 and that in order for them to receive a permit to extend their house they will need to have the covenant varied. This means that they will have to appoint a surveyor to carry out a title search and establish exactly how many beneficiaries there are. They will then have to meet the cost of the council writing to every beneficiary — at least 300 individuals at over $5 per letter — seeking the approval of those beneficiaries for the extensions to proceed. Just one rejection would prevent the works

from going ahead, and the objector would not have to give a reason for objecting.

Alternatively, the property owners can apply to the Supreme Court at an estimated cost to them of at least $10 000 to have the covenant removed. This is an appalling situation that is confronting many property owners in Mount Eliza, and I understand in parts of the outer ring of Melbourne. I assume that it was not understood or was ignored by the government when it brought in its legislation last year. Now that I have made the minister aware of this mess that is facing a great many properties owners who simply want to renovate or extend their homes, I ask him to advise me what he proposes to do to quickly fix the problem.

## Gremel Road–Plenty Road, Reservoir: traffic control

**Mr LEIGHTON** (Preston) — The matter I wish to raise with the Minister for Transport concerns Gremel Road, Reservoir. I call for the installation of traffic lights at the intersection of Gremel and Plenty roads, Reservoir.

Previously I had representations from the Latrobe Retirement Village and in particular one of the residents, Mr Frank Cox, who, as the minister would be aware, has been vigorous in putting the case for traffic lights. Earlier this year an on-site meeting was held between representatives of the minister's electorate office, my electorate office, Vicroads and Darebin City Council; local residents; and Mr Cox. More recently I have received representations from the Summerhill Residential Park. I quote from a letter received from Summerhill:

> Our residents face entering six lanes of traffic, plus constant trams moving along this major roadway, unassisted by the use of traffic lights. This can be, and is, most unnerving to anyone, and we face this cat and mouse situation on a daily basis.

I wish to restate the case for traffic lights. With the growth in the Plenty corridor, new suburbs further out to the north, La Trobe University and the RMIT University, Plenty Road has become a busy arterial road. The area around Gremel Road is also heavily developed and includes a hotel and gaming venue, two supermarkets, Target, Red Rooster, a large medical clinic, an 80-bed nursing home, and the Latrobe Retirement Village and Summerhill Residential Park. Several hundred residents are in each of these residential parks.

Many of them can be described as older Victorians, and for them it can be quite a frightening experience, if they are going north, to do a right-hand turn out of Gremel Road and into Plenty Road across the tram lines to the Reservoir District Secondary College along the road. I am aware there have been some unresolved issues with the Reservoir District Secondary College, but the City of Darebin supports the installation of traffic lights, and as the local member so do I.

I have raised the matter but I now consider it is becoming urgent. I seek a resolution of this matter and call for the installation of traffic lights at the intersection of Gremel and Plenty roads.

## Heathcote–Graytown national park

**Mr MAUGHAN** (Rodney) — I raise a matter for the attention of the Minister for Environment and Conservation concerning the management of the proposed Heathcote–Graytown national park.

The Environment Conservation Council (ECC) has spent the last six years on an exhaustive examination of the box-ironbark forests and woodlands that stretch from the Beechworth–Chiltern area in the east through to Rushworth and Heathcote in the middle and on to the western area, including Castlemaine, Maryborough and St Arnaud. Its brief has essentially been to devise a strategy to protect and manage the box-ironbark forests and woodlands. The council has had the difficult job of balancing competing demands. It has had to balance the need to protect the unique biodiversity of that area — and it is unique, because there are some 1500 plant species and 250 bird, animal and reptile species — against the need to allow recreational usage and continued commercial activities, including timber harvesting on a long-term sustainable basis.

The forest has been very well managed by timber cutters and forestry officers for a long time — well over 100 years — and is in excellent shape. I can personally attest to that, having visited the area and toured the forest last Friday. The ECC has made 58 recommendations, and I stress that these are yet to be adopted by government. One of these recommendations is to utilise 12 000 hectares of the present Rushworth–Heathcote State Forest to create the Heathcote–Graytown national park. I understand that for the last 12 months or so Department of Natural Resources and Environment (DNRE) staff have been managing this 12 000 hectares of land as though it were a national park, but I point out that it is not a national park because the recommendations have not yet been adopted by government. I have no objection to its adopting those recommendations, but right now it is not a national park.

I therefore ask the minister to investigate if it is in fact the case that DNRE staff are managing it as if it were a national park; and if they are, to remind her officers that the area concerned is currently not in a national park and should therefore be available for normal commercial activities, which obviously includes milling. At Rushworth there is a very important mill owned by the Ristrom family that produces value-added timber. It is very important to the economy of the area and I therefore ask the minister to investigate this matter and to remind her officers that it is not yet a national park and therefore should not be managed as such.

## Melbourne–Geelong road: safety

**Mr TREZISE** (Geelong) — I raise for action by the Minister for Police and Emergency Services the driver lawlessness that currently exists on the Princes Freeway between Geelong and Melbourne. This house is aware that the Melbourne–Geelong road is currently in the midst of a $270 million upgrade, and part of that upgrade includes lane closures, speed restrictions of 80 or 60 kilometres per hour and numerous other closures to road entry points et cetera.

Given these conditions and restrictions a number of drivers currently flout the law by speeding and tailgating. They are putting in jeopardy not only their own lives but also the lives of other drivers. I call that a disgrace. The action I seek is for the minister to take steps to ensure that adequate policing levels and mechanisms are in place on the Melbourne–Geelong road to maximise prosecutions and thus help minimise the risk of serious accidents.

As the house would be aware, the amount of traffic that uses the Melbourne–Geelong road is enormous. Something like 100 000 cars and trucks use the road daily, and a large percentage of them are trucks, including B-doubles and B-triples. Combine this amount of traffic movement with speed and severe road restrictions and poor conditions and you have a recipe for disaster — a disaster that will cost lives.

As a person who uses this road on average two or three times a week, especially during periods like this when Parliament is sitting, I am well aware that you literally take your life into your own hands, especially if you attempt to obey the road laws and the 80-kilometre-per-hour speed restrictions. The number of speeding drivers who tailgate, swerve in and out of the traffic and abuse other drivers is quite disturbing. I would estimate that on one trip to Melbourne from Geelong you would be tailgated probably no less than two or three times, no matter what lane you happen to be in. To drive at 80 kilometres an hour is inviting abuse. Of great concern to me is the number of truck drivers who flout the laws. Driving at 80 kilometres an hour, stuck out in the right-hand lane with a large truck right on your tail with its lights flashing can be a very disturbing experience.

As a member of the parliamentary Road Safety Committee I am well aware of the effect speed has on the incidence and severity of accidents. There is a sense of lawlessness on the Melbourne–Geelong road, and I seek the minister's action — —

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

## Lysterfield Primary School

**Mr LUPTON** (Knox) — I wish to draw a matter to the attention of the Minister for Education. During September I visited the Lysterfield Primary School. During this visit to the school I was made aware that the water coming out of the drinking taps was blue in colour. I raised this matter in a member's statement on 18 September. Much to my disgust and annoyance, nothing has been done by either the region or the minister.

This is a situation where children are expected to drink water which is coloured because of copper pipes. The school has taken action to run the taps continually to flush the residue out of the copper pipes, but without a great deal of success. Last week some residents who have a similar problem came in from the local area. The big concerns are, firstly, that the minister has not done anything, and secondly, that the minister is expecting the school community to pay for the replacement of the copper pipes in the school. This school was originally built for 450 students; it currently has over 650 students. I find it totally unacceptable that any school community is expected to pay for the replacement of copper pipes. South East Water has indicated to me that it is apparently a fault with the pipes and that the only way out of it really is to flush them. But the problem comes back in a few weeks time.

I believe the minister has been derelict in her duty in not acting on my request when I brought the matter to attention some five weeks ago. I am talking about children who are going to a state school, children who have to drink water and children who are drinking water that is coloured by a copper residue coming out of copper pipes. I find that totally unacceptable. I also find it unacceptable that the school community should be expected to pay for the replacement of the pipes.

I would like the minister to take some sort of action to have the matter investigated as a matter of urgency and to allocate funds as a matter of urgency for the replacement of these pipes or whatever action is necessary without the school community having to fund the replacement pipes or whatever action is taken. That is not acceptable and is totally un-Australian. I believe the minister should take urgent action, because I do not want kids having to go through the summer season drinking blue-coloured water that is tainted by copper pipes.

## Community services: family violence information

**Mr LANGDON** (Ivanhoe) — I raise an issue for action by the Minister for Community Services. Will the minister advise what action the government will take to assist women from culturally and linguistically diverse groups who are experiencing family violence? The minister may be aware that my electorate has a large socioeconomic and cultural diversity in areas ranging from West Heidelberg, Viewbank, Eaglemont and Ivanhoe to East Ivanhoe. The West Heidelberg area in particular has a large Somalian population, which came to Australia in the last five to eight years.

Will the minister inform the house of what action she has taken to assist those women who perhaps do not have the English language down pat — like many of us have and perhaps some have not — to assist in cases of family violence? The West Heidelberg area has the Banyule Community Health Centre, which I am pleased to advise the house tonight had its annual general meeting. Its new board has just been appointed, with half elected members and half appointed members. I wish the Banyule Community Health Centre all the best. I am sure that service could assist the government to help women from linguistically diverse backgrounds.

Also within my electorate is the Children's Protection Society. It may also have concerns about the issue. The Heidelberg Emergency Housing Group often accommodates women who have family violence issues, and it may also assist. I know it takes quite a few women from refugee situations.

Any assistance the government could give to women in that category would be much welcomed. Hopefully the minister will take steps in the right direction to assist these women who are refugees, who are newly arrived in this country and who are having difficulty not only with our culture but also with family violence. As they are challenged with our language, perhaps the minister could produce leaflets, cards or whatever to help them out. I look forward to the minister's advice to the house on what action she has taken or will take to assist these women.

## Disability services: respite care

**Mr SMITH** (Glen Waverley) — I raise a matter for the attention of the Minister for Community Services. It concerns a constituent, Mrs Anne Bamblett of 45 Kinnoull Grove, Glen Waverley, who in her letter in response to the minister's letter of last week says:

> Having been a Labor supporter for many years, and a social worker since 1975, I am quite frankly stunned and disheartened by the inaccuracies and dismissive responses which were endemic to your letter.

The story is that Mrs Bamblett requested respite and accommodation for her Down syndrome sister, who is aged 50, in early February of this year. It took Department of Human Services officers until 3 April to assess the sister, whose name is Mary. Under the Intellectually Disabled Persons' Services Act of 1986 the director-general must ensure that an assessment of the eligibility of a person for the services is undertaken within 30 days after receiving the request. No real service was provided until September this year.

The story is a saga of lost documents, flawed legal advice, inappropriate referrals and blatant incompetence. It is just the tip of a huge iceberg. Hundreds of intellectually disabled adult children of elderly parents who have never been assessed and who have never accessed services will come on stream in the next decade. Mrs Bamblett's father has been responsible for Mary for most of her life, but he was put into hospital earlier this year. He is aged 86.

The problem is that the Labor government has no plan to deal with this situation. The minister, her office and the department are just patently inefficient. Constantly changing personnel and slow response times are inexcusable and lost documents and scant knowledge of the legislation is endemic. This woman has too much to bear. The minister has the capacity to help. Will she do it or will she risk having Mary, the 50-year-old, dumped at the door of her office? The system should fit the individual, not vice versa. Ignoring this case is inhumane. Mrs Bamblett has requested that her sister be placed in respite next January so she can have a trip with her sons aged 13 and 15 years. It is inhumane that there is no respite care available for her sister.

## Volunteers: religious organisations

**Ms GILLETT** (Werribee) — I raise a matter for the attention of the Minister for Community Services

which relates to the positive army of volunteers who are part of religious organisations in Victoria and who are an integral part of our community and a major force in developing and nurturing the social capital of Victoria. Governments rely heavily on those organisations and their volunteers for the delivery of a range of health and community services from counselling to providing emergency relief, food and accommodation. I ask the minister to take action to recognise, support and reward the volunteers and the various faith communities in Victoria, acknowledging the pivotal role they play in looking after the vulnerable members of our community.

In 2000 Australians gave more than 117 million hours of voluntary work to their community, and volunteering with a religious organisation accounted for 17 per cent of all volunteer hours. The Australian Bureau of Statistics reports that 47 per cent of Australian volunteers give their time to help others in their communities, and 11.9 per cent of volunteers gave religious belief as their motivation for undertaking voluntary work. Nationally more people in metropolitan areas — 19.5 per cent — volunteer for a religious organisation than in non-metropolitan areas — 14.8 per cent. Some 44 per cent of volunteers in religious organisations have been volunteering for those organisations for more than 10 years. That is the highest rate of any type of organisation in the country. Volunteers with religious organisations have the highest rate of volunteerism, with 87 per cent volunteering at least once every week.

Volunteers from hundreds of Victoria's churches, faith communities and related welfare programs have been presented with one of the state government's International Year of Volunteers certificates of appreciation in recognition of their efforts, and I congratulate the minister on this important recognition of the contribution made by these volunteers.

I ask again that the minister take action to further recognise and acknowledge, and hopefully encourage, this remarkable history of volunteerism and dedication to the work of looking after the more vulnerable members of the Victorian and Australian community.

## Dingley bypass

**Mr LEIGH** (Mordialloc) — The matter I raise concerns the Premier's recent secret visit to the City of Kingston where he said that the Dingley bypass was to be funded by the federal government. The federal Liberal candidate for Isaacs, Mr Michael Shepherdson, has asked me to ask the Minister for Transport whether he has been able to obtain the funds from the federal government. Clearly Ann Corcoran, the federal Labor member for Isaacs, has had so little influence on her party's processes that she has been unable to secure any funding for the Dingley bypass.

The fact is that all honourable members, other than Premier Bracks and presumably his transport minister, know it is a state road. But given the fact that the Premier said he would obtain money from a federal Labor government if it is elected, the opposition wants a commitment from the Minister for Transport that he is going to seek to do that. A memorandum in 1999, which I am happy to make available, shows that without the bypass being constructed the traffic through Aspendale Gardens will increase by in excess of 20 per cent.

Mr Shepherdson has asked if the minister can install some acoustic barriers for the residents, because the traffic noise will increase substantially. He also asked me to remind the minister that tomorrow is the date when he was to tell the local community when he was to build the Mornington Peninsula Freeway connection. Ms Corcoran and the honourable member for Carrum have been running around the community saying that Labor will build this $270 million road as part of the arrangement to connect the Dingley bypass and the Mornington Peninsula Freeway. We are seeking a commitment from the government. We got on with doing part of it — Westall Road — which the government tried to claim credit for, although no-one locally believes it.

Aspendale residents are about to get a 20 per cent increase in traffic because of the opening of the Boundary Road extension. Clearly the Labor Party has not met its commitments. I remind the house that the honourable member for Carrum said the government was about to kick off the bypass on 30 April. It spent half a million dollars last year, and it will spend half a million dollars this year. Between the federal Labor member and the local state member, the Labor Party is basically incompetent and has not been able to achieve anything on behalf of the local community. It is an utter disgrace, and the sooner both are dumped the better off we will be.

## Making a Difference program

**Mr SEITZ** (Keilor) — I congratulate the Minister for Community Services on the work she is doing in her portfolio, particularly for people with disabilities. I draw her attention to the Making a Difference program and the need to make sure that people in the western suburbs are aware of the program and are able to access and make use of it.

Many people in the Keilor electorate have difficulty with the language and therefore with understanding these programs. It is important that they get the message from the service providers who have multilingual information available to them. Once again I congratulate the minister on her kind thoughts and on the provision of that information so that people are able to access the mainstream services of our community, particularly those people with disabilities. Often if a member of a family from a different country with a different culture and different attitudes has a disability, the other family members consider that they have committed a heinous crime or that it is a punishment from God or Allah, whatever the case may be. In many cases the woman is blamed. It is not the man's fault: it is not considered that his genes caused the problem.

It is important that this program is provided. The Yooralla centre is in St Albans, and I know that many people have bought houses or are renting places in the area so their disabled children can use that facility or access the special school in St Albans or the deaf school in Furlong Road. There is a need for these services in my electorate so that disabled people can live at home and have the support of their immediate and extended families.

Close friends of mine have a disabled daughter. I have known them for the best part of 20 years, and I have been to their home many times. But it has only been in recent years that I have seen their disabled daughter. They used to hide her. When somebody knocked on the door they wheeled her off into the bedroom. It is that coming out that is important for such people. I took the father of the disabled child to the disabled ball we organised in Taylors Lakes — I have spoken of it previously — so he could see what it is we are on about, what this world is about and why there is the need for an education program. People need to know they are living in Australia, where things are looked at differently. A disability is not a shameful thing; it is not a punishment from God but an unfortunate thing that happens through birth or other accidents. They need to know that they need not be ashamed and can have the government's help.

## Workcover: premiums

**Mr THOMPSON** (Sandringham) — I wish to raise a matter for the attention of the Minister for Workcover. It concerns the escalation in Workcover charges for a number of businesses in Victoria. At one in particular, a Neerim South abattoirs, 17 workers lost their jobs as a consequence of an increase in Workcover charges from some $20 000 to $38 000. According to locals Workcover broke the business, and I ask if the minister could entertain a deputation from concerned citizens from that area to see whether there is a way the circumstance could be prevented from arising again.

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

I call the Minister for Community Services to respond to matters in her portfolio raised by the honourable members for Ivanhoe, Glen Waverley, Werribee and Keilor, the matter raised for the Minister for Planning by the honourable member for Mornington, two matters raised for the Minister for Transport by the honourable members for Preston and Mordialloc — —

**Mr Leigh** — On a point of order, Deputy Speaker, given that the Leader of the House is the Minister for Transport and the honourable member for Preston has asked for the minister to come into the house, it is an outrage that his colleague does not even come in.

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

There is also the matter raised for the Minister for Police and Emergency Services by the honourable member for Geelong, the matter raised for the Minister for Education by the honourable member for Knox, and the matter raised for the Minister for Workcover by the honourable member for Sandringham.

## Responses

**Ms CAMPBELL** (Minister for Community Services) — The first matter, which was raised by the honourable member for Ivanhoe, related to women particularly from culturally and linguistically diverse backgrounds who are experiencing family violence. It is especially difficult for women from such a diverse range of family, cultural and linguistic backgrounds to be proficient in English and to readily access the information and services they require.

I want to pay tribute to the Northern Family Violence Reference Group, which I am sure would be familiar to the honourable member for Ivanhoe. That group has been very active in formulating women's help cards which will assist women from a range of different ethnic backgrounds to access family violence services. I am pleased that the reference group developed the concept of the women's help cards because its members understand that women in the local region have to have information in an accessible form. They have designed a card to provide basic regional information on services for women who are experiencing domestic violence. The card lists

statewide domestic violence services and a 24-hour emergency contact number — very important details.

I am happy to be able to provide over $3000 for the translation of these cards. We want to ensure that the eight community languages are the appropriate community languages for the cards. They are being printed in Greek, Italian, Turkish, Macedonian, Chinese Mandarin, Vietnamese, Arabic and Somali, which is of great interest to the honourable member for Ivanhoe. I will ensure the cards are distributed in the northern region by domestic violence networks, police and other community agencies, and I am sure the honourable member for Ivanhoe, given that he is such a proactive local member and his office is always a source of great information, will proudly distribute them through his office. This is another example of the government delivering better services, and honourable members can distribute these wonderful help cards if they so choose.

The second matter, which was raised by the honourable member for Werribee, related to the importance of recognising volunteers who are active through various religious and faith communities. Yesterday I had the wonderful opportunity to recognise 70 years of volunteering within the Brotherhood of St Laurence and had the great honour of being present with Fr Nick Francis and the Governor-General when a plaque was unveiled on behalf of the state of Victoria to the volunteers of the Brotherhood of St Laurence. I am sure in our own electorates many of us would be proud of the great work done by the brotherhood. The state government recognised that yesterday at a reception honouring the volunteers of the Brotherhood of St Laurence. The government is working with other faith communities to recognise their volunteers.

Last Friday week I had the opportunity to recognise the work of the great team within the St Vincent de Paul Society. At that gathering I talked about how volunteers give freely of their time without any reward, because obviously they are not paid long service leave, sick leave or superannuation. I was quickly pulled up by the national president of the society, who said, ‘Our reward is not of this world but of the next, we would like to believe’.

The honourable member for Werribee will be pleased to know that, having acknowledged that so many people with high-minded motives volunteer through their religious communities, conscious and hopeful of a reward in the next life, we are trying to recognise them in this life through a range of celebrations for volunteers. Some 44 per cent of volunteers are members of religious organisations who have served for over 10 years. That is an outstanding record, and in conjunction with organisations such as Volunteering Victoria and even the Office of the Governor, the state government is recognising religious communities. I will be pleased to assist the honourable member for Werribee if she wishes to facilitate something in that regard in her electorate. We will continue to distribute the certificates and to work with organisations that are keen to promote their volunteers in faith communities.

As usual the honourable member for Keilor made a very strong representation on behalf of people with disabilities. I will comment on the matter raised by the honourable member for Keilor, although some of my response will dovetail in with the points raised by the honourable member for Glen Waverley. Since this government has delivered two budgets that have contained a 25 per cent increase in the disability services budget, we are very pleased that we have been able to provide far more respite services in this state than people with disabilities and their families have ever experienced.

In the western region of the Department of Human Services over the past two years we have put in an additional $1.7 million for the Homefirst program and an additional $357 000 for the Making a Difference program. We have also put money into each of the Department of Human Services regions based on the percentage of the population and the level of disabilities in those regions.

The matter raised by the honourable member for Glen Waverley was specific. I am happy to take up that request for respite for Mary, and I will advise both the honourable member and Mary of any further assistance that can be provided in relation to the specific example he raised.

Given that the honourable member for Keilor raised the importance of better disability services in his electorate without mentioning a particular case, I am pleased to inform him that as a result of our last budget the Homefirst program will provide assistance for 47 more people and the Making a Difference program will provide 158 new places for the support of families and carers over an extended period. I am sure that extra funding for respite care and disability services will assist the honourable member’s electorate, as I am sure the honourable member for Glen Waverley will be able to further assist Mary.

The honourable member for Mornington raised a matter for the Minister for Planning about a covenant. I will direct that matter to the minister.

The honourable member for Preston asked the Minister for Transport to consider the installation of traffic lights at the intersection of Gremel and Plenty roads in Reservoir. I will pass on that issue.

The honourable member for Rodney directed to the Minister for Environment and Conservation his concern about box-ironbark forests. I will pass on his request that the minister investigate whether the Department of Natural Resources and Environment is managing an area as a national park when it is not declared as such.

The honourable member for Geelong raised a matter for the Minister for Police and Emergency Services about adequate policing on the Melbourne–Geelong road, particularly drivers tailgating and their inability to abide by the speed limit. All honourable members would share the concerns of the honourable member for Geelong about the need to minimise the risk of accidents and possible death or injury on that dangerous stretch of road.

The honourable member for Knox raised a matter for the Minister for Education about drinking water at Lysterfield Primary School. I will pass that matter on.

The honourable member for Mordialloc directed a matter to the Minister for Transport about the Dingley bypass. I will pass that on.

The honourable member for Sandringham raised a matter for the attention of the Minister for Workcover. I will pass that matter on.

**The DEPUTY SPEAKER** — Order! The house stands adjourned until next day.

**House adjourned 10.41 p.m.**

# Wednesday, 31 October 2001

**The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.35 a.m. and read the prayer.**

## PETITION

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

### Libraries: funding

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

The humble petition of the undersigned citizens of the state of Victoria respectfully requests:

that the Victorian government immediately invest substantially more in public library services for the benefit of all Victorians;

that the Victorian government increase funding to public libraries for the purchase of books;

that the Victorian government increase funding for the purchase and maintenance of mobile library services to ensure the removal of the barrier to access by Victorians in rural and remote areas.

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

**By Mr LUPTON (Knox) (938 signatures)**

**Laid on table.**

## PAPERS

**Laid on table by Clerk:**

Adult, Community and Further Education Board — Report for the year 2000–2001

Albury-Wodonga Development Corporation — Report for the year 2000–2001

Architects Registration Board of Victoria — Report for the year 2000–2001

Australian Grand Prix Corporation — Report for the year 2000–2001

Barwon Region Water Authority — Report for the year 2000–2001

Board of Studies — Report for the period ended 28 February 2001

Building Control Commission — Report for the year 2000–2001

Central Gippsland Region Water Authority — Report for the year 2000–2001

Central Highlands Region Water Authority — Report for the year 2000–2001

Cinemedia Corporation — Report for the year 2000–2001

Coliban Region Water Authority — Report for the year 2000–2001 (two papers)

Docklands Authority — Report for the year 2000–2001

East Gippsland Catchment Management Authority — Report for the year 2000–2001

Education, Employment and Training, Department of — Report for the year 2000–2001

Emerald Tourist Railway Board — Report for the year 2000–2001

Environment Conservation Council — Report for the year 2000–2001

*Financial Management Act 1994*:

Report from the Minister for Environment and Conservation that she had received the 2000–2001 annual report of the Alpine Resorts Coordinating Council

Report from the Minister for Finance that she had received the 2000–2001 annual report of VicFleet Pty Ltd

First Mildura Irrigation Trust — Report for the year 2000–2001

Gambling Research Panel — Report for the year 2000–2001

Gippsland and Southern Rural Water Authority — Report for the year 2000–2001

Glenelg Region Water Authority — Report for the year 2000–2001

Goulburn Broken Catchment Management Authority — Report for the year 2000–2001

Goulburn-Murray Rural Water Authority — Report for the year 2000–2001

Goulburn Valley Region Water Authority — Report for the year 2000–2001

Grampians Region Water Authority — Report for the year 2000–2001

Greyhound Racing Victoria — Report for the year 2000–2001

Harness Racing Board — Report for the year 2000–2001

Hastings Port (Holding) Corporation — Report for the year 2000–2001

Heritage Council Victoria — Report for the year 2000–2001

Human Services, Department of — Report for the year 2000–2001

Infrastructure, Department of — Report for the year 2000–2001

Justice, Department of — Report for the year 2000–2001

Legal Practitioners Liability Committee — Report for the year 2000–2001

Library Board of Victoria — Report for the year 2000–2001

Lower Murray Region Water Authority — Report for the year 2000–2001

Marine Board of Victoria — Report for the year 2000–2001

Melbourne 2006 Commonwealth Games Pty Ltd — Report for the year 2000–2001

Melbourne and Olympic Parks Trust — Report for the year 2000–2001

Melbourne City Link Authority — Report for the year 2000–2001

Melbourne Convention and Exhibition Trust — Report for the year 2000–2001

Melbourne Cricket Ground Trust — Report for the year 2000–2001

Melbourne Port Corporation — Report for the year 2000–2001 (two papers)

Melbourne Water Corporation — Report for the year 2000–2001

Museum Board of Victoria — Report for the year 2000–2001

Natural Resources and Environment, Department of — Report for the year 2000–2001

North Central Catchment Management Authority — Report for the year 2000–2001

North East Catchment Management Authority — Report for the year 2000–2001

North East Region Water Authority — Report for the year 2000–2001

Overseas Projects Corporation of Victoria Limited — Report for the year 2000–2001

Parks Victoria — Report for the year 2000–2001

Plumbing Industry Commission — Report for the year 2000–2001

Portland Coast Region Water Authority — Report for the year 2000–2001

Premier and Cabinet, Department of — Report for the year 2000–2001

Public Advocate — Report of the Office for the year 2000–2001 — Ordered to be printed

Public Employment Office — Report for the year 2000–2001

Public Transport Corporation — Report for the year 2000–2001

Regulator-General — Report of the Office for the year 2000–2001

Residential Tenancies Bond Authority — Report for the year 2000–2001

Roads Corporation (VicRoads) — Report for the year 2000–2001

Royal Botanic Gardens Board — Report for the year 2000–2001

Rural Finance Corporation — Report for the year 2000–2001

South Gippsland Region Water Authority — Report for the year 2000–2001

South West Water Authority — Report for the year 2000–2001

Spencer Street Station Authority — Report for the year 2000–2001

Stamps Act 1958 — Report of exemptions and partial exemptions approved and refunds made pursuant to s 137R for the year 2000–2001

State and Regional Development, Department of — Report for the year 2000–2001

State Sport Centres Trust — Report for the year 2000–2001

State Trustees Limited — Report for the year 2000–2001 (together with Financial Statements of the Common Funds) (two papers)

Sunraysia Rural Water Authority — Report for the year 2000–2001

Tourism Victoria — Report for the year 2000–2001

Treasury and Finance, Department of — Report for the year 2000–2001

Treasury Corporation of Victoria — Report for the year 2000–2001

Urban and Regional Land Corporation — Report for the year 2000–2001

Victorian Catchment Management Council — Report for the year 2000–2001

Victorian Channels Authority — Report for the year 2000–2001

Victorian Curriculum and Assessment Authority — Report for the year 2000–2001

Victorian Institute of Sport — Report for the year 2000–2001 (two papers)

Victorian Learning and Employment Skills Commission — Report for the year 2000–2001

Victorian Medical Consortium Pty Ltd — Report for the year 2000–2001

Victorian Rail Track (VicTrack) — Report for the year 2000–2001

Victorian Relief Committee — Report for the year 2000–2001

V/Line Passenger Corporation — Report for the period 1 January 2001

West Gippsland Catchment Management Authority — Report for the year 2000–2001 (two papers)

Western Region Water Authority — Report for the year 2000–2001 (two papers)

Westernport Region Water Authority — Report for the year 2000–2001

Wimmera Catchment Management Authority — Report for the year 2000–2001

Wimmera-Mallee Rural Water Authority — Report for the year 2000–2001

Wonthaggi and District Hospital — Report for the year 2000–2001 (two papers)

Yarram and District Health Service — Report for the year 2000–2001 (two papers)

Young Farmers' Finance Council — Report for the year 2000–2001

Zoological Parks and Gardens Board — Report for the year 2000–2001.

## MEMBERS STATEMENTS

### Pakenham bypass

**Dr NAPTHINE** (Leader of the Opposition) — I wish to condemn the lack of real commitment by the Labor Party to fund and build the very important Pakenham bypass. The federal Liberal Party has committed $100 million for this project, and the state Liberal Party will commit $100 million when it is returned to office at the next election. The recalcitrant is the state Labor Party, which refuses to support this important project.

The Minister for Transport has been reported in the *Pakenham Gazette* as saying he is unable to say whether the government would commit $100 million to this project. In today's paper he is reported as saying that any commitment to this project is merely an election stunt. That is what the Minister for Transport thinks of this vital project for Gippsland — and the people of South Gippsland, East Gippsland, Central Gippsland, Pakenham and the electorate of Narracan, who want this project.

Yesterday when asked whether he would guarantee that the state Labor government would commit to this project the Premier said that he would look into it in the next budget. We have a clear difference. The Liberal parties at the state and federal levels are committed to the project and will fund it. The Labor Party is recalcitrant on the project and will not fund it. It does not care about the people of Pakenham and will not fund this vital Pakenham bypass.

The people in the area know that a vote for the Liberal Party is a vote for the Pakenham bypass and that a vote for Labor is a vote against the Pakenham bypass.

### Victorian Young Farmers

**Mr MAUGHAN** (Rodney) — I raise my dismay and concern regarding the Bracks government's decision to axe funding to the Victorian Young Farmers movement. The VYF started some 50 years ago and is modelled on the very successful United States of America and United Kingdom models.

Over the years the VYF has provided wonderful opportunities for young people from country Victoria to develop their social, cultural and agricultural skills. At one time the VYF was a very important agricultural extension medium. Thousands of young people from country Victoria received their basic training in public speaking, debating and meeting procedure through the VYF and many now occupy important positions in federal, state and local government as well as a wide range of community organisations.

The Victorian Young Farmers movement has received considerable financial support over the years from the oil, banking and shipping industries, the Royal Agricultural Society and, since 1956, successive Victorian governments because of the contribution it has made to the lives of young people in country Victoria. Sadly that is now at an end as the city-centric Bracks government has shown how much it really cares for country Victoria by chopping funding to the VYF. Not only did the government chop the funding but it procrastinated for more than eight months before finally notifying the VYF that its funding would not be continued. This is a sad day for the VYF and a sad reflection on the government's lack of commitment to the young people of country Victoria.

### Frank Capuana

**Ms BEATTIE** (Tullamarine) — I wish to pay tribute to a remarkable member of my electorate who passed away recently. Frank Capuana was born in May 1926 in a small town in Sicily called Vizzini. Vizzini is well known in Australia as thousands of people from this town have made this country their home. Initially Frank emigrated from Sicily to Argentina in the 1950s. He migrated with his family to Australia in 1966.

Frank established an elderly pensioners club, the Gladstone Park Italian senior citizens. This is a very

active group in the community and has been a central part of the cultural and social interests of Italian-Australians in my electorate. During the short time I knew Frank I was inspired by his energy, enthusiasm and love of his community. Frank Capuana was the president of his group until his death on 22 October. Frank was also active in the Victorian federation of Italian pensioners groups.

Frank leaves behind a wife, Margarita, daughter, Sandra, and son, Leonardo. Vale Frank Capuana.

## ALP: Corangamite federal candidate

**Mr MULDER** (Polwarth) — I call on the federal Labor candidate for the seat of Corangamite, Michael Bjork-Billings, to either apologise for misleading the constituents of Corangamite or stand down as Labor's federal candidate. In what could only be described as the greatest deceit possible Mr Bjork-Billings has indicated that if elected he will put an end to logging in the Otway Ranges.

Most embarrassing for Mr Bjork-Billings is the fact that spokespeople for the state government and the federal Labor Party claimed in the *Age* yesterday that Mr Bjork-Billings had no authority to make such promises. A spokesman for the Victorian Premier said a review of logging was being undertaken but there were no plans for a transition from native forests to plantations.

The sitting Liberal member, Stewart McArthur, has provided continual and honest representation to the voters of Corangamite. His integrity has never been questioned during years of dedicated service. To have that reputation challenged by a candidate who at best is playing with the truth before election day begs the question of what people could expect from Bjork-Billings in the future.

The misleading by Mr Bjork-Billings of the constituents of Corangamite in such a manner just goes to prove that nothing has changed with Labor. Labor cons its way into government and spends its way out. You just cannot trust Labor or its candidate for Corangamite, Michael Bjork-Billings.

## Pakenham bypass

**Mr BATCHELOR** (Minister for Transport) — The Liberal Party's claim of support for the Pakenham bypass is an absolute fraud. It is a disgrace and a gross act of deceit.

*Honourable members interjecting*.

**The SPEAKER** — Order! Stop the clock. I cannot allow that level of interjection to continue.

**Mr BATCHELOR** — Yesterday the federal Treasurer, Peter Costello, made a commitment to add an extra $31 million to the Pakenham bypass, not during the next term of his government but in the 2005–06 financial year. The Liberal Party is promising to fund this bypass way off into the distance. John Howard and Peter Costello will have been forgotten and Denis Napthine will not be remembered by the time the Liberal Party gets around to putting in this extra money.

The Labor Party supports the Pakenham bypass. Labor led the fight and it will sit down with the incoming Labor federal government and work out the funding profile.

We support this program. The Liberal Party is a fraud on the Pakenham bypass. Peter Costello does not want to fund it until 2006 when the Liberal Party will put in an extra $31 million. They are a fraud and are supported by their colleagues in this chamber today.

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

## Wild dogs: control

**Mr INGRAM** (Gippsland East) — I would like to recognise an issue in my electorate that has a wild dog problem which has a major impact on sheep farmers in East Gippsland. I congratulate the Minister for Environment and Conservation on her press release last Monday which identified that the government would fast track wild dog management.

This is an issue that deeply concerns all those farmers who suffer from this problem. Anybody who watched the *Landline* program last weekend would recognise that there is a serious issue, and only three-eighths of the pest animal budget is spent on the ground. The Victorian Farmers Federation put a proposal that would recognise this problem and streamline the management of the wild dog budget, and put more money into trappers and wild dog control on the ground.

That is something we must do. I suggest that wild dog management does not only have an impact on sheep farmers but also on native animals, such as the brush-tailed rock wallaby which is under threat of extinction, and there are only 25 brush-tailed rock Wallabies left in the wild. If the wild dog problem is not managed across the state there will be a more serious impact on our native animals and our farmers.

## Point Nepean: army land

**Mr DIXON** (Dromana) — This is the third occasion I have had to raise this matter in this place. In November 1999, in November 2000 and again this year I raised the former army land at Point Nepean on the Mornington Peninsula which the federal government wants to give to the people of Victoria as a centenary of Federation gift. I am still waiting for an announcement by the government regarding the future of this land. All the studies and community consultation was carried out in September 1999, so the information is available for the minister to make an announcement on the future of the land.

The federal government recently announced, and I commended the great work of the Liberal candidate, Greg Hunt, a $4 million grant to upgrade the heritage buildings on that site. The federal government realised the great tourism, educational and environmental potential of the site. This is an incredible lack of action from the government. We have been waiting for three years for some announcement. It seems to be too hard to make. On this third anniversary I call on the minister to make an announcement regarding the future of the site. I do not want in a year's time to ask the minister on a fourth occasion for some announcement on the future of the site.

## Seymour: student bicycle ride

**Mr HARDMAN** (Seymour) — I rise to congratulate the Tallarook, Avenel and Puckapunyal primary schools whose students recently set off on a five-day bike ride around the area. They went to places like Pyalong, Puckapunyal, Nagambie, Avenel, Seymour and back to Tallarook. It was great to see 60 students taking on the bike ride with a dozen or so teachers and parents in support vehicles and also riding their bicycles, with a police escort taking them on their way and keeping them safe.

It was obviously a major challenge for the students to go on the bike ride, for which I commend them. The children obviously did a great deal of training not only for fitness but also for bike-riding skills, road safety, road skills and bike maintenance. The efforts of the teachers and parents should be recognised. I congratulate the teachers of the schools, in particular those at Tallarook Primary School, for providing this challenge for the students. I know in this day and age there is the fear of vexatious litigation regarding such activities, so it was great that the teachers had the courage to provide this activity for the children. I remember the activities that were challenging to me when I was in grade 6, and I am sure that the children's self-esteem, their abilities and their confidence in their own abilities will benefit from this experience.

## ALP: Corio federal candidate

**Mr PATERSON** (South Barwon) — Union dominance of the Australian Labor Party has once again reared its ugly head in Geelong. We all know about the millions of dollars poured into the ALP coffers by various unions intent on misusing the union dues of ordinary members. The Liquor and Miscellaneous Workers Union last year handed over $87 500; the Australian Manufacturing Workers Union, $100 000; the Australian Workers Union, nearly $60 000; the National Union of Workers, more than $140 000; and the Shop Distributive and Allied Employees Association, well over $200 000. Those are just a few examples.

There is no doubt who controls the Labor Party: it is the union bosses. And there is no more stark example than the current election campaign in the seat of Corio. Just who authorised the newspaper advertisements of the ALP member for Corio? Was it a hardworking, respected member of the local community? No, of course not. It was the president of the Geelong Trades Hall Council using the address of Trades Hall in Myers Street, Geelong.

We all know, if Australia is unlucky enough to get a Labor prime minister after 10 November, just where the paybacks will be. The union bosses will be back in town. They will be running Australia again, taking this great nation back to the bad old days of Hawke and Keating.

## National Party: Bendigo federal candidate

**Ms ALLAN** (Bendigo East) — Many honourable members will know of the children's book *Where's Wally?* It is a book of challenges for young children to spot Wally in his red and white striped shirt in a crowded scene. In Bendigo we have our own version of *Where's Wally?* It is called 'Where's the National Party?'. Already the National Party has announced it will not contest the seats of Bendigo West and Bendigo East at the next state election, and now it appears National Party members have fled Bendigo altogether by not contesting the federal seat of Bendigo at the coming federal election.

And why would they? At the last federal election the National Party polled a miserable 3.2 per cent of the vote. They did so badly they lost their deposit at that

election. The recent *Bendigo Advertiser* poll revealed that the National Party vote was a miserable 1.5 per cent in the federal seat of Bendigo. The last National Party representative standing in Bendigo is one of the members for North Western Province, whose record is not one to be proud of. He drove the vote down from 24 per cent in 1987 to a paltry 1.5 per cent in 2001. The question around Bendigo is, 'Will he be contesting the next state election also?'.

National Party members claim to represent country Victoria. They beat their chests and wander around country Victoria claiming to represent country people, but they have abandoned the people of central Victoria and the small communities in that area.

## MATTER OF PUBLIC IMPORTANCE

### Health: services

**The SPEAKER** — Order! I have accepted a statement from the honourable member for Malvern proposing the following matter for discussion today:

> That this house condemns the Labor government for two years of deterioration across key health indicators, while overspending the 2000–01 Department of Human Services budget by half a billion dollars without delivering better services for Victorians.

**Mr DOYLE** (Malvern) — I will range across a number of health indicators today and the spending that underlies them in health in Victoria. First, two examples: one very small one about the way the Labor government works and one very large one, also about the Labor government.

Let us start with the small one. You would think you could at least get the small things right. Last Friday the Minister for Health in his usual blaze of publicity launched what he called the new child health record for all Victorian babies. It is, I suppose, the new mum's bible. Most who have had children in the last 10 years will remember the document, which is a record of important contacts, milestones and information for new babies' parents.

The minister launched the booklet with great fanfare last Friday afternoon. It is an important record. The booklet says that you should take it with you to appointments with professionals, such as the maternal and child health nurse, or anybody connected with the health system so the information can be recorded at the time of the visit. For example, at birth a number of items are recorded by the midwife or doctor, and at two weeks the results of a number of tests are recorded. So perhaps it is not such a small thing that the minister launched last Friday.

What the minister did not tell Victorians, and what was astonishingly incompetent, was that the book had been out of print for two months; for August and September the book was out of print! So how do you turn necessity into a virtue? You spin it and you relaunch a new book. Imagine the incompetence needed to think that for two months there would be no children born in Victoria and child health records would not be needed! But if you are the Minister you do not worry about that; you are not embarrassed by the fact that councils, maternal and child health centres and hospitals have been photocopying the book page by page and giving loose leaves to new mothers. What do you do? You do a launch! It is typical of the small things this government cannot get right. We know the government is incompetent when dealing with the small things.

Let us now look at some of the big things. To look at something I consider to be the cornerstone of health, let us look at the Medicare agreement. That is a large issue. It is interesting to look at how much Victoria garners from the health care agreement negotiated by the previous government, and it is an enormous amount of money Victoria receives from the commonwealth. This year the total grant entitlement to Victoria will be $1 530 814 000, an enormous sum of money. The interesting part is that that represents, just by the conditions of the Australian health care agreement, an increase of $107 million over last year. The state does not have to do anything; it just increases by $107 million this year. That is entirely appropriate given the importance of health. Next year, without the state doing anything, it will increase by $94 million, so we are looking at a very, very large budget item.

What does the federal Labor leader promise for the Medicare agreement? This was his big cornerpiece of health. He promised an extra $545 million over four years for Australia; that is his Medicare promise. Over four years that would equate to an increase of about $120 million for Victoria. So what he is promising is an increase of approximately $40 million a year in the Medicare agreement. This year the increase is $107 million alone, and next year it is $94 million under the present Medicare agreement. So is what the federal Labor leader is promising actually a reduction in the Australian health care agreement increments presently agreed?

Let us look at the present Labor state government. I was fascinated two days ago — I will refer to it often, I promise — to see the Department of Treasury and Finance 2000–01 financial report for the state of

Victoria. Buried at the bottom of page 13 it states that the Australian health care agreement grants to Victoria in 2000–01 exceeded the budget estimate by $25 million, reflecting population growth. So even above and beyond that $107 million additional last year that the health care agreement provided, there was an extra $25 million in the budget for Victoria.

Why is that a large thing? I regret to tell honourable members that they will have to wait until I get to the health indicators, which is part of the matter of public importance, but the important part is that that is an enormous sum of money coming to Victoria every year to support health — quite properly — under that health care agreement. The real question is: what does the state do with the money? The state produces reports every quarter that will allow us to compare quarter on quarter, year on year, government on government exactly what services are delivered to the people in the state of Victoria for that money.

I will come back to the health care agreement in a moment, but suffice it to say that the increases provided to the state of Victoria by the present agreement alone are enormous, yet somehow Mr Beazley suggests that his $545 million increase in Medicare over four years would in some ways be an improvement on what we have got.

The simple answer is those figures simply do not stack up. Let us look at what the MPI calls the key indicators of health. These are things which are measured quarter by quarter, irrespective of government or of what spin you might want to put on it, or how you might want to sell what is happening in the health system. Quarter by quarter the accurate and real figures are produced.

The important thing when you are looking at these figures is this: you must compare apples with apples, June with June or September with September, or spring with spring, because demand on the health system fluctuates throughout the year. But you should be able to compare, for instance, June on June on June figures, which is what I will do. I will compare what happened in the health system two years ago, under the previous government, on four key health indicators in the *Hospital Services Report*. Let us look at all of this extra money Labor is spending — and I shall come back to that and to the financial report on the state of Victoria. What has the Labor government done with the money provided for health in the last two years? Has the number of people in Victoria increased? Marginally, yes. Has the demand on health services increased? Yes, as it always does, year on year. If you want to look at real demand increase, which is a key indicator, look at what happened between 1992 and about 1997. That is when the real demand went up: an extra 300 000 people treated in public hospitals.

Presently we are treating about 1 million people in our public hospitals each year, and that demand fluctuates from time to time. But that real demand bulge passed through in the first term of the coalition government between 1992 and 1996. Since then demand has been predictable, the number of people presenting to hospitals and emergency departments and needing elective surgery has been predictable and has not risen in any way that should not be catered for by a decent health system. What has the *Hospital Services Report* said, quarter on quarter, June on June on June, on these four key health indicators? First, people on waiting lists.

**Mr Viney** interjected.

**Mr DOYLE** — I will take up the point raised by the honourable member for Frankston East. Let us look at what he has done, not what he is talking about. Let us look at what the hospital services reports say. I am happy to quote what they say. In the June quarter of 1999, 12 249 people were on the waiting list for elective surgery. In the June quarter of 2001 how many people were on that waiting list in that comparable quarter? There were 14 832 — a rise, quarter on quarter, of 21 per cent. These are apples with apples. You can twist this any way you like, but they are official figures, quarter on quarter, and directly comparable. There was a rise of 21 per cent on that quarterly waiting list.

However, let us look at the quality indicator, which is more important than just the waiting list, because we know what is happening in hospitals now. People are not even being put on waiting lists. You do not figure in the figures because you do not even get a date for your operation. That is particularly true in orthopaedic and coronary surgery. Go and talk to rural and regional Victorian doctors, to the doctors at Monash Medical Centre or Dandenong or Footscray hospitals. They will tell you, ‘No, they do not show up on waiting lists because we do not even put them on the waiting lists’.

Let us look at the quality indicators now. How long do you wait for your operation? This is a much more important figure. In June 1999, 3623 people were waiting longer than the ideal time. It is bad enough to have one person waiting longer than the ideal time, but in June 1999 there were 3623. In June 2001, after two years of a Labor government, 6559 people were waiting longer than the ideal time — a rise of 81 percent. The quality indicator — waiting longer than the ideal time — shows a rise of 81 per cent.

Let us look at the third indicator — and this is something that worries people. If you can get into hospital you want to be admitted. But what happens? Something the Minister for Health, then shadow minister, made as a strong media point was that the number of people waiting on trolleys was unacceptable. In June 1999, 2445 people stayed in a hospital emergency department on a trolley for longer than 12 hours.

In June 2001 the figure is 6802 — a rise of 203 per cent in two years. But let us look at the really interesting statistic. Can you actually get into the hospital, or is the ambulance driving past hospital after hospital because the emergency department is full? Is the hospital on ambulance bypass? In June 1999 there were 130 episodes of emergency departments going on bypass; in June 2001, 756 — a rise of 481 per cent in ambulance bypasses.

On those four key indicators over two years of Labor government there has been enormous deterioration in the quality of health care offered to people in this state.

I am sure we would agree that the hospital system is the responsibility of the state. Yes, it is partly funded by the Australian health care agreement, but hospitals are a state responsibility. That is why we have state ministers for health. That is why the acute budget is the biggest.

The interesting part is, imagine if you were to hear someone saying to you:

> I'd like to talk to you about our health system. All Australians expect access to decent health care.
>
> …
>
> It's tough for those on long waiting lists. It's no comfort for those who wait hours in emergency departments.
>
> …
>
> Let's face it: the Australian people are worried about the state of our hospitals.

I would agree with that. The problem is that the speaker was the federal Labor leader talking about a state responsibility. Let us look at how he concluded his address on 28 October. He said:

> We are committed to rebuilding our public health system, cutting waiting lists … fixing our public hospitals.

By implication that means that our public health system is in a shambles, that waiting lists are out of control and our public hospitals system is broken. These are state responsibilities, and we have had a Labor government in this state for two years. And just in case we get the normal bleating about seven years of misrule, let us look at our neighbour to the north. How long has a Labor government been in power in New South Wales, and exactly the same problems are there. So out of the mouths of babes — condemned by the federal Labor leader, who says that the hospital system and the public health system are in disarray, and they are a state responsibility.

I am delighted that the honourable member for Frankston East is here. Perhaps he will recognise this. When we are talking about the state of hospitals, perhaps he will remember this newspaper article. Under his careful stewardship, let us remember what has happened at the hospital for which he claims some responsibility.

*Honourable members interjecting.*

**Mr DOYLE** — Let us leave Medigate for a moment!

On four key health indicators, this state has never been in a worse condition. But let us look at what the government actually spent. Good old-fashioned Labor — tax big, spend big, do nothing! In 1988–89 the actual spending in the Department of Human Services was $6.871 billion. That was the Liberal Party's last financial year in government. Year 1 of Labor, $7.259 billion. But here is the interesting part, and the point of the matter of public importance today: with all of these indicators being as bad as they are, this government's budget figures for May 2000 show it as proposing to spend $7.555 billion. What did it actually spend? It actually spent $8.112 billion — in other words, it overspent the budget by half a billion dollars. On its own figures it has spent $1.2 billion more than we spent in our last year in government. Yet what have we got on all four of those key health indicators? A worse system.

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

**Mr DELAHUNTY** (Wimmera) — This government promised to revitalise the health system, particularly in country Victoria, yet in the nearly two years of its term the system is visibly deteriorating. True to its Labor tradition, it is a high-spending, poorly achieving government unable to manage a big portfolio. The Minister for Health is not even in here to hear the lead speakers of the two opposition parties. That is a disgrace. He should be trying to get a real feel of what is happening in his health portfolio, but he is going around dealing with planning issues. I believe he should be doing one job at a time and doing it properly or he should not be doing them at all.

Everyone knows that the Labor government cannot manage money. Its members continue to be poor leaders when managing public assets, staff and, importantly, community funds. Even the Auditor-General's report this year said that the public health system remained weak and vulnerable. The Auditor-General reported that 12 Victorian hospitals, nine of them in country Victoria, are operating under financial difficulties.

The Labor government has been throwing money around as if it were confetti, but it has not solved problems, particularly in country Victoria.

My colleague has just pinched a bit of my paperwork, but can I say that the National Party welcomes more support for patient care, particularly a fairer deal for our nurses. These people make a wonderful contribution to patient care and are the cornerstone of our health system. But some country hospitals are not happy with the nurse allocations. They are unsure about their true costs and are worried that the government will do as the last Labor government did — force them to use their financial reserves, some of which is money given by local donations.

**An honourable member** interjected.

**Mr DELAHUNTY** — The honourable member for Footscray is over there talking about 'bankruptcy'. He was there at that time.

**Mr Doyle** — Where were you in 1992?

**Mr DELAHUNTY** — That is right. The old joke: I went to Canberra one time and a bloke said to me, 'What's the capital of Victoria?', and I said, 'Melbourne, of course'. He said, 'No, it isn't. It's two bob. That's about all that's left there'. I am sure the honourable member for Footscray knows those jokes.

To highlight many country concerns I want to talk about Rural Northwest Health. In 1999 the Hopetoun community hospital agreed to merge with Beulah and Warracknabeal to form Rural Northwest Health. I was told by people who were in this chamber that services such as midwifery and other minor surgery would remain in Hopetoun. But as we know, Rural Northwest Health has developed another service plan. Many in the community believe that was driven by the Labor government and the Department of Human Services staff and not by the community. That service plan has gone down like a lead balloon, and I want to highlight that by referring to an article on the front page of the *Warracknabeal Herald*, which states:

> Hopetoun vote to challenge RNH service loss
>
> A near-capacity crowd attended a public meeting held at the Hopetoun Memorial Hall on Monday night to protest against cutbacks to theatre and obstetric services at the Hopetoun campus of Rural Northwest Health.
>
> Over 350 people attended the meeting …

That is more than the whole township of Hopetoun, so again this highlights a concern at this Labor government throwing money around but cutting back on services.

The meeting need not have happened if the Minister for Health had listened to the Leader of the National Party and to Mr Best, a member for North West Province in the other place, who earlier got a slagging in this Parliament from the honourable member for Bendigo East. Where was she when all these problems were going on? She was not standing up for rural communities. She is just toeing the line of the leader and not listening to the concerns of the people. In early September we asked the minister to intervene. I again say that the Leader of the National Party asked the minister to intervene. He should follow the precedent set by the former health minister, Rob Knowles, who requested the Maryborough district hospital service to reverse its decision to close the Dunolly health service years ago. The former minister showed a bit of leadership and turned around the decision, but this minister has refused to accede to the request.

I will come back to Rural Northwest Health in a little while because I have some statistics the shadow Minister for Health has also highlighted. I went through the *Health Services Report* comparing the June quarter of 2001 against the June quarter of 1999, so we are comparing apples with apples.

The *Health Services Report* for the June quarter of 2001 shows that the Labor government has failed country Victoria on many health performance indicators. Under the heading 'Access to elective surgery', how many people have gone onto the hospital waiting list for elective surgery? The totals are as follows: for the June quarter 1999, 34 008; for the June quarter 2001, 41 838 — an increase of 7830 or 23 per cent. For non-urgent surgery there was an increase of 6.7 per cent; for semi-urgent surgery the increase was 62.6 per cent; and for urgent surgery there was an increase of 213.5 per cent.

We in the National Party put the country first. We are proud to say that. I will compare the quarterly figures in the report for 1999 and 2001 for the seven country hospitals — Ballarat Health Services, Barwon Health, Bendigo Health Care Group, Goulburn Valley Health Services, the new Latrobe Regional Hospital,

Wangaratta District Base Hospital and the West Gippsland Healthcare Group. For those seven hospitals in the June quarter 1999 there were 5335 patients on the waiting lists for non-urgent surgery. That figure has now increased to 5753, an increase of 418 people or 7.8 per cent. For semi-urgent patients the figure has gone up by 596 or 48.3 per cent. The one I want to highlight is the urgent category for those seven rural and regional hospitals, which increased by 342.9 per cent. The total figure is 213.5 per cent, but when we compare the figure for rural and regional hospitals against that total we see that in the country the waiting list for urgent surgery has gone up by 342.9 per cent.

My colleagues inform me that Labor, as the opposition in the previous government, made a lot of noise in this chamber about ambulance bypasses. Where is Labor now, when we look at those figures? Comparing the June quarter of 1999 — —

**An honourable member** interjected.

**Mr DELAHUNTY** — Fixing it? Where is the minister to hear these figures? I am not even sure he gets a briefing on this.

Let us compare the figures for the 1999 June quarter and the 2001 June quarter for ambulance bypasses. For the June quarter of 1999 there were 130 ambulance bypasses; for the June quarter of this year — so we are comparing apples with apples — the figure is 756, an increase of 626 or 481.5 per cent. Again you can see that there are major problems, and I do not think this government is achieving anything.

Rural Northwest Health is now in the situation where obstetric and major surgery will be lost from the Hopetoun campus. I believe a deputation met with the minister last night, and perhaps he has listened finally, after six months of procrastination. We are under threat. We have a female doctor from overseas, and thanks to federal government support we are able to recruit from overseas hospitals. But people are difficult to get, particularly a female doctor who is able to deliver babies. They are like hen's teeth. We now see that we are possibly going to lose a female doctor in that area.

This is not all that the people in Warracknabeal and Hopetoun are worried about. I will quickly refer to an editorial on the front page of the *Warracknabeal Herald* under the heading, 'Giving with one hand, taking with the other':

> Unfortunately another pot is simmering on the Rural Northwest Health stove as the management and board of the health group continues to attempt to meet health department and government guidelines for service provision and budget.
>
> The issue over the closure of six Landt Hostel beds in addition to the ongoing battle at Hopetoun …

The article continues:

> However, this constant shuffle of funding to service provision may not always be to the betterment or benefit of the community particularly when certain services are being reduced.

Again, this highlights the problem.

I will finish by referring briefly to a couple of other concerns. The first is the helicopter service to western Victoria. The government promised much and has delivered little. In January 2001 the minister announced a series of health projects. They are weighted towards the city. Again when there are problems in the country the government is not delivering. The offices of rural health have been downgraded. Instead of giving direct access to the minister, the government is cutting the offices back.

The Labor Government has conned its way into government and is now spending its way out of it. The government promised country Victoria a better deal, and people within — —

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

**Mr VINEY** (Frankston East) — In raising this matter of public importance today the honourable member for Malvern is clearly part of a campaign to undermine the Leader of the Opposition and to take over his job. But I would have to say that listening to the honourable member for Malvern was a little like listening to a firebug calling 000. This is the man who as parliamentary secretary presided over a reduction in the health system, presided over the sacking of nurses, presided over the closing of beds, presided over the privatisation of hospitals, presided over the closure of public hospitals — which the honourable member for Wimmera conveniently wants to forget about — presided over a crisis in our ambulance service and presided over a crisis in confidence in our public hospital system, yet he has the audacity to come to this Parliament and put forward for debate a matter of public importance on health. He is like the firebug that calls 000.

This government is about restoring the health system and turning it around. This government is turning around the system it inherited, the system that was an absolute mess. I will go to the heart of some of the matters the honourable member for Malvern raised in his contribution, because he has been caught out in

three specific instances of either not presenting the full facts or not presenting the correct facts in this debate.

I will go first to the matter of hospital waiting lists. He is pulling out esoteric data from here and from there — 14 000 has gone up to 15 000 — pulling out bits and pieces. But let us look at waiting lists over the course of the past nine years. In October 1992 when the Kennett government assumed power in Victoria — and what a dark seven years emerged as a result of it — there were 33 335 patients on the waiting list. By September 1999 that had increased to 40 293. That is an increase of 7000 people on the waiting list in Victoria's hospital system. By 30 June 2000, which is an important date because it is the end of the last Kennett government budget and so is the final figure for the waiting list in our public hospital system he was responsible for, that number had increased to 42 121. So over the period for which the Kennett government was responsible the waiting list for our public hospitals increased by nearly 10 000, which on 33 000 is just on 30 per cent. There was a 30 per cent increase in the hospital waiting list over the period of the Kennett government.

In the first 12 months of the first Bracks government budget the waiting list declined for the first time in 10 years from 42 121 on 30 June 2000, the last period of Kennett budgets, to 41 832 on 30 June this year. So what we have seen in our hospital system is not the misrepresentation of the facts that the honourable member for Malvern wants to spray around this house. For the first time in 10 years there was an actual reduction in the waiting list in this state.

I will go to the other matter the honourable member raised concerning a supposed increase of half a billion dollars in total expenditure on human services. That is an interesting analysis, because he is comparing two separate reports that are looking at figures in two different ways. The report that shows the increase includes all expenses incurred by the Department of Human Services and portfolio agencies, mainly hospitals, both cash costs and accounting book entries. So in that period of 12 months from the budget coming down to the outcome it includes things like asset revaluation. Over that period one might expect some variation in asset revaluation. There would also be expenditures on hospital business activities such as car parking and so on. Those are things one might expect in these figures.

But let us look at the record of government practice. For example, let us pluck out the year 1998–99 and see what occurred towards the end of the Kennett government. In that period the increase in Department of Human Services expenditure over the budget prediction was $198 million, an increase from $6.4 billion to $6.6 billion. In the Department of Infrastructure there was a $723 million increase from the budget statement to the actual expenditure.

It might be said that just because the Kennett government mucked up, it does not excuse this government. But let us look at the explanatory notes at the bottom of the Kennett government report. It includes salary increases flowing from Australian workplace agreements as an explanation for the increase. Of course, that is exactly what we faced in the same period. It is not appropriate to put into a budget the possible figures that might emerge as a result of industrial relations negotiations and particular wages outcomes. So the presentation from the honourable member for Malvern on the second instance is an absolute nonsense.

The third issue I would like to take the honourable member for Malvern up on is his attempt to smear the Frankston Hospital on the matter of some patients being placed in the paediatric unit. A few beds in the paediatric unit have been separated from the rest of the unit, and some adult patients are being placed there. The honourable member for Malvern ran this out last week; he was very proud of and held up in this house a photograph on a big *Herald Sun* poster showing the gate that separates the adult patients from the paediatric unit. Let us think about this. Why is that occurring? Because the government is spending $21 million at Frankston Hospital on a 100-bed redevelopment. The hospital is under pressure because of the mess that he left and the number of nurses that were sacked. That is what we inherited.

This government is building not only what it promised and committed to in the election campaign — two new 30-bed units plus a new observation unit next to the emergency section — but more. We are building a new paediatric unit. If the honourable member for Malvern, when he was parliamentary secretary, had looked at the paediatric unit of the hospital he would have seen the shameful position he had left that unit in. It was a disgrace, and this government is the one that is replacing it.

The government is also building a midwifery unit. Why? Because the former parliamentary secretary also left that in a mess. Nurses have had to put pots and pans on the floor when it has rained because the roof of the unit leaks. That is the capital expenditure the previous government was ripping out of the hospital system. It is this government that is rebuilding the hospital system.

Let us look at a bit of the history. I refer to the *Frankston and District Flier* of 1 December 1998 which contains an article headed 'Will a baby die? Midwife speaks out on crisis at Frankston Hospital'. Now what was going on? It states:

> New-born babies at Frankston Hospital were at risk of contracting life-threatening infectious diseases, according to a nursing staff member. In a startling and refreshingly frank admission, the person … claimed Frankston Hospital's midwifery unit continually plays 'host' to high risk surgical patients and others from casualty due to a serious shortage of beds.

That was in 1998, when the honourable member for Malvern was parliamentary secretary. The article goes on to say:

> Other damning allegations from the staff member include orthopaedic patients being 'shunted' into midwifery and surgical patients being placed in the paediatric unit.

This man runs the argument here of what a disgrace it is that under this government the hospital has separated off four beds to get over a crisis while it is building more beds, yet when he was parliamentary secretary in the previous government exactly this and more was going on.

The article further states:

> 'Midwifery has no lifting equipment for orthopaedics and the beds aren't suitable for back injury patients', the staff member claimed. 'And there has been an overflow from casualty 'spilling' into the children's ward.
>
> They put up stretcher beds if they haven't got enough beds'.

So this was occurring while he was parliamentary secretary. And what was being done? The previous government was sacking nurses. It did not commit to building any more beds until the Frankston East supplementary election, when the whole state was focused on the crisis at Frankston Hospital. The government finally woke up and said that maybe it had better do something about it. So for the honourable member for Malvern to hold up in this place a big *Herald Sun* poster proudly showing some pathetic media stunt that he has run in Frankston is absolute hypocrisy. This is the fire bug having gone mad and calling 000 and saying 'There are fires everywhere'. It has happened not just once; there are fires over the whole state. And why are there fires over the whole state? Because of the mess he left us.

As I said, the Kennett government closed 12 hospitals and 1000 beds, made 2000 nurses redundant, and privatised hospitals. Hospitals were technically bankrupt after seven years of cuts, and the ambulance system was in absolute crisis.

Let us look at some of the things this government has done in the health system. It is commencing the largest hospital building program in Victoria's history, with works of $720 million at 26 hospitals and aged care facilities. It has employed 2650 additional nurses and is opening 360 extra beds to treat more patients. Why is this government doing that? Because the previous government ignored the crisis in our hospital system for seven years. This government is catching up on the backlog that was left to it and is turning it around.

We are getting our hospitals back into the black after years of neglect. We have invested $150 million in preventing unnecessary hospitalisation for the treatment of the frail and chronically ill. We are working closely with doctors and nurses to improve clinical practice. We are putting substantial investment into hospital cleanliness.

Let us look at what we have been doing in the ambulance service area, about which the honourable members for Wimmera and Malvern raised some issues. Victoria's press used to have headline after headline about the ambulance service. Now an improvement in the ambulance service can be seen because of the investment this government is putting in. We have put in 10 new ambulance stations — at Dromana, Deer Park, Rowville, Bright, Lorne, Kew, Langwarrin, Hoppers Crossing, Carnegie and Beaconsfield, with Romsey and Barwon South yet to come. We have upgraded ambulance stations at Clayton, Geelong, Bendigo, Latrobe, Coolaroo, Diamond Creek, Craigieburn, Warragul, Colac, Lakes Entrance, Bairnsdale, Cowes, Wonthaggi, Moe, Kilmore and Seymour. The performance of this government in ambulance policy has been outstanding. We have employed more paramedics and we have put more ambulances on the road.

Let us just look at hospital operating expenditures. This government is the one that is increasing hospital expenditures — by substantial amounts. Let us look, for example — not that I am particularly biased here — at Peninsula Health. There the total budget has increased by 18 per cent, and an additional 80 nurses have been employed. No wonder the people of Frankston and the peninsula will vote for Mark Conroy at the coming federal election, because they are proud of what Labor has done. No wonder the people out in the eastern suburbs will vote for Phil Staindl for La Trobe, and that people will vote for Anna Burke for Chisholm — because they know that Labor stands for better public hospitals in Victoria.

Let us look at Ballarat. The operating budget of the Ballarat Health Service has increased by 15.9 per cent

and an additional 61 nurses have been employed there. No wonder people will vote for Catherine King in Ballarat — because they know the Labor Party stands for better public health services.

Let us go a little further up the highway to the federal seat of Indi. Alpine Health has had a 12 per cent increase and an additional seven nurses, and Beechworth Hospital has had a 17 per cent increase and an additional four nurses. No wonder people in Indi will vote for Barbara Murdoch. I do not think the corporate lawyer for the Liberal Party knows where Indi is; she is too busy in Melbourne. This is why — —

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

**Ms McCALL** (Frankston) — I thank the honourable member for Frankston East for his contribution. Let us see what else can emerge from this side to cover the mistakes the government is currently making. For seven years when we were in government we endured the slings and arrows of the shadow Minister for Health, hurling abuse and insults and digging up all sorts of strange stories about what we were doing in government.

It is therefore significant that he considered the issues so terribly important while he was the shadow health minister that when the Labor Party came to government he became the part-time Minister for Health. The consideration that the problems he seemed to criticise in the previous government now only warrant a part-time minister is an indication of how important the current government views health in Victoria.

It is a typical example of a Labor government throwing money after a problem in the vain hope that by some miracle the problem will be solved. I am sorry, but just throwing money at an issue never solves anything. The government when it was in opposition made some very dangerous promises. It probably never assumed that following the wing-and-a-prayer result of the supplementary election in Frankston East and the collusion of the Independents it would find itself in government. But all of a sudden it did, and the Victorian public expected the government to keep the promises it made during the election campaign.

I particularly recall a press release from the now honourable member for Frankston East dated 6 September 1999 about the Frankston Hospital emergency crisis. One paragraph states:

> The figures reveal that in July 328 patients waited more than 12 hours on a trolley in the hospital's emergency department.

That is not a figure to be proud of, but it is interesting that between July 1999 when the then opposition said, 'Don't worry, we will fix it', and July 2001 the number of patients who waited more than 12 hours on a trolley in Frankston Hospital's emergency department ballooned to 714. So the government has fixed the problem in two years. It has done a terrific job because it has just about doubled everything!

I also refer to some of the issues that have come across my desk relating to Frankston Hospital. There have always been difficult stories involving people who for one reason or another because of the timing of the emergency — which is never their fault or the result of issues related to the hospital — have been unable to be seen or dealt with as quickly as they would have liked. I will cite a couple of examples.

A gentleman who lives in Mount Martha rang up with an urgent need for an ambulance. He was called and told that the ambulance was on its way. He was picked up and taken to Frankston Hospital, where he was told that the hospital was on bypass and he would have to go to Dandenong. The ambulance drove him to Dandenong Hospital, where he was told that it too was on bypass. The ambulance did not know where to take him. The man said he was a private patient and perhaps he could be taken to one of the private hospitals. Staff at Dandenong Hospital said, 'No, we will leave you on a trolley, but we cannot guarantee you a bed and we cannot guarantee that you will be seen'. In the end he was placed on two cots in the children's ward at Dandenong Hospital — but that is fine because the government has fixed the problem.

Another incident relates to a constituent who had to go into hospital for a blood test. He had an appointment at Frankston Hospital, but when he arrived he was told that the appointment had been mucked up and they would send him to Dandenong for his blood test. He went off in a taxi, but when he got to Dandenong Hospital he was put on a drip and all sorts of other things to do with his blood test — and good heavens, they forgot about him! If a nurse had not wandered into the room where this gentleman was and slipped on the blood that was pouring from him in the bed, he would not be here to tell the tale — but that is okay because the government has fixed the health system.

In the Frankston gynaecological elective surgery area patients are being booked in for surgery when in fact staff at the hospital know that those elective surgery patients will never been seen because at the moment there are no facilities to see them. The patients make arrangements for babysitters and so on to make sure their families are looked after, but when they front up at

the hospital they are told that the hospital is sorry but they cannot be seen and they should go away.

This is from a government who thinks that the issue is so important that it has a part-time health minister who thinks the problem has been fixed. Honourable members heard the rhetoric of the honourable member for Frankston East in the last election campaign. They have seen the charts showing what has happened at my hospital, in my electorate, where I live, where coincidentally the honourable member for Frankston East does not. The figures are horrendous: they have doubled and trebled in some cases. For the first time on record the people of Frankston are beginning to recognise that the government has misled the Parliament and the part-time health minister has deceived the Victorian public by saying he could fix the problem when he knew he could not.

The people of Frankston have been well served by the Peninsula Health Care Network. It has been one of the most efficient, the Duckett report perceiving it to be the one by which all others should be judged. For the first few years the network ran in profit — not a substantial profit, but it ran ahead of the rest. It has now lost six of the most senior members of the administrative staff at Frankston Hospital. That is a tragic loss for the hospital and for the community. It is now running in the red, and the hospital is in trouble. It is bleeding from every artery, and it is not being well served by the fact that this government places so much importance on health services and health that it has a part-time health minister.

Victoria has a community services minister who has deprived the Frankston community of one of its best programs, which is run through Anglicare. It has a Minister for Aged Care who is so busy criticising the federal government she has lost sight of doing the job for which the Victorian people pay her.

Suddenly the government is recognising the nonsense it threw around in opposition, the promises made through campaigns and through fighting to get into the box seat. Suddenly it is in the box seat. This is not a part-time job. It is not the sort of job you can do when you are busy worrying about something else. The people of Victoria deserve far better attention from the Department of Human Services. They deserve a department that can control its budget and can deliver on promises, and when it cannot deliver on promises it should not make them in the first place because they deceive the community and mislead us all.

**Mr MILDENHALL** (Footscray) — The former Kennett government stands condemned by the Victorian community for its extraordinary legacy of neglect of health in this state. The current opposition shares that condemnation and shame for those dark years of neglect, dark years of reducing the capacity of the Victorian community to deal with its health issues. The community knows which side of this house and which side of Australian politics believes in health systems, and that is why this side of the house is occupied by the Labor Party. It is also indicated by the fate of a nice guy: Rob Knowles was a nice guy. Most people will say that, but the fate he suffered of an extraordinary 12 per cent swing against him is a judgment of his record by the community of Victoria.

This is an extraordinary motion for the opposition to bring forward. After two years of recovering from the shame, of hiding in the cave, members of the opposition have finally come out to say, 'We think there is something wrong here'. They ought to hide a bit longer because the legacy was so bad. The shadow health minister gets up in here and says the bulge of increased demand came in the early years of the Kennett government — precisely the years when the then government ripped $600 million out of the system. So while the demand was going up the resources were coming out. That is when the 2000 nurses were removed from the system, the 1000 beds were cut, and the 12 hospitals were closed: while there was a bulge of increased demand and increased need for health services in this state. The Kennett government deserves the ignominy and the shame of its legacy. Its reputation in the eyes and the memories of the Victorian community has a real stain — the stain of the health system.

Each of the members who gets up here says, 'Look at the very effective criticisms made by the current Minister for Health'. They remember the telling blows he landed on them from the opposition ranks. They were driving hospitals into bankruptcy — —

*Honourable members interjecting.*

**The DEPUTY SPEAKER** — Order! The honourable member for Footscray, without assistance.

**Mr MILDENHALL** — The shame of dirty hospitals! What was the response, the great reform introduced by the Kennett government? Another layer of bureaucracy — the massive health networks it introduced; another set of super salaried bureaucrats to look after the system — an extraordinary response!

Now the shadow Minister for Health comes in here and says that the bulk of the demand came through in the early years of the Kennett government, but any reading

of the figures will show that in the past 12 months we have had the biggest increase in demand for emergency clinics in casualty waiting areas — 7 per cent, which is the biggest recorded increase until now. What we should look at is the outcomes. We can all talk about the inputs, and the community knows which side of politics has the commitment to provide resources and the commitment to do something about our systems.

The honourable member for Frankston East talked in some detail about the data that shows that waiting lists and ambulance response times have improved since the Bracks government came to office. They are the equivalent of the key indicator in the education system of class sizes. They are what the community looks for, and we have started to turn them around. The cumulative figures over nine years demonstrate that we have finally started to turn them around.

Look at the outcomes. Look at where the cuts were in my area after seven years of the Kennett government. What did we end up with in my community? The lowest life expectancy in the state and the highest levels of drug dependency, mental illness, alcoholism and gambling problems. The previous government threw chicken feed at those issues. The indicators show that in the years of the Kennett government mental health beds were reduced. We had timid drug policies. We had public rallies. In the past 12 months the complaints to my electorate office about the hospital and the hospital system have totally dried up. They were a weekly occurrence in the years of the Kennett government.

This concern is reflected in the current federal debate. The community knows who is committed to public health. That can be seen with the Howard government's reduction in Medicare activity and its crazy commitment to the private health system that is still not guaranteeing people beds. That extraordinary $3 billion subsidy has failed miserably; it has got people signed up to private health but they still cannot get hospital beds.

The facts speak for themselves in terms of the outcomes of the Thwaites administration of the public health system. The waiting lists have come down and resources have been put back in. The government is putting fuel back into the tank and the system is starting to move. The government is taking hospitals off the bankruptcy list. It is opening beds, not closing them. The government has put 2650 additional nurses into the system after 2000 were pulled out. Which system is more capable of delivering health services to this state — one with 2000 fewer nurses or one with 2650 additional nurses and 360 additional beds? Victoria needs a change in federal government to ease the pressure being placed on the public health system by the aged care crisis. The aged care crisis is crippling our public health system's capacity to reduce waiting lists even further.

However, in my local area we are already getting the benefits of additional investment and effort in the public health system. We have seen a 25 per cent increase in funding to Western Health and the additional capacity can be seen on the streets. There has been a massive reduction in waiting times in the vital drugs area. We have seen the appearance of additional drug workers on the streets and a dramatic reduction in overdoses and deaths through overdose. The government has made a massive investment in additional resources for mental health and youth mental health with the MH Sky program coming out. These great investments are increasing the capacity of the local community to deal with the crisis it has faced in community health.

It is with great pride that I stand and defend the record of two years of the Thwaites administration of the health system after the dark years of the Kennett government where resources were reduced so far we feared we would never recover.

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

**Dr NAPTHINE** (Leader of the Opposition) — Once again we hear plenty of rhetoric from the Labor Party but no substance. What we have heard from the Labor Party is typical of its comments about health — it is all about inputs and not about outputs. It is not about measures of what outcome the people of Victoria get in terms of health; it is about measuring inputs not outputs. It is about a Labor Party which is about spending more and delivering less and it spends more and delivers less in health.

When the Labor Party came to office it promised the people of Victoria that it would be held accountable for its pledge to, in its words, make the Victorian health system better. However, all the statistics from the Department of Human Services — the government's own department — show that the situation has gotten worse. It is not only the department's statistics which say the health system is not going well under the Labor government but also the federal Labor leader. Kim Beazley says the health system is in crisis, but what he does not say is that the health system is the responsibility of Labor governments in New South Wales, Queensland, Western Australia, the Northern Territory, Tasmania and, of course, Victoria for the last

two years. In an address to the nation on 28 October Kim Beazley said:

> It's tough for those on long waiting lists. It's no comfort for those who wait hours in emergency departments.

In his plan for public hospitals he said:

> Australians know their public hospitals are being relentlessly squeezed and that the time it takes to get treatment at an emergency department or to get elective surgery continues to grow.

What is ironic is in that same document Kim Beazley said:

> We want to stop governments blaming each other and concentrate on the serious business of providing services and caring for patients.

He further said we must put an end to the cost-shifting games.

Kim Beazley is saying the health system in Victoria is in crisis and we must have governments which do not seek to blame each other. He is saying that the Labor government in Victoria has completely failed the people of Victoria in delivering a better health service. He is saying that the Minister for Health in Victoria has failed the people of Victoria, not only by failing to deliver a better health system but by continuing and expanding the game playing and blame shifting. That is the Victorian Minister for Health's only answer to his complete failure to deliver outcomes.

The opposition and Mr Beazley know who delivers health services in Victoria and who is responsible for hospitals in the state.

**Mr Nardella** — Labor!

**Dr NAPTHINE** — Yes! As the honourable member for Melton says, the Labor government is responsible for it and it is about time it delivered. It is about time the Labor government did something. The Labor Party has been in government in this state for more than two years and the health system is worse than when it came to government. The government's own statistics show that. I suggest the honourable member for Melton and his colleagues in the Labor government read the *Hospital Services Report* produced by the Department of Human Services because it measures the performance of our health system.

The honourable member for Footscray espoused rhetoric and his gut feeling about the health system but let us get some real statistics into this debate. The statistics in the *Hospital Services Report* show that in the two years the Labor government has been responsible for health services in this state ambulance bypasses have increased by an extraordinary 480 per cent. The number of people waiting on hospital trolleys for longer than 12 hours has blown out by more than 200 per cent.

Kim Beazley is concerned about the appalling delivery of health services across Australia and particularly in Victoria. It is an indictment of the Minister for Health and the Labor government in Victoria that its own federal leader is so critical of the mismanagement of health services in Victoria. The number of people waiting longer than the ideal for semi-urgent surgery has jumped by 81 per cent. Let us put a lie to the argument put by the Labor government about waiting lists. The simple statistic is clear — waiting lists for elective surgery in Victoria were higher in June 2001 than in June 1999. They are higher now than when this government came to office. Waiting lists have increased under this government.

I want to look at the background of what has happened over the past two years because one cannot look at the funding that goes into health services in isolation. The key statistics show that in the time the federal coalition government has been in power commonwealth funding for hospitals across Australia has increased from $4.5 billion in 1996 to $6.7 billion in 2001.

For Victoria, compare the current year with 1998–99, when Victoria got $1.4 billion from the commonwealth to assist in public hospital services in Victoria. This year the state received $1.6 billion — a 20 per cent increase over the time the Labor Party has been in office. The commonwealth government has given the state 20 per cent more money to fund its hospitals, and still this government has delivered worse outcomes.

In addition, private health insurance has had an impact. Because of the very innovative and effective commonwealth government assistance package that is designed to encourage people into private health insurance, the proportion of the Victorian population taking up private cover has risen from 30 per cent to 45 per cent. That is nearly a million more Victorians who no longer depend on the public health system. There has been an increase in commonwealth funding, an increase in the number of people with private health insurance and a reducing demand on the public hospitals; yet with all that, the Labor government simply cannot deliver a public hospital system that works. What Labor has delivered is a system that is worse than it was when it came to office two years ago. And on top of that, recent figures show a $500 million

blow-out in the budget of the Department of Human Services under the mismanagement of the minister.

There are three factors — increased commonwealth funding, reduced demand through private health insurance and massive increases in the state funding — yet the output measures show that the hospital system is significantly worse. The chance of a person being taken to an emergency department and getting treated or of getting off a trolley and into a bed is less under this Labor government than it was under the previous government. That is typical of Labor governments: they spend more and deliver less. The government simply cannot keep its promise to the people of Victoria to improve the public hospital system. The federal Labor leader, Kim Beazley, absolutely admits it by telling the people of Victoria and Australia that the Labor Party has failed Victorians on health, so there is no reason why Victorians should trust the federal Labor Party on health, either.

The Victorian Labor Party when in opposition said it would make the health system better, but it has got worse. If a federal Labor government were elected its promises would be similarly hollow. The people of Victoria know that for all Kim Beazley's words the authorities that have to deliver on health services in Victoria are the state Labor government and its part-time minister. They have had two years in office, and what they have delivered are record levels of ambulance bypasses, increasing waiting lists, increasing waiting times and less access to emergency services — in all, a poorer health system.

I conclude with the comment that this Labor government simply mismanages health. It spends more and delivers less, and the people of Victoria suffer accordingly.

**Ms ALLAN** (Bendigo East) — I am pleased to join the debate. It almost beggars belief that the honourable member for Malvern would want to debate health and the health budget. I need to speculate on the reason: surely it could not be because the federal Liberal party has asked its state colleagues to bring on this debate. The federal Liberal members would have seen the results of recent polling and of the 1999 state election, and they know that health was one of the key issues that led to the election of the Bracks government.

I can only speculate further: could it be, considering the seating arrangements while the Leader of the Opposition was speaking with the honourable members for Malvern and Bennettswood, that the opposition member is simply attempting to raise his stocks within his own ranks? Whatever the reason, I am pleased to participate in this debate, because the Bracks government is working very hard and getting on with the job of rebuilding and reinvesting in Victoria's health system.

By bringing on this debate the honourable member for Malvern provided us with the opportunity to reflect — for quite some minutes! — on the appalling record of the previous Kennett Liberal and National Party government in the area of health and in its funding of the health system. For those of us on this side of the house it is almost like an early Christmas present to have the opportunity to debate the issue.

As I said, health was a key issue during the past state election. When I was out doorknocking as a candidate for my electorate of Bendigo East I visited about 10 000 homes. The key message, which was repeated time and again when I knocked on people's doors and asked them what their main issue was with the Kennett government, was that they were very worried about the health system — about getting a bed, the lack of nurses, the cleanliness of the hospitals, the stripping of funds from the health system by the former government, the privatisation agenda and their ability to get into a proper aged-care facility in their community. Time and again the message was that they were deeply worried and were changing their vote based on the way the Kennett government administered the health system.

Let us look at the achievements of the previous government in the area of health. It closed 12 country hospitals — and I did not hear the honourable member for Wimmera talking about the country hospitals that were closed. It tried to close the Dunolly hospital with the support — would you believe! — of its local member in the other place, a member for North Western Province, who chose to support closure rather than the community. But the community fought against the closure.

The former government closed about 1000 hospital beds and sacked or made redundant over 2000 nurses. It had an agenda of privatising the health system, about which people were very concerned. We saw glimpses of the coalition agenda in both Latrobe and Mildura, both spectacular failures for the former government, but not bad enough to stop it pursuing privatisation over the proper public funding of our health system. The coalition government attempted to privatise 60 aged-care beds at the Anne Caudle Centre in Bendigo. I say 'attempted' because thankfully the Bracks government has secured those 60 aged care beds and they will remain in our public health system.

The former government slashed funding for hospital capital works by 30 per cent, or about $363 million.

**Mr Wilson** interjected.

**Ms ALLAN** — The honourable member for Bennettswood should well remember, as should the honourable member for Malvern, that during the 1996 state election campaign the Kennett government promised a $600 million capital works program for Victoria's hospitals. Not one cent of that money came through; instead the former Premier slashed $363 million from capital works funding for our hospitals. Furthermore, it can be seen that the former government cared not a jot about the community health sector.

I was a board member on the community health service in Bendigo, and time and again when we ran through the figures we were told how hard it was for that service, and how it was asked to do more with less. The former government constantly withdrew funds from the community health sector and left it struggling. The community health sector is one of the most important parts in the health system, and many people in the community feel strongly about it. The former government did not care about it and instead chose to slash funding.

In looking back at some of those things I ask: is this a record that the honourable member for Malvern is proud of? He was parliamentary secretary during that time. Is it a record that he is proud to stand on? Certainly the federal coalition government has an appalling record in the area of health, and we all know the sorry tale of the aged care system in Victoria and the absolute abrogation of responsibility by the federal government, and particularly its lack of commitment to the proper funding of the public health system. Instead it chose to go down the path of supporting and propping up private health insurers and luring people to join private health funds instead of investing in hospitals.

The federal government promised a radiotherapy service for Bendigo. I will briefly tell the story of radiotherapy in Bendigo. During the 1998 federal election campaign the former Premier of Victoria came to Bendigo a week before the election and on behalf of the Howard government and his government promised a radiotherapy centre for Bendigo. It was not delivered. In the 12 months the former Premier had the opportunity, it was not delivered for Bendigo. However, it did not stop him from promising it all over again during the 1999 state election campaign.

The Labor Party made a firm commitment to the radiotherapy unit, and the Bracks government has invested $16 million in the unit in Bendigo. However, it would surprise no-one on this side of the house that the project was stalled. It was necessary to have approval and cooperation from the federal health minister, and we did not get it. Unfortunately for Bendigo the delivery of that service was stalled because of the petty game playing undertaken early last year by the federal minister. Thankfully construction is now under way and the unit will soon be up and running.

I compare that situation to the achievements of the Bracks government in the area of health, which is the subject of the debate today. An air ambulance helicopter service is now based in Bendigo, something that was not even thought about by the former government. As I said, $16 million has been allocated for a radiotherapy facility in Bendigo. Some $270 000 has been allocated to the Bendigo Health Care Group for infection control to address the issue of cleaning. More funds have been made available for a dialysis service. A new eating disorders program has been established at the Bendigo Health Care Group. Some $1.2 million has been invested in a school dental clinic at the Bendigo Health Care Group. One can reflect on the appalling record of both the state and federal coalition governments in the area of funding for our public dental health schemes. The systems were slashed. Thankfully the Bracks government is reinvesting in this area.

More than $600 000 has been allocated for new drug programs in Bendigo; $83 000 has been allocated for mobile needle and syringe programs; extra funding has been made available to the community health services for improvement of services to the region. Extra nurses will be employed at the Bendigo Health Care Group; and finally, there has been a 16 per cent increase in the budget for the health care group.

There is a simple contrast between the two governments — one that stands proud on its record of investment and its record of rebuilding and reinvesting in the health system, and the other that has a seven year record of attempting to wreck and destroy Victoria's public health system. That is why we need a federal Labor government to join with the state government in investing in Victoria's health system. Certainly the federal member for Bendigo, Steve Gibbons, understands the importance of investing in Bendigo's health system. He was the former president of the Bendigo Hospital and was a strong fighter for an improvement in services in the health area for the people in the Bendigo region, and he continues to take up this fight to the federal government.

Most importantly, the voters understand the difference between the Liberal and Labor parties on the health issue. That was reflected in the way they voted in 1999. They turned away from the former government because of its appalling record on health and the way it attempted to destroy the health system. They voted overwhelmingly for the Bracks government, particularly in country Victoria where many of the cuts inflicted by the former government in the health area were felt the most deeply. The impact was most acutely felt in country Victoria.

I strongly believe when voters have the opportunity in a couple of weeks to vote in the federal election they will endorse the health policies of the federal Labor Party. They have seen the way the Bracks government has been delivering on its commitments in the area of health, not just in Bendigo but right around country Victoria and Victoria as a whole. They understand that a Kim Beazley government would do likewise in this area and they understand the importance of having cooperation between state and federal governments on this matter instead of petty game playing back and forth. The former government was voted out of office because of its record on health.

**The ACTING SPEAKER (Mr Loney)** — Order! The honourable member's time has expired.

**Mr WILSON** (Bennettswood) — I am pleased to enter the debate this morning on the matter of public importance. I find it quite remarkable that we are debating the state of the Victorian public health system and the Minister for Health is not in the chamber and has not been in the chamber. With all due respect to the Minister for Police and Emergency Services, who we welcome to the table, it would have been more fitting to have the Minister for Health sitting at the table and listening to the views of the elected representatives of the Victorian people as to how the Victorian health system is operating, or indeed failing to operate.

So far we have had contributions from the honourable members for Frankston East, Footscray and Bendigo East. It is interesting that all three speakers from the government have concentrated on the past. They have talked about what happened between 1992 and 1999. I have heard little contribution from honourable members opposite about how the Bracks government is performing, or failing to perform, in the area of health in 2001.

I remember that when the honourable member for Malvern was parliamentary secretary he was responsible for the governance of community health centres. I note that the honourable member for Bendigo East told the house that she was a board member of her local community health centre. That says to me again what an outstanding parliamentary secretary the honourable member for Malvern was in that, unlike this government, the Kennett government did not play petty politics when it came to governance of community health centres and other public health authorities.

In his contribution the Leader of the Opposition reflected upon the federal Leader of the Opposition's entry into the health debate in Australia. On many occasions during the federal election campaign we have heard Mr Beazley, or the federal health spokesperson, Ms Macklin, talk about the deterioration of health systems in Australia, and in particular Ms Macklin is always reflecting upon the deterioration of the Victorian health system.

The Leader of the Opposition made the point that Mr Beazley and Ms Macklin need to reflect upon the fact that in five of the six Australian states there are Labor governments — Queensland, New South Wales, Tasmania, Western Australia and Victoria — in addition to the Northern Territory and the Australian Capital Territory. That is a lot of Labor administration, and it is a lot of maladministration in the Australian health system. We hear many promises from Mr Beazley about how he is going to improve the Australian health system. The rhetoric is similar to the rhetoric we heard from Steve Bracks and John Thwaites while they were in opposition, and reflecting upon that I have to advise the house of an editorial that appeared in the *Age* of 18 June 2001.

After the Minister for Health was forced to release the March quarter *Hospital Services Report* a press conference took place. Some tough questions were asked of the Minister for Health. We all know that the Minister for Health is a part-time minister, he much prefers being the Minister for Planning or indeed the Deputy Premier.

The subheading of the subsequent editorial is 'State Labor must accept responsibility for problems with Victoria's hospitals'. The editorial reads:

> When health minister John Thwaites was health spokesman for the opposition, he was often critical of the state of Victoria's public hospitals, particularly the length of their waiting lists.
>
> …
>
> Now that he is in government, however, Mr Thwaites is finding that hospital waiting lists remain stubbornly long despite increases in health funding over two state budgets.

The editorial goes on, and it refers to that press conference which I referred to earlier:

> Questioned over the government's failure to make a dent on these important statistics, Mr Thwaites first suggested that the problems were 'deep-set' and caused by repeated cuts during the Kennett years. But Labor cannot continue to blame the previous government for problems it pledged to fix when in opposition.
>
> …
>
> Now Mr Thwaites is accusing the media of being overly critical. He challenged journalists to come up with a better health plan. 'You guys are all so smart about it … seriously, come up with the ideas'.

And the *Age* newspaper makes the point:

> But that is your job, Minister…

It is an extraordinary performance by a minister who is always willing to be there for the good times and always willing to launch the glossy publication or get that TV grab that you will see on the Channel 9, Channel 7 or Channel 10 news. He loves it — he loves the feature stories — but when it comes to the hard yakka he does not turn up. Let me advise the house that the many bureaucrats who speak to me and to the honourable member for Malvern tell us that he does not even appear at the Department of Human Services (DHS). There is a no-show from the minister, and that is extraordinary in anyone's language.

Health is the most important portfolio in any government, particularly in a state government, yet the minister does not front. Occasionally the parliamentary secretary turns up at the DHS, but that is about all they see of the government. If bureaucrats need to speak to the Minister for Health they have to get into their cars — which many of them do, believe it or not — or they have to hop onto a tram, travel down to this end of town and find the minister in his Deputy Premier's office, where he loves the lifestyle of being Deputy Premier — and even then they have limited time.

You are talking about the most important portfolio in our political system, one that impacts on the lives of Victorians far more than any other because it goes to the absolute quality of our society, yet we have a minister who does not turn up. He prefers to be seen and filmed around the Docklands or telling us that the Southern Cross Hotel is going to be rebuilt and rejuvenated. It is all about spin; there is very little about substance.

Let me now add some substance to my speech by talking about some statistics that are all-important — the government's own facts and figures. Let us not talk about what the opposition says or what the government spin doctors or the media say. Let us refer to the government's own statistics and compare the June quarter of 1999 with the June quarter of 2001. That is the only fair thing to do, because it is comparing apples with apples.

The number of people waiting for elective surgery in June 1999 was 40 153. In June 2001, that figure had risen to 41 838. The number of people on the elective surgery waiting list in the semi-urgent category went from 12 249 in June 1999 under the Kennett administration to 14 832 by June 2001 under the Bracks administration.

**Mr Viney** interjected.

**Mr WILSON** — The honourable member for Frankston East should concentrate on these figures most of all — that is, the figures on ambulance bypass. For June 1999, under the Kennett administration, there were 130 ambulance bypasses. For June 2001, under the Bracks government, the number was 756.

The final statistic I will give to the house this morning concerns the number of patients staying on trolleys for longer than 12 hours. In June 1999 that figure was 2245, but by June 2001 it had reached a staggering 6802. All these very sad statistics are there despite the enormous amount of money that the Minister for Health and the Bracks government have thrown at the health system. They have thrown money at it for the spin; they have not thrown money and gained worthwhile solutions.

**Ms GILLETT** (Werribee) — It is my pleasure to make a contribution on what is definitely a matter of public importance — that is, the Victorian health system.

I am proud to be part of a government that has demonstrated the worth of its words and deeds in terms of its commitment to rebuilding and turning around the health system in Victoria. The changes this government has made are demonstrable. This government has commenced the largest hospital building program in Victoria's history, with works worth $720 million at 26 hospitals and aged care facilities. That is an enormous benefit and demonstrates our commitment to rebuilding the devastated health system that we came to have responsibility for caring for and rebuilding just two short years ago.

I am pleased and proud to say that the seat of Werribee has been a direct beneficiary of the commitment of the Bracks Labor government to health. For the past eight or nine years Werribee has desperately needed an integrated primary health care centre. The former government acknowledged that, and the former minister would repeatedly say to me in writing, 'Yes, not a problem'. The highest priority for the western

region was an integrated primary health care centre in Werribee. Did the former government deliver in its first term? No. Did the former government deliver in its second term? Absolutely not. Did the Bracks government deliver in its first two years? Yes, it did.

Werribee is soon to be the proud beneficiary of an $11 million integrated primary health care centre. On behalf of my community I place on the record my gratitude to the Minister for Health, his advisers and his department for delivering on what we were starting to think was just a pipedream. We will have in a couple of years a state-of-the-art primary health care centre to care for the 80 000 people in my community who have had no access to such a facility within a half an hour's drive.

All the work that was done by our fine local council in researching Wyndham and Werribee's health needs clearly indicated that primary intervention and primary health care were what we desperately need. This government, which I am proud to be a part of, has delivered that critical health infrastructure at the most fundamental level — at the primary health care level.

Not only has Werribee been the proud beneficiary of a new integrated primary health care centre, but we have also been fortunate to receive a new peak-period ambulance unit that is based at Hoppers Crossing. This is tangible evidence of the real and practical rebuilding that is taking place in our health system. It is unfortunate to have to say that the demonstrated commitment of the Bracks Labor government has not been matched in any way, shape or form — though it ought to have been — by the current caretaker federal government.

I am very concerned about the lack of aged care beds in my electorate. That lack is placing massive pressure on our public health system, not just in Werribee but far beyond it. Mr Acting Speaker, I am sure you have felt the impact in your own electorate, which adjoins mine. This pressure exists because the older people who need them are unable to leave hospital because of the chronic shortage of aged care places, putting an enormous strain not only on individuals and family members who have to care for them but on the system as a whole.

The poor treatment being received by the frail aged in my electorate — and, I am sure, in many others — is revealed in a document that was released by the Australian Medical Association earlier this month. The AMA information details the availability of aged care beds in each Victorian federal electorate, comparing that to the commonwealth's own benchmarks. The AMA sources for the figures were the commonwealth Department of Health and Aged Care and the Australian Bureau of Statistics.

The AMA figures reveal that in the federal electorate of Lalor, of which Werribee is a part, there is a shortfall of 90 aged care beds compared to the federal government's own benchmarks. These are not the Bracks government's benchmarks; this information is based on the current caretaker federal government's own benchmarks. In my electorate we are 90 aged care beds short. This treatment of senior Victorians who have been strong contributors to the community and the nation for many, many years is totally unacceptable. These frail aged deserve to be treated with more dignity and respect by the current caretaker federal government.

The Howard government's under-resourcing of aged care has put enormous pressure on the health system here in Victoria. The Bracks government recently released figures that show there are more than 500 frail aged people in our public hospital system waiting for aged care beds. The funding, licensing and regulation of nursing homes and hostels in Australia is the exclusive responsibility of the commonwealth government. Victoria is worse off when it comes to federal aged care funding than any other state. Of the national aged care bed shortage of 12 000, Victoria carries almost half — 5000. The federal government's aged care bed shortage is forcing Victorian hospitals to become de facto nursing homes.

The Bracks government is playing its part in providing better services and help for older patients so they get the care they need in the face of the aged care bed shortage. The $509 million worth of initiatives to help the health system in the last budget are a tangible demonstration of that sort of commitment.

However, the federal government's refusal to match the Bracks government's extra $41 million over four years for home and community care (HACC) and related services means that fewer seniors in Victoria — and in my electorate of Werribee — can have access to home care services. The result of this refusal of the commonwealth to match the Bracks government's extra funding for HACC services means that the frail aged have less access to support services to enable them to remain living independently in their own homes. It means more demand for aged beds and more pressure on the public health system.

It is important to note too that the pressure works in two ways. Many people who have access to aged care beds but who are in need of hospital treatment are unable to access the system the other way around as well. So the

pressure points are twofold, and they are equally important in terms of both hospital beds and aged care for the frail. It means that the more demand there is for aged care beds, the more pressure there is on our public health system.

The Bracks government is meeting these challenges with extra funding and strategies, including providing aged care services and HACC programs that help to keep frail aged Victorians out of public hospitals.

It is absolutely time that the federal government stopped shirking its financial responsibilities to provide decent health and aged care services to all Victorians. I will take this opportunity to express my support for and my encouragement of the mayors of some 40 municipalities and shires who have come to Parliament House today to express their concern for and their commitment to ensuring, in conjunction with the Bracks Labor government, that pressures are placed on the appropriate tier of government — in this case the caretaker federal government — to do what it needs to do to care appropriately, respectfully, and with some measure of dignity for our frail and aged in the community who deserve the very best we can offer, not the very worst.

**Mr DIXON** (Dromana) — I wish to make a brief contribution to this matter of public importance and point out the effects of the government's mismanagement of the health system on my local hospital at Rosebud. I was amazed a couple of weeks ago when I started receiving phone calls from my constituents and from some of the staff at Rosebud Hospital to tell me that a number of the elective operating lists have been cancelled.

**An honourable member** interjected.

**Mr DIXON** — I will get to that. The endoscopy lists and the gynaecological lists have been cancelled as well. So I rang the hospital, because I thought this was a disturbing trend, to find out what was going on. The hospital staff said these lists had been cancelled for a few weeks. When I asked why, I was told that Frankston Hospital was unable to cope with the lists, and because Rosebud was part of the network they were clearing beds in Rosebud and those spill-over patients who could not be handled in Frankston were to be operated on in Rosebud.

I can understand the philosophy of the network, but trying to explain that to my constituents, especially to my elderly constituents who have been waiting for operations in their local hospitals and are not pleased about that, was difficult. They see Rosebud as their hospital. They are the ones who have contributed to it in the form of fundraising over the years. They are the members of the various auxiliaries that raise money year in and year out, and they rightfully have a claim on that hospital and expect some return from their local hospital in which they have quite a stake.

The feedback I got from my constituents is that they feel they are second class, that the people in Frankston have a higher call than the people in Rosebud. This has been difficult for them because in many cases the cancellations were last-minute ones; people were prepared, psyched up and ready and all of a sudden their operations were cancelled. On many occasions women who were booked for gynaecological procedures — they had a date, they were prepared, they had arranged for babysitters and for their families to be looked after — went to hospital only to find at the last minute that their operations had been cancelled so everything was thrown into disarray. This has been very difficult for those two important sections of my community.

I was surprised when staff told me that not only were the lists cancelled in Rosebud but that on occasions the expected overflow from Frankston did not eventuate, so the beds remained empty for a number of days and no-one was able to use them. That was also very disappointing, and that sort of information has gone out into the electorate and people are not pleased with it.

There have been two incidences over the last decade where the emergency ward of the Rosebud Hospital was closed down. This was because the local doctors who are contracted to work in the emergency ward withdrew their services, so the emergency ward had to close down. It was not a government decision but the local doctors' decision. However, what was interesting when it happened was that the local Labor Party members were up in arms about it: it was the end of the world, it was all the Kennett government's fault, it was cuts in funding — every reason possible. But it was none of that. The doctors withdrew their services. However, there was an incredible beat-up.

It is interesting that over the last few weeks when the operating lists at Rosebud Hospital have been cancelled not a single Labor Party local branch member has been seen. They are not marching like they were last time. Where is Paul McGuinness, who led the march the last time, decrying the government for its lack of attention to Rosebud Hospital? He is not leading the charge there now, and his friends in the Labor Party are not there either. They have been very quiet on this one. When you consider how the high-jump bar on expectations was raised by this government, it is interesting to see

that the level has not been attained. The government raised expectations; it said it would solve all the problems in the health system and it has fallen woefully short.

My last issue is to do with the Lotus Lodge Hostel and the Jean Turner Memorial Nursing Home in my electorate. Under the previous government and the former health network those two facilities were about to be sold but only on condition that they were to be refurbished when needed, and refurbishment was needed in those facilities, especially at Lotus Lodge. The money from the sale — and this was after the upgrades to those facilities — was not to go into consolidated revenue but to renovate and expand the Rosebud Rehabilitation Centre and to install a $1 million hydrotherapy pool, so it was a win not only for the residents of Lotus Lodge and the Jean Turner nursing home but also for the hundreds of people who use the Rosebud facility. Everybody was going to win.

What happened was a change of government. The nursing home and the hostel were not sold and therefore that money stream dried up. What has happened over the last two years? There have been no major renovations at all. The work that was meant to be done to Lotus Lodge has not happened. The work to the Jean Turner nursing home has not happened. Rosebud Rehabilitation Centre is sitting there on Eastbourne Road and has not been extended or renovated, and the hydrotherapy pool has not been built. So everybody has lost.

I put this government on notice that local residents, the people who use those facilities, are waiting for some action. They expect some action; it was promised to them and it has not happened. As I said, the government raised the high-jump bar but things have been woefully mismanaged and the government has not reached the heights it said it would, especially in my electorate.

**Mr NARDELLA** (Melton) — This has been an interesting debate, and now I will put some facts on the table. When the honourable member for Malvern was speaking to the house he had 22 Liberal or National Party members behind him; the honourable member for Seymour and I counted them. When the Leader of the Opposition was on his feet on this important matter of public importance he had seven people, one below his popularity rating, to support him in this chamber. For the record, they were the honourable members for Bennettswood, Malvern, Evelyn, Bentleigh, Forest Hill, Brighton and Dromana. They are his supporters. Even the honourable member for Bennettswood had nine members supporting him when he was on his feet — the honourable members for Bellarine, Bulleen, Berwick part time, and even the Honourable Maree Luckins from Waverley Province came in to listen to him. But they did not support the Leader of the Opposition; when he was on his feet they were nowhere to be found. That is interesting point no. 1.

Interesting point no. 2 concerns the matter of public importance before the house. It is an important matter because it is necessary to put on the record the reasons for the extra expenditure in health — how the previous Liberal–National Party government ran the system down, why the previous government closed down 12 hospitals and why we were left with a mess and are continuing to deal with that mess at the moment.

It is interesting that the honourable member for Malvern talked about the Frankston Hospital using paediatric beds from the paediatric unit to deal with the overflow while this government is upgrading the beds. The honourable member when in government was second-in-charge of the hospital system to the Honourable Rob Knowles. Where's Robbie now? We want Robbie! He is nowhere to be found. He got done over in Gisborne where he will languish for evermore.

But during the term of the honourable member for Malvern, the Frankston Hospital did not isolate those patients when they overflowed into both the midwifery and paediatric wards. Worse still, during his term cross-infection occurred because of the previous government's incompetence. The Kennett government did not have a plan and had no idea about or any understanding of the health system in Victoria. Yet the honourable member has the gall to come in here and criticise this government during a redevelopment of the hospital. We are redeveloping the Frankston Hospital and are making more efficient use of the beds within the hospital, isolated from the midwifery area.

I remember the debate and the question that was asked on 9 December 1997 in the upper house. The Acting Speaker, the honourable member for Geelong North, would also recall this. The Ambassador Hotel in Geelong was then being used by the Kennett government as an overflow for maternity and other patients while the Geelong Hospital was being redeveloped. The paediatric or midwifery wards were not even used. Patients went off to the Ambassador Hotel. They were put onto trolleys and were wheeled down the road into the Ambassador Hotel and five-star luxury. The then minister, the Honourable Rob Knowles, talked about five-star luxury. Opposition members have the gall to say that this government is doing the wrong thing when under the Kennett

government they ran down and did not care about the health system in Victoria.

Why is this government spending the extra money on health? Because the health system was run down for seven years. And the National Party is not blameless. Its members stayed in that party room, and every time Jeff Kennett said, 'Jump!' they asked, 'How high? And can we go that little bit extra for you, Jeffrey?'. You could not see anything but the soles of their boots — right up his backside!

*Honourable members interjecting.*

**Mr NARDELLA** — They stuffed it. They ran down the system and they privatised the hospitals. They privatised the Latrobe Valley Hospital — and you can go through them.

I refer to the previous honourable member for Gippsland East. I visited Bairnsdale when the aged care service down there was privatised. Remember Hidden Treasure — David Treasure? Where is he now? He has obviously been replaced — gone — because people in Victoria understood what was happening. A thousand beds were closed, 2000 nurses were made redundant, and waiting lists went through the roof — they were absolutely sky high. In the last 12 months of the Kennett government the number of people on waiting lists went from 36 754 to 40 293. As the honourable member for Frankston East said, on 30 June 2000, under the last budget of the previous government, they skyrocketed to 41 832.

At the moment Victoria needs an extra 5000 hostel and nursing home beds. Many Victorians are waiting for hostel and nursing home beds because of Bronwyn Bishop. Would you not want her to be leading you into the election? Would you not want her to take over Michael Wooldridge's job in health? You can imagine the stuff up, just like she stuffed up the federal aged care and health systems. We need 5000 extra beds. Hundreds of people — about 500 people — cannot get hostel or nursing home beds in the hospital system. Ambulance officers have been sacked and — worse still — with the corrupt practices of Marie Tehan who was responsible for the health system before 1996 the ambulance dispatch system was privatised under Intergraph. As a result of the corrupt practices $33 million was thrown away to those thieves.

Where were they? They did not say a word. Cleaners were sacked, the state of hospitals became sicker, cleanliness was compromised, and hospital assets were markedly reduced. That is where we found ourselves in 1999. Make no mistake about it; the health system will take time to turn around. But we are doing it. We have a commitment to the Victorian community.

The honourable member for Sunshine will speak later. The government is opening the Sunshine Hospital. It has taken seven years to open that hospital. Over the last two years we have put in $34 million, and that will be officially opened on the weekend.

The previous government had no commitment to rebuilding our hospitals. This government is putting the money in. It is putting $720 million into the hospital system, and an extra $1.1 billion over the next four years to treat 30 000 additional patients. That is our commitment. That is where our money is going — not into the waste and mismanagement of a $33 million Intergraph contract agreed to by the former government. The former government simply sat on its hands, and members opposite were there and were part of it.

The funding has gone into opening up 360 extra beds, putting hospital finances back in the black, implementing hospital cleaning standards and tests. Some $150 million has been invested in preventing unnecessary hospitalisation. I remember listening to the former minister, the Honourable Rob Knowles, talk about this stuff. But he never went off and did it. This government had to be put into power to put these policies in place. Funds have also gone into improving clinical practices. Money is also going into preventing illness and making people's lives healthier. We are reducing tobacco, alcohol and illegal drug use within our society. That is where the money is going.

Opposition members are whingeing, carping and harping. And so they should whinge and carp, because they are being led by the nose by the pretender from Malvern — the person who put them into this mess in the first place and who was part of the process of closing down 12 hospitals. The Elmore hospital is one hospital that was closed down under the previous government, and it was condemned for it.

*Honourable members interjecting.*

**Mr NARDELLA** — It was closed down under you, and you know it! On that basis, I do not support the matter of public importance.

**Mr SPRY** (Bellarine) — In contrast to the irrelevant diatribe from the honourable member for Melton, which we have come to expect in this house, I take this opportunity in speaking on this matter of public importance to go in to bat for the people in my electorate on the subject of deteriorating emergency and

elective health outcomes in the Geelong region under the Bracks Labor government.

Recent local press reports have detailed a litany of deteriorating outcomes in hospital care in Geelong, as the Bracks Labor government under part-time health minister John Thwaites oversees a budget blow-out in health of over $500 million statewide. That is a half-billion-dollar blow-out in that portfolio.

No blame can or should be directed to the hardworking and dedicated medical, nursing and ancillary staff at Geelong hospital or its board. Increased costs under Labor, including a huge Workcover blow-out, are the core problem. In fact, Barwon Health faced a $1.5 million deficit, as revealed in its annual report released yesterday and reported in today's *Geelong Advertiser*. That budget blow-out was suddenly and mysteriously camouflaged by a $2.8 million injection from state government coffers, which needs a full explanation. The people of Geelong want to know what that is all about. All this has occurred under a part-time health minister.

Much has been said this morning about the part-time health minister or the nature of the health minister's job. What possible explanation can there be for this situation, other than a complete lack of talent on the back bench? In this respect the Victorian electorate is being short-changed.

Let us just look at the big picture over the whole state of Victoria and reflect on the *Hospital Services Report* for the 2001 June quarter. The report makes some alarming comparisons with the *Hospital Services Report* of June 1999. The recent report shows that overall in Victoria the number of patients left waiting on trolleys for longer than 12 hours in emergency departments has ballooned by 203 per cent. Ambulance bypass statewide has blown out by a massive 480 per cent in the two years of Labor government and patients on waiting lists for semi-urgent elective surgery have increased by 21 per cent.

Coming down to the local scene in Geelong in my own region, the *Hospital Services Report* for June 2000 shows that for Barwon Health the waiting lists for semi-urgent and non-urgent cases reflect similar sorts of problems. At 30 June 2000 the waiting list at the Geelong hospital for semi-urgent cases was 434 patients; this year it has blown out by 25 per cent to 544 patients. Similarly with non-urgent cases, on 30 June 2000, 1701 patients were waiting for attention; this year 1922 are waiting. In addition the number of patients waiting on trolleys for longer than 12 hours in the Geelong hospital is up by a shocking 157 per cent in the 12-month period.

What was the part-time health minister's reaction to this situation? Firstly he blamed the federal government. An article in the *Geelong Advertiser* dated 18 October under the headline 'Aged face 21-day bed wait: study' says that predictably the health minister John Thwaites blames the crisis on the federal government. The article states:

> Federal aged care minister Bronwyn Bishop's spokesman, Andrew Cummins, said the government had increased funding for aged care homes in Geelong and the surrounding region by $20 million since 1995.
>
> 'The Victorian government, at the same time, has been closing hospital beds, so they want to kick people out quickly', Mr Cummins said.
>
> 'They dismissed an offer from the coalition government to take aged care places from an innovative pool which would have allowed hospital residents to be transferred into the community and rehabilitated rather than prematurely into residential care'.

The Victorian health minister dismissed the offer. A few days later, on 20 October, predictably he blamed the former state government for the problems in health, as do most of the speakers on the government benches this morning.

An article headed 'Surgery delays hit elderly' states:

> One in three elective surgery operations at Geelong hospital in the past four months were cancelled, it was revealed yesterday.

It continues:

> State health minister John Thwaites said the problem was a result of the financial constraints imposed on the health system by the previous state government.

Who is he going to blame next? It is about time he emerged from his bunker and took direct responsibility. If he did, he would be respected for it, but it is a forlorn hope, I am afraid.

In the meantime what is the human face of this neglect and mismanagement? I will highlight briefly two cases in my electorate of Bellarine. The first is a pensioner from Portarlington who was told he would have to wait eighteen months for carpal tunnel work on his hands. After two years of constant low-level pain there is still no sign of relief. Mr Acting Speaker, if you have ever had that sort of low-level pain you would realise that you live with it day in and day out.

The second example is a constituent who recently retired to Clifton Springs. He had to wait eight months

for a biopsy on his prostate. When the procedure was eventually carried out the verdict was not good, and he is currently dealing with prostate cancer treatment. In his case the delay is clearly a tragedy; it should and could have been avoided.

We are dealing with human lives and human suffering. The Minister for Health is failing in his duty to Victorians. He is a part-time minister who divides his time between the health and planning portfolios. Clearly it is a ludicrous situation that is having disastrous consequences for patient treatment. The Bracks Labor government cannot escape the blame by ducking and weaving. It must be held directly accountable for this lamentable situation.

**Mr SAVAGE** (Mildura) — I am pleased to have the opportunity to speak on this matter. Health in Victoria is of acute importance to the state, to the government, to the opposition and to every honourable member here present. It is important to say that no government can provide the total package necessary to provide the health care that is required and demanded. Somehow a government has to balance the requirements in a way that matches the need where possible.

Past governments from both sides of politics have been pretty ruthless in Victoria, especially in regional Victoria, in closing hospitals and downsizing services and concentrating them in particular areas, which makes it very difficult for many people to gain access to them. In my electorate before my time as honourable member for Mildura the Murrayville hospital was closed by a previous Labor government. The Beaulah hospital was closed by the previous coalition government, and a number of small regional hospitals are now virtually aged care facilities and are not performing in any way as hospitals.

The current proposal to downsize the services provided by the Hopetoun campus of Rural Northwest Health is causing acute concern to that community. The previous government privatised the Mildura Base Hospital against the wishes of the community, and it is now the only privatised hospital in Victoria. In fact, if it were not for the fact of community opposition to the tenderer at the time, Alpha Health Care, and the work of the former shadow Minister for Health, now the Minister for Health, we would have ended up with a provider who was banned in the state of California from providing aged care.

We just have to look at some of the regional newspapers to see the concerns that are being expressed in regional areas. I refer to the *Warracknabeal Herald* of 26 October and to a front-page article headed 'Concern regarding Rural Northwest Health aged care policy', which states:

> A restructure of aged care services at Rural Northwest Health has created concern among some staff, who are not happy about the transfer of six beds from the Landt Hostel to the Landt Home.

The editorial contains a further criticism of the Department of Human Services for not considering people but looking at the bottom line.

This week's *North West Express* carries a letter signed by the president of the East Wimmera Health Service, Ray Walker. The letter states, in part:

> The board of the East Wimmera Health Service … faces some of the toughest decisions on the future of health for each of its communities since amalgamation and is attempting to manage the requirements of the Department of Human Services, the Australian standards relating to infection control, health regulations, nursing shortages and the need to deliver the best possible health service to each of the five communities it represents.
>
> …
>
> It is in relation to theatre and obstetric services that the board is facing a real dilemma. Under current regulations these services will need to be restricted to areas where appropriate credentialled medical and nursing staff are available and the facilities meet the required standards.
>
> …
>
> The board, in partnership with the DHS, will undertake a feasibility study and master plan, and it is most likely that St Arnaud will receive a new hospital and will house the only theatre in EHWS —

that is, the East Wimmera Health Service. The letter further states:

> When consideration was being given to the placement of theatres the board noted that the community of Birchip does not have an ambulance service at present. Their theatre is relatively up to date, current medical staff are well skilled and able to cope with —

their needs.

> Birchip board representative believed that the necessary capital could have been raised locally to complete minor refurbishment that would allow their theatre to continue to operate.

The tenet of the letter is that amalgamated health services are placing great strains on their boards in trying to deliver health services to their respective communities, but it is a difficult job. We end up with a situation where most communities lose out, which is not in their interests.

Hopetoun is a central point in north-west Victoria. It is a 2-hour drive from Mildura and a 90-minute trip from

Horsham. Warracknabeal has another hospital facility, and the proposal is to amalgamate the services of obstetrics, based at Warracknabeal. That is not in the interests of the community at Hopetoun, and it is tragic that the communities are if not being torn apart then at least divided on the issue.

The government has reflected the change of status of the Hopetoun hospital. It was a bush nursing hospital but was amalgamated in February 1999 by the former government with a promise that there would be no loss of services to the community. But the latest move translates to a significant potential loss of services, primarily because surgical and obstetric services will be moved to Warracknabeal.

I acknowledge the fact that annual recurrent funding of about $700 000 has been placed at Hopetoun through Rural Northwest Health, which is good for the community, but it is no good having recurrent funding if the services cannot be provided and people do not feel comfortable in their communities with the level of health care that is available.

In September a public meeting at Hopetoun, which has a population of 750, filled the local hall. If the residents can fill the hall and show a united protest at the proposed downsizing of their services, we have to listen and take note. We must be mindful of the fact that the community wants its hospital to continue to function. The previous Premier did not listen and paid the political price.

A couple of years ago, when Hopetoun was a bush nursing hospital and received no state government funding, the staff gave up a significant proportion of their salaries — some tens of thousands of dollars — to keep the hospital going. In what other Victorian hospital would you find the staff so committed that they would give up tens of thousands of their salary dollars to keep their hospital functioning? Every year the community has raised tens of thousands of dollars. That generous community is determined to ensure the present situation continues. Last night a deputation of committed citizens met with the Minister for Health about the Hopetoun hospital issue. They included Ian Roberts, Colin and Donna Symes, Gwen Erhardt, Alan Malcolm and Dr Anne-Marie Walt. The community representatives are committed and passionate about the issue.

Dr Walt has turned around the community's negative and depressed attitude towards health services. She has brought about a complete change in the number of people now seeking services, which has increased by about 200 per cent since she took over obstetrics and general health care. The community is very fortunate to have her there. If the hospital is downsized to such an extent that limited opportunities are available for Dr Walt to practise her skills, she will move elsewhere and Hopetoun will never get another doctor who is able to offer the present variety of medical services. Hopetoun hospital could become just another glorified nursing home providing a minor range of medical services. The Department of Human Services must start focusing on rural health and the needs of the communities, not on the bottom line.

Some members of the board of Rural Northwest Health have indicated serious concerns about the direction in which the board is heading and the fact that they have been misled by the Department of Human Services. I refer to a letter of 2 October addressed to the president of Rural Northwest Health by Joy Price, a member of the board. It states:

> Last night's board meeting confirmed my fears that the Hopetoun campus is in fact going to lose services despite repeated assurances that this would not be so.
>
> I am greatly disappointed and disenchanted by the whole planning procedure, the board's role and the evasive tactics employed by the Department of Human Services. I feel that Hopetoun board representatives have been seen as basically thorns in the side of progress and, more so, as nuisance value when their only intention was to continue to provide an acute health service for the northern area of RNWH.
>
> …
>
> The plan for the future use of Hopetoun was laid out long before this board ever came into being. Our future unfortunately was determined by an unfortunate twist of fate and particular circumstances which saw our hospital fall into demise and a need to amalgamate arose.

I hope the government is listening. Rural Northwest Health faces a dilemma as to where it provides its services. Hopetoun has a regional, remote or isolated community that deserves consideration. I urge the government to make every effort to ensure that the Department of Human Services delivers the appropriate levels of service.

**Mr LANGUILLER** (Sunshine) — I am proud to rise today to defend the Labor government's achievements in the health system over the past two years. The Bracks government is rebuilding Victoria's hospitals and ambulance services. It is committed to making Victorians healthy, no matter where they live. I proudly rise to defend our track record, because we are turning the health system around.

Next Sunday I will proudly attend the opening of the Sunshine Hospital — a genuine hospital which was dreamt of by the former Labor Prime Minister, Gough

Whitlam, and which will be delivered by the Bracks government and its Minister for Health. We are proud of our track record, and we will continue to deliver. I will be there with the 116 new nurses and other staff at Sunshine Hospital, because the health system is an absolute priority for the Labor government. Prior to the election we said we would rebuild the public health system, and we are doing it.

What a pathetic performance the house has seen today from members of the opposition! They have come here with absolute hypocrisy, lies and amnesia. They do not have the decency to come into the chamber and tell the truth about what the Kennett government did to the health sector.

I was a proud member of the Health Services Union of Australia, and I remember when Jeff Kennett first came to power. The first thing he did was to get stuck into the unions and workers — precisely the ones who looked after patients and the health of the community. The Kennett government came to power with a vengeance: it sacked nurses, it closed hospitals, it reduced budgets, and it ran the health system into the ground.

**Mr Leigh** interjected.

**The ACTING SPEAKER (Mr Kilgour)** — Order! I remind the honourable member for Mordialloc that he is out of his seat and is disorderly.

**Mr LANGUILLER** — What a bunch of hypocrites they are coming into this chamber. The honourable member for Malvern was on his own in this chamber. He had no support from his colleagues. They were not backing him. He had no courage, no convictions, no good memory — and that is because he knows what he did. Opposition members know precisely what they did to the health system — they wrecked it. I put on the record that opposition members, when in government, closed 12 hospitals in Victoria. Shame on them! They closed 1000 beds and made 2000 nurses redundant. Within a short period of time the Kennett government privatised hospitals. Many hospitals were technically bankrupt after seven years. Waiting lists increased from 36 754 to 40 293 in 12 months.

We proudly defend the track record of the Labor government, particularly on the issue of health. We said we would deliver a health system to Victorians and we are doing it. It should also be placed on the record why it is being made hard for us to rebuild the health system in the manner we could have and should have been able to in two years. It is because the Howard government has turned the public health system into nursing home units. It is not delivering on aged care. It is crippling the state by misusing beds we are entitled to and it is not delivering. Victoria is worse off. The federal government is vindictive. The state government has had to pick up the pieces from the federal government. We have had to look after the patients. We have had to turn hospitals into nursing homes. We have had thousands of patients having to wait on trolleys because the Howard government and previously the Kennett government absolutely wrecked the health system. They are the Rottweilers of the health system. They have turned things inside out for the worse.

I am proud to defend the track record of the government. I remember when the coalition came to government. It got into us: it attacked the union movement and sacked the workers — the very workers who are willing to cooperate and look after Victorian patients. Victorians should be proud of us. They should be proud of the unions in the health sector. Today I rise proudly as a former union official because I remember how hard we worked in the hospitals. The Kennett government got rid of the cleaners, the nurses and the lab technicians. Opposition members should be ashamed of themselves. There they were today. They came into this place behind the honourable member for Malvern, who had absolutely no conviction in his presentation. He was floppy, he was weak, and he had nothing to offer. There was no substance, no conviction, no heart, no brain. He had absolutely nothing to offer the debate. Shame on them, I say.

The Bracks government is doing a number of good things of which it is proud. The government is rebuilding Victoria's hospitals by commencing the largest hospital rebuilding program in Victoria's history, worth $720 million, at 26 hospitals and aged care facilities. What did the opposition do in the past? It reduced budgets and closed hospitals. We are putting more resources into the system. We are opening hospitals — that is what the government is doing, and proudly so — and we are doing it everywhere. We are doing it in Labor seats, in National Party seats and in Liberal Party seats. We are doing it everywhere because we said before the election that we would govern for all. You governed for yourselves in the previous government. That is what you did — —

**The ACTING SPEAKER (Mr Kilgour)** — Order! I ask the honourable member for Sunshine to speak through the Chair.

**An honourable member** interjected.

**Mr LANGUILLER** — I take up that interjection. I have no problem in being called comrade in the labour movement. We have a proud history in the labour and

trade union movements. It is one the opposition should work with constructively because we have been part of the best and greatest reforms in the nation. We have brought about new technologies. We have brought about a lot of the changes that were needed in this nation.

Let me tell you what the government has done in two years. We have employed 2650 additional nurses and opened 360 additional beds. What did the previous government do? Opposition members do not have the courage to come in here and defend themselves because they are ashamed of the previous government. They are not able to come into this place and say, 'We stuffed up. We were wrong. We wrecked the health system'. For as long as they do not do that they will not be a credible opposition. It is about time they came clean and told the truth.

The Bracks government is getting hospital finances back in the black after years of cuts. I am proud that we are implementing hospital cleaning standards because I was part of it in my former life. I was proudly one of the organisers who looked after hospital cleaners. When the Labor Party was in government the hospitals were clean. When we were in government the community was proud of the hospitals. After Kennett came in they were run down. You will not be able to convince anyone in the community — and you know and they know it well — that you did a good job — —

**Mr Leigh** — On a point of order, Mr Acting Speaker, I ask that you suggest to the honourable member for Sunshine that the dear comrade might be wise to address the Chair rather than seeking to inflame opposition members.

**The ACTING SPEAKER (Mr Kilgour)** — Order! I ask the honourable member for Sunshine to ensure that he addresses his remarks through the Chair.

**Mr LANGUILLER** — Absolutely. Let me tell you what the government is doing. We are investing $150 million to prevent unnecessary hospitalisation for the frail aged and chronically ill. We are working closely with doctors and nurses to improve clinical practices and we are proposing reform of commonwealth–state relations to protect patients from gaps in services and to stop cost shifting. We are doing that proudly.

I look forward on 10 November to a Kim Beazley government committed to rebuilding Medicare, health and education and working in partnership with the states not against the states, not undermining the states, not getting into them, not being vindictive like the Howard government has been and not turning the public hospital system into a nursing home unit.

Members opposite should be ashamed. They should come clean: they should come into this place and tell the truth and nothing but the truth. The Liberal Party is in opposition because it has absolutely no credibility in this debate. That is why when the shadow Minister for Health came in he was by himself. The honourable member for Mordialloc was not here backing him because he did not have the cheek. Members opposite should be ashamed of themselves!

**Mr MAUGHAN** (Rodney) — I am very pleased to join this debate. I give the honourable member for Sunshine 150 per cent for passion. He was very strong on rhetoric but very short on facts. We have heard a lot from the Labor members this morning. They are all very strong on rhetoric and this rubbish about telling the truth about what the former government did, but they conveniently overlook the fact that when the Liberal–National Party government came to power this state was in chaos, as was the health service.

In 1992 Victoria was spending far more than it had coming in; it had massive debts, and the health system was in complete disarray. We have heard a lot of criticism of what happened in the Liberal–National years, but at least the government dealt with the problems and there were major changes. I acknowledge that many of those changes were unpopular, but they were absolutely necessary. Nothing at all happened in the health system in the Cain–Kirner years except that it went down and down and down. It was not until the Kennett–McNamara government came to power that things really started to change.

There was tremendous change at that time. Casemix funding was introduced. It might not have been the most popular thing in the world with some of the people who worked in the health system, but it worked. It got hospitals to focus on what they were doing, and it paid them in accordance with the procedures they carried out, including their complexity, the number and so on. It was a much more objective system.

Likewise, it made absolutely no sense to have all our major hospitals located within 5 kilometres of each other in the central business district. Under the Kennett government some of those hospitals were put where the people are, such as in the northern suburbs.

**Mr Leigh** interjected.

**Mr MAUGHAN** — Exactly. Some really good things happened under the coalition government.

The honourable member for Footscray talked about the state of the health system and the closure of hospitals. He went on as if all of that was a disaster. It is never easy to close hospitals or schools, but the reality is that it needed to be done. People want a good health care system, and people in regional Victoria want to be able go to Bendigo or Shepparton to access their top health care system.

The honourable member for Melton railed about the Elmore hospital. Yes, it was closed under the coalition government, but he conveniently forgets that when she was the Minister for Health the Honourable Maureen Lyster was going to close the hospital. Only a strong and concerted campaign by the people of Elmore, led by the honourable member for Rodney, persuaded the minister to keep that hospital open. I am not sure if I did the right thing, because I was then the local member when the hospital was inevitably closed. However, I have to say that the Elmore campus now delivers a better range of services that are more appropriate to the needs of the people of Elmore than were ever delivered before, because prior to the hospital's closure it was essentially a geriatric facility and the people of Elmore were going to Bendigo, Rochester and elsewhere for their services.

We are looking at what this government has done since it came to office. When he was the shadow minister the present Minister for Health was very hot. Day after day he came into this house and explained what he would do if he were the minister. He has now been minister for two years, and one wonders what influence he has had. As the motion indicates, the health budget has blown out to the tune of half a billion dollars — that is, $500 million more than was budgeted for.

The objective measurements brought in by the previous government indicate very clearly that the standard of service has declined. The number of people on waiting lists has gone up by 21 per cent compared to two years ago. The number of patients waiting more than the appropriate time for treatment has increased by a massive 81 per cent compared to two years ago. Day after day when he was the shadow minister the Minister for Health railed about patients on trolleys, but their number has gone up by a massive 203 per cent. This minister is the same guy who used to chase ambulances during the week and then come in and rail against it, but ambulance bypasses have gone up a massive 481 per cent in the past two years.

The record of this government in health care leaves a great deal to be desired. Its record in providing better health care for country Victoria does not stand examination. I want to touch on a couple of local issues, like the dialysis services available from Echuca Regional Health. I have been writing to the Minister for Health seeking better dialysis services for the past two years, because they are insufficient for people in the Echuca area — but nothing has been done. If you are a child with a speech impediment you need to wait nine months to get an appointment with the speech therapist in Echuca. I could go on about country doctors and the lack of nursing home beds which the honourable member for Melton railed about. This government can do something about it, but it has failed.

**The ACTING SPEAKER (Mr Kilgour)** — Order! The honourable member's time has expired. The time for raising matters of public importance has expired.

**Debate interrupted pursuant to sessional orders.**

## ROAD SAFETY (FURTHER AMENDMENT) BILL

*Introduction and first reading*

**Mr BATCHELOR** (Minister for Transport) — I move:

> That I have leave to bring in a bill to make miscellaneous amendments to the Road Safety Act 1986, to amend the Chattel Securities Act 1987, the Magistrates' Court Act 1989, the Road Safety (Drivers) Act 1991, the Road Safety (Further Amendment) Act 1991, the Melbourne City Link Act 1995 and the Road Safety (Alcohol and Drugs Enforcement Measures) Act 2001 and for other purposes.

**Mr LEIGH** (Mordialloc) — I ask the minister to give a brief explanation of what he is proposing to implement.

**Mr BATCHELOR** (Minister for Transport) (*By leave*) — The government is seeking to make a number of changes in the road safety area, including, and most importantly, changes to the penalties relating to people caught breaking the blood alcohol limits in the range between .05 and .1. In certain categories it will ensure that those who drink-drive on our roads with levels above .7 will lose their licences for a period of six months.

**Motion agreed to.**

**Read first time.**

## MARINE (HIRE AND DRIVE VESSELS) BILL

*Introduction and first reading*

**Mr BATCHELOR** (Minister for Transport) — I move:

That I have leave to bring in a bill to amend the Marine Act 1988 with respect to hire and drive vessels and for other purposes.

**Mr LEIGH** (Mordialloc) — I wonder if the minister would once again give the house a brief explanation of what he proposes to do with this bill.

**Mr BATCHELOR** (Minister for Transport) (*By leave*) — I am always happy to oblige the house. The Marine (Hire and Drive Vessels) Bill seeks to make a number of changes with respect to hire and drive vessels. It relates to the regulations covering their use on our waterways.

**Motion agreed to.**

**Read first time.**

## ANIMALS LEGISLATION (RESPONSIBLE OWNERSHIP) BILL

*Introduction and first reading*

**Mr HAMILTON (Minister for Agriculture) introduced a bill to amend the Prevention of Cruelty to Animals Act 1986 and the Domestic (Feral and Nuisance) Animals Act 1994 and for other purposes.**

**Read first time.**

## VICTORIAN INSTITUTE OF TEACHING BILL

*Introduction and first reading*

**Ms DELAHUNTY (Minister for Education) introduced a bill to recognise, promote and regulate the profession of teaching and to establish the Victorian Institute of Teaching and for other purposes.**

**Read first time.**

## FILM BILL

*Introduction and first reading*

**Ms DELAHUNTY** (Minister for the Arts) — I move:

That I have leave to bring in a bill to establish Film Victoria and the Australian Centre for the Moving Image, to repeal the Cinemedia Corporation Act 1997 and for other purposes.

**Ms ASHER** (Brighton) — In my capacity as acting shadow Minister for the Arts I am well aware of the minister's announcements regarding Cinemedia, but I am wondering if she will give me a brief explanation of the other purposes of the bill.

**Ms DELAHUNTY** (Minister for the Arts) *(By leave)* — I am always happy to oblige the Deputy Leader of the Opposition. The bill implements a policy agreed to after a high-octane task force made recommendations to government about how to revive the investment by this state in film and television, and part of those other purposes is included in some of the recommendations made by that task force. The most important recommendation, of course, was to repeal the Cinemedia Corporation Act and to establish Film Victoria and the Australian Centre for the Moving Image.

**Motion agreed to.**

**Read first time.**

## ACCIDENT COMPENSATION (AMENDMENT) BILL

*Introduction and first reading*

**Mr CAMERON (Minister for Workcover) introduced a bill to amend the Accident Compensation Act 1985, the Dangerous Goods Act 1985, the Occupational Health and Safety Act 1985, the Mineral Resources Development Act 1990, the Pay-roll Tax Act 1971 and the Accident Compensation (Workcover Insurance) Act 1993 and for other purposes.**

**Read first time.**

## HOUSE CONTRACTS GUARANTEE (HIH FURTHER AMENDMENT) BILL

*Introduction and first reading*

**Ms KOSKY (Minister for Finance) introduced a bill to further amend the House Contracts Guarantee Act 1987 in relation to the Domestic Building (HIH) Indemnity Scheme and for other purposes.**

**Read first time.**

## AUDIT (FURTHER AMENDMENT) BILL

*Introduction and first reading*

**Ms KOSKY (Minister for Finance) introduced a bill to make further amendments to the Audit Act 1994 with respect to the powers of the Auditor-General, to amend the Constitution Act 1975 to indemnify the Auditor-General and audit staff, to amend the Financial Management Act 1994 with respect to the tabling of financial reports and for other purposes.**

**Read first time.**

## FAIR TRADING (UNCONSCIONABLE CONDUCT) BILL

*Introduction and first reading*

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That I have leave to bring in a bill to amend the Fair Trading Act 1999 and for other purposes.

**Mrs PEULICH** (Bentleigh) — I ask that the minister briefly explain the main and other purposes of the bill.

**Mr HAERMEYER** (Minister for Police and Emergency Services) *(By leave)* — The purposes of the bill are to give effect to unconscionable conduct provisions under the Fair Trading Act.

**Motion agreed to.**

**Read first time.**

## LIQUOR CONTROL REFORM (PROHIBITED PRODUCTS) BILL

*Introduction and first reading*

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That I have leave to bring in a bill to amend the Liquor Control Reform Act 1998 to prohibit or restrict the sale of certain alcoholic products and for other purposes.

**Mrs PEULICH** (Bentleigh) — I ask the minister to briefly explain the main purpose of the bill and its other purposes.

**Mr HAERMEYER** (Minister for Police and Emergency Services) (*By leave*) — The purposes of the bill are to deal with certain alcoholic products that come under the guise of, or are sometimes dressed up as, popular soft drinks — that sort of item. It is simply to give us a bit more control over the sale and marketing of that sort of alcoholic beverage.

**Motion agreed to.**

**Read first time.**

## SECOND-HAND DEALERS AND PAWNBROKERS (AMENDMENT) BILL

*Introduction and first reading*

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That I have leave to bring in a bill to amend the Second-Hand Dealers and Pawnbrokers Act 1989 and for other purposes.

**Mrs PEULICH** (Bentleigh) — I ask the minister to briefly explain the main and other purposes of the amendments that will be introduced by this bill.

**Mr HAERMEYER** (Minister for Police and Emergency Services) (*By leave*) — The bill is the product of a review of the Second-Hand Dealers and Pawnbrokers Act, and it aims to provide some extra controls in the interests of consumers in relation to the conduct of second-hand dealers and pawnbrokers.

**Motion agreed to.**

**Read first time.**

## LEGAL AID (AMENDMENT) BILL

*Second reading*

**Debate resumed from 19 September ; motion of Mr HULLS (Attorney-General).**

**The ACTING SPEAKER (Mr Kilgour)** — Order! I call the honourable member for Berwick.

**Dr DEAN** (Berwick) — I like being called the honourable member for Berwick, although the electorate of Berwick has been abolished so I do not know what I will be the honourable member for in the future. However, I will remain an honourable member.

**Mr Pandazopoulos** interjected.

**Dr DEAN** — That is news to me — well done! The bill is only three pages in length. Nevertheless it concerns the funding of legal aid, which relates to access to justice, which affects perhaps one of the most important principles in a civilised community in Victoria — the capacity for people who get into legal

disputes who are not rich, who are just making a living and getting by, to be able to access justice and to have those disputes resolved.

Legal aid is not a small thing; the budget is somewhere between $25 million and $30 million every year. That money comes from a variety of sources, but in the end it effectively comes from the people of Victoria through taxes and other processes, and therefore it is a big contribution by the community towards access to justice. Any bill that concerns legal aid, particularly if it concerns the quantum of legal aid, is a matter to be looked at very carefully.

I can assure honourable members that the Liberal Party has looked at the legislation very carefully. It has looked at it carefully not only because it concerns access to justice and a contribution to a large amount of community contribution, but because the bill also has an element of retrospectivity about it. On this side of the house we are very sensitive about retrospectivity. We believe it is a breach of the rights of people who enter into arrangements and later find that the law has changed and their rights have been changed by Parliament, despite the fact that they entered into such arrangements in good faith. Such matters must be looked at very closely.

I will come back to a couple of other changes in the bill that need to be carefully considered. However, the first thing to do is perhaps set the scene as to why this bill has become necessary and why the Liberal Party, despite the retrospectivity provision and despite a query or two about some matters that will be raised in my speech, will support the bill. The reason the abhorrence of retrospectivity by the Liberal Party has been outweighed by the benefits of the bill is that it will, if it is implemented appropriately, substantially increase the amount of money available for legal aid and therefore substantially increase the rights of Victorians who would not otherwise be able to receive justice.

Before I get into a nutshell synopsis of what the bill does and how it gets this extra money into the system, I want to talk about access to justice in Victoria and what is meant by it. It is the eternal problem of how we can ensure that those who are not well off get access to the justice system, which is expensive. It has been approached in a number of ways. The first way is to have legal aid funds to pay the expenses of those who wish to engage in the litigation process. The other side of the coin is: should this process be so expensive? Access to justice has both those elements — that is, can the system be made cheaper, and do we have sufficient money to enable people to access the system, whether it is cheaper or not? As far as Liberal Party members are concerned, I do not believe we are anywhere near where we could be on the second question — that is, the cost of the legal system. I do not think we have scratched the surface on ways by which we can ensure that justice is obtained for the citizens of this state in a less expensive, less emotive and less combative way.

I have been on the record in this place and in other places, and in a publication that the Attorney-General has often quoted, a publication I will not mention. However, I must say every time the Attorney-General refers to that publication my chest swells, because in that publication — which I am not talking about or naming — the Attorney-General, who had an equal opportunity in that particular magazine, got half the space and half the photographs. It must be a matter of great concern that the shadow Attorney-General was given such an expansive opportunity, and I have been told that the reason was that the shadow Attorney-General was quite interesting and entertaining whereas the same could not be said of the Attorney-General! However, that is just a rumour and not something I should waste any more time on in the debate.

I have been on the record both in Parliament and outside Parliament as saying that I do not think as a creative group in this Parliament we have taken near enough attention to making the system work more cheaply. The way it can be done is there and open for all to see. It has already been operating in other countries, which are miles ahead of us in dealing with disputes — and that is all litigation is. Litigation does not mean court; litigation means that there are two individuals who have a difference and the community has to work out a mechanism to solve that difference. The best way of solving differences, particularly in a range of disputes which could be regarded as the consumer-type disputes — not the top end of town, but the average trade practices, consumer disputes — is for those disputes to be mediated. When a dispute is mediated, although there is emotion, there is not the aggression and emotion there is in the adversary process.

When a dispute is mediated and there is a final decision, both parties own the decision, so there is not the level of disappointment and, if you like, distrust of the legal system. It is in the legal profession's interests to promote the resolution of disputes by mediation, not just from the point of view that it is cheaper but from the point of view that it is more satisfying and more civilised, and it does not use as the central process a process that was developed a long time ago in a community that had a different point of view and a different attitude from the one we have today.

I understand that the Leader of the National Party will be speaking after me on this bill, and I happen to know that he is a qualified mediator. Good mediation is something that has to be learnt. Mediation is not something that involves Joe Bloggs, who happens to know the two disputing parties, sitting down and having a yack. It involves a comprehensive course that has to be gone through, and it takes talent. The Leader of the National Party was a shining example and had a very high success rate on mediation. Maybe he can tell us something about that.

As you go through the process of introducing mediation plus a whole range of other mechanisms that enable disputes to be worked out in a cheaper way, all of a sudden the legal aid dollar goes much further and people now get a go who previously could not get access to justice because they did not have a criminal matter, even though it meant as much to them as a criminal matter. It might have had to do with family and domestic issues, but because it was not a criminal matter they could not get aid, which meant they could not run the case or had to defend themselves or whatever. Those people now get a look-in. We have an absolute obligation to bring this about, and it is all to do with being creative and not only ensuring that the system runs efficiently but understanding that it can often be run on different lines than it is today.

It is important to say in a nutshell what this bill does. What has happened is this: because of the stress on the legal aid dollar, when a person applies for legal aid, it is not a gift. They are given the money, the costs, if you like, to run the case. In return for that, if they have an asset such as a house or the like, they are required if and when they are able to do so to repay that money. It is a loan, not a gift. If there is a house and land, Victoria Legal Aid takes a charge over that house and land. While the person is living in that house, it remains their only major asset and they need a roof over their heads, because of the nature of legal aid the house is not sold up and mortgaged off. However, if there comes a time when they sell the house, Victoria Legal Aid looks at their circumstances and says, 'Right, you have sold that house. You now have this amount of cash in your hand, and given the circumstances we want to exercise our charge'. The charge means that the person cannot go ahead and complete their sale until Victoria Legal Aid has been notified and had the opportunity to say it is going to pursue the charge.

That all seems pretty straightforward, but nothing is straightforward. We live in a complicated world, and we have to have laws to determine how we do that. We have a thing called the Limitation of Actions Act, which basically means that after a specific period a cause of action becomes null and void. The reason for that is that people ought not to have past actions hanging over their heads for the rest of their lives that could pop out of the woodwork at any time and strike them down. They have a right, if someone has an action against them, for that action to be pursued — and if it cannot be pursued, for it to become null and void after a certain period. In the case of a charge, which is simply a cause of action, it is 15 years.

We are now getting into the territory where this mechanism of recovering money from the sale of people's houses has gone the full 15 years. We are talking about the period from 1987 on. So we have got to a stage where some bright spark presumably has said, 'Look, I'm sorry, I know I said you could have this money when I sold my house, but you can't have it any more because under the Limitation of Actions Act your charge is void. So no money — see you later'.

The question is whether or not that is an appropriate operation of the Limitation of Actions Act and whether in these circumstances this is what the act is meant to be about. The fact is that legal aid is not a normal part of the Limitation of Actions Act. It is not the conflict between two individuals which is the cause of action. It is about a community contribution to assist those who do not have the means to gain access to justice. Therefore people have entered into a bargain at the start by saying, 'Yes, we enter into the bargain whereby you may have a charge on the house, and if and when we sell this house and the circumstances are such that it is appropriate for you to take this money, you can take it'.

To say 15 years down the track when all that happens, 'No, we are not going to pay you back', is inappropriate, because there is a public policy consideration. When the public policy consideration in the Limitation of Actions Act, which is strong, comes up against the public policy consideration of legal aid — and on this momentous occasion the Liberal Party agrees with the government — it is the legal aid public policy that wins, and so it ought to be.

As I understand it, and we raised this important matter at the briefing, there are no cases outstanding where a decision has been given on this 15-year matter and someone has got a judgment accordingly. We asked that question — —

**The ACTING SPEAKER (Mr Kilgour)** — Order! I advise the honourable member for Berwick that the Chair is having a problem hearing him because he is turning his back on the Chair. I would appreciate it if he would speak to the Chair.

**Dr DEAN** — I am mortified to think I would be doing such a thing. I will not turn my back on the Chair; I will look directly at the Chair, every now and again glancing to the side. I hope the Chair will allow me to do that.

**An Honourable Member** — Just in case there is an audience!

**The ACTING SPEAKER (Mr Kilgour)** — Order! I could ask the honourable member for Berwick if he would like us to call a quorum!

**Dr DEAN** — No, Sir, I think the quality of the audience I have here is enough. Certainly it is easier for some people to speak when they have an audience, and I guess I am one of those after years in practice.

What is important here is that public policy is maintained and there is not a case in the system where a decision has been given. We rely on the government, which has advised us that there is no such case and that therefore we can pass this, because we would not agree with a situation in which a decision had been made by a court and it was retrospectively changed by legislation. So I make sure that that is clear.

The funding of legal aid is very important. It enables me to raise a matter with the Attorney-General about legal aid funding, which is what this bill is all about. It concerns what the minister said in this house on 26 May last year. I asked the Attorney-General the following question:

> Given … Legal Aid's own figures and the budget papers show that state funding was $28.78 million last year and is only $28.4 million this year —

we are talking about the 2001 budget —

> can he now explain to the house how a $380 000 decrease in state funding for legal aid constitutes a slight increase?

Whether it was a decrease in legal funding or an increase was very important. The Attorney-General said, 'No, no, no, you're wrong. It is not a decrease. It is actually an increase in legal funding of $300 000', which was very good for legal aid. However, a letter was then obtained from the Legal Ombudsman in relation to a freedom of information (FOI) matter. This is a letter from the Victorian ombudsman to me, saying:

> The principal reason for the absence of any further documentation —

because it was an FOI matter —

> is that there was no change in the level of state funding provided to the VLA in the 2000–01 state budget.

This presents a great quandary, because we heard the Attorney-General say that in 2000–01 there was a $300 000 increase, and we have the information provided by Mr Harmsworth, the Secretary of the Department of Justice, which the ombudsman wrote to me about, saying there was no increase. So as we are talking about Victoria Legal Aid and whether legal aid funding is appropriate, and as this bill will provide more legal aid funding, I ask the Attorney-General how he meshes these two things together. How can it be that he told this Parliament there would be a $300 000 increase in 2000 while that well-respected person, the ombudsman, based on information given by the Attorney-General's own secretary, says there was no increase — in other words, no $300 000?

The people who access legal aid want to know. They are very happy about this bill, which is going to give them more money, but they would like to know whether in 2001 they have got that $300 000 increase. That question is hanging out there and needs to be answered for the sake of the minister's own credibility and because people need and are entitled to know whether legal aid has increased.

The funding that this bill may give to legal aid is quite extraordinary. The Liberal Party is supporting this bill not only because the principle is right but because the quantum is right. What we have here suggests that if the 15-year period is not a limitation and the charges follow through for that 15-year period or beyond, an amount estimated to be near $150 000 a year will be able to be recovered that otherwise could not be. There is sitting out there something like $2.2 million which would not be able to be obtained if the 15-year rule were implemented. That is a lot of money, a lot of cases and lot of access to justice for people with very few means — and that is important.

Perhaps I should have asked about this at the government briefing, so I will put it now. Even though a house comes up for sale, and even though the charge is triggered, it is important to take into consideration the fact that if a person of little means is simply changing from one house to another, by exercising that charge you will be robbing them of a house because they will not have the money, as a consequence of your exercising this charge, to buy their other house or move on.

To my understanding Victoria Legal Aid always has a discretion in relation to how it collects its money and when, but the point I make here is that it should not be routine that just because a house is sold and then turned into cash the amount is immediately recovered. The person could be in exactly the same circumstances —

in other words, they could be no better off than they were when everyone made a decision that it should not be recovered because they did not have the means. That is an important matter to take into account.

There is also a clarification as to whether the charge covered land as such. I have read the act and believe it has always covered land, so it would cover land and the house. But there is a reading of the act that suggests that it may not cover both. My legal training tells me that an attachment to land is part of that land and that if you have a charge over the land and there is a house on that land you get a charge on both the house and the land. But that is a matter which needed clarification, and we do not have a problem with that. It is important that everyone knows where they stand. I do not think there has ever been any doubt in anyone's mind that when a charge goes over their house, it is for the house and the land. I do not think there are too many people wandering around thinking, 'I thought that was over the house sitting on the land and not the land'. So that is important.

**Debate interrupted pursuant to sessional orders.**

**Sitting suspended 1.00 p.m. until 2.03 p.m.**

## QUESTIONS WITHOUT NOTICE

### Waverley Park

**Dr NAPTHINE** (Leader of the Opposition) — I refer the Premier to the Australian Football League draw which comes out late today and to his government's key election pledge — not a promise but a pledge — to save Waverley Park for AFL football. How many AFL matches does the Premier expect to be played at Waverley Park next season as a result of his government's promises and action over the past two years to keep Waverley Park open for AFL football?

**Mr BRACKS** (Premier) — Mr Speaker — —

**Dr Napthine** interjected.

**Mr BRACKS** — You are very good, aren't you? You are great! Maybe this is one of the things that the opposition leader can go out and campaign on in the federal election. Do you think he could? I think he could! He should get out there and start campaigning, and we would encourage him to go out there. We really would encourage him, Mr Speaker. The government made its best effort. The Australian Football League (AFL) has made its decision. Its scheduling has meant that no games will be played at Waverley Park.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order. The Chair is having difficulty hearing the Premier.

**Mr BRACKS** — Mr Speaker, their noise is not being heard out there in the federal campaign. They are as quiet as church mice when it gets to the federal campaign. I don't blame Mr Howard for keeping you — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The honourable member for Glen Waverley!

**Mr BRACKS** — We are helping your campaign by keeping you right here! The AFL has made its decision. The government has made its best efforts. We regret that decision and we will work to see — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I again ask the opposition benches to quieten down. There is far too much interjection.

**Mr BRACKS** — Given the AFL's decision, we will still work with it to ensure there is a sporting facility on that site.

### Tourism: rural and regional Victoria

**Ms ALLEN** (Benalla) — Will the Premier inform the house of how the government's emergency tourism package will benefit the tourism industry in regional and rural Victoria?

**Mr BRACKS** (Premier) — I thank the honourable member for Benalla for her question. The $10 million extra boost to tourism in Victoria will significantly help Benalla and other tourism regions in Victoria. As honourable members know, across Australia there has been a drop in both international and interstate tourism. It was correctly reported today that there has been about a 13 per cent drop in international tourism in all regions around Australia. Victoria shares in that drop. That is why we moved quickly to institute our fund of an extra $10 million for tourism.

I can announce today that $1 million of that $10 million package will be devoted to specific short-term marketing strategies in key regions around Victoria. The strategies will target significant attractions with particular emphasis on interstate and intrastate visitors to Victoria. The $1 million will be allocated to Victoria's 11 regional campaign areas and it is

proposed that the focus of that $1 million will be on highlighting particular segments such as touring, food and wine, adventure and other attractions.

Greater focus will also be applied to areas where employment relies heavily on tourism such as the Great Ocean Road region, and attractions in the Ballarat, Bendigo, Phillip Island, Mildura and Echuca regions — for example, $170 000 of the $1 million announced today will promote the Great Ocean Road and $75 000 will promote the Macedon Ranges and Spa Country areas. This $1 million allocation is the first announcement of the way the $10 million package will be spent. I am pleased it will go to regions. It will attract tourism at home and it will encourage people from interstate to travel to Victorian regions.

## Victorian Young Farmers

**Mr RYAN** (Leader of the National Party) — Will the Minister for Agriculture advise the house why he has refused to maintain funding for the Victorian Young Farmers association?

**Mr HAMILTON** (Minister for Agriculture) — I thank the Leader of the National Party for his question. I trust that at some stage in his past life he may have been a member of Victorian Young Farmers.

**Mr Ryan** — On a point of order on the question of relevance, Mr Speaker, I can but say again — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the government benches to come to order.

**Mr Ryan** — I ask the questions, he answers them.

**The SPEAKER** — Order! I do not uphold the point of order.

**An honourable member** interjected.

**Mr HAMILTON** — I will not take up the interjection; interjections are rude. I was wondering whether there are any farmers left in the National Party.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order and the minister to answer the question.

**Mr HAMILTON** — Victorian Young Farmers has a very proud history of being an organisation that has been extremely important to rural youth for many years. Indeed, its numbers were in some thousands for a great deal of the time of its history. During recent years its membership has dropped considerably, and that is of concern to the government. However, there would probably be thousands of voluntary organisations throughout Victoria that would love to get recurrent funding from government to run their organisations. We can all think of dozens of organisations that would love to get recurrent funding. Some voluntary organisations, through their membership subscriptions, manage to run a core office, and a number of organisations in rural Victoria get a great deal of regular support from rural business and rural enterprises.

The government has been working with the current leadership of Victorian Young Farmers and has indicated to it that if it can designate a program that will demonstrate responsible use of government resources — we are talking about public moneys, but it appears as though the opposition just wants to throw government moneys away — —

**Dr Napthine** interjected.

**Mr HAMILTON** — We note that it is very easy to have cheap political point scoring on this matter.

**Mr Ryan** interjected.

**Mr HAMILTON** — You asked the question. The government, through many of its programs, commits a great amount of funds to developing rural youth, and these are mostly industry based. I could mention programs such as the Target 10 program, which has a number of under 25-year-old and under 30-year-old young farmers involved in industry programs, because the focus in Victorian agriculture has been very much an industry focus. It has been a focus on promoting industry, using new technologies, looking at sustainable agriculture. It has been very much an industry focus rather than a social focus.

The facts of the matter are that the government is very keen to work not only with Victorian Young Farmers but also other organisations, especially youth organisations, to promote activity and encouragement for youth to stay out there — —

*Honourable members interjecting.*

**Mr HAMILTON** — The Leader of the Opposition is not going to be very keen on funding some of the rural university young councils and is not going to be too keen on funding some others. He wants a selective response. This government is interested in programs and is interested in demonstrating responsible use of public moneys and making sure that the outcomes are there to demonstrate what can really happen. We

believe there will be a satisfactory outcome if this organisation — —

**The SPEAKER** — Order! The minister needs to be succinct. I ask him to conclude his answer.

*Honourable members interjecting.*

**The SPEAKER** — Order! Would the house come to order! The minister, concluding his answer.

**Mr HAMILTON** — The government will continue to work with Victorian Young Farmers to ensure that there is a suitable program which will demonstrate responsible use of public moneys.

## Aged care: HACC funding

**Mr MAXFIELD** (Narracan) — Will the Minister for Aged Care inform the house of the Bracks government's response to concerns of Victorian councils regarding federal government funding for home and community care programs?

**Ms PIKE** (Minister for Aged Care) — I thank the honourable member for Narracan for his question. This morning some 40 mayors from right across Victoria, representing over 2 million Victorians, came to the steps of Parliament. These were mayors of all political persuasions — yes, people from right across Victoria — who represent Victorians from Wodonga, from Wangaratta, from all parts of the state, plus mayors from right here in the city. Behind every mayor who was represented today was a queue. It was a queue of frail, older people in our community, people who are ill and people who need support in their homes for home care services.

The Victorian government of course is supporting Victorian local government on behalf of their communities and their people. That is why today we signed a joint communiqué with the mayors right across Victoria. Let us hear what the communiqué was all about. First of all, the communiqué gave this very strong message: that the federal government must stop discriminating against Victoria. The federal government is saving $170 million — $170 million — by discriminating against Victoria, and it is costing the older people in our community. Secondly, the federal government must act to address the 5000 beds we are short. It is these 5000 beds we are short that is causing enormous problems for people waiting in our public hospitals, and of course these bed shortfalls are also causing thousands of people to be waiting for care in the community.

The mayors want the federal government to acknowledge the enormous contribution already made by the Bracks government. If the federal government had matched — —

*Honourable members interjecting.*

**Ms PIKE** — It is interesting that the Leader of the Opposition laughs about the matter. I am pleased that he is supporting the government, and I encourage him to use his considerable influence in Canberra. Just last week when the Leader of the Opposition was in the City of Boroondara with one of the mayors who signed up today, he stated:

> HACC spending has increased more than inflation, but demand on the service has been the biggest growth.
>
> I agree with the council that it needs more funding.

I would encourage and welcome the Leader of the Opposition using his considerable influence in Canberra during the election campaign to ensure that Victoria gets adequate home and community care funding and that the federal government matches the additional $41 million that the Bracks government has put in.

The message from the mayors right across Victoria on behalf of 2 million Victorians is very clear.

*Honourable members interjecting.*

**Ms PIKE** — The message is very clear. Here it is!

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to cease interjecting, and I ask the minister to desist from displaying a large card in the chamber. The minister should conclude her answer.

**Ms PIKE** — The message from the communiqué is quite clear: older Victorians are entitled to a fairer share of federal aged care funding and the federal government must respond with dollars.

## Mount Eliza Secondary College

**Mr HONEYWOOD** (Warrandyte) — My question is to the Minister for Education. I refer to a leaked CD-ROM from the Labor candidate for Dunkley, Mr Mark Conroy, which includes video footage of Mr Conroy walking through the grounds of Mount Eliza Secondary College — footage obtained without the school's permission. Given the school community has objected strongly to the department about the use of its grounds and its students for purely party-political

purposes, will the minister support the Mount Eliza Secondary College or will she back her Labor mate, Mark Conroy?

**Ms DELAHUNTY** (Minister for Education) — I thank the honourable member for Warrandyte for his question, because it gives me an opportunity to remind the house that it was the Bracks government that lifted the gag on our schools.

*Honourable members interjecting.*

**Mr Smith** interjected.

**The SPEAKER** — Order! The honourable member for Glen Waverley!

**Ms DELAHUNTY** — The Bracks government lifted the gag on our principals, our teachers and our school communities. The Bracks government opened the gate. It has encouraged open and constructive dialogue between our schools, their political representatives and the wider school community.

**Mr Smith** interjected.

**The SPEAKER** — Order! I warn the honourable member for Glen Waverley!

**Ms DELAHUNTY** — Is he alive? The department has informed me that the Mount Eliza Secondary College reported that its principal, Mr Andrew Blair, was approached by local Liberal Party members. According to the information given by the school, Mr Cameron Boardman, a member for Chelsea Province in the other place, gave the principal of the college a copy of the CD-ROM, which I understand does not name the school, invited him to view it and discussed the possibility of a press release. This is an unedifying spectacle. We have opened the gates, we have lifted the gag!

I am really astonished that the honourable member for Warrandyte manufactures this self-righteousness, because just six months ago he falsely claimed that he had been denied access at Magpie Primary School.

**Dr Napthine** — On a point of order, Mr Speaker, the minister is debating the issue. I ask you to bring her to order.

**The SPEAKER** — Order! I uphold the point of order and ask the minister to come back to answering the question.

The minister has concluded her answer.

## Smoking: shopping centres

**Ms ALLAN** (Bendigo East) — I refer the Minister for Health to the successful introduction of smoke-free dining. Will the minister inform the house of the latest steps taken by the Bracks government to reduce the harm caused by smoking?

**Mr THWAITES** (Minister for Health) — The Bracks government is continuing its campaign to improve the health of all Victorians by reducing the harm caused by tobacco, which kills about 5000 Victorians every year.

The government has introduced smoke-free dining which has been well received by the community. We have increased advertising which has hugely increased the number of calls to Quitline and now in the next step, from tomorrow, all enclosed shopping centres will be smoke free. That will be a major step forward in public health in this state. Some 200 shopping centres around the state will now provide a safer and better environment for shoppers and retailers. I am pleased to advise that the new legislation has been widely supported by the Property Council of Australia, shopping centre owners and shoppers.

This is the best sort of measure the government can introduce to reduce the terrible harm tobacco causes. We need to continue to look at extending smoke-free areas to other areas where workers and customers may be adversely affected by smoke. The government will continue to do that because it is committed to the very highest levels of public health and safety.

## Mount Eliza Secondary College

**Mr HONEYWOOD** (Warrandyte) — My question is again to the Minister for Education. I refer to Labor candidate Mark Conroy's unauthorised CD-ROM scandal and to the fact that Mount Eliza Secondary College felt so strongly about being used for blatant political purposes that a draft press release was forwarded by the school to the Department of Education, Employment and Training stating:

> The staff, students and school community wish to reaffirm that the school is not politically aligned to any group or individual and is upset that such material would infer support.

I ask: how does the minister explain her department's instruction to the school community that it would hurt it to go public with the press release and that the school should instead quietly write a letter of complaint to the Minister for Education. Mary, why have you gagged this school?

**The SPEAKER** — Order! The latter part of the question is out of order. I ask the honourable member to rephrase his question in the third person through the Chair.

**Mr HONEYWOOD** — I thank you for your instruction, Mr Speaker. I ask the minister why she has gagged the school.

**Ms DELAHUNTY** (Minister for Education) — As I said before, with the Bracks government the gag is off. With that — —

**An honourable member** interjected.

**Ms DELAHUNTY** — That is how you operated; that's not how we operate.

**The SPEAKER** — Order! The minister, addressing the Chair.

**Ms DELAHUNTY** — That is how they acted in government; it is not the way we in this government act. The gag is off. But after that question, really the Leader of the Opposition ought to gag his shadow minister.

## Freedom of information: request

**Mr LANGUILLER** (Sunshine) — I refer the Attorney-General to the Bracks government's reform of the Freedom of Information Act, which has opened up the freedom of information process, and I ask: what is the latest information concerning the use of the Freedom of Information Act?

**Mr HULLS** (Attorney-General) — There are a number of important lessons we all need to learn when it comes to freedom of information (FOI). The first is that you have to know what you are asking for because if you do not you either tie up departmental resources or you get documents that you do not want. The second lesson is that you do not need to use FOI when you can get that information from other sources. These important lessons are yet to be learnt by the opposition, as a recent FOI request shows.

Over the past two years Victorians have suspected that when it comes to policy development the opposition has been out to lunch, and the government has the documents to prove it. An FOI request which has been wrongly and badly worded has thrown up documents — I suspect unwanted documents — revealing that nearly $5000 has been claimed on lunches at restaurants by opposition staff.

**Dr Napthine** — On a point of order, Mr Speaker, the minister is debating the issue and he is absolutely wrong. The documents show the government has spent more than the opposition.

**The SPEAKER** — Order! The latter part of that is not a point of order. I do not uphold the point of order.

**Mr HULLS** — This FOI request seems to show that instead of being full bottle on issues, opposition members just want the full bottle. They are far more interested in lunch than policy. This type of request shows that the opposition is lazy. It ties up departmental resources and then blames departments for not processing its requests quickly enough. This request violates the two most important lessons of FOI.

First, it appears the FOI request generated far more documents than the opposition wanted. Second, if opposition members wanted to know how much their staff spent on lunches, why didn't they just ask them!

*Honourable members interjecting.*

**The SPEAKER** — Order! The minister, answering the question!

**Mr HULLS** — This is not the only example of laziness being exhibited by the opposition when it comes to freedom of information requests. Over the past two years there has been a dramatic increase in the number of FOI requests made by members of the opposition. They have lodged 731 requests with eight government departments, which is a 62 per cent increase in requests from members of Parliament alone.

It is a nice irony that these are the people who shut down FOI when they were in government, and now they are huge users and enthusiastic supporters of it. The opposition continues to bombard departments with FOI requests that are vaguely worded or all encompassing. They tie up departmental resources and make it very difficult for freedom of information officers to meet the appropriate time lines.

The FOI officers have tried to assist members of the opposition as much as possible in drafting these requests, but I am informed that there are currently some 32 requests that are either invalid or cover such a mammoth number of documents that departments have had to expend enormous amounts of time and effort in assisting opposition members to rewrite them.

Regardless of whether this latest embarrassment was a result of friendly fire or a deliberate attempt to undermine the Leader of the Opposition, the Bracks government will get on with turning Victoria around

and meeting the demands brought about by the changes it has made to the FOI request system. However, as a result of this embarrassing FOI request Victorians can expect the first policy document to be released by the opposition to be nothing more than a lunch menu!

## Victorian Casino and Gaming Authority: licence suspension

**Mr BAILLIEU** (Hawthorn) — I refer the Minister for Gaming to the annual report of the Victorian Casino and Gaming Authority tabled in this place on Tuesday and to the record of disciplinary action taken. Given that special employee licences in gaming venues were cancelled in at least 24 cases for offences including theft, why was a casino special employee who was found guilty of trafficking ecstasy and possession of amphetamines, LSD and cannabis only given a licence suspension of seven days?

**Mr PANDAZOPOULOS** (Minister for Gaming) — The house may be aware that the Victorian Casino and Gaming Authority is an independent regulator. I am happy for the shadow Minister for Gaming to consult with the VCGA about why it arrived at that decision. The VCGA is an independent regulator. Maybe members opposite think that they would like to be able to control it if they were in government, but under this government the VCGA is independent. The authority is an independent regulator, and it makes it own decisions.

A key difference between the Bracks government and the previous government is that much more information of community interest is provided in annual reports than was available previously. It is also on the authority's web page, but if the member wants access to the Victorian Casino and Gaming Authority he can ask for it, and I will facilitate it so he can get the appropriate information.

I am the responsible minister. The Attorney-General is the responsible minister for the Magistrates Court, the County Court and the Supreme Court. Does he make decisions about disciplinary action? The legislation that regulates the gaming industry is deliberately designed not to give the minister the power but to give an independent authority the power, and that is exactly what happens.

## Schools: capital works

**Mr SEITZ** (Keilor) — Will the Minister for Education inform the house of the progress the government has made towards its commitment to build 16 new schools and how the overall school capital upgrade program would be affected if federal Labor's schools policy were implemented?

**Ms DELAHUNTY** (Minister for Education) — I thank the honourable member for his question. The honourable member would be pleased, and the rest of the house might be interested, to know that one-third of our 1631 schools are now on the capital building program. The government is progressing the building of 13 new schools and 3 replacement schools right across the state, particularly in the growth corridors. At the beginning of the next school year the government will open in the seat of Carrum the first new school built and paid for by the Bracks government.

**Mr Leigh** interjected.

**The SPEAKER** — Order! The honourable member for Mordialloc shall desist from interjecting.

**Ms DELAHUNTY** — The honourable member for Mordialloc is opposed to the Aspendale Gardens school, but it will be an excellent primary school. The government is building a couple of new schools in Berwick — Berwick primary and Berwick South secondary college — to take up the demand for public education in that growth corridor. In Bennettswood the government is building the Princess Elizabeth junior school. Hillsmeade primary school is being built in Dandenong and is a new school. The government is building the Cranbourne special school, in the seat of Cranbourne obviously, and a replacement school in regional Victoria, Kangaroo Flat primary school in Bendigo.

Federal Labor will leverage this investment by the Bracks government. When it gets into government federal Labor will invest $110.5 million over five years to improve our classrooms, libraries and laboratories. The Bracks government welcomes Victoria's share of this very generous commitment. I contrast that with the Howard government, which wants to put money into our elite non-government schools so they can perhaps build more movie theatres or rifle ranges. In contrast, a federal Labor government will put the money the Howard government would put into those elite private schools back into public education where it is needed. It will be for new teacher scholarships and improved training courses each year for existing teachers to upgrade their skills and knowledge. When the federal Labor government comes to power it will be a great partnership with Victoria.

## LEGAL AID (AMENDMENT) BILL

*Second reading*

**Debate resumed.**

**Mr RYAN** (Leader of the National Party) — The Legal Aid (Amendment) Bill is important legislation which the National Party does not oppose. It deals with an issue that is absolutely critical to the way our communities function. One of the true measures of the way any community functions is the way it looks after those in its number who are the most seriously disadvantaged for whatever reason.

The issue of legal aid is very important in the Victorian community, and its nature has changed over the years, as have the circumstances in which legal aid is made available to members of the public. The current management of legal aid in the state is under the control of Victoria Legal Aid, which does a very able job in the discharge of its responsibilities. As with funding of so many other public areas, there never seems to be enough money for the VLA, but to its credit it does its job well. This year it has a budget of about $25 million to $30 million, a significant amount of money to be handled by the organisation.

In the course of his usual very able contribution the honourable member for Berwick made reference to mechanisms whereby the legal aid dollar could go further, and he made specific reference to the idea of mediation. I support his comments. The basic thrust of what he was saying is that if you can resolve and conclude disputes that would otherwise proceed to the court system, so much the better; and in turn there would be more dollars available to those who are directly involved in disputes that unfortunately cannot otherwise be resolved. That is a good outcome, and I support his basic contention about the benefits of expanding the process of mediation to allow it to play a greater part than it currently does.

As he remarked, I am a qualified mediator, a qualification I obtained while I was practising law. I do not know how many disputes I mediated formally over the years, but they would probably number in the hundreds. The patent fact is that most disputes can be resolved by using that mechanism without a final determination having to be made by a court. For the reasons mentioned by the honourable member for Berwick it is a preferable way of going about things, not only because it saves money that could otherwise be devoted to other court processes but for various other reasons too, not the least of which is that mediation can determine an outcome through discussion in a way that gives the parties ownership of the result. Participants are then less likely to be disappointed with the final outcome.

In addition, mediation runs its course to a successful conclusion by creating an environment where people can talk the issues through rather than by creating an adversarial environment, which court hearings necessarily do. For those reasons I am a strong advocate of mediation and roundly support the comments made by the honourable member for Berwick. Mediation should be used in an expanding range of circumstances.

Mediation has moved through different phases in recent years. In the personal injury sphere, in which I was particularly engaged in my time in practice, mediation went through various evolutionary stages. I freely admit that I was a reluctant starter, because in its early days the mediation process was not as good as it is now. These days mediation is to be strongly recommended. It behoves VLA to directly assist the process to take place. I would support any such initiative on its part.

The bill is important because ultimately it makes more money available to people in need of legal aid. It removes a provision of the Limitation of Actions Act that would otherwise preclude the VLA from acting upon a charge on a property that was entered into more than 15 years earlier.

In the first instance one might say that is unfair because a provision of the Limitation of Actions Act is being set aside and therefore, in practical terms, there is a retrospective impact. I must say, however, that the public policy issue takes precedence here. Coming from first principles, the fact is that the individual who signs up to legal aid in the first place very often does so on the basis of an undertaking that a contribution will be made. Victoria Legal Aid then goes through a process. If an application is made on behalf of a client the individual's resources are carefully examined, forms have to be completed and undertakings given and, where appropriate, the VLA can request that a charge upon property be entered into under the provisions of section 27 of the Legal Aid Act. An individual who signs up for assistance on the basis of knowing at the outset that a commitment is made should therefore be bound by that commitment. There is a powerful argument that notwithstanding the effluxion of time that commitment once made should be met.

The next feature of the matter is that the amount concerned is a dollar figure without an interest component. It is pertinent to comment that if a person signs up to receive legal assistance and to contribute a

dollar sum of, say, $1000 and then 15 years on is asked to refund that amount of money — $1000 — the person has had the benefit of that funding for the intervening period of years.

I can think of few other instances where you could point to a more equitable arrangement that would apply other than in this style of environment. You cannot easily think of an instance where an amount of money would be advanced for a cause such as that which is the subject of an application to legal aid in a given year, and then 15 years later that same amount of money in dollar terms is sought to be refunded without any component of interest being charged upon it. I think therefore it is a reasonable ask that the person concerned should honour the undertaking that was given at the outset.

The obligation to repay, if this act were not to have effect, appears under the provisions of section 20 of the Limitation of Actions Act. It appears there in the sense that it is that provision that precludes recovery beyond the period of 15 years. The bill sets aside the function of that provision to thereby leave the commitment open-ended on the part of the person who enters into it. I believe that to be a fair thing.

One of the things I asked about at the briefing, to which I have not received a response, is what it was that brought about the introduction of this bill. Did it simply come out of a departmental concern that was raised or did it come out of Victoria Legal Aid? What are the origins of the bill? As the honourable member for Berwick indicated, I posed that question in circumstances where if it were to have happened as a result of some sort of court determination, that determination would need to be preserved from the impact of this bill. I trust that in the course of his response the honourable member for Richmond will be able to explain the genesis of the legislation.

If the bill passes it will have the effect of providing a considerable amount of money to this organisation, and I presume that it will. In the second-reading speech the minister set out the fact that there is at stake something in the order now of $2.2 million and that that amount is expected to increase by approximately $1 million per annum for the next 11 or so years. It is a considerable sum of money that will be available to the VLA if the legislation is passed.

I also understand from the briefing that we are talking about charges over property which number something in the order of 1000, so the impact of the legislation will be considerable, presuming that those 1000 charges are pre-1987, which as a matter of logic they must be in the context of the bill. Similarly there is the other provision contained in the bill that extends the definition of property, and having read it within section 27(1)(c)(ii) I can see how in a sense there is a need to make the amendment. I understand that the amendment contemplated by the bill really only gives formal effect to a matter of practice in that the legislation is given effect this way anyhow, but nevertheless it is an important amendment.

On its reading it takes it outside the ambit of simply being property in the sense of real estate or anything attached to real estate. The definition of the word ‘property’ will now include ‘whether land or any other property’. I take that to mean that it might be some item of personal property that is owned by the applicant that is now the subject of the operation of this legislation. One could envisage where an applicant for assistance under the Family Law Act might be a lady who possesses jewellery that might be the subject of this provision under the definition which is now intended to be incorporated in the legislation. The National Party believes the bill is a fair call and believes the legislation should be given effect in relation to both counts.

Another pertinent point raised by the honourable member for Berwick is that the VLA needs to ensure that it maintains the practice, which I understand it presently has, of every case being assessed on its merits. So if a charge is to be enforced and money is to be reimbursed to the VLA, it needs to be done in circumstances where a judgment is made about the means of the applicant at the time that effect is being sought to be given to the original undertaking for that refund to be made. I raise that point because it is not difficult to envisage situations where a person who has applied to legal aid might be forced into the sale of their house. They might be having problems with finance or there might be difficulties with a bank, or it might be a family law settlement. There might be any one of a number of reasons for the property the subject of the charge having to be sold despite what would otherwise be the wishes of the person concerned. That may well mean that that person is impecunious and does not have a means of being able to acquire other property, and they might have children to care for and so on. There are a range of other obvious outcomes one can readily envisage from the process of a sale of a home.

To put it the other way around, I do not think the legislation ought to be acted upon in a manner which presumes that the sale of the property which is the subject of the charge is necessarily by choice. Many other circumstances might intervene and the VLA needs to take those matters into account for the purpose of exercising its rights under this legislation. However,

in its totality I believe the bill is sensible legislation. The issue of retrospectivity is overborne by the public policy interests, and from that perspective on behalf of the National Party I again say that it does not oppose the legislation.

**Mr WYNNE** (Richmond) — I support the Legal Aid (Amendment) Bill and I thank the honourable member for Berwick and the Leader of the National Party for their contributions. I shall pick up a couple of points made by the Leader of the National Party. The first point goes to the question of what was the genesis of the bill. It is very clear — and I hope it was clear in the briefings to the Leader of the National Party — that the bill addresses a funding issue identified by Victoria Legal Aid concerning the recovery of client contributions secured by equitable charge. It was not identified through a pending court case or anything of that nature, so in that respect the reason for the bill was generated by the VLA.

The Leader of the National Party raised other issues about hardship provisions and the discretion of legal aid, which I will touch on at a later stage in my contribution. However, there is no more important access to justice issue than that there be a healthy and vibrant Victorian legal aid service supplemented by a strong and vigorous community legal centre network. In both those respects I am pleased to advise the house that the Attorney-General has been unstinting in his support for Victorian legal aid and an increase in funding. Certainly his support for community legal centres and opposing the ridiculous policy position of the current federal government to force amalgamation of community legal centres has shown great leadership, not only in Victoria but during national meetings of the Standing Committee of Attorneys-General. It is a proud record on what the minister believes is an absolutely fundamental access to justice issue.

Victoria Legal Aid is responsible for the delivery of legal aid services in Victoria, and its main objective is to provide legal aid in the most effective, economical and efficient manner to those in the community with the greatest need.

It is worth noting that the majority of legal aid clients are dependent on social security benefits, live in rental accommodation and have very few assets. Indeed, a snapshot of my electorate would be characterised by many people living in such circumstances who require access to legal aid and community legal centre support for the various legal matters they have to attend to.

The majority of applicants for legal assistance during 1999–2000 had incomes below the poverty line. Males continue to apply for legal aid at a far greater rate than females, and the largest number of applications was within the 16 to 24-year-old age group. You and I, Mr Acting Speaker, as members of the Drugs and Crime Prevention Committee, are well aware from the research that has been undertaken in criminological circles and victimology surveys that men are overrepresented in offences and therefore end up before the courts and require access to legal aid.

Victoria Legal Aid has an obligation to manage its resources to make legal aid available at a reasonable cost to the community and on an equitable basis throughout the state. The managing director stated in his report for the financial year 1999–2000 that there was a reduction of $7.957 million in the amount that VLA realistically expected to recover by way of client contributions towards the cost of the legal services it provided. Funding of legal aid services in Victoria is a critical issue, which is exacerbated by the inequity in the commonwealth government's funding model, a model the Attorney-General has resisted and continues to resist.

The previous funding model between Victoria Legal Aid and the commonwealth government came to an end on 30 June 2000. The commonwealth wanted the Victorian government to sign an agreement which would have seen Victorians punished by the federal government by being treated less favourably than the citizens of any other state. The agreement would have seen a further $60 million allocated throughout Australia, but it provided for no increase for Victoria. Clearly the Attorney-General and the Bracks Labor government were not prepared to wear that treatment, and instead they negotiated long and hard to achieve, in our view, a better deal for Victorians. That deal resulted in a net boost to legal aid funds of $4 million, providing access to accumulated funds. Victorians were as a result better off and better able to access legal aid funding. It is clear that the Victorian government will continue to negotiate for a fairer and more equitable share of funding for legal aid, despite the refusal of the commonwealth government to support the most disadvantaged members of our community with adequate funding for legal representation.

As if the lack of funding is not enough, there are further difficulties with the commonwealth funding model, as the funds are provided only for commonwealth crimes. In effect, you have a two-tiered system. Basically, the vast burden of legal aid funding is placed upon the state government, whereas the commonwealth seeks to wash its hands of its rightful role in supporting access to justice by funding only federal matters. These funds can be accessed for legal representation only where, for

instance, someone has broken into a commonwealth munitions factory. They are not available in the case of a break-in at a private house. In effect this reduces the value of the commonwealth contribution. Commonwealth funds can only be made available, as I indicated, for federal matters such as family law and only under strict commonwealth guidelines.

In relation to the bill itself, client contributions are an important source of legal aid funding in Victoria. In the last financial year Victoria Legal Aid recovered about $3.4 million in contributions. Under the current legislation where the assisted person owns a house or land Victoria Legal Aid may secure the cost of providing assistance against this property. This is generally recovered only when the assisted person sells the secured property. Victoria Legal Aid estimates that over $16 million in client contributions is secured in this way.

The Limitation of Actions Act provides that the collection of debt for legal aid services can only be claimed within 15 years of the account. As noted earlier by the honourable member for Berwick and the Leader of the National Party, clients who qualify for legal aid are often the most disadvantaged in our community and often fall within the very young age group of 16 to 24 years. Clearly over time one's personal circumstances change, including one's income level and obviously the value of one's assets. If you think about the fact that the vast bulk of legal aid recipients are in that 16 to 24-year-old age group, it is obvious that as they mature and get into more secure financial situations their circumstances obviously change.

Victoria Legal Aid estimates that the value of secured contributions which are currently over 15 years old is of the order of about $2.2 million. This is expected to increase by approximately $1 million per annum for the next 11 years, so it is a substantial amount of money that is being dealt with — and it could go up to $15 million.

This bill amends the Legal Aid Act 1978 to further secure client contributions towards the cost of providing legal assistance and provides that those contributions will no longer be limited by the 15-year repayment rule.

Clause 4 inserts a proposed section 47F into the Legal Aid Act to provide that section 20 of the Limitation of Actions Act does not apply and is deemed never to have applied to an action brought by VLA in the recovery of contributions payable by assisted persons. Contributions so secured remain payable despite the operation of the Limitation of Actions Act. The new provision has a retrospective component to ensure that the existing pool of contributions to the value of $2.2 million accredited under the previous legislation will not be lost to VLA in terms of its being able to turn over those recovered funds to further support particularly low-income people who are seeking legal representation.

Clause 3 amends section 27(1)(c) of the Legal Aid Act 1978 by inserting the words 'whether land or any other property'. The expression 'property' has always been taken to include land, but this is intended to remove any doubt about the question that property includes land. That might sound like a slightly circular argument, but it is important to have clarity when we are referring to security of property, and for the purposes of this bill it is clear that we are talking both house and land.

This bill clarifies the definition of 'property' and enables the VLA to recover secured contributions after the expiry of the 15-year time limit set by the Limitation of Actions Act 1958. If this loss in revenue is not recovered it would clearly impact on the level of service VLA is able to provide to the community. I know there are always concerns about retrospectivity in legislation, but in his contribution the honourable member for Berwick struck what I thought was an excellent balance in terms of understanding that retrospectivity is a serious matter which needs to be properly thought through and debated. There is no suggestion that this bill would deleteriously affect people who have their assets currently secured through this VLA scheme.

The Leader of the National Party raised a couple of other matters. He expressed concern about the hardship provisions that an individual might incur if VLA sought to recover its costs. I think it is evident that discretion is the key characteristic in any decision VLA makes in recovering its costs when a property is sold. Obviously the public policy context of this bill is about ensuring we have a reasonable recovery capacity. It is about ensuring that we have a systematic and consistent recovery package to garner funds back into much-needed legal aid support, but not at the expense of hardship for individuals. Clearly that is not the intention of Victoria Legal Aid. The social policy objectives need to be understood.

I conclude by saying that Victoria Legal Aid is fundamental to Victorians' access to justice. It is one of the key planks of the government's justice program, which we believe provides accessible and equitable legal services to the Victorian community. Low-income earners — certainly many of the people who live in my electorate of Richmond are on low incomes — have

reason to interact on occasion with the criminal justice system. It is important that people have the capacity to get legal representation when they appear in court. Victoria Legal Aid is fundamental to that, as are community legal centres. In that respect I believe the Bracks government has a proud record in fighting for a better share of commonwealth dollars for legal aid. That is certainly true of the strong campaign which the Attorney-General mounted against the extraordinary policy position of the current Howard government to amalgamate community legal centres.

Clearly we are in the middle of an election campaign. The government is very confident that following the election of a Beazley government on 10 November we will be able to address these fundamental policy inequities, which are the hallmark of the Howard government when it comes to access to justice. Under the leadership of the incoming Prime Minister, Kim Beazley, we are confident we will be able to arrive at a satisfactory formula for the distribution of dollars between the commonwealth and the states for legal aid for community legal centres.

We can also look forward to a completely different and cooperative funding climate between this state government and a federal Labor government. I believe the types of partnerships the Bracks Labor government will achieve with a federal Labor government will fundamentally change the landscape of our community in so many key social justice areas, whether it is education, health or the particular area I have the pleasure of being Parliamentary Secretary to the Attorney-General for, which includes access to justice.

These are important issues that are fundamental to people. If you cannot get access to legal representation in the courts, you are much the poorer for it. I have pleasure in making this contribution to the debate. I am pleased this bill has the support of the opposition and the National Party, and I wish it a speedy passage.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until later this day.**

## STATE TAXATION LEGISLATION (AMENDMENT) BILL

*Second reading*

**Debate resumed from 11 October; motion of Mr BRUMBY (Treasurer).**

**Mr CLARK** (Box Hill) — One may describe this bill as small but significant. It is significant because it goes to the collection of taxation revenue on behalf of the state, which is becoming a matter of increasing importance given the prodigious amount of taxation that the current government is reaping from Victorian taxpayers, thanks to the low interest rate climate and the generally strong Australian economy created by the Howard government and Peter Costello.

The amounts of increased taxation in areas such as stamp duty, land tax, payroll tax, motor vehicle taxes — all of which are heads of taxation to which this bill relates — are striking. Between the last budget of the previous government and the current budget of the current government we have seen an increase in the order of 17 per cent or $375 million in expected payroll tax collections and an increase in the order of 46 per cent or $179 million in land tax collections; and up until the end of 2000–01 we saw close to a 40 per cent increase in stamp duty on land transfers, amounting to an increase of $373 million compared to the $911 million shown in the last budget of the previous government.

The current government has been prepared to reap and spend these massive increases in taxation revenue which have resulted not only from an increase in the volume of transactions but also from the increasing rates of land tax and stamp duty applicable to properties as property values have increased. In particular there has been close to a 40 per cent increase in the level of stamp duty payable on the price of a median home in the Melbourne metropolitan area since this government came to power, a level which now takes up virtually all of the enhanced $14 000 first home owner grant provided courtesy of the Howard government.

So the bill is significant in affecting the mechanisms by which the government collects those very large sums of revenue. The bill makes amendments to the Duties Act, to the Land Tax Act and to the Taxation Administration Act. In a technical sense most of the amendments are unexceptional. However, two particular issues arise from them. The first relates to the balance between uniformity and effectiveness in the provisions of the Duties Act. The second relates to the collection of revenue and the effectiveness of the processes of the State Revenue Office to ensure that it collects the revenue it is entitled to collect.

I will turn to some of the specific provisions of the legislation. Clause 3 of the bill contains a technical amendment which substitutes ‘amount’ for ‘advance’ in the definition of ‘collateral mortgage’. I understand this provision is currently in the Tasmanian legislation, and the Queensland government is proposing also to introduce it and possibly other jurisdictions are to

follow. The general view is that 'amount' is an enhancement on 'advance' as it stands in the legislation at present.

Clause 4 contains one of those many provisions in the bill which reflect differences between jurisdictions in the way the duties legislation, which is intended to be uniform, operates in practice. This provision makes clear that duty is not payable on mortgagees' interests in marketable securities, and that this is to reflect the position in Victoria as it applied under the previous Stamps Act. By contrast, I am informed that the Queensland government charges duty on mortgagees' interests in these circumstances.

Clause 5 inserts proposed subsection (4) into section 14 of the Duties Act to make clear for the purpose of the imposition of stamp duty that an instrument of transfer of an estate in land is to be taken to effect the transfer of dutiable property referred to in section 10(1)(d) of the act, which is basically goods that are used in connection with the land — items that used to be referred to as chattels such as curtains or other items that are transferred together with the transfer of a home.

This provision is not intended to affect the legal position as between the parties themselves — those goods transfer with the land in any event — but it is to make clear that the instrument of transfer is for the purpose of the imposition of duty deemed to be one that effects the transfer of this additional property.

Clause 6 amends section 21 of the Duties Act to deal with a situation that has emerged in relation to the creation of subdivisions. It is intended that the first sale of property after a subdivision is not to include the amount to be expended on the refurbishment of that subdivision. There is a technical concern that when the transfer for the sale occurs because there is in some instances a previous transfer of land in the course of creating the subdivision it will result in the benefit intended by the legislation being lost. Therefore subsection (4) is amended to make it clear that the provision applies to the first sale that takes place in those circumstances rather than to the first transfer.

Clause 7 arises in relation to the timing of a transfer. It relates to the fact that under existing section 22(1) the unencumbered value of a dutiable property is based on the value at which the property might reasonably have been sold in the open market at the time the dutiable transaction occurred. In some states that is satisfactory, because the duty applies to the contract of sale, but in Victoria the duty applies to the actual instrument of transfer. It is intended that the unencumbered value be determined as at the time the sale contract was entered into rather than at the time of the transfer. The amendment made by clause 7 reflects that position, so that in the case of a transfer of dutiable property on the sale of the property the unencumbered value is determined at the time the contract of sale was entered into.

Clause 8 makes a technical amendment which ensures that the Duties Act better reflects the provisions of the corporations legislation by substituting a reference to a related body corporate for the current reference to a related corporation.

Clause 9 is another example in the legislation of an amendment being considered necessary to better reflect the policy position that applies in Victoria. It relates to a situation where a property is held in trust, the structure of which is rearranged and then ended. It makes it clear that duty is not applicable at the ending of that trust structure, even if there has been a restructuring of the arrangements during the time the property was held in trust. Proposed new section 36 makes clear the circumstances under which this will apply. The provision is considered necessary because other jurisdictions impose a duty at the time a trust is terminated after a change of structure.

I suppose this reflects the underlying dilemma that we face in relation to uniformity. On the one hand we want legislation that implements policy that has applied for a long time in Victoria, if that policy is considered satisfactory, but on the other hand we want consistency with other jurisdictions. Occasions are arising where it is proving difficult to have both, and we have to make a decision. Here the decision is to stick with previous Victorian policy, but the price we are paying for that is a loss of uniformity.

I turn to clause 10, which amends section 132 of the Duties Act. Proposed new subsection (1) is simply a redrafting of paragraph (a) of section 132 to reflect the fact that duty is no longer chargeable in relation to the lease instruments that are referred to in that paragraph. Clause 10(2) contains what the Treasurer has referred to as the only policy change involved in this legislation. It creates a minor increase in taxation, but perhaps unusually it is an increase that has been requested by those who are liable to pay that taxation. It applies to equipment financing arrangements.

At present where someone is carrying on the business of hiring out goods under equipment financing arrangements and a range of other hiring arrangements, a duty-free threshold of $6000 a month applies before duty is applicable. In many circumstances that operates as a valuable concession. However, the Australian

Finance Conference, which is the industry association for a large number of entities that carry out equipment financing arrangements, has found that the cost, inconvenience and difficulty of apportioning the monthly $6000 duty-free threshold — or, more importantly, the amount of saving that that translates into — among its clients in circumstances where millions of dollars might be involved is simply not worth the effort. They would rather that the duty-free threshold not apply to avoid these administrative difficulties. I am told that this amendment brings us into line with other jurisdictions.

It is worth making the point that section 129 of the act, which defines a 'hire of goods' — it is what gives rise to the liability in the first place — specifies that it is an arrangement under which goods may be used by a person other than the person hiring out the goods unless the arrangement is excluded under section 132, which contains a series of specific exemptions. It divides the hire of goods into two kinds — namely, equipment financing arrangements and ordinary, or other, hire of goods. That means that short-term hiring will continue to have the benefit of the $6000-a-month duty-free threshold, whereas an equipment financing arrangement, which is the hiring of goods under a hire purchase or some other agreement for a term of not less than 9 months, will not have the benefit of that duty-free threshold.

Clause 11 corrects a drafting error. Clause 12 is consequential on clause 14, just as clause 13 is consequential on clause 14. Clause 14 inserts into the Land Tax Act a new set of provisions regulating the service of documents under the Land Tax Act. Those provisions are based on similar provisions in the Taxation Administration Act. It is considered that those will be more satisfactory.

There is one curious provision in these amendments which perhaps reflects an earlier age. If one looks at proposed section 75(2) of the Land Tax Act one sees it provides that:

> (2) If a facsimile or other electronic transmission is received after 4.00 p.m. on any day, it must be taken to have been received on the next business day.

It strikes me as rather curious in this day and age that after 4.00 p.m. on a business day might be considered too late in the day for a reasonable service. If the service is later than 4 o'clock — when the legislation seems to assume some people might have left the office for the day or be no longer carrying on business — it will be deemed to have been received on the next business day.

**Ms Asher** interjected.

**Mr CLARK** — The honourable member for Brighton raises the question of whether this is intended to suit public service conditions. I have to admit that that possible application of it had not struck me, but she may well be right. I was assuming that it was harking back to a more gentile time when businesses started to wind down after 4 o'clock. Perhaps on occasion some of us would wish that we could still work those hours. So I raise for the consideration of the Treasurer and his parliamentary secretary the question of whether it remains appropriate to have that time of day specified as the rollover point.

The final provisions in the bill that I want to refer to are those contained in part 4, which amends the Taxation Administration Act and includes provisions that allow the Commissioner for State Revenue to seek to obtain an order from the Supreme Court requiring an agent of the commissioner to account for funds that that agent has collected on behalf of the commissioner.

Those provisions are contained in clause 15 and are similar to the provisions that used to be in section 40 of the Stamps Act. They allow the commissioner to go to the Supreme Court and seek an order that the agent show cause why the agent should not have to give the commissioner an account on oath of all the tax that has been received and should not have to hand over that tax. Subject to any explanation the agent might give, the Supreme Court may then make an order directing that the account be given and the tax be handed over.

Clauses 16 and 17 contain provisions that relate to the enforcement notices by the commissioners. Clause 16 makes it clear that people cannot be charged with an offence of not complying with the relevant provisions under two different heads of the Taxation Administration Act. Clause 17 gives powers to the Supreme Court to certify that a person has failed to comply with the requirements of a notice under section 73 of the Taxation Administration Act and then allows that person to be dealt with either as if it were an offence giving rise to imprisonment not exceeding three months or contempt of court.

These provisions seem reasonable in themselves, but the issue that arises is: what are the factors that have given rise to the need for these amendments and how effective has the government been in responding to those needs and introducing those amendments? In the autumn sitting this year honourable members debated a round of amendments to the Duties Act, and in the course of that debate the honourable member for Brighton made the point that there had been a lack of

opportunity for bodies such as the Law Institute of Victoria to comment on that act and suggested that that may well have been what was giving rise to the series of last-minute amendments that needed to be made in May and June.

There have been subsequent reports about difficulties that the State Revenue Office has had in relation to an agent who has allegedly not accounted for various amounts of taxation. The Treasurer, in responding to media queries about that issue, said that he had introduced amendments to the Duties Act in May that enhanced the SRO's powers to impose and enforce conditions under which tax agents undertake their document-stamping responsibilities. Although these were not provisions that he flagged in the course of his second-reading speech on the amending bill in May this year, there are provisions in the Duties Act that cover the matters to which he refers. But those amendments did not extend to the provisions that are in the bill before the house.

The question has to be asked: given the Treasurer was presumably aware at the time of the May legislation of the issues that the SRO was facing in relation to its agents, why were those provisions not introduced in the May legislation rather than the current bill, and even more significantly, if they had been introduced in the May legislation rather than in the current bill, would the SRO and therefore the taxpayers of Victoria be in a better position than they in fact are in relation to recovering any moneys that may be owed to them by agents of the SRO?

It is a matter which I hope the parliamentary secretary or the Treasurer will address during the course of the debate. The provisions of the bill in themselves are unexceptionable, and they are not opposed by the opposition. However, the bill raises serious issues in relation to collection of revenue, the uniformity of duties legislation and the ever-increasing tax burden the government is imposing on the taxpayers of Victoria.

**Mr RYAN** (Leader of the National Party) — It is my pleasure to join the debate on the State Taxation Legislation (Amendment) Bill, and I take up the point on which the honourable member for Box Hill just finished. When you think of all the bluff and bluster that went on prior to the last election about the purported position of the now government on taxation issues, you cannot help but smile, particularly in the context of the 2000–01 *Financial Report for the State of Victoria* tabled in Parliament in the past few days.

Page 10 and succeeding pages of the report are very instructive and pertinent to this debate. They deal with elements of state taxation. Payroll tax revenue is up 3.4 per cent, and I emphasise that this is higher than the budget estimate. Taxes on property are 14.2 per cent higher than the budget estimate, and page 10 contains a breakdown of those figures comprising conveyancing duty, stamp duty on marketable securities, land tax assessments, financial institutions duty and mortgage duty. They are all absolute windfalls for the government.

Then I come to the section in the report on the ubiquitous gambling taxes. My smile grows even broader in an ironic sense when I consider the position taken by the Australian Labor Party prior to the last election. All the promises it made now lie in tatters as the income the government derives from the sector, about which it bled so much over the seven years of the former government, is an absolute mainstay of its governance. The budgeted income has increased by 3.3 per cent. The income from gambling taxes totals $1276 million, which is $41 million more than the budget estimates.

The other day on radio I heard the Minister for Finance grappling with the concept, his general tenor being that the increase the government is getting from gambling taxes is slowing compared with what previously prevailed. As I hear it, that is the high-water mark of the government's current position on gambling taxes. Were it not so serious, it would be a joke.

Taxation on insurance has increased by 3.4 per cent. Within that figure is the windfall gain the government is deriving from the tax-on-tax issue, particularly with insurance. For example, the levy for fire insurance premiums — probably the most graphic issue from the perspective of country Victorians — is now 58 per cent on commercial premises. To the premium bill of $1000 that arrives in the mail one must add the 58 per cent levy, which is $580. On top of that must be added the GST component, which goes with the provision of the service. Finally, in addition to all that is the calculation for Victorian government stamp duty.

All that amounts to an absolute windfall gain for the government. The pity of it is that the government still refuses to examine the situation. At least the New South Wales Treasurer, Michael Egan, has had the good grace to concede that that state will look at the issue. If a windfall gain is evident, that government will take appropriate steps to address it. However, we cannot even get the Victorian Treasurer to acknowledge a windfall gain, let alone have him do something about it.

**Ms Asher** interjected.

**Mr RYAN** — Yes, there is room for a review when all is said and done. The minister's attitude is, 'Well, there are winners and losers'. In some instances through the application of the new taxation regime the state will recover less because it gets less stamp duty from motor vehicles, whereas in other instances such as insurance it will get more. The basic rationale behind the government's thinking is, 'When you mix it up we come out at about the same'.

Even that thinking is wrong, because according to the figures in the report the increase is 3.4 per cent. But more particularly, as a matter of sheer equity the issue ought to be properly examined. I would have thought the State Revenue Office (SRO), if it were given appropriate policy guidelines by the government, would be able to make determinations that would be fair, equitable and representative of the true position rather than our continuing with the existing half-baked arrangements.

Motor vehicle taxes have increased by 3.9 per cent. Business franchise fees, revenue replacement payments, licences and other taxes are up by 4.4 per cent. I again emphasise that these figures are over and above the budget estimates, which in themselves have a built-in incremental component.

The final one, which is an absolute gem, relates to fines and regulatory fees, where the increase has been 34.7 per cent over the budget estimates. I quote from page 12 of the report:

> This is largely due to road safety measures introduced to reduce the incidence of impaired driving and other traffic offences resulting in increased fines revenue, and the full implementation of accrual accounting principles for the measurement of fines and regulatory fees.

However the government may like to explain it, an increase of 34.7 per cent in fines and regulatory fees only is a helluva lot of money in anybody's language!

Time is of the essence, for various reasons, so I shall make only brief comments to supplement those so ably made by the honourable member for Box Hill. The National Party adopts his view that the bill is unexceptional. It is designed to overcome anomalies and to plug various loopholes. Many of the issues have emerged during the day-to-day administration of our taxation laws by the SRO. So it is that the house has a basket of amendments that are intended to achieve the outcomes to which the legislation refers.

In our examination of them all these changes will be practical in their effect. They will streamline administration and clarify ambiguities in various areas. They will protect the original revenue base, which is important to the state, but with the qualification to which I have already referred — that is, that the state has an obligation to ensure that its revenue base is applied on an equitable basis. Obviously, as I have demonstrated in the instance of the stamp duty payable on insurance policies, that fundamental principle is not being observed by the government.

The changes alleviate unintended consequences. They line up the terminology and its application with other jurisdictions. Therefore the best of outcomes is achieved — that is, uniformity in the application of the law. That is something the business component of our community desperately wants, because of all the things that cause disturbance to small business in particular it is the element of uncertainty in the application of policy and its consequences that cause the most disquiet.

There is no real need to analyse each of the bill's provisions, because they have been canvassed extensively and fulsomely by the honourable member for Box Hill. However, there is a particular feature that I refer to regarding the amendments to the Land Tax Act. I comment in the context of a plea to the Treasurer to examine a situation which is pertinent to many organisations in the country, particularly those involved in not-for-profit activities and, even more particularly, those engaged in the conduct of field days, agricultural shows and the like.

I refer to a letter of 7 September that the Honourable Roger Hallam in another place addressed to the Treasurer on behalf of the organisers of the Elmore and District Machinery Field Day and the Kyabram Agricultural Horticultural and Pastoral Society.

Elmore runs what are colloquially known as Speed field days. Recently I attended what was a brilliant event. The field days started about three decades ago with about 40 or 50 people advertising their commercial wares. The most recent show had about 600 people displaying goods and chattels; it was a great day and was well organised. The Elmore organisation now owns about 350 acres of land, using the old terminology, which is used throughout the year. The whole entity makes a marvellous contribution to the life and times of Elmore and the surrounding districts.

Mr Hallam wrote to the Treasurer seeking an exemption for the Elmore and Kyabram organisations from their obligations to pay land tax. I would have thought that was a reasonable request, bearing in mind the staggering figures that I have read into *Hansard* concerning the government's current financial position and its prognostications on what is to come in years imminent.

In his reply, dated 5 October, the Treasurer wrote to Mr Hallam acknowledging the fact of the submission and stating, quite rightly, that there was nothing he could do to intervene in a political sense, because in effect it was a responsibility set down by statute. It was a matter for him to make the sort of assessment upon which the taxation burden was based rather the law needing to be changed. The reply states, in part:

> The Commissioner of State Taxation has sole responsibility for the administration of the Land Tax Act, and I have no power to intervene. This is to preclude the possibility of any political interference in the operations of the act and to ensure that the legislation is administered in an objective and non-discriminatory way.
>
> I understand that both societies lodged objections to their land tax assessments and that the State Revenue Office treated the objections as applications to be exempted from land tax. The State Revenue Office gave careful consideration to the applications of the societies but concluded that neither organisation satisfied the eligibility criteria for exemption from land tax.

The final paragraph is pertinent to the debate because the reply concludes:

> Finally, the issue of whether the Land Tax Act should be amended to ensure that societies such as Elmore and Kyabram are exempted from land tax will be considered by the government in the context of next year's budget.

I take this opportunity to say that these organisations and those akin to them should surely be exempted from land tax. They function in a manner that is not for profit. They provide an absolutely invaluable community service in a variety of ways. They truly are representative of the lifeblood of country Victoria, and in many instances the committees which underpin them have contributed their efforts voluntarily for decades. Now, when they are looking to bring in new blood and enable a transition of management, they are faced with various challenges, not the least of those being the issue of public liability insurance.

At the Speed field days I was advised by the committee that its public liability insurance premium cover had increased from about $2500 to something like $7000 or $8000. It is yet another of dozens upon dozens of organisations that have reported similarly to me. I mention that because it is another element of the burden to be borne by these groups for the purpose of undertaking worthy works. Now so many of them find that all their fundraising work, which they have been historically devoted to, is by necessity being directed into areas that are incidental and contribute nothing to what they do and represent no more than a stone around their collective neck.

Into that miserable bunch of burdens goes the matter of land tax. In this day and age, faced with what is available to it, the government ought to have another look at the land tax issue and its application to these organisations, because the National Party believes these organisations should properly be exempted from the land tax provisions.

With those few comments I repeat that the National Party does not oppose the legislation and accordingly wishes it a speedy passage.

**Mr LENDERS** (Dandenong North) — On any piece of legislation involving amendments to the Duties Act, the Land Tax Act or the Taxation Administration Act we will have a general debate on state taxes and where they have come from, where they are going and where they should go. This second-reading debate is probably no different from what anyone would expect.

In my comments I will certainly touch on the general issues of state taxation, but first I will comment on the specific clauses of the bill. As previous speakers have identified, it is a routine housekeeping bill. It deals with amendments to the three acts I have mentioned and arises through the wholesale rewriting of the Duties Act that was adopted by Parliament last year and was an ongoing work of the ministerial council commenced under the previous government and completed under this government to try to bring into line a number of the stamp duties provisions across jurisdictions and therefore ultimately cut the burden of red tape on businesses.

It is a very good act, and as with any other similar huge piece of legislation there was a need to come back after implementation to dot some of the i's and cross the t's, as is inevitable with such comprehensive legislation. Essentially that is what this legislation does. What I find most intriguing is that a group of taxpayers has asked the government to remove a tax concession, which is probably one of the more novel things to ever be reflected in a tax bill. All other jurisdictions do not provide this exemption, and it is administratively burdensome for the small amount of money involved. Therefore this particular group of hire companies has asked to have the exemption removed.

That is the long and short of the nature of the bill. It has a lot of clauses, and as the Leader of the National Party said, they were gone through most adequately by the Treasurer in his second-reading speech and by the honourable member for Box Hill in his lead speech for the opposition, so I will not burden the house with them again.

A couple of points that need to be made are that the honourable member for Box Hill drew attention to a 4.00 p.m. cut-off for pieces of paper to be received and dispatched as part of the legislation. Those sorts of changes are not high on the government's agenda. Obviously we will always look at things that industry asks us to look at, but a cut-off in this day and age is still as relevant as it always was. There needs to be a convenient time of day to look at these matters, so I imagine the government will seek further advice if that is the case.

The Leader of the National Party's request for some exemptions is a good point to include in a general discussion of taxation. In the end the Bracks government implemented probably the most comprehensive review ever of state taxation, certainly the most comprehensive in my lifetime.

**Ms Asher** interjected.

**Mr LENDERS** — As the Deputy Leader of the Opposition indicates, we had the Harvey review, in which the government sought advice from the business community in this state as to how business taxes should be changed. The first Bracks budget made a commitment to a $100 million line to progressively go up to $200 million in future years. This government has not only delivered on that commitment to cut business taxes but has exceeded it. Setting up the Harvey review meant that rather than the Labor Party and the Department of Treasury and Finance deeming themselves to have all the wisdom, the government went out to the community and asked what it thought. The Harvey review came back, the government discussed it further and accepted some of the recommendations while rejecting others. In the end governments need to make decisions. They need to consult, but in the end they need to make up their minds about what they are doing.

The Harvey report was the start of a comprehensive review. Virtually every aspect of state taxation listed by the Harvey committee in its discussions was looked at line by line by the government in responding to the report. That ultimately resulted in the Better Business Taxes legislation that was adopted by this Parliament and cut $774 million of state business taxes over a four-year period. The original government commitment was $400 million over that period, and the $774 million showed that the government sees the importance of removing the burden of taxes from the business community. That was an important thing to do if we are to make Victoria a competitive taxation environment.

However, as honourable members opposite know, and particularly the Deputy Leader of the Opposition, having sat around the cabinet table, government is also about setting priorities. One of the choices this government has made, like any government, is how it balances the legitimate requirements of any community for expenditure on services versus the equally legitimate requirement of a community to have its tax burden reduced. Getting that balance into line with its priorities is something the government has looked at. That is where this general taxation debate dealing with all these pieces of legislation becomes particularly pertinent. It is easy for opposition members to use cheap, throwaway lines about levels of taxation.

I have yet to meet a person in the street who says we do not pay enough taxes, yet there is probably not a person in the street who does not have the view that there should be more services. Of course there will be a populist response to any rhetoric saying that conveyancing taxes or land taxes or any other form of taxes should be cut. We would expect that from the opposition, but it is important to put a number of facts in place in the debate on taxation.

Firstly, regarding conveyancing, Victoria's duty is comparable to other states. In the 1999–2000 financial year — the most recent figures available — Victoria's revenue from conveyancing duty was less than the national average both per head of population and as a percentage of gross state product. On both those tests Victoria actually had a lower level of conveyancing tax than the national average. The opposition constantly compares Victoria to New South Wales. The fact is New South Wales collects more conveyancing duty than Victoria, not only on a net basis, because it is a larger state, but also on a per capita basis. In 1999–2000 Victoria collected $273 per person and New South Wales collected $374 — around $100 more per person.

*Honourable members interjecting.*

**The ACTING SPEAKER (Mrs Peulich)** — Order! The honourable member for Dandenong North, without assistance!

**Mr LENDERS** — Thank you for your protection, Madam Acting Speaker. Similarly, conveyancing duty revenue in New South Wales was greater as a proportion of the gross state product. Victoria collects less tax and less local government rates than New South Wales on a per capita basis and as a proportion of gross state product. These are important issues in any debate on taxation. While we need to get the balance right, and people will argue about rates and a range of things, these figures are comparable. If we are talking about

benchmarking and comparisons with other states, Victoria stacks up well against New South Wales.

Various other stamp duty concessions are also available in Victoria. The government went through a lot of these item by item in the Better Business Taxes package to see where Victoria was and how it compared with other states. They were all important. As a government Labor was about two things in the better taxes review: first, lowering the burden on business, particularly in areas that would stop growth of jobs and exports; and second, to cut down as much as possible on red tape. The number of taxes and the simplicity of the tax system were important to the government in that context.

**Mr Clark** interjected.

**Mr LENDERS** — I will take up the interjection of the honourable member for Box Hill saying the government should cut taxes more and referring to the size of the surplus and a range of other things. Anybody who has read the budget papers and the speeches of the Bracks government will be aware that the government is totally committed first to the budget surplus it promised in opposition and is determined to deliver in government and second to a real budget surplus, not just a smoke-and-mirrors one. A double test has been put into both budgets: first, the commitment to an underlying $100 million surplus that was made in opposition, and second, to a higher amount so we can deal with any downturn in the Victorian economy. The government did not make an idle promise, it was a real promise and one that has been delivered twice.

No government can reliably budget on any surpluses that have accrued because of seasonal bonuses or whatever you want to call them in the tax system such as higher revenue from conveyancing or land or property sales. All you need is for the economy to slow down a little bit, and suddenly they are gone. Where there has been a surplus this government has ploughed that surplus back into either debt reduction, whether it be state debt or unfunded superannuation liabilities, or capital works projects like Growing Victoria and the Regional Infrastructure Development Fund. It is not as if the state government is looking to hoard any of these surpluses like Mr Scrooge. The government is ploughing this money back into services and capital works in the state of Victoria.

The government is dealing with the current issues and also with the not normally expected budget surpluses. Unlike the previous government, the Bracks government does not see this as its money to stash away or do things with. The government sees this as the Victorian people's money, and it is ploughed back into critical things like infrastructure. Ultimately that is what government is about. State taxation money is being spent in a range of areas, including rail links to country regional centres. Where the money is going, whose money it is and what is appropriate for it to be spent on should be put into perspective.

I turn to the Better Business Taxes package generally. The government was trying to introduce simplicity into the taxation system. Last year the government consolidated duties and taxes, and the Better Business Taxes package had bipartisan support and was embraced at the national ministerial council. It was about how to make life easier for businesses by reducing red tape and administrative costs wherever possible, whether it be through the Duties Act amendments last year or the removal of the minor 20 and 30 cent fees on transactions, which reduced the administrative burden.

I turn to the number of taxes. In its Better Business Taxes package earlier this year the government reduced payroll tax from 5.75 per cent to 5.35 per cent. The legislation is in place and takes effect on 1 July 2003. There are no ifs or buts about it, it is happening and is reducing taxes on business. The government has also increased the payroll tax threshold from $515 000 to $550 000 from 1 July 2003, which will take a significant number of small businesses out of the payroll tax net and also reduce the cost to businesses of payroll tax.

Far more interesting from my perspective is that the government is increasing the land tax threshold from $85 000 to $125 000, freeing approximately 46 000 small businesses, investors and self-funded retirees from the land tax net. It is one of the most significant issues for the government. It was the previous government that lowered the threshold on land tax and dragged thousands of additional businesses into the land tax net, which in itself was a policy decision that the former government was perfectly entitled to make, although it was one that small business did not like. However, the ultimate irony is that when the Harvey report was released it was the opposition that shed crocodile tears by the megalitre over this issue, beat their chests and created anxiety in the small business community, despite the fact that it was the opposition that had lowered the threshold to widen the net.

The honourable member for Box Hill is on the record as wanting a flatter, broader tax system in this area. Yet when the government increased the threshold to take 46 000 small businesses out of the tax net, all it got back was that it was a small amount.

**Ms Asher** interjected.

**Mr LENDERS** — My response to the honourable member for Brighton is that 46 000 small businesses were relieved not only of that tax, which in their minds is a significant amount of money, but also of the paperwork for both the State Revenue Office and the relevant municipalities and others involved in assessing land tax and advising people. It removed paperwork as well as the cost. The government is proud that it has removed that burden from small business, unlike those opposite who claim to be the party of small business but who imposed the burden on small business in the first place.

The government has also abolished three stamp duties as part of the Better Business Taxes package over the next three financial years. It has abolished the stamp duty on residential leases, unquoted marketable securities and mortgages, which have all been legislated for and are in place, and people can plan their business affairs around what they know will be the legislation for that tax.

The government has also simplified payment collection through the introduction of e-business initiatives at the State Revenue Office. In one sense you can say that this is ancient history, because this legislation has been passed and we are now dealing with a number of amendments, but it is also about future planning issues, because those 46 000 small businesses that I mentioned, as well as every other business in this state, know with certainty that payroll tax will be reduced and that three taxes will be totally abolished.

These are important considerations because we as a government must have in place a tax regime that is competitive and must also secure the revenue of the state so that important services can be delivered.

That is why it is disappointing that the opposition and the National Party continually call for taxes to be cut in an ad hoc fashion when there has been a systematic review of business taxes. If time permitted, Madam Acting Speaker, I would be delighted to go through the series of promises about revenue that have been made by the Leader of the Opposition and a number of his spokespeople — promises to spend a lot of that money. You cannot have it all ways: have a budget surplus, cut taxes and increase expenditure all at the same time. If that could be done I am sure thousands of governments around the world would have done it already. If that magic formula is there somewhere we would appreciate the opposition sharing it with us, and I am sure the Victorian community would appreciate it too.

On tax competitiveness and the tax environment there are a number of issues to be addressed, but the fundamental point is why we have this legislation before us. It is because the government is committed to streamlining the tax legislation as much as it can. We are committed to consulting and listening so that when we introduce a huge piece of legislation like the Duties Bill, which rewrote the Stamps Act and brought it into line as much as possible with other major jurisdictions, we can make legislation that is as conducive as possible for other businesses wishing to come to this state. We do not want to leave businesses with the legal costs of having to check whether there is some minor duty, special paperwork or other formal requirement in Brisbane, Sydney, Melbourne, Perth or Adelaide; that is not conducive to business coming to this state or going anywhere else. We want to remove those imposts as much as possible so that we can reduce the costs of business and add certainty to the operating business environment.

The bill is a minor piece of legislation dealing with those problems, but it does deal with them so it is important. The government is open to discussion and consultation. The profession talks to the State Revenue Office and to the state government. We listen and respond, and we are coming up with a series of these minor pieces of legislation, which on the face of it are not the most riveting items for the chamber to debate. Certainly they are not matters that my constituents in Dandenong North come to me about on a daily basis. Nevertheless, if we are serious about government we need to deal with them.

My final comment is that if we are talking about burdens on small business or on business generally and radical changes to systems and so on — all those things that make life difficult — the only comment I can make is that the most traumatic thing we have had in this state in a long time has been the goods and services tax that now, fortunately, is bedded down. It was one of those things that could, with a bit of foresight, have been made less burdensome on the community. I commend the bill to the house and wish it a speedy passage.

**Ms ASHER** (Brighton) — I will make a few comments on the State Taxation Legislation (Amendment) Bill. It is technical in nature and specifically amends the Duties Act, the Land Tax Act and the Taxation Administration Act and gives some additional powers to the commissioner of the State Revenue Office. I will also touch on the fact that the amendments to the Duties Act are probably reasonable under the circumstances.

The new duties legislation was a huge exercise started under Alan Stockdale, my predecessor in both my former portfolio in this house and the state seat of Brighton. The process undertaken to attain that desirable outcome was very lengthy, because what was needed was a plain English act where duties could be compared state to state and have a fair degree of uniformity. I understand the New South Wales government has introduced even more amendments subsequent to proclamation of its Duties Act so it is not surprising that we are here yet again to clean up minor technical issues and to make improvements to the operation of our relatively new Duties Act.

One of the issues in the Duties Act is that it introduced a new method of paying for stamp duty on used car transactions. Indeed, the introduction of the GST forced a change in the method of collection for stamp duties on used cars. The opposition did not oppose the system at the time.

Then the government came up with the idea that in order to avoid circular taxation it would allow the consumer buying a used car a choice between paying the stamp duty direct to Vicroads or paying it to the dealer, which was the previous system.

I agree with the government that it is obviously difficult to have a system where a goods and services tax and stamp duty are levied, so in order to avoid this circularity of taxation the government has devised the new system. However, there are some significant problems with this new system, as the Treasurer is aware. The Treasurer was first made aware of the fact that as a direct consequence of this new system there are problems in the collection of stamp duty on used cars when I asked him a question in the house. At that time the Treasurer asked me to write to him, which I have subsequently done. He has written back to me, and I will refer to that correspondence in a moment.

The bottom line in Victoria is that stamp duty on used cars is basically optional. If you are a smart and well-informed consumer it is very easy to avoid stamp duty. What you simply do is tell the used car dealer you will pay the duty direct to Vicroads, and you thereby avoid all duty.

One of the rationales for the series of amendments proposed by the State Taxation Legislation (Amendment) Bill is the need to safeguard the state's revenue. Obviously my view on the appropriate level of taxation is different from the view held by members sitting opposite, because the Liberal Party traditionally prefers tax cuts and the Labor Party traditionally prefers expenditure. While it is justifiable to wish to protect the state's revenue base, there is a king-size problem, of which the Treasurer is aware, in the collection of stamp duty on used vehicles. I note that the volume of money collected on stamp duty on used cars is not insubstantial. In 2000–01 the stamp duty collected on used car transfers was $141.3 million. Not only should the Treasurer have included amendments relating to that loophole in the bill before the house, but he also needs to do more than he is doing.

As I said, I wrote to the Treasurer on this issue when he invited me to do so after being unable to answer a question in the house. He wrote back to me on 18 September, and I thank him for the correspondence and the explanation. In his letter the Treasurer indicated that:

> In light of the legislative changes, and the transition to new arrangements, SRO —

the State Revenue Office —

> is closely monitoring the collection of stamp duty on used cars.

He then went on to say in an understated way:

> There is evidence that a larger number of acquirers than expected are choosing to pay stamp duty to Vicroads rather than through the RUCD —

or registered used car dealer.

The fact is, and the Treasurer knows it, that, to use his terminology, a larger number of acquirers than expected are choosing to avoid paying stamp duty on their used vehicles because the government has not put in place a system that protects the revenue base of the state. This bill was an ideal opportunity for the government to act on the issue, but it has not done so.

The Treasurer went on to advise me that he was trying to do a number of new things about this unpaid stamp duty on used vehicles. He also advised me that:

> As part of our overall commitment to an effective and efficient tax system, further customer education and compliance audits will be conducted in this area, together with the provision of information to both RUCDs and acquirers of used motor vehicles.

He went on to say in another wonderful understatement, which again is most unlike him:

> This will assist all parties in the transition to these new arrangements and ensure that the revenue collection of stamp duty on used cars is maintained.

I prefer a more blunt approach than the Treasurer's. A significant number of consumers in Victoria are avoiding paying stamp duty on their used car purchases.

For them stamp duty is optional. The revenue base of the state is not being looked after, and it could have been looked after via this amending bill.

While it is beneficial to give consumers advice, while it is beneficial to give information to the used car dealers and while it is beneficial to have compliance audits, in the interests of revenue collection the government should take a more rigorous approach, particularly given the amendments before the house.

I think everyone knows that when you acquire a used car you need to pay stamp duty. The problem is fairly and squarely at the feet of the government. Again, the opposition had no quarrel with trying to address the issue of circular taxation, but the problem is that the administrative mechanisms set up by the government are deficient. The administrative mechanisms allow people to regard stamp duty on used car transactions as optional. My understanding is that Vicroads advised either the State Revenue Office (SRO) or the Department of Treasury and Finance of this loophole or deficiency prior to the Duties Act going through Parliament. I have lodged a freedom of information (FOI) request and I am delighted the Attorney-General is here to hear this.

**Mr Hulls** interjected.

**Ms ASHER** — I am always delighted when you are here because you amuse me no end, as indeed you amuse Madam Acting Speaker. I will get the briefing note because I know it exists.

The Vicroads FOI officer wrote back to me, and I say to the Attorney-General that this is how his officers are interpreting FOI requests.

**An honourable member** interjected.

**Ms ASHER** — He did not ask me out to lunch, either, but he wrote back to me saying that 6 million documents exist.

**Mr Hulls** — Six million?

**Ms ASHER** — Six million documents exist about this matter. I have let the officer know that I am not after the individual little dockets relating to the entire history of stamp duty on used cars in Victoria; I am after briefing notes that came from Vicroads to either the Department of Treasury and Finance or the SRO indicating that this loophole existed. The government knew about it and did nothing then. There is legislation before the house, the government knows about the loophole, yet it has still done nothing about it.

I shall move on to the changes in the bill relating to the additional powers given to the Commissioner for State Revenue. That officer holds a significant office in the public sector in the state of Victoria, because it is the revenue collection agency for the government. Unfortunately there are significant problems at the SRO, and I am sure the parliamentary secretary is aware of them. I urge the Treasurer and the parliamentary secretary to get on top of the SRO situation, because although I am unconcerned about individual disputations with the Community and Public Sector Union, and I think locating government departments in regional areas is a good thing — —

**Mr Hulls** — There is a press release!

**Ms ASHER** — I called for it before you did it. I am unconcerned about the tittle-tattle going on in the SRO but I am very concerned at the level of disquiet within the SRO related to revenue collection. I have information that the SRO has failed to collect or account for more than $90 million of outstanding payroll tax. That has not been collected by the SRO. There is an amending bill before the house, and administratively every day the minister can issue directions to the SRO, and it is not happening.

The house will be interested to know that as at 20 July 2001, $90 161 490 was due for default action — uncollected, unaccounted for in terms of payroll tax revenue. The rationale for the bill was to protect the state's revenue base. I can advise the Treasurer that even if he is not on top of the SRO situation, some $90 million is outstanding.

Additionally, and obviously we are concerned about employers who overpay tax, as at 29 June repayments of overpaid payroll tax were in the order of $3 million, which is money that the State Revenue Office should have but has not returned to employers.

I have lodged FOIs with the SRO concerning the conduct of its senior officials. I have asked for minutes of senior officials' meetings and, Attorney-General — I am glad you are in the house — this time I was not told that there were 6 million documents, I was told that my request would not be processed at all.

**Mr Hulls** — Too voluminous?

**Ms ASHER** — No, not too voluminous.

**Mr Hulls** — Silly request?

**Ms ASHER** — No, the officer didn't say, 'Silly request', either. Unfortunately I think 'Too close to the bone' is what the officer wanted to say.

**Mr Hulls** — Which section of the act is that?

**Ms ASHER** — Sections 30, 35 and 36(1)(b). Whilst those who advise me legally on FOI matters would work through and tell the Attorney-General that these are about internal working documents, documents containing material obtained in confidence and documents contrary to the public interest, they are in the too-hard, she's-asked-absolutely-the-right-question basket. I will take this through the appropriate appeal processes, but I have been told that the SRO officers will not even locate documents relating to minutes that would disclose the level of disquiet among senior officers at the SRO. They will not process my application, and it is the end of the issue. They have called on a section in the act and the opposition will not have access to those particular minutes.

Of all the documents that exist in terms of revenue protection for the state, and I notice that the Treasurer uses this excuse on a number of occasions when he wants to justify excessive taxation — for example, tax on tax issues — and of all the reasons given, I think the opposition and, more importantly, the Victorian public very much have an interest in finding out why the State Revenue Office is failing in its mission to protect the state revenue base.

**Mr Hulls** interjected.

**Ms ASHER** — I think you know how many FOI applications I have submitted. I am certainly not inviting any responses from the Minister for Agriculture after today's question time.

These are critical issues. This is about an SRO in turmoil and that turmoil is now resulting in tax not being collected — that is, payroll tax not being collected, payroll tax not being refunded, and no-one being allowed to have access to any documents to learn more about the situation. It is a grossly unsatisfactory situation and I intend to pursue this area in the future, as I am sure the honourable member for Box Hill will do likewise.

I conclude with a couple of brief observations. First of all, while I think most people would support uniformity, often the issue of uniformity between the states is used to justify increases of taxation. The honourable member for Box Hill has pointed out a very unusual situation where the taxpayer group has requested amendments to legislation which, according to the second-reading speech, are going to yield possibly a maximum increase of about $80 000 per annum. The opposition would always caution about using uniformity to generate taxation increases, although I understand in this instance there is quite an extraordinary rationale for that.

I always want to refer, as did the Leader of the National Party, to the amendments to the Land Tax Act. I ask that the Treasurer notes correspondence that I have passed to him with specific details involving one of my constituents. It is a particularly unfair case. I ask the Treasurer to consider it with a degree of sympathy.

In essence, what has happened in this particular case is that my constituent has purchased a house in Brighton. The house is being used as a principal place of residence. The previous owner of the house had used it as an investment property and, naturally, had to pay land tax on that house. I do not want to comment about anyone's solicitors; however, during the adjustment processes my constituent who purchased the house for the sole purpose of a residence has now been lumbered with the proportion of land tax for the year that the previous investor should have paid if the investor had held onto the property for the full year. In effect, the SRO pocketed some additional money. My constituent, via a lawyer, approached the SRO. I am very annoyed about the attitude of the SRO on this.

My constituent was told no. My constituent has ended up paying land tax on a principal place of residence — and I know the SRO would say it is a small amount, but it is not to him. Normally I would pour forth at this point, making comments such as, 'You never trust the Labor Party on land tax', and, 'Look at what has happened in Western Australia' or 'Look at what has happened under Labor governments in New South Wales, where under certain circumstances on high-value properties, probably the equivalent of Brighton properties, land tax is levied'.

I ask the Treasurer to read my correspondence very carefully. I have given him all the details relating to my constituent and his correspondence, including the statement of adjustments, because it is against the spirit of the Land Tax Act and blatantly unfair for a member of the public who has purchased a house as a primary place of residence to then pay someone else's land tax. In fact, as I read it, the SRO is making a windfall gain in this instance, because the investor would pay only the proportion of land tax up to the date of disposal.

I regard this incident as an absolute pocketing of money by the SRO, perhaps symptomatic of its problems. On the one hand it has not collected $90 million of payroll tax that it should have, but on the other hand it has hit my constituent — a person buying a house — with land tax on a non-investment property. It is an outrageous case, and my constituent was treated particularly

unfairly by the SRO when he contacted them. I do not expect an answer from the Treasurer, if he does come in to respond to this debate, but I would at minimum expect him to read that correspondence and do what he can to provide a refund to my constituent.

I do not accept the view that the Treasurer should hide behind the SRO, as the letter read to the house by the Leader of the National Party states. An unjust impost has been levied on my constituent. I ask the Treasurer to intervene and consider fairly my constituent's request for a refund. In conclusion, there are some real problems at the SRO. While the Treasurer turns his mind to the broader systemic issues at the SRO I hope he finds the time to treat with a little bit of compassion the case of my particular constituent.

**Mr STENSHOLT** (Burwood) — I rise to speak in support of the State Taxation Legislation (Amendment) Bill. It seeks to make a series of minor technical amendments to the Duties Act 2000, which the government passed last year after a comprehensive review that had taken a number of years following intergovernmental agreements with a number of state and territory governments. The bill also seeks to make minor amendments to the Land Tax Act 1958 and the Taxation Administration Act 1997. Those technical amendments follow the Bracks government's strong process of continuing consultation with businesses and other interested groups in its efforts to reform taxation in Victoria.

The Bracks Labor government is very much in favour of lower, fewer and simpler taxes. The government has put its stamp on listening to and supporting small Victorian businesses, particularly with taxation cuts of $774 million that will be delivered to businesses over four years. That is in strong contrast to the actions of the previous government.

This government has been in office for two years and has moved to abolish three business taxes, whereas over seven years the previous government merely abolished one. In pursuing its taxation policies the previous government managed to put imposts on a large number of new businesses. If I remember correctly the previous government's raising of the land tax threshold affected some 70 000 owners of land, businesses and investment properties, who then had to pay land tax.

In listening to businesses, landowners and self-funded retirees with property investments, the Bracks government has moved to raise that threshold. Consultation is a hallmark of this government. I seek to talk extensively with small businesses in my electorate of Burwood and right around Victoria. On the issue of taxation, I surveyed all the businesses in my electorate by writing to them and seeking their views. I regard this as an important part of representing my constituents. As I said, it is a hallmark of the Bracks Labor government that it listens to and talks extensively with all its constituents, who obviously include business groups and small traders.

I am a member of several traders' groups in the Ashburton and Burwood areas, and I have extensive dealings with and support from other traders' groups such as those in Surrey Hills, Maling Road in Canterbury, and the Ashwood area. I have sought to listen to them and convey their views directly to government and to the Treasurer. What an excellent Treasurer Victoria has, and he is ably supported by his parliamentary secretary, the honourable member for Dandenong North. Victoria has a strong Treasurer who is making a difference as part of the Bracks Labor government.

As I said, I have sought the views of small business people throughout my electorate and have conveyed them to the government. Small businesses very much appreciate that we listen to their views. Only this week in the *Progress Press*, which circulates in the City of Boroondara, the head of the Camberwell business group, Mr Oliver Beaumont, commented on the support that the various parties provide to small businesses and business groups in the area. I am happy to report that he commended me as Burwood's state member of Parliament for going out and talking to business people and learning about their concerns.

This is in strong contrast to some of the activities of the local Liberal members. He felt that the Honourable Petro Georgiou, the federal member for Kooyong, was grossly absent when it came to looking after small businesses in his area. I was quite happy to talk to the Camberwell business group the week after the federal member for Kooyong talked to them last year. If I remember rightly they had made five attempts to get him along, but he proved to be quite elusive.

Local businesses and local people understand that their Labor members of Parliament are looking out for them, and the Bracks Labor government does so by introducing legislation such as this. We are looking out for businesses, and we understand how taxation works. Consultation is very important for business people who are involved in paying tax and who sometimes collect it on the government's behalf.

The other federal member in my area, the Honourable Peter Costello, has received universal condemnation from small businesses because they have ended up as

collectors of the goods and services tax and have to fill out the rather odious business activity statement. They are very much concerned, as indeed are the traders in Ashburton, who while very supportive of the taxation changes and reforms introduced in Victoria, of which this legislation is among them, were very critical of the application of the GST. If you read the *Sunday Age* a couple of weeks ago, you would know that trader after trader in Ashburton condemned the GST. As I have already said in this house on a previous occasion, Peter Costello — —

**The ACTING SPEAKER (Mr Plowman)** — Order! I suggest the honourable member gets back to the bill.

**Mr STENSHOLT** — I am pointing out that taxation and the need for fiscal management is very important. The Bracks Labor government clearly has superior credentials in this regard.

I understand that the honourable member for Brighton is very vigilant in seeking to maximise revenue. It is a pity this is not shared by her colleagues. Maybe some logical discrepancies are starting to creep in there, if indeed the Liberal Party does have any policies in the fiscal area at this stage. I thought opposition members were seeking to lower further payroll tax which would blow a hole in the budget and blow a hole in their so-called reputation for fiscal rectitude. Of course their fiscal rectitude and fiscal responsibility are clearly not shared by their federal colleagues. They have a budget deficit at the federal level which impacts upon Victoria because we receive only 83 cents in the dollar back from the taxes we pay.

There is a budget deficit at the federal level of several billion dollars whereas there is no deficit in Victoria because of the management of taxation represented by legislation such as this. We have an extraordinarily well-run taxation system in Victoria. The federal government's failed policies have led to budget deficits and the poor dollar exchange rate, which has affected many Victorian businesses. It has dropped from about 85 cents to about 50 cents, which has a massive impact on the reputation of not only Australia but also Victoria.

Clearly the Bracks Labor government is a far superior manager when it comes to taxation and budgets. This bill is a further example. As I have mentioned, part of this legislation seeks to simplify taxation. This is one of the objectives that the Bracks Labor government is seeking to implement, with the idea of fewer but also simpler taxes. We have listened to businesses in Victoria, among whom are commercial hirers who have said, 'It is a lot of trouble for us to organise, transfer and pay the duty because of the duty-free threshold, and it is probably best that we forget the threshold because it would be much simpler for us in management terms'. We have listened to that. We accept that possibly businesses will lose out in the tax they might pay, but it will simplify the taxation arrangements that apply to them.

Certainly in relation to the Taxation Administration Act the latter half of this bill is seeking to have the tax collected in a far more efficient manner and the compliance issues dealt with effectively and expediently. This is part of the role that the excellent Treasurer we now have is implementing in Victoria through lower, fewer and simpler taxes. This government is able to do that in a far more effective way than was ever done under the previous Kennett government and certainly far more effectively than is now being done by the federal government.

As I have already mentioned, we suffer under the current arrangements with the federal government because the taxation we pay in Victoria is not fully returned to Victoria. We only get 83 cents in the dollar. The bill will modernise the system of document service and other processes under the Land Tax Act 1958. Once again it will bring this act up to date and make sure the compliance arrangements are more appropriate and modern.

Clearly the bill serves to underline and reinforce the fiscal responsibility of the Bracks Labor government as well as its ability to make sure the taxation system is working for Victorians and that its policies and decisions are implemented in a socially progressive way. It is a way of seeking a balance in terms of taxation, revenue and expenditure for the good of Victorians, including businesses that pay the taxation. Our business taxes are lower, fewer and simpler. The businesses in my electorate of Burwood, whether in Canterbury, Surrey Hills, Ashburton, Ashwood or Glen Iris, very much understand what is going on and appreciate it. They know which party represents them better — that is, the Labor Party through the Bracks Labor government. I commend the bill to the house.

**Mr BRUMBY** (Treasurer) — I begin by thanking all honourable members for their contributions to the debate on the State Taxation Legislation (Amendment) Bill. I was not able to hear all the contributions but the Parliamentary Secretary for Treasury and Finance, the honourable member for Dandenong North, has been here through the debate and has kept me fully informed. I particularly thank the honourable member for Dandenong North for his incisive contribution and his strong support for the Better Business Taxes package.

I was fortunate to hear the contribution of the honourable member for Burwood. As always it was an excellent and succinct contribution on the taxation system and on the importance of these issues in the strong economic growth performance of Victoria.

I also thank the shadow Treasurer, the honourable member for Box Hill, for his contribution. He raised a number of issues and I will consider those as I study the debate in *Hansard*.

The honourable member for Gippsland South also made a number of comments regarding the fire service levy and land tax, and I will examine his comments as well. He also suggested that the government was pocketing the windfall gain from the strong property market. At the moment the property market in Victoria is exceptionally strong, and in both volume and price terms is easily the strongest in Australia. That is a mark of confidence in the Victorian economy. The building figures are at record levels across the board. Whether it is housing in the outer suburbs of Melbourne, renovations, apartments in the inner city, new retail development, manufacturing or wholesale we are seeing extraordinary levels of investment. Indeed, the building approval figures for September, which were released by the Australian Bureau of Statistics (ABS) today, reveal that for the third consecutive month Victoria exceeded $1 billion. We have never previously exceeded $1 billion for three consecutive months.

More importantly, on trend approvals, for the ninth consecutive month we have had the highest building approval figures in Australia, so for nine months we have outperformed New South Wales despite the fact it has a population that is 25 per cent larger than Victoria's. We are certainly punching way beyond our weight in this state.

As we look ahead to the future, these approvals are very positive indeed for Victoria because, as I have said before in this house, the international situation is very uncertain; it is a difficult environment. Earlier this morning I saw a report in the press that the Japanese unemployment rate looks like reaching 5.5 per cent, which is unprecedented for that country; it is in recession. America is close to negative growth and Europe is pretty average, and if it were not for China the world would not be growing at all. So these are difficult times indeed.

One of the things that will help to sustain the Victorian economy through these very difficult times is the strength of our building activity. Building activity does not a whole economy make, but it does provide a significant impetus in what will be difficult times.

If we look at conveyancing duties, yes, we have a property market which is at record highs in both volume and price. Conveyancing duties will rise as they have done historically, as they did in the late 1980s in Victoria and as they did, too, as I found when I was looking back today over some statistics, in the mid-1990s.

I understand that under the former government — I think it was in 1995–96 — conveyancing duties were 25 per cent higher than budgeted for in one year. The difficult thing is that conveyancing duties are quite volatile — the market goes up, the market comes down — and from a government point of view the most important thing for a Treasurer, obviously, is to ensure that the budget base is sustainable, and that it is sustainable on a surplus basis. So we will get some revenue growth from conveyancing but in those circumstances that will contribute, all other things being equal, to a stronger surplus. It would be quite erroneous and poor economic management if the government were to bid away that extra surplus through ongoing recurrent spending programs. That would be an inappropriate thing to do. So conveyancing does jump around. It is moving at the moment because we have had such a strong property market.

The other point I make about conveyancing, and I have made it before, is that when you compare Victoria with other Australian states on the two usual measures of these things, which are conveyancing duty paid per head of population and conveyancing duty as a share of state gross product, we are below the national average on both of those measures. We are certainly still significantly below those of New South Wales, although I dare to say at the rate at which our property market has been expanding and growing over the past 12 months we may soon catch New South Wales, and that will have other implications for the state as well.

The honourable member for Brighton, I understand, raised a matter regarding a constituent and land tax and indicated that she had written to me about that. I will make sure I see that correspondence and consider it properly before a response is sent.

The other matter raised by the honourable member for Brighton was the used car payment system. She raised this matter some weeks ago in question time, and I understand that I have replied to her on that. However, I would add that Vicroads and the State Revenue Office are consulting on methods to fully address issues of collection and potential avoidance, and Vicroads will be advising the SRO of applications for registration on which duty has not been paid and recovery action will

then be undertaken by the SRO, so that is a matter which is being examined by the government.

I thought that was a good debate. I want to thank again the honourable member for Dandenong North, the parliamentary secretary, for his — as I have said before — incisive and comprehensive contribution; and the honourable member for Burwood — I always enjoy hearing the honourable member for Burwood. He is a strong speaker, and he knows the issues well.

He has been out there. Of course the honourable member for Burwood was a key driver when we did the Better Business Taxes review. It was the honourable member for Burwood who personally lobbied the Premier and me as Treasurer and argued persuasively that we should lift that land tax threshold from $85 000 to $125 000, and that has freed 46 000 Victorian taxpayers from paying land tax. So his contribution and that of the honourable member for Dandenong North have been very instrumental indeed.

I thank all honourable members for the good spirit in which this debate was undertaken and remind them that through Better Business Taxes we are cutting taxes by $774 million over the next four years.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## FUNDRAISING APPEALS (AMENDMENT) BILL

*Second reading*

**Debate resumed from 27 September; motion of Mr HAERMEYER (Minister for Police and Emergency Services).**

**Mrs PEULICH** (Bentleigh) — The opposition does not oppose the bill, given that it was responsible for drafting the principal act, the Fundraising Appeals Act 1998. However, the opposition is very keen to see some amendments incorporated in the bill pertaining to the exemption of kindergartens from the provisions of the legislation. I understand the government voted against that, but there have been some discussions between the minister and the shadow minister for fair trading and small business, and the government will now introduce those amendments as house amendments. If that is the government's intention I guess the opposition will probably support the insertion of those amendments, although I have not seen any circulated. I presume that will occur later.

**Mr Wynne** — It is already in the bill.

**Mrs PEULICH** — I thank the honourable member very much. I have not had a chance to flick through it just now, but I assume those amendments are being accepted by the government. The fact that the amendments have been incorporated in the bill as a result of this matter being pursued in the upper house yet again confirms the very important purpose of another place in improving legislation and acting as a legitimate house of review.

The point has been made on numerous and successive occasions that we have seen the upper house operate as it is intended to function.

This particular area of human endeavour, fundraising, literally affects every aspect of our community. Many community organisations depend on fundraising for their very existence. It is these types of activities that bind communities together, often from birth to grave. It is probably during the conduct of these sorts of activities that we see the very best of humankind, in terms of people selflessly giving themselves — and not only during the International Year of Volunteers, which conveniently happens to be the year we publicly thank all those people who, in many instances, have devoted many years of their lives to civic service and volunteering.

But unfortunately, just as it brings out the best, it also has the capacity to bring out the worst. It is for this reason that the Fundraising Appeals Act was initially introduced in 1984. It was completely reviewed by the former Attorney-General and Minister for Fair Trading, Jan Wade, in 1998, which showed a real need to regulate fundraising as a way of maintaining confidence in this very important sector, for a range of reasons. Not only are absolutely thousands of organisations and hundreds of thousands of people involved in contributing work annually, but the industry itself is worth about $2 billion annually, so I am talking about a lot of money. Therefore, the scope for misuse and bogus charities unfortunately crops up all too often.

In my brief preparation for this debate I did a quick search through the newspapers to see how many of these there are — and there are lots of them, some of which are current and some of which are not. We have all read headlines like 'Charity faces fraud inquiry', where charities fail to distribute thousands of dollars of donations that have been raised through volunteers, and we have read about snappy dressers and other people

who live very comfortable and often illusory lives, portraying themselves as humanitarians and having the very best of intentions but disappearing from the face of the earth with many thousands of dollars, only to disappoint many people. I will not go through the handful of examples I acquired through my quick search.

When the previous government was responsible for reviewing the act it basically wanted to maintain public confidence in fundraising, to see opportunities for the conduct of bogus fundraising appeals reduced, and to satisfy community expectations that there would be proper accounting of moneys donated for charitable purposes and the like. As a result of that a number of compliance requirements were included in the Fundraising Appeals Act. They included things like a provision for the notification of the minister within 28 days before commencing a fundraising appeal and certain provisions in relation to banking, the maintenance of financial records, the wearing of identification badges, the receptacles to be used for collecting donations, the disclosure by commercial fundraisers — and there are many of those — and, of course, offences for making false statements.

In many regards this legislation will be a moving feast, because people will always find ways of getting around and personally benefiting from, manipulating, exploiting and abusing the system for their own personal monetary gain and benefit. The minister has seen fit, obviously as a result of ongoing developments and the monitoring of the operations of the act, for her department, Consumer and Business Affairs Victoria, to circulate a discussion paper flagging a couple of issues which are the substance of this amendment bill. It includes the idea of a single monetary level exemption. Initially in the discussion paper the amount flagged was $20 000. That is to exempt or allow for the exemption of small community-based organisations that use only volunteers from the provisions of the act because of the burden.

Apart from obviously being involved in raising money for many thousands of worthwhile organisations, the burden imposed by the act was probably unreasonable, and that is why the opposition wanted this exemption for small fundraisers such as kindergartens that raised less than $10 000 included in the provision. We all know the specific and ongoing problems faced by kindergartens. Many of the problems stem from the fact that most kindergarten committees have parents serving on the committee for only a year. The general experience is that the kids are in the kindergartens for a year and the parents become involved but then move on after that year. As a result a lot of that expertise is lost each year. Some conscientious local councils extend support by providing training for kindergarten office bearers.

Fundraising is an important activity for kindergartens, and given that schools and so forth are exempt from the act the opposition was delighted that the amendment was incorporated in the bill in the other house, even though government members in that place voted against it. As a result the opposition is happy to support the bill. The key element of this reform is the introduction of the registration system. It is a sensible evolution of the act introduced by the former government. As I said before, it will preserve confidence in the industry.

Recently I saw a good article in the *Herald Sun*. It was written by Faye Burston, who reported that 79 per cent of donors would give more if they were assured that the money they gave would end up in the right hands. That summarises the view of many Australians, especially those who have a lot of money. Most people are happy to support those who are on low incomes or perhaps are vulnerable — the homeless or voluntary organisations that provide much-needed services and so forth — but sometimes there are question marks about where money is going, whether the organisation is legitimate and so on, because there is a proliferation of organisations. Another question that is often asked is how much money is consumed by the administration of those organisations. I believe the statistics accurately reflect the sentiments of many people in the community.

Another interesting fact from the article is that two-thirds of Australians believe they are being ripped off by charities. It is for that reason that the former government introduced the act, and it is also the reason why this government now wishes to further improve the act. The article reports that 68 per cent of people believe the money never reaches those who need it, yet despite that, in the past year donations to charities actually rose by 17 per cent and bequests jumped by 14 per cent. We know that around 5000 charities spend about $4 billion a year and employ about 133 000 people. Charities are part of the 11 000 non-profit organisations that receive government assistance. In total the non-profit sector employs about 600 000 people. Approximately 50 charities operate on budgets in excess of $10 million, but the vast majority have five or fewer staff and operate on budgets of less than $100 000, so it is a very big business.

Of course, members of Parliament are interested to ensure that the donor is protected and that the majority of the money goes to where it should be going. Some organisations are very large fundraisers.

**Mr Helper** — The Liberal Party!

**Mrs PEULICH** — The Liberal Party has enormous support, but it does not mandate party political contributions. Contributions are made because people wish to support the Liberal Party, unlike affiliation fees for unions, of which the Labor Party is a political arm.

Anglicare Victoria receives government funding of about $23.7 million, but on top of that it raises over $3 million itself. The Smith Family gets government funding of $100 000, yet including donations and bequests it fundraises $7.9 million a year. The Salvation Army, which I am involved with, having been the chair of a local committee for six or seven years, is a very worthwhile organisation which receives government funding of $148.5 million. Fundraising or trading brings in an extra $90.9 million. It is a respectable and worthwhile organisation helping many needy people.

I take this opportunity to thank all those who assist in the Bentleigh electorate as well as in rural and regional Victoria for supporting those many worthwhile organisations. Volunteers provide over 100 million hours of labour each year which would be equivalent to around 48 000 people working 40 hours a week. It is an important industry and as a community we need it.

Those organisations exist in numerous community groups, whether their focus is on the aged care sector, disability support groups, health and hospital auxiliaries, kindergarten and school groups, youth groups and sporting organisations. The list goes on and most of us have been involved in running and supporting them as members of our own communities. The contributions and dedication of volunteers are vital and are a significant element of the fundraising to which the bill relates. Fundraising organisations are obviously only one element of the support communities give to their charities and benevolent organisations. That support would not be possible without the contribution of money, goods and time as well as the effort of volunteers and many businesses, including those in the small business sector.

It is because of the importance of fundraising and the work undertaken by volunteers that I welcome the rules, although it is unfortunate they are necessary. It is sensible to introduce a provision that allows an exemption from the requirement to register with the department for small volunteer organisations if they raise less than $10 000 gross in a financial year and meet certain other specified criteria including the exclusive use of volunteers as opposed to paid labour. Obviously if they find they are going to raise more money than that, they need to register with the department quickly. It is a sensible process.

Presumably registration will be available online. People responsible for the financial administration of an organisation will be able to view contact details, the intended beneficiaries of those appeals and other pertinent factors so they can judge for themselves the legitimacy of any organisations they believe to be in question.

Since the act commenced in 1999 the concern among small fundraising organisations has been to remove or reduce the burdens, and this amendment is sensible. A number of recent fundraising cases have also highlighted the need to tighten other loopholes in the act and to make it more difficult for some unscrupulous fundraising organisations and/or individuals and therefore improve the protection afforded to the public in this area. When the former government introduced the act, the exemptions were reduced from 18 to 7 categories. At the time there was enormous concern and the vast majority of would-be fundraisers were required to comply with the legislation. This is an evolving act and I am sure there will be further amendments that we as legislators will need to respond to if other concerns arise under this or future governments.

The establishment of a registration system for fundraisers by imposing restrictions on those individuals who may become involved in fundraising through management and supervision is a sensible move.

The second principal clause will eliminate shonky fundraising appeals through further enforcement of the law against doubtful appeals. The bill introduces the provision to enable Consumer and Business Affairs Victoria to go out on a front foot in instances where doubtful activity is discovered — —

**Mr Delahunty** interjected.

**Mrs PEULICH** — Yes, on a crook leg. No, mine is getting better. The bill enables Consumer and Business Affairs Victoria to respond to problems as they come to light, to issue warnings which the public expects, and to make public statements especially as they find doubtful appeals or people and promoters behind them who have failed to comply with the act.

The bill requires the identification of persons or bodies raising money from the public for charitable or benevolent purposes to assist government scrutiny and the monitoring of fundraising. Many people in organisations will be required to be publicly

accountable for the distribution of funds raised. In introducing amendments in the upper house the Liberal Party has shown it is sympathetic to the concerns of smaller organisations such as kindergartens. The move to exempt them will make the lives of those involved and their voluntary activities more pleasurable and less onerous. There is widespread public support for exemption of small community fundraising organisations from the requirement to notify government of their activities and for a move to a registration system for funding bodies. I understand that was the outcome of the consultation process that was embarked upon by the department through its discussion paper.

The bill establishes a registration scheme for fundraising bodies administered by the director, Consumer and Business Affairs Victoria, referred to as 'the director', and provides an exemption mechanism. The registration would generally be for 12 months although there are provisions for registration to be granted for up to five years if the director considers it appropriate. At the time of registration fundraisers would be required to identify beneficiaries and on whose behalf they propose to fundraise. Any new beneficiaries on whose behalf they subsequently fundraise must also be notified to the director as soon as the registered fundraiser decides to conduct any such additional appeal.

In some instances specifying a benevolent purpose will be sufficient and registered fundraisers will be required to nominate a contact person for inquiries into their activities by the public. It will also be necessary for the person having managerial and financial responsibility for the fundraising activity — for example, the appeals manager or managers — to be identified. Provision has been made for the director to approve, where appropriate, registration at a state level by an organisation which carries out fundraising through the local branches.

Earlier I referred to the Salvation Army Red Shield Appeal. Similarly with the Red Cross appeal, registration will be given to the statewide organisations. To expect the local branches to go through the same process would be unworkable and onerous. That is a sensible provision. It will significantly reduce the administrative burden that organisations conducting fundraising appeals already suffer because of the reliance on volunteerism.

The bill replaces the current means of exemption from registration by regulation with exemption by an order of the minister. That will allow for faster and more responsive action and will need to be monitored over time. Exemptions from registration could include, for example, exemptions from account-keeping requirements where those organisations are accountable under other legislation and may be reporting to Parliament or being audited by the Auditor-General. Orders can be subject to conditions. They can be revoked or reviewed regularly to ensure that they afford limited and appropriate exemptions.

The bill introduces a range of other enforcement measures intended to work against disreputable fundraisers and, hopefully, deter them from operating. Consumer and Business Affairs Victoria will play a very large role in monitoring compliance with this act.

Specific measures included in the bill require fundraisers to advise at the time of registration the identity of the person or persons who will have managerial and financial responsibility for their fundraising appeals. There will be a need to update this information on a regular basis. Other measures will enable the director to require that prior to registration, consent to a police check be given by the fundraiser, its associates or proposed appeals manager where necessary.

Associates are also persons who have or will be able to have a significant influence over the management of a fundraising entity and will include persons with a managerial role in a body corporate fundraiser. That will provide grounds for the refusal of a registration including, for example, where the person seeking registration as a fundraiser, an associate of that person, or a proposed appeal manager is insolvent or has been found guilty of a disqualifying offence.

Clause 3 of the bill states:

> "disqualifying offence" means —
>
> (a) an offence involving fraud, dishonesty, violence or drug trafficking that is punishable by imprisonment for 3 months or more in the case of a natural person, or by a fine of $10 000 or more in the case of a body corporate; or
>
> (b) an offence under this Act;

The bill ensures that small organisations with low fundraising thresholds are not overburdened. As I said before, it is gratifying to note that the upper house has yet again done a very good job of reviewing the bill and moving to introduce amendments. It is interesting that the government voted against those amendments. Kindergartens are a fairly low-risk exemption, and there are numerous constraints on the committees of management of kindergartens, so it was a very sensible

move on the part of the opposition to move the amendments.

I would like to inform the house of some of the comments made by the Minister for Consumer Affairs in the other place in arguing against the amendments moved by the opposition. On 26 September 2001 she said:

> The government will oppose the amendment because, for reasons the Honourable Carlo Furletti mentioned, it does not cover what we are trying to do. The government has tried to work out a mechanism for defining a preschool.

Obviously this was a very difficult task.

> Unfortunately there are so many models out there that it is pretty hard to define them.

The wheels turn slowly.

> The other thing is that their structures are changing constantly, which would mean we would have to keep coming back with amendments to the legislation to meet the new structures put in place. To give honourable members an example, kindergartens are now starting to operate under a federated system, which is also hard to define.

The minister gave a litany of other rationalisations for not making what is obviously a very sensible amendment. I am glad commonsense prevailed.

Without prolonging the debate any further, I point out that the bill has two purposes. The first is to relieve the administrative burden placed on small community groups run by volunteers which carry out limited fundraising functions. The second is to tighten up on unscrupulous fundraisers, particularly those whose main purpose is to raise funds for themselves rather than for their beneficiaries. I believe it is necessary, ongoing reform. It does not address the issue of highway collectors, but I understand the government will look at that issue, about which there is considerable concern in the community. I look forward to seeing what the government comes up with in response to that particular challenge. I commend the bill to the house.

**Mr DELAHUNTY** (Wimmera) — I have been talking with my parliamentary colleagues to check whether the amendment moved in the other place has been included in the Fundraising Appeals (Amendment) Bill. I have had a quick look through the bill and cannot see it. I would be grateful if the honourable member for Richmond could inform the house that it has been included in the bill, because if not the National Party will not vote for the legislation.

The purpose of the bill is to establish a registration system for fundraisers, strengthen the enforcement provisions to prevent unscrupulous fundraisers, and establish a public register of fundraising organisations. The bill has 24 clauses, and many changes have been made to the principal act, which came into operation on 1 July 1999.

**Mr Wynne** — On a point of order, Mr Acting Speaker, to clarify the point raised by the honourable member for Wimmera and to assist in the debate, the amendment moved in the other place is in clause 8(b) at page 7.

**The ACTING SPEAKER (Mr Phillips)** — Order! That is not a point of order, it is a point of clarification.

**Mr DELAHUNTY** — I appreciate the honourable member's clarifying the situation. In 1999, when the original bill was passed, information sessions were held throughout the state by the then Office of Fair Trading and Business Affairs. Topics included notification, requirements for record keeping, canvassing by telephone or electronic means, identification badges and others.

The National Party believes the amendments will improve public confidence. The bill allows regulations to be made to exempt categories of fundraising, and the second-reading speech notes that it intends to exempt those raising funds — they have to be voluntary organisations — amounting to less than $10 000 per annum. The exemption will help reduce red tape, which is important for small fundraising organisations.

The National Party consulted approximately 15 charitable organisations and professional fundraising groups, as well as the Law Institute of Victoria. It received only one written response, from Anglicare, which supports the bill. The National Party will support the bill now that it has been reassured by the honourable member for Richmond that kindergartens are included in the bill.

Fundraising is defined as occurring when a person solicits or receives money or a benefit. It does not include raising funds by means of a raffle or the sale of goods or a service, such as a sausage sizzle or car washing by small groups, particularly by schools, so they can organise trips to Parliament House or have the opportunity to travel overseas. We do not want to see the impost provided for in the bill placed on activities of that sort. Again, the exemption on activities generating less than $10 000 will be very well received.

Another reason we are supporting the bill is that although notification of fundraising appeals will have to be given to the minister, exemptions will be given to education and health service providers — and as we now know, that category includes kindergartens. That

will be much appreciated, particularly by country kindergartens. We in the National Party put the country first. We have spoken many times with the Minister for Consumer Affairs about our concern for country kindergartens, particularly regarding the long distances teachers have to travel because they are not employed full time and have to do a lot of fundraising to survive. To exempt them is only commonsense, and as I said the exemption will be very well received by country kindergartens both in the Wimmera electorate and right across country Victoria.

We also support the bill because we believe it will provide other exemptions by regulation, and I will come back to that a little later. In addition we believe that fundraising bodies will be required to register annually with Consumer and Business Affairs Victoria, as it is now known.

We are informed that, although highway collectors are not referred to, the legislation does not apply to them. The second-reading speech explains that the issue of highway collectors is being reviewed separately. We will all be interested to see if the honourable member for Richmond, who I believe will speak after me, will give us an update on that. As the weather improves at this time of year more and more groups are doing highway collections.

As all honourable members know, the Fundraising Appeals (Amendment) Bill was debated in the other place on Thursday, 16 August, the day we as members of the Legislative Assembly met in Bendigo and the Legislative Council members met in Ballarat. It was obviously chosen as a good issue to debate in country Victoria. While they were in Ballarat my colleagues in the other place highlighted the fact that all honourable members receive representations at various times on the authenticity and credentials of people involved in fundraising appeals, collections and the like. The bill will, we believe, assist in building public confidence in that regard.

Clause 5 amends section 5(3)(c) of the principal act to define fundraising as:

> … the soliciting or receipt of any money or benefit by, or on behalf of, an organisation …

So it is not about a sausage sizzle, a raffle or a car wash undertaken by organisations to raise funds. Fundraising as defined in the bill is purely the appealing for or soliciting of a direct financial contribution.

The honourable member for Bentleigh referred to the fundraising being conducted by various groups across Australia. An article by Rhonda Galbally in the *Herald Sun* of 4 July states:

> Australians give more than $2 billion a year to registered charities.

That is an enormous contribution and shows that the Australian community is very caring and forgiving. I congratulate those who give. I think they do it much more in country areas, particularly this year, which is the International Year of Volunteers. I have been to various activities across the state in relation to IYV. We do not say thank you enough to volunteers and those who donate so generously to registered charities across Victoria.

Anglicare Victoria receives about $23.5 million a year in government funding, and on top of that it raises just over $3 million itself. Anglicare does a fantastic job. We are also informed that the Smith Family attracts government funding of about $100 000, and including donations and bequests it raises nearly $8 million a year. The Salvation Army, which is a big organisation and has been around for a long time, receives government funding of about $148.5 million, and from fundraising and trading it raises an extra $90.9 million a year.

There are many other such organisations that I could highlight — the honourable member for Bentleigh mentioned a few of those earlier — and there are also many other smaller organisations. However, whether they are big or small it is important that there be public confidence when people are donating to those organisations.

The bill introduces many key measures. It provides for the registration of fundraisers for 12 months, although longer periods may be permitted in some cases. The bill also provides a system of exemptions for small community-based organisations and certain other groups. Education has already been discussed, and the National Party is pleased the government has accepted that kindergartens should also be included in that area.

Another key measure of the bill is the need for registrants to nominate and identify an appeal manager or managers. That is only commonsense, but it is important for public confidence that that happen. Another measure the bill introduces is a new compliance or enforcement provision in the form of a power to name non-compliant organisations. Again that is only commonsense and will improve public confidence.

Another key measure which I am sure all honourable members will be happy has been included is the

provision for police checks of fundraisers, appeal managers and their associates. It is unfortunate that such measures have to be taken more and more these days, as they create a lot of work for the government, the police and other organisations, but that provision must be there to improve and help public confidence. I congratulate the government for including that in the amendments.

Another key measure of the bill is the listing of major reasons for registration disqualification, such as insolvency or prior relevant convictions. There are many other reasons which the honourable member for Bentleigh has already highlighted, and I will not go through them again. That measure is only commonsense, and it is important for the government to have that legislation in place so that the various departments can act on those reasons for disqualification.

The bill also provides grounds for deregistration and for cessation of an appeal, including the inadequate distribution of proceeds to beneficiaries. Honourable members have heard many stories of funds being donated to what people thought would be the beneficiaries when in fact some people have unfortunately taken a fair slab out of those funds through administrative or other costs. Many people have raised with me, and I am sure with other members of Parliament, their concerns about funds they thought were going to various beneficiaries being taken away by unscrupulous operators.

I turn to several of the clauses of the bill. Clause 7 inserts proposed sections 6A and 6B into the act. Proposed section 6A defines the meaning of 'associate' for the purpose of the act. Proposed section 6B provides for the interpretation of 'public interest' for the purpose of the act. It provides that:

> … a fundraising appeal is not conducted in the public interest if, in the opinion of the Court or the Director … the expenses payable in respect of the appeal in a particular period exceed a reasonable proportion of the total amount raised in that period.

That relates to the point I made before about people raising with many of us in this house their concerns about shonky operators taking great slabs from public donations before they get to the beneficiaries. I am sure we all support clause 7.

Clause 10 inserts proposed new division 2 into the act. Proposed new section 18E provides that the director may, on receiving an application for registration as a fundraiser, ask the Chief Commissioner of Police for information concerning the criminal record, if any, of any person named in the application and of any person the director believes on reasonable grounds may be an associate of the person who submitted the application, and any other matter with respect to the application on which the chief commissioner may have information.

I am informed that the police commissioner must give details back to the director within 14 days. It is good to see that the government has put time lines on this requirement, because if people make genuine applications it is important that the police act on them as quickly as possible, and 14 days is an appropriate period.

Proposed new sections 24, 24A, 24B, and 24C require registered fundraisers to notify the director of changes concerning appeal managers and certain other prescribed matters, such as changing appeal beneficiaries. Proposed new section 24D requires registered fundraisers to notify the director of changes concerning the contact person associated with a fundraising appeal.

It is interesting to note that there are many provisions in clause 14, which inserts proposed division 7 in part 3 of the principal act. Proposed section 33A states:

> The Director may deregister a person as a fundraiser if —

and certain circumstances are set out, which I have covered previously. Proposed section 33J states:

> A person may apply to the Victorian Civil and Administrative Tribunal for a review of a decision of the Director —

in relation to the deregistration or registration of fundraisers. There is an appeal mechanism, which is appropriate.

Proposed section 33K highlights that a decision by the director to deregister a person as a fundraiser under proposed section 33A because of the stopping of an appeal by a Magistrates Court is not subject to review by the Victorian Civil and Administrative Tribunal. There are a few lawyers in the chamber who obviously understand the provision better than I do, but after talking to my colleagues I can say that there is no problem with it from the point of view of the National Party.

In a media release of 22 August the Minister for Consumer Affairs highlighted that the purpose of the amendments being brought into this place was to crack down on shonky operators. Unfortunately in the world in which we live today there are more and more of these people coming onto the scene and laws must be brought into this place to cover that situation. It is important that Victorian consumers know which

fundraisers their money is going to so that they can donate with confidence. The legislation introduced today will assist in achieving that end. It is important to restore the faith and confidence of Victorians in charities and to address community concerns about fundraising appeals.

The media release highlights that a public register of fundraisers will be established so that Victorians can check if the fundraiser they want to donate to has been registered. I am not sure how that will be done — whether there will be a 1800 number or whether they will be able to get it on the Internet. I am not sure whether Consumer and Business Affairs Victoria has an 1800 number but I am sure there are many organisations people can ring, particularly people in country areas where telephone calls cost a lot of money.

We all know that fundraising is important, particularly in country areas, and I highlight the fact that many groups in country Victoria raise funds for many worthy causes. Events are often held, but the increase in public liability insurance premiums is a major concern, particularly in country Victoria. The National Party prompted the government to convene a recent forum at Parliament House. We believe that the overriding concern requires a radical approach to public liability insurance if we are going to achieve a realistic outcome. In the meantime we agree with the government that proposals such as the pooling of risk, the development of codes of practice and other risk management strategies must be put in place if we are going to solve this problem. I do not believe they will be the answer, but we need to deliver a better outcome. I believe more radical acts of Parliament are needed to assist in this area. Many groups have to raise funds, and today most of those funds are used to pay public liability insurance.

I finish my contribution by going back to the media release put out by the minister. It states:

> The amendments will give the Minister for Consumer Affairs and CBAV the power to publicly name disreputable fundraisers. The director of CBAV would also be able to deregister a fundraiser whose expenses in a fundraising appeal exceed a reasonable proportion of the total money raised.

That point has been highlighted in the debate earlier today.

I am informed that in the last 12 months Consumer and Business Affairs Victoria took court action to stop seven fundraising appeals that breached the act. I am pleased to see that happen. It gives people more confidence.

Like all of us in this chamber and in the Legislative Council, where this bill was debated and where amendments were proposed by the Honourable Carlo Furletti, the National Party believes these amendments will improve the original Fundraising Appeal Bill, which was introduced in 1998 and came into action in 1999. I wish this bill a speedy passage.

**Mr WYNNE** (Richmond) — I support the Fundraising Appeals (Amendment) Bill 2001, and in doing so I thank the honourable member for Bentleigh for her extensive contribution to the debate and the honourable member for Wimmera for fleshing out a number of issues pertinent to country Victoria.

The Fundraising Appeals Act 1998 was drafted and implemented by the former government. Since its commencement in 1999 two separate areas of concern have arisen. The first is the breadth of its operations, as many people and organisations were required for the first time to notify of their fundraising activities and the act imposed an administrative burden on them. The second is that a number of recent fundraising cases — as was indicated by the honourable members for Bentleigh and Wimmera — have highlighted the need to make it more difficult for unscrupulous fundraising organisations to operate.

I was interested in the contribution of the honourable member for Bentleigh. She quoted from an article and indicated that some 60-odd per cent of donors — —

**Mrs Peulich** interjected.

**Mr WYNNE** — Some 67 per cent of donors were concerned that their donations were not going to the proper recipients. In Australia we have a different model of donation compared with anywhere else in the world. The history of philanthropy in, say, the United States of America is of an entirely different form of giving to charitable and welfare organisations, the arts, education or whatever. A different culture exists in American society which is based on institutions and businesses providing a substantial body of support to recipient organisations.

In the Australian context we have a different way of giving. We only have to look at the wonderful appeals that are run every year — whether it be the Royal Children's Hospital appeal on Good Friday or the appeals run by many other worthy organisations that are recipients of the extraordinary generosity demonstrated by the general population — to see that we provide our donations on a more individualised basis. Culturally it is different from the American system, which is much more institutionalised. The

notion of philanthropy, particularly for large organisations, is not only expected in the United States but in some instances almost demanded. It is quite an interesting cultural difference between the two countries.

The notion of giving is a very Australian thing. Australians want to give to credible organisations such as those that have already been mentioned — the Salvation Army, the Smith Family, the Royal Children's Hospital — —

**Ms Beattie** interjected.

**Mr WYNNE** — And on Red Nose Day, as my colleague the honourable member for Tullamarine said. Australians are extraordinarily generous people, and we are open-hearted when it comes to giving donations to worthy causes.

I am pleased to see this bill in the house, because it will bring significant rigour to the entire fundraising area. The Bracks government went to the election with a commitment to review fundraising legislation. This review included a public discussion paper on fundraising, which was released on 22 November 2000 and to which there was a significant response. It is a hallmark of the way this government seeks to operate that we went out and raised a range of issues in that discussion paper. We want to engage properly with the community in this important area of philanthropic donations. Not surprisingly there was broad interest from charitable organisations, sporting groups and of course service clubs. You get legislation that is properly formed when it is informed by the community process. This is a characteristic of this government. We are prepared to consult and to seek the views of the community about important pieces of legislation such as the one we are debating.

There was widespread support for exempting smaller organisations from having to notify government of their activities and for a move to a registration system for fundraising bodies. This confirms the view expressed prior to the last election that compliance costs were a burden on small community-based volunteer fundraising organisations. This bill reflects those concerns by exempting smaller organisations from the requirement to notify government of their activities and by requiring fundraisers to be registered with the Director of Consumer Affairs unless specifically exempted by the act or the minister. Small volunteer organisations will be exempted from the requirement to register if they raise less than $10 000 gross in a financial year. Other specified criteria have to be met, including the use of volunteers only in fundraising.

Exemptions will also apply to certain other organisations, including those which are required to table their annual reports in Parliament or which have their accounts audited by the Auditor-General or are accountable to another minister for their fundraising activities. I think both sides of the house would agree that this is commonsense and a sensible strategy to put in place.

A range of enforcement measures are being introduced to ensure that disreputable fundraising organisations are deterred from operating. As the honourable member for Bentleigh indicated, there are a number of incredibly disreputable and unscrupulous organisations that prey on the goodwill of Victorians by seeking to raise funds either for bodgie or non-existent organisations or where 90 to 95 cents in the dollar is taken up in administration costs, with a minimal amount of the funds ever reaching the proposed recipients. I think all sides of the house would support a stringent crackdown on these disreputable characters.

At present the act does not prevent disreputable bodies from raising large sums of money and, as indicated, passing on only small amounts to the beneficiaries. The bill enables a condition to be attached to the registration of a fundraising organisation that a specified percentage of the proceeds of an appeal must be distributed to the beneficiaries so it is clear and transparent up front. That is very important and should provide a level of comfort to the community about the particular organisation to which they give their donor dollars.

Provision has also been made for the director to approve, where appropriate, registration at state level for an organisation which carries out its fundraising through local branches. Those branches would otherwise have had to register themselves, and this amendment reduces the administrative burden considerably. It is sensible that peak bodies such as the Brotherhood of St Laurence — a better example might be the Salvation Army — that have regional and suburban networks can register at a centralised point rather than registering each arm of such organisations.

Accountability is ensured through the provisions of this bill in a number of ways, and I will touch on some of them quickly. At registration, fundraisers will be required to identify their beneficiaries, nominate a contact person and identify the person with managerial and financial responsibility for the fundraising. Again, that will promote transparency.

Criminal record checks can be requested on fundraisers, appeal managers and associates, and discretion for those checks should rest appropriately with the

Director, Consumer and Business Affairs Victoria. The bill provides that the director may not register a person or organisation as a fundraiser if such persons have an associate who falls within certain criteria such as being insolvent — obviously — or being guilty of a disqualifying offence.

In addition to the exemptions already mentioned to the requirements for notifying the government of fundraising activity, this legislation enables the minister by order to grant exemption for registration to a person or organisation or a class of person or organisation. The order could specify an organisation by name or could describe a group on the basis of common conditions such as the amount raised in a given time.

An important provision in the bill relates to public interest. Proposed section 6A states that:

> … fundraising … is not conducted in the public interest if … the expenses payable … exceed a reasonable proportion of the total amount raised …

A public register of fundraising organisations will be established that will be accessible to all members of the public. I will take on notice the matter raised by the honourable member for Wimmera about the capacity to access a 1800 number, but as this technology emerges on the Internet and so forth it would be self-evident that that fundraising register would be publicly accessible and available to people through the Internet.

At this stage the bill does not address the question of highway collection permits. That issue is being reviewed separately and will be addressed in the near future. I hope that by the time the minister has the opportunity to summarise the debate I will be able to give the honourable member for Wimmera an indication of what that time line is. One always has an ambiguous view of the tin rattlers on street corners throughout metropolitan and in central Melbourne. As you pull up to the lights and see them you ask yourself if they are collecting for legitimate organisations. I will be interested to see how this work emerges, not only for my own interest but also as a question of public policy. If I can I will seek an answer from the minister's office as to the likely time when the government will be indicating some response on highway collectors.

In the Legislative Council an opposition amendment was moved pertaining to the exemption of kindergartens that employ a preschool teacher as defined under the Pre-school Teachers and Assistants (Leave) Act 1984. I direct the attention of honourable members to clause 8 in the bill which includes that exemption.

Many of us have had an opportunity to have our children start their scholastic lives through kindergartens. My two sons went through a marvellous kindergarten which set them up for their schooling. I think we would all agree that a kindergarten is a wonderful starting point for socialising our children.

**Mr Baillieu** interjected.

**Mr WYNNE** — The honourable member for Hawthorn considers it might be a finishing point for some!

Some kindergartens have been exempted from part 3 of the act as a result of this opposition amendment passed in the upper house. However, the amendment does not cover all kindergartens, as it only exempts those kindergartens that employ a registered preschool teacher, and in my own experience in our kindergarten the person was not trained within that regime.

The minister advised at that time that it would be best to exempt kindergartens by ministerial order to provide the flexibility needed to define them. As we know, kindergartens are quite organic places — people move in and out — and I think the concern we had was that flexibility was needed to ensure that you did not lock them into a rigid structure through this amendment. We were seeking to ensure there was some flexibility there.

The ministerial order will exempt kindergartens and child-care centres that are licensed under the Children's Services Act 1996 and receive funding from the Department of Human Services. This exemption for kindergartens includes exemption from, obviously, account and record-keeping requirements.

I believe that all in all this is a good bill, and it is one that clearly enjoys the support of both sides of the house. As I indicated earlier, Victorians should have confidence that in their extraordinary generosity in providing their hard-earned dollars for charitable purposes — as I said, Victorians and Australians generally are very generous towards worthy causes — there is in place an appropriate legislative structure that protects their end donations. So they can be confident that they are not dealing with shonky operators and fundraisers and that the dollars they seek to donate to worthy charitable organisations will go to those organisations and to the end beneficiaries.

This is an important piece of legislation. It fulfils a pre-election commitment of the government. We have gone out and consulted with the community. We have had a broad discussion around these issues. We have had advice from people in the charitable area, sporting

groups and service clubs. We have developed, I believe, a comprehensive response to this fundraising issue.

I commend the minister in the other place for her initiative with this bill. It clearly enjoys bipartisan support across the chamber, and I wish the bill a speedy passage.

**Debate adjourned on motion of Mr ASHLEY (Bayswater).**

**Debate adjourned until later this day.**

## WATER (IRRIGATION FARM DAMS) BILL

*Second reading*

**Debate resumed from 30 October; motion of Ms GARBUTT (Minister for Environment and Conservation).**

**Mr HOWARD** (Ballarat East) — As I was saying before the adjournment debate last night, I am pleased to speak on the bill. It is perhaps one of the most significant bills I have spoken on since becoming a member of this government. We regularly hear that water is a significant resource, but it is not until there is a shortage of water that we realise how significant it is not only for urban communities but for rural communities. The bill addresses issues that relate to regional Victoria.

I have a property in regional Victoria, and I am aware of some of the concerns of property owners along the creek that runs through the valley in which I live. In recent years the water in the creek has dried up over summer, causing arguments even within my own community. Some people have said they cannot recall the creek ever being completely dry. Then they have directed attention to some of the landowners further upstream who have built large dams and used the water to irrigate their potato crops. The arguments and concerns I have heard in my local catchment area are common across the state when water is in short supply.

The bill is about the better management of the state's important water resources. It relates to the government's strong commitment to ensure that regional Victoria develops with certainty and that an ongoing water supply will be secure for those who commit themselves to land-use practices for which a sufficient water supply is vital. As I have outlined, the aims of the legislation are to avoid further fights and uncertainty in the community and to provide a sound, well-regulated system of allocating water. It recognises that water is a community resource but a limited resource.

As honourable members have heard from the honourable member for Swan Hill, in the north of Victoria the government has already recognised the need to put a cap on our use of water from the Murray–Darling Basin system. Victoria is a signatory with New South Wales to a plan to ensure there is no further uptake in usage and that no additional water will be taken out of the Murray–Darling Basin system.

Why is it particularly important for this issue to be addressed now? In recent years new technologies have come into play, especially in upper catchment areas where more and more farmers are able to harvest water. They are looking to develop new forms of agriculture or to extend forms of agriculture that have been in use in those upper catchment areas, although not nearly so intensively practised. Obviously a significant additional pressure is being put on the state's water resources.

Also, the existing water legislation contains some anomalies, one of the main ones relating to land-holders being able to store water off waterways and use it for any purpose they want. That has been a source of some concern for many. Arguments have raged about whether dams that have been built have been placed on water courses. In many cases it does not matter whether the dams are on water courses, thereby significantly affecting farmers downstream, if the water is being harvested and is not allowed to flow further downstream. The legislation will help to move the state forward and create a situation where many arguments will be avoided. Land-holders will be certain about their future water allocations and will be able to plan developments accordingly.

The concept of water being a community resource is certainly not new and in fact was first enshrined in Victorian legislation in 1886 in the Irrigation Act. So way back then water was recognised as a community resource. It was not a resource that anybody could use just as they wanted without having to take account of the overall needs within a community.

The Labor government recognised that with the pressures on our water resources hard decisions needed to be made. This government has decided it will stand up and see that the issue is dealt with in a serious manner. To do that the Bracks government has, with all pieces of legislation and all changes it has brought forward, been serious about consulting with groups across the community that have an interest in this area. I will outline how that consultation has taken place.

Honourable members would be aware that in 2000 a discussion paper was first released on the farm dams issue and then a review committee chaired by Don

Blackmore was set up. Don is the chief executive of the Murray-Darling Basin Commission. Over the time the committee has operated its members have attended over 40 public meetings and have held five significant public hearings. In the first case they received 370 written submissions, which were considered before a draft report was then released. After the release of the draft report more submissions came in, and about 4735 submissions were seriously considered before the review committee brought down the final report on farm dams.

The government has accepted all the committee's recommendations. It has accepted the view that the total water resources of a catchment need to be included in planning and that in dealing with a total catchment the community and the government need to work on a partnership basis in deciding how those resources can best be allocated.

Water service committees of the rural water authorities will be reviewed in line with some of the concerns raised by upper catchment land-holders to ensure that there is a balance of representation on those committees. It is important that there be a balance between upper and lower catchment land-holders on committees that have to resolve issues to do with water usage.

The bottom line of this legislation involves new licensing arrangements for all new irrigation and commercial dams. We have taken into account the position of existing dams. Let me again emphasise that dams that are used for domestic and stock purposes will not have to be licensed. This deals only with dams used for irrigation and commercial purposes. On existing dams land-holders will have an option; they will need to be either licensed or registered. If land-holders choose to register their dams those registrations will remain in place for five years after which time they will need to be reviewed. As an alternative to that, if they are registered the water will not be traded but they can seek annual licences which will be tradeable, and they will be renewed annually. Licence fees will be nominal and aimed to just cover the cost of the administration of the licences.

We have also taken account of other issues — for example, the needs of land-holders or farmers. Potato farmers in my electorate have said to me, 'We have many dams on our own properties, we rotate the way we use them and so on. Do we have to register every dam on our property separately?'. The advice we have received from the review committee suggests that should not be the case, that there should be one overall licence per property even if there are many dams on the property. That is another example of the views that have come forward to the review committee being taken into account.

The other issue regarding existing dams is that the licences incur non-volumetric registration fees, but meters will be required only on new irrigation and commercial dams when the licence entitlement is less than the capacity of the dam or when it exceeds 20 megalitres.

Reuse facilities have been taken into account. The government wants to encourage farmers to build reuse dams and ensure lesser flows of contaminant chemicals into river systems. The bill ensures that farmers who have reuse dams do not have to pay for their own reuse water that comes out of those dams. If dam owners wish to trade water, they can do so. As honourable members have heard, the government will set up a trading system to allow for that.

**Mr Plowman** — What are the exchange rates?

**Mr HOWARD** — We will hear more about the exchange rates. Certainly the government is obtaining advice about the way exchange rates will be set up and a lot of more will be said about them. But they will be thoroughly vetted and the appropriate exchange rates will be put in place to ensure fairness for those land-holders who wish to trade their water. Recognising that water resources are limited we need to define limits and allocate resources within those limits. It is very important to recognise that we cannot keep using water as some land-holders would like; we need to share that out appropriately.

The bill provides for specification of permissible annual volumes (PAVs) which will be calculated for both the surface water and ground water. We have heard from previous speakers about the importance of management plans being drawn up by water supply protection committees for their areas. That will involve significant community consultation.

The water supply protection committees for ground water are already in place in some areas, and they will be expanded to cover surface water areas as well. Again consultative committees will be appointed by the minister who will be responsible for developing the management plans within each of these protection areas. We also know that stream flow management plans will be drawn up. The government supports that and is very keen to see that the community has the opportunity to feed into these stream flow management plans so that an appropriate balance is achieved in the outcomes of those plans. Almost 30 stream flow

management plans are currently under preparation, and three are currently operational. It will certainly be of great benefit to this state when all management plans are accepted and operational around the state. Ground water management plans will also be important. It is also important that those committees that are already in place and developing those plans continue their good work.

The bill also deals with transition packages. As part of the plan associated with this legislation the government is providing a significant financial package for land-holders wishing to build dams in the catchments over the next five years. The government will provide 50 per cent of the purchase price of a water entitlement, up to a maximum of $400 per megalitre and up to the first 50 megalitres purchased. The government will provide significant assistance to people who may have been caught unawares by the legislation or by this process coming into play.

Farm planning incentives will also be provided, under which up to 50 per cent of the cost of farm planning may be provided by the government; 100 per cent of the cost of putting together an environmental assessment can be made available; and again the government may approve and pay for up to 50 per cent of the expense of the engineering design for a dam to assist land-holders improve the operation of their properties. At this stage the limit will be up to $26 000 for individual land-holders.

There are a couple of other issues that this government has taken the opportunity to provide for in the legislation. They relate to two areas — one is state observation bores and ensuring that the government can have continued access to those bores; the other is licensed drillers and ensuring compliance with their licences in terms of bore construction.

So what is this bill all about? As we have heard from the previous two speakers, it is about providing greater security for land-holders and an opportunity for regional and rural Victoria to grow — and for investment to happen, security is a vital issue. The government recognises that this has been a vexed issue. It is one that a softer government may run away from, but this government, under this minister, is determined to push forward to ensure it supplies the very important leadership and security that land-holders require.

Clearly there is an educative role that this government must follow. I am pleased to see that many members of our community who have an understanding of this area have supported the education that is going on around their community. They have explained to land-holders who seem to think they might be losing something under this legislation that they will not be losing but will be gaining, because they will have much greater security and support in a range of ways from the government.

I believe the farmers in my region will be very satisfied by this and will recognise those issues they have recognised for some time, that the activities of those who use water in upper catchments will affect the water supply of people in lower catchments, and so on.

There are issues which this government — not by this legislation but around this legislation — is continuing to support. It supports a more efficient use of water, whether it be with irrigation or any form of land use, and the need for people to review the practices that have been undertaken for many years to see how they can use water more wisely. We know in many other ways that the misuse of our water resources in the past has seen not only a wastage of water resources but changing water tables in many areas, and has resulted in rising salinity levels and a significant amount of soil degradation.

I am pleased that this government has been able to bring in this very important legislation. A number of amendments have been put forward by the Liberal and National parties. The government has been looking seriously at and considering how it can incorporate a number of those amendments. Clearly the amendment which seems to be the centrepiece of the Liberal Party's amendments, which relates to allowing all land-holders to keep up to 3 per cent of the water that flows onto their property, is one this government will not support.

It has looked at the effects this would have, and while initially it seems to be an innocuous type of amendment — you could argue that 3 per cent does not seem a lot for a farmer to be able to retain on his property as of right — when you look at it you can see that it would put a liability on 1.2 million megalitres of water. That would be a significant liability and would make it very difficult to then deal with the fact that there is a Murray–Darling Basin system cap. That is one of the issues we will hear more about but which this government certainly cannot support.

Overall this is an outstanding piece of legislation, on which I have been pleased to speak. It will be a real turning point for the rural community of this state. I certainly commend this bill to the house.

**Sitting suspended 6.29 p.m. until 8.04 p.m.**

**Mr PLOWMAN** (Benambra) — The Water (Irrigation Farm Dams) Bill is about a government that

is not listening to or understanding what Victorian farmers want, yet it is taking away a fundamental right that has been available to farmers for 150 years and no compensation is available for the removal of that fundamental right.

The opposition has heard from the government benches that compensation is afforded in the bill, but it is an interim package or a transitional arrangement between one system and another. The government is removing a system that has been available to farmers for 150 years, but in return farmers will receive only a meagre interim transitional package.

It is a sweetener. It is something to attract farmers to the scheme, and the Liberal Party is saying that the government cannot do this without offering something tangible by way of compensation. It needs to be something that has an equal value to what is being taken away, and that is not happening.

Having been a farmer for many years — I know there are a few here tonight, including my friend from the upper house, a member for North East Province — I can say that what farmers need more than anything else is access to water when they need it. This bill takes away access and a right that has been in place for 150 years. For 40 to 50 years governments of all persuasions have been encouraging farmers to build dams and to drought proof their farms for reasons to do with soil conservation, environmental enhancement and diversification. What does that do? It leads to regional development in those areas where dams are built. Now we have legislation that is discouraging farmers from building dams. Can honourable members imagine that? It is actually discouraging farmers from building dams! The government wants to regulate the use of all those dams and limit their use. In some cases it wants to decommission their use.

What has happened to bring good policy to bad policy? It was good policy to encourage dam building, and it is bad policy to discourage it. In 1989 the Cain government introduced legislation to bring about the control of all water in the state, including the water that falls on the roof of the honourable member for Preston.

**Mr Nardella** — I am the honourable member for Melton!

**Mr PLOWMAN** — What happened in 1989, when the Cain government tried to bring in that degree of control? The Liberal and National parties got together and said, 'We are not going to hack this sort of control', and the two parties defeated the elements of that legislation that brought about total control. It brought about an extraordinary grab for control of the whole of the water industry.

This time there is a rather veiled and clever disguise of the same thing under what is supposed to be a good environmental management plan. There are some good, sound management policies in the bill, and I would be the last to discount that. I believe the intent of the bill is good, but I cannot hack what the bill does to farmers to achieve that good management policy. The bill brings in water supply protection areas, which have the opportunity to protect those areas where a catchment is stressed. Nobody from either side of the house would deny that that is a good idea, but should it be done at the cost of farmers who have had a right for 150 years without replacing that right? I say no, and the Liberal Party says no. You cannot take away a fundamental right without giving something in return.

One has to ask why the government needs to do this? It is about a bureaucracy which was here in 1989 and which is trying to do in 2001 what it failed to achieve in 1989. It is the same bureaucracy; it is the same people wanting to achieve the same ends. In this case it is under the guise of the Murray-Darling Basin Commission cap. I was delighted to hear my friend the honourable member for Swan Hill give us so much of his knowledge about the cap because he knows more about this issue than anyone else in Australia.

**Mr Helper** — Listen to him!

**Mr PLOWMAN** — I listened very intently to what he said and I admire the fact that he gave us his views about something that he knows more about than anyone else. I was delighted to listen. But I have to say that one part that he did not talk about was the flexibility that sales water affords within the cap. Sales water is the buffer of water available to irrigators to purchase after the entitlement which is due to them has been delivered. In the past, who has had access to that buffer of water? Not only have the irrigators had the opportunity to buy that water but also the catchment farmers have been able to build dams and use water that otherwise would have been part of that sales water. I would have more admired the speech of my friend the honourable member for Swan Hill had he dwelt a bit on that sales water and acknowledged that it is the water that catchment farmers store in their dams.

In 1995 when the cap was introduced in the Murray–Darling Basin, the 1993 consumption figure was used as the base for the cap on the whole Murray–Darling system. How many states are in that? We have Queensland, New South Wales, Victoria and South Australia. Guess which state is the only one

coming near to meeting its requirement on the cap? Victoria is the only state, because when in government the opposition made sure it would do so. We made sure we had a system that allows two years delivery of an entitlement.

**Mr Nardella** — Give it away!

**Mr PLOWMAN** — The honourable member for Melton says give it away. I do not want to give it away. It is the best system in Australia. The last thing I want to do is give it away.

**The ACTING SPEAKER (Mr Seitz)** — Order! The honourable member for Benambra will address his remarks through the Chair. On the government side, interjections are disorderly.

**Mr PLOWMAN** — It is the envy of all Australia. Every state recognises that we have a management system that is the envy of all. That is in complete contrast to a Labor government that, in trying to buy the vote of the honourable member for Gippsland East, said it would give him a 28 per cent increased flow in the Snowy River. Imagine the amount of water that is! Even the honourable member for Melton can work that one out!

What it means is that we are taking away from a river that only delivers 20 per cent to the sea and giving it to another river that delivers 60 per cent to the sea. That is like taking away from the poor and giving to the rich — and I thought members of the government were the socialists! I thought they were the people looking after the poor. It is an unbelievable decision! It is the worst environmental decision I have seen in my lifetime, and in my political lifetime I hope never to see another decision as stupid as that one. A decision made by the government that was conned into doing it by way of winning the vote of the honourable member for Gippsland East — what a price to pay!

So what has happened since 1995? Since then we have got an authority north of the Divide that is discouraging people from building dams. It is deliberately restricting the areas available for dams to be built. That happens in all those areas north of the Divide. It is ironic that if you stand on the top of Mount Bogong you can look across an area that supplies more than 50 per cent of the water running into the whole of the Murray–Darling Basin from four states.

**Mr Vogels** interjected.

**Mr PLOWMAN** — As my dear friend the honourable member for Warrnambool points out, it is all forest land. He is another farmer member and he knows what he is talking about. How many farmers over the other side of the house know what they are talking about? Not one. We have farmers on this side who know what this argument is all about. The water authority that operates north of the Divide has been forcing farmers to buy their own water — the water that runs off their own farms — from an irrigation area hundreds of kilometres away. The injustice of that is unbelievable.

It is almost unbelievable that a right which has been available for 150 years is being taken away by this bill. What is worse is that no attempt has been made to overcome the major problem we face north of the Divide — that is, the definition of a waterway. The opposition has asked by way of amendment that the waterways be defined on a map. That way when someone comes on to your farm and says, 'You cannot build a dam there because it is a waterway', and you say, 'Why not?' and they say, 'Because we say it is a waterway', you will be able to have a map in your hand and say, 'That is where the waterway starts and I have the right to build a dam'. It is a commonsense approach to overcoming an intolerable situation. We have many amendments before the chamber tonight and every one of them is just as important, sensible and necessary as that amendment.

Of all the things I have felt disappointment about for my farmers, the worst is the fact that they want to develop their country and they are restricted from doing so because the government has a bureaucracy that says, 'You cannot build a dam there; that is a waterway'. Who determines what a waterway is? They do. It is the case of the bad cop. It is the case of the policeman with the authority to look after the water industry not only making that decision to be the policeman but also having a beneficial interest in it. That is something I cannot have.

There is so much in this bill that worries me. It has enormous implications. We have felt them north of the Divide, and I hope this message is heard loud and clear right across Victoria. Farmers in the rest of Victoria do not yet know what is about to strike them. I see my friend one of the honourable members for Gippsland Province in the other place in the gallery. Might I say that the farmers in Gippsland and in south-western Victoria will face things that they unfortunately will not be happy with.

The points that I think are important in this debate are the four points raised by the Victorian Farmers Federation members who live in the northern part of the state and understand the implications of this bill. First, 3 per cent of the rainfall that falls on a farmer's land

should be available for use for whatever purpose. My friend the honourable member for Swan Hill suggested something like 300 000 megalitres — I cannot quite remember the figure, but whatever that figure was he suggested it would take away all of the water from the Goulburn Valley and the permanent plantings and so on.

It is nonsense! Why is it nonsense? Because that right is now available to those farmers. The amendments take away the right that exists. The amendments provide that the right be reduced to 3 per cent of rainfall. In round terms it equates to 10 per cent of the run-off, which means that 90 per cent of water runs off their farms and goes downstream to a neighbour or into the environment. We say that is fair and that we would like to give you 100 per cent, but the government is hell-bent on taking it away. We are asking for only 3 per cent of the rainfall. Do you think we will get it, and do you think that the minister understands how important it is to catchment farmers? We are faced with a minister who is not prepared to listen and does not understand.

The second point that is most important is one that I made before, that every farmer needs to know where the waterways are on his farm, about which there should be no argument. You should be able to say to anyone, 'This is a waterway and that is not a waterway'.

**Ms Duncan** interjected.

**Mr PLOWMAN** — I am delighted that the honourable member for Gisborne is interjecting, because it shows that she does not understand the importance of knowing what is a waterway and what is not a waterway. It is important that farmers know.

The third point is that when a water supply protection area is declared by the minister it will affect all those farmers in that water supply protection area. All we are asking for is that the matter go before both houses of Parliament for approval for public scrutiny. The honourable member for Melton shakes his head because he does not understand the topic. I feel for him! For all of those farmers who will be affected by a water supply protection area, the least we can offer them is for that plan to go before both houses of Parliament for approval.

The fourth important point is that we need a water trading regime which gives to farmers at least an exchange rate of two for one. I say that because if there are catchment farmers who have to buy water from an irrigation area, the irrigation area gets the water delivered on a 97 per cent security basis. The catchment farmer has to hope that he gets enough water from the rain to fill his dam. He has to have the ability to buy from a market that appropriates the same value of the water that he is storing in his own dam. He does not get that water delivered to him; he has to pay for the dam infrastructure and then he is asked to buy out of a market that has that water delivered.

It also means that if you get 1 megalitre you pay for 1 megalitre and get another megalitre free, 60 to 70 years out of 100. This government is taking away a right that has been in place for 150 years. If ever I have been disgraced by the actions of a government it is now. The Liberal opposition says, 'We can't stop you, you're the government, but we need to ask you to replace it with something that is tangible, something that will give our farmers a benefit'.

**The ACTING SPEAKER (Mr Seitz)** — Order! The honourable member's time has expired.

**Debate interrupted.**

## DISTINGUISHED VISITOR

**The ACTING SPEAKER (Mr Seitz)** — Order! The Chair welcomes to the gallery a distinguished visitor from Cambodia, Ms Tioulong Saumura, a member of Parliament for Phnom Penh and a shadow cabinet spokesperson for foreign affairs and international cooperation. Welcome to the Parliament of Victoria. I hope you enjoy your stay in the state.

**Debate resumed.**

**Mr HELPER** (Ripon) — It gives me a great deal of pleasure to support this historic legislation, the Water (Irrigation Farm Dams) Bill, because it certainly affects my electorate. It also gives me pleasure to follow immediately my parliamentary colleague the honourable member for Benambra.

Points the honourable member missed include the fact that for years, irrespective of the colour of the government in power or of the goodwill everybody in this chamber at the time no doubt contributed towards the matter, we have not been able to define a waterway. Now the honourable member wants us to map them all and table the maps in Parliament. Would that make them legitimate? Would it remove the argy-bargy that exists about what is and what is not a waterway?

**Mr Plowman** interjected.

**Mr HELPER** — My answer to the point thrown at me from across the chamber is to remove the definition of a waterway from the water management regime in Victoria, and that is what this bill does successfully and in a way that is fair not only to irrigators but also, for once, to upper catchment farmers. It is the first opportunity that my upper catchment farmers have had to have water certainty and to be able to build their dams in such a way that other farmers downstream do not miss out on their water. That gets rid of local wars between upstream viticulture properties and properties downstream that wish to develop their properties for viticulture. That is what the bill is about.

The presentation of the honourable member for Benambra was not lacking in passion. All honourable members appreciate that he feels passionately about the issue and that a number of people in his part of the world — I do not know that I would call them a majority — also feel passionate about it.

The honourable member talked about the taking away of a right. What an absolute pile of rot! What about the rights of the person who lives downstream from an upper catchment farmer? What about the rights of an adjoining property owner? Under the current regime what protects their rights? Absolutely nothing! The bill introduces, for once, protection of water rights between farmers in a particular catchment and others downstream.

I admit I expressed my cynicism at the outset of the process, which started in April last year. I was sceptical about whether the rights of downstream irrigators and upstream farmers could be reconciled. In my own mind I could not form a view about how that could be achieved. I was concerned that either the upper catchment farmers in my electorate would miss out or that irrigators downstream would miss out. I did not know how it was going to be reconciled. I pay absolute credit to the farm dams review committee for coming up with a set of outcomes that genuinely balance the rights of both upper catchment and lower catchment farmers and landowners — and it does it for the first time in the history of Victoria.

I have not been a member of this place for a great deal of time but I have a sneaking suspicion that every Parliament will have wrestled with this issue and tried to find a genuine and positive way forward to steer through the issue of water allocation. We have come to a point of coming up with something that is a good starting point. We are already a long way down the track towards ensuring that the rights of lower catchment and upper catchment farmers are balanced. I again congratulate the farm dams review committee.

The other comment I would like to make while praising the farm dams review panel is about the very positive way consultation has taken place on this landmark piece of legislation. I remember earlier on in the piece — it would have been about April last year — going to a meeting at Navarre where an incredible amount of cynicism was expressed about what the government was trying — in inverted commas — to do. That took place shortly after the release of a discussion paper which was misinterpreted by some, but thank heavens those who saw the importance of this issue and who saw that at long last we had to come up with a solution that balanced the rights of farmers up and down catchments prevailed.

It was a constructive meeting at which a lot of the issues were aired and where, for the first time, I saw creeping into the debate a recognition by upper catchment farmers of irrigators' concerns and vice versa. That recognition was a reflection of what was happening at the 40 public meetings held to help bring about this piece of legislation. Not only were 40 public meetings and 5 public hearings held, but 375 written submissions were received. That is a reflection of the importance of this issue to Victorian agricultural sectors. The farm dams review committee then launched the draft committee report, and a further 469 submissions were received. That was a further expression of the incredible amount of interest that existed in the community in having a positive outcome to this process.

I will reflect briefly upon the enormous effort that a lot of people went to in my electorate and I am sure in the electorates of other honourable members to have an input into this exercise. The vignerons in my area put in a huge amount of effort to develop a policy position and to absorb the arguments that were put forward in the draft discussion papers. I know an enormous effort was put in by lower catchment irrigators in the electorate of my parliamentary colleague the honourable member for Swan Hill, for example, to put forward a set of views that came up with a genuine solution.

It is a credit to this chamber that not many of its members played politics with this issue. Not many honourable members ignored the reality that we have to come up with a real answer to this problem, that we have to come up with an answer that takes us forward in a genuine way and that we have to come up with an answer that recognises that water is a finite resource and that rights have to be balanced. Not many members in this chamber played politics with that issue. Most honourable members genuinely tried to make a positive and constructive contribution to that debate.

I have very much enjoyed the contributions so far, but I must say that the two locations in the state of Victoria — I do not wish to name the members concerned — where politics was regrettably played with this issue were in the south-west and the north-east.

**Mr Mulder** — And we are proud of it!

**Mr HELPER** — You may well be proud of your destructive role. If you think you can be proud of playing politics with something as important as this, you ought to be ashamed of yourself!

The aspects of the bill that I will briefly dwell on — I know many other honourable members wish to contribute to this debate, and I look forward to listening to their contributions — are some of the fundamentals. One of those fundamentals is the sustainable resource management regime that can be achieved through stream flow management plans. How can we possibly have resource management if we do not know how big the resource is, if we do not know how much of the resource is used, if we do not know how the resource is used and if we do not know what the impact will be of using the resource and denying the resource that flows down streams to either downstream landowners or the environment?

Clause 10, which facilitates the establishment of committees to oversee stream flow management, should be highly commended. Quite rightly it is required that 50 per cent of landowners in a particular catchment area should be represented on a stream flow management committee, and the minister of the day needs to consult with the Victorian Farmers Federation when selecting or receiving recommendations on who the farmer representatives on a committee should be. It is a very good outcome and one that I believe will work very positively in my electorate; I know it will work well in other electorates. It is another of the many positive initiatives in the bill that deserve much commendation.

In my experience representing an electorate that is predominantly an upper catchment area I know we can never underestimate the importance of water and of irrigation to regional development and, in my area, to the viticulture industry. Until now we have not been able to trade water from lower catchments to upper catchments when water from the upper catchments can be used to deliver a greater economic and social benefit than when used from the lower catchments. The bill allows water to be traded from the lower catchments to the upper catchments in irrigation districts. I have no doubt that water is as precious in the lower catchment areas as it is in the upper catchment areas.

I remember being very impressed when I recently visited the electorate of the honourable member for Swan Hill during the Pick Fresh festival in Swan Hill. I was privileged to have the opportunity to be shown over some of the incredible irrigation developments there. I have no doubt an enormous amount of economic activity comes from those investments and the world best practice irrigation initiatives that are happening there, but at the same time I have landowners and development proponents knocking on my door and wanting to establish viticulture developments in the upper catchments of my electorate. They are equally enthusiastic and equally will have an enormous return from every megalitre of water invested there, so why should we not have a regime that allows us to trade from lower catchments to upper catchments? Let reality prevail and have the water used so that it returns the best economic and social outcome.

I understand a number of other honourable members wish to make a contribution to debate on the bill, and I look forward to hearing their contributions. It gives me enormous pleasure to be able to support this landmark legislation that generations from now will look back on as a significant milestone — I should not say the first milestone — in water resource management in the state. I commend the bill to the house.

**Mr MULDER** (Polwarth) — I rise to contribute to debate on the Water (Irrigation Farm Dams) Bill. Since my election to this house I do not think I have been involved with a piece of legislation that has caused so much debate, angst and anxiety among constituents of my electorate.

The bill's contents were the subject of about four reports before its introduction in this place. On a number of occasions I had the pleasure of being briefed by Don Blackmore in Parliament House and in Canberra on water and salinity issues throughout the state. I have no doubt that the committee has done a tremendous and invaluable amount of work for Victoria; I commend the committee.

I support the thrust of the legislation. During a bill's preparation and before its introduction honourable members work with a number of committees. I remind the house that the Water Act is a very complicated piece of legislation, and in the preparation of this bill honourable members representing rural areas worked closely and tirelessly over numerous weeks with opposition members who have legal backgrounds to arrive at a consensus among the opposition parties on

how this bill should be handled. I commend opposition members for their work on the bill.

I pick up where the honourable member for Ripon left off when he said the legislation removes the definition of 'waterway'. I find his statement extraordinary, because if the bill did that the house would not be debating the bill. If it removes the definition of 'waterway' why do we have two sets of rules — one for dams built on a waterway and another for dams built off a waterway? The opposition is asking for waterways to be mapped, because someone from an authority is able to walk onto a property and say, 'That is on a waterway, you can't build a dam there'. It is incorrect for the honourable member to suggest that the definition of 'waterway' is removed. The opposition has gone to the trouble of preparing amendments to the legislation to try to deal with that issue. The bill does not remove from the act the definition of 'waterway'.

All honourable members understand the importance of dealing with the conservation of water not only in the Murray–Darling Basin but also in the south-west of the state. Over the last six years people who work at carting water and dairy farmers have marched into our electorate offices and told honourable members how farmers have turned their stock out or been forced to remove the stock from their properties. We all know and understand the need to conserve water, which is one of our most precious resources. In the past the abundance of water supplies has not affected an electorate such as mine, but over the last six years the impact of very dry seasons has thrown an entirely different emphasis on the availability of water. The large supplies of water have disappeared. The opposition believes all parties should be catered for in the context of the legislation.

The Murray–Darling Basin cap has delivered for farmers in that area the security of having water delivered to their doors and an easy access to water. I can understand the sentiments of the honourable members who represent irrigators in the north-west, but there is more to life than irrigators in the north-east. We are looking at the interests of catchment farmers.

**Mr Vogels** interjected.

**Mr MULDER** — Yes, I thank the honourable member for Warrnambool — I should have said farmers in the north-west. We have to remember the farmers in the upper catchments and those south of the Great Dividing Range. Thousands of farmers in those areas will be affected enormously by this piece of legislation.

Put simply, for over 150 years farmers have had a statutory right to harvest the water that falls on their land and use it as they wish. People have had that incredible right for a very long time, and the bill removes that right. Even the Prime Minister and the Deputy Prime Minister have said that any government that removes a right to water should compensate affected farmers. They know and understand the value of water and what has happened over a long period. No-one is putting up their hands and asking for money for a right that has been taken from them. They are asking for a fair and reasonable deal.

We in the Liberal Party are prepared to stand up for the people in our electorates and say, 'Take away 100 per cent of what falls on our land, but give us back 3 per cent. Keep the 97 per cent, but give us back 3 per cent to deal with the issues that affect us on a day-to-day basis'.

This will deal with the issues we discussed in relation to dairy wash-downs to a farmer who wants to water a summer crop or to a farmer who wants to use water for some other form of activity. But for the farmers out there today to have a right removed and not be putting up their hands and saying, 'Get us the money. We want money for this! You have taken away a right we have had for 150 years!', has been an extraordinary step for catchment farmers, because they are prepared — and no-one understands the situation the state is in with its water at this point in time — and know and understand the issue with streams and rivers — that is, unless they have that resource they will not be able to develop their farms or hand their properties on to their children. They know and understand that water needs to be protected and managed and handled in a very even manner.

The simple fact that we are asking for 3 per cent of what falls on their land and are prepared to hand back 97 per cent without a cent, without money, without asking for anything, is not an awful lot for this Parliament to consider. The Liberal Party is asking this Parliament to consider Victorian Farmers Federation policy — to have a look at the dot points in the VFF policy and at what it has asked for for farmers. That is the basis of the amendments we propose to the legislation. We are the party standing up for farmers. Where are the rest?

Where are the Independents, who represent farmers? Where is the honourable member for Ripon? He has ducked out the door. Where are they? Out he goes, Mr Snowy River himself, with his arms in the air. What about the catchment farmers? All we are asking for is a miserable 3 per cent. This is a very complex piece of legislation. You will understand when your farmers

realise what you have sold them down the drain on. That is when your day of reckoning will come, because you will have to explain to them, 'I knew and understood what I was doing, but you did not. I did not go out and sell it because it was a very complex and tough piece of legislation. I did not want to represent my farmers'. The Liberal Party will go down as the only party that was prepared to stand up for farmers when they lost the greatest right they had had for 150 years. A right was removed. And who stood up in Parliament? The Liberals did!

I am very proud to stand here alongside my parliamentary colleague the honourable member for Warrnambool who has fought this from day one. What a great supporter the honourable member for Benambra is of his farming community and how well he has fought this battle for them! When the implications of this legislation bed themselves down, when people understand what they have given up and what they could have asked for, that is when people will understand what it means to have a party in rural Victoria that is prepared to stand up and fight for its farmers. That is exactly what has taken place here today. I commend the honourable member for Benambra for an absolutely spot-on delivery. He knows what his farmers are about. The honourable member for Warrnambool will expand on some of the issues I have raised in terms of the south-west.

Our catchment farmers — for example, the Parkers who grow potatoes south-west of the highway — know and understand what this legislation is about. We have sat down and explained it to them. They had no idea until they sat down around the table and we said, 'This is what you are giving up. Don't fall for the Labor government. Don't fall for the organisations that are supposed to represent you. Listen to what you are losing'. They know and understand, and the only reason they do is that the Liberal Party — Liberal members in south-west Victoria, the Liberal member for Benambra and other country Liberal members — have stood up and fought for them and their rights. When they finally understand what they have given up they will think we should have asked a bigger price.

I will just touch on some of the amendments in the bill. One which really concerns me is an amendment I put forward. I hope and trust that I would get support from the National Party, the Independents and the government on this. The amendment relates to the set-up of the consultative committee. A provision in the amendment states that where an area is wholly and predominantly a farming area the minister — not the Minister for Agriculture but the Minister for Environment and Conservation — will consult with the VFF and ensure that 50 per cent of those people are from farming communities.

I do not trust her, and I do not believe that she would do that. I will tell you what will happen south of the highway out to the Otway Ranges. The minister will say, 'Hang on a minute! There are a couple of old Labor lap-dogs out there who have retired into the bush. We'll bang them on the committee. That is not wholly and predominantly farming area — it's forestry and tourism'. So a couple of these guys go onto the committee. They are stuck out there in the bush living on an acre and a half with a half-starved goat, a donkey and 2 acres of ragwort and thistles, and they will find their way on to a consultative committee. In this amendment I am asking that the farmers who have given up their statutory rights be represented on these committees. Any non-urban area outside that area should have 50 per cent farmer representation.

**Mr Plowman** — Must have!

**Mr MULDER** — The honourable member for Benambra says, 'Must have!'. They must have 50 per cent farmer representation. I trust that the minister will see that that is a very reasonable ask, because it is not the man with a half-starved goat, a donkey and a couple of acres of ragwort and thistles — —

**Mr Vogels** interjected.

**Mr MULDER** — He could have it, too; I'm not sure. That could be his farm. The people who deserve to be on these consultative committees are the people who have given up the statutory rights: the farmers in catchment areas are the people who should and must be on the consultative committees. They must negotiate at the table, because it must be remembered that they are the people who have lost a statutory right. I ask the Independents if we have their votes. There is one hand up; is there a second? The National Party in its own right has been a bit quiet on the issue, and I can understand that. They live in the irrigation areas, and I understand that, too. I am not saying a word, but please understand that unless you have a position at the table you cannot vote. I ask them to support that important amendment.

I understand that there are other honourable members who wish to contribute to this debate. The honourable member for Gisborne is very toey.

I move to a couple of the clauses which relate to the issue of guidelines for the consultative committee. Heaven help us! What are these guidelines going to be? We have not even seen them yet. The consultative committees get a guideline, and I have seen these

committees set up. The Glen Aire River was a great example when the people who owned all the pastureland there had to apply to get the mouth of the river opened. They owned all the land and were told, 'Sure, you can open the mouth of the river — when you get 24 inches of rain over three months at the top and when the temperature is X degrees and we take on board all the social activities, with the water temperature flowing one way equalling the tide going the other way. In the meantime your land is getting flooded and your pasture is rotten, but we will start talking about it next week'. Those are the sorts of guidelines these people are going to have to operate under. Believe you me, that is the issue that is going to affect how consultative committees can and cannot operate. I ask the minister not to shake her head because she knows that I am right.

The honourable member for Warrnambool has a better example than that. He will speak soon and will tell the house how the guidelines operate for a consultative committee. The honourable member for Warrnambool is almost at the starting blocks and is very keen to get up on his feet. I know that honourable members on the other side would like to make a contribution. I support the thrust of the legislation, but as is always the case, it is not the thrust of the legislation that is important; it is the ability of the government of the day to get involved and manipulate the situation. The opposition is not asking for much in its amendments, which will tidy up what is basically reasonable legislation.

Doug Chant, the chairman of the Victorian Farmers Federation's water policy group, has been working hard on this issue. He has put a tremendous amount of work into it and I have had discussions with him. As I have said, this legislation is 95 per cent down the line with only 5 per cent to go and that 5 per cent belongs to the Liberal Party members because we are the ones putting up our hands for the 3 per cent. We are trying to tidy this up for the farmers and make sure that they do not get rolled in a huge way. You cannot turn this legislation around. Once it is in place you will not be able to reinstate those rights.

Believe you me, catchment farmers are giving up an enormous amount. The honourable member for Benambra knows they are giving up an enormous amount. There is no money up front. But just consider 3 per cent. That is all we are asking for. I commend the bill to the house.

**Mr HARDMAN** (Seymour) — I too represent an upper catchment area and have spent quite a lot of time in consultation with a number of farmers in the area. I also have to thank sincerely the Minister for Environment and Conservation for taking so much time to speak personally with the people from my area who are affected by this bill. They include the Murrindindi shire, which has made representations, the Yea and King Parrot stream flow management planning committees and Alan Plunkett, who is a viticulturist of some renown who produces a great wine from Avenel just north of Seymour.

Obviously I come to this legislation with some trepidation. As you can imagine, a lot of facts and figures have been thrown at us that confuse the issue. It is a matter of being able to sort through them and take advice from the people out there who really do know what is going on. I think the 3 per cent area that the Liberal Party has proposed in its amendments has to be looked at rather seriously because the Liberal Party knows it is not going to force it through this house, and then in the upper house it has to make a decision. The opposition can carry on as much as it likes down here, but when it gets up there, that is when the Liberal Party has to make a decision whether or not it is full of wind or actually serious about what it is saying. We will wait and see about that. I think the proof of the pudding will be in the eating.

Most people know that this legislation is groundbreaking and very important. The Labor government believes — and I know that even the opposition now believes — in growing the whole of the state and making sure that the whole of the state has the opportunity to grow and develop right across our regions, no matter where they are. That means we have to have in place a fair system, especially in regard to water, because, as everyone knows, water is our most important resource.

As to the 3 per cent, as I have been sitting here I have had quite a few facts and figures thrown at me from advisers and from the gallery. What it comes down to is that basically 90 per cent of the water that falls on most farms stays there, so only 10 per cent flows on. That means that farmers will be keeping 3 per cent of the total of the 10 per cent that flows on, or 30 per cent of the water that flows into our streams. That means there is not going to be enough to be able to sustain the agriculture or irrigation further downstream.

It is very easy to get up and filibuster, grandstand and make yourself look good — all that sort of stuff — and to go out and say, 'I fought for you in the Parliament', but when it comes down to it, we will wait and see what happens in the upper house when the bill gets up there. The opposition can make the decision. It has the power. It has blocked industrial relations legislation. It has blocked constitutional reform in the upper house. It has

the choice again to use its gerrymander to stop this legislation going through up there. We will wait and see. I believe this is a very important point.

*Honourable members interjecting.*

**The ACTING SPEAKER (Mr Seitz)** — Order! The honourable member for Seymour, without assistance.

**Mr HARDMAN** — The purpose of the bill which I should come back to is to make sure we can provide our farmers with a secure future. I believe this bill does that. If you look at amendments that the minister has been prepared to accept and allow to flow on, and the way the minister has listened to the upper catchment farmers, you will see that the minister is very concerned for everybody to make sure we get this legislation right.

Seymour is basically all upper catchment areas. There are many areas that are still developing. Viticulture and olive groves are coming up in the area. The grazing of sheep and cattle in the area is becoming less and less common, although we have developed through various systems some great grazing systems as well. I am sure other honourable members are aware of those.

In the upper catchments farming practices such as grazing sheep have changed. We are moving to viticulture and also crops such as blueberries and strawberries being grown in irrigated areas. Places such as Healesville, Kinglake and Toolangi, especially Kinglake and Toolangi which are the upper catchment or recharge areas for the Yea River and the King Parrot Creek, have developed stream flow management plans. That was done before the introduction of the legislation, which is fantastic.

I have a brochure containing the King Parrot Creek stream flow management plan. The King Parrot Creek runs through Flowerdale. Honourable members know that I was the principal of Flowerdale Primary School. We did a lot of work along the King Parrot Creek measuring salinity and water quality under some great programs run by the catchment management authority. It is great to see that this has been done.

The minister came to Yea about two days after the initial report was released. She consulted with the farmers and the people on the committee.

**Mr Howard** interjected.

**Mr HARDMAN** — She has been fantastic on this issue. The minister wants the bill to go through Parliament and to make sure that our farming districts and our environment are sustainable and thrive in the future. That seems to be something the Liberal Party has forgotten. It seems to be representing a proportion of farmers and forgetting about the rest. I am sure it will cop it from its constituents later on. The opposition parties are not representing everyone; they are only representing a small proportion.

I also attended that meeting with the minister. People were impressed with the report and were pleased with the strength that management planning committees would have with a 50 per cent or greater representation from farmers. They were also pleased that there would still be on those committees people representing the environment and the water authorities to provide some balance and some educated reasons about stream flow management needing to be set at a reasonable level. I congratulate those dedicated individuals on the work they have done to bring that together.

The transitional package needs to be mentioned. I have listened to contributions from opposition members and they seem to have forgotten about the transitional package because they have not spoken about it. The minister has given quite a bit of ground on the transitional package. I will be corrected if I am wrong, but it was apparently to be set at five years or 10 000 megalitres, whichever was the greater for farmers, but now 10 000 megalitres may be looked at in the longer term. That seems to be a suggestion from the other side. Those kinds of things would be well looked into.

I was talking to Alan Plunkett, a vigneron and viticulturist from Avenel. He gave the example of a family farmer who has already invested $2 million or so by way of loans into his property and who does not really have the money within the next five years to further invest in dams and any equipment that is needed. It may be that he will be able to do that in the future. Corporations may have benefited from the way it was, but with a longer outlook family farmers might have a bit of a chance to continue to grow their own businesses.

**Mr Howard** — It is a sound transition.

**Mr HARDMAN** — It is a sound transition, and I am pleased the minister has listened to my constituents on this issue.

It is also important to make sure that we emphasise — and it may be forgotten because there have been a few amendments — that the stock and domestic supplies have been enshrined in this legislation. That is very important to many of the farmers in the Seymour electorate.

**An honourable member** interjected.

**Mr HARDMAN** — It really is. I have received several calls from people living in the upper catchments of my electorate who do not have the water to look after their own stock and domestic supplies because people on properties living just above them have been a little bit greedy and decided to keep all that water to themselves. That is something that really needs to be looked at.

*Honourable members interjecting.*

**Mr HARDMAN** — Some members opposite obviously think that by being intimidating and asking me to name someone will somehow prove that it is not true. In your cloistered world over there things may be that way, but I do not make things up. I tell it the way my constituents express these things to me. They come to me in my office and I protect their confidentiality as I do the confidentiality of all my constituents. Members opposite should not expect me to do anything less and I do not expect them to do that either, so I ask them to please stop those interjections.

Water is obviously a finite resource, and this bill encourages sustainable development. Obviously the Seymour electorate relies on water for its future development. The Seymour electorate is growing and improving all the time. In the last two years of the Bracks Labor government vast improvements can be seen in towns like Yea and Heathcote. There is a real confidence as communities have got themselves back together after the amalgamations of shires that ripped the hearts out of towns. The people are now developing great chambers of commerce and tourism bodies. They are looking to the future and saying, 'We have to do this now for ourselves because there is no longer a particular local government body there to do it'. That is happening and it is fantastic to see.

But a lot of it still comes back to relying on water for that regional development and growth. You can see it in the areas of Yea, Heathcote and Healesville where so much development is happening right now. It is great to see the confidence people now have. I think that confidence has come back during the two years since the Bracks government was elected, because the Bracks government is willing to invest in local communities and say, 'Yes, Yea, you do need your hospital upgraded; you do need a new police station', or, 'Yes, Healesville, you do need a new primary school', or 'Yes, Seymour, you do need a heated indoor pool'. The government has said, 'We recognise your needs. We recognise your community is important'. But again it comes back to the government saying, 'Yes, but your most important resource is still water because that is a major industry in your area, it is a major growth industry and it is the major employer'. It all comes from water.

I congratulate the minister. Obviously I still have my doubts. I know the minister's advisers are appointed and I hope and trust they will be right. I know that the National Party and the Victorian Farmers Federation do that, and that deep down Liberal Party members do too. In the end they will see that this legislation will set up the state of Victoria for a prosperous future. I congratulate the minister on this bill and all those who worked on it — Don Blackmore and his committee — and I commend the bill to the house.

**Mr VOGELS** (Warrnambool) — I am pleased the honourable member for Gippsland East is here because this bill is all about matters of equity. I actually have the paper that was put together to get the government to support him, as an Independent, to get some water down the Snowy River.

This bill is about matters of equity as well. It is interesting to remember what the former chairman of the Murray-Darling Basin Commission, John Lovering, said when the government needed the support of the Independents to form government. He said that the water needed for the Snowy can come from efficiency savings in irrigation, that just a 10 per cent improvement in irrigation of farm management practices could deliver to irrigators 1 million megalitres of extra water.

I was listening to the ABC today and I heard Don Blackmore, the now chairman of the Murray-Darling Basin Commission, say that if the greedy farmers, the high catchment farmers, got their 3 per cent they would want about 1 million megalitres of extra water. Where will it come from? The water is there if they do a bit of saving. The commission is prepared to increase the flow down the Snowy but it is not prepared to allocate more water to farmers.

We all know that the 3 per cent in the upper catchment area will never be taken up — not in a million years! The minister says the primary purpose of the bill is to better manage Victoria's water supplies or resources. Nobody can argue with that. However, I have many concerns with the proposed legislation and fully support the amendments being put forward by the opposition.

What is the policy of the Victorian Farmers Federation? In fact, I have with me a copy of the VFF's policy, which was delivered by Clay Manners, general manager of policy, to the VFF meeting in Wodonga six weeks ago. I shall read just the dot points. It states that the rights to stock and domestic water must be

protected. The VFF opposes the removal of existing private rights to harvest water for irrigation and commercial use of waterways — the opposition also opposes that. The VFF is concerned about the problem of waterway definitions and proposes that the private right be expressed as a percentage of run-off. The VFF indicates that it would accept more stringent controls on dams in stressed catchments where there was agreement from the surface water catchment committees, with a majority of farmers appointed in a similar way to the appointment of the ground water supply protection area committees.

The VFF is very concerned about charges for farm dams and about ensuring that any change is not used by the rural water authority as an opportunity to gain revenue. The VFF argues that a one-off registration fee should apply to private right dams and metering of farm irrigation dams in stressed catchments only. Basically that is exactly what the opposition is saying in its amendments: it is actually supporting the VFF's policy. It appears — and it is sad to say — that only the Liberal Party is prepared to stand up and support this position in this Parliament, which I hope will be noted by the vast majority of farmers out there in rural Victoria.

Of all the problems facing Australia the most challenging is how we manage our water. There is no doubt in my mind that the whole community, not just those involved in primary industry, should pay for environmental improvements. At present if this bill goes through unamended catchment farmers will have the burden of that responsibility. This bill will over time actually give the Department of Natural Resources and Environment control over every drop of water in this state. It also attempts to pick the winners and losers. In effect, it could set neighbour against neighbour. I will expand on that later.

In general the argument that farm dams are detrimental to the environment is fallacious. That argument is being used to support and justify this bill and is being pushed by the same department which for the past 50 years has been encouraging the building of dams for conservation purposes and to drought-proof our farms. It must be said that dams also have provided a great environmental place for native animals, and especially bird life.

**Mr Ingram** — Wood ducks!

**Mr VOGELS** — And wood ducks — a couple of them are sitting around here!

Many aspects of the bill should be supported. However, many clauses also need further clarification. In my contribution to the debate I intend to concentrate on the south-west of Victoria, and particularly on how this legislation could affect the farmers down there.

As I said before, the argument that farm dams are detrimental to the environment is rubbish. If every farm dam in catchment areas in the south-west were decommissioned tomorrow, in the summer when the run-off stopped there would be no more water in the Hopkins, Moyne, Merri, Curdies and Gellibrand waterways — the water would be long gone out to sea.

That extra water — which in quantity is actually the equivalent of a drop in the bucket — is nothing. What we should be promoting — and hopefully this will occur if we get local management stream committees — is larger dams upstream, which can be filled when excess water is around in the winter time, as happens in the northern part of Victoria with the Hume Weir and the Dartmouth Dam, et cetera, and the water then flows down when the run-off stops. As I said, that happens in the north-east now, and as we know the water goes down the Murray.

In the Wimmera–Mallee we should be promoting, as is Liberal Party policy, the construction of the Wimmera–Mallee pipeline system, which would save 85 cent of the water now lost through seepage and evaporation. There would be no problem with farm dams in the Grampians or in the electorates of the honourable members for Ripon, Seymour or other areas. There would be tonnes of water for vineyards, olive groves or whatever. At the moment the water is being absolutely wasted.

This bill is called the Water (Irrigation Farm Dams) Bill. I believe this first stage is designed to make sure the irrigators along the Murray get surety of supply. The honourable member for Benambra understands and discussed these issues very well, so I do not need to expand on them.

Currently the total flow of water in the Murray–Darling system is 14 million megalitres. Of that, 12 million megalitres is used by our irrigators but 3 million megalitres is wasted or lost through inefficient use. Just in that area, even if the upper catchment farmers took up the whole 3 per cent, it would be only a third of what is wasted, and they would never do that; it is not possible. With all these pressures for water at the moment you do not have to be Einstein to work out where it will go. The meek and mild will not inherit the earth — they never have — and unless their concerns can be addressed in this place they will be sold down the drain.

Our catchment farmers are hardworking, but they do not have much political clout. They are faced with a dilemma about when and where their next drop of water is coming from. We in the south-west know very well that in the last five years we have had three years of no run-off at all. As the honourable member for Polwarth has said, many farmers have had to spend thousands of dollars on carting water.

Last night I listened to the honourable member for Swan Hill with interest. He stated, correctly, that governments of the future will introduce caps for all the rivers and streams throughout the state. That will follow. That is why the Liberal Party amendments are so important for our catchment farmers. We have heard from the government that everything will be hunky-dory and that stock and domestic dams are sacrosanct — 'So don't worry, catchment farmers, what you are using in your dams now will always be there'. That is not true.

Once a water supply protection area is declared the following procedures will take place. The minister will appoint a consultative committee. It will provide a stream flow management plan for the area. Permissible annual volumes will be set, which is the amount of water that will be allowed to be harvested. That could be a reduction or an increase, but we know that the only reason a water protection area would ever be set up would be that there needed to be a reduction — otherwise, why bother? So don't think that stock and domestic dams will never be affected.

I would like to explain a bit about farmers. I hear people talking about stock and domestic dams. They seem to still think about *Rawhide* and believe cattle actually stand around dams and drink out of and do lots of other things in the water. But on modern farms stock do not drink out of dams. If you come to our dairy farms you will notice — as it is at most dairy farms now — that most of the small turkey's-nest dams, as they used to be called — which were a waste of water because it evaporated very quickly — have been decommissioned. Farmers have put in big dams which hold 40 or 50 megalitres and which actually catch some water, which saves a lot of evaporation. You will notice that on the bank of the dam there is a pump or windmill that pumps the water up the hill to a 20 000, 30 000 or 40 000-litre tank. That water is then dispersed to troughs in all sorts of paddocks, to the dairy, to the house, to a calving pad, to a barn or whatever. So those dams are commercial; they are not stock and domestic. Under this legislation they are actually commercial dams.

The government says, 'That is all grandfathered. Don't worry about it', but we also know that in the last 10 years dairying production has doubled and that it is expected to do so again in the next 10 years.

If dairy production doubles — and the industry is the biggest value-adding employer in the whole of rural Victoria — additional water will be required for stock. Farmers will have larger herds that require more water. It means new dams will have to be built. That is why it is so important to have a definition of 'waterway'. Farmers have no right to build commercial dams, so they apply to the department and speak to some shiny bumpkin just out of Deakin University. He says, 'Hang on a minute, you cannot put a dam there because it is a waterway'. That is what is happening in the high country. Everything is a waterway!

**Mr Steggall** interjected.

**Mr VOGELS** — Just listen to me. Most of the people who support the legislation have lots of options. In my electorate around Warrnambool and the Nullawarre area people have dams, underground water and mains water from South West Water, so they have options. They may also be able to pump out of the Merri River. Around the Heytesbury settlement area or north of Warrnambool around Mortlake, Caramut and the western plain there is no underground water. They rely 100 per cent on rainfall. It is good enough for the people of Melbourne to have the Thomson Dam with five years water in it to look after them, yet the government says, 'No, sorry, mate, you can't have that much water. You are greedy'. That is ludicrous. Farmers need surety of supply. You cannot go to a bank and borrow money to increase the size of your farm or develop a big business if you do not have sufficient water, because without water you have nothing.

The government forecasts, as did the Kennett government, $12 billion worth of food exports by 2010. Probably more than half of that will come from the dairy industry.

**Mr Steggall** interjected.

**Mr VOGELS** — A lot will come from the south-west; I am not saying most will come from there. I think it is about a third from Gippsland, a third from the Western District and a third from northern Victoria. Northern Victoria basically relies on irrigation, and the people in that area support the bill because they want irrigation water, and they are getting plenty of it. They want a bit more, but they want to take it from the high catchment farmers who eventually will not get it.

As I said before, the legislation has some good points, but the opposition's amendments will make it an excellent bill, because the provisions will look after all the people throughout Victoria and not just a certain sector.

I believe this typical socialist government is on about permits, licences, registrations and controls so it can charge for everything. This is a high-taxing government with even higher spending. It likes to control things. The government is taking away a statutory right, as mentioned before, that farmers have had for more than 150 years to build a dam off the waterway and use that water for whatever purpose they thought necessary.

*Honourable members interjecting.*

**Mr VOGELS** — Sadly, over that 150 years there have also been Labor governments. We are asking for farmers to be allowed to use 3 per cent of the rainwater that falls on their property for any purpose. As I have already said, if we really meant business we would go around looking at how we could save water. Professor Lovering told the honourable member for Gippsland East that 1 million megalitres or 10 per cent of the irrigation water would be saved by a 10 per cent improvement in irrigation practices. That is the way to go, because it would allow everyone to share in the benefit.

If a water supply protection area is set up and the water is not there, the stream flow management committee would say that the water is not available and the farmer cannot have it. Nobody disagrees with that. There is no risk at all. I heard the honourable member for Swan Hill last night talk about 350 000 megalitres no longer being available.

**An Honourable Member** — To the north-east.

**Mr VOGELS** — To the north-east — if the 3 per cent amendment is accepted. I have not got a calculator on me, but even if I did, if I multiplied 350 000 megalitres by the 97 per cent which would still be left, the screen on my calculator would not have enough digits on it to show the answer.

In conclusion I therefore ask that the Bracks government — —

**An honourable member** interjected.

**Mr VOGELS** — Read *Hansard* tomorrow and you will understand it!

*Honourable members interjecting.*

**The ACTING SPEAKER (Ms Davies)** — Order! I think the honourable member for Warrnambool can manage his contribution on his own.

**Mr VOGELS** — I ask the Bracks government, the National Party and the Independents to support our amendments, which are just and fair by any reasonable assessment. Like the honourable member for Polwarth, my electorate also has a stream flow management committee at Warrnambool which looks after the Hopkins River. Every year the Hopkins River mouth is blocked by sand and the stream flow management committee has to meet to decide when it will be opened.

**An Honourable Member** — What are its guidelines?

**Mr VOGELS** — It has met over many years and has great guidelines. The trigger point is a mark on a post at Proudfoot's Boathouse, and when it reaches that point — —

**An Honourable Member** — Very scientific, then!

**Mr VOGELS** — But it should work. That is when the mouth is opened, but of course it never happens because well-meaning people like the people from Deakin University say that the fish will die because of oxygenation or something in the water. As the honourable member for Polwarth said, the tide is not in or the tide is not out, or it is not a full moon or something, and six weeks later Proudfoot's Boathouse, including the restaurant and boatshed, is knee deep in water. Every year it is flooded out and every year you read in the *Standard* in Warrnambool that the mouth of the Hopkins River has been illegally opened. Somebody who has had enough has gone out with a shovel in the middle of the night and opened it. It happens year in and year out.

The stream flow management committee comprises well-meaning, good people, but I am really concerned that the committee never works, even when 50 per cent of its members are farmers. By the time it meets and consults with bodies, including the catchment management authority, the Environment Protection Authority and anybody else who has a voice, it takes too long and we are in trouble. I commend the amendments to the house.

**Mr INGRAM** (Gippsland East) — Thank you, Madam Acting Speaker.

**Mr Steggall** interjected.

**Mr INGRAM** — Thank you to the honourable member for Swan Hill for recognising me as a National Party member!

*Honourable members interjecting.*

**Mr INGRAM** — It is amazing that as soon as honourable members rise to discuss water, passions run high. Hopefully it is not just because we are still here at 9.30 in the evening and everyone has been at the bar all night!

A number of amendments have been passed around. I also have an amendment that I will be submitting when the house is in the committee stage. Unfortunately sessional orders do not allow me to do it now unless I move to do it by leave.

A number of interesting matters have been raised tonight and I will take up some of them, particularly the issues raised by the honourable member for Warrnambool about why we have to open estuaries. It is a pity that we have to build all our towns along estuaries because it is natural for the systems to close over. A classic case is the Mallacoota estuary. It has a number of lake systems, including Barracouta Lake up the coast. They are landlocked lakes and the only way they are replenished with fish by the brood stock coming down to breed is when the entrance closes and the river floods up onto the 100 acres or so of tea-tree swamps. It is part of the natural system. We build our houses right down on the water because it is the best place to be. Then we end up in conflict with nature.

The other conflict is that the honourable member for Swan Hill recognised that the Murray system is pretty well stretched with irrigation use. There is an issue now with the upper catchment farmers and lower catchment farmers. I will correct the honourable member for Swan Hill, and I hope he does not take offence.

**An honourable member** interjected.

**Mr INGRAM** — He said he did not mention the Snowy River in his speech, but he did mention the Snowy once in his contribution. It was pretty hard for him not to mention the Snowy!

He mentioned end-of-system flows, and that is not a good way to describe the health of rivers. It is basically a figure at the end of the system, but he keeps mentioning them — and it is a common mistake by a number of people who work on the Murray River. The end-of-system flows he mentions compare mean annual flows with median flows. The figure often used for the Murray mouth is a median flow, and that is 21 per cent. The figure quoted for the Snowy is a mean annual flow or an average natural flow and — —

**An honourable member** interjected.

**Mr INGRAM** — I will do them both. The mean annual flow for the Snowy mouth is 55 per cent. The mean annual flow at the Murray mouth is 38.5 per cent. If we compare median flows the Snowy mouth is 30 per cent and the Murray is 21 per cent. I hope we have corrected that and do not make that mistake again.

The South Australians tend to use this argument.

*Honourable members interjecting.*

**Mr INGRAM** — I thought that might get them a bit excited.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gippsland East, on the bill.

**Mr INGRAM** — So if we are using scientific or mathematical measurements we should use either mean flows or median flows. You should not compare the two.

The consultation process that has taken place on the bill has been lengthy, and it started under the previous government, which recognised the need for reform. There is a real conflict out there, not only in the Murray River area. In my area there is the classic case of the Valencia Creek, which is a small system with a couple of large irrigation dams. It has gained a little bit of media coverage and it really is an issue of farmer against farmer — not environmentalist against farmer but farmer against farmer — and the inequities create divisions within the community and spill over.

A stream flow management plan process has been undertaken on that system. The issues pitting farmer against farmer have been dragged on to the committee and it has been a long drawn-out process which has not solved anything. We need to find an easier way to sort out these upper catchment-lower catchment issues so that in the future we do not get into the problems where we have really big winners and big losers at the other end. That is what is going on now.

Whenever we start allocating resources differently and change the statutory rights of people — whatever the resource issue — there will be conflict and people who are not happy or who believe they are being hard done by. The bottom line is that the bill came into the house with everyone saying, ‘Yes, we support it’. We may not support everything, and I think there has been a bit of politics at play.

*Honourable members interjecting.*

**Mr INGRAM** — In the middle of the federal election campaign! I would hate to think that an amendment has been put forward just to store up support in Indi because the Liberal Party has put up a candidate from the city.

**Mr Plowman** — On a point of order, the honourable member for Gippsland East is impugning my reputation, and I ask him to withdraw those remarks.

**The ACTING SPEAKER (Ms Davies)** — Order! I do not remember the honourable member for Gippsland East mentioning the honourable member for Benambra in any way, shape or form. Would the honourable member like to explain?

**Mr INGRAM** — If the honourable member takes offence, I withdraw.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gippsland East has withdrawn the remark.

**Mr INGRAM** — It has been a lengthy process and a number of amendments have been put forward, and I will outline some of them. The opposition has put up an amendment about 3 per cent of rainfall. Personally, I do not support that. For once I agree with Don Blackmore. We have discussions about a few things. He is on the record on the radio today making a comment — —

**Mr Maclellan** — Now, don't be political!

**Mr INGRAM** — I am not being political; I would not be political.

I will summarise what Don Blackmore said. He said he thought that the 3 per cent proposition would not be helpful for farmers in Victoria because it creates uncertainty, not certainty. It would create huge uncertainty for the current irrigation community. Whether we like the way we allocated water in the past is irrelevant. Don Blackmore also indicated that imposing the 3 per cent rule as outlined in the amendment put forward by the Liberal Party would create great difficulties for Victoria in abiding by the Murray-Darling Basin Commission cap.

**Mr Mulder** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Polwarth is out of his place and is disorderly.

**Mr Plowman** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Benambra!

**Mr INGRAM** — I am sure the honourable member for Benambra would like to read the rest of the Don Blackmore's comments and I will be happy to give him a copy later.

We are talking about the sustainable use of resources. A lot of our catchments are overcommitted. That is a problem we have gotten ourselves into — we have overallocated the resource. If you look at river systems like those in Gippsland, you see that a fair chunk of the Thomson River goes to Melbourne but the irrigation use, like that of the Avon River, is fully committed. We have hugely variable river systems in this country. We have huge flows at particular times of the year, but the base flow is normally very low and the ability to harvest water from unregulated catchments is limited.

Farmers have begun to build bigger and bigger storages on farms. That has an impact on the river system, because when you do get rain it runs into the dams. I think the stream flow management process is a good way to go.

I do not agree with the definition of a waterway. I think it is very complicated and has been very divisive within the community. If we remove ourselves from that process and set up a system whereby existing users of irrigation or commercial water can license or register that use, it can be recognised and put into the stream flow management plan. Those plans are binding and hopefully we would end up without that division in the community.

**Mr Plowman** — What about future dams, though?

**Mr INGRAM** — In my view where we have overstressed catchments we cannot continue to build more and more dams. The issue is we need licences to regulate what we do.

I note that in his contribution the honourable member for Swan Hill said that in the upper catchment of the Murray River down to the South Australian border there are about 90 000 stock and domestic dams. That has a huge impact on a system like that. If honourable members get into an aeroplane and fly over the state they will see how many dams are scattered around. It is my view that in the future we will be back in this Parliament talking about the impact of stock and domestic dams. We may not like that but the combined impact of stock and domestic dams can be — —

**Mr Plowman** — Is that a promise?

**Mr INGRAM** — I will not take that one up. The combined impact of the 90 000 stock and domestic dams in the system would be the same as that of a few large storages in the upper catchment. We are looking at piping the water from the Wimmera–Mallee channel and moving from open storages which evaporate to a piping and tank system. It is a very good project. When I was up there with the honourable member for Wimmera and a couple of fairly high level members of Parliament — —

*Honourable members interjecting.*

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gippsland East should not respond to interjections.

**Mr INGRAM** — And I will not. That system will remove the need for stock and domestic storages and put in tanks which are much more efficient and will stop the waste. In the future we will find that a lot of farmers will move to that. Maybe they could put in one reasonably large storage in hilly country, especially up the top, pipe water through gravity-fed pipes down to the farm and then store the water in tanks.

In that way the water is not fouled but is conserved on the farm so that there is no need to have dams for stock and domestic use. The National Party amendment expands the definition of 'stock and domestic'. That becomes a difficult matter for me, because that stock and domestic right is being expanded. It is a small increase, but I would be disappointed if the definition were extended to ground water and stock and domestic licences. It is a matter that should be raised.

I acknowledge that the minister has today issued draft stream flow management plan principles. Most honourable members would agree it is a good outcome.

**Mr Maclellan** — On a point of order, Acting Speaker, it appears that the honourable member for Gippsland East has quoted from the document. Will he make it available at the end of his contribution?

**The ACTING SPEAKER (Ms Davies)** — Order! Did the honourable member for Gippsland East quote from a document?

**Mr INGRAM** — I have not quoted from a document.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gippsland East is saying that he did not quote from a document.

**Mr Maclellan** — On a further point of order, I inquire of you, Acting Speaker, whether the honourable member for Gippsland East is saying he will not make it available.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gippsland East was asked if he was quoting from a document, and he said he was not.

**Mr INGRAM** — I am happy to table it, but I was not quoting from it.

**An honourable member** interjected.

**Mr INGRAM** — So I am allowed to refer to it still and table it at the end. Very good!

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gippsland East is undertaking to table the document from which he did not quote!

**Mr INGRAM** — A proposed Liberal Party amendment allows for registration of licences for an unlimited term instead of the five years provided for in the bill. One of the arguments is that there would be an increase in costs, and the government may see that as a form of revenue raising. I propose to move an amendment that would insert a prescribed fee. That matter would have to go before the Scrutiny of Acts and Regulations Committee, and then every five years amendments would need be introduced into this place.

The issue of the cost and profit in water has been raised. This week the Melbourne Water *Business Review 2000/01* shows that profits generated by Melbourne Water are extraordinary. It shows $176.3 million going this year to consolidated revenue. Over the past five years profits of $267.8 million in 1997, $242.5 million in 1998, $166.9 million in 1999 and $204 million last year were achieved. It would be pleasing to see some of that money going back into urgent infrastructure needs for rural water, to repair rivers and put into place some of the recommendations made by the stream flow management plans. That would be a good outcome. I hope we can get some long-term commitment, considering that the Melbourne retail companies have also made similar profits. The combined profit over a number of years is extraordinary.

Piped irrigation systems are very expensive, so there is a little equity in some of these systems. It will be good if we can return some water back to streams designated as overstretched.

I support this long-needed legislation. We need to do a number of additional things with ground water management. Another contentious issue in Gippsland is the interaction between streams, surface water and ground water. Also, more work needs to be done on determining volumes of ground water that can be extracted from systems.

I support the amendment proposing that at least 50 per cent of people on stream flow management plan committees need to come from farming backgrounds, but I also think there needs to be a balance. There are different types of farmers. Farmer representation on the committees should not come from only one part of the industry or from farmers who are big users of water. We should have a balance between the types of water users within a catchment. We should try to push for that.

**Mr Mulder** — A reasonable amendment?

**Mr INGRAM** — Yes, it is a reasonable amendment. Honourable members should recognise that this has been a lengthy and difficult consultation process, and it will continue to be difficult whenever we attempt to allocate resources. Some of the issues the house has dealt with recently, such as the marine parks issue, are very controversial. The discussions on the timber industry to be held in the near future will also be controversial. The farm dams issue has been controversial, but the balance has come out just about right. Almost all honourable members have come together.

**An honourable member** interjected.

**Mr INGRAM** — Yes, there are still some hot spots where people are not completely happy with the system proposed, but we must recognise that the sustainable use of the resource — that is, leaving enough of the resource in the system to sustain biodiversity and so on — is an important benchmark and a point to start from. Where we have overstretched catchments we must make the adjustments, and do it in an equitable way that leaves no big losers or big winners. That is the message we should take to the people.

**The ACTING SPEAKER (Ms Davies)** — Order! I call the honourable member for Benalla.

**Mr Maclellan** — On a point of order, Acting Speaker, the call should be from this side, as I understand it.

**The ACTING SPEAKER (Ms Davies)** — Order! I am sorry, there is no list in front of me as to which way the call goes.

**Mr Maclellan** — Perhaps if you could consult the Clerk you might get confirmation that the call is now from this side.

**The ACTING SPEAKER (Ms Davies)** — Order! My apologies to the honourable member for Benalla. I call the honourable member for Pakenham.

**Ms Duncan** interjected.

**Mr MACLELLAN** (Pakenham) — Acting Speaker, this is framework legislation. I can understand that the honourable member does not like me checking with the Clerks to see what the order of the call is and she does not like abiding by the rules of Parliament, but that is her problem, not mine.

**Ms Duncan** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Pakenham, without assistance!

**Mr MACLELLAN** — The honourable member still interjects in a loudmouthed way. If she has a problem about my having something to say on this legislation she might like to go and have some refreshment somewhere else where she can perhaps recover her usual good humour.

**Mr Helper** — On a point of order, Acting Speaker, I urge you to encourage the honourable member for Pakenham to speak on the bill.

**Mr Rowe** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! There is no point of order, but I ask the honourable member to speak on the bill, and without assistance from the honourable member for Cranbourne.

**Mr MACLELLAN** — It is framework legislation, but its difficulty or downside is that it attempts to make one size fit all — that is, one framework piece of legislation apply to all districts, all climates and all environments in the state.

**Ms Duncan** interjected.

**Mr MACLELLAN** — The loudmouth from Gisborne is interjecting again and unfortunately is not making much sense.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gisborne!

**Ms Allan** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! Government members should refrain from interjecting.

**Mr MACLELLAN** — The heroic member for Ripon showed his ignorance in the course of the debate by saying that the definition of waterway was no longer of any significance to the legislation.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Pakenham, on the bill.

**Mr MACLELLAN** — Certainly. The honourable member for Ripon said the definition of waterway was no longer of significance. I speak on behalf of the many agricultural people in my electorate who divert water from rivers. I do not have any argument against the need for controls on those who divert from rivers and streams. I do not have any quarrel with there being severe rules in relation to those who take water from bores, which could have an influence and impact on other people's bores and cause them to lose supply or to have to drill much further and reline their bores and experience all the other difficulties which our constituents have shared in that Koo Wee Rup area, Acting Speaker, where the first restrictions on bore water were introduced.

However, the opposition amendments will seek to maintain parliamentary control over the further working out of the framework legislation, and I do not hear anyone arguing against that. I do not know whether the amendments will be accepted or not, but I have not heard anyone saying in the course of the debate that there is something wrong with Parliament having control over the further detailed working out of the legislation.

**Mr Helper** interjected.

**Mr MACLELLAN** — We immediately get the interjection, Acting Speaker, from the loudmouth who has already had his say. I did not interject on you and I ask that you give me the same courtesy. If you have a problem, perhaps you would like to leave the house.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Pakenham knows he should refer to other honourable members through the Chair.

**Mr MACLELLAN** — The honourable member for Ripon obviously has a problem. Perhaps he is tired and emotional; I do not know. He certainly does not want me to have a say on behalf of the people I represent.

I represent people who will be in difficulty under this legislation, and I can now illustrate for my colleague the honourable member for Narracan and other West Gippsland representatives in this Parliament exactly what farmers in our area will have to do. They will have to register their farm once. That is perhaps not a matter of great significance or difficulty. Once the paperwork is out of the way that is that until there is a sale, until there is an amalgamation or until there is a further process down the track when the requisitions will come in on the sale. The Leader of the National Party will know exactly what I am referring to. When the sale of the farm property occurs one will have to answer the question, 'What character did the dams on that property have back when it was registered?', and that information will have to be carried on down the chain of sales and resales.

I am in the position with other members of my family of having a small interest in perhaps 22 dams, big and small — perhaps not so big and certainly some of them are very small — and at some stage in the past few years every one of them would have been used for purposes beyond stock and domestic purposes — that is, beyond simply animals drinking from them or a household getting household water from them. In other words, they have been used for washing down dairies, they have been used for irrigation or they have been used for fish growing. They have been used in ways which, under this legislation, would be for commercial purposes.

So I and hundreds of other farmers in our area of West Gippsland, which is not notable for having overcommitted its resources or having abused nature, if I can put it that way for the benefit of the honourable member for Gippsland East — we have not done that — will have to try to calculate, first of all, how much water is in the dams, and then what percentage of that might have been used for stock and domestic purposes and what percentage might have been used for commercial or irrigation purposes.

And for what purpose, I ask? Because nobody, as far as I know, even under this framework legislation, is intending to have an intense restriction on the area I represent — that is, a restriction beyond the existing restrictions on diverters from rivers and streams and those who use underground water. In other words, we are using the water that falls out of the heavens or drains into our properties off the roads, and we have been using it wisely and sensibly for years.

If I can become more personal about the issue, the only use that occurs regarding a property in which I have an interest on the parliamentary register — the only party betwixt me and the salt water — is nothing! In other words, as soon as the rainwater leaves my property it

goes into Western Port. For heaven's sake, who is concerned about that? Is it an environmental flow issue? No. Is it a downstream use issue? No. Is it a high-principled argument between those in the headwaters and those in the irrigation districts, like northern Victoria? No. It is just another amount of paperwork that is going to have to be done within 12 months to satisfy a framework bill that one day may have some rules in relation to — —

**An honourable member** interjected.

**Mr MACLELLAN** — Yes, I have to say that waterways are important, but are any of them waterways? The area I am talking about is notable for having small waters called rivers, such as the Bunyip and Lang Lang rivers. They are not major rivers, and in other parts of the world they would certainly not be given more than the title of 'creek'. We do not have huge waterways; we have hundreds of small creeks and flows, and under this legislation we do not have any idea of whether they will be regarded as waterways. It is significant.

**Ms Duncan** — It does not matter.

**Mr MACLELLAN** — It does matter.

**Ms Duncan** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gisborne!

**Mr MACLELLAN** — The honourable member for Gisborne is having a crisis in her life again.

**Ms Duncan** interjected.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Gisborne will have her turn tomorrow.

**Mr MACLELLAN** — Her first crisis tonight was to shout more or less continually, although not while Madam Acting Speaker was in the chair. She continually asked, 'Three per cent of what? Three per cent of what?'. I hope she can satisfy herself at some time. I kept thinking, 'Cocky have a cracker'. It's probably just another thing you teach your cockatoo!

**Ms Duncan** interjected.

**Mr MACLELLAN** — Perhaps the honourable member would like to leave and have a cup of coffee and a quiet time to recover herself to be ready for her speech. Let me assure her that when she is on her feet and wanting to address the house I will give her the courtesy of listening, and I will give her the courtesy of not interjecting. Unfortunately she thinks that loudness represents good sense, and she has a problem.

The farmers in my area are going to be presented with a nightmare of compliance in relation to the rivers, streams and flows of water for no apparent good reason. I certainly support the amendments that say that parliamentary control over the process is important and ought to be approved. If 3 per cent is unacceptable to the minister and unsupportable by the honourable member for Gippsland East, why not some other percentage? I do not mind; I am not dedicated to its being 3 per cent in my area. In fact, I would not mind if the advisory committees were asked to recommend a percentage as part of their management of the water resources of a stressed or managed area. It makes good sense, and I offer that to the minister as perhaps an attempt to try to bridge the divide.

If it is argued or thought that 3 per cent is inappropriate in some area, some district, some environment, why can't the advisory committee recommend what percentage it ought to be? For heaven's sake, don't landowners and land — —

**Debate interrupted pursuant to sessional orders.**

**The ACTING SPEAKER (Mr Savage)** — Order! The time has arrived under sessional orders for me to interrupt the business of the house.

**Mr Maclellan** — On a point of order, Mr Acting Speaker, I understand that the words are that at the resumption of the debate I would have the call. I do not want to have another fracas with our friends on the other side.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member for Pakenham will have the call at the resumption of the debate.

## ADJOURNMENT

**The ACTING SPEAKER (Mr Savage)** — Order! Under sessional orders it is time for the adjournment of the house.

### Scoresby: integrated transport corridor

**Mr WELLS** (Wantirna) — I ask the Minister for Transport to take immediate action and release a timetable for the tramline along the Burwood Highway that is supposed to get to Knox City. This is a crucial point with the outer east with a federal election looming, and it goes to the point of credibility for state Labor and federal Labor.

The minister, prior to the last election, promised that Labor will commit $19 million to extend the East Burwood tram route through to the Knox City shopping centre. That is what Labor promised, and it set out a funding timetable on how it was going to achieve it. To make the point even more precise, the Premier and the Minister for Transport letterboxed every house along the Scoresby corridor saying very clearly in the first paragraph of their letter:

> We are also committed to improving public transport in the Scoresby corridor — including the extension of tram services to Knox and a possible light rail link to Rowville.

This was further justified when the Minister for Transport signed off on a memorandum of understanding with the federal Liberal government that says:

> Victoria agrees that all public transport improvements associated with the Scoresby transport corridor, and costs of land already acquired, are solely a Victorian funding responsibility.

That is why we were quite surprised when last weekend the Minister for Transport and the Labor shadow federal transport minister put out a press release saying that the extension of the tram service will go only as far as Vermont South shopping centre, which is approximately halfway.

I remind the house that the promise at the last state election was that Labor would deliver the tram service all the way to Knox City in this term of government. Now we have a press release by the shadow federal transport minister and the state Minister for Transport saying that the service will go only as far as Vermont South and that it is conditional on a federal Labor government being elected.

You can understand why people in the outer east do not believe Labor any more. I quote a headline from the *Knox-Sherbrooke News*, 'Light rail to city in four years'. It is accompanied by a picture of the local members of Parliament saying that the light rail will go from Burwood to Knox City in four years. The problem is that the date is Tuesday, 20 September 1988!

## Schools: head lice

**Mr KILGOUR** (Shepparton) — I refer the Minister for Education to the issue of head lice in schools. I do not want to be nitpicking about this, but I would like to inform the minister that we have some major problems in schools. Some might say that this is a problem for the Minister for Health, however — and as the Minister for Finance scratches her head — as many honourable members would be aware, the Minister for Health has issued edicts about it, but information has come from the Minister for Education, including messages that say:

> It is now no longer permitted for environmental health officers employed by the council to inspect children for head lice without the written consent of parents.

Also:

> Schools may use parents, volunteers or paid personnel to undertake head lice inspections provided that they have the written consent of parents.

And from the Minister for Health:

> Some schools and councils have raised the issue of obtaining consent from parents for head lice inspections. There is no statutory requirement … to obtain such consent for head lice inspections. The Department of Human Services recommends however that gaining consent should form part of any inspection program involving children …

That is all very well, but what we find is that schools have now put out forms for parents to sign to give consent for their children to be inspected for head lice. Naturally what you find is that the very children whose parents do not give permission are the children who have head lice, and who are causing head lice to be spread around the school and pupils to lose many days of schooling because they cannot go back until the head lice have disappeared. Often parents who withhold consent do not check their children for head lice and the children cannot be inspected at school.

I ask the minister if she will bring forward information to school councils that will allow the schools, which very often have a code of conduct that has to be signed and provides, for example, that children will wear a uniform, to require as part of their code of conduct that parents allow their children to have their hair inspected for head lice. This is going to get worse. We are going to have more children infected who have been inspected, but the kids who have the head lice often have parents who will not allow inspection to take place. It is causing problems in schools, and it is a major worry for principals and parents. I ask the minister to do something to allow schools to inspect for head lice without consent.

## Aged care: Geelong

**Mr TREZISE** (Geelong) — I raise a matter for action by the Minister for Aged Care. Today the Bracks government and mayors from across Victoria signed a joint communiqué calling on the federal government to increase funding for aged care. The rally on the steps of Parliament condemned the current levels of federal funding for home and community care programs for

elderly people. Sadly the Greater Geelong mayor, Cr Stretch Kontelj, today turned his back on the city's frail aged by not attending the aged care rally.

The action I seek from the minister is that she take steps to ensure that the voices of Geelong's aged and senior citizens are heard on this issue in Canberra by the federal government. Despite mayors from as far away as Wangaratta, Wodonga and Gippsland attending today's rally, Cr Kontelj decided to stay home. Forty mayors representing 2 million Victorians signed the joint communiqué with the Bracks government calling on the federal government to end aged care funding discrimination against older Victorians.

Despite the Municipal Association of Victoria having contacted each council in Victoria about the rally, Cr Kontelj did not bother to show his support for Geelong's elderly ratepayers and did not even bother to send a representative from the City of Greater Geelong. Frail aged residents in Geelong deserve better advocacy from the mayor on this issue. Geelong's home and community care services are under severe demand pressure, and the mayor knows it. I call on Cr Kontelj to sign the joint communiqué if he supports better funding deals for our elderly ratepayers.

The Howard government has refused to match the additional $41 million the Bracks government has committed to home and community care. Victoria is 5000 aged care beds short of the commonwealth benchmark, and mayors are rightly saying this is putting enormous pressure on public hospitals and the services provided by home and community care programs.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member must ask for some action.

**Mr TREZISE** — I have asked for action, Mr Acting Speaker. I have asked for the minister to take steps to ensure the voices of Geelong's senior citizens are heard on this issue in Canberra by the federal government.

As I was saying, by refusing to provide adequate numbers of hostel and nursing home beds the Howard government is forcing older people in Geelong to wait in hospital or at home until a nursing home bed becomes available. That is a disgrace. This problem is compounded by the Howard government's refusal to adequately fund home care programs such as Meals on Wheels and adult day programs. People aged 70 and over in Victoria receive less aged care funding than those over 70 in any other state.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member's time has expired.

## Melbourne: convention centre

**Ms ASHER** (Brighton) — I raise an issue for the attention of the Minister for Major Projects and Tourism, and the action I ask of him is to immediately commence construction of a 5000-seat convention centre in Melbourne. The Liberal Party has a strong record on this issue and on business events. We built the Melbourne Exhibition Centre and extended the convention centre. We built the footbridge, and we left the government with a number of design options available at a range of sites.

It is very important to mention this because the annual report of the Melbourne Convention and Exhibition Centre Trust has been released today. For the first time since 1996 revenue for the trust has decreased. It is down to $37.4 million from $38.9 million. For the first time since records were kept in 1996, revenue has gone down. While the government has announced a $10 million tourism policy in the face of the international crisis, what the government ought to do is look at the issue of business event funding.

The Melbourne Convention and Exhibition Centre Trust has done the government's work for it. I refer honourable members to page 13 of the report, where the trust has indicated that since 1999, when a number of design drawings were already available, it has prepared a precinct master plan, conducted a competitor and market analysis, and got KPMG to do a range of financing options, including a public-private partnership option — given that the government cannot do it itself. KPMG has also provided an economic impact assessment to show how valuable a convention centre can be for Melbourne. It is most unusual for a trust to give its views on such matters, but it has indicated in its annual report that Melbourne 'requires' — that is the word it has chosen to use — the development of an integrated convention and exhibition facility for 5000 delegates with up to 48 000 square metres of exhibition space.

Furthermore, the trust has indicated that the proposal is before government now. Again, it is extraordinary for a trust to indicate that, and of course the government is doing nothing about it and has done nothing about the preliminary drawings for two years while the trust has had to proceed with its work.

The chairman of the trust, Bob Annells, has also lent his personal support in the annual report for the building of a 5000-seat convention centre and has indicated how

important it would be to the economic future of tourism in Melbourne. I call on the minister to actually start a major project of his own, and this is the best example of such a project.

## Fitzroy High School

**Mr WYNNE** (Richmond) — I raise a matter for the attention of the Minister for Education. On a lovely Sunday morning about two weeks ago in North Fitzroy she made the magnificent announcement that she intends to reopen the Fitzroy High School that was so cruelly closed in the dark days of the Kennett government. The action I seek from the minister is to explain how she proposes to implement this important decision so that I will be in a position to advise people in my community how they can appropriately interact with the education department to achieve this outcome.

As honourable members are already aware, it is important to remember the history of the closure of Fitzroy High School, along with the infamous closure of Richmond Girls High School. People will well remember the disgraceful performance of the Kennett government in the closure of Richmond Girls and Fitzroy High schools. The community of Fitzroy and North Fitzroy was not prepared to stand by and let that action go unanswered.

As people will recall, the Fitzroy community blockaded the school for more than 14 months to protect a major community asset. People were not prepared to give up on public education. They withstood those dark days of the Kennett government when it closed two major schools in my electorate. Until two weeks ago, when it was announced that the government intends to reopen Fitzroy High School, if you were a boy living in the seat of Richmond you had limited options of a high school to go to.

It is important that the community is aware of the actions the minister will be taking to implement this decision to reopen the Fitzroy High School. I note that the shadow Minister for Education has just walked into the house. This decision has been widely applauded by everybody in the community except the honourable member for Warrandyte, who got out in the media and bagged the opening of the school. What a disgrace!

I very much look forward to the minister's action on this matter. This is a fantastic decision for the people of my electorate, and I look forward to her response.

## Gas: Gippsland supply

**Mr INGRAM** (Gippsland East) — I direct an issue to the attention of the Premier. The action I seek is that the Premier investigate the contractual arrangements that the government, the Office of the Regulator-General and the East Gippsland shire entered into with the proponents of the eastern gas pipeline.

The eastern gas pipeline cuts through East Gippsland on its way from Longford up to Sydney. One of the proponents was Duke Energy, and it had other contractors. TXU or Eastern Energy entered into arrangements for the reticulation of industrial and domestic gas for some of our towns.

**An honourable member** interjected.

**Mr INGRAM** — Of course I would not be reading!

The eastern gas pipeline had to go up to Sydney and be there on time for the Sydney Olympics, because the Olympic flame was lit with Gippsland gas that came out of Bass Strait. The pipeline has gone all the way through East Gippsland. As yet the towns of Bairnsdale, Lakes Entrance, Paynesville, Orbost and Metung have not been reticulated.

The company that originally entered into a tendering process with the Office of the Regulator-General and the East Gippsland shire to reticulate the gas into Gippsland sold its stake to a New South Wales company called Country Energy. That company has recently informed us that it is now trying to sell that contract and is reneging on the arrangement. Businesses in Gippsland like Patties have had long-term contracts for liquefied petroleum gas (LPG). Patties has had a price increase over 12 months of a quarter of a million dollars. So one company — one of the largest employers in Bairnsdale — has had a gas price increase of $225 600 a year. The shire itself has had a $70 000 increase, because the distributors of LPG have raised their prices.

I ask the Premier to ensure that the people of East Gippsland do not have to sit and watch the gas go out from Bass Strait while they do not have reticulated gas. I also ask him to ensure that the companies that have contracts with the government or the shire honour them so that East Gippsland is reticulated and does not have to rely on LPG, with its ever-increasing price diminishing our economic opportunities in East Gippsland. This has a major cost impact on people who rely totally on bottled gas or delivered LPG.

## Scoresby freeway: funding

**Dr NAPTHINE** (Leader of the Opposition) — I ask the Premier to table all documents relating to the land which has been purchased by the Bracks Labor government for the construction of the Scoresby

freeway. The reason we want these documents tabled is to test the veracity of a news statement released by the federal Labor Party on 28 October 2001. In that news statement the federal Labor Party said:

> In addition, a Beazley Labor government will contribute $55 million towards the $110 million that the Bracks government has spent on land resumption in the corridor.

The federal Labor government asserts in that statement that the Bracks Labor government has already spent $110 million on purchasing land in the Scoresby corridor. It is my understanding that the Bracks Labor government has spent nothing on land purchase in the Scoresby corridor, but that this land has been owned by the Victorian government and the people of Victoria for many years. This statement by the federal Labor Party is simply another Labor lie. Labor is desperately trying to deceive the people of Victoria and especially the people in the eastern and outer eastern suburbs of Melbourne. Clearly Labor simply cannot be trusted on what it says about the Scoresby freeway and the Scoresby transport corridor, and it cannot be trusted to build this important freeway network.

I ask the Premier to table all the documents to show whether his government has spent anything on purchasing land in the Scoresby corridor, because I believe the Bracks Labor government has spent nothing on such purchases. What has been put out by the federal Labor Party, by Mr Crean, the shadow federal Treasurer, and by Mr Ferguson, the shadow federal transport minister, are more lies. Labor cannot be trusted federally, it cannot be trusted in Victoria, and it certainly cannot be trusted to deliver the Scoresby freeway.

## Aged care: places

**Mr HELPER** (Ripon) — I raise for action by the Minister for Aged Care a matter that causes me great concern, and that is the lack of aged care beds in my electorate of Ripon. According to the commonwealth's own figures from the Australian Bureau of Statistics data for 2001 the Shire of Central Goldfields has a commonwealth nursing home bed shortfall of 23 places and 39 hostel places. The lack of nursing homes and hostels in the Ripon electorate gravely affects not only those who require those beds but also their families, friends and the whole community. This nursing home bed shortfall affects every member of the community in the Loddon–Mallee region and the Grampians region.

Our hospital wards are becoming de facto nursing homes, with frail elderly people unable to leave hospitals because there are simply no beds available for them. The stress on the hospital system affects in this very direct way the number of patients able to be treated in our hospital system. Other municipalities in my electorate are also underbedded. According to the commonwealth's own figures, Ararat council has a deficit of 12 nursing home beds and Pyrenees shire has a deficit of 17 hostel beds and 2 nursing home beds.

Further evidence of the poor treatment being received by the frail aged in regional and rural Victoria was revealed in a document released by the Australian Medical Association last week. The AMA released information detailing the availability of aged care beds in each Victorian electorate compared to the commonwealth government's own benchmark. The AMA figures reveal that in the federal electorate of Bendigo, which takes in part of my electorate of Ripon, there is a shortfall of 46 aged care beds compared with the federal government's own benchmark figures.

I ask the Minister for Aged Care to reassure the community of Ripon and indeed Victorians by outlining the government's actions to address and improve aged care accommodation and support options for our frail aged and to show that at least the state government cares for our aged. Across Victoria the Howard government's aged care policies have left our state with an aged care bed shortfall of more than 5000 beds, according to the commonwealth government's own figures. The Howard government is saving around $170 million per annum.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member's time has expired.

## Students: literacy and numeracy testing

**Mr THOMPSON** (Sandringham) — I refer the Minister for Education specifically to the lack of attention given to the benchmarking of students in Victorian schools, particularly in schools in the Sandringham electorate, and the inappropriate allocation of educational resources in this state.

When I first came to this chamber 10 years ago one of the great scandals I came across was the inadequate attention being given to education infrastructure in this state. You would walk into school after school, not just in the Sandringham electorate but in the eastern and northern suburbs, and what did you find? After a decade of Labor, you would see school walls smashed in, weeds growing out of spouting that was rotten and a degraded level of infrastructure.

The coalition government had the responsibility of rebuilding educational infrastructure in this state. I had the misfortune recently to visit a school which was in need of maintenance funding. It had been told that that

was a long way down the track. In the last financial period the increase in the education state budget was only 1.4 per cent. This might be contrasted with the commonwealth increase in budget expenditure of 5.4 per cent. If the Minister for Education had followed the lead of the commonwealth an extra $144 million would have been allocated to the improvement of education in Victoria.

It is interesting to note that Victoria is the only state in Australia which does not provide benchmarking for year 7 students. As a result of the testing programs introduced in this state that is available only at primary school level. Literacy and numeracy are the key indicators of future employability, yet no feedback is being provided to parents, and there is a refusal to test year 7 students. More is being promised but less is being delivered on the part of the Labor Party.

I call upon the minister to seriously evaluate these issues and to take into account the advice of her senior departmental advisers, who could give her indications about the serious run-down in the education department infrastructure that occurred between 1982 and 1992. Mark my words, I can see it all happening again. The long-term teachers know it, and it is time the education minister assumed full responsibility to ensure that the budget does not get out of hand and Victorian students have a fair go.

## Sunbury Industrial School

**Ms BEATTIE** (Tullamarine) — I ask the Minister for Community Services what action she will take to ensure that the lives of the children of the Sunbury Industrial School are recognised. The Sunbury Family History Society have long wished to honour the children who worked in the Sunbury Industrial School. These children lie in unmarked graves in the Sunbury cemetery. Honourable members will understand that these children lived at a time when the lives of many unfortunate children were not as valued as they are now. Many children who were orphaned — perhaps their parents could not afford to keep them or simply did not want them — were sent to an industrial school. Many children were just picked up off the streets.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member for Warrandyte is clapping. I remind the honourable member that clapping is disorderly.

**Ms BEATTIE** — It is offensive that honourable members are clapping when I am talking about these poor children.

**Mr Honeywood** — On a point of order, Mr Acting Speaker, I would like the house to note that the Minister for Education has arrived for the adjournment debate for the first time — —

*Honourable members interjecting*.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member for Warrandyte knows that is not a point of order.

**Ms BEATTIE** — Children who died at the industrial school were buried in unmarked graves and seemingly nobody cared that they had even lived. However, the dedicated members of the Sunbury Family History Society, led by Elizabeth Wilson, care and would like to acknowledge the lives of the children in some way.

The minister will recall that on a recent visit to my electorate she attended the Sunbury and Macedon Ranges Specialist School. Some of the buildings around that area form part of the original industrial school. Later these buildings were part of the women's prison which was so poignantly portrayed in the *Women's Jail Project* by that wonderful playwright and producer, Karen Martin. I am happy to report to honourable members that Karen has recently returned from Ireland where the *Women's Jail Project* played to packed houses and standing ovations.

The women's prison will be transformed into the Melbourne conservatorium for music, as the Bracks government has financed this important project with the Victoria University of Technology. The lives of the children were an important part of Victoria's history. Even though the federal minister, Amanda Vanstone, would not share my concern about the lack of acknowledgment of these children's lives — because, after all, these children only died once — I ask the Minister for Community Services what action she will take to honour these children.

**Ms Asher** — On a point of order, Mr Acting Speaker, I waited for this moment because I did not want to use the time of the house. On two occasions in her presentation the honourable member for Tullamarine asked, 'What action will the minister take?', rather than calling for specific action, as required by the rules for the adjournment debate. I ask that you rule her matter out of order. On two occasions, in her opening remarks and in her conclusion — I have taken notes — she said specifically, 'What action will the minister take?'. At no stage in her 3-minute presentation did she ask for action from the minister.

**The ACTING SPEAKER (Mr Savage)** — Order! The issue is now being dealt with by the honourable member. I am not in a position to rule; I was not actually listening.

**Ms Asher** — You are the Chair.

**The ACTING SPEAKER (Mr Savage)** — Order! As the Chair I was talking to the Clerk at the time. I did query that, but I am not in a position to rule on it. I think there is an issue of semantics, and I am not prepared to uphold the point of order.

## Responses

**Ms DELAHUNTY** (Minister for Education) — The honourable member for Shepparton was obviously very irritated by the issue of head lice. He was concerned that the Department of Human Services has instructed that municipal council nurses should not now inspect young heads without parental permission. The honourable member seemed to be arguing that parents who will not give their consent for their children's heads to be examined for head lice are those causing the spread of head lice. I am sure he did not mean that, because it is a difficult proposition to sustain.

It certainly means that children's and parents' rights are protected when parental consent is sought before children are touched. However, we give detailed support to individual schools about the management of head lice, including detailed information about treatment and supervision and information to stop the spread of head lice. It is important to respect the rights of students and parents.

The honourable member for Sandringham raised a series of matters, I think. He began by asking about benchmarking but then moved on to somewhat of a history lesson about facilities. He may not have been listening to my answer in the house today, but I said that as part of the Bracks government's investment one in three of Victoria's 1631 schools are on a building program as we speak — one in three schools are being improved. This is an investment of $283 million over three years.

**Mr Honeywood** interjected.

**Ms DELAHUNTY** — I can hear the chirping from the honourable member for Warrandyte. He obviously does not want to see any improvements in our schools. He wants them closed and privatised.

Certainly the Bracks government has provided for 13 new schools and 3 replacement schools. The honourable member for Sandringham then popped back to benchmarking and made the extraordinary and fallacious remark that we are not testing in year 7. We are the first government in Victoria — —

**Mr Thompson** interjected.

**Ms DELAHUNTY** — No, that is not what you said. The honourable member cannot repeat the question. He made the allegation that we are not testing in year 7. I have to inform the house that the honourable member is absolutely wrong. We are testing in year 7.

**Mr Thompson** — On a point of order, Mr Acting Speaker, the issue I raised related to sampling of year 7 students, as opposed to the benchmarking of year 7 students.

**The ACTING SPEAKER (Mr Savage)** — Order! There is no point of order.

**Ms DELAHUNTY** — Unfortunately the precision was lacking in the original comment. We are testing in year 7. We are the first government in Victoria to test in year 7. The honourable member for Warrandyte would remember that he represented Victoria at the Ministerial Council on Education, Employment, Training and Youth Affairs two years ago when he was a minister, when he put his hand up and said, 'Yes, Victoria will test in year 7'. What happened? The Kennett government sat on its hands. It is the Bracks government — —

**Mr Honeywood** — You are a liar.

**Ms DELAHUNTY** — You had better withdraw that again. This is very dreary.

*Honourable members interjecting.*

**Ms DELAHUNTY** — I am sorry; the shadow Minister for Education has made an offensive remark. I ask him to withdraw.

**The ACTING SPEAKER (Mr Savage)** — Order! There has been a suggestion that the honourable member for Warrandyte made a remark — —

**Mr Honeywood** — Mr Acting Speaker, I was never at the conference the minister alleges. She is lying again.

*Honourable members interjecting.*

**The ACTING SPEAKER (Mr Savage)** — Order! The Minister for Education has asked — —

**Mr Honeywood** — Out of respect to you, Mr Acting Speaker, I withdraw, despite the minister lying.

**Ms DELAHUNTY** — Thank you, Acting Speaker. We are testing in year 7, and the testing has been completed; it was done in August. It is providing us with some very revealing data about some improvements that need to be made in year 7, particularly in literacy.

The honourable member for Richmond — that great warrior for public education — raised a matter concerning the continuing process of reopening the Fitzroy Secondary College. The honourable member for Richmond is absolutely right; what a stunning day it was a couple of Sundays ago when, on behalf of the Bracks government, on behalf of the great believers in public education, I handed back the keys to the Fitzroy Secondary College. It was very pleasing, because these parents had literally laid their bodies on the line. They impeded the bulldozers and they stopped the privatisation of our public schools under the Kennett agenda — and some of the ministers are sitting here today, and they are very, very embarrassed. Some of those opposition members who were ministers in that government should be ashamed of their closure of 380 schools.

I recall as a journalist on the *7.30 Report* presenting stories about the fine believers in public education who day and night refused to leave that site. Unlike so many of the inner suburban sites that were closed by the Kennett government, they refused to let that land be sold off. Thus the land was kept for public education. As a result of some hard work by the honourable member for Richmond and others — the former Minister for Education, the Honourable Barry Pullen, in particular, who led a very inspired panel of locals — the need for a secondary college in the inner suburbs was examined.

The plan is to open for year 7 in 2003. But this is a very ambitious time line, as there has to be some renovation of that school — for example, it has to be cabled for computers. It has not been a school for 10 years, and schools have moved on. But to facilitate that I am delighted to announce today that a planning committee will be formed and that the architect for the site will be appointed in the next two weeks. I have specifically requested that the regional director include on that planning committee community representatives including Antony McPhee, David Brant and Claire Hargreaves, who were part of that broad group that fought so hard to reopen the school. It will also include parents, principals from the other local secondary colleges, local government and a representative of the universities.

As the honourable member for Richmond has said, it is true that this decision has been widely applauded, not only for the people of Fitzroy but for those right across the state whose communities' hearts were broken when 380 schools were so cruelly and callously closed under the Kennett government. Of course the only person who did not applaud it was the shadow minister, and he has been yabbering away over there this evening.

**Mr Pandazopoulos** interjected.

**Ms DELAHUNTY** — That is right, he does not want any school opened; he wants to see them closed. He is obviously quite unaware — I do not know whether he was asleep or it was his self-righteousness — because today in question time he ignored the fact that we are not only reopening a school, Fitzroy Secondary College, but we are also building new schools in the growth corridors. The government is looking after the inner suburbs, because the students in those suburbs have a right to public education, but it is also building new schools in the growth corridors and in regional Victoria. The government is building 13 new schools and 3 replacement schools.

The honourable member for Warrandyte referred to the number of schools in Berwick. How many schools does the government have to build in Berwick? When will the honourable member get his facts right? On Monday the government announced the names of four new principals for four new schools in the south-eastern growth corridor. For heaven sake, keep up with it Phil! The schools are Cranbourne Special School, Berwick Secondary School, Narre Warren South Primary School and Aspendale Gardens Primary School, which is just the beginning of the Bracks government's reinvestment in public education.

**Mr PANDAZOPOULOS** (Minister for Major Projects and Tourism) — The honourable member for Brighton asked about tourism. One of the advantages of being in government is that you get to know what the former government was doing when in government. There has been a lot of grandstanding about a plenary hall. The honourable member for Brighton referred to the Melbourne Exhibition and Convention Centre Trust annual report and how unusual it is that it contains comments and presents new information about a plenary facility and refers to the work already done. It may be unusual under the Kennett government, but under this government organisations are allowed to

report on issues they think should be reported on. The government is working on everything reported on.

The opposition is so lazy that it gets its information from the publicly available information that agencies make available because the government asks them to disclose more information. How embarrassing is that?

**Ms Asher** interjected.

**Mr PANDAZOPOULOS** — What did they say about me? I could tell the house what they say about the honourable member, but it is not appropriate in a public place. The honourable member refers to the Melbourne Exhibition and Convention Centre Trust, but was the honourable member the minister responsible at the time, like me, as the Minister for Tourism? No, the Honourable Mark Birrell was the responsible minister. The honourable member for Brighton is excited about the importance of a plenary, convention and exhibition facility for tourism and the image of the state, but she was not even the minister at the time and has never had responsibility for it. I am pleased to have that responsibility. The government believes it fits in well with tourism.

Opposition members ask when the government will build it or start a new project. Opposition members are asleep. They have been going to the lunches that the Attorney-General was talking about today, discussing what they may do rather than learning about what is going on. Are new projects being built? What about the Malthouse Plaza and the Melbourne Sports and Aquatic Centre stage 2? Was money available for that? No. What about the Commonwealth Games village? That is just to name a few.

*Honourable members interjecting*.

**Mr PANDAZOPOULOS** — Just keep waiting. The opposition says, 'What about them? We won them!'. Was money allocated for them? How will they be built unless the government facilitates them, funds them and makes them happen? Of course the former government left black holes in projects like Federation Square. The government could build more major projects if it did not have to find extra money for those things.

Let us look at what the government is doing. The annual report refers to things the government is doing. The opposition is now trying to rewrite history when it says that it supports this project. The Liberal policy was to 'facilitate the extension of the exhibition centre and a new plenary facility in the next decade'. Did the then government commit funding for it? No. Did it have a site? No. Did it have architectural plans agreed on? No. Before funding a major project the government must undertake concept planning on different sites so it can see how the project can be delivered financially.

The opposition's talk is cheap. It did not do the work in government, yet it wants the Bracks government to deliver these things overnight. The former government was planning to deliver them over the next decade. The government will continue to do the work and the proper assessments. Of course the government is aware of the importance of such a facility.

**Ms CAMPBELL** (Minister for Community Services) — The honourable member for Tullamarine raised a very touching subject, particularly given the significant history of the Sunbury Industrial School around Sunbury. As the honourable member outlined, she proudly showed me around the Sunbury and Macedon Ranges Specialist School when I had the opportunity to visit it. It is at an historic site and there is an interesting but tragic history related to it of the lives of the children who worked at the Sunbury Industrial School.

It is reassuring to find such community spirit still alive and active in the honourable member's electorate. The honourable member outlined to me the fact that many of the children are buried in the Sunbury cemetery in unmarked graves. I pay great tribute to the Sunbury Family History Society for its initiative in undertaking to remember and honour these children.

There is a range of options available, but it is important that these children are honoured sensitively and quickly, and to that end I am happy to support the Sunbury Family History Society to the tune of $1000 towards that project. On behalf of those of us who treasure the lives of children, the government wants to say thank you to the Sunbury Family History Society and wish it luck in this venture. With the society, the government honours the lives of those children, albeit belatedly.

**Ms PIKE** (Minister for Housing) — The honourable member for Geelong raised with me in my capacity as Minister for Aged Care the matter of ongoing funding for frail aged people in his community. Today we were joined by mayors from all political persuasions from right across Victoria who came to Parliament to protest about the lack of federal aged care funding.

Unfortunately on this occasion the mayor from Geelong was missing. He was not here to sign the joint communiqué that identified the fact that the massive shortage of funding for 5000 beds in Victoria is affecting older people right across the state. He was not

here to identify the $170 million by which Victorians are being short-changed or to identify the massive pressures on our public hospital system or to call for matching funding of the Bracks government's $41 million commitment.

I will ask the Municipal Association of Victoria to make the joint communiqué available to the City of Greater Geelong so that the mayor can represent his people and add his signature to the list of the 40 other mayors who have shown their support by calling on the Howard government to meet its financial responsibilities to frail aged people in Victoria.

The honourable member for Ripon raised with me the very concerning matter of the shortage of residential aged care beds in his — —

*Honourable members interjecting.*

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable members for Mordialloc and Geelong and the Leader of the Opposition will cease interjecting.

**Ms PIKE** — Recently I tabled a report entitled *Underfunding of Aged Care in Victoria*. The honourable member for Mordialloc may not find this matter very riveting, but I can assure him — —

**The ACTING SPEAKER (Mr Savage)** — Order! The Chair is becoming increasingly tired of the honourable member for Mordialloc and his inane interjections. He will cease to interject across the table and let the minister conclude her remarks.

**Ms PIKE** — I can assure the house and assure the — —

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member for Mordialloc is defying the Chair, and the Chair has had enough.

**Mr Leigh** interjected.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member for Mordialloc will withdraw that remark. Do you want me to call the Speaker?

**Mr Leigh** — I'll leave the chamber before I apologise to you, period.

**Honourable member for Mordialloc withdrew from chamber.**

*Honourable members interjecting.*

**Ms PIKE** — Not only did the report identify that there is significant underfunding for aged care in Victoria but recently the health minister released the latest hospital snapshot, which also identified the number of older people in our hospital system requiring residential aged care facilities. We know that the concerns of the honourable member for Ripon are particularly for residents within his local community. In September 12 patients in Ballarat, adjacent to his community, waited 878 bed days. That is an average of 73.17 days for an aged care bed.

Clearly this is an unacceptable situation, and the Bracks government is doing what it can to try to assist people in these communities: lobbying the federal government to provide additional beds, reopening beds that were closed by the previous government and providing additional capital funding. I have already announced that Dunolly and Avoca in his community have received additional funding as part of the broader Maryborough health service, and the government is working closely with that community to identify further ways that we can assist it in its provision of aged care.

The honourable member for Wantirna raised a matter with the Minister for Transport requesting the release of the timetable for the construction of the tramline along the Burwood line to Knox City, and I will forward that request to the minister.

The honourable member for Gippsland East raised a matter for the attention of the Premier asking for an investigation into the contractual arrangements for the eastern gas pipeline. Again I shall request a response from the Premier.

The Leader of the Opposition raised another matter with the Premier regarding the identification of land purchased for the construction of the Scoresby freeway, and I will request that the matter be responded to by the Premier.

**The ACTING SPEAKER (Mr Savage)** — Order! The house stands adjourned.

**House adjourned 10.53 p.m.**

# Thursday, 1 November 2001

**The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.35 a.m. and read the prayer.**

## PETITION

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

### Latrobe: governance

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

The humble petition of the undersigned citizens of the state of Victoria sheweth that the council of the City of Latrobe has failed in a serious and ongoing way to provide good governance of its district.

Your petitioners therefore pray that the council of the City of Latrobe be suspended and that an administrator be appointed.

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

**By Mr RYAN (Gippsland South) (7663 signatures)**

**Laid on table.**

## PAPERS

**Laid on table by Clerk:**

Ambulance Service Victoria-Metropolitan Region — Report for the year 2000–2001

Australian Food Industry Science Centre — Report for the year 2000–2001

Bairnsdale Regional Health Service — Report for the year 2000–2001 (two papers)

Bayside Health — Report for the year 2000–2001

Boort District Hospital — Report for the year 2000–2001

Caritas Christi Hospice Limited — Report for the year 2000–2001 (two papers)

Cohuna District Hospital — Report for the year 2000–2001

Country Fire Authority — Report for the year 2000–2001

Eastern Health — Report for the year 2000–2001 (three papers)

Echuca Regional Health — Report for the year 2000–2001

Equal Opportunity Commission — Report for the year 2000–2001 — Ordered to be printed

*Financial Management Act 1994*:

Report from the Minister for Agriculture that he had received the 2000–2001 annual report of the Victorian Strawberry Industry Development Committee

Reports from the Minister for Environment and Conservation that she had received the 2000–2001 annual reports of the:

Barwon Regional Waste Management Group

Calder Regional Waste Management Group

Central Murray Regional Waste Management Group

Eastern Regional Waste Management Group

Gippsland Regional Waste Management Group

Goulburn Regional Waste Management Group

Grampians Regional Waste Management Group

Highlands Regional Waste Management Group

Mornington Peninsula Regional Waste Management Group

North East Victorian Regional Waste Management Group

Northern Regional Waste Management Group

South Western Regional Waste Management Group

Western Regional Waste Management Group

Yarra Bend Park Trust

Report from the Minister for Health that he had received the 2000–2001 annual report of the South Gippsland Hospital

Fisheries Co-Management Council — Report for the year 2000–2001

Geelong Performing Arts Centre Trust — Report for the year 2000–2001

Infertility Treatment Authority — Report for the year 2000–2001

Kooweerup Regional Health Service — Report for the year 2000–2001 (two papers)

Kyabram and District Memorial Community Hospital — Report for the year 2000–2001

Legal Ombudsman — Report of the Office for the year 2000–2001 — Ordered to be printed

Legal Practice Board — Report for the year 2000–2001

Metropolitan Fire and Emergency Services Board — Report for the year 2000–2001

National Gallery of Victoria — Report for the year 2000–2001

Northern Health — Report for the year 2000–2001

Peninsula Health — Report for the year 2000–2001

Peter MacCallum Cancer Institute — Report for the year 2000–2001

Public Record Office Victoria — Report for the year 2000–2001

Radiation Advisory Committee — Report for year ended September 2001

Royal Victorian Eye and Ear Hospital — Report for the year 2000–2001

Rural Ambulance Victoria — Report for the year 2000–2001

South Eastern Regional Waste Management Group — Report for the year 2000–2001

St Vincent's Hospital (Melbourne) Limited — Report for the year 2000–2001 (two papers)

Victorian Energy Networks Corporation — Report for the year 2000–2001

Victorian Institute of Forensic Medicine — Report for the year 2000–2001

Victoria Law Reform Commission — Report for the period 6 April 2001 to 30 June 2001 — Ordered to be printed

Victoria Police — Report of the Office of the Chief Commissioner for the year 2000–2001 (two papers)

Victorian Health Promotion Foundation — Report for the year 2000–2001

Victorian Legal Aid — Report for the year 2000–2001

West Gippsland Healthcare Group — Report for the year 2000–2001

Western Health — Report for the year 2000–2001 (two papers)

Women's and Children's Health Service — Report for the year 2000–2001.

## BUSINESS OF THE HOUSE

### Adjournment

**Mr BATCHELOR** (Minister for Transport) — I move:

That so much of sessional orders be suspended to allow the house, at its rising, to adjourn until Wednesday, 7 November 2001.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Information and communications technology: government policy

**Mr PERTON** (Doncaster) — The matter I wish to raise is the Labor Party's failure to commit to the new economy, its Luddite attitude to new technology and its failure to make the Knowledge Nation statement anything but an electoral fraud. If the public needed any proof of this electoral fraud, it is the Bracks government's failure to set up an information technology advisory committee until the middle of this year and its failure to have an information technology (IT) industry policy to date.

There is proof in that the Treasurer went to San Jose to visit Selectron, and Selectron chose after meeting him to relocate its manufacturing business to Sydney and Singapore. It is a fact that Nokia broadband in reallocating its resources worldwide left Victoria, and the Knowledge Nation statement and the federal ALP's IT policy released yesterday makes things even worse. If we need proof of that it is in the statement of Mr Rob Durie, executive director of the Australian Information Industry Association.

He said:

> … the policy still has too many holes … There is nothing about the tax treatment of employee share options …an issue that was in the ALP platform three years ago and was still present in the Knowledge Nation document earlier this year …

But even more importantly, in the area of venture capital, the Australian Venture Capital Association said:

> To be quite frank, the coalition government's venture capital reforms have headed us on the path to world best practice …

The policy of the ALP is a fraud. It is nonsense, and it will set Australia and Victoria back many years.

### Wangaratta Festival of Jazz and Blues

**Mr JASPER** (Murray Valley) — I remind the house that the now internationally recognised Wangaratta Festival of Jazz and Blues will be conducted next weekend.

From a humble beginning 12 years ago a dedicated small group of Wangaratta people developed a vision for a special event for the city. The Wangaratta Festival of Jazz and Blues is a multiple Victorian tourism award winner and a national award winner. It is now part of the Victorian tourism awards hall of fame and has been declared a Victorian hallmark event. The 12th national

jazz awards will be conducted at the festival, with this year's instrument being the bass. In other years instruments have included piano, saxophone and drums.

The program continues to expand and is a mecca for jazz bands — including Australian and overseas jazz musicians and enthusiasts — with over 90 events over the four days and an expanded range of venues at hotels, halls, wineries and outdoors. Highlights include a jazz mass at Wangaratta Holy Trinity Cathedral and a new jazz event at the Wangaratta Turf Club. It is estimated that the jazz festival injects over $18 million into the Wangaratta economy, and the massive event involves over 600 volunteers.

I pay tribute to the chairperson of the committee, Mrs Patti Bulluss, and her committee, for their continuing dedication to a fantastic world-renowned event for the Rural City of Wangaratta.

Join us, Mr Speaker and honourable members, for a great musical event and experience that will be enjoyed by all — including myself, Mr Jazzper!

## Catherine Helen Spence Leadership Book Prize

**Ms DELAHUNTY** (Minister for Education) — As the member for Northcote I congratulate the 16 students who were selected by their schools in my electorate to be awarded the Catherine Helen Spence Leadership Book Prize. This is the fourth year I have offered this prize to salute and celebrate the leadership qualities of young students in our schools, both public and private, right across the electorate.

The awards celebrate student initiative and leadership; but they also celebrate the life of a fantastic woman in Australian history, Catherine Helen Spence, who was Australia's first female professional journalist, Australia's first female political candidate, a great public speaker and political reformer, and one of the architects of proportional representation — although it does not carry her name, unfortunately. She was a great literary reviewer too. If honourable members look at a $5 note they will see Catherine Helen Spence saluted on it.

The awards go to primary and secondary government and non-government students. This year the winners include Moshidi Manaka of Thornbury Darebin Secondary College, Mikeyha Harrison of Wales Street Primary School and Olga Papagiorgiou from Northcote High School, who was a leading light in the 2000 Rock Eisteddfod. Each of these students has been chosen by their school for their leadership qualities.

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

## Education: federal policy

**Mr PHILLIPS** (Eltham) — I condemn the Beazley federal opposition for its stance on private schools, which residents of my constituency of Eltham despise and reject.

I, like a majority of, if not all, honourable members on this side of the house support choice in the education system and the opportunity for mums and dads to choose whether they want to send their children to a private school, a Catholic school or a public school. I make no apology for asserting that when choosing between public and private schools for my four children I chose a public school. However, that does not suggest that other hardworking mums and dads, who in some cases do second and third jobs to send their children to a Catholic or private school, should have to worry that a Beazley government, if elected in Canberra, will deny their school money raised through our taxes. Such people work very hard for that choice and are now very fearful that a Beazley government will reduce funding to some schools to the benefit of others, where there should be consistency.

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

## Garoopna Uniting Care

**Mr STENSHOLT** (Burwood) — I rise to pay tribute to the many volunteers at Garoopna Uniting Care. Last Wednesday I had the privilege of attending the Tanderra aged care facility in Camberwell to present International Year of Volunteers certificates to the many volunteers working there. I presented certificates to the board members Ken Gellatly, Jenny Eberhard and Neil Coote, among others, and I also presented certificates to marvellous volunteers such as Marge Boutcher and Gwenda Shadforth. I also provided certificates to the volunteers who organised the Day Out program, which the volunteers run to assist the elderly to live independently within the community. Sally Wickham, Lorna Picone and Mary Fenessey were there to accept the certificates on behalf of the eight volunteers who run the program.

I wish to pay particular tribute to Fran Lambert and Nancy Tregallis. They have been volunteers at Tanderra for 50 years, and were on the original committee that set up the facility 50 years ago. A few weeks ago Fran Lambert became a resident there. I pay tribute to their half century of service, almost half of the

20th century, in helping this marvellous facility. A special tribute to them is worthy and is indeed given.

## Building Control Commission: inspection service

**Mr McINTOSH** (Kew) — In the *Australian Financial Review* yesterday, buried in the middle of that paper in the 'In brief' section, was an announcement that the Building Control Commission has now reinstated its investigatory powers whereby it can appoint an independent umpire to determine disputes between builders and consumers of building services — householders. I have spoken on this matter on a couple of occasions in this place, most recently at the time of the passage of the amendments to the Building Act two weeks ago.

It was a matter of some regret that at that time it appeared that the Building Control Commission had unilaterally decided to suspend one of its statutory obligations to appoint independent investigators. No explanation was provided to me or anybody else as to why that obligation was suspended, but yesterday it was announced that it had been reinstated. While I am very grateful it has been reinstated and I welcome the decision to reinstate this very important power, I am concerned that during the four months the obligation was suspended at least three people in my constituency alone contacted my office about the matter. I am certainly aware of other people in other areas of Kooyong who have contacted other members, including Petro Georgiou, and there has been no explanation by the minister as to why this very important consumer protective power was suspended.

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

## Wellington Secondary College

**Mr LENDERS** (Dandenong North) — I rise to pay tribute to the Wellington Secondary College in Mulgrave in my electorate of Dandenong North. Last week I had the privilege of attending the college for two functions. Firstly, I launched a new college logo in the presence of the school council president, Phil Marrinon, the principal, John Coulson, college captains Meredith Eldridge and Stephen Worcester, middle school captains Den Lim and Tim Reynolds and junior school captains Tara Munford and Mark Pedrola. It was a great project for the school, and there was a lot of input from students and staff. It symbolises what is good in the school.

Secondly, I had the pleasure of launching the transition project 'Artists in Residence', which was introduced by Wellington Secondary College students and students from the adjoining Albany Rise Primary School in Mulgrave. It is a program that is funded by the schools and the state government. Cameron Bishop is the artist, and Coralie Buckley is the arts coordinator from Wellington Secondary College. Glennis McKenna is the arts coordinator from Albany Rise Primary School.

I joined with the students in launching the project. It is a fantastic project, and honourable members who happen to be in the area should call into Wellington Secondary College and have a look at some of the sculptures. The transition project covers multiculturalism, immigration, our home and the environment. All the students put an enormous amount of time and effort into expressing what their multicultural communities do.

It was a privilege to be there, and it is great to work with the school community. It is a great school, and I recommend that honourable members visit it when they are next in the area.

## Birrarrung Park Lake

**Mr KOTSIRAS** (Bulleen) — I wrote to the Minister for Environment and Conservation on 6 August asking for a grant of $15 000 to assist the Rotary Club of Templestowe to purchase and install a pump to fill Birrarrung Park Lake, which is now empty. Many weeks later I received a response from Ms Chloe Munro, undated, which claims that she received advice from Parks Victoria.

In her letter she states:

> Parks Victoria has provided advice that the lake has negligible environmental value as an artificial wetland …
>
> I am advised that the proposal to pump water to the lake would change its ecological character … I therefore do not believe that funding can be considered …

Unfortunately, despite this response, I received a copy of a letter from Parks Victoria to the Rotary Club of Templestowe that states:

> … over 175 000 people visit the park a year …
>
> My view is that by returning water to the lake and maintaining it at a relatively constant level, the ecology of the lake would be restored to its former composition.

It goes on to say:

> The cost of maintaining a pump … should be minimal as once the lake is full the ongoing work the pump would have to do … will only be a couple of hours every two weeks …

I therefore ask that the minister revisit this proposal to provide the funds to install a pump and to not allow Ms Munro to give such ad hoc responses to letters without checking with the appropriate people in Parks Victoria. I call upon Ms Munro to visit — —

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

## Woodend Primary School

**Ms DUNCAN** (Gisborne) — I pay tribute to the Woodend Primary School headed by its principal, Ruth Reid-Hobbs, and a dedicated staff and school community.

I had the privilege of attending the opening of the school several months ago. It is Australia's first 'healthy school', as its new buildings are specially designed to reduce the possibility of allergic reactions by using chemical-free paints, no carpets, and a heating and cooling system that continually brings fresh air into the classrooms.

Recently the school was a finalist in the Waste Wise schools program awards for its year 4 special environmental program conducted at its Carlsruhe campus. The program has provided hands-on environmental learning experiences for year 4 students since 1984. Last year a Carlsruhe teacher was trained in Waste Wise practices and principles and the program was commenced. It was so successful that the Carlsruhe annex was granted $1000 from the Teaching Initiatives program to build a shed for the storage of recyclable materials.

Thanks to the enthusiasm of staff, students, parents and the local community the program has been such a huge success that the school has won the state's litter-free yard award of $1500 and the best Regional Waste Wise School award. The school was the runner-up for the state Waste Wise project initiative award.

This could not have been done without an innovative and supportive school council. I congratulate this wonderful environmentally and socially progressive and innovative school.

## WATER (IRRIGATION FARM DAMS) BILL

*Second reading*

**Debate resumed from 31 October; motion of Ms GARBUTT (Minister for Environment and Conservation).**

**Mr MACLELLAN** (Pakenham) — In my remarks on this bill last night I pointed out that this is a framework bill. Its fault is that it attempts to make one size fit all — in other words, all circumstances. It is too inflexible. It does not allow for multi-use dams — that is, dams on properties which are used for both stock and domestic and occasionally other purposes.

It does not allow for dams to be moved on and within a property. Where a dam is found to be unsatisfactory under some new enterprise on the farm and it is decided to move the water or the waterhole from one part of the farm to another, unfortunately there are going to be severe restrictions.

Those restrictions might make sense in the Murray Valley and Murray–Darling Basin — in that you can only transfer your water right downhill — but in the Yarra Valley, West Gippsland, on Phillip Island and near the Bunyip and Koo Wee Rup areas in my electorate it does not make sense to tell a farmer who is on an almost dead flat farm that if he is moving the water from one end of the farm to another he will have to attempt to buy his own water right, which will not be around for 20 years because there will not be a market for it. So we have this inflexibility.

The minister in some ways has too much power and in other ways has insufficient power. I say insufficient power because the minister ought to have the power to bring the framework of this legislation into effect part by part, area by area, as it is needed, and concentrate her resources on those water areas of the state which are under strain and which need attention. She should not be dispersing the government effort right across the state. She should be concentrating on the problem areas rather than creating problems for farmers in areas such as mine.

In West Gippsland I am going to be advising all the farmers to register all waterholes as commercial. It is in their interest to do so. They cannot really sensibly term it 'stock and domestic'. If they want stock and domestic they can dig a new hole and get it at any time. Whatever waterholes they have on the magic date ought to be commercial, so that in years to come they will acquire some magical right as of the end of this year that the water on their property is commercial water and they can use it for commercial purposes.

What do we mean by 'commercial purposes' under this legislation? Madly, we mean washing down the dairy to get the manure off the dairy yard and to sensibly reprocess that by spreading it on the paddocks to get grass growing — not to pollute waterways or create problems — yet that is said to be a commercial use.

Commercial is anything other than stock and domestic, so that if you have fish in your dam, that is commercial. One trout will be quite enough for the honourable member for Gisborne and trout does not seem an inappropriate item to bring to her attention. One trout in the dam sold, one yabby sold, and it is no longer a stock and domestic dam; it is suddenly a commercial dam. That is the nonsense that government members are supporting; that is what they want to have imposed right across the state. That is what is in the framework.

**Ms Duncan** interjected.

**Mr MACLELLAN** — The honourable member for Gisborne, unfortunately, thinks her shouting and interjections are substitutes for her thinking. I wish she thought more and said less. That has been probably said to her on many occasions. I regret that it has to be said on such a formal occasion as in the house, but she should think more and say less, by way of interjection, and listen more. If she listened more she might learn more. There are problems for people in my area. Her area may be perfectly happy. She is anti-farmer; she might want to close all the farms down — that is her business. But in West Gippsland we are pro farming, we encourage farming and the wise use of water. We say that there are in this bill inflexibilities which will make it almost impossible for honest people to do the honest thing. It is an invitation to cheat. It is an invitation, on the magic day, the first year, to register every dam as commercial and to exaggerate as far as possible the claim for commercial water on properties so as to get and maximise the future right.

That is what is wrong with this inflexible and rather ill-designed bill and the fact that this bill is one-size-fits-all, trying to import a northern water-shortage solution to a highly watered area in West Gippsland, in the Yarra Valley, and in the Western District where the situation is completely different. That is the issue that is being raised in the amendments proposed by the National Party and the Liberal Party. I hope the government will listen to the offer we make — that is, that if 3 per cent is not the right figure, let the local committees recommend a different figure and let us look at amendments in regard to that while the bill is between here and another place, or if there is an adjournment of this debate.

If 3 per cent does not make sense in some areas, let it be some other percentage. Let it be a lesser percentage in some areas and a higher one in better favoured areas. However, let us not make it so inflexible that people can only get the maximum advantage under this legislation by cheating. This is an invitation for people to cheat rather than to cooperate in the wise, sensible and neighbourly sharing of water.

**Ms ALLEN** (Benalla) — I am very pleased to be able to speak on the Water (Irrigation Farm Dams) Bill. Unfortunately the honourable member for Pakenham has left the house. As the interjections of the honourable member for Gisborne brought the word ‘trout’ to his mind, I point out that the honourable member for Pakenham brings the word ‘carp’ to mine.

The irrigation farm dam debate has been raging in my electorate for over 10 years. It is a difficult and complex issue and many farmers in my electorate and in the north-east are greatly concerned about it. Consequently I have had many meetings with farmers from within and around my electorate. I have also had meetings in my office with the minister and members of the Victorian Farmers Federation where we have been able to talk through the farm dams report and come to agreements that suit the farmers.

The honourable member for Pakenham’s reference to 3 per cent is an ill-conceived, knee-jerk reaction and I believe strongly that it is a deliberate attempt to try and shore up more support in the north-east because of the seat of Indi and the coming federal election. The honourable member for Benambra would know very well that the federal Liberal candidate for that seat is a Melbourne-based lawyer who has absolutely no idea how to talk to country people about water issues and does not know anything about farm dam issues.

**Mr McIntosh** — On a point of order, Mr Acting Speaker, the Liberal candidate for Indi has nothing to do with this, particularly when the honourable member for Benalla is famous for saying that she is going to cart water from the Broken River to Lake Eildon to cure the water restrictions.

**The ACTING SPEAKER (Mr Lupton)** — Order! There is no point of order.

**Ms ALLEN** — That is amazing! I do not recall saying anything like that.

**The ACTING SPEAKER (Mr Lupton)** — Order! The honourable member for Benalla on the bill. It is early in the morning; let’s get on with the work.

**Ms ALLEN** — As I was saying, this is a deliberate, knee-jerk reaction by the Liberal Party to shore up support for its Melbourne-based lawyer, the Liberal candidate for Indi, whose claim to fame is that she is never able to make a meeting on time. She loses her keys, she loses her car, her car runs out of petrol or becomes bogged — —

**Mrs Fyffe** — On a point of order, Mr Acting Speaker, the honourable member for Benalla is implying that the member for Indi is late for meetings. The honourable member for Benalla was an hour and a half late for a meeting at Eildon and many others. I think she should stop this.

**The ACTING SPEAKER (Mr Lupton)** — Order! There is no point of order, but I refer the honourable member for Benalla to previous rulings by Speakers in relation to honourable members making disparaging remarks about other members who are not in the Parliament to defend themselves. I ask the honourable member for Benalla to come back to the bill.

**Ms ALLEN** — Thank you, Mr Acting Speaker, but I am talking about a candidate, not a member — and she will never be the member!

**The ACTING SPEAKER (Mr Lupton)** — Order! The honourable member for Benalla is testing the patience of the Chair. I have been here about 30 seconds and hope she will come back to the bill; otherwise the Chair may have to use a little bit of its authority.

**Ms ALLEN** — My apologies, Mr Acting Speaker.

Getting back to the bill, in reference to the 3 per cent, this has been an ill-conceived, ill-thought-out amendment, and I quote Mr Don Blackmore on the subject of the 3 per cent. He was the chair of the Farm Dams (Irrigation) Review Committee and said in a radio interview:

> Let's be clear. When the opposition talks about 3 per cent they are talking about one-third of the capacity of Lake Eildon.
>
> Lake Eildon is 3 million megalitres — so one-third of this is 1 million megalitres or around 25 per cent of water used in northern Victoria.

It is quite obvious that the 3 per cent the Liberals talk about is ill-conceived.

I have a further quote from Don Blackmore — and I have a document here in case anyone wants to query it — which states:

> It would create this contingent liability of 1.2 million megalitres of water being available for farmers to store on their properties at some stage in the future. Now that water has already been allocated by due processes of governments over the last 100 years to another group of customers. So … and presumably they're using that water in sensible ways to promote economic benefit in Victoria.
>
> So, you've got 1.2 million, so you've got to think about that.

That is something that the Liberals have never thought about.

> It's a third of the capacity of Eildon Dam that's going to sit there, that at some stage in the future somebody may elect to take it up. So that's the reason. And I think in terms of the cap, you know, any of these policies will all have to be done within the cap, as it's done with New South Wales. So we certainly wouldn't … there's no provision to allow a rule like this to exceed the cap.

It is so blatantly obvious that the Liberals have not thought out this amendment. They are not telling the truth to the people of Victoria, and particularly farmers in their electorates, about how this has been thought out and what the true account of the percentages will be. I suggest that instead of coming up with this ill-conceived amendment, they go out to the public — to the farmers — and explain fully what they mean. I bet my bottom dollar they will fall flat on their faces.

**Mr Mulder** — On a point of order, Mr Acting Speaker, the honourable member has once again referred to the very low levels of Lake Eildon and what effect the 3 per cent would have on Lake Eildon, but at no stage has she indicated what formula she used to arrive at the fact that carting water by trucks to Lake Eildon would alleviate the water shortage problem, which is what she said to her farmers.

**The ACTING SPEAKER (Mr Lupton)** — Order! There is no point of order.

**Ms ALLEN** — They are not my calculations but Don Blackmore's. Obviously the honourable member for Polwarth knows more about it than Don Blackmore!

The Warby Ranges feasibility study, which was funded through the Water for Growth initiative, is an important commitment to exploring new ways to unlock regional development opportunities, and I look forward to seeing the outcomes of the study. Our water resources are precious and vital for regional development. For this reason the farm dams debate in Victoria has been significant and has been centred around community conflict, water security and good planning for future development.

As I said earlier, the previous government made three attempts to resolve this issue and had reports produced by the Baxter, Heeps and Hill committees. Those committees all did good work to try to resolve the issue, but unfortunately the former government did not set up the committees to get a resolution and did not have the resolve to make difficult decisions for the long-term good of regional Victoria. It is unfortunate that the former government did not resolve the issue when it had the chance. Its failure created uncertainty in

regional Victoria for a number of years, and there is no excuse for its inability to resolve the issue.

The Bracks government has undertaken significant consultation across Victoria, and I congratulate the minister on her efforts. The minister established the farm dams irrigation review committee, which was headed by Don Blackmore, the chief executive officer of the Murray-Darling Basin Commission. Members of the committee included Peter Walsh, the Victorian Farmers Federation (VFF) president; Tim Fisher from the Australian Conservation Foundation; Christine Forster; and Sylvia Davey from the West Gippsland Catchment Management Authority. I congratulate them and regional Victorians on their involvement in the process.

Since the establishment of the Blackmore committee a substantial effort has gone into consulting with the community on the farm dams issue. Since June 2000 the stage 1 consultation involved more than 40 public meetings around Victoria, 5 public hearings and the receipt and consideration of 375 written submissions.

**Mr Wynne** — And that's proper consultation.

**Ms ALLEN** — Absolutely. The Bracks government always consults.

**The ACTING SPEAKER (Mr Lupton)** — Order! The honourable member for Benalla will refrain from referring to interjections and get on with debating the bill.

**Ms ALLEN** — The stage 2 consultation involved the launch of the draft committee report via the Sofnet satellite system to the stakeholders who attended meetings in 45 schools across the state, a wide distribution of the draft report and the receipt and consideration of a further 469 submissions. This was done as the committee travelled around Victoria. I remember attending one meeting of about 200 people in Wangaratta. Interested stakeholders were allowed to speak at those meetings and to say exactly what they thought about the process. They were allowed to have input not only on that day but also by writing submissions to the government.

This has been a very contentious issue, particularly in my electorate. I know that some of the upper catchment farmers are not happy with this outcome, but this bill is about the future of water security across the state. That is most important. We have to look at the big picture, and in doing so we have to be careful about the way the bill has been drawn up and at how we look at the ill-conceived amendments put forward by the Liberal Party.

A most important aspect is the long-term security of water supplies in Victoria for future development, for farmers across the board in both upper and lower catchment areas and for the progression of agriculture in this state. The Bracks government has accepted that security of water supplies is paramount to the future of this state, and now is the time to finally move forward with a fair solution.

Underpinning this bill is a significant package of transitional arrangements. The bill is about protecting and not removing people's existing rights. I am pleased that the Minister for Environment and Conservation responded to the particular concerns of some people in my electorate. The minister made numerous visits to the north-east to meet with stakeholders and farmers to talk about the government's response. I was pleased to be able to work with my constituents and the minister to that end. Those meetings included discussions with catchment management authorities, local VFF members, local government and other key stakeholders, including Bill Hill, Mary Fraser, the Australian Alpine Agribusiness Forum, Paul McGowan and Lindsay Jervis, as well as members of the Kiewa stream flow management plan committee, who should be congratulated on the good work they are doing for the future.

I am also pleased that after visiting stakeholders in the north-east the Bracks government decided to review the limit on the availability of the transitional package. This limit was originally for a period of five years or until 10 000 megalitres of water had been taken up. However, due to consultation with members of the VFF and the minister at my office in Benalla, the five-year limit on the availability of the grants will be removed from the transitional arrangements. The grants will now apply until 10 000 megalitres have been taken up irrespective of the time period. Removing the time frame takes the pressure off farmers to make hurried decisions.

**Mr McIntosh** — On a point of order, Mr Acting Speaker, I have watched the honourable member for the past 5 to 10 minutes. It appears she is reading her speech. While I do not object to her reading her speech, at least she could tell us who the author is!

**The ACTING SPEAKER (Mr Lupton)** — Order! Is the honourable member for Benalla reading her speech?

**Ms ALLEN** — I am reading my notes; I am referring to my notes.

**The ACTING SPEAKER (Mr Lupton)** — Order! I remind the honourable member for Benalla that I have also been studying her during the debate, and it would appear to the Chair that the honourable member is spending a great deal of time referring to copious notes. I suggest that the honourable member not take so much notice of her notes and occasionally look up from them. I accept the point of order from the honourable member for Kew.

**Ms ALLEN** — Thank you, Mr Acting Speaker, your point is taken.

With that I congratulate the Minister for Environment and Conservation on tackling this very difficult issue. The farmers around Victoria and particularly in the north-east have been able to consult extensively with the minister and members of the committee on the bill.

As I said, the bill is not just about farmers in the upper and lower catchments but about the total security of Victoria's water. It is an excellent bill which has come about from extensive consultation with all stakeholders across the state. It will ensure that Victoria's water is secure not only for the next 10 years but well into the future and that the regional development of this state will continue to flourish. I commend the bill to the house.

**Mr RYAN** (Leader of the National Party) — It is my pleasure to join the debate on the Water (Irrigation Farm Dams) Bill. There can surely be no more vital issue for discussion in this chamber on behalf of country Victorians in particular. I rank the issue of how we use our water resources in time to come among those that will govern the future of country Victoria. The issue of water is utterly pivotal, along with the other big issues of the day for country Victoria such as community leadership — who will show the way ahead in times to come — and the management of change in all its forms and the way in which change impacts on country regions.

About 85 per cent of Victoria's water storages are devoted to agricultural use, and they are of great importance to us in the country part of the state. The farm dams debate is in turn fundamental to the future use of water in all its forms. The honourable members for Monbulk and Swan Hill have traced the history of the development of the industry, and I do not intend going over that. Suffice it to say that it was in 1886 that Alfred Deakin's initial legislation was brought into this place. Various changes have occurred in the legislative framework since; the 1989 Water Act was a very important stage of the development and now we have this bill. It is instructive, because it demonstrates the evolutionary nature of the management of water.

One of the greatest realities in all of this, which the honourable members for Monbulk and Swan Hill recognised in their contributions, is that we are dealing with a finite resource and trying to use it in ways that are equitable, fair and most appropriate to all concerned. I say again: this issue is of pivotal importance to country Victorians.

Much of the debate so far has revolved around whether the different regions of the state are in capped or uncapped areas. In the longer term it does not matter. The formal cap is in operation north of the Divide as part of the arrangements under the Murray–Darling Basin structure, but I believe in time to come, though the various mechanisms that are in place and completely apart from this bill, capping will effectively apply across Victoria. The bill needs to look at the issue in a holistic way, which entails a search for equity and certainty because both are fundamental to what happens in time to come. I mention the latter in particular because in my opinion farmers want certainty. They need to know precisely where they will be on the water issue in the future.

Unfortunately we have been cursed by the definition of 'waterway' in the 1989 act, and it has resulted in unintended outcomes. One of the main features underpinning the bill is that uncertainties to do with the definition of 'waterway' will be removed. The definition will still apply, particularly under sections 51 and 67 of the act, but the question of the definition of 'waterway' that has bedevilled the act's operation ever since its implementation will be pushed aside. That will mean great outcomes because that definition has created tension across various spheres — tension between farmers, tension between neighbours, tension among the water authorities, which have to apply the terms of the legislation, enormous tension for investors and I might say great tension for legislators. The bill removes the difficulty arising from the definition of 'waterway' and provides certainty. It will still be there, but its application will be limited, and the purpose for which the water will be used will be the trigger for the operation of future mechanisms to control water usage; it will not be necessary to debate the location of dams and whether they are private or on a waterway.

The bill contains other attractions, and I will deal with them as time permits. Members of the National Party support the basic structure of the legislation because we think it will bring about the resolution of that pivotal issue of uncertainty about the use and interpretation of the expression 'waterway'.

In all of this we are considering not only the terms of the bill but also the amendments that have been circulated. In the course of his very able contribution the other day the honourable member for Monbulk not only discussed the position taken by the Liberal Party on the bill but went through what I think are the 10 amendments he proposes to move at the committee stage. I heard him make his excellent contribution, and I have since read it.

In the course of reading six or seven pages of *Hansard* I found half a dozen lines that seem to me to really contribute to the issue that is the sting in the tail. That sting is the Liberal Party's proposal for an amendment concerning 3 per cent of water being used in the manner in which that amendment contemplates. I will spend some time looking at that because it is very important in the context of the bill. We will talk about it in detail during the course of the committee stage, but in essence it contemplates that if that amendment were passed a person would have the right to use water from a private dam if the amount of water used in any year did not exceed 3 per cent of the rainfall on the property on which the private dam was situated.

I must say that with the best will in the world the National Party has some difficulty with the nature of that proposition, and it must be rejected. The bill must pass without that amendment being included because fundamentally if it is included what we will do is exchange one demon for the other. We will rid the legislation of the curse of the definition of 'waterway' and all the battles that have gone on in its interpretation, and exchange it for the notion of 'the 3 per cent principle', if I can so term it. We will achieve a position of on the one hand confirming security by removing the waterway issue yet on the other hand destroying security by bringing into it this notion of the 3 per cent. That would be an inevitable consequence on both counts if the amendment were passed.

Why is that so? The 3 per cent referred to in the amendment represents over 350 000 megalitres of water in the area north of the divide, within the ambit of the cap. We have to proceed with this debate on the basis that that cap is absolutely sacrosanct. We are locked into it now. It is too late to go back and change it. Indeed, it would wreak havoc in our system across the state if we were to change it in any form. We are bound by the terms of the cap and have to work within its constraints, because at the end of the day it was developed after careful consideration by a number of parties, individuals and different jurisdictions. It has been agreed upon and it is there. That figure of a cap of 1621 gigalitres which applies in Victoria is something we have to adhere to. If we were to accept this amendment we would put the cap under threat. We are required to work within the constraints of the cap and therefore we must ensure we do nothing to damage its effect in Victoria.

If we adopt the 3 per cent the risk is that we will punch a hole in the operation of the cap, because to enable the 3 per cent figure to operate that extra 250 to 350 gigalitres will have to be found somewhere within the 1621 gigalitres constraint we face, and that is not feasible. It would mean taking the water from somewhere else in the system to enable the beneficiaries of this scheme to access it, and I do not believe it can happen.

It would also create a new right which has never existed in the 125 years or thereabouts of water law in Victoria, and we need to give careful consideration to that. Furthermore it would be in absolute defiance of Council of Australian Governments decisions which have been taken to date and to which Victoria has been a party that water allocations are to be by auction or by tender. If we were to allocate this 3 per cent in the way proposed by the amendment it would be in utter defiance of the COAG decisions to which we have been party.

Further, it would put at risk the security of downstream neighbours who already have dams which have been properly licensed under the 1989 Water Act, and that issue applies not only to downstream in the sense of the irrigators below the upper catchment area but also in the upper catchment area itself. It would put at risk the security which applies to the upper catchment farmers just as it would to other farmers across areas where the cap is effected. Ultimately it would also have an effect across the rest of the state if, as I anticipate, we get to the position where the cap in its different forms applies state wide.

The amendment seems unclear in that it talks about the 3 per cent issue but does it mean, I wonder, the average rainfall or the rainfall in the year of use? That is one example of where there will be a dispute in relation to the interpretation of the amendment. It effectively neuters the stream flow management planning because this notional 3 per cent of rainfall would need to be kept in perpetuity. Therefore the committees being established under the terms of the bill for the purpose of structuring up the stream flow management plans would never know whether the 3 per cent was to be taken into account or not because some people will have taken it up and others will not. Because it would be a right imposed by the legislation they would be required to take that 3 per cent into account for the purpose of calculating the stream flow management

plans. There would be a requirement on them to have regard to that figure for the purpose of the calculation of those plans, and it would render the plans inoperative.

There is the further issue as to whether the 3 per cent would be tradeable or not. The former government did tremendous work in ensuring we introduced water trading into Victoria. Would this issue of the 3 per cent be tradeable? It seems on the face of it that if you take the legislation in its totality, it may well be tradeable, and that in turn would cause difficulties in the operation of the proposed amendment. The compensation issue proposed under the bill would effectively be in tatters, because what would be the purpose of and why would the government allow a compensation package to prevail in circumstances where farmers had allocated to them, in effect, a right to 3 per cent of the rainfall? They would no longer have to buy the entitlement as is contemplated under the terms of the total package because they would have an allocation made directly to them by the operation of the proposed 3 per cent amendment. So that element of the transition package would no longer have application, and you would have to say that there would be a consequent effect upon the terms of that package in its various forms as we now know them.

Furthermore, we risk creating two classes of farmers, because the package talks about a benefit of up to $26 000 of compensation being available up to the take-up of the first 10 000 megalitres of water. Where will that sit after the first 10 000 megalitres of water is consumed, as is contemplated by this legislation? I believe it would present a threat to the operation of the system as we know it across Victoria and it would reintroduce terrible uncertainty in the way the legislation should function in time to come.

They are but some of the issues I am concerned about as representing difficulties for the future operation of the legislation. There are other issues — —

**The ACTING SPEAKER (Mr Lupton)** — Order! I ask the people in the public gallery to please remain silent. It is very difficult for the Chair to hear what is going on, and it is a requirement of the house for people in the public gallery to remain silent.

**Mr RYAN** — Within the time we have had available to consider this, they are but some of the issues we have found we are concerned about as they will represent a problem.

I am aware that at the committee stage there will be discussion about the issue of property rights, what it means to change the statute and what effect that has, and the cause and effect of all of that. But I must say that when you look at the holistic issue of the way we use water in country Victoria you can see that they are esoteric discussions. I do not believe in practical terms they have a place in this area. Statutes come and go, statutes change, and statutes change rights.

In 1985, when I was practising law, the Labor government of the day introduced the Transport Accident Act. In 1987 it introduced the Workcare scheme, as it was then known. I railed against it at the time. Indeed, I organised demonstrations against it and did all sorts of things to resist it being brought in.

**An honourable member** interjected.

**Mr RYAN** — I did; I resisted it mightily. In fact, those statutory rights were changed in a way that made them difficult for people to come to grips with, myself included. But the changes were made. These things happen when you have a statutory right. We need to make sure that we deal with the issue that is the subject of the application of the statute in a way that is fairest and most equitable to all concerned. I believe the changes proposed in the course of this will achieve that sort of outcome. As I said, the issue of certainty is the thing; the issue of certainty is most important to the people who are the subject of the operation of this legislation.

Therefore, in a generalist sense we accept the terms of this bill. We want to make amendments, and we have flagged those already. We think, importantly, that the stock and domestic issue can be put aside with this legislation. It is not a matter of concern in practical terms, although I know it gets a mention to some degree. I must say that we intend to amend the definitions somewhat to accommodate the question of curtilage around the home on the farm property, but stock and domestic dams are really out of this in practical terms. We are talking here about the commercial usage of water.

It is also pertinent to point out that if we can get the certainty in the upper catchment area which this bill conveys, I believe we will see immense development, particularly in the horticultural sector — and that will happen across other parts of Victoria as well.

Only earlier this week I was up near Rochester with the honourable member for Rodney. We were over near Corop looking at developments in the use of viticulture in the planting of tomatoes. I might say that out in the middle of a paddock somewhere near Corop I managed

to lose my glasses. If anybody finds them, could they please return them!

That sort of development is precisely what will happen up in the high reaches. In the upper catchment area we will see an immense amount of development occur. If we can resolve this long-outstanding cursed issue of the waterway definition and can bring the certainty which is needed into the market, it will mean immense benefits for the people the National Party represents across those parts of Victoria.

We said at the outset when the Blackmore report was produced that it needed to be amended, that it needed better compensation provisions, that it needed better representation on the stream flow management plan on behalf of farming organisations and individuals, and that the exchange rate issues needed to be addressed. I am pleased to see that the government has adopted the proposals in our submission and that those changes have been made and are incorporated in the legislation.

When the bill was introduced we said that the figures on the exchange rates needed to be published. I am pleased to see that that work is well advanced. I would have liked to see it as a 2:1 ratio, I must say, but it seems it has got to 1.85:1 or thereabouts. At the end of the day if we have to settle for that, I reckon that will not be a bad outcome — indeed, I think it will be a very good outcome. We wanted the principles of the stream flow management plans available, and we got those. We wanted amendments to the stock and domestic provision, and we will get that done. We wanted the tabling of the management plans for the water supply protection areas, and that will be done, with a right of disallowance.

We think they are great outcomes. We think this will achieve equity and certainty and that it will remove the conflict which has bedevilled this industry for so long. We think this critical outcome which is so important to country Victoria will be best achieved by this legislation.

In our extensive consultations we spoke to irrigators and farmers from right across Victoria. That included the terrific night of 11 October, when representatives of the upper catchment area — five of them — were in the National Party room for about two and a half hours when we had the opportunity to discuss these issues with them in detail. I want to put on the record my thanks to Mr Brian Fraser of that group, who subsequently sent to me a letter of acknowledgment thanking me for the time we spent in those discussions. It was most appreciated. In all the circumstances, we wish this bill a speedy passage.

**Ms DAVIES** (Gippsland West) — I rise to speak on the Water (Irrigation Farm Dams) Bill. This bill amends the Water Act 1989 and will require the licensing of all irrigation and commercial water use in a catchment. Existing irrigation and commercial dam owners who are not currently required to be licensed will have the choice of applying for either a registration licence — the first five-year registration being free and a nominal fee being charged thereafter — or a standard take-and-use licence, which is transferable. I note that the use of water for domestic and stock purposes by farmers is not affected by this bill.

The Water Act 1989 requires farmers to apply for a licence when taking water from a waterway. The problem with that concept, even though it means that farmers are used to obtaining a licence, is the definition of waterway. The Water (Irrigation Farm Dams) Bill will remove some of the problems by focusing more on the use to which the water will be put rather than where it comes from. The bill will not totally remove the need to define a waterway, because people proposing to build additional dams on waterways will require extra licences to build those dams.

I reject the Liberal Party amendments which suggest water management groups should have to draw up some definitive map of what constitutes a waterway. In my area there would need to be a constantly shifting line of what constitutes a waterway because almost every crease in the landscape could have water running on it at some period of the year. That would be an impractical use of the time of those groups.

Farmers with multiple dams on their properties being used for the same purpose will need only one licence. Dams used for stock and domestic purposes will not require registration or licensing. That was an issue causing concern in my area. Dams used for dairy wash-downs will require a licence, and that has caused some concern mainly with farmers who are worried about increasing costs and charges for their water. Currently, wash-down dams on waterways need licences, but under this bill all dams will require licences.

Some farmers have separate dams, one used for the dairy wash-down and the other used for the excess from the wash-down which holds water to be reused for a later date. Those reuse dams will not need to be registered, subject to some requirements that the minister will detail later.

I understand the need to monitor and ensure more equitable access to water in many areas of the state. The conflict between traditional irrigators and new

horticultural and agricultural developments in upper catchment areas seems somewhat distant from the south-west Gippsland region, but I hear and understand that the problems need to be dealt with. South-west Gippsland has new types of agriculture and more intensive horticultural businesses, so there is a clear need to manage and ensure a more sustainable water use in the future.

The government proposes to cover the initial cost of registration for the first five years. My colleague the honourable member for Gippsland East will move an amendment that will ensure that the cost of registration of dams is truly kept at a nominal fee and is aimed only at recovering cost and does not become a revenue raiser. I support that amendment. I will not support the proposed amendment of the Liberal Party that registration once begun becomes permanent. Contrary to the statement made by the honourable member for Monbulk that dams do not move, dams do move. Some dams fail or, as the honourable member for Pakenham mentioned, they may not be useful and are removed from service and other dams are built. Sometimes dams grow and the use to which they are put changes over time. A five-year registration and renewal period will ensure that this measure of water use in any area of the state is a live register and is accurate and that farmers, committees and communities can genuinely use the registers in their planning and understanding of particular water catchment areas.

In discussing some of the amendments in more detail, I note that the gauntlet has been thrown down in the battle between the National and Liberal parties over who will represent the voice of rural Victoria in the future. Last night the honourable member for Polwarth became excited as he flung this gauntlet to the ground. I am pleased that both parties have discovered a renewed commitment to rural areas, which is very different from the situation when I entered Parliament four and a half years ago when rural areas were not part of the equation. I am proud of the part I and the voters of Gippsland West have played in ensuring that not only governments but oppositions have to be assertive in expressing the interests and needs of rural Victoria.

I oppose the Liberal Party amendment proposing that farmers should retain the rights to 3 per cent of their rainfall. That is completely unworkable and contrary to the intent of the bill, which is to accurately measure, monitor and manage the water resource. Last night the honourable member for Warrnambool produced a map and said that it would be easy to measure the rainfall because we need only look at the map measuring the rainfall and allocate 3 per cent on the basis of the map. I regard that idea as a recipe for conflict; it had no support from the consultative committee involved in making recommendations on the bill. I also note the Leader of the National Party's more specific comment that his party would not support the idea because apart from other considerations it would defy Council of Australian Governments (COAG) decisions.

I am happy to accept the Liberal Party amendment that at least 50 per cent of stream flow management committee membership be made up of farmers unless the whole area subject to membership is urban. Yesterday some of the more excitable comments made by the honourable member for Polwarth about whether people on smaller landholdings should be considered as farmers were rather derogatory.

**Mrs Fyffe** interjected.

**Ms DAVIES** — I did note the humour, and one should always take humorous comments humorously. But more seriously, I note that there are many types of farmers. Not all genuine farmers have large, broadacre, traditional farms. I know of many innovative enterprises on fairly small acreages, and many of those farmers are community-minded in their tree planting, in their membership of community organisations and certainly in bringing new farming methods to a particular region. Those small land-holders are just as validly members of the farming community as traditional broadacre farmers.

I support the Liberal Party amendments that extend the time allowable for a farmer to demonstrate his or her prior commercial use of a dam. Some dams in south-west Gippsland are used for commercial purposes only during periods of drought, which may be more than 5 years apart, with 10 years being the more appropriate span.

All those amendments, apart from the 3 per cent one, are quite sensible. I accept that the National Party's amendment on the tabling of approved management plans in Parliament is a sensible measure to increase public accountability for management plans as it provides a wider venue for discussion and possible disputation of arrangements. I would much prefer to accept the National Party amendment than the more prescriptive Liberal Party amendment, which is somewhat similar.

I commend all parties for their sustained grappling, both inside and outside Parliament, with this complicated issue. There is no doubt in anybody's mind that water is a vital issue for Victoria, as it is for the rest of the country. Current laws for managing water

resources are inadequate. We do not want the situation of farmers fighting farmers in their desperate need for water to have their businesses survive. Good water management is absolutely vital. When I hear of the battles that are being and have been fought in various areas of the state, I am eternally grateful for the beauty, fertility and pleasingly reliable water supply that farmers are able to access in south-west Gippsland.

Nonetheless, at times Gippslanders too have had to grapple with the issues of water and the management of water between different needs — not just on-farm needs but the different needs for water as it flows down the rivers and streams. As agriculture changes and in some areas becomes more intensive we could have disputes involving access to water.

I hope the bill in whatever form it is amended will ultimately pass through the upper house without being mutilated just to serve the needs of one particular party. I hope it is able to pass through both houses and become law so that some of the conflicts that have become evident over the past few years are eased. I commend all the parties and people who have been involved in negotiating their way through this complex and difficult issue, and I commend the bill to the house.

**Mr McINTOSH** (Kew) — For about 12 months I have been a member of the Liberal Party committee looking at agriculture and water resources, which is chaired by the honourable member for Evelyn. Its deliberations have certainly been an education and one of the most interesting and fascinating experiences I have had in this place, if not in my life. Two major things have come out of this.

**Mr Hulls** interjected.

**Mr McINTOSH** — Just wait! I am going to talk about illegal definitions, but the Attorney-General will have no idea what I am talking about.

Two things have come out of my time on the committee. Firstly, the issue of water seems to transcend all other environmental issues. That does not necessarily mean that the other significant issues that Victoria and Australia have to grapple with should be downplayed, but the issue of water is at the forefront, if it is not the most important, of crucial environmental issues Victoria and the nation need to deal with.

We are not just talking about living environments — rivers and areas surrounding them — we are talking about the whole of the catchment and the impact it has on towns, locations of properties, what can be grown and what cannot be grown. To a significant extent our capacity to deal with problems such as the greenhouse effect determines what grows where and how it is managed.

The other realisation is that the people I have met — the farmers from high catchment areas in places from Tallangatta and down to Warrnambool where I was last week — live so much closer to their environments. They are the true environmentalists. Far from being the rapists and the pillagers of the environment, they are the great advocates of the environment. We all understand that we need a regulatory regime that will enhance the process of protecting and managing our environment and allow us to deliver something to future generations that has been protected and enhanced.

About 12 months ago, at the time the Blackmore committee was set up to discuss farm dams, I was at a meeting with a large number of high-catchment farmers. Both the honourable member for Benambra — that is his patch — and the honourable member for Evelyn were there. One thing that came out of it for me as a lawyer, not a farmer, was that there were real tensions between farmers about what occurs in the high catchment and further down the system because of differences in the way they deal with their land and their right to water. I mused that it could be brought under one system of title, such as the advances this country made to the holding of land titles with the Torrens system, which was first implemented in South Australia and which later came to Victoria. If that could be centralised to regulate it the capacity to enhance and manage this precious resource would dramatically improve.

The bill goes a long way to bringing everything under the same system. It has inherent difficulties with the one-size-fits-all approach perhaps not picking up individual peculiarities — which I will talk about in a moment — but the reality is that it is a mechanism for regulation. It provides security and some mechanism for dealing with the problem in the future.

One of the great things that I like about the bill is that it provides an almost capitalist solution to the problem of scarcity. It is ironic that we have a Labor government introducing a bill that introduces a capitalist solution to a problem of scarcity. The Murray–Darling Basin cap provides a defined, finite resource that everybody has to work within and gives it a monetary value. If everybody ultimately moves to the position where they have a licence where they water for a commercial or irrigation purpose then you will have, as we do now, trading in that to the point where all parties will be able to participate in the process to ensure the water is used properly and appropriately right across the whole system.

While I support the nature, principle and purposes of the bill and the way the government is going about it, a number of aspects concern me about the application of this legislation. The first is the registration of the dam and its use, because that is the effect of what the government is doing — it is registering a dam and a use if that use is commercial and irrigation. We have a concession by the government that a dam can include one registration for an entire property. So if you have several dams they can be included in one registration. The minister has made that concession in her second-reading speech, but she has not yet conceded — and I ask her to take this on board — that there are a number of uses water can be put to of a commercial or irrigation nature. For example, although you are on a dairy farm you might wish to irrigate a summer crop, exercising your statutory right to rainfall out of a waterway. Further, the water might be used for wash-down of a dairy; or, like the honourable member for Pakenham suggested, you might put a few trout in the dam which could be a commercial use. The most important point is that you are expected to define the water you use, and its use, as part of the registration process. However, what is unclear is whether you are able to change the nature of that use as long as it is commercial or irrigation on a particular property.

The other concern is that while we talk about a commercial use another complication would be in relation to aesthetic dams. Recently I was in Romsey, in the electorate of the honourable member for Gisborne, and I attended a winery that has a large aesthetic dam. The bureaucracy would require a mechanism to calculate the evaporation rate from the dam and that would then be a commercial use because it would not fall within the definition of stock or domestic under the act. It will be calculated by some nebulous formula, and I do not know whether such a formula is in place because I have not seen one.

The other point concerns the selling of land. One of the most important factors in rural Australia that can give value to land is its access to water. Land being in a high rainfall area will add substantially to its value, but in a low rainfall area access to irrigation will also add value to the land.

While a principle of the bill is that no existing commercial or irrigation user of water will be prejudiced because they can apply for registration as an existing user, I am concerned that the passage of the bill will automatically affect the value of land in relation to the access to water. People buy land for the purpose of developing it in the future. Often they do not develop it immediately for a variety of reasons, not the least of which is not having access to money. The property may be substantially mortgaged. For example, I may wish to develop my property in Kew but do not have the wherewithal to do it now and the process may take a number of years.

The bill says that an existing user as of 1 February 2002 will be protected, but unless you can demonstrate what that existing use is or you do not have an existing use you will be locked out. I am concerned that will have an impact on the value of land and be a detriment to somebody who owns that land. The landowner may wish to subdivide that block of land into smaller blocks and sell a particular block that may not have a dam or an existing use on it. Again that can be a detriment because it may not be defined as within the present circumstances.

What is also unclear is that while you are going through the process of registration of both the dam and the use, and while you may not have access to that water, you may have the opportunity of purchasing water under a licence system. What concerns me is: what does a farmer do in a dry year in other catchments where there is no trading of water? While there may be a defined use for water there may be a significant problem with drought, and therefore what does the farmer do? Is there some mechanism for ensuring that the farmer is protected in those circumstances?

A number of demonstrable detriments can be associated with the passage of the bill. While I am happy to concede that no present users should suffer a detriment and that they should be entitled to register an existing use, when you start scratching the surface you see a number of anomalies, difficulties and prejudices that have not been addressed by the legislation or by the minister.

I am grateful to the minister for the opportunity of speaking with officers of her department in the briefing sessions, where a number of concerns were raised and addressed, but not all. I raised two matters in those briefings that remain unanswered to this point. The first was providing for the application of the management plans that come out of the consultative committee process. There is clearly an underlying principle on which the bill is based that whatever else is true the use of water for domestic and stock appears to be sacrosanct. It is not intended that the bill in any way should impact upon the right of a farmer to use water for domestic and stock purposes. Under the process of a consultative committee making recommendations to the minister through the management plan there is the capacity to deal with every aspect of supply of water to a dam. Although the bill expressly says that domestic and stock water cannot be affected, it can be done

through the back door through a consultative committee developing a management plan which can affect the amount of water that could possibly get into a farm dam. That concerns me.

The second issue is that I heard the honourable member for Gippsland West this morning and the honourable member for Gippsland East last night emphasise the fact that they do not want the situation that could occur where a farmer takes on a farmer. One of the benefits of the consultative process is that it will iron out many of those disputes. This situation has not been addressed; in fact it has been undermined by the adoption of provisions out of the Groundwater Act 1969, which has been launched into the consultative committee process with the development of the management plan whereby the enforcement of the management plan lies with the local authority.

The bill says that says that anybody who gets a benefit out of the enforcement of the management plan must compensate anybody who suffers the prejudice under that management plan. My concern is that there is potential for farmer to be against farmer; in fact, it could be whole communities against whole communities. It will be almost impossible to get every representative group on a consultative committee to iron out their particular grievances in the development of a management plan. In regard to these matters, the honourable member for Swan Hill — I will not attack him — was being somewhat mischievous when he said in relation to the Liberal Party's foreshadowed amendment that the 3 per cent is a property right. It is not a property right.

**Mr Hulls** interjected.

**Mr McINTOSH** — It is not a property right, it is a statutory right, Mr Attorney-General, given under the current act. A statutory right in common law — not in equity, as you tried to invoke yesterday — does not necessarily require a government or a Parliament that amends a statute to provide any form of compensation.

I think we have moved on as a community, a state and a nation to the point where if we are going to take away people's rights that have been in existence for 120 years — rights that government after government has encouraged people to utilise to the benefit of the so-called whole community to drought-proof properties; rights that are almost sacrosanct to farmers all around the state — we have to ensure that those people are properly compensated.

It may not necessarily be just a question of money. Farmer after farmer I have spoken to around Victoria on the issue tells me it is not about money, not about getting money to compensate them for what they have done, but about access to the water. Farmer after farmer has said that something in the region of 3 per cent would ameliorate the reduction of that statutory right and be an effective way of overcoming the trauma or tension the process of change will incur.

Change creates tensions. I know the government has gone through an extensive process to try to reduce those tensions, but there are clear and demonstrable concerns in relation to the bill. The 3 per cent may not be the right figure — it may be too much or too little; but we have clearly asked that the 3 per cent figure be put into the hands of a consultative management planning committee to determine. We have clearly said that the people on the consultative committee looked into the question of whether the percentage figure is right. We must leave it in the hands of those people to determine what is appropriate in all of the circumstances.

Finally let me say there are demonstrable concerns about the definition. My own constituents in Kew are not aware of any farm dams near them — unless you mean what is defined as a farm dam in the bill. A farm dam is defined there as any works where you collect or concentrate water. That means every single swimming pool in a backyard anywhere in the entire city of Boroondara falls within the definition of a farm dam.

**Ms DUNCAN** (Gisborne) — The honourable member for Kew makes an interesting proposition. We might have to consider pools in the context of catchment management!

I take pleasure in speaking on the Water (Irrigation Farm Dams) Bill, which has been a very difficult bill for the government to introduce. It has required enormous amounts of consultation, probably the widest I have been aware of, with the various parties.

I have comments on statements made by previous speakers in the debate. The honourable member for Benambra went into some detail about rights, including the right to collect water; but lots of people lose rights. Until recently people in Victoria had the right to smoke in restaurants, but that right no longer exists because now we know better. The same applies to water management: we now know better. The honourable member for Benambra does not seem to understand that the current practice is unsustainable.

The bill is about equity, sustainability and whole-of-catchment thinking. We cannot consider parts of catchment areas in isolation. The honourable member for Gippsland South articulated that point

extremely well when he said there may be caps in some regions and not in others but it is only a matter of time before there are caps regulating catchments right across the state.

I listened very carefully last night to the honourable member for Pakenham. He indicated in his particularly arrogant away that anyone who would dare to interject while he was speaking was obviously speaking from a position of ignorance and that he alone could speak with authority. Nevertheless, I listened carefully to what he said, and as far as I could make out he was saying that the seat of Pakenham was the only seat in the whole of Victoria that was not part of a catchment. Someone needs to explain to the honourable member — and to the honourable member for Benambra — what a whole-of-catchment approach actually is. Perhaps we can get some additional briefings for them to explain the concept to them. We are all in a catchment.

The honourable member occupying the seat of Pakenham which, it would appear, is at the end of a catchment where the water enters the sea, should of all people be very interested in the bill because without this sort of regulation there will be no water getting to his area.

The honourable member for Polwarth did, I agree, make some of his comments in jest. All honourable members know that the honourable member is a bit of a wag. One of his comments did, however, upset me. He said he did not trust the minister to ensure there would be full representation on the consultative committees. He has no reason to make that comment. I have watched the efforts made by this government to include the Liberal and National parties and all interested groups so they could all play a part in the development of this very difficult legislation.

I pay tribute to the National Party for not playing politics with the bill as the Liberals have done, particularly with the concept of the 3 per cent. I know it sounds very good to say to farmers, 'We stood up there and fought for you. We tried to preserve for you some so-called right'. That right, as I understand it, is enshrined in the Irrigation Act of 1886, which made it clear that water was a resource for the Crown to manage.

I am not quite sure what all the rights are. With regard to the 3 per cent rule, it is a question of: 3 per cent of what? Is it 3 per cent of your annual rainfall or is it your neighbour's? Are we going to put rain gauges on all properties? Opposition members confuse catchment water that is gathered with rainfall. The bill has nothing to do with rainfall. It deals with the amount of water that runs off, which is about 10 per cent of rainfall. Therefore 3 per cent of that 10 per cent is a significant amount.

Liberal Party members know that that proposition will not work; they know it is completely unsustainable. However, they persist with it because they think it is good politics. I hope farmers understand what a farce the proposal is. Liberal Party members know it will not work and have been told so. They have been shown why it will not work, but they persist with it to make themselves look good.

This has been a difficult issue. It is always difficult to limit access to something that people have had almost unlimited access to. The bill is about equity and certainty, and above all it is about sustainability. Good water management is good business, and I would have thought the Liberal Party would have supported it on that basis alone. We will not have an economy without an environment, and this bill goes towards making sure that our precious water resource will be sustainable in the future. I commend the bill to the house.

**Mrs FYFFE** (Evelyn) — I start my speech by thanking the minister, her advisers and her department for the time they have spent consulting on the bill. The intent and the main thrust of the legislation is supported by everybody. It is necessary for bills to be looked at and that acts affecting water be revisited.

Water is a never-ending resource. For us to grow and prosper it needs careful management that has broad-base support, not just from politicians but from farmers, conservationists and the wider community. Every Australian, no matter what their walk of life, recognises the fragility of our environment. Farmers who work on and love the land know its seasons and its bountiful generosities in the good years. Often at great personal and emotional expense they also know days of searing heat, the long drought years and years of floods and fires, yet they continue to work on the land. They stay there because through all the trials and tribulations that the climate in this vast continent brings, they have a deep and abiding love for their land and all that is on it. They respect the fragility of the environment they work in, and they respect every aspect of this great continent far more than perhaps many people who espouse environmental principles. They have an understanding of what this land can produce and what happens when we overproduce from it.

We are very fortunate in Australia. When we look at what is happening in the rest of the world we can note that water use has tripled since 1950. In the Arabian

Peninsula ground water use is three times its recharge rate. The vast underground reserves in the African Sahara have been depleted at 10 billion cubic metres per year and cannot be replaced. Water levels are falling in the Indian states of Punjab and Haryana, which provide most of India's grain. Israel predicts that 20 per cent of its coastal wells may have to be closed within just a few years and several countries, such as Turkmenistan, Egypt, Hungary, Mauritania and so on, are dependant on foreign water. They depend on other countries to supply water from the rivers running into their countries. We all know that a great deal of conflict over centuries has been over water and the threat some countries impose on others from diverting water from great rivers. The five countries of Central Asia share water with Iran and Afghanistan. Their problem is not enough water in those basins to meet the needs of all the countries. The tensions continue.

We are very fortunate in Australia because we are an island nation and on water issues we do not have to deal with other countries. We have neighbouring states mainly with amicable relations, and we now have discussions between low-catchment farmers and high-catchment farmers. We can solve those problems and come through. If we all sit back and analyse and recognise what is being disputed, we can realise that what is not being disputed is that in many parts this bill is good and is supported. The National Party's amendment of curtilage of the house up to 1.2 acres being allowed to be watered would be covered in the Liberal Party's proposed amendment of a maximum of 3 per cent. The National Party amendment proposes that water be available for fire protection of outbuildings and houses.

The amendment which proposes bringing the management plans before both houses of Parliament is very fair and reasonable. There must be an opportunity to debate management plans in both houses, as there is on the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. It works extremely well. To table those management plans and not debate them is inviting disharmony. If they come into the house and there are any problems, we as local representatives can debate the issues on behalf of our constituents. I agree with the proposal by the National Party that the grandfather clause should be extended to cover existing dams on waterways. There should be provisions in the bill to cover them and I will argue that in the committee stage and will support the National Party amendments.

Last night the honourable member for Seymour talked about vineyards, and he mentioned Alan Plunkett, whom I know quite well. He has proved himself to be something of a pioneer. The honourable member for Seymour talked about his area changing from grazing to intensive horticulture — that is, with people growing blueberries, strawberries and so on. The same thing has happened in my electorate. At the turn of the century it was a dairy farming area. The prosperity of the Yarra Valley relied on the supply of beef to the goldfields, which was an important source of income for the valley, but things have changed and the use of the land has changed. Parents are leaving properties and younger generations are taking over. There are changed family circumstances. Areas with smaller farms often depend on off-farm income to survive.

You may just be grazing cattle and you may have grazed those cattle for 20 or 30 years because you wanted them to pay the rates and basically keep the grass down. But there comes a time when you have to get an income off that land and you need to change its use.

Changing the use does not mean that you suddenly decide that you are going to put in 20 acres of strawberries or 20 acres of vines or grow 20 acres of brussels sprouts. It means, if you are a sensible farmer, that you will do experimental blocks. You may do only 1 acre; you may do only half an acre if you are planning to explore new markets and wish to try a new product. If you have a stock and domestic dam for which you have complied with all legislation and you want to have an experimental half an acre of intensive agriculture you have to apply for a licensing permit. You will probably have a year's delay until these stream management plans are in. You could be waiting two years.

How many farming activities would not have happened if this bill, in its current form, had been in place 20 years ago? How many vineyards would not have been planted? How many olive plantations would not have been planted? How many different fruit and vegetable products would not have been trialled because of the complications of trying to get an irrigation licence for a stock and domestic dam?

The honourable member for Seymour talked in favour of family farms. He gave the impression that he was not in favour of corporations running large farms. Yet this bill favours broadacre farming and discriminates against the small family farm. The bill really favours broadacre farming and flood irrigation.

The honourable member for Gisborne said that this bill does not deal with rainwater. I draw her attention to section 8(4)(c) of the act, which talks about rainwater or other water that occurs or flows. This deals with rainwater; it is one of the main parts of the bill on farm

dams. It is removing that right with this proposition. It is about the total removal of a right that has been there for 150 years.

In her contribution today the honourable member for Benalla really showed her expertise on the topic. I remind the house that approximately 12 months ago during her infamous trip to Eildon she suggested that if people did not have enough water they should fill up tankers and park them somewhere so they could have access to the water as they needed it. I congratulate whoever wrote her speech today — the content was quite good.

The honourable member for Gippsland West said she supported an extension of time from 5 years to 10 years for demonstrating existing use. In high rainfall areas that is really important. For instance, in a vineyard, which I can talk about at great length but I will not because I know that there are other speakers after me, you may not need to irrigate for quite a few years because you have high natural rainfall and you do not want a lot of water when the fruit is ripening. But when you do need that water, which is often in the autumn, and you want to retain the leaves on the vine to ensure that you have good fruit set for the next season and the plant has the right balance of nutrients, then you could need water if it is a dry autumn. An extension from 5 years to 10 years is very important in these high rainfall areas.

The honourable member for Gippsland East showed deep understanding of the issues. I am pleased he said that he would support the proposed amendment to 50 per cent of farmer representation on the committees. That is of vital importance because most of us have experienced the problems that happen in any group where there is a disproportionate number of people who do not have direct involvement in the issues.

The National Party has shared with us today a document showing the areas of agricultural land and rainfall. It shows the rainfall pattern and emphasises the rainfall differences across the state. It also emphasises other differences in farming areas. I thank the National Party for the document because it shows that a blanket approach to water in Victoria is not sustainable. How can you have the same rules for areas from Mildura down to Horsham as you have in the Upper Yarra Valley when you have a rainfall in the Upper Yarra of 40 to 50 inches per year? You cannot have a blanket approach.

It is like comparing a one-size-fits-all garment. If you look at the honourable member for Gippsland East and you look at me and we went out and bought a garment that says ‘one size fits all’, the honourable member for Gippsland East may have a surplus of fabric, but I, because I am more generously built, would have a shortage of fabric. One size cannot fit all when the conditions are totally different.

**Ms Davies** interjected.

**Mrs FYFFE** — But you do not have the same conditions across the state, in the same way that the honourable member for Gippsland East is probably 4 inches shorter than I am and several stone lighter. I am several inches shorter and definitely several stone heavier. The same situation does not apply. You must — —

**Ms Davies** interjected.

**Mrs FYFFE** — I am sorry, did I say ‘Gippsland East’?

**Mr Ingram** interjected.

**Mrs FYFFE** — You are the honourable member for Gippsland East. Excuse me, I am sorry. I meant the honourable member for Gippsland West.

In the same way, the state is different. How can you apply a blanket approach? We are not being political when we say 3 per cent. We are recognising what the farmers need. It is a 3 per cent maximum. This can be tied in to the stream flow management plans. So if you have an area of high stress — —

**Mr Howard** interjected.

**Mrs FYFFE** — If the honourable member for Ballarat East would listen to what I am saying he might understand what we are trying to do. It is 3 per cent maximum in any area. Then, depending on the stream flow management plan, if an area is water stressed that could come down to zero. It could come down to 0.1 or 1 per cent.

**Mr Vogels** interjected.

**Mrs FYFFE** — No, you cannot take it away if you have not got it. It is something that has to be determined. I put this challenge out to the minister and to her advisers and staff: in the next four days when Parliament is not sitting look at this approach when you have the state divided up in certain areas. There are formulas you can work on. You can go on shire boundaries. You can go on geographical area boundaries. But what applies to a high rainfall area does not apply to the rainfall areas where there is water stress.

If you have a maximum of 3 per cent usage for any purpose from a farm dam, subject to the stream flow management plan, that could and will come down in many cases to 0.1 per cent, 0.5 per cent, 2 per cent or 2.5 per cent, and that would be a fair and equitable system. It works now when you have an irrigation permit that gives you the right to pump a certain amount of water.

When you have dry seasons and less water is available, the catchment management authority may tell you, 'Sorry, you are getting only 50 per cent of your allocated amount', but everybody accepts it as completely fair for their area. If catchment management authorities have been handling water well in the Wimmera–Mallee area and near Mildura, why can we not have the same process in other parts of the state that do not yet have catchment authorities? Why can the same principle not be applied?

I challenge the minister to consider that suggestion over the next four days. I am not being political, but am thinking of the farmers' rights. It saddens me that three or four government members have tried to turn the debate into a political bunfight. I am arguing that issues concerning rainfall and water stress be considered and that the legislation be made to fit the requirements. From day one, when Don Blackmore released his first report, I have been saying that one size does not fit all. What applies to the Mallee does not apply to Gippsland; what applies to north-east Victoria does not apply to Phillip Island; and what applies to the Yarra Valley does not apply to the south-west.

I hope some commonsense comes into being with this bill. The Liberal Party supports a couple of the National Party amendments, and it supports the majority of the bill. It is very sensible to look at the issue on a regional basis, whether that be defined by the shires or by catchment areas, but it can be worked out simply and we can progress. I realise other honourable members want to contribute to the debate, so again I thank the minister and her department for the time they have given the opposition for consultation on the bill. Their patience has been very much appreciated.

**Mr RICHARDSON** (Forest Hill) — This is one of the more important pieces of legislation to come before this house for a long time. The fact is that water is the lifeblood not just of Victoria but of every continent, indeed of every community in every civilisation. The history of the world is littered with the ruins of vanished civilisations, which in almost every case have collapsed because of a lack of water. There were various reasons for the water ceasing to flow — mainly climate change rather than human interference. History illustrates the importance of water to the functioning of civilisations, and nowhere is that more important than here, on the driest continent on the planet.

The presentation of the legislation to the house is very important, because as we move into the new century we must look ahead to the interests of future generations. We must look ahead in a way that has not always been the case in the past when our ancestors, the settlers of this vast land, did not always understand the implications of what they were doing.

Now we better understand our climate, our soils, our topography and what lies beneath the surface of the soil. We better understand the importance of managing our water resources more efficiently and effectively than we have in the past. Therefore, the presentation to the house of a bill of this kind is a good thing in that it is time for us to be planning ahead. If it were not presented this year it would need to be presented some time in the future. Now is as good a time as any to do so.

The opposition supports the thrust of the propositions contained in the bill, but some points must be made. It must be remembered that, as it stands, the bill predominantly serves the interests of irrigators in the Murray–Darling Basin. The report was written by the chairman of the Murray-Darling Basin Commission and is orientated towards the interests of irrigators who use that water resource.

It is easy to understand why the National Party is so fervently in support of the bill as it stands, because most of the seats in this place that are held by the National Party cover those irrigation districts which are served by the Murray–Darling Basin and its vast water resources. The opposition understands that and does not wish to do anything that would disadvantage those irrigators who are resourced by the waters of the Murray–Darling Basin. We do not want to interfere with them at all. However, while the bill's orientation is biased towards one set of interests, there is a need to address the interests of other regions in a way that does not disadvantage those irrigators who are served by the Murray–Darling Basin. Hence the opposition has given notice of a series of amendments which will do that and will assist in serving the interests of regions that are not served by the bill as it stands and would be disadvantaged quite severely by the bill if it proceeds without amendment.

It would be a tragedy for legislation that has the earnest intention of providing equity, fairness and proper management to a vital resource in the interests of not just the farming community but the entire community,

because ultimately all of us are served by that resource. It would be a tragedy if good intentions were to result in continuing disadvantage to one group of people while advantaging another group.

It is indisputable that it would be unfair and improper to allow for the interruption of a flow of water which would result in the disadvantaging of downstream users of the water. Therefore it is necessary to have some regulation of the catchment area and what is done there. I do not dispute any of that and no reasonable person would. I am not going into the detail of how to do that because it has been dealt with adequately by other speakers, in particular by the honourable member for Benambra who represents one of those key areas. I am concerned about what had been thought to be the inalienable right of farmers who are farming in areas where they rely upon water, which falls as rain into dams that they have built on their properties, to use that water. They have not extracted water from a waterway and have not impeded the flow of water from anywhere. They are totally reliant upon rainfall for watering their properties; therefore it is necessary for them to conserve as much of the water which falls from the sky as possible because they have no other source of water.

There are a number of areas within the state where that circumstance applies. As someone who has a rural background from deep in the heart of irrigation country in Kerang, who is the descendant of a long line of irrigators and whose family is going to benefit enormously from what flows from this legislation, it seems to me that it is inequitable to say to a property owner who, at his expense, has built a dam on his property, that it is fine for him to use the rainwater that falls from the sky to water his pastures or crops, but that if it hits the walls of his dam and runs down those banks into the dam he can only use it for stock and domestic purposes.

If you put a pipe and a pump into your dam, into the water which has fallen from the sky, and use the water to irrigate a summer crop or to irrigate a patch of carrots that you are growing as a cash crop, if you use it commercially then you will be in breach of the provisions of the act which will eventually be promulgated, unless you comply with certain conditions and make certain financial sacrifices.

The opposition amendment accepts that there should not be unfettered extraction of water from a farm dam of the type that I have described. Why not let the owner of that dam have an inalienable right to save 3 per cent of the water that has fallen from the sky into the dam he has built on his property? That is the essence of it. He would be allowed to pump out 3 per cent to water the carrots that are being grown as a cash crop, and the lucerne or the turnips and the rape that have been grown as the summer feed to get the cattle or the sheep through the dry summer months. Let him have 3 per cent without being penalised in any way. What is wrong with that? It seems to be the most reasonable proposition that one could find.

That is why I will be supporting the amendment. I am not speaking in detail on the other amendments, just that one amendment to which I have referred. It addresses the removal of a statutory right that has existed in this community for 150 years. All we are saying is: let the farmer have access to 3 per cent of the water from his own dam without suffering penalty. It is eminently reasonable, and to oppose the proposition would be unreasonable.

The legislation highlights the significance of the proposal now on the table for the Wimmera Mallee pipeline that will save enormous quantities of water that are presently lost in the open channel system by evaporation and by seepage. We should acknowledge the great foresight of our forefathers who created the open channel system more than 100 years ago. These were massive engineering projects and were terribly important and have remained important for 100 years. They are now old, inefficient and wasteful. It is time in this new century to address this fundamental problem. Eventually all the existing open channels will have to be replaced by pipelines. We can do it now because the technology exists to do that cheaply, efficiently and effectively.

In my view there ought to be a commitment from both government and opposition alike in the context of this most important legislation. There should be a commitment to proceed first with the Wimmera Mallee pipeline proposal, on which a lot of work has already been done. We could proceed with that without much delay. At the same time there should be forward proposals to address the needs of the rest of Victoria in the same way.

This is one of the most important pieces of legislation to come before the house in the nearly 30 years I have been in this place. I urge the government and the National Party to give real consideration to the key amendments proposed by the opposition. They disadvantage no-one. They do not interfere with the irrigators of the Murray–Darling system, but they provide for equity and justice for those who would be disadvantaged if the bill proceeds in its present form without amendment.

**Mr DIXON** (Dromana) — I, too, have a contribution to make on this legislation. When it was first talked about I did not think it was relevant to my electorate. However, when I started to think about and learn more about the legislation I realised how important it is to my electorate.

My electorate covers 550 square kilometres, and probably only one-tenth of that area is settled or urbanised, and that is along the Port Phillip Bay coastline and some of the smaller villages inland. The vast majority of my electorate is agricultural land, even though there is a fair bit of national park, especially along the coastal fringes, and Crown land along Port Phillip Bay.

All of those farming pursuits in my electorate rely on dams. On many occasions I have flown over my electorate, and particularly from a helicopter I get quite an idea of the number of dams attached to the various farms and other agricultural pursuits in my electorate.

The biggest and the fastest growing agricultural pursuits in my electorate are the vineyards. Mornington Peninsula is very well known for its magnificent wines. Although most vineyards try to avoid irrigating their crops they all have dams, because there are seasons when they need to water. There are times when the natural rainfall is not enough, when it is touch and go. There are those critical times when the vines are starting to bud; and if you have a dry spring, or especially in the early autumn and late summer when things are starting to dry up and the fruit is starting to ripen, it is important that the correct moisture content is in the soil.

There are approximately 200 vineyards in my electorate, so that is a major agricultural pursuit, and it is an expanding one, too. As you drive down the Mornington Peninsula Freeway into my electorate you can see hectares and hectares of brand-new vineyards, and increasingly these are an important part of the economy of the Mornington Peninsula. They are particularly important for the ongoing employment situation for not only the many full-timers in the vineyards but also the many seasonal workers. Vineyards are very much part of the tourist scene, because people now come to the peninsula all year round to visit the vineyards; probably 40 or 50 of them now have tasting rooms and restaurants attached. So the health and the wellbeing of the vineyards is very important to the Mornington Peninsula.

The area also has a huge number of market gardens. They are located primarily along the very fertile areas at the back of Rosebud. Most of the watering is done with bore water, but that also has to be carefully watched because in a way it is putting pressure on the building of dams. There is only so much water in the aquifer, and the number of users of that aquifer is increasing, so if that source of water starts literally to dry up pressure then starts to be put on using dam water to irrigate those various market gardens. As I travel around the electorate I notice that many market gardens have new dams attached to them. That is an interesting trend — one I did not think would happen — but it reflects that growing need for dam water for irrigation because of the uncertainty about the aquifer.

Flower farms are another area of market gardening in my electorate. A large number of flower farms are on the land at the back of Rosebud, heading out towards the back beaches. Again, they rely primarily on bore water, but they have dams attached to their properties and therefore this legislation has a great deal of bearing on the dams used by flower farms.

There are two minor areas of agriculture in my electorate. One is the orchards. Red Hill, Main Ridge and Merricks, once renowned for their orchards, have now in the main been taken over by vineyards, but a number of orchardists are still there. Again, they have dams on their properties and they rely heavily on dam water for irrigating and watering their orchards, especially in the critical seasons on the Mornington Peninsula of long, hot dry summers and dry autumns.

The second area is beef cattle. Again, a beef farm does not require the amount of water that is pumped into a dairy farm; beef cattle are far hardier. However, all the beef farms in my electorate have dams. They are used not only for watering stock but also for — —

**Mr Maxfield** — Donkeys!

**Mr DIXON** — Some are pursuing donkeys, but we are mainly into beef cattle. You get better meat from beef cattle than from donkeys! Beef farmers are watering their pastures because they do have those long, hot dry spells, and irrigation of the farming area is also needed.

That is a summary of the agricultural pursuits that are a very important part of the fabric of my electorate. They rely very much on dams, and this legislation will certainly affect them to a great extent.

The other area about which there has been some confusion — it is not an agricultural pursuit — concerns golf clubs. I have eighteen 18-hole golf courses in my electorate, either being built or in use, which is an incredible number of golf courses and a huge amount of hectares. Most of those golf courses

use dams for part of their irrigation, but they probably use bore water for the larger part. The uncertainty of the amount of water available in the aquifer means that these many golf courses — and more will come online — rely on dams to water their greens and keep them in tip-top condition, because they are world-class golf courses, not just hacking golf courses, and they need to be kept up to the very best condition.

Although this legislation may not impinge on them a lot, it will change the uncertainty that is out there among the people who are investing millions of dollars into these golf clubs, which will be wonderful for my local economy. They are bringing new money into the area; they are creating jobs not only in the construction of golf courses but also from the ripple effect of having golf courses, which is a wonderful contributor to the local economy.

Therefore some of the committees of management and the developers themselves — if they are developing new golf courses — have also raised concerns with me about where this legislation will leave them at the critical part of their formation. I certainly support them in what they are doing and understand their concerns.

The other minor use of dam water is on hobby farms. Many people have 2 or 4-hectare farmlets, and there is consideration in the bill of those as well, but I also notice a few housing developments have stored water that is mainly used for ornamental purposes but also as a source from which to pump water for the watering of gardens and common areas of land within those developments.

Small dams on small properties may seem insignificant but they are important during fire seasons. I have noticed that when we have had large fires, as we did in January 1997 up through Arthurs Seat, not only were dams very useful for the property owners who had a pump in enabling them to fight the fires, save their houses or be a backup if the mains water was not sufficient, but those dams were sometimes used by the helicopter water dumpers that have become prevalent in firefighting activities these days. Although it is not a particularly common use, it is still a use of dams, and that again adds to the complexity of the issue.

In terms of rainfall, the percentage of water we use and the flows, I have observed that running right down the middle of my electorate is an underground pipeline, out of the end of which pours the equivalent of three Melbourne Cricket Grounds full of water. It runs underneath my electorate and the outfall goes out into Port Phillip Bay. It is effluent treated to a secondary standard, but it strikes me as ironic that all this fresh water could be upgraded to a tertiary standard. Admittedly that costs money, and it has been looked at by the Environment Protection Authority and also by Melbourne Water, but all of that fresh water is pouring out underneath the dams that have been built right throughout my electorate. If that water could be treated to a higher standard and used throughout the southern and south-eastern part of Victoria perhaps we would be having a different discussion about the use of dams and the conservation of water because we are wasting a lot of water when we allow that amount to pour out at the end of a pipeline.

I support the amendments because I know a lot of work has gone into the bill. The Liberal Party's bills committee has worked for many hours on this. It has looked into it, using individual and practical experience to gauge its ramifications. Liberal Party members have consulted, they bring a practical experience to it, and therefore the amendments they bring to the bill will only add to it. They are not last-minute political additions. They are well thought out, well reasoned and practical amendments. Therefore I support them and I support their reference.

**Mr JASPER** (Murray Valley) — I join in this critical debate on what has been a huge issue right across northern Victoria, and indeed the whole of Victoria. I recall when I entered the Parliament more than 20 years ago driving down through my electorate of Murray Valley, which has a huge irrigation area, through Cobram and into Numurkah and on many occasions seeing people irrigating with little regard as to the use of that water and where it would end up. I often saw people using water to irrigate particular crops, with excess water running across the road and not being used effectively.

But there has been a massive change in what is seen as the critical importance of water to the economy of Victoria, and particularly across the food bowl of Australia, through the Murray–Darling Basin. Those changes have been dramatic. Where once people did not have any real responsibility for how water should be used, in more recent years it has become a critical issue. With the introduction of the cap on water by the Murray-Darling Basin Commission in the early 1990s we have a better realisation that ours is actually a dry country and that we need to use our water as effectively as possible.

What I have seen across my electorate, and particularly in the western part, is a more appropriate use of water. We see laser grading of land, and people who are more attuned to the use of water introducing water reuse dams on their properties to get the maximum usage of

the available water. Of course cost has been a factor, with an increase in charges applicable to water, but we need to relate that cost to production and the fact that water is probably cheap in Australia. I say 'cheap' because many people in the irrigation areas would say that the price of water is as high as it should be; but we need to recognise that cost as a factor in the whole equation of water use through the irrigation areas, particularly in the electorate of Murray Valley.

With the changes we have seen and the greater recognition of the importance of water there has been a huge concentration of investigations into what we should do and how we should control and be able to use water. Indeed, that has been the subject of a number of reports in recent years.

I look again at my electorate of Murray Valley. At the eastern end of the electorate where there is limited irrigation, people who are dryland farming but who use water, particularly for stock and domestic use, have been able to develop water usage on their properties for irrigation purposes. There is no doubt that the strength of the representation that has been brought to me in more recent years has been to protect the water rights of people in the irrigation areas. There is no doubt that the economy of the state of Victoria is reliant on agriculture, and a lot of that agriculture is reliant on water distributed through irrigation, particularly running through the northern part of Victoria and the Murray Valley region.

I pay tribute to the work of the honourable member for Swan Hill, who has worked hard on the use of water issue and the changes which need to be implemented to get control of that to get a better balance in the use of water and to get practicality from the farming community, particularly, and from irrigators on how that water should be used.

I have been at difference with people within the National Party on the water issue. In fact, I have queried the cap that has been imposed by the Murray-Darling Basin Commission on the basis that we should look at extending our water storages. This has been resisted by many people involved with the water system, in the water industry and across the National Party and all political parties. I have been saying that instead of investigating improving the wall on Little Buffalo Dam in north-eastern Victoria, we should be considering building Big Buffalo.

The response provided to me by Goulburn Murray Water and the Murray-Darling Basin Commission is on the basis that there is a limited amount of water that falls in the Murray–Darling Basin, that there is a cap on the amount of water used, that water is totally allocated, and that there is no further water that can be contained. I have argued that, on the other hand, if we get a big wet season all our dams should be able to be filled, and that if we had a Big Buffalo Dam we would be able to contain over a further million megalitres of water, where at present Little Buffalo holds, some people would say, just a cupful of water at about 24 000 megalitres.

The other argument I have put forward on building Big Buffalo has been on the basis that the government owns all of the land. When he was Premier of the state of Victoria Henry Bolte bought all the land so that Big Buffalo could be built. Little Buffalo was built as a temporary measure and was for limited usage before Big Buffalo was built. But now Goulburn Murray Water is investigating what it will do to improve the weir wall at Little Buffalo. It has not proceeded with that yet, but that is the proposal that is being put forward.

Again I put on the record the fact that I have some concerns about the cap that has been imposed and the amount of water that is included under that cap, but recognise that the experts within the water industry say that is what we need to work within, that is the limit of the water available, and that most of that water has been allocated. I still put on record the fact that as far as I am concerned we need to look at extending our water storages and that consideration should be given to building Big Buffalo.

I should add that Big Buffalo runs down into the Ovens–King water systems. The argument put to me is that all the water that comes down through the Ovens and King valleys is allocated through irrigation and environmental flows and to other usages downstream. I say again that I think consideration should be given to the building of Big Buffalo.

As I indicated earlier, the water issue has become a huge issue of concern, discussion and debate within north-eastern Victoria. A number of reports have been prepared, which other members have referred to in earlier contributions — the Baxter report, the Hill report, the Heeps report, and the final report, the Blackmore report. This legislation has resulted from those investigations, particularly the Blackmore report.

I highlight the problems, because we get representations from people on all sides. The people in the irrigation areas obviously argue that they want to be protected with their water right and any additional water right allocated over and above that so they can manage their farms effectively. In fact, I have had put

to me at meetings at the western end of my electorate that they should be able to continue to get 200 per cent of water right in every season. We know that it is not practicable to get that in every season. The guaranteed allocation of 100 per cent water right should be there, but anything over and above that, of course, depends on the availability of water and the water held within the water storages.

We have had to present to people in the farming community in the irrigation areas that they need to manage their farms on the basis of 100 per cent water right and that if they get additional water allocation, that will help them through the season, but they need to understand that on occasions that will not happen. On the other side of the equation, those living in the upper catchment areas of north-eastern Victoria say, 'Well, we have rights to water which lands on our property'.

In recent years the big argument has been about the definition of a waterway. That has been a huge issue of concern, particularly through the 1990s, and about which major representations have been made to me in more recent years.

I recall visiting one particular farmer at the base of the Warby Ranges, just west of Wangaratta. He had built a dam on what he claimed was not a waterway but what Goulburn Murray Water indicated was a waterway. He had built the dam without any permission whatsoever. Goulburn Murray Water said, 'You will need to purchase some of that water right. We will allocate some to you, but you will need to purchase some of that water right'. That is an ongoing problem that has not been resolved. He has built another dam on another area of his property, and through the Rural City of Wangaratta and Goulburn Murray Water he got approval for and a licence to build that 10-megalitre dam.

Many people argue, including the honourable member for Swan Hill, that most of the water should go down through the system, off the Warby Range, through to the Ovens River and be allocated as irrigation water downstream. This huge issue needs to be resolved and I believe the legislation seeks to do that. The National Party has had input into the reports I mentioned earlier, and to the minister and the government to make sure it is appropriate legislation.

I should refer to some of the provisions in the bill because it is critical that they are understood. One of the biggest issues, one that everyone agrees with, is the provision of water for stock and domestic use. People will be entitled to utilise water for stock and domestic use. The bill has provisions relating to property owners with dams, which can be registered for a period so the water can be used without fees being attached to it. If a dam is licensed the property owner can use it to transfer water rights. I am now touching on some of the issues that I believe are critical in the discussion taking place. We have sought to achieve a balance between the people who have the absolute right to water allocated to them through the irrigation system and those we seek to protect in the upper areas of the high country, who believe quite rightly that they have some rights to the water that falls on their properties. They have rights to some of the water that drops on to their properties to grow crops, graze stock and for other purposes.

A dam built on a waterway will need to be registered and the authorities will need to determine the use and availability of the water.

The National Party has proposed some important amendments. I understand that the government will accept the National Party's amendment regarding curtilage, which will mean that an irrigation licence will not be required for water used within 1.2 hectares around a home, and that will enable the landowner to protect his property in times of danger, such as fire. Another National Party amendment concerns management plans and will mean Parliament will have the opportunity to disallow such plans where applicable.

The National Party wants support for an amnesty. Many people do not understand the operation of the Water Act and the changes to the legislation. Over the years I have been in Parliament I have come to understand that many people do not realise the changes being made to acts. Although honourable members seek to ensure that people understand legislation that passes through Parliament by consulting with representative organisations in an attempt to get the best possible result, it is often not until proposed legislation becomes law that you understand that people do not know the implications of it or that there may be a need to further amend it to make it more effective.

The National Party supports the legislation. I pay tribute to the work of the honourable member for Swan Hill, who has worked hard in this area seeking to get a balance between those who have rights to water for irrigation and those in the upper catchment areas. The honourable member has got into a number of arguments with people who have not agreed with his views. Indeed, he has argued with me on this issue, because I have not always agreed with the line that he has put forward. However, it is a matter of balance and of protecting what people see are their just rights. As I

read the legislation, and after investigating the issues, I believe it seeks to do that.

The honourable member for Gippsland South and the honourable member for Swan Hill have clearly canvassed and dealt with the issue put forward by the Liberal Party.

I have sought to give some background to the water situation in north-eastern Victoria, and particularly as it relates to my electorate. The use of water is diverse and the opinions that people have put forward are different, but they all have strong points of view. It is an emotional issue to people who have land and believe they have particular rights that need to be protected. What the government has sought to do, supported by the National Party and through the proposed amendments, is to get a balance that will protect people not just in the irrigation areas but those who have rights in the upper catchment areas to water that drops on their properties.

I have covered the unworkable definition of a waterway and of stock and domestic dams. I mentioned the issue of registration and the need to protect people with existing dams on their properties, which they can either register or license, particularly if they are used for irrigation purposes. There is also the provisional transition package for people establishing dams on their properties, who will have particular rights to that water and get assistance from the government in purchasing the water entitlement. Overall the legislation creates a lot of discontent among people in my area of north-eastern Victoria, but we have sought to get a balance.

One final issue is that the National Party has acted to support the water services committees in seeking to protect those who believe they have rights in meeting the provisions of the bill and the requirements of their properties and to ensure that the membership of the committees for upper catchment areas will include farmers who have an interest in the issue.

Overall the legislation moves in the right direction. Water continues to be vitally important to the economy of Victoria, particularly for those of us living in the northern part of the state where water is critical to the Murray–Darling Basin. It is important for irrigation purposes to ensure we are able to produce product that is not only consumed throughout Australia but exported throughout the world, thus providing wealth to Victoria and the producers wherever they may be across the state.

**Mr SPRY** (Bellarine) — I rise as the representative of the semi-urban, or semi-rural, seat of Bellarine, whichever way one might like to look at it. It is a rapidly changing seat, but I will go into that later. The Water (Irrigation Farm Dams) Bill has exercised the thinking of members of this house ever since it was introduced. The research that went into the Blackmore report and others has demonstrated just how seriously Victorians take the subject.

This morning much has already been said about the detail of the bill, and I do not want to go over that territory again. Initially I want to make some general comments about water and the need to continue to make provision for the long-term guarantee of supply to all consumers, both domestic and commercial, urban and — in the case of this bill in particular — rural users.

The passion generated by the debate to date demonstrates the human reliance on this sometimes scarce resource and the heat its equitable distribution can generate at times. As legislators we have a responsibility to get it right. I commend the speakers both this morning and in particular last night who made contributions to this debate, especially those on the opposition benches who have sought to protect catchment farmers in the north-east of Victoria and in the south, the area I come from.

As we all know, parts of Victoria have been ravaged by drought in recent years. Very few regions would have been more adversely affected than the Geelong region and the Bellarine Peninsula, where three years of continuous water restrictions have served to focus the minds not only of farmers but also of the general public. In Geelong we know what it is like to be without water and how seriously it can affect us.

With that in mind, in January this year I visited Dubai, in one of the driest parts of the world. Dubai is one of the seven United Arab Emirates and occupies the north-east horn of the Arabian Peninsula. It has low rainfall — about 2 inches or a little over 500 millimetres a year. In a country like Dubai every drop of water that falls is very jealously conserved if possible.

The city of Dubai has a population of around 400 000 and it concentrates efforts not only on recycling water but also on making use of whatever water is available. The people have been very innovative in that part of the world in providing for an expanding population by using salt water, which oddly enough is a by-product of the power generation process in that country. They heat sea water to superheated temperatures. The steam

generated drives turbines and then, when it has been used for that process, is condensed to form water. Naturally the water is a bit like battery water: it is absolutely tasteless, so salt has to be added back to it to make it palatable. The enormous amount of water generated in that way serves the population of 400 000 in the very dry city of Dubai.

The bill concentrates much of its content on the northern irrigation areas of Victoria. To some extent a degree of tension is generated by the two distinct users of water being considered by the bill. They are the northern irrigators and the southern catchment area farmers. It is not just confined to the southern catchment area; it is up in the north-east as well.

When we look at those northern irrigation areas with reference to the Australian Bureau of Statistics statistical districts of Murray in New South Wales, and Mallee, Goulburn and Ovens–Murray in Victoria, we see that they contain an estimated 701 820 hectares of irrigation properties. All honourable members would recognise the enormous importance of these irrigation areas to the wealth of the country.

The revenue they generate particularly in exports is enormous and the contribution those irrigators make is recognised and appreciated by all Australians. The irrigation industry is a diverse and revolutionary industry, extending from crops such as rice to intensely irrigated and highly cultivated crops such as carrots.

An earlier speaker mentioned the horrific waste of water where some territories are covered by flood irrigation and I for one cannot help thinking measures should be taken urgently to address and correct that. In addition to those sorts of measures far more emphasis should be put on and effort directed towards minimising leakage and evaporation from the open channel systems in water distribution. I urge the government to get behind that imperative.

I wish to make a few comments about my own electorate of Bellarine. In the 50 years I have lived in that magnificent area of Victoria it has changed from being a largely rural and farming area. I spent my first 20 years farming on the peninsula, with 12 years of active farming, and my father before me — —

**Mr Wells** — A rags-to-riches story!

**Mr SPRY** — I don't know about rags to riches — there weren't too many riches around when I was farming there! It was a pretty tough life and I commend the people engaged in any farming pursuit anywhere. One of the great American billionaires — I have forgotten who — made the comment that when he had tried everything else in industry he turned his hand to farming because it was the one great challenge that human beings had little control over. As a former farmer I appreciate his comments.

As I said, the Bellarine Peninsula has changed significantly over the past 50 years. It has changed from having an essentially rural and farming community into what could now fairly be described as a significantly urban community. In the days I was farming you could put dams wherever you liked. It was even encouraged. There were no particular controls over it. In those days the Soil Conservation Authority was focused particularly on soil erosion and similar issues and there might have been financial incentives for genuine farmers to conserve water. People were horrified by the amount of water that ran off into the bays and the ocean. It was considered a complete waste.

When you look at the development of the giant irrigation schemes based on the Snowy Scheme and read some of the early speeches of about 40 years before the formation of those schemes, you realise that in those days people were horrified by the amount of water that ran off into the ocean and wasted from this very dry country. The brown stains that identified where those streams ran out into the ocean were regarded by people as an indication of complete waste.

Few genuine farmers remain on the Bellarine Peninsula. Most of them are hobby farmers or people running intensive farming enterprises such as viticulture and horticulture. Those few who remain are particularly interested in the legislation and that is why I have risen this morning to speak briefly on their behalf.

There is no doubt water is a vital consideration in any farming enterprise, whether it is grazing, cropping, horticulture or viticulture. While I am on the subject of viticulture, I commend the very innovative farmers in my electorate — for example, the people who run the growing viticulture industry. I speak of people such as the Browns of Scotchman's Hill and the Cross family at Leura Park. I could go on but I will not name the many others. Those people have been innovative. They have looked at the potential of the wine industry and made a study of it. The wealth that has been generated by the viticulture industry on the Bellarine Peninsula is significant and makes a great contribution to the overall common wealth of the state.

The initiative of innovative thinkers such as the Browns family of Scotchman's Hill — and I note the Minister for Agriculture agreeing with me and I appreciate the fact that he understands what is going on down there — in harnessing the resources of the effluent pondage

system at Portarlington with the cooperation of Barwon Water is commendable. They are the sort of people who realise that we live in an area with finite resources and that water is a key element, and they have taken steps to harness the available resources to great effect on their own farms. They will show the way for others to follow in due course. The fair distribution of water is of vital concern to all those family enterprises that use it.

Madam Acting Speaker, you would be aware that it is possible for a landowner to build a dam high in a catchment and deprive landowners lower down from essential water particularly for stock and domestic uses and irrigation — —

**Mr Steggall** — The bill was specifically written so that would not happen.

**Mr SPRY** — The honourable member for Swan Hill interjects. He has had a really good go at the bill, so I will have my bite of the cherry now.

It is possible — as it certainly was in my day — for those landowners to build a dam at the top of a catchment area and deprive those lower down.

For that reason the bill has the capacity to protect the interests of people lower in the catchment area. It would be fair to say that that element of the bill should be supported.

Without the Liberal Party's amendments the legislation also has the capacity to take away altogether the entitlements of catchment landowners. That has been the thrust of the amendments. We are trying to look after the established entitlements of those catchment area farmers in particular. Landowners in my area would expect to have a guaranteed given amount of run-off for use as they have in the past, and the amendments make provision for those expectations to be entrenched in legislation. I urge the government to reconsider the proposal on the grounds of demonstrating an awareness of the consequences to catchment landowners.

I shall focus on the eight amendments, six of which relate to clause 10.

**Mr Howard** interjected.

**Mr SPRY** — I listened to the honourable member for Ballarat East last night, and I commend him for his contribution, however misguided it may have been.

**The ACTING SPEAKER (Ms Davies)** — Order! The honourable member for Bellarine can manage without assistance.

**Mr SPRY** — The first amendment to clause 10 requires the minister to table an order declaring a water supply protection area in each house for full scrutiny. People expect the full scrutiny of Parliament to be directed at that provision.

The second amendment to clause 10 seeks to clarify what constitutes what is wholly or predominantly a farming area. That is a reasonable amendment to request.

The third amendment to clause 10 requires draft management plans to contain a map of all waterways in the area covered by the plan and to specify that once these are mapped, no other area can be declared a waterway. The amendment seeks absolute certainty of what is proposed in the bill.

The fourth amendment to clause 10 requires all management plans to be tabled in each house and approved by each house before they become effective. I notice the honourable member for Ballarat East nodding his head in agreement, because full scrutiny is required.

The fifth amendment to clause 10 seeks to prevent a regional water authority that is enforcing a management plan from demolishing a farming dam — in other words, allowing the status quo to remain intact, again providing certainty for farmers.

The sixth amendment, to clause 19, seeks to extend the qualification period for the registration of existing irrigation or commercial farming dams from 5 years to 10 years, again a transitional change that we believe is justified and worthy of consideration. I hope the Labor Party accepts that amendment.

The seventh amendment, to clause 26, seeks to allow for the permanent and free registration of existing irrigation or commercial farm dams. That is self-explanatory.

The most controversial of all the amendments by which the Liberal Party hopes to improve the bill is to clause 6, and it seeks to provide that landowners have the right to use 3 per cent of the rainwater that falls on their property for irrigation or commercial purposes as of right. This right is in addition to stock and domestic use, but subject to a water supply management plan.

That particular amendment is seminal to what I consider as fair treatment to existing landowners who

will be affected by the provisions of the bill. It has some similarities to the marine parks legislation that the Labor government failed to take to its natural conclusion, in that the eighth amendment seeks to protect the existing rights of people. That is something that the Labor Party, for some unknown reason, has completely ignored in the preparation of the bill, and that is reprehensible. I recommend and urge the government and members of the National Party to reconsider, because it is a question of equity and fairness.

Provision should be made to ensure the equitable distribution of this scarce resource, namely water, but in doing so we should ensure that those people, particularly those on the land, who use it are treated with absolute fairness.

**Mr THOMPSON** (Sandringham) — In a press release earlier released by Dr Graham Harris, chief of CSIRO land and water, he noted:

> The only antidote to salinity and other big-scale degradation problems was vision and political leadership, social engagement, enlightened policy development and regulation.

It is in that context that I am pleased to contribute to the debate today, where there have been contributions from around the state from members of Parliament representing their constituencies and advancing the interests of their farming communities, and further afield.

The Water (Irrigation Farm Dams) Bill has a number of objectives including: the requirement that the use of water in private dams or from springs or soaks for commercial irrigation purposes be licensed; the declaration of water supply protection areas and the preparation and implementation of management plans for those areas; the requirement to license certain dams; the requirement that licensed drillers comply with the conditions of bore construction licences; and a number of other miscellaneous amendments.

Dr Harris indicated that at a time when the soil was turning to salt or becoming acidic and our rivers and ground water were becoming polluted and overused, the culture in Australia was still broadly focused on development. That is why this is a very important bill: it provides for the sensible management of water resources. There is a finite supply of water and it is important we get the best return on available water.

Paul McGowan, a leading water expert in northern Victoria who has worked on major irrigation projects overseas in areas that include Egypt, middle Asia, India and others, is of the view that if we had had our present knowledge of what irrigation can do we would perhaps not have embarked on it with the same enthusiasm that the Chaffey brothers did some 100 or more years ago. There is a certain consequent impact of the flow of irrigation water onto areas that have high levels of underlying salinity.

One must recognise the importance of water to farmers. Some farmers in western Victoria depend on their dams to water their stock and sometimes to irrigate stockfeed such as lucerne and other beneficial crops in times of drought as they go about their business of eking out an income. In areas other than western Victoria water is in more abundant supply. The intent of the opposition's proposed amendments is to enable the use of a 3 per cent margin, which is fundamental to the point. In some areas flexibility in the ways a person can use the water is of vital importance. Rather than restricting farmers at certain times that level of flexibility would mean that people who have bought properties would, by virtue of their geographic location and rainfall, have an understanding of what their water entitlements might be. Examples of water mismanagement can be seen in the former Soviet Union, where as a consequence of irrigation of cotton fields an inland sea dried up. Today that sea is an inland desert and all you can see now are boats that once sailed the sea rusting on the sands of a desert.

We need to be at the forefront of innovation in water resource management. It is noteworthy that the CSIRO has just announced that the work of Australian scientists on water banking has been recognised internationally with the awarding of the inaugural UNESCO international water prize for innovation in water resources management in arid and semiarid areas, and I take the opportunity of congratulatory the CSIRO on that outstanding achievement.

**Ms GARBUTT** (Minister for Environment and Conservation) — The Water (Irrigation Farm Dams) Bill is significant legislation. I thank the many honourable members who have spoken and put their views, quite passionately in many cases. The legislation is significant because it is about sustainable use of a very limited and precious resource — water. That underlies a lot of the passion we have heard. We have been through a period of drought in many areas of the state and that has underlined the limited nature of water. As many honourable members have said, we have had 150 years of this resource and the bill reflects that historical fact. Now we must face up to the fact that it is finite and limited, and we must allocate it in a very fair way.

The bill makes significant legal changes to the way water is managed, particularly in upper catchments. Very few people in rural Victoria will not be affected by the legislation. It will, however, deliver certainty for future commercial use, and that is what is driving the issue. The problem has been that the existing situation, which is divisive and uncertain, has meant that people cannot invest in further development and further initiatives involving water and high-value agriculture without a feeling of insecurity.

The bill will deliver security and will complete the government's allocation system for water, a system that started in 1989 with the Water Act we are currently amending. Now we need to resolve the outstanding issue to complete that allocation system so that we understand how much water there is — —

**The ACTING SPEAKER (Ms Davies)** — Order! There is too much audible conversation.

**Ms GARBUTT** — We must understand how much water there is and how we are using it on a catchment basis. The bill allows us to do that.

It also puts in place a very fair allocation system. Where water is so limited and precious and can be used by so many people we need a very fair allocation system in place. We do not have one at the moment and this legislation will put one in place.

The issue is long running. For years there have been arguments and controversy in rural areas, very divisive arguments pitting neighbour against neighbour. The honourable member for Gippsland East summed it up very well when he talked about a particular river valley in his electorate around which there is heat, passion, emotion and division in the community about access to water. That has been the situation in many other catchment areas too. In areas such as the honourable member for Ripon's electorate in the north-east there have been many divisive controversies resulting in a holding up of development.

For example, it is known that a prominent wine-making company pulled out of a large-scale development in its area. It proposed to put in a catchment dam, but then discovered that a neighbouring property planned to build a dam that would affect its security of supply. That development was pulled. The Shire of Northern Grampians estimated that $40 million in development was being held back because people would not invest in dams without the required security of water supply. The situation is that one farmer can contemplate building a dam, but a neighbour can remove any security by affecting the water flow into a dam. Then the development simply does not happen. That is the sort of confronting issue the legislation must address.

The former government put in place three separate reviews in different parts of the state. When I came to the ministry the three reports presented to me did not agree on the way forward. They focused on only particular regions and proposed different solutions. The former government had those reports but failed to resolve the issue, one reason being that it focused on particular areas rather than taking a statewide look. The only thing agreed between those three reports is that the problems must be resolved and that the current situation, which is divisive and is holding up development, cannot be allowed to continue. That was the general agreement right across the state when I set up the review committee.

The review committee of very high-powered people representing different issues undertook statewide consultation. That is what sits behind this bill. The review committee held more than 40 meetings across the state and took more than 600 submissions. It generated enormous interest, and I believe there was a great deal of community learning and understanding as the review committee proceeded over a year to examine the issue, put out proposals, take submissions on its draft recommendations and then present its final recommendations to me.

The consultation did not stop there, because I had discussions with representatives of the Liberal and National parties and the Independents before bringing the bill to Parliament. I thank them for that cooperation and for their input. I believe that consultation has resulted in very good and sound public policy being presented in this bill. It has been a difficult issue. It has been difficult for all of us, and it is something we have all wanted to give serious consideration to.

The issues leading to the bill's preparation have been difficult and divisive for the community. We understand the issues are sensitive for farmers too. However, what is consistently being said is that we must resolve this issue. To leave it unresolved is not acceptable, so it is up to us in this Parliament to resolve the issue. I believe what is presented in the bill is the best way forward.

During the debate we worked hard to avoid a division based on irrigators versus the rest, because that is not what it is about. The division has been within the upper catchment areas and has seen farmer against neighbouring farmer — one farmer building a dam that affects the neighbouring farmer's access to and security of water. It is not a case of them up there versus the

irrigators down there, it is about division within communities in upper catchment areas. It is bad for regional communities for Liberal members to be going around trying to set up a divisive situation. It is very clear that some members of the Liberal Party have not yet learnt that conflict, division and uncertainty — the hallmarks of the previous government — have been done away with because they do not lead to a resolution of problems and they do not serve us well.

I shall refer to the proposed amendment on the 3 per cent retention, which will obviously come up again during the committee stage. Firstly, the suggestion thumbs its nose at all the consultation that has been conducted around the state consistently in an organised manner by the review committee over the past 18 months and for years before that. All options were canvassed. The committee specifically rejected a 10 per cent proposal during its consideration and rejection of many proposals other than those in the bill.

For the Liberal Party, after five years of debate, to come in here at 1 minute before midnight with a new proposal which no-one has seen before and which has not been the subject of consultation or thought is simply unacceptable. It is absolutely disgraceful for the Liberal Party to thumb its nose at everyone who has contributed to the public debate over many years by proposing its 3 per cent amendment, which is highly ill conceived.

I can understand why it has been suggested. Certainly there has been a lot of lobbying, particularly in the north-east, and I can understand that they want us to listen to those concerns. Those concerns have been listened to over the past year and a half in developing the proposal in the bill. The problem is that 3 per cent does not mean 3 per cent, because 3 per cent of rainfall translates into 30 per cent of run-off. The figures have been checked, and they are absolutely huge.

On radio yesterday Don Blackmore from the Murray-Darling Basin Commission talked about what it would mean. He was absolutely clear about what the volume would mean if every farmer took up this allocation, and that must be allowed for in any allocation system — it must be factored in. Mr Blackmore said that a third of the capacity of the Eildon Dam would sit there — it is a huge volume. Clearly the opposition has not worked out the impact of the 3 per cent.

Mr Blackmore also pointed to another major problem — that is, the stream flow management planning committee would have to factor that into its planning, and it would not be able to do that. That amount of water is equivalent to approximately half of the water the northern irrigators currently use. It would blow out our obligations under the Murray–Darling Basin cap. Is that what Liberal Party members opposite really want us to do? Are they really saying to zap the cap? It is very hard to accept that. The problem is that this is a last-minute, knee-jerk reaction; it is a proposal made in the heat of a federal election campaign in which the seat of Indi, in particular, is being hotly contested.

This is a last-minute, off-the-top-of-the-head response: 'Stick the bill here. Let's have a debate. It has not been thought through. People do not understand' — certainly the opposition does not understand — 'the impact of this proposal'. I believe that proposal is about a federal election. It is political of course. The proposal is about making sure that the Melbourne lawyer wins in Indi. It is disgraceful to put that issue ahead of good public policy. The proposal also reflects a drastic failure of leadership in the Liberal Party. Where is the leadership — —

*Honourable members interjecting.*

**Ms GARBUTT** — The proposal represents a last-minute, knee-jerk reaction in the dying days of the Napthine leadership of the Liberal Party.

Listening to the debate it is clear that many Liberal members opposite have got their facts wrong. Hardly one argument was based on fact. There was a lot of passion, a lot of rhetoric, but few facts. I will talk quickly about some of them.

The honourable member for Warrnambool made a particularly ignorant contribution, which matched his contributions in his local papers. He talked about changing the definition of 'dairy wash-down'. That is absolutely wrong. The definition has always been commercial and it is in the act. He also talked about feedlots, calving pads and dairy herds and how they would be affected. He was wrong in every case. He talked about local government being able to veto stream flow management plans. I have no idea where he got that from. Absolutely wrong. It was not just wrong, wrong, wrong, but wrong, wrong, wrong, wrong, wrong. Totally wrong!

The honourable member for Benambra made two points. First, that there was no compensation — in his local paper he has been saying that there will be no compensation. Clearly, that is wrong. In fact, the honourable member for Swan Hill said in his speech that it is the first time in 100-odd years, since 1886, that Parliament is compensating for the change of the right to water. I thank the honourable member for Swan Hill

for his clarity. Second, the honourable member for Benambra said that the legislation would stifle development. Again he is absolutely wrong — a lot of passion, but no facts.

The honourable member for Polwarth also talked about the changes in the definition of 'dairy wash-down'. There are no changes to that definition in this bill. He is wrong. He said that 50 per cent of government department employees would dominate stream flow management plans. Wrong! He also said that pro-environment groups would — —

*Honourable members interjecting.*

**The ACTING SPEAKER (Ms Davies)** — Order! The minister, without assistance, finishing her remarks.

**Ms GARBUTT** — Thank you, Madam Acting Speaker. The proposals in the bill will resolve a long-running divisive issue. It will allow development to continue. Farmers with existing entitlements will get improved security and government assistance in the package. The environment is also a big winner.

**Motion agreed to.**

**Read second time.**

**Debate interrupted pursuant to sessional orders.**

**Sitting suspended 1.01 p.m. until 2.03 p.m.**

## QUESTIONS WITHOUT NOTICE

### Emergency services: 000 calls

**Dr NAPTHINE** (Leader of the Opposition) — I refer the Premier to the fact that the 000 emergency call system crashed again this morning, meaning that people could not get through to fire, ambulance and emergency services. Why has the government been unable to guarantee the reliability of this essential service in Victoria?

**Mr BRACKS** (Premier) — The 000 emergency call system is improving from what we inherited from the previous government — and that is the reality. Predominantly and overwhelmingly it is working much more effectively. The matter this morning, as reported by the Leader of the Opposition, will be examined. Generally the system is working much better than what we inherited.

### Table grapes: industry assistance

**Mr STEGGALL** (Swan Hill) — My question is to the Minister for Agriculture. Can the minister advise the house how it is that he blames the Rural Finance Corporation — as he did on ABC radio last week — for his failure to honour his undertaking to assist the table grape growers of Robinvale?

**Mr HAMILTON** (Minister for Agriculture) — I thank the honourable member for Swan Hill for his question on the table grape growers in the Robinvale area. As honourable members would know, the table grape growers have suffered poor seasons because of a deterioration in Thompson seedless grapes. I met with the growers last year and we agreed we would pursue on their behalf some financial assistance. The department officers have been working with the group for a lengthy period.

Together with the CSIRO we have set up a total amount of $217 000 to carry out a research project into the reasons for the deterioration of the table grapes. The cause is not known and it is important that our research officers work with the group to determine the outcome of the inquiry. Also, because of the financial circumstances of many of the table grape growers we added another rural finance counsellor to the group that works in Sunraysia to provide the growers with financial advice and assist them with applications for funding. Indeed, I am advised that all of those table grape growers who have a viable operation and needed financial assistance have gained it through either the major banks or the Rural Finance Corporation.

The government considered the application for special assistance through the corporation. It examined whether to make an emergency circumstances application, but when all things were considered it was decided that such an application was unlikely to be successful. However, that avenue is still open. The industry is important and a number of growers have faced some very difficult times chasing around for finance. The argument that the government had to consider was whether government grants should be made for businesses which were facing difficult times. It was the consideration of the discussions between the Department of Treasury and Finance, the Rural Finance Corporation and officers from Department of Natural Resources and Environment that at this stage they would be unable to provide that additional assistance through a subsidised interest rate, which is the process normally adopted.

We have not completed our negotiations. In fact I am meeting with the table grape growers within the next

two weeks to further discuss the problems and to make sure that this important industry — one that is of great value not only to the domestic market but to the export market — is able to continue and that those farmers receive the assistance they so — —

**Mr Ryan** — On a point of order, Mr Speaker, on a question of relevance, the issue was directed to the minister's blaming the Rural Finance Corporation as opposed to the matters that he has set out so far. He is debating the question, and I ask you to have him return to the point of the question.

**The SPEAKER** — Order! I do not uphold the point of order on the minister debating. The minister was providing information in regard to the table grape growers issue that was raised by the Deputy Leader of the National Party; however, the minister should conclude his answer. I remind the house of the need to be succinct, and the minister knows that.

**Mr HAMILTON** — As I was saying, I will be meeting with representatives of the table grape growers to further pursue the issue of government assistance to their industry. At this stage the decision has been not to provide the assistance that was requested earlier.

## Melbourne Festival

**Mr STENSHOLT** (Burwood) — Will the Premier inform the house of the reaction from the Victorian community to Melbourne's international festival?

**Mr BRACKS** (Premier) — I thank the honourable member for Burwood for his question. As this is the last parliamentary opportunity before the Melbourne Festival concludes, it is important for this house to congratulate all those who have been involved. This year's festival has been an outstanding success — —

**An honourable member** interjected.

**Mr BRACKS** — I was there on the first night. The box office receipts for this festival have been up on the previous record and are at a record $3.5 million, which is outstanding. The previous best box office receipts were $2.6 million, and again I congratulate the organisers of the festival.

The program has delivered 320 performances, including 11 Australian premieres, 8 Australian debuts, 41 Melbourne exclusives and 31 world premieres. There have been over 1300 performers appearing in the free outdoor program, which has been very successful. From the very start of the festival at the Sidney Myer Music Bowl, which I attended, when Xanana Gusmao read a poem to open it to its conclusion on Saturday night, this year's festival has been jam-packed, successful and very well attended. Attendances are expected to exceed half a million people in paid ticket events, an outstanding number.

I take this opportunity to thank three people who will be finishing up after a long period of time working for the Melbourne Festival. The first is Harold Mitchell, the festival's president for the past seven years, who has seen it grow and grow over that period. I pay my respects to and congratulate him and his wife, Beverley. They have done a fantastic job, and I wish him every success for his future ventures.

Secondly, I congratulate our very own Jonathan Mills, the artistic director, who has done a sterling and fantastic job. He is creative and brings such new and exciting events to Melbourne, and I congratulate him on that also. Thirdly, I congratulate the general manager, Ian Roberts, who makes sure that the festival ticks over so very well.

The expanded festival was part of the centenary of Federation celebrations this year, and again the festival organisers undertook that very well. As the front page of yesterday's *Age* shows, we should note the very successful venue of the *Spiegeltent*, the 1920s Belgian mirror tent, which has seen so many performances and been seen by so many people on the forecourt of the Victorian Arts Centre. If any members of Parliament have not been there yet, I would encourage them to go; it is fantastic. The tent itself is part of our history and is a great venue for those events.

Next year Robyn Archer will direct her first Melbourne Festival, and we wish her every success in building on the triumphant success we have had already. For the 2002 festival the government will increase its financial contribution by $500 000 to enable it to grow further, get even better and build on the great performances we have already seen.

Finally, I again congratulate the festival organisers and also the people of Melbourne and Victoria for attending in such numbers. It is truly one of the best, if not the best, festivals in Australia. It has an international reputation that is second to none. Congratulations to Harold Mitchell, Jonathan Mills and the rest of the team who have performed so well.

## Manufacturing: government grants

**Ms ASHER** (Brighton) — I refer the Premier to the Department of State and Regional Development's annual report for 2000–01, which shows that the government gave industry grants to firms such as Austrim Textiles, Arnotts, Email, Nestlé Australia and

Rocklea Spinning Mills. I further refer him to the fact that recently these firms provided a combined 1532 jobs in Victoria and ask the Premier what strategies the government has used to ensure that firms receiving industry grants actually add to Victorian employment and whether any of these firms has been asked to repay these grants.

**Mr BRACKS** (Premier) — I welcome the Deputy Leader of the Opposition's question and thank her for it. For her information, the industry grants system is one which requires payment in receipt of certain jobs that are accounted for. Payments follow the jobs and are not made to any of these firms unless the jobs that accrue directly relate to the particular investment. Looking back over the years, there were many industry grants made by the previous government on which companies have retrenched and failed, and the same rules applied then as apply now. One rule is that there is a signed contract or agreement requiring specific employment growth for that contribution. That is what this government adheres to in every one of those contracts.

## Hallam bypass

**Mr LENDERS** (Dandenong North) — Will the Minister for Transport inform the house of the progress of construction of the Hallam bypass, which is due for completion in the second half of next year?

**Mr BATCHELOR** (Minister for Transport) — I thank the honourable member for his question. He understands the importance of the Hallam bypass to the south-eastern suburbs of Melbourne and to the Victorian economy as a whole — —

**An honourable member** interjected.

**Mr BATCHELOR** — And Gippsland, that's right. That is unlike members opposite, who barely know where it is, let alone understand the importance of it. The Hallam bypass is a $175 million project. It commenced construction last year. I had the honour and pleasure of going out and commencing the construction project. When it was commenced, the completion date for the project was December 2004.

Members on this side of the house understand the importance of this project, but those on the other side do not. It is important to understand. They do not even know where it is. For the benefit of those opposite, it is a 7.5-kilometre freeway connection between the Monash Freeway at Doveton and the Princes Freeway at Berwick. They would not have a clue where it was. As well as bypassing the community of Hallam, it will also provide huge traffic relief for the growth areas around Narre Warren and, of course, provide important access for the communities in Gippsland.

Since coming to office the Bracks government has been getting on with the job and making sure the Hallam bypass project proceeds. It is a construction project. Excellent progress has been made and the benefits will soon begin to flow. Progress has been so good under the Bracks government that we will be delivering on this project one year early. Construction of the Hallam bypass is now expected to be completed by the end of 2003 instead of its original date of 2004. This means that the benefits to residents and businesses of the south-east, and to Gippsland, will be delivered some 12 months earlier than was originally anticipated.

The project is one of the successes of this government. It is being delivered under the Linking Victoria strategy, and is clear evidence that the Bracks government is getting on with the job of delivering major infrastructure projects around the state. Further evidence will be seen when we deliver on the Scoresby freeway, which will be of enormous benefit to the people of the east and the south-east. The people from those areas know that it is Labor that delivers and not the Liberal Party.

## Government departments: decentralisation

**Mr INGRAM** (Gippsland East) — I direct my question to the Minister for State and Regional Development. The government decision to move the State Revenue Office to Ballarat is an acknowledgment of the importance of the government's commitment to decentralisation and development.

*Honourable members interjecting.*

**The SPEAKER** — Order! The house will come to order. The honourable member is entitled to ask his question.

**Mr INGRAM** — What further plans does the government have for decentralisation in regional Victoria of government departments or government authorities?

**Mr BRUMBY** (Minister for State and Regional Development) — I thank the honourable member for Gippsland East for his question. The government has made a decision to relocate significant activity from the State Revenue Office to Ballarat. Recently I inspected progress on this matter. I am pleased to inform the house that the building is now ahead of schedule. I visited the first group of trainee candidates who are being trained at the Ballarat School of Mines for positions up there. They were a great lot of candidates

for those jobs. Work will commence on a full-time basis in that centre from March next year. There will be 200 positions, and it will inject something like $100 million into the Ballarat economy over the next six years. This is a strong confirmation of the Bracks government's commitment to growing the whole of the state.

The government has made other decisions of lesser moment which have essentially shifted resources into regional Victoria — for example, the expansion of the Victorian government business offices in country Victoria; and the Office of Rural Communities has meant something of the order of 15 to 20 new positions in country Victoria.

If the honourable member looks back to the 1980s and early 1990s he will see that the former Labor government shifted the State Data Centre to Ballarat, which created about 50 or 60 jobs. The former Labor government also made a decision to shift the Department of Agriculture to Bendigo, but that decision was reversed by the former Kennett government. The only policy of the coalition parties is to shift the Leader of the Opposition to the Little Desert!

I believe that is where he has been during the federal campaign. They have been out there looking for him! Everywhere they go it is, 'Cooee! Cooee! Where is he?'.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order immediately.

**Dr Napthine** interjected.

**Mr BRUMBY** — Well, you interject!

I inform the honourable member for Gippsland East that we have also made significant new investments in research centres, for example in Ellinbank, and the Premier was recently at Ellinbank. We have put a whole raft of initiatives in place to shift resources to regional areas. In relation to the future, can I say to the honourable member that the government will continue to examine on a case-by-case basis opportunities to relocate activities to regional areas. I think the days when you look at relocating whole departments are probably past, and it is preferable for a government to look at specific activities which may be suitable for relocation in country areas — to look to new activities of government. Often there are new and expanded activities and different ways of doing things which create additional jobs. We are happy to look at those as well, but we are looking at them on a case-by-case basis.

I know the honourable member has very strong views about this, and I can assure him that if any government is to continue to build the whole of the state and shift activity into regional Victoria, it will certainly be the Bracks government.

## Yarraville: toxic site

**Mr BAILLIEU** (Hawthorn) — I refer the Premier to the proposed shopping centre development in his own electorate at the site in Yarraville known locally as the arsenic site and to the proposed concrete capping of this highly toxic site. I further refer the Premier to his past comments that capping the site is 'insufficient', 'only a stopgap measure' and 'I will be monitoring the process closely to ensure that it is not just capped with a slab of concrete and left in the ground'. Why is his government requiring removal of contaminants from Docklands but allowing concrete capping of this arsenic-oozing site in Yarraville?

**Mr BRACKS** (Premier) — In response to the honourable member's question, this matter was about to be signed off in the caretaker period by the previous planning — —

**An honourable member** interjected.

**Mr BRACKS** — Just wait, and I will give you an answer. It was about to be signed off by the previous planning minister in the caretaker period. When we came to office we had a further process to examine the environmental impact of taking action on the so-called arsenic site. We have undertaken that work. It has been completed now and it showed that the best and most environmentally sound way of ensuring safety of that site was to have it secured.

**Dr Napthine** interjected.

**Mr BRACKS** — You get out there campaigning! We want the Leader of the Opposition to go out campaigning. We want him to go out there, Mr Speaker!

So the further environmental process as proven and ticked off by the council and other groups is that this is the best and most sustainable long term solution for that site.

## Hospitals: cleaning standards

**Mr LIM** (Clayton) — I ask the Minister for Health to inform the house of the progress of the government's

drive to improve cleanliness in Victorian hospitals. Is the minister aware of any international reaction to Victoria's achievements in this area?

**Mr THWAITES** (Minister for Health) — I thank the honourable member for his interest in hospital cleaning and international issues. One of the first priorities we had when we entered government was to improve the standard of hospital cleanliness. Under the previous government we saw cleaning staff numbers slashed and hospitals in a filthy state because of the cuts.

**Mrs Peulich** interjected.

**The SPEAKER** — Order! The honourable member for Bentleigh!

**Mr THWAITES** — One of the first things we did was to commit an extra $33 million over four years for improved cleaning and infection control. For the first time we have developed and implemented cleaning standards for Victoria's hospitals. They are known as the Victorian Hospital Cleaning Standards. As a result of this we are seeing a significant increase in cleaning standards. Recently all hospitals have been subjected to random cleaning audits and all passed with rates of between 84 and 98 per cent.

I am pleased to advise that there has now been international interest in the Victorian Hospital Cleaning Standards, and the United Kingdom National Health Service has asked to use them. It has requested a licence to use the Victorian cleaning standards, the Department of Human Services has granted that licence and these standards are now being adapted in the United Kingdom for use in hospitals throughout that country. I am very pleased that the work we are doing in improving cleaning standards in Victorian hospitals will now be of benefit across the United Kingdom.

## Public sector: legal services

**Dr DEAN** (Berwick) — I direct my question to the Premier.

*Honourable members interjecting.*

**Dr DEAN** — Well, I never get an answer from the Attorney-General!

I refer the Premier to the Attorney-General's announcement to the house that to reduce legal costs the Victorian Government Solicitor's Office will be the sole provider of core legal work to government, including matters of particular sensitivity to government.

I ask: why has the Premier's department deviated from this pledge and broken with tradition with respect to previous royal commissions by dumping the Victorian Government Solicitor from the building industry royal commission and seeking tenders from more expensive large city firms such as Holding Redlich, Maurice Blackburn Cashman, and Slater and Gordon?

**Mr BRACKS** (Premier) — We are very pleased to go to a tender process to pick the best possible applicant for the task. I say absolutely that the Attorney-General will be involved in that decision making also.

**Mrs Peulich** interjected.

**The SPEAKER** — Order! I have asked the honourable member for Bentleigh to cease interjecting. I warn her.

## Racing: retired jockeys

**Mr HARDMAN** (Seymour) — My question is to the Minister for Racing. I don't think he is in the leadership stakes! Can the minister inform the house about recent initiatives to improve the welfare of retired jockeys, and of the importance of this issue to racing and to Victorians?

**Mr HULLS** (Minister for Racing) — This is an important issue, and this morning at Flemington racecourse I released the results of a research study into the welfare of retired jockeys. It is a report that the opposition called an unnecessary review some time ago, but some of the findings of the study were quite alarming, and indicate that it is high time the industry focused on jockeys.

Jockeys do not have compulsory superannuation or long service leave. They often have very few educational opportunities and retire very young because of injury. As a result they face serious financial and emotional difficulties. In fact, the report found the suicide rate among retired jockeys to be very high.

This report not only identifies the shortcomings of the current system but makes 11 recommendations for future implementation. They include the establishment of a fully professional jockeys body to represent and pursue the interests of current and retired jockeys; the introduction of an effective superannuation scheme for jockeys; the provision of professional financial counselling services to current and retired jockeys; the review of welfare funding assistance for retired and current jockeys, and the introduction of a mentoring system for retired jockeys to support current jockeys.

I have asked the Victorian Jockeys Association and Racing Victoria to ensure that these recommendations are appropriately acted upon, and I am sure the industry will act on these recommendations.

It is important to remember that without the extraordinary skill and raw courage of jockeys the racing industry would indeed not exist. This is an important industry to all Victorians, not just for our recreation but also for employment and the economic benefits it generates.

The Melbourne Cup, in particular, holds an important place in our country's culture. Many Victorians, for instance, will remember where they were when a particular horse won the Melbourne Cup in a particular year.

I am sure the Leader of the Opposition will remember the 1992 Melbourne Cup when he got his first break as parliamentary secretary. That year the cup was won by his rating's namesake — Subzero!

But we do have the Spring Racing Carnival upon us, with huge economic benefits for Victoria. Many members of the house will be involved, I have no doubt, in a sweep for this year's Melbourne Cup, and I expect that our Premier will draw Universal Prince, because indeed he is governing for all Victorians.

**Dr Napthine** — On a point of order, Mr Speaker, the minister is now debating the question and is not relevant to the question. I ask you to draw him back to the question.

**The SPEAKER** — Order! I ask the Minister for Racing to return to answering the question with regard to the welfare of retired jockeys.

**Mr HULLS** — There will not be any retired jockeys riding in the Melbourne Cup this year, but the report also refers to current jockeys, and I have no doubt there will be some very good current jockeys riding in this year's Melbourne Cup. I also have no doubt that after yesterday's FOI revelations the trifecta taken out by the opposition will be Rum; Pasta Express; and Scrumptious!

**Dr Napthine** — On a point of order, Mr Speaker, the minister is running a long last in the comedy stakes, and I ask you to bring him back to answering the question.

**The SPEAKER** — Order! Just as the Chair was requiring the minister to come back to answering the question, the Chair will not allow the Leader of the Opposition to take points of order along those lines. There is no point of order.

**Mr HULLS** — Indeed, there will be a current jockey riding a horse which I expect will be backed by our Treasurer, and that horse is Mr Prudent — —

**Dr Napthine** — On the same point of order, Mr Speaker, the minister is bringing question time into ridicule and high farce, and I ask you to bring him back to answering the question rather than trying to do this stupid activity.

**The SPEAKER** — Order! The latter part of that point of order is out of order. However, I uphold the earlier part of the point of order raised by the Leader of the Opposition, and I ask the minister to come back to answering the question.

**Mr HULLS** — Well, the way they are going, there is only one horse for the Leader of the Opposition, and that is Inaflury — in a real flurry! Inaflury, by the way, is now owned by Lloyd Williams.

I conclude by saying that there will be a current jockey riding a — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the honourable members for Mornington and for Glen Waverley in particular to cease interjecting in that manner. The minister should conclude his answer.

**Mr HULLS** — Perhaps the honourable member for Mornington remembers who won the 1925 Melbourne Cup — Windbag!

**The SPEAKER** — Order! Unless the minister comes back to answering the question I will cease hearing him.

The minister has concluded his answer.

## WATER (IRRIGATION FARM DAMS) BILL

**Debate resumed.**

**Committed.**

*Committee*

**Independent amendment circulated by Mr INGRAM (Gippsland East).**

**Clause 1**

**Mr MAUGHAN** (Rodney) — I shall make a few brief remarks on this very important piece of legislation. As previous speakers have said, the bill contains probably some of the most important law about water to have been before Parliament for a long time. I represent one of the most important irrigation electorates in the whole of Victoria, so I wish to express a few views on the legislation and amendments.

Irrigation water is critically important to the people of the Rodney electorate, which has by far the most important dairying area in the whole of Victoria. It produces huge volumes of milk. Recently the Leader of the National Party and I were at the Murray Goulburn factory in Rochester, where 3.8 million litres of milk is received daily. We toured other irrigation developments in the area — tomato growing properties and vineyards — and it was amazing to see what has happened now that the water industry has been freed up.

This is very important legislation for the people I represent. I want to express some views generally and then have some more input on some of the amendments. I would be remiss if I did not mention in passing the influence Alfred Deakin has had. Alfred Deakin, who was a member of this house, had the vision to think about what was possible with irrigation.

**Mr Perton** interjected.

**Mr MAUGHAN** — He was a great Liberal, I accept that, but he was a great Australian, and that is most important. He made an enormous contribution to the state of Victoria, to the commonwealth of Australia and to the irrigation industry, which is what we are talking about today, and I pay tribute to him. In the local government area, until recent local government amalgamations the Shire of Deakin was in my electorate. People living there still feel very proud of the fact that they are in a municipality named after Alfred Deakin.

I emphasise that irrigation is very important to my electorate, and tremendous changes have been made over the years in that industry. For 25 years I was an irrigator, so I think I understand the practical implications of irrigation.

Tremendous changes have taken place in the past 50 years. Initially it was a matter of getting water onto the land and increasing production, which was of enormous benefit to the state. Little thought was given to drainage and salinity. That has now been attended to. When I was farming in the 1960s, farmers around the Tongala area were among the first to identify the salinity problem and to acknowledge they had to do something about it. This nation, this state and individual farmers have made enormous strides. Significant progress has been made with irrigation technology. Laser grading is now universally adopted on flood irrigation land; trickle irrigation, ribbon irrigation for tomatoes and sprinkler irrigation systems are now used, which has led to much better use of irrigation water.

I will not go through all the things that have happened in the water industry, because that has been well documented by the honourable members for Swan Hill and Monbulk. Suffice it to say, one of the significant things that has happened recently is the breaking of the nexus between water rights and the land, so water can actually be traded. That has led to two things: firstly, the price of water being determined by the market; and secondly, huge irrigation developments taking place for the betterment of Victoria and the nation. That has been a significant change.

There has been an acknowledgment that in the Murray–Darling Basin there was a finite amount of water and that we had already overcommitted that water. Hence the Murray–Darling Basin cap now plays an important part in the legislation before the house. There is an acknowledgment that there is a limited amount of water and it is a matter of how we share that water. Numerous groups and committees have discussed how we share that water. The *Sharing the Murray* report, in which the honourable member for Swan Hill played a significant role, set out the blueprint for sharing this finite resource between those in the upper catchment areas who have a legitimate claim for the water, those in the lower catchment who also have a legitimate entitlement to the water that has been built up over many years, and the water we need for the environment and for urban communities. The trick is to balance all of those interests.

I do not want to be political about this because there has been a bipartisan approach to most of these issues. The state of Victoria certainly leads Australia and, I suggest, the world in terms of water law and how it has come to a sensible accommodation between the legitimate needs of all those different end users — the urban users, the irrigators, the environment and people in the upper catchment areas. I am proud of what has been achieved over the years.

I also refer to the McDonald report. Stuart McDonald is a former member of the Legislative Council and he chaired the committee that looked at how Victoria would organise the water industry. In my area

Goulburn Murray Water is now independently managed by a board of directors appointed by the government. It is very responsive to the water users committees that advise it. I pay tribute to those committees and to the board of Goulburn Murray Water for listening to people who represent irrigators. Victoria has a good history with its water law. The Baxter committee played a significant role leading up to the legislation now before the committee.

The honourable member for Swan Hill spelt out clearly the National Party's attitude to this legislation. I do not intend to repeat that, except to say that I fully support the honourable member's contribution. I am opposed to the amendment proposed by the Liberal Party relating to the 3 per cent.

**Mr Plowman** interjected.

**Mr MAUGHAN** — I admire and respect my good friend the honourable member for Benambra, and I appreciated his contribution to the debate last night, which was from the heart and was a great speech. I could also note the contributions of the honourable member for Kew and my colleagues on the Liberal side. However, I think they are wrong. The proposal is not workable. If it was I would want more time to consult with the people I represent — the thousands of irrigators whose livelihoods are likely to be affected if the amendment were carried. On our calculations and that of other people, if the amendment were carried 350 000 to 450 000 megalitres of water would be given as a right to those upper catchment farmers. Given that we have a cap on the Murray Goulburn systems and that the total water released into the Goulburn and Murray Valley areas is about 3 million megalitres a year it is a significant erosion of the existing rights of irrigators. On behalf of my irrigators I would oppose that because they have not had a chance to consider this, let alone look at all the implications.

I regret that the proposal is late and there has not been sufficient time to discuss it in the marketplace, but the National Party believes it is unworkable and is unacceptable on first glance to the irrigators in the Goulburn and Murray valleys. For that reason the National Party will oppose it.

I support the thrust of the legislation because it provides certainty; it deals with many of the anomalies that we have been dealing with over the years — for example, the definition of what is a waterway. That has bedevilled those in the water industry for a long time and the provisions in this bill will put that to rest. We need certainty, an understanding of the rules and to balance the needs of the various users. Paramount should be the stock and domestic needs of property owners. We must supply sufficient water for environmental purposes, for irrigators and for the urban communities.

With those few remarks, I support the thrust of the legislation. The committee will soon deal with a number of amendments, but I express my opposition to the 3 per cent amendment to be moved by the Liberal Party.

**Mr COOPER** (Mornington) — I have listened with some interest to the honourable member for Rodney's contribution and I accept his statement that there are some areas in the state that have supply problems. Certainly water is a finite resource. But while I understand there are some supply problems and some areas that need to be addressed in the north of the state and in the electorate of Rodney, perhaps the honourable member for Rodney might give some consideration to the plight of farmers on the Mornington Peninsula before he finally makes up his mind about the Liberal Party's 3 per cent amendment.

On the Mornington Peninsula in general terms we do not have a problem with water supply or an overcommitment. In fact thousands upon thousands of megalitres of water are being poured into Bass Strait through Boags Rocks from the south-east purification plant and the purification plant in Craigie Road, Mount Martha, because there is a charge put on that water and it is unable to be provided free. If we were really genuine about maximising our use of this finite resource we would be looking at doing something with regard to maximising the use of waste water which is being tossed out into the sea. That would appear to me to be an area which should be addressed.

**Mr Maclellan** interjected.

**Mr COOPER** — The honourable member for Pakenham says that the bureaucrats would rather tip it into Bass Strait than give it to a farmer, and that is a pretty valid point.

I would like the honourable member for Rodney and his National Party colleagues to consider taking their minds away from the irrigation areas, where it would appear they are totally focused, and looking at the rest of Victoria. Look at the farmers in the rest of Victoria who are going to have their rights to water removed. The National Party took the same view as me on the marine parks issue, where we were talking about people's rights being taken away and compensation being paid. The National Party argued strongly, as did the Liberal Party, on the issue of compensation where

rights are being removed. Here we have a situation where rights are going to be removed and yet the National Party is arguing that there should be no compensation. It is simply hypocritical to take one view on one piece of legislation and a different view on another.

**Mr Maclellan** interjected.

**Mr COOPER** — Again the honourable member for Pakenham correctly advises me that the National Party has very few coastal seats. Perhaps that is the reason why it is taking a different view, although the Leader of the National Party has a coastal seat which includes an area that was going to be significantly affected by that marine parks issue. Perhaps he might like to consider adopting the same kind of stance on this Water (Irrigation Farm Dams) Bill as he took on the marine parks bill.

My rural producers, including farmers on the Mornington Peninsula who farm vegetables, flowers, orchards and vineyards, all for commercial use, will be significantly affected by this legislation. They will get no advantage from it; in fact they will be inhibited by it. On their behalf I speak up and say that the bill has shortcomings in regard to the compensation issue and those people ought to be taken into account during the consideration of the bill in its committee stage.

I urge every honourable member, even those in urban seats, to give great consideration to the people throughout the state who are engaged in rural pursuits who are not irrigators and who deserve to have equal time and equity in regard to this legislation and its impact. The overall thrust of the legislation is not being argued, but the implications it will have for people outside irrigation areas are. The Mornington Peninsula is one of those areas, and I urge the committee to give my constituents and the constituents of the honourable member for Dromana decent consideration during the committee stage of the bill.

**Mr KILGOUR** (Shepparton) — As the honourable member for Mornington has quite rightly just done, I am prepared to stand up for my electorate and talk about irrigators and what irrigation has meant to the people of Shepparton. My electorate is based on irrigated agriculture and this bill and the clause we are talking about at the moment in regard to private dams has a tremendous amount to do with the future of my electorate. We could have seen an issue where water that would normally flow down the Goulburn River be not allowed to flow down the river, causing massive disruption to the agricultural industry that represents a great deal of my electorate.

The National Party quite proudly stands up for the irrigators of northern Victoria, where my electorate is based. This is a vital issue for the National Party and it is pleased to say it will fight to ensure fairness and equity for people across this state. Water is a finite resource and we need to be careful how we handle it. Some people have got the wrong idea about the Water (Irrigation Farm Dams) Bill and think it involves dams that are used for stock and domestic purposes. Quite clearly, as the bill states, it deals with water for commercial and irrigation purposes.

So as we search for certainty and look for equity across the state there is a whole raft of issues in this complex bill, and as you get more into the water industry everything you look at appears more complex.

The key issues are the use of the water, the definition of a waterway, what dam can be put there and how the water can be stopped from going further downstream. Approximately 25 per cent of the total of Victoria's agricultural production is generated from the greater Shepparton area, and it is generated by irrigated agriculture — —

**Mr Maughan** — Including Rodney.

**Mr KILGOUR** — The region is a major contributor to the total — I will say the Shepparton irrigation area and central irrigation area, and that helps the honourable member for Rodney — and the region is a major contributor to the total state yield of milk and fruit products and has Victoria's highest density of rural output. Today greater Shepparton's thriving economy is based on agricultural and horticultural industries, and we have massive exports of fresh produce across the world. We export canned fruit from companies like SPC and Ardmona and products from processing dairies such as Murray Goulburn, Bonlac and Tatura Milk Industries. It is these factories and the people who work in them that will come under a tremendous amount of pressure if irrigation water is not allowed to flow into those rivers and we are not able to use the irrigation water as we have in the past.

We have had a number of dry seasons, and many farmers will tell you how they have had to come to grips with dealing with 100 per cent of water right, or water right without having extra sales of water. For many years farmers used 140 per cent, 160 per cent or 200 per cent of water right and did not know what they would do if they had to come up with using what we term their water right.

When in government we made the opportunity available for people to purchase irrigation water on the

open market and many farmers chose to do that. Rather than buying feed grain or extra land they have chosen to buy water — that water which will not be available if some of the amendments go through. The irrigation system in the central Goulburn and Shepparton district is under pressure. There are a lot of issues in the irrigation system already with the seepage of water.

The water is getting out of the channels because we have an irrigation system that is now 50 or 60 years old and many of the channels need to be refurbished or relined. We need to save the water for a start but, more importantly, we need to ensure that those people who have invested millions of dollars in irrigated land for fodder for cows and for horticulture are protected, and the massive amounts of peaches, pears, apricots, nectarines, tomatoes and apples grown in the Goulburn Valley for fresh production and for canning would all be under threat if we did not manage our water correctly.

I support the general thrust of the bill, and I support the amendments that will shortly be put forward by the Deputy Leader of the National Party. I hope that at the end of the debate we can say we have provided fairness and equity for people across the state.

**Mr RYAN** (Leader of the National Party) — I want to make a point of clarification having regard to the concerns expressed by my good friend and colleague the honourable member for Mornington about the apparent hypocrisy of the National Party. First, I clarify for him that I represent a substantial component of the coastline of Victoria, and among the many people who live in those areas are many who fish, commercially and recreationally, so I have a specific interest on their behalf, as I know he does, insofar as the constituency he represents shares a similar interest. My colleague the honourable member for Gippsland in another place represents the rest of the coastline all the way up to Mallacoota, so in effect we represent about half of the Victorian coastline. We have specific interests in regard to those matters.

The second thing is that the distinction here is clear. Under the terms of the relevant legislation which controls fishing specific licences are issued to those who fish commercially. They are licences without which those who wish to fish commercially cannot fish. When the marine parks legislation was before the house we put a strong position against the prospect of those licences being eroded in the surreptitious manner intended by the minister and the Labor government, and I am pleased to say that members of the Liberal Party, including the honourable member, were strong in expressing concerns about that issue. In that sense the National Party and the Liberal Party were as one.

Insofar as this issue is concerned we have fundamental differences. There is a statutory right encompassed in the terms of the legislation as it now stands. What is intended is to vary that in a way that happens regularly. As I exemplified this morning, whether it be the Transport Accident Commission legislation or the Workcare legislation — as it was going back to the 1980s — these changes occur. But the fact is that those who want to have the opportunity to develop their farming enterprises in a manner which does best credit to them will be able to do so in a way that is supported by the transitional package which is incorporated in the legislation and will ensure that at the end of the day those who want to take advantage of that package to make certain that they in turn get best opportunity for the development of their properties will be able to do so.

I simply want to assure the honourable member and the committee that there is no element of hypocrisy on the part of the National Party, and certainly not of its leader.

**Ms DUNCAN** (Gisborne) — I want to comment on the bill and the Liberal Party amendments on the 3 per cent issue — and the impact of that downstream has been spoken of previously. I ask for someone to explain to me how the 3 per cent is determined, whether it is 3 per cent of the rain that falls on my land or in my region or district in a month. Are we looking at mean annual rainfall? Will we have rain gauges on every property? Who will determine how those rain gauges read?

The honourable member for Pakenham expressed concern about the difficulty in gauging how much water is in a dam. I can imagine the mind-boggling exercise in trying to measure 3 per cent of rainfall on any particular property and how a property with stream flow management plans could rely on that. The amount of water taken from a dam would vary enormously from week to week, and from month to month. We already know that that consideration would have an exponential effect as water flows down the catchment.

I represent an electorate that is located in a lower catchment. It does not have problems as acute as the problems faced in the upper catchments, although it has many stressed rivers, as most rivers in Victoria are stressed. Most people accept that you must look at the issue as a whole-of-catchment one. To suggest that the water that flows into the ocean is therefore wasted — I am sure honourable members opposite are not

suggesting that — and that the ends of the rivers should be plugged is obviously not the way to go, yet I think what I hear is that all that water is in excess.

I am on a parliamentary committee that is examining fish management issues. The water flows into the ocean are natural flows, and we must suffer the consequences if we try to change those flows, many of which we know nothing about. We are now trying to address many of the consequences of what has happened over the past 150 years. It is not correct to say that because we have plenty of water the rules should not apply to us. It is like saying, 'Because we do not have a particular salinity problem where I live we should be allowed to continue the processes that we know will ultimately lead to salinity problems'.

The regulation of an entire catchment may have an impact on some people who are not yet experiencing the effects of the problem. There is no doubt that those effects will become apparent if we continue to build dams on and off waterways as has been done in the past. Our current system is unsustainable. Everyone recognises that, but that is not to say that the bill is the ants pants of everything and will resolve all our problems.

Even with consultation you can never please everybody. That is not the point of trying to gain consensus. Inevitably some people will be upset and disadvantaged by that — changes to legislation often have a disproportionate impact on people. I hope we will all recognise that we make these changes for the greater good but they will result in sacrifices for some people at some time.

My electorate is developing enormously, with olive groves and vineyards being planted left, right and centre. Because of that large dams are being built. That is worrying when you look at how much water is being stored in them and where that water would have gone had it not been stored on properties. Earlier the honourable member for Gippsland West referred to flying over an area and seeing many dams. It does not require an Einstein to know that such a situation is completely unsustainable. It is usually simple to work out whether dam water is being used for stock and domestic purposes or for irrigation and commercial purposes.

The honourable member for Pakenham talked about putting trout into a dam, thereby making it a commercial dam. Using a dam for dairy farm purposes would be a similar example. The honourable member for Pakenham would be aware that dams on dairy farms are already exempt stock and domestic dams and that they must be licensed anyway.

I turn to the analogy used about trout and a dairy farm. It is a simple exercise. I ask the honourable member for Pakenham: am I selling the trout for commercial profit or am I eating it myself? If that dam water is being used to produce trout for sale commercially and if I submit a tax claim for the construction of that dam because I have gained a commercial benefit from it, then my answer is simple: it is a commercial dam. If a dairy farm is a commercial dairy farm and its dam water is used to conduct the business of a dairy, then the dam is considered commercial.

I hope I have clarified the situation for some honourable members, who I suspect were using that situation as the basis of a spurious argument to suggest they did not understand the difference between stock and domestic or irrigation and commercial. I am sure they understand the difference — perhaps they were simply making political points! I hope that was the case.

**Mr PATERSON** (South Barwon) — There is no more important issue for Victoria than water. Anyone who has been in the Geelong region over the past four or five years would realise the importance of the level of water resources. Fortunately, Geelong is now out of its drought conditions and the reservoirs are now nearly 90 per cent full.

Water is an issue that is high in the minds of people in the Geelong area. It should be remembered that the Liberal Party is supporting the broad range of farmers in its attempt to improve the bill so that it covers the interests of all farmers in all areas across the state. It appears that the most contentious issue is the 3 per cent amendment, which is the policy of the Victorian Farmers Federation.

**Mr Steggall** — On a point of order, Madam Chairman, I draw your attention to the purpose of clause 1 — otherwise, the committee debate will become a repeat of the second-reading debate. The matter the honourable member is now debating will be covered in the amendments to be moved by the Liberal Party. He will have the full scope of debate during that time. Subclauses (a), (b), (c), (d) and (e) of clause 1 constitute the purposes clause, and honourable members should restrict their contributions to those subclauses.

**The CHAIRMAN** — Order! I do not uphold the point of order. A number of honourable members have spoken about the purposes of the bill. Because the

committee is discussing clause 1, which relates to the purpose of the bill, it is difficult to restrain the contributions of honourable members. I ask all honourable members to be brief in view of the fact that we will be going into specific clauses. However, there is no way I can limit contributions from honourable members. It really is up to their own goodwill in cooperating with the Chair.

**Mr PATERSON** — I thank the honourable member for Swan Hill for his contribution.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable member for South Barwon, without the assistance of the honourable members for Pakenham and Mornington.

**Mr PATERSON** — I draw the attention of honourable members to an address by Clay Manners, the general manager of policy in the Victorian Farmers Federation, to VFF members in Wodonga on 14 September. The first page of his address states quite plainly:

> The VFF was concerned about the problem of waterway definitions and proposed that the private right be expressed as a percentage of run-off as in New South Wales.

That equates with the amendment to be proposed by the Liberal Party to allow a right of 3 per cent of rainfall, which is comparable with the situation in New South Wales although expressed in a slightly different way.

It is the Liberal Party that has consulted with the broad range of interest groups around the state, groups such as the VFF, Flowers Victoria, the Nursery Industry Association of Victoria, the High Catchment Committee, the VFF Wodonga District Council, 55 rural and interface municipalities, all catchment management authorities (CMAs), all rural water authorities (RWAs) and other groups.

I want to make it quite clear to the committee that it is the Liberal Party that is looking after the interests of the broad range of farmers in Victoria.

**Mr MACLELLAN** (Pakenham) — On clause 1, the purpose of the bill, I was very welcoming of the advisers' response to my earlier remarks as conveyed by the honourable member for Gisborne. I hope honourable members observed that I remained silent during her contribution as I had promised to do. She seems to have a complete misapprehension about the wise use of water on the Mornington Peninsula.

As the honourable member for Mornington said, extraordinary amounts of treated effluent are being piped right down the Mornington Peninsula and dumped into Bass Strait. The honourable member for Gisborne was talking about choked rivers — that is, rivers that do not have sufficient flow to continue their natural course to the sea. The Mornington Peninsula is not blessed with a river, and such creeks as exist there, like many of the creeks in the Pakenham electorate, are small catchments that are not under stress, overcommitted or abused, yet all the people on the Mornington Peninsula who have rural properties with waterholes on them — I choose the word 'waterholes' carefully so we do not have to worry about how elevated or otherwise they are — will have to register them. The character and volume of every dam will have to be established for an area that is not under stress and has no overcommitment.

That is going to happen in Mornington, in Cranbourne, in Pakenham, in Gippsland West, in Gippsland South, in Narracan and — if we move to the west — in South Barwon, in Polwarth, in Warrnambool and right through western Victoria. The properties will have to be registered, and the dams will have to be characterised as exclusively stock and domestic or not; and if not, then the amount of water will have to be calculated and the character of the dams registered. That is what is being applied under the provisions of the bill to the southern part of Victoria because there are acknowledged and accepted problems of overcommitment in other parts of the state.

All we are saying is, 'By all means let us have appropriate legislation' — and this is a framework — 'that will one day apply far more widely than we imagine today'. It might apply to the whole state for all I know. But let us do it where it is needed. Let us concentrate the effort on the water areas that are under stress, the ones showing difficulties, rather than dispersing the energy and effectiveness of the department and its officers by trying to get people in West Gippsland, the Mornington Peninsula, South Gippsland or the Western District to try to characterise their dams on the bases outlined by the adviser in the corner box via the honourable member for Gisborne.

Honourable members might have listened carefully to that advice; I did. She talked about claiming a tax deduction for the dam. Can anyone remember when those tax deductions were around? I think it was in the 1950s. That was when it was the rage to put dams in to claim a tax deduction. I am not sure that all the farmers in my area have got records going back to the 1950s. I think they probably only keep records for about the last seven years. I am not sure whether they tactfully put in

sheep or introduce other commercial uses: trout perhaps, or goldfish, yabbies, frogs — whatever, I do not care! I do not know whether they do it in new dams or — shock horror! — do it in a dam that their great-grandfather created.

But do not ask me to accept the wise advice coming from the ideologue in the corner box via the equally ideological honourable member for Gisborne, because it seems to me that they are again blinkered by their knowledge of areas that are experiencing stress and difficulty, and they are not thinking about the areas in the south where the major purpose that I would look for in this bill is for it to try to protect me and many of my constituents when the water is about three feet deep and flowing through our drawing rooms or kitchens. That is when they are going to be a bit curious and think, 'This water belongs to the state — what is it doing in my house?'. When the flood comes, whose water is it? When the flood comes, will this minister do something or will she be saying, 'You can't use it for commercial purposes!'?

For heaven's sake, let us face it — this is a continent where the climate is extreme with flooding rains and droughts, the classic anthems from the last century. The bill is about a regime for the allocation of water resources that are under stress. I have no quarrel with there being a very severe system for those catchments that are overcommitted or under stress. However, I am saying, on behalf of my electorate of Pakenham and of the electorates of Cranbourne, Mornington, South Gippsland, Narracan and those in the Western District, do not try to tell us that because a farmer is using water on a dairy farm he is using it wilfully or that it is a hobby farm dairy farm. I cannot wait to see the hobby dairy farm. Obviously the hobby dairy farmer needs psychiatric help first!

The bill will apply to dairy farmers because the word coming from the corner box, so carefully down through the honourable member for Gisborne, is that if you are a dairy farmer, if there is a taxation return, if there is a claim for a tax deduction, then it is commercial with a big C, and consequently it is within the purposes of the bill.

We are being told that rules that might be wise and sensible and quite appropriate for those areas, which unfortunately by accident of history over the years have overcommitted resources of water for those catchments that have become stressed in the sharing of water, should apply, for example, on Phillip Island in the electorate of the honourable member for Gippsland West. What in hell's name has this bill got to do with Phillip Island? There is no river on Phillip Island. Phillip Island drains to the sea. The honourable member for Gisborne is very concerned that the creeks and streams might be used for unnatural purposes, such as irrigation.

I do not know what irrigators are doing to the natural environment at the mouth of the Murray, which so often gets blocked, but all I can say is I will leave them to hang their heads in shame about that as I eat their cheap-quality produce. I am happy to eat it, but the honourable member for Gisborne wants to complain that there should be more environmental flow, that this legislation is about guaranteeing that the crustaceans at the mouth of the river will have an adequate supply of mixed saline and fresh water. That is her concern, and I understand that. At the next election I hope the electors of Gisborne understand that the honourable member is more concerned about the crustaceans at the mouth of the Murray River and at the mouths of rivers than she is about the farmers in Victoria.

**The CHAIRMAN** — Order! Before I call the honourable member for Cranbourne I would appreciate it if honourable members could try to keep their comments related to the purpose of the bill rather than bringing in a lot of extraneous matters.

**Mr ROWE** (Cranbourne) — I rise to speak on the purposes of the bill with particular regard to the electors and the vegetable growers in Cranbourne. The vegetable growers in Cranbourne are somewhat different from the irrigators to the north, and although I understand the need for control of flows in the north and the control of waters north of the divide, we certainly do not have those problems in the Cranbourne area where people like the Faveros, the Gazzolas and the Lamattinas produce great vegetables, and indeed Schruers celery is the crispest and snappiest in the nation. That comes from the fact that they look after the land and have recycling facilities for the water they use on the vegetables.

The concern expressed by growers in particular has been that they draw the majority of their water from drains. The drains have been put in by successive authorities, including the Dandenong Valley Authority, the State Rivers and Water Supply Commission, Melbourne Water and others, to take the water away that was flooding those properties that the honourable member for Pakenham has just referred to, and certainly to stop the nutrient flow. We have organisations such as the Environment Protection Authority telling vegetable farmers that they are the cause of concerns in Western Port because of the nutrients in the run off, but when they put in reuse catchment facilities and reuse dams they become

commercial enterprises and are likely to be caught up in this legislation when they should not be.

They are doing a service to the community and the environment, and they are reusing water that would otherwise carry nutrients into Western Port. Certainly water is being collected at greater rates because of the increased catchment of the roofs, roads and footpaths around the Cranbourne township.

All the water that is collected that way would go into Western Port Bay if the farmers did not use it. The concern is that the farmers of Cranbourne and surrounding areas on the Mornington Peninsula and in south-west Gippsland should not be caught up in this legislation. As I said at the beginning, I hope I can take the minister's word that they are protected and that their drains, therefore, will not be declared waterways, because the contours on the contour maps are such that they could indicate a stream or could be deemed to be a stream because of the topography of the area. I hope that they are not caught up in that in the future.

I trust we can take the minister at her word that the growers of Cranbourne and surrounding areas will not be charged for their water and will not be penalised, and neither will the people of Melbourne be penalised for eating the best and cheapest vegetables that are grown anywhere in Australia.

**Mr DELAHUNTY** (Wimmera) — Two years ago, when I became the member for Wimmera, people used to come in my door about a couple of issues: one was roads and the other was water.

The federal government has addressed the roads issue with the Roads to Recovery program. What I want to cover on the water issue is related to its purpose. Honourable members know this is a vital issue for country Victoria. It is an enormous issue for my electorate and debate on the issue has been going on for many years — well before I was in this place — and it needed strong leadership to be able to resolve it. Unfortunately the previous government was not able to resolve it, but while I am talking about leadership it is disappointing to note that the government is not supporting young farmers in developing new leaders.

**The CHAIRMAN** — Order! On the purpose of the bill!

**Mr DELAHUNTY** — Before I am picked up again, it is important that honourable members address change. We are dealing with a finite resource and we have been grappling with the waterway definition for years — a long, long time. It has created a lot of tension in my area, particularly with fellows up in the Pyrenees area. I know the honourable member for Ripon represents that area but it was impacting on my electorate. Lake Albacutya in my electorate has been dry for over 20 years. Lake Hindmarsh, one of the largest inland lakes in the state, is dry now. The people across my electorate, upper catchment people as well as lower catchment people, said the government — and all of us are involved with this — has to address this issue because water is being consumed at a far greater rate than it was and people at the end of the lakes and in other places are not seeing water for their use.

As I said, tension has been very high. We have seen many reports, a few under the previous government — the Baxter report, the Bill Hill report, the David Heeps report — and under this government we have the Blackmore report.

The bill before us is to be commended because it covers the important issue that has been talked about — that one size does not fit all. In my area the run-off and the rainfall are totally different from those in the north-east, in Gippsland or wherever it may be. The bill addresses those issues in each catchment.

I am pleased that the government took on board the National Party's proposals in the draft farm dams report — the Blackmore review. At that time we argued for an increase in the subsidy for the purchase of water. We argued for better farmer representation on committees responsible for the preparation of stream flow management plans, and we also asked for exchange rates to be in place before the bill was debated. I am pleased that the minister has acceded to all those requests.

One thing that the legislation does not cover is stock and domestic dams and they will continue to be unregulated. I note that the honourable member for Swan Hill is here, so I had better leave that before he jumps up and down!

Under the new legislation the upper catchment farmers will find it easier to obtain approval for construction of new irrigation dams because it will no longer be a matter of determining whether it is proposed to build a dam in a waterway. For the life of me, I do not understand that. If you were going to build a dam, commonsense dictates that you build it in a waterway. What are we arguing about? This bill takes the definition of waterway out of all the areas where problems have been created.

As I said, honourable members have seen all the reports that have been done. I must say that it is disappointing that, on an issue that debate has been going on about for

many years, we get into this place on Tuesday and see amendments which dramatically change the thrust of the legislation. It is unfortunate. It is a vital issue and too important for country Victoria to play games with. If the matter is so important, why was it not brought forward so we could look at the issues and address the volumes and what it is going to cost?

**An honourable member** interjected.

**Mr DELAHUNTY** — It is 3 per cent. I am coming to that in another clause. The reality is that under the definition of waterway the act has proved very difficult to administer and has been very divisive.

We have seen wars fought overseas over water and we were heading towards that here in Australia. This bill puts everyone in an upper catchment on the same footing regardless of topography of their farms. As I said, water is important. I have highlighted many times the need to pipe the Mallee–Wimmera stock and domestic water. I heard the honourable member for South Barwon talk about 55 per cent water levels — we have been down to 11 per cent of water resources! Luckily we are up to about 25 per cent now. The pipe would give us water savings of 83 megalitres. It would be an enormous boost for new industries, tourism, recreation and, importantly, for environmental use.

Water is a major economic generator for our region. I have heard the honourable member for Shepparton talk about what irrigation has done for his area in Shepparton and I have also heard how important it is in the electorate of the honourable member for Rodney. I am sure water is important for people in the north-east, too, but again we have to work under a regulated system.

I highlight an article in the *Weekly Times* that talks about the Wimmera Catchment Authority. The water authorities were trying to understand how many dams were in an area of 450 000 hectares of the Wimmera River upper catchments. The article states:

> Official records were, at best, wishy washy —

in other words, they were very poor —

> with storage sizes ranging from mere puddles to huge 240-megalitre storages.

They worked with the University of Melbourne and took 200 photographs from 20 000 feet in the upper catchment area between Glenorchy, St Arnaud, Avoca and Ararat. With help from the university the water authorities used the aerial photographs to discover that the 6087 dams held 11 026 megalitres of water. Many of the dams were not on approved council plans — they were just there! All the storages were harvesting water, which was not flowing on across the state. We need to have some better method of monitoring the way we use water.

The issues of water harvesting, distribution and usage and related environmental matters have been challenging the minds of people in the Wimmera and, importantly, both sides of government for many years. Water is a finite resource. We must do all in our power to preserve this precious commodity in a regulated and proper way.

**Clause agreed to; clauses 2 and 3 agreed to.**

**Clause 4**

**Mr STEGGALL** (Swan Hill) — I move:

1. Clause 4, page 3, after line 23 insert —

> ‘(b) in the definition of “domestic and stock use”, after paragraph (c) insert —
>
> “(ca) in the case of the curtilage of a house and any outbuilding, watering an area not exceeding 1.2 hectares for fire prevention purposes with water obtained from a spring or soak or water from a dam; or”;’.

The amendment provides for an addition to the definition of ‘domestic and stock use’ in the act. The reason the National Party has put forward this amendment is that in the upper catchment areas some very small irrigation farmers are operating out of soaks, dams and springs that are basically very small areas, in many cases around houses, designed primarily for fire protection purposes. Quite a few people made submissions to the Blackmore inquiry and asked for the right to use domestic and stock water without a licence and to be able to water the curtilages around their homes.

The National Party has moved the amendment, which, if agreed to, potentially will increase the use of domestic and stock water in the upper catchments. I believe that result would make the extra effort and the additional water involved well worth while.

The main reason for the amendment is that small irrigation operations in the upper catchments that are usually located around the operators’ homes could technically be caught in the definition of the act, requiring the operators to get licences for the irrigation of those extended kitchen garden operations. The amendment is an attempt to avoid that possibility.

When National Party members first talked about the amendment it was considered that the bureaucrats

would not impose the licensing provisions on those people, but we know — and every honourable member who has had dealings with the upper catchment authorities knows — that there have been difficulties with the rural water authorities over the definition of 'waterway' and that as water gets more and more scarce people will be looking to the law to restrict those operations. The National Party thought it would be better to allow for the unlicensed use of domestic and stock water before that happens by amending the domestic and stock water use definition to extend the curtilage of a house and outbuildings to an area not exceeding 1.2 hectares from a spring, soak or water from a dam.

**Mr HELPER** (Ripon) — I support the amendment moved by the honourable member for Swan Hill, which alters the bill by inserting the definition outlined by the honourable member. I have to express my frustration that I do not have a spring or soak close enough to my place to take advantage of the amendment, in which case I would have to rise to outline my pecuniary interest.

However, it is a sensible amendment which effectively allows those very fortunate individuals who have such a spring or soak on their properties to use unlicensed water for what are ostensibly stock and domestic purposes and, as the amendment indicates, for the purpose of fire prevention. I welcome the amendment and wish it the support of the committee.

**Mr PLOWMAN** (Benambra) — I support the amendment of the honourable member for Swan Hill, and in doing so I point out to him that his amendment gives an ideal example of why the National Party should be prepared to support the 3 per cent limit proposed by the Liberal Party. It is just one of 100 examples of why Victoria needs that flexibility for its water. The water may be used around the house, but have National Party members thought about the fact that in some cases the bush runs right up the edge of valleys and in the extreme fire areas some of our farmers actually irrigate a patch along the edge of the bush to minimise the risk of a fire breaking through?

**The CHAIRMAN** — Order! I remind the honourable member for Benambra that the committee is dealing with amendment 1 moved by the honourable member for Swan Hill, which relates to the inclusion of a domestic and stock water use definition and not to the 3 per cent limit. I ask the honourable member to confine his comments to that amendment.

**Mr PLOWMAN** — Madam Chairman, I do not wish to defy your ruling, but might I suggest that I am responding to the suggestion of the honourable member for Swan Hill and supporting the amendment. I am pointing out that if the honourable member were to look at the issue inclusively, he would find that his amendment would be covered by the proposal for the 3 per cent rule that the Liberal Party proposes. I am not arguing for the 3 per cent, I am merely enhancing the argument that the honourable member for Swan Hill has put in support of his amendment.

I will leave the matter there, but I was interested to discover that the bill contains no definition of 'spring' or 'soak'.

My colleague the honourable member for Bellarine suggested that he has got an old soak that lives just around the corner. I suggest that there is every justification for the definitions of 'spring' and 'soak' to be in the bill. There is no mention of the words in the act. I have looked through the act from one end to the other. There is no mention of the words 'spring' or 'soak' in it. They have been introduced into the bill; I suggest those definitions should be in there.

I would like a response from the minister to this question: why is the definition of a dam in this bill quite different to the definition of a private dam in the principal act? In the principal act it says that a private dam includes a channel, a drain or a pipe. Minister, could you tell me whether a bank constructed to direct water as a drain, a channel or a pipe could be included as a dam?

**Mr INGRAM** (Gippsland East) — I will speak briefly on the amendment proposed by the honourable member for Swan Hill. I understand the reasons for moving the amendment, which basically is about expanding the definition of 'domestic and stock use' in the Water Act. I am slightly uncomfortable with that because it expands a right. Although it has been fairly tightly worded and affects the curtilage of a particular area and is only about water obtained from a spring or soak or water from a dam — and I understand the reason for that — when you look back at the historical — —

**Mr Delahunty** interjected.

**The CHAIRMAN** — Order! The honourable member for Wimmera is not in school!

**Mr INGRAM** — The definition of 'domestic and stock use' has been in our statutes since about 1886 and is derived from the English common law, so it is an extremely old definition. I am wondering why we need to expand the definition now, but I understand that there is reasonable agreement on all sides that we should be

doing this. I am just registering my slight concern about expanding the definition of 'domestic and stock use'.

**Mr MAUGHAN** (Rodney) — I accept the points made by the honourable member for Gippsland East, but I support the amendment. I do not think it is necessary to take up the suggestion of the honourable member for Benambra by defining what a spring or a soak is. It does not really matter where the water comes from for this particular usage around the curtilage. It would be relatively easy to calculate how many homes there are in the area and multiply that amount by whatever it is — that is, 3 megalitres.

What I can say, and what I will say, is that it is a damn sight less water than would be required under the 3 per cent proposal — —

*Honourable members interjecting.*

**Mr MAUGHAN** — It is a lot less water than the 350 000 or 400 000 megalitres that would be required under the 3 per cent. It is a relatively small amount of water. As the honourable member for Gippsland East pointed out, that right is already available. This amendment clarifies it and indicates that you can have that curtilage of about 3 acres — 1.2 hectares — around the home, and if you want to use it for irrigating strawberries or whatever, so be it. That is within the legislation.

**Mr MACLELLAN** (Pakenham) — I am concerned about the amendment. It is a generous gesture in the direction of trying to provide fire protection to a house. Having said that a farmer might use what was otherwise stock and domestic water — in other words, some of the stock and domestic water which he might have quite a lot of — to green up an area around the house, why can he not green up an area to protect the farm?

I hope I do not have to remind the chamber that my electorate includes Cockatoo, Upper Beaconsfield and the areas where we had the most devastating fires in Victoria in recent memory. To tell those people that they can use some of their stock and domestic water — that is, the dams which are used for stock and domestic purposes — to spray around the house, but they cannot use that to green up, as the honourable member for Benambra said, along the edge of the public land where the fire comes from is an unnecessary narrowing of what is otherwise a good idea.

The government and the National Party seem to be in agreement about the proposal. I am certainly not opposing it because this is the beginning of good sense in the bill. But while the bill is between here and another place we could look at why it will be all right to spray the water around the house — and I know that when you get further into the definitions you find that 'house' includes sheds and other things — to protect the improvements, if I might put it that way, such as the house, the garden and the sheds, if they all happen to be gathered together in one nice, neat site, but it will not be legitimate to use exactly the same amount of water for another reason. It would still worry the honourable member for Gippsland East, because I sense that he just does not want people to have stock and domestic water unlimited. As an agrarian socialist he likes regulation, and I am not surprised. He wants restriction; he wants to tell people what they can use their water for, and this is another example.

**The CHAIRMAN** — Order! The honourable member for Pakenham, on the clause!

**Mr MACLELLAN** — I am explaining, but I am in some difficulty in knowing how to respectfully address you. I do not know that some examples are good, but never mind. I am trying to explain that it seems a rather miserable approach, having generously said that you can have a hectarage of sprayed, green land with the water that falls on your place so long as it is not out of a waterway, to then turn around and say that you can only have it if you put it to the use that this amendment speaks of.

You cannot have it if you think there is another use — and I have to mention 'growing strawberries, but not round the house', to pick up a comment made by a colleague from the National Party. I am not saying the water should be used wilfully and stupidly, and I do not think people would, but why not some lucerne helping to block the most vulnerable aspect of the property? It is worth looking at while the bill is between here and another place.

**Mr KILGOUR** (Shepparton) — I am happy to support the amendment, because it is a commonsense amendment. I was concerned when the honourable member for Pakenham said it might be a little bit generous. I am not sure he would think that correct if he saw a fire coming towards a house with a 40-kilometre breeze behind it; he would very much like to have a green area around the house, as I saw at Stawell after the massive fires there in February. I saw the devastation that took place, yet the houses that were saved were quite clearly those that had a green belt around them. I do not think we are asking too much to expect three acres or whatever it is of this green land.

I also take the point that the honourable member for Pakenham made about growing lucerne or whatever. I

do not care what happens with the greening of that land, whether it is feed for cattle or sheep or whatever. If it greens up the area around the house for protection from fire then the sheep can come along and eat the flaming grass for all I care — or the strawberries, as the honourable member for Warrnambool said. Supporting the amendment is simply a commonsense issue to allow people to use the water they have in their dams to protect their houses by ensuring they have a green belt around them.

**Mr VOGELS** (Warrnambool) — When the minister responds, could she clarify for me the following words in the definition of 'dam' at the top of page 3 of the bill:

> … other works water is collected, stored or concentrated;

In the Western District we have a lot of trouble with cattle pugging paddocks because it gets very wet, and a lot of our farmers do what they call mole draining or key draining. Every year they mole drain following the contours, and the water follows these mole drains to a catchment area. Is that still allowable under this bill?

**An honourable member** interjected.

**Mr VOGELS** — Keyline farming.

**Ms GARBUTT** (Minister for Environment and Conservation) — I am happy to respond to those two questions. The first was from the honourable member for Benambra about the definition of 'dam'. He queried whether the new definition of 'dam' now includes a channel drain or pipe. I refer him to the definition in the original act:

> 'Private dam' … does not include …
>
> (c) a channel drain or pipe …

That remains the case, so effectively the status quo remains.

The honourable member for Warrnambool repeated a question, which I think he asked in the briefings, about banks or wings. He asked whether they were seen to be concentrating water. He must have forgotten the answer, I presume. Under this bill it does not matter because the dams will be registered or licensed anyway. That is the thrust of the whole bill, and in fact it is not included.

**Mr PLOWMAN** (Benambra) — If the minister suggests the two definitions are exactly the same, why are there two definitions — one for a private dam and one for a dam?

**Ms GARBUTT** (Minister for Environment and Conservation) — There are different requirements in the act under sections 80(1) and 80(2), and this clarifies those requirements.

**Mr ROWE** (Cranbourne) — I wish to seek clarification from the minister. In my contribution earlier the minister — —

**Debate interrupted pursuant to sessional orders.**

**The CHAIRMAN** — Order! The time allocated under the government business program has expired. Under sessional orders I am required to interrupt business and report progress.

**Progress reported.**

## LEGAL AID (AMENDMENT) BILL

*Second reading*

**Debate resumed from 31 October; motion of Mr HULLS (Attorney-General).**

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## HEALTH SERVICES (CONCILIATION AND REVIEW) (AMENDMENT) BILL

*Second reading*

**Debate resumed from 30 October; motion of Mr THWAITES (Minister for Health).**

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## FUNDRAISING APPEALS (AMENDMENT) BILL

*Second reading*

**Debate resumed from 31 October; motion of Mr HAERMEYER (Minister for Police and Emergency Services).**

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## WATER (IRRIGATION FARM DAMS) BILL

*Committee*

**Resumed from earlier this day; further discussion of clause 4.**

**Mr ROWE** (Cranbourne) — My question for the Minister for Environment and Conservation relates to her interjections that growers in the Cranbourne area, and particularly those growers who draw water from drains, are not affected by this bill. I draw her attention to the definition of 'dam', which states:

> … anything in which by means of an excavation, a bank, a barrier or other works water is collected, stored or concentrated.

**Mr Howard** — On a point of order, Honourable Chair, is the honourable member for Cranbourne talking about clause 4? Are we not dealing with clause 4 at the moment?

**The CHAIRMAN** — Order! We are dealing with the motion that clause 4 as amended stand part of the bill. I understand that he is referring to the difference in definitions between something in clause 4 and another part of the bill. Is that correct?

**Mr ROWE** — I refer the minister to the definition of 'dam'. Surely earthworks and excavations are required to create a drain, and the work of constructing a dam falls within this meaning. I ask her to put on the record her guarantee expressed in her earlier interjection that growers in the Cranbourne area and on the Mornington Peninsula are not caught up by this definition and will not be charged for their water because they take it from drains.

**Ms GARBUTT** (Minister for Environment and Conservation) — I am happy to respond to the honourable member. He has deliberately misunderstood my earlier interjection. In fact, most of those drains belong to authorities and they already require a take-and-use licence. Most of them have those, so this bill does not change that. It does not depend on the definition of 'dam'; they already have a licence.

It is not true to say that there has not been an impact on them as a result of this problem of catchment dams, because there has. I have been down to see the south-east vegetable growers, I have met with the people the honourable member mentioned, and I have heard them complain that the farmer next door has put in a dam that has taken away their water. They are very upset that there is nothing currently in the act to stop that because farmers have had their security and access to water dramatically affected by what their next-door neighbour has been doing. This bill will fix up those problems.

I suggest the honourable member go back to talk to them and talk about what is really in the bill and not the scaremongering nonsense he goes on with, and he will find they are supporting it.

**Amendment agreed to; amended clause agreed to.**

**Clause 5**

**Mr PLOWMAN** (Benambra) — Will the minister make it absolutely clear what powers, discretions and functions, authorities and duties of the Victorian Civil and Administrative Tribunal are subject to the agreement approved by the Murray-Darling Basin Act 1993? Will she also indicate to the committee exactly what those agreements are and what they mean?

**Mr HOWARD** (Ballarat East) — With regard to this issue in clause 5, powers, discretion and function — —

**Mr Smith** interjected.

**The CHAIRMAN** — Order! The honourable member for Glen Waverley will desist from yelling out in that manner!

**Mr HOWARD** — It was my understanding that every honourable member has a right to speak on any clause as they choose. Some honourable members may not have been pleased to hear what members on the other side said or some of the lengthy addresses that misrepresented this bill in so many ways, so I see it as my right to speak on any clause in this bill.

I am pleased to be able to say a few words about clause 5. It introduces a number of provisions with regard to powers of different authorities and about the ground water agreements that are already in place. This particular amendment, which relates to a number of issues, including the Murray–Darling Basin agreement, is — —

**Mr Plowman** interjected.

**Mr HOWARD** — But it is with regard to the clause, and it is an important issue in the clause.

**The CHAIRMAN** — Order! The honourable member for Ballarat East, without assistance.

*Honourable members interjecting.*

**Mr HOWARD** — I am pleased to speak on this clause to clarify some issues.

**The CHAIRMAN** — Order! I know it is late in the afternoon, but I ask honourable members to cooperate with the Chair so that we can proceed through this bill. Honourable members have the right to speak. The minister can choose to speak or not, according to her wishes. At the moment the honourable member for Ballarat East has the call, and I ask honourable members, including the honourable member for Glen Waverley, to allow him to continue.

**Mr HOWARD** — I have finished.

**Mr INGRAM** (Gippsland East) — On interstate agreements, I notice in clause 5 there is a reference to the Groundwater (Border Agreement) Act. I seek clarification from the minister about the Latrobe aquifer and where it crosses into commonwealth waters and is impacted on by oil and gas extraction. Does the bill pick up any regulations that would address the impact of the extraction of ground water where farmers have had their rights to water impacted on when the aquifer has dropped and there is less availability of water?

**Ms GARBUTT** (Minister for Environment and Conservation) — The answer is no, it does not extend that. This clause simply clarifies issues relating to interstate agreements and states that we must uphold those interstate agreements as they have been signed; they take precedence over the bill.

**Mr PLOWMAN** (Benambra) — Clearly the minister has not answered my question. My question was: how does this impinge on the Victorian Civil and Administrative Tribunal? It states clearly in proposed new section 6(1) inserted by clause 5:

> "(1) Every power, discretion, function, authority and duty of the Minister, the Authority and the Tribunal under this Act must be construed subject to —
>
> …
>
> (b) the Murray-Darling Basin Act 1993 and the agreement approved by that Act.".

I have asked the minister specifically: what are those agreements and how are they affected by that agreement under that 1993 act?

**Ms GARBUTT** (Minister for Environment and Conservation) — What is being referred to, clearly, are two interstate agreements — the Groundwater (Border Agreement) Act 1985 and the Murray-Darling Basin Act 1993. I refer the honourable member to clause 5 of the bill which inserts proposed section 6(4), which states:

> "(4) The Minister, an Authority or the Tribunal, in exercising a power, discretion, function, authority or duty under this Act, must not act in a manner detrimental to or inconsistent with the operation of an agreement referred to in subsection (1).".

Those are the two that I just referred to.

**Clause agreed to.**

**Clause 6**

**Mr McARTHUR** (Monbulk) — I move:

1. Clause 6, page 5, line 2, omit 'building).".' and insert "building or permitted under sub-section (5B)).".

2. Clause 6, page 5, after line 2 insert —

> '(5B) Despite sub-section (5A), a person has the right to use water from a private dam if the amount of water used in any year does not exceed 3% of the rainfall on the property on which the private dam is situated.".'.

During the course of the second-reading debate many members referred to the 3 per cent proposal. This is in effect the 3 per cent proposal. It amends clause 6, and clause 6 itself amends section 8 in the principal act. Section 8 of the Water Act is that part of the act which deals with the continuation of private rights to water. It is the proposed amendment of those private rights which has caused the most controversy around the state.

The two amendments standing in my name are the Liberal Party's response to that and are an attempt to insert back into the private rights system the ability for landowners to take and use up to 3 per cent of the rainfall that lands on their property — property that they occupy — for irrigation and commercial purposes. The right will be in addition to stock and domestic use but would be deemed subject to a water supply management plan under amendments which will follow later on.

The 3 per cent proposal is analogous to the Victorian Farmers Federation policy. During the second-reading debate some honourable members referred to the Hill committee report and its recommendations and mentioned that it was similar to that. I need to point out to the house that the Hill committee recommendations were to provide a credit which was calculated on 10 per cent of the run-off of property, but a credit towards the purchase of entitlement rather than an actual

entitlement, so there is some difference there. Nevertheless this is the Liberal Party's proposal to protect private rights to water across the state, and we are seeking the support of all honourable members on this issue.

**Mr PLOWMAN** (Benambra) — In proposing the insertion we are asking for something quite small by comparison with what we have had in the past. We are asking for the use of only 3 per cent of rainwater, which we had 100 per cent of before. You might well say that a lot of that rainfall soaks in, and it does, but in round figures it amounts to 10 per cent of run-off. This has been questioned in many quarters. The Bureau of Meteorology Victorian rainfall figures — a copy of which I have supplied to the minister, and she has kindly agreed that it might be incorporated into *Hansard* — clearly shows as lines on the map where the rainfall is across the state.

The reason for using the rainfall map is that you cannot argue about it. It is quite clear what the rainfall is in every area of the state, as deemed by the Bureau of Meteorology. Under this principle what you do quite clearly is multiply the area of the farm — the land it occupies — by the rainfall that falls on it, which gives you the volume of water that falls on that area of land. You take 3 per cent of that, and that is the amount of water that can be used for any purpose.

There have been questions as to whether this 3 per cent amounts to about 10 per cent of run-off. The paper developed by Burton in 1965 deals with the catchment yield as a percentage of the annual rainfall in catchments north of the Great Divide since rainfall records have been kept. It says the run-off in areas of land with above 1000 millimetres is 20 to 30 per cent; and on land with between 525 and 1000 millimetres, which is the area we are predominantly talking about on the map and where people will be wanting to build dams — in the old terminology it is between 21 and 40 inches of rain — the run-off is between 7 and 10 per cent. That is the basis of the figures for rainfall of 3 per cent equating to a run-off of 10 per cent in these areas of the state. The percentage of rainfall is the easiest way to determine an amount of water. The reasons for coming up with the 3 per cent as being the appropriate amount is that this follows closely the formula basis that is the Victorian Farmers Federation (VFF) policy.

I quote from a letter directed to Mr Brian Fraser by the chairman of the Victorian Farmers Federation dated 20 September 2001. The letter states — I am quite happy to table it — that the following two points were made at a meeting held at Wodonga on Friday, 14 September:

1. There should be an absolute statutory right retained as per the 1989 act to harvest an on-farm catchment volume for irrigation, without the need to purchase back from the trading market.

2. To retain equity this volume should have a limitation formula. This formula should be based on a percentage calculated surface run-off for a given farm being 10 per cent run-off, which is determined to be [3] per cent of rainfall.

His answer in the letter says:

> Points 1 and 2 of this policy are more or less a restatement of existing VFF policy. As stated at the meeting we do not believe it is politically possible to achieve the NSW formula approach to the definition of private right. Neither the government nor the opposition parties support it …

He is right about the government, but he is certainly not right about the opposition. The opposition parties clearly support this VFF policy. What has happened is that the VFF has tried, through the government, to achieve it; it has been unsuccessful. This is its policy, and we are supporting it.

The second point about the 3 per cent is that this figure is the figure that was determined by the Bill Hill committee in coming up with an equitable arrangement for that amount of water that should be available to catchment farmers.

The third point equates very closely to the New South Wales formula that gives 10 per cent of run-off. This is not a property right, as the honourable member for Swan Hill suggested it was. It is a continuation of the existing right under section 8 of the act. It is a vastly reduced right from what we have under section 8. It is not a tradeable right and it will not be allowed to be carried over from one year to another. It will also be included in the amount of water available to a farmer under a registration licence. This continued right will not be at a cost to government; there will be no cost to government for the 3 per cent of water remaining available to farmers. The continued right will not impact on irrigators' entitlements, particularly not in northern Victoria, where we have had the private right to all rainwater up until now — and might I say that over the past 10 to 15 years very few people have taken up that right.

When the Baxter committee, chaired by the Honourable Bill Baxter from another place, reviewed this it found that around 5000 megalitres was taken up over a 10-year period prior to the Baxter committee being formed. So clearly this will not impact on irrigation entitlement.

Finally, the 3 per cent of rainfall will be subject to the proclaiming of a water supply protection area, and this covers the other suggestion — that this will be environmentally deleterious. In fact, for a stressed catchment if there is a water supply protection area proclaimed by the minister and there is a management plan, that management plan determines how much of the 3 per cent can be used. It can be reduced from 3 per cent; it can even be eliminated if there is not the water in the catchment to do it. But as the honourable members for Mornington and Pakenham said, in those catchments where there is an abundance of water this is not a helluva lot to ask for. This gives some degree of flexibility to those farmers who want it.

This water would also cover dairy wash-down, which I am sure the honourable member for Warrnambool will mention. If we are successful in getting this, it would cover the National Party requirement to provide the water for the curtilage of a house. The only other point I would make is that this water may well be required to be metered to meet the other requirements of the act.

**The CHAIRMAN** — Order! The honourable member for Benambra has sought to have a document incorporated into *Hansard*. I ask the honourable member if he has submitted the document to the Speaker for his approval.

**Mr PLOWMAN** — I beg your pardon?

**Mr Cooper** — You said you would make the document available.

**The CHAIRMAN** — Order! You do not wish to have it incorporated into *Hansard*, then?

**Mr PLOWMAN** — I do.

**The CHAIRMAN** — Order! I am asking the honourable member for Benambra — not having the assistance of the honourable member for Mornington would be useful — if he has sought approval from the Speaker to have the document incorporated into *Hansard*.

**Mr PLOWMAN** — Not as yet, but I propose to do so.

**The CHAIRMAN** — Order! It cannot be incorporated until he has had approval from the Speaker, so we will have to leave it until later.

**Mr MULDER** (Polwarth) — I raise some issues regarding clause 6 and what is a contentious matter regarding the 3 per cent referred to in the amendment. Unlike other honourable members who have spoken on this issue, I can say for myself that I am not here representing just the farmers of Polwarth, the irrigators or the upper catchment farmers; I am here today to contribute to debate on this clause for farmers across Victoria.

I will refer to some of the issues raised regarding the removal of farmers' statutory rights. In his contribution the honourable member for Swan Hill said it is not the first time rights have been removed without compensation and that in some irrigation areas sales water rights had been removed. I advise the honourable member that sales water rights are quite different from a statutory right that has existed for 150 years, particularly in catchment areas and particularly the catchment areas in my area. These farmers are being asked to give up 100 per cent of a right they have had for 150 years, and in return they are asking for 3 per cent of the rainfall falling on their farms.

In looking at the matter statewide and where we find ourselves with this legislation, there is no doubt the matter is before the house because some time ago a mistake was made regarding overcommitment in irrigation areas. As a result farmers in my part of the state, the south-west, are being asked to pick up the damage that has resulted from it. They are the fall guys because of this mistake that was made some years ago.

Farmers in the south-west, like farmers across the state, have a tremendous bond. They know and understand the issues they have faced regarding water shortages throughout the last five to six years in particular, and are very conscientious about water conservation. Farmers are being asked to give up a right that has existed for 150 years, so it is a humble gesture on the part of the Liberal Party to ask the committee to support the provision of 3 per cent of the rainfall falling on their properties when they have had an entitlement to 100 per cent throughout the period.

I am happy to look at the different areas around the state such as the irrigation areas and say that we know there are huge inefficiencies still within the irrigation system up north. I am happy to support the National Party in seeking improvements for irrigators in that area. I am also happy to support the honourable member for Wimmera on pipelining the Wimmera–Mallee system, but what about a bit of support the other way? I am not standing here today for one section of the community, I am here today saying that we understand it is a statewide issue. We are happy to support the irrigators and the Wimmera–Mallee, but what about support the other way? We are asking for a minuscule amount compared with what is taking place statewide.

Several issues have been raised and arguments put regarding the amount of water that the 3 per cent would add up to, but if the pipelining was done in the Wimmera–Mallee and we could get another 10 per cent of efficiency out of the irrigation district we would not be looking at this legislation for south-west Victoria. As I said, let's take a holistic approach to this issue and not just look at our own backyard but at the state as a whole. When you look at the state as a whole you cannot ask someone to be the fall guy for something that has happened in another part of the state. That is what is happening.

I am asking for support for the amendment, because relative to what is being given up 3 per cent of the rainfall that falls on a farm is a small gesture.

**Mr HOWARD** (Ballarat East) — It seems appropriate to clarify some of the issues that have been presented to the committee. I do not support the proposal put by the honourable member for Monbulk. The 3 per cent is a ludicrous figure to have selected. The Liberal Party talks about the loss of 100 per cent of the right.

The legislation takes into account the shortage of water in the state and the fact that water is a finite resource. The government is trying to ensure security of water supply for those who now have that supply and to set in place a useable system for those who wish to take the opportunity to use water supplies in the future.

The government has looked at past legal anomalies when people have been able to take water from an area that is not listed as a watercourse — and we know there has been a shemozzle about what is and what is not a watercourse. If people do not collect water on a watercourse, the water — or at least a large proportion of it — will continue to flow onto somebody's else property. Therefore, anybody taking water from an area will affect somebody else.

That fact was recognised back in 1886 in the Irrigation Act, which said that water is a community resource. Water is not a divine gift given by God that people seem to think they are losing; nobody is losing that gift or right. If somebody has a dam that is used for commercial irrigation purposes, they can continue to use the water from that dam, but now the dam must be registered or licensed so that the authorities can keep a check on it.

If the dam is in a non-stressed area there is no reason why additional dams cannot be constructed and new licences provided, so long as it is recognised that any new dam will affect other people further downstream. It is incorrect to suggest that suddenly something will be given up.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable member for Glen Waverley!

**Mr HOWARD** — I will be pleased to continue to talk on the clarity of this bill and why the 3 per cent and the so-called loss of 100 per cent right is a complete furphy. It is a misrepresentation of the existing issues.

The 3 per cent provision, the honourable member for Benambra says, will not have an effect on the water supply in any area. He talked about areas north of the Great Dividing Range where, as we know, a cap has been placed on the Murray–Darling Basin catchment; he says that will not be affected. It will not cost the state anything because, he says, so much of the 3 per cent right has not been taken up. If that opportunity has not been taken up in that area, why are we suddenly giving a 3 per cent right? People are not using the so-called God-given right he talks about, so why do we have to give it to them without any policy base for sensible water usage?

The proposal is for 3 per cent across the board, which we know from Don Blackmore is not 3 per cent of the overall catchment, it is more like 30 per cent of the overall catchment. Don Blackmore's estimation is that 1.2 million megalitres just north of, and a similar amount south of, the Great Dividing Range could potentially be taken out of the system. We do not know when people may choose to try to use that right, which is not being used at the moment, so people are not losing anything under the proposed legislation. There is no loss.

The legislation provides security, and all honourable members know that. It provides security for those who have taken up the use of dam water until now. The 3 per cent provision is an absolute furphy — it would encourage poor water usage practices. If people in the north start to take up the huge amount of unused water that the honourable member for Benambra talks about — and many properties do not have a dam at all — suddenly many people who have not in the past seen a need to take up that God-given right will use the 3 per cent rule, and nobody will challenge them.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable member for Bellarine!

**Mr HOWARD** — What is the point? There is no sensible point. The legislation gives security of ongoing water usage to all the farmers and land users who have dams.

It simply says that from now on if anybody wishes to put in a dam we need to look at that to see whether it puts stress on the water catchment. If there is no stress there is no reason why they should not be able to put in a dam and take up a water right. However, if there is stress in that area then we need to look at the overall use of that catchment to ensure that any water used is used to its best benefit — that it is used sensibly and is not wasted.

Suddenly putting on a figure of 3 per cent overall and saying that it gives people the opportunity to take up a right does not help anything. It simply means we have 3 per cent of water that can be used for any wasteful purpose. There is no challenge to ensure that farmers using that water would use it sensibly or to the best benefit to the state. The responsibility of any government is to govern for the benefit of the whole community.

The legislation as put forward by the state looks at security for those who have dams on their properties at the moment and who are using irrigation water. It provides security for upper and lower catchment people, and that enables them to plan accordingly. People who come into the market and want water rights will be able to take up those water rights if the system allows and do it sensibly and plan accordingly, knowing that they can then have a protected right.

The 3 per cent overall would add nothing to any sensible planning in this state. It would enable a liability to be in place for many years to come, as anybody who wished to take up the liability could. It throws out planning for stream flow and is in no way helpful to the state. It does not help the farmers that opposition members purport to support. It simply provides greater insecurity and a poor planning process. It is of no benefit at all.

**Mr MAUGHAN** (Rodney) — I rise to oppose the amendment that is before the committee for a range of reasons. The first is that there has not been sufficient time for consultation with those whose rights will be adversely affected.

I hear what the honourable member for Kew says about the proposed legislation removing some rights. I accept that. But so does this proposal. It also removes rights from other people, and that is what we are about in this Parliament — —

**An honourable member** interjected.

**Mr MAUGHAN** — It does! We can argue about whether the irrigators have rights or not, but the reality is that if this amendment is passed there will be about 350 000 megalitres of water in the northern part of the state in a contingent liability. If you look across the state you see that on Don Blackmore's figures it is 1.2 million — —

**An honourable member** interjected.

**Mr MAUGHAN** — We have not got that already because we have right now, within the existing legislation, a limitation as to how it can be used. You cannot put a dam on a farm in a waterway, so you cannot use the right that is there now.

Honourable members are arguing that they have that right now to hold all the water that falls on the farm, but that is not the case because it is modified by where you can hold that water, and you cannot hold it in the obvious spot to hold it, which is in the waterway — —

**Mr McIntosh** interjected.

**Mr MAUGHAN** — Under the existing legislation you cannot. Under the legislation that is proposed you can. So the point I make is that, firstly, the volumes are questionable. A range of volumes are being talked about — —

**Mr Plowman** interjected.

**Mr MAUGHAN** — The honourable member for Benambra says that it is not a lot to ask for. The honourable member for Polwarth used the term 'minuscule'. The honourable member for Evelyn says, 'Up to 3 per cent'. I ask the honourable member for Evelyn how you can organise a stream flow plan when you say, 'Up to'. Looking just at the north of the state, we are saying up to 450 000 megalitres needs to be kept. If you are trying to do a stream flow plan, how do you know what volume to allow going down that stream when you have a contingent liability of up to 450 000 megalitres?

**Mrs Fyffe** — How will it happen with irrigation?

**Mr MAUGHAN** — I can tell you how it will happen with irrigation — I do not think now is the time — but there is a contingent liability of up to 450 000 megalitres — —

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable member for Rodney, without assistance from the honourable members for Benambra or Evelyn.

**Mr MAUGHAN** — There are a whole range of these issues and questions that need to be asked, and there are obviously different points of view. In my area I have thousands of irrigators, and I have a letter here from one of those — —

**An honourable member** interjected.

**Mr MAUGHAN** — I am not taking a partial approach. I have tried all along to take a holistic approach, and I think the legislation does that. It balances the competing needs of those in the catchment areas and those in the irrigation areas, and I do take a holistic approach.

My irrigators have not had a chance to consider it. I shall quote from the chairman of the Central Goulburn Water Services Committee, Peter Fitzgerald, a constituent of mine, who talks about the effects it will have on the 2500 irrigators he represents. The honourable member for Benambra may be right — he may be able to convince my irrigators, but he will not.

**Mr Plowman** interjected.

**Mr MAUGHAN** — It is too late in the day because we are voting on it today.

**The CHAIRMAN** — Order! The honourable member for Rodney will address his comments through the Chair. This is not a debate with Liberal Party members.

**Mr MAUGHAN** — I am pleased to hear the offer from the honourable member for Benambra. It is too late. I did not see the amendment until a matter of days ago. It is before the committee and we will vote on it today. It came about through publicity two days ago. Mr Fitzgerald states:

> About 450 000 megalitres will need to be set aside under the cap to allow upper catchment farmers to take up any of this water if ever they do, which in effect is locking up water that can be utilised for productive purposes.

I take his point. He continues:

> The Hill report and the Blackmore review identified that financial compensation for some part of the water required for their dams was sensible and workable. It had a finite time frame and then the issue was closed. The $400 megalitre as compensation to buy allocation was agreed to by most community representatives.

That was agreed to by the downstream irrigators. He continues:

> This amendment has been devised to keep a small sector of upper catchment farmers happy, who may never intend to build or use irrigation dams.

That is not empty rhetoric. As an honourable member for North Eastern Province, the Honourable Bill Baxter, pointed out, only 5000 megalitres has been taken up over the past 10 years. There has been plenty of opportunity for those upper catchment farmers to take up that water, but they have only taken up 5000 megalitres, and now we are proposing to give a minuscule amount of 250 000 or 350 000 megalitres. They have only taken up 5000 megalitres and we are proposing to give them much more. I will be opposing the amendment.

**Mr McIntosh** — On a point of order, Madam Chairman, this is a Liberal Party amendment moved by the honourable member for Monbulk. It has been opposed by two speakers subsequently and it is about time we had the call to support the amendment.

**The CHAIRMAN** — Order! At this stage I do not know what is the view of the honourable member for Gippsland East, so I am not in a position to make a judgment about that.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! All honourable members will have the opportunity to speak on the clause. However, the opportunity to speak will be improved if they are silent and allow the honourable member for Gippsland East to make his contribution.

**Mr INGRAM** (Gippsland East) — Clause 6, the crux of the bill, is about private rights to water, an issue that has been controversial, which is why it has taken so long for everybody to get to a point where we can approve of a change of statutory rights for irrigation storages. I understand why the amendment has been moved by the honourable member for Monbulk because he got in touch with me and explained the amendments the Liberal Party was moving, for which I thank him. This particular amendment came out of the blue and we have not had much time to discuss it and come to a rational view. It is something that did not come up in the review process, the Blackmore report, and so on. To introduce it at the last minute after all that consultation places the Parliament in a difficult position because it is controversial.

I will be opposing the amendment for a number of reasons. The amendment complicates the whole issue. A number of discussions have taken place, which I do not think I need to go into. One of the main reasons for

the bill is to resolve some of those upper and lower catchment disputes

This amendment, if accepted, will still leave that conflict and there will still be upper catchment disputes between farmers.

An issue I raised in the debate on the bill is the impact on the Murray–Darling Basin cap, which all honourable members should support because the Murray-Darling Basin Commission cap and the use of water out of the Murray–Darling Basin must be maintained. The real reason why upper catchment farmers have a different view is that the majority of water that falls into the Murray–Darling Basin — —

**The CHAIRMAN** — Order! There is too much audible conversation. I ask honourable members to lower their voices.

**Mr INGRAM** — The majority of water flowing into the Murray catchment falls in the upper catchment areas. I understand why someone who buys a farm in a high rainfall area believes they should be able to collect a lot of the rain. What that does, though, when they are allowed to harvest a large proportion of the rain or the run-off, is create problems downstream. And what percentage of the run-off is it? According to some of the initial discussions we have had, 25 per cent to 30 per cent of the run-off could be in the high catchments so there could be a major impact downstream. Indications we have are that about 1200 gigalitres of water north of the Divide and potentially 1100 gigalitres south of the Divide could be taken up — not will be taken up, but could be. That is where the uncertainty comes in, and that is why the bill as it stands will leave us with uncertainty.

As I said I will oppose the amendment because it will further confuse the issue and create further divisions in the irrigation community.

**Mr VOGELS** (Warrnambool) — I simply say that in the past farmers have had a right and that right is being taken away. They were able to build dams off waterways and use that water for any purpose. All we are asking in exchange is that up to 3 per cent — note we are not saying 3 per cent — is made available and water supply protection is declared by the minister and the government, then the stream flow management plan consultative committee will set the percentage. That might be 1 per cent or 0.5 per cent. People in stressed areas will not get 3 per cent. We all agree with that.

Before I ask the minister to answer a question for me I will reiterate a couple of things. The Murray–Darling system at the moment has 14 million megalitres flowing down it. Of that, 12 million megalitres — 85 per cent — go to the irrigators already, and 3 million of that is lost through inefficient farming practices. That is where we should start addressing the problems in the first instance. Then there is seepage in channels, soakage and stuff like that. These problems need to be addressed. The honourable member for Gippsland East said that Melbourne Water has millions of dollars sitting around. That is where we should be spending it.

My question for the minister is as follows: on dairy farms most if not all stock and domestic dams are commercial dams so they need to be registered or licensed.

**An honourable member** interjected.

**Mr VOGELS** — Because it is commercial use.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable members for Gippsland West and Evelyn!

**Mr VOGELS** — I would like them to come one day and have a look at a dairy farm down our way where nearly all the dams on dairy farms are commercial. Those dams will have to be registered and licensed. The minister says farmers will still be entitled to stock and domestic dams as of right so why would not the farmer go and register all his dams as commercial — which they are — and then start building stock and domestic dams for his stock? What is to stop him?

**Mr Helper** interjected.

**The CHAIRMAN** — Order! The honourable member for Ripon!

**Mr VOGELS** — What is the answer?

**Mr KILGOUR** (Shepparton) — In answer to the honourable member for Warrnambool, what we are talking about here is a dam that will be irrigated from or used for stock and domestic purposes.

You can go to hundreds of farms all over Victoria and see dams that are used for catching yabbies or fish or simply to water the stock.

**Mr Vogels** — What about in the south-west?

**Mr KILGOUR** — I do not know about the south-west, but come up to northern Victoria and have a look. I would very much welcome the honourable member for Benambra and his legal mate, the honourable member for Kew, at the Shepparton town

hall, where they could stand in front of 2500 irrigators and tell them that they intend to remove a water right from them and will hold the water up in the hills.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! I ask honourable members to address themselves to the bill. If they have a personal disagreement with other honourable members, perhaps they could resolve those issues at a later time.

**Mr KILGOUR** — I am happy to address the bill and the 3 per cent issue the committee is talking about. If the honourable members for Benambra and Kew want to come to Shepparton and explain to 2500 irrigators that they are going to take from them water that can be used for irrigating and providing the dairy products and horticulture that we export or turn into food — —

**Mr McIntosh** interjected.

**Mr KILGOUR** — The honourable member for Kew does not even know where Shepparton is! This is the best issue we could have had to show that the National Party truly represents country Victoria. The city-centric Liberal Party has rolled the honourable member for Monbulk, who used to come from Mildura.

*Honourable members interjecting.*

**The CHAIRMAN** — Order! I ask the honourable member for Shepparton to address his comments to the clause and not give us his views of the Liberal Party.

**Mr KILGOUR** — I am addressing the comment that although the honourable member for Monbulk might have — —

**Mr Mulder** — On a point of order, Madam Chairman, on the matter of relevance I ask the honourable member for Shepparton to repeat his comment that he represents irrigators and not farmers.

**The CHAIRMAN** — Order! There is no point of order, and I ask the honourable member for Polwarth not to use points of order to make points in debate. The honourable member for Shepparton will address the clause.

**Mr KILGOUR** — The honourable member for Polwarth has not been in this place very long, and I understand that. However, the amendment has to do with the 3 per cent issue, which clearly will not work. As I said, I am happy for anybody from this side of the house who wants to support that argument to come to Shepparton and talk to 2500 irrigators and tell them they will take from them — —

*Honourable members interjecting.*

**Mr KILGOUR** — Just listen to what I am trying to say! If you listen you might learn something! To take from the irrigators a water right that they have — —

**An honourable member** interjected.

**Mr KILGOUR** — I am not reading my speech; I do not have to, and you will not have to when you face those people!

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable member for Shepparton will address his comments through the Chair, and I suggest he ignore the Liberal Party members who seem to be causing such problems.

**Mr KILGOUR** — It is very hard to ignore those people, but I will honestly try. If they want to come to Shepparton to tell the irrigators of northern Victoria that they will take from them water that could be used for production and hold it up in the hills for some bozo who might want to use it in the future — —

*Honourable members interjecting.*

**Mr Plowman** — On a point of order, I find that personally imputative and outrageous. I have been called all sorts of things in my life, but never a bozo from the hills!

**The CHAIRMAN** — Order! I am not sure that the honourable member for Shepparton was calling the honourable member for Benambra a bozo, but if he was I ask him to withdraw the comment.

**Mr Mulder** — On a further point of order, I do not think the honourable member for Shepparton was referring to the honourable member for Benambra as a bozo; he was referring to upper catchment farmers as bozos.

**The CHAIRMAN** — Order! There is no point of order. I ask the honourable member for Polwarth to sit down, and I ask the honourable member for Shepparton to continue.

**Mr KILGOUR** — Let us get serious about this issue, because it is an extremely serious one. I listened to ABC Radio and heard that the chair of the farm dams review had rejected the concept of stored water rights and said that the amendment to catch 3 per cent of rainfall would exceed the Murray–Darling Basin cap

and would provide enormous uncertainty to both irrigators and environmental flows.

Don Blackmore chaired the committee, and he is highly regarded across Australia as the chief executive officer of the Murray-Darling Basin Commission. He has studied this issue to the nth degree, and he said it would create a contingent liability. My colleague the honourable member for Rodney mentioned the comments made by his irrigation chairman, and he was talking about 450 000 megalitres. This is what I am talking about — the people from the city say 3 per cent of rainfall is not much, but Don Blackmore said:

> It would create a contingent liability of 1.2 million megalitres of water being available for farmers to store on their properties at some stage in the future. Now, that water has already been allocated by due process of governments over the last 100 years to another group of customers.

That 1.2 million megalitres is one-third of the capacity of the Eildon Dam. We are talking about a massive amount of water being taken away from people who already have a right to it. Don Blackmore says it will sit there so that at some stage in the future somebody may elect to take it up. If you provide the 3 per cent to those up there just in case they want to use it, it cannot come down to these people to use. They have not understood that; that is their problem.

**The CHAIRMAN** — Order! The honourable member for Shepparton, through the Chair.

**Mr KILGOUR** — Don Blackmore says quite clearly:

> … any of these policies will all have to be done within the cap … there's no provision to allow a rule like this to exceed the cap.

Clearly it will not work — that is the point.

Don Blackmore further says there is another major problem with this idea, and it is related to the stream flow management plans the honourable member for Evelyn talked about. Don Blackmore says there has been a huge demand for those plans, but:

> … can you imagine trying to develop a stream flow management plan not knowing how much water is going to be consumed within your valley?

That is a very good point.

> I think that's a huge problem for those people trying develop those plans.

This is not from somebody who does not know, it is the greatest expert in Australia talking about this issue. He says the 3 per cent rule or a 10 per cent run-off is a significant amount.

**Mr Mulder** interjected.

**The CHAIRMAN** — Order! The honourable member for Polwarth knows better than that. If he cannot behave himself in the chamber, I suggest he leave.

**Mr KILGOUR** — As I said, please remember he is just new in the place. Don Blackmore said:

> I think the 3 per cent proposition is not going to be helpful for farmers in Victoria.

Not just irrigators but all farmers in Victoria.

> It creates uncertainty — not certainty — and it creates a huge uncertainty for the current irrigation community. And north of the Divide, the set up of contingent liability that could be exercised at some stage for over 1 million megalitres — 1.2 million megalitres — seems to me to be, you know, just creating another set of uncertainties which we're going to have to manage.

That is what Don Blackmore says. People should realise that the 3 per cent will not work. I do not support the amendments.

**Mr COOPER** (Mornington) — I understand the honourable members for Shepparton and Rodney speaking passionately about this issue on behalf of their constituents. They represent constituents who come from areas where there is a stress on the water supply. That is the whole point the opposition has been trying to make. There are areas of Victoria where there is stress on the supply, and certainly the irrigation areas of the north are included in that. However, there are areas such as the ones I and many other members of this house represent where there is no stress on the supply. What the bill seeks to do — and the National Party is supporting it — is to shovel everybody into a situation of one size fits all. In other words, to say that because those people have a stress where there is an overcommitment of the resource that rule of thumb should apply right across the state.

I notice the honourable member for Shepparton in his passionate address just now happily ignored the fact that the amendment moved by the honourable member for Monbulk says 'does not exceed 3 per cent of the rainfall'. Everybody who is approaching this amendment, including the honourable members for Shepparton and Rodney, is talking about it as if it were a flat 3 per cent.

As the honourable member for Warrnambool pointed out, we are talking about up to 3 per cent. It could well

be that there is a situation in the irrigation areas of the north where it would be zero because there is an overcommitment of resources. But I can tell you now that on the Mornington Peninsula or the Bellarine Peninsula and other areas that were mentioned by the honourable member for Pakenham, the 3 per cent rule would apply and there would be no problems at all.

Why should the rural producers on the Mornington Peninsula be subjected to restrictions that are not reasonable and fair? Why should they be subjected to those restrictions? We are talking vineyards, flower growers and fruit growers who are going to have caps put on them and rights taken away that they do not need to have taken away. Why should that occur? We are talking here about fairness and equity. We are talking about dealing with different areas of the state in different ways. If there is an overcommitment, which the honourable members for Shepparton and Rodney have said occurs up in the irrigation areas, which I assume is correct because I know them to be honourable people — and the honourable member for Swan Hill would support them on that view — then deal with that overcommitment under this bill. But do not go and say to the people in my electorate and other areas where there is no overcommitment, where there is no problem, that they have to be shovelled into the same box. Why should they be subjected to that?

We are talking about equity and fairness here. We are talking about rights that have existed for years — for many, many decades — and rights that those people should not have taken away from them. So while the honourable member for Shepparton challenges the honourable members for Kew and Benambra to go and address a large number of irrigators in Shepparton — 2500, or whatever it is — I challenge the honourable member for Shepparton to come down and talk to the farmers and rural producers on the Mornington Peninsula and see what kind of reception he gets. I can tell him now the kind of reception he would get. He would be told to get out of the peninsula and never come back again — that is what he would be told — because those people are saying to me and other honourable members who represent them, such as the honourable member for Dromana, that they should not have this imposed upon them. There is no stress on the water resources on the peninsula and there is no reason why this 3 per cent allocation should not be allowed to them.

I am saying to honourable members in this place that if they want to truly be looking at the needs of rural producers throughout this state they cannot have a one-size-fits-all approach. If honourable members were taking into consideration the people I represent they would certainly be voting for this amendment.

**Mr STEGGALL** (Swan Hill) — This has been a quite fascinating hour of discussion. I assure the honourable member for Mornington that this legislation in no way impinges on any of his rights. The only thing it changes is that a person in his area who wishes to build a dam which is not on a waterway will now need to apply for a licence. He will not have to pay for it because there are no charging mechanisms down there. I do not think there are any in Mornington.

**Mr Cooper** — Yes there are.

**Mr STEGGALL** — Not on a waterway — where a person would wish to build a dam not on a waterway?

**Mr Cooper** — There are.

**Mr STEGGALL** — Then there is nothing stopping this. This legislation does absolutely nothing for the Mornington Peninsula, the Bellarine Peninsula and those areas.

This is an unfortunate amendment, to put it mildly, but it is probably a debate we had to have and we might as well have it today. The up-to-3-per-cent concept that is embodied in amendment 2 puts a contingent liability of some proportion on all land in Victoria, not just in the north-east. Honourable members have been debating the bill today as if it were the only part of the Water Act. There is a huge Water Act in the state which is designed to give people throughout Victoria that equity and protect their interests.

I say to the members in the south-west in particular — because they have had particular difficulty in this, their first water debate, and it is the first time they have wandered into this area — that in the south-west we have irregular users of water, particularly the further west you go in the irrigation areas, and those who have irrigation in those areas have irrigation licences today and nothing in this legislation will touch, modify or change any of those areas.

There are, however, in the south-west a lot of people who use water occasionally in the dry years, and I believe it will not be very long before the south-west farmers will want to regularise their rights, which they can do under the Water Act. The Water Act is there for them to do that. There will be no purchase of water in this case as they have no capped regions; it will be a matter of their applying for a licence to construct a dam, which must not impinge on the rights of others, and taking water for their use on their properties. That right is there now, it has been there for a long time and

nothing is changing. The Water Act is written to look after that situation.

I say to honourable members from the south-west that no matter what happens to the irrigation districts of northern Victoria, it will not in any way, shape or form impact on the south-west. The water systems are not linked. I heard the honourable member for Warrnambool telling me that if we smartened up the irrigation districts in northern Victoria and saved a bit of water, it would help the south-west. It would not. The Wimmera–Mallee pipeline will happen, I have no doubt; it is just a matter of when and how quickly it can be done. I believe that with the pipeline the Glenelg River — I do not know where the honourable member for the Glenelg area is today — will get an allocation of extra water in addition to what it has now, because it will get some water that today is being trapped in the reservoirs and going to the Wimmera–Mallee region. When that happens we need to have an allocation of water in that area so that those communities, property owners and environments that are affected will be able to sort out and work out their bulk entitlement for the area and thus get a big benefit out of it. The benefit for the Wimmera–Mallee region will not just be in the north, it will also be in the Glenelg River area.

The Hopkins River has caused problems over quite a few years, and the salinity problems are well known to the local members. The stream flow management plans will get to that area and there will be an improvement in the understanding and a proper distribution of water there.

The 3 per cent water usage amendment would mean taking the Water Act as we have it today and throwing it away. The honourable member for Mornington tells me that it is up to 3 per cent, so I could argue with him that the rights of these people exist today, although it could be said, as the honourable member did say, that in some areas there would be zero rights. The people in these areas do have rights and the only thing this bill is taking away is the right of a person to build a dam — not on a waterway — so they are able to collect water and use it as they wish.

**Mr Cooper** interjected.

**Mr STEGGALL** — No, that is the right that we are taking away.

**Mr Cooper** interjected.

**Mr STEGGALL** — We are replacing that right. A few things to help you understand — —

**The CHAIRMAN** — Order! The honourable member for Swan Hill, through the Chair!

**Mr STEGGALL** — There are virtually no areas that will fit into that category today. Our upper catchment farmers have been moving their dam applications into the waterways and then fighting the waterway definition. As a result our upper catchment people and our communities have not been able to get through that gap to be able to build their dams and take their water. We have a policy vacuum in there which has made the act difficult for us to handle.

The honourable member for Benambra says that this is not a property right. What he is envisaging to deliver to everyone is not a property right. He also tells me that it will not impact on irrigation. I ask the honourable member for Benambra to tell us the next time he speaks: just where is that water that he is talking about?

The water in our catchments is totally allocated. It is allocated to the environment and we have the rules that run with it. It is allocated to the user groups — the communities and irrigation. It is all allocated and that is where the cap comes in. If we have an amount of water available, as the honourable member for Benambra is suggesting, then I put the question nicely: where is it now? The argument does not bear up.

Honourable members should read section 40 of the Water Act, which covers the matters that need to be taken into account. Whether you are applying for a licence or a licence is granted or a construction licence for a dam is granted, you will have to run through the items under the heading ‘Matters to be taken into account’. Section 40(d) refers to:

> … any adverse effect that the allocation or use of water under the entitlement is likely to have on —
>
> (i) existing authorised uses of water; or
>
> (ii) a waterway or an aquifer —

and a range of others. Section 40(e) refers to:

> … any water to which the applicant is already entitled.

The Water Act handles nearly all the issues that have been raised today and handles them very well. This minor change is being made to try to unclog a clogged-up area.

The Victorian Farmers Federation has had bit of run today. I thought I might run through the VFF policy as I know it to be. The VFF has a policy on its books for the New South Wales-type 10 per cent run-off. The VFF acknowledges that the policy vacuum in this area is causing problems and restricting development. It is not

supportive of the 3 per cent run-off — the 3 per cent of rain is not the VFF's policy; the status quo today is not acceptable to the VFF.

As the debate has gone on this week we have seen the report by Sinclair Knight Merz on the volumes that we are talking about today. I ask honourable members to look at those and to consider the type of impact that that would have. Don Blackmore's comments yesterday and the minister's press release of a couple of days ago covered that pretty well.

The other issue is that the 3 per cent does create a property right. There is no doubt that if you have a right to 3 per cent of all water that falls on your land that is a property right. But I have heard people say that it will not be tradeable. Given our law on water and property rights, if anyone stood up in a court in Victoria and tried to argue that the property right given to people under a 3 per cent rainfall operation is not a tradeable right they would find that the court could not handle that argument. It would not hack it. You will not win that argument.

We have mobilised our property rights in water and we have a very good system. This has been a difficult political issue for the north-east. I say to the honourable member for Benambra, who has been one of the leaders in that, that I acknowledge, respect and understand the issues that he has traversed, and why. People in the rest of Victoria have been rather quiet on this issue, because they have not really believed that anyone would move in the direction of an amendment such as this.

No-one in my area — and I am pretty sure no-one in the south-west of Victoria — ever believed that the Parliament would physically consider giving a right of 3 per cent of rainfall to all the landowners throughout Victoria, so it has not been a fiery issue in our areas. Today's debate is a good one. It will be read and looked at closely by people around Victoria. Can I say to honourable members that I only wish we better understood our Water Act because it covers nearly every issue that has been raised today, with the exception of the 3 per cent. The rights of people in the south-west, the Mornington Peninsula and the Bellarine Peninsula are all protected and looked after. Our water law is written so that the things of a fearful nature that people are talking about will not happen. That is how we have developed this law over the last 20 years — more so in those 20 years than before — but the principles have been in place for nearly 120 years in Victoria.

I cannot support the amendment that has been moved. I am happy that the debate is being held. One thing horrified me last night and today while listening to the debate — that is, how little we actually understand. We, the legislators of the state of Victoria, start off this 21st century knowing that water law is going to be one of the major areas of debate and discussion. It is going to test us and our successors as to how we manage and run it. I am very happy with the laws with which we start this new century.

I suggest that the minister give some consideration to having her department run some seminars for honourable members on the Water Act and acquaint people from various regions of Victoria with just how their interests and rights are looked after in this legislation. From that honourable members will be far more aware of what they need to change to better protect or improve their own areas. We have to debate the issues. My friend the honourable member for Gippsland East and I have some very different opinions on the Snowy, but we have to be able to sit down and reasonably work them out. The solution that has come so far contains the principles that will allow us to achieve as much as is possible without disrupting the whole community.

As I said, I will be voting against this amendment, and I hope that those who have brought it here will use today to fully debate, through their arguments, those points they wish to have considered.

**Mr McINTOSH** (Kew) — I have risen very regretfully to briefly join this debate. It concerns me somewhat that the honourable member for Swan Hill entreats us all to attend a number of seminars about the Water Act. A number of people have spoken about the eminence of the honourable member for Swan Hill in relation to his understanding of the Water Act. I hope that is confined solely to the practicalities of the Water Act, because when you look at its legalities I am afraid the honourable member for Swan Hill does not know the difference between a property right and his elbow.

Looking at this bill, I have had to deal with a number of new words like 'curtilage', 'megalitre', 'gigalitre' and even, as the honourable member for Shepparton said 'bozo'! However, one thing that is pretty clear is the declaration of rights set out in part 2 of the Water Act. Essentially everybody understands that the Crown owns water and that the Water Act permits the use of water in a variety of ways. Section 8 of the act, which clause 6 is amending, talks about the continuation of a private right to water.

**Mr Howard** interjected.

**Mr McINTOSH** — You ought to be listening to this because you did not know anything about rainwater.

**The CHAIRMAN** — Order! I ask the honourable member for Kew to address his comments through the Chair.

**Mr McINTOSH** — I will read it out. Perhaps the honourable member for Swan Hill could follow this through in the act. Section 8(4) of the act states in part:

> A person has the right to use —
>
> (c) rainwater or other water that occurs or flows (otherwise than in a waterway or bore) …

Essentially — and correct me if I am wrong — that is all water. I might be obtuse, strange and from Kew, but I read that as 100 per cent! Water referred to in section 8(4)(c) may be used for any purpose on any land. In this circumstance you have a 100 per cent right to use that rainwater and water as long as it is not in a waterway or bore.

**Mr Howard** — That is not accepted in water law!

**Mr McINTOSH** — I do apologise, Madam Chair, I thought I was reading from the Victorian Water Act 1989! I believe this is the current water act, which defines the water law in this state, and that it refers to a 100 per cent right!

What has happened by way of these amendments is that that use is limited to three types of use if our amendments are accepted, or two, as is proposed by the government. The first is for domestic and stock purposes. The second is for the use of water supplied by rainwater from the roof of a building, and that right is also preserved. The opposition proposes an amendment to subsection (5A) which will give a person:

> … the right to use … 3% of the rainfall on the property on which the private dam is situated.

The honourable members for Swan Hill and Shepparton may be talking about contingent liabilities, but this is far less, because on my reading of it — and I am not a mathematician, I might have been a lawyer and I might be just reading from the Victorian Water Act — what we have in Victoria, what we are dealing with and what we are removing by passing this legislation is the 100 per cent right of persons to use water from a private dam. All we want is 3 per cent!

**Mr HELPER** (Ripon) — Far from being a lawyer or a failed conveyancing solicitor, I rise to oppose the amendment moved by the Liberal Party to introduce a 3 per cent rule. I oppose it for a number of reasons, and I will make a number of observations about the amendment in the first place. It would have to be the most sloppily drafted 'principle' that we have ever had the displeasure — —

*Honourable members interjecting.*

**The CHAIRMAN** — Order! I ask honourable members to desist from interjecting and allow the honourable member for Ripon to continue so that he is not required to yell.

**Mr Plowman** — On a point of order, Madam Chair, I believe the honourable member for Ripon was casting aspersions on the parliamentary draftsmen when he said that this was the most sloppily drafted legislation he has ever seen. I know he has not been in this place very long, and I accept that, but he has cast aspersions on the parliamentary draftsmen. I believe that as a matter of common courtesy he should withdraw that comment.

**The CHAIRMAN** — Order! There is no point of order.

**Mr HELPER** — I accept the Chair's ruling that there is no point of order. However, in case there is any ambiguity I should correct my words and indicate that this amendment constitutes the most sloppy, ill-considered, ill-conceived instruction to the parliamentary draftsman that has ever come before this Parliament. Let me set that right because the last thing I want to do is impugn anybody else in the parliamentary process with the drivel that is obviously behind this particular amendment.

Let us work through the incredible inconsistency of it. The honourable member for Evelyn stressed that it refers to up to 3 per cent of the rainfall that falls on a particular property. Then the honourable member for Cranbourne, or was it Berwick — that bloke there — —

*Honourable members interjecting.*

**The CHAIRMAN** — Order! The honourable member for Ripon will address his comments through the Chair.

**Mr HELPER** — A previous speaker from the Liberal Party — he will know who I mean — suggested that if the figure of 3 per cent is not right, then we should tell them what the figure ought to be. What a bizarre thing to put in the drafting instructions for an amendment: 3 per cent, but if we have got it wrong tell us what the right figure is!

What does 3 per cent mean? It means 1200 gigalitres of water north of the Divide alone; that is enough water to fill 1200 million Olympic-sized swimming pools. That is what the amendment is about. We do not have as much water as that to spare north of the Divide, let alone consider the impact of it south of the Divide. My electorate is predominantly, although not exclusively, north of the Divide in the Murray–Darling Basin catchment. Therefore I will concentrate my comments on — —

*Honourable members interjecting.*

**The CHAIRMAN** — Order! I ask honourable members to take their seats and be quiet.

**Mr HELPER** — This 1200 gigalitres of water or 1200 million Olympic-sized swimming pools worth of water constitutes 25 per cent of the Murray–Darling Basin cap. Members of the Liberal Party have dismissed the term 'contingent liability', but if you happen to put a right — in inverted commas — in an act, as this amendment seeks to do, of landowners to retain and use at their discretion up to 3 per cent of rainfall on their land, you have to plan for the eventuality that they may do so. That is a consequence. If you legislate for something some people may take up the opportunity offered by the legislation. There is a genuine contingent liability which equates to 25 per cent of the Murray–Darling Basin cap.

I ask opposition members to tell the committee who the 25 per cent entitlement in the Murray–Darling Basin will be taken from. Will it be taken from irrigators? Will it be taken from environmental flows? Where will they get 25 per cent of the Murray–Darling Basin cap from? Tell us, please! Somewhere along the line, in moving this amendment, the practical implications of the amendment need to be addressed.

I do not wish to speak a great deal longer because I notice that some people, particularly those on the Liberal benches, wish to be excessively emotional about something they construe to be a civil rights issue when in reality it is a resource allocation issue which, simply, north of the Divide has the impact of turning into a contingent liability 25 per cent of the Murray–Darling Basin cap entitlement to Victoria. It is an absolutely harebrained proposal and I somehow feel a little embarrassed that members of this Parliament, irrespective of which side they come from, could be so lamebrained as to come up with this particular amendment.

**Mr RICHARDSON** (Forest Hill) — I am overwhelmed by the most wonderful sense of deja vu. What we have here is a good old-fashioned Liberal–Country Party stoush, and it is wonderful to see. It brings it all back to me. It is just marvellous. It is the free thinkers versus the agrarian socialists. Yes, you capitalise the profits and you socialise the losses. It is all coming back!

I was a bit concerned a moment ago. I noticed that the deputy leader of the Country Party, who is leading the charge for his party on this matter, was up with — —

**Mr Delahunty** — On a point of order, Madam Chairman, this is the National Party.

**The CHAIRMAN** — Order! There is no point of order. The honourable member for Forest Hill, on the clause.

**Mr RICHARDSON** — In that case I take it the National Party does not want to have anything to do with the country! Is that what it is? But the Deputy Leader of the National Party — hullo, here he goes again — —

**The CHAIRMAN** — Order! Before the honourable member for Wimmera raises his point of order I remind him that he has to give his grounds for the point of order. It is not an opportunity for debate.

**Mr Delahunty** — On the point of relevance, Madam Chair, the National Party puts the country first. That is what I want to say.

**The CHAIRMAN** — Order! There is no point of order, and I ask the honourable member for Wimmera not to prolong the debate by raising silly points of order. I ask the honourable member for Forest Hill to address his comments to the clause and the amendments, please.

**Mr RICHARDSON** — Yes indeed, and you are quite right, Madam Chairman; he was pathetic, he really was pathetic. Equally pathetic was the sight of the Deputy Leader of the National/Country Party — no, they are not allowed to be 'Country'; they do not like the country! The leader who was leading the charge was up in the corner with the minister's adviser clutching a copy of the Water Act and getting advice on it. It is a bit late. He should have boned up on it beforehand.

The essence of the Country Party — sorry, the National Party — response to this amendment is that if you do not live, work and operate your property along the ribbon that follows the Murray River then it does not want to know about you. National Party members are not interested. They are saying, 'If you are in the

Wimmera, if you are in the Western District, if you are in South Gippsland, if you are in West Gippsland, we do not want to know about you. We do not want to know anything about you'.

They have been abandoned. That is what it means, because the essence of the proposition before the committee is that the government, supported by the National Party, wants to retain all the existing rights that apply to those irrigators who operate along the ribbon following the Murray River. But if you live in any other part of Victoria they want to disadvantage you.

This amendment leaves intact the existing rights and procedures that apply to the people who live and operate along that ribbon of the Murray Valley which just happens to be where the Country Party — sorry, the National Party — members have their seats, but if you live somewhere else in Victoria then you will be disadvantaged. The National Party wants to continue that disadvantage to people in the Wimmera, the Western District, Gippsland, South Gippsland, West Gippsland, the Mornington Peninsula and so on.

Let us be quite clear about where members of the National Party stand and whom they are abandoning and whom they are supporting. Let us be certain that we let the people who are being abandoned know that they are being abandoned.

**Mr DELAHUNTY** (Wimmera) — The honourable member for Kew raised the issue of the 100 per cent right that he believes farmers have at this stage, and he quoted from the act. I would argue strongly that if you are to give up something, you do not give up 97 per cent, and that is what we are saying about the amendment. The Liberal Party is saying, 'We are going from a 100 per cent right' — that is what the Liberal Party was screaming about — 'and we only want 3 per cent. In other words, we are giving up 97 per cent'.

We know the issue about waterways is being debated, and I explained that earlier in the debate. We know that the current Water Act is not working. This is a very important issue, and it is a pity we have gone to the depths we have today, but water is a finite resource and it is a pity we have had to stoop the way we have, because I do not represent people along the Murray River. I represent the largest electorate in the state — that is, the Wimmera. This issue has been debated with the people in the Wimmera; they have been consulted, and no-one will ever be happy with water laws, but they believe this is the best we can do.

The amendment provides that a person has a right to use water from a private dam — and I am not 100 per cent sure about the definition of 'dam' because it is not in the bill — if the amount of water used in any year does not exceed 3 per cent of rainfall on the property on which the private dam is situated. If you have a 100-hectare property and you build a dam to cater for it, and then you subdivide and cut the dam away from the property, what does the person with the other 70 hectares do? He has no entitlement to water. It is unfortunate that this 3 per cent amendment comes into Parliament at the 11th hour in this important debate. Had it been done properly, the 3 per cent amendment should have been laid on the table for further discussion, particularly during the deliberations on the Blackmore report; then we would have achieved a better outcome than will be achieved today.

The 3 per cent proposal translates into a huge volume of water — at least 350 000 megalitres just in north-eastern Victoria alone, not taking into account what happens in western Victoria, and South Gippsland or West Gippsland. It creates a new right that has never existed in more than 120 years. As the committee has heard from the honourable member for Gippsland South, the amendment contravenes the Council of Australian Governments direction and, importantly, it highlights many concerns that the committee will not debate today.

I am pleased that the honourable member for Polwarth and a few other honourable members, including the Premier, support the Wimmera pipeline. That indicates the importance of water, but if we are to have water in the pipes we must go about harvesting it in the right way.

The debate about the definition of 'waterway' has been a hot one. Experts better at such matters than any honourable member have tried to work it out. The Heeps committee could not resolve the problem, nor could the Blackmore committee. Now the Liberal Party has come up with the amendment.

The National and Labor parties and the Independents support the thrust of the bill, but this amendment is a major divergence from the bill. If we are to go that way, perhaps we should start again. I have yabby farmers in my area. It is an important little industry, and they are concerned. Will they be classified as commercial?

**Mr Maclellan** — Yes!

**Mr DELAHUNTY** — They will? They will have to get a licence?

**Mr Maclellan** — Yes.

**Mr DELAHUNTY** — They are pleased now, because they can either register it or licence it, but the important thing is they will have security of supply. All of us know the value of water. If you were going into a financial institution, your bank or the like, under this proposal your bank manager would say, 'What security do you have?'.

**Mr Mulder** — You could say, 'This is a note from the ministerial adviser.'!

**The CHAIRMAN** — Order! The honourable member for Polwarth is behaving in a disorderly manner. I ask him to desist. It is not appropriate to interrupt members while they are speaking. The honourable member for Wimmera, continuing.

**Mr DELAHUNTY** — Thank you, Madam Chair. It has been said that this is a very important issue, and I do not want to treat it in any other way than as the very important issue it is.

When this debate started and the Blackmore inquiry started and the work was started by those people, like many others in this chamber I was worried about how we could reconcile the differences between the upper catchments and the lower catchments. As I highlighted earlier today I have them in my area. I cannot support the 3 per cent right because I just think there are too many uncertainties about it all. Again, it would take away the security that every developer, farmer and landowner, wherever they may be, is looking for with this new bill. So I will not support the amendment.

**Mr PLOWMAN** (Benambra) — Before I start, I ask for leave to incorporate this Victorian rainfall map provided by the Bureau of Meteorology.

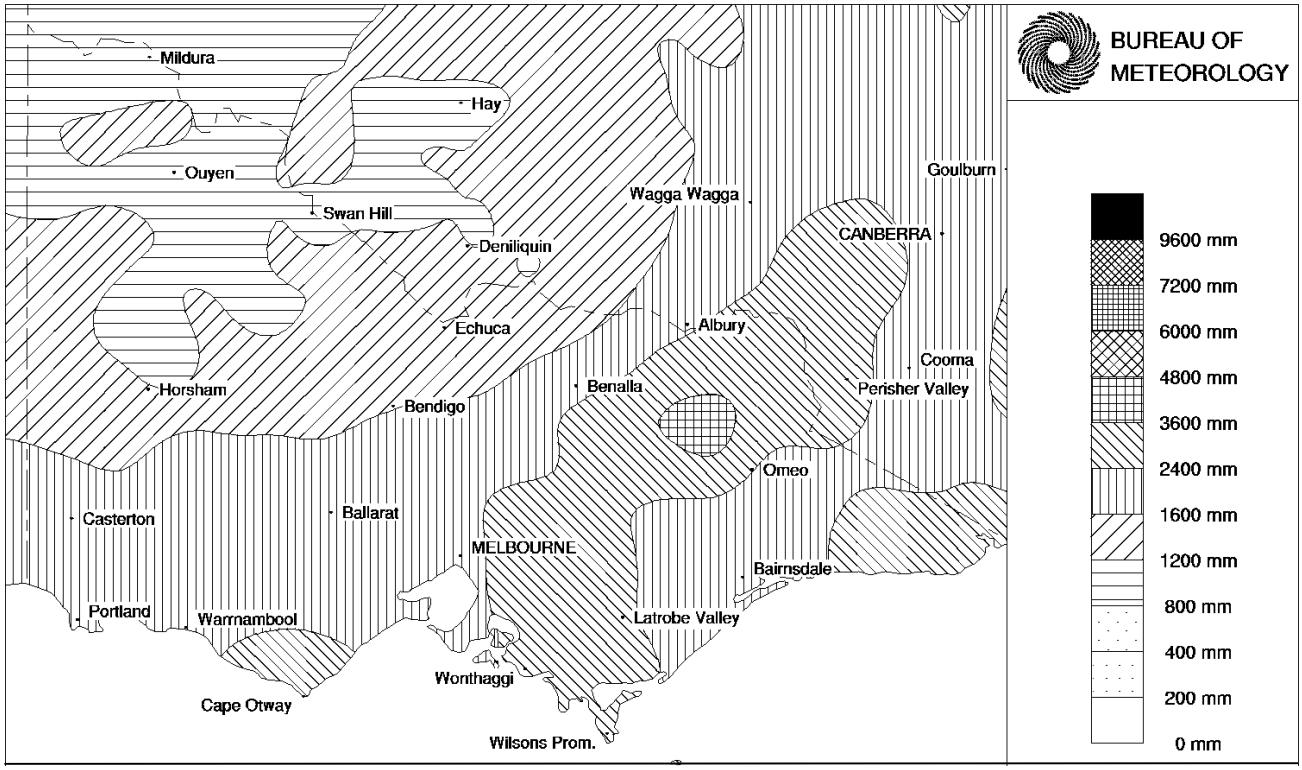
**The CHAIRMAN** — The Speaker has approved it, I presume?

**Mr PLOWMAN** — Yes, he has.

*Leave granted; map as follows:*

Victorian Rainfall (mm) 1 October 1998 to 30 September 2001

Product of the National Climate Centre




http://www.bom.gov.au

© Commonwealth of Australia 2001, Bureau of Meteorology ID code: IDCRFXvc.1998100120010930.bw.img Issued: 29/10/2001

**Mr PLOWMAN** — I would like to bring a bit of respect back to my friends in the National Party. I will start with the honourable member for Wimmera, who asked what would happen if you had a block of land, put a dam on it and subdivided it so that part of the land would not get any water. I point out that the opportunity to use water applies to the area of the land that is occupied. If that happens to be subdivided, then the area that you occupy is the area that you can draw your 3 per cent from. That simplifies that matter. He also suggested that we were prepared to give up 97 per cent and that, as a good footballer, you would not like those sorts of rules because if you go for something you go for it all.

Members of the Liberal Party accept that in this circumstance we cannot win on the use and we cannot retain the private rights to water. All we are asking for is the retention of 3 per cent of those rights. It is not a very big ask. Quite clearly what we are asking for is no more than 3 per cent, and in many cases where there are water supply protection areas, that will be determined at being less than 3 per cent.

I also ask a question — indirectly of course through you, Madam Chair — of the honourable member for Wimmera. He said it seems strange that members of the Liberal Party were prepared to give up 97 per cent but wanted to retain 3 per cent. Why then would the National Party want to retain an even smaller amount — that is, the curtilage? Why does the honourable member want to have that much around the house and say to us we are being a little bit silly in asking for only 3 per cent? The National Party is actually asking for less. I suggest there is little logic in that argument.

When we talk about the Wimmera catchment — which is a difficult catchment because it is under stress and is a terminal catchment — it is quite clear that if that Wimmera–Mallee pipeline is to be completed the 85 per cent of water that is currently lost in the distribution of water through that system would allow farmers to build any number of dams in the Wimmera catchment to accommodate all the water that is currently lost. I suggest it would take all the pressure off the issue in the Wimmera catchment and it would be like some of the other catchments where there is the opportunity to use some of the water. As the honourable member for Wimmera rightly pointed out, 3 per cent is not a lot.

The honourable member for Swan Hill suggested that all the water is allocated, and so it is under the cap. But what the honourable member fails to tell the committee is that part of the water is sales water. What he also fails to tell the committee is that the opportunity to use that buffer of water has always been available to catchment farmers. It is allocated, but catchment farmers have had the use of that water, which is otherwise allocated as sales water. Irrigators have always had the opportunity to access that water, but in the past it has been shared equally. It strikes me that irrigators are asking for a bit much when they say something that was shared in the past will no longer be shared in the future.

If this legislation is drawing some heat, honourable members should wait until legislation is introduced to change sales water to a medium security entitlement, which would totally tie up that water. There will be a fight over that and the issues will become very heated. I suggest to the honourable member for Swan Hill that when that debate occurs he could truly say the water will be an entitlement. The Liberal Party will fight that on the beaches!

The honourable member for Swan Hill also raised the fact that Sinclair Knight Merz has come up with these magical figures — or extraordinary figures. I think the honourable member for Gippsland East may have multiplied that figure by 1000 because he talked about the same number of gigalitres instead of megalitres, but that is a mistake anyone could make. The figures are hypothetical. This water will not be used; it cannot be used. If it was able to be used, more of it would have been used by now.

The honourable members for Shepparton and Rodney referred to locking up the water. How do you lock up water that is not locked up. It hits the ground and runs off; it is not locked up. The Liberal Party is asking for access to the use of that water. The suggestion that that amount of water will not be available to irrigators is hypothetical.

I agree that Mr Don Blackmore is one of the best authorities world wide, not just in Australia, so when he talks about it creating a contingent liability of 1.2 million megalitres I suggest he is talking about a hypothetical contingent liability. My understanding of a contingent liability — and I would like the honourable member for Kew to back me up on this — is something that will have to be met. There is no way this so-called contingent liability will be met. It is a hypothetical amount of water and there is no way in the world we could store that amount of water in the catchment areas. It is not possible. There are not sufficient dam sites or enough land to irrigate or money to build the dams.

**The CHAIRMAN** — Order! The honourable member has 2 minutes, so he had better remember!

**Mr PLOWMAN** — I will leave that: I would rather get back to the contribution of the honourable member for Ballarat East. I was appalled by his contribution, because it clearly showed that he does not understand the way the water system works in northern Victoria.

Having been part of it with the honourable member for Swan Hill I know he knows how it works, I promise you — and in my area, I know how it works. The ultimate hypocrisy in the bill — and it is something nobody has picked up yet — is that we are told an existing use can actually get a registration licence which will be free and continuous, or whatever the minister finally agrees to. That is, an existing irrigation use can get a registered licence. But what the minister has not said is that it has to be off a waterway, because quite clearly there are thousands of irrigation dams in northern Victoria that are not licensed that are on waterways. The minister has suggested that those dams can get a registration licence that will be free.

The bill states that a person may, without payment of an application fee, apply to the minister for a registration licence to take and use water from a spring or soak or water from a dam, to the extent that it is not water supplied to the dam from a waterway.

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

**Mr STEGGALL** (Swan Hill) — I thank the honourable member for Benambra and remind him that, as he does his mathematics, he might just remember the cap implications that exist there. The National Party looks forward to the discussion which I know we will have on the allocation of the area of the water right, which is commonly referred to as 'sales'. I appreciate that this is not the right bill to have the discussion on, but I thought the honourable member might have raised it a bit earlier than today.

I have to respond to my friend the honourable member for Kew, who, being a cunning lawyer, has come in here with a lot of shouting and fist-hammering and quoted section 8(4)(c) of the Water Act. Obviously he did not have the rest of the Water Act with him, because I know that if he had had it he would have read it. Subsection (5) states:

> Water referred to in sub-section (4)(c) may be used for any purpose on any land.

And that is exactly what the honourable member was saying. However, subsection (6) states:

> A right conferred by this section is limited only to the extent to which an intention to limit is expressly (and not merely impliedly) provided in —
>
> (a) this Act; or
>
> (b) any other Act or in any permission …
>
> (c) the conditions of a licence …
>
> (d) the prescriptions contained in an approved management plan …

Subsection (7) states:

> The rights to water conferred by or under this Act on a person who has an interest in land replace any rights —
>
> (a) to take or use water; or
>
> (b) to obstruct or deflect the flow of water; or
>
> (c) to affect the quality of any water; or
>
> (d) to receive any particular flow of water …

Subsection (8) states:

> This section does not authorise any act or omission that may —
>
> (a) cause any water to be polluted; or
>
> (b) obstruct the flow of any water in a waterway; or
>
> (c) erode or otherwise damage the surrounds of any waterway.

I appreciate the legal ability of the honourable member for Kew and non-legal ability of the honourable member for Swan Hill, but I think we might read section 8 in its entirety as we try to address this issue.

**Mr COOPER** (Mornington) — I am indebted to the honourable member for Swan Hill for confirming to me in his earlier contribution to the committee debate that the right to freely use dam water is being, in his words, 'changed'. For that read 'eliminated', because that is what he said. The honourable member for Swan Hill has just shaken his head, but the reality is that that is what he said: that all dams would have to be registered, and that the only right being taken away is the right to the free use of dam water, and that is being changed. However, the reality is that what he means by 'changed' is 'eliminated'.

The reality of that for the farmers on the Mornington Peninsula is that they will have to pay for water that they currently do not have to pay for. That is what it boils down to, and again I say to the committee that there is no need for that kind of restriction to be applied to the farmers on the Mornington Peninsula or in many other parts of the Victorian country. There is no need for that. Therefore we are again, as I said earlier, trying to make one size fit all. It is not necessary. What is necessary is to clearly address the areas where there has

been an overcommitment of water, and those areas concentrate in the irrigation areas along the Murray River. It is fair and reasonable, and we should do that because we are talking about a finite resource. But when you are talking about areas where there is no overcommitment, when you are talking about taking away the rights of farmers in areas where there is no need to remove those rights, then you have simply got to explain to them why this is beneficial to them.

From everything I have heard in the second-reading debate and on the clause in the committee stage nobody has come up with a sensible argument that would allow me or the honourable member for Dromana or members representing other electorates to go back to the farmers and say to them there is a sensible, rational reason for imposing this restriction. Again I say to the committee that you will have some angry people out there in country Victoria and you will have angry people on the Mornington Peninsula if you do not accept the fact that there is no need for this restriction to be applied to them.

If honourable members believe there is a valid reason for this, I would like to hear it. Perhaps the minister in addressing the issues on the clause may be able to come up with the reason. I would welcome it if she could, but so far the honourable member for Swan Hill, who is somebody who has dealt with the Water Act in this Parliament on many occasions over the years I have served here with him, has not been able to come up with any reasons, and nobody on the government side has been able to come up with it either.

I say to the honourable members who represent areas along the Murray — the honourable members for Murray Valley, Swan Hill, Shepparton, Rodney: I support you fully in addressing the issues where there is an overcommitment of supply. I have no problems at all with that, but I ask you to take into account and have some decent consideration of the people I represent. Why should they be subjected to restrictions just because there is a problem in your areas? If there is a problem in your areas we will address it, and we should address it not only as a Parliament but as a community. But if there is no problem on the Mornington Peninsula — and there is none — why should my constituents be subjected to unnecessary restrictions? Again I ask members of the National Party to take that into consideration. If they are asking for our support in regard to their areas we are happy to give it, but we are asking for something in return.

**Ms GARBUTT** (Minister for Environment and Conservation) — We have had 3 hours of passionate debate and some honourable members strongly and emotionally defending their areas. The problem is they are fighting the wrong issue. The honourable member who just sat down is fighting the wrong issue. He is saying that it is his electorate or the electorates of Dromana or Polwarth or others — —

**An honourable member** interjected.

**Ms GARBUTT** — The catchment of Kew, yes. He is saying that the issue at stake is that they are being the fall guys, to use the analogy of the honourable member for Polwarth, because other areas have overcommitted and are using too much water for irrigation and the waters are stressed in the irrigated areas. That is not the problem the bill is addressing. The bill provides that in Mornington, Dromana, Polwarth, Warrnambool and other areas there are neighbours who have catchment dams, for which they currently do not require licence, but a farmer next door can build a dam and take away the water that the other farmer was relying on.

The vineyard owners on the Mornington Peninsula want security and want to know that the farmers further up the catchment cannot build dams and take away the water supply on which they are relying. That is what is happening. It is happening with the south-east vegetable growers, on the Mornington Peninsula and on the Bellarine Peninsula. This is not about the irrigated areas versus the upper catchment areas; this argument is occurring inside the upper catchment areas. It will occur in Polwarth, if it has not already, and will occur in Warrnambool. It is occurring in Wimmera. They are not irrigation areas. That is the issue that we are having to address and that is the real problem.

Those landowners, whether they are growing grapes or providing water for their cows, want security of access and supply, and that is what the bill will give them. The Cranbourne vegetable growers were a classic. The first time I visited them they said they did not like the proposals or anything about the bill. Then two months later my department received a telephone call from a farmer who said, ‘My next-door neighbour is building a dam — —

**Mr Plowman** interjected.

**Ms GARBUTT** — Let’s focus on the real issue, shall we! A couple of months later my office gets a telephone call and the farmer says, ‘My next-door neighbour is building a very large dam and it is going to affect the water that goes into my dam’. It was not about catchment versus irrigation, it was about that farmer and the next-door neighbour. That can and is happening throughout the state. We should focus on the issue, not on the nonsense about irrigators taking all the

water and overstressing the rivers. That is not what the bill is about.

The problem with this last-minute 3 per cent amendment is that it has not been thought through — it was not part of the 18-month consultation process that the review committee undertook. It has not been circulated for people to think about the impact on them and how it would work.

**Mr Plowman** — It is VFF policy.

**Ms GARBUTT** — It is not Victorian Farmers Federation policy. I will come to that. The problem is that this is a last-minute, knee-jerk response by Liberal Party members. I have been debating this issue for two years. Honourable members opposite have been debating this for two, three or five years, yet this proposal emerges today. The problem with it is that it is flawed — it will not work. An initial analysis shows that 3 per cent of rainfall turns into 30 per cent of run-off. The honourable member for Benambra's own figures show that 90 per cent of rainfall soaks into the ground and only 10 per cent runs off. If the entitlement is for 3 per cent of rainfall that translates into 30 per cent of run-off. They are huge volumes.

**Mr Plowman** interjected.

**The CHAIRMAN** — Order! The honourable member for Benambra has had his go.

**Ms GARBUTT** — It has to be accounted for in the allocation system. Those huge volumes, as Don Blackmore has said, represent about a third of Eildon Weir when it is full, not at its current level. It would take half the irrigation water currently used by the northern irrigators. We would have to do one of two things: either break our obligations under the Murray–Darling Basin cap, tear up the interstate agreements we have under that cap, which we have always proudly met until now, or claw back irrigation water from our irrigators because the contingent liability of the 3 per cent would take out enormous amounts of water currently available further down the river.

That is the ultimate problem. It is not about the percentage figure even; it still would not work if it were 1.5 per cent, 1 per cent, 2 per cent or 2.3 per cent.

**Mr Plowman** interjected.

**The CHAIRMAN** — Order! The honourable member for Benambra!

**Ms GARBUTT** — It would create an administrative nightmare. There is absolutely no detail in this proposal about how it would work. Are we going to have a rain gauge on every property? Are we going to meter every dam? Is it proposed that if more than 3 per cent on one property is taken the farmer will have to licence it? If a stream flow management plan said, 'That is too much.', how would you limit it if it were not licensed? It simply would not work; it would be an administrative nightmare. This is not Victorian Farmers Federation policy. VFF policy was for 10 per cent of run-off and this is for 3 per cent of rainfall. It is a different figure: different in its application and in its volumes. It is simply not honest to say it is VFF policy.

Of course we know what this is really about: it is about scrambling for a few extra votes in the federal electorate of Indi, a Melbourne lawyer's failing campaign and a lack of leadership in the Liberal Party. I believe the Liberal Party needs to have a long, hard look at the proposed 3 per cent. Its needs to take the proposal out to the community while the bill is between houses and let people talk about it and work out the impact on individuals, on irrigation areas and on individual properties, and see what the response is. It has not been subject to any of that.

I am happy to make available to the Liberal Party all the figures and calculations we have done about the proposal and the problems in administering it that we have already identified after just one day's work, but I believe the community needs to have a look at it as well. I can understand how the proposal came from heavy lobbying and real concern in some electorates, but I believe the Liberal Party has a responsibility to its own constituents. It should get out there, put the proposal while the bill is between houses and see what sort of response comes along. Everyone deserves to have a good look at the proposal.

I note that the leader of the Liberal Party said today on radio he is happy to put the idea forward and have it tested on the floor of Parliament. We will do that today, but I think that as well everyone else needs to have a good look at the figures and the proposal.

**Mr MULDER** (Polwarth) — In relation to the contention by the minister that this has been a last-minute inclusion in the amendments by the Liberal Party, it is a simple fact that the proposal has in one form or another been put to the government and discussed with the minister — namely, that the private right be given as a percentage of run-off or in any other way, shape or form the minister may deem appropriate to negotiate. To say that the Liberal Party came along with this at the last minute and that it has not been

raised out there in the community is totally and utterly wrong. We have had meetings with the Victorian Farmers Federation (VFF) on this issue, and the federation's advice to us was, 'We have tried to get some sort of formula from the government. We have not been successful. If you can, go for it! Try to get something to replace the statutory rights that are being removed from farmers'.

In relation to the 3 per cent — and the minister is arguing the point about administrative problems and other issues to do with volumes of water — we are saying, 'Up to 3 per cent'. If a water supply protection area is declared and permissible annual volumes that can be taken from the water supply protection area can be set, it may well be that during the course of the year there will be no water to be taken, but if the water is available, why not take it? Those people have up to this time had the right to 100 per cent of the rainfall that has fallen on their property, but we are only asking for 3 per cent.

Irrespective of the minister's statement that it has never been put on the table, it has in fact been expressed and put on the table by the VFF and is VFF policy. It is the Liberal Party that is pursuing that policy not just for farmers in our own electorates — not just for Polwarth, for Warrnambool or for Benambra — but for country people right around Victoria. We are asking that the statutory rights that have been taken away be replaced with a miserable 3 per cent from this government.

I call on not just the government but the Independents and the National Party to support country Victorians.

**Mr McARTHUR** (Monbulk) — During the course of discussion the minister offered to provide members of the committee with calculations and data the government has available to it from its research on the 3 per cent. On behalf of the Liberal Party I welcome that offer; I accept the minister's kind offer. We would be pleased to see the information. Will the minister please make that information available as soon as possible?

**Ms GARBUTT** (Minister for Environment and Conservation) — I did make the information available earlier in the debate. Perhaps the honourable member was not here?

**Mr McArthur** interjected.

**Ms GARBUTT** — We might be able to do that as well.

**The CHAIRMAN** — Order! The committee has been discussing amendments 1 and 2 moved by the honourable member for Monbulk, and it will vote separately on those amendments. The committee will now vote on amendment 1.

**Committee divided on amendment 1:**

*Ayes, 34*

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

*Noes, 50*

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

**Amendment negatived.**

**The CHAIRMAN** — Order! As a consequence of his amendment 1 being lost, amendments 2, 5, 6, 7, 8, 9, 10, 20, 21, 24 and 27 foreshadowed by the honourable member for Monbulk are all lost.

**Clause agreed to.**

**Progress reported.**

## ROAD SAFETY (FURTHER AMENDMENT) BILL

*Second reading*

**Mr BATCHELOR** (Minister for Transport) — I move:

That this bill be now read a second time.

This bill proposes a range of amendments to the Road Safety Act 1986 and other acts dealing with road transport. One of the principal measures is the establishment of a register of written-off vehicles, which will make it harder to trade stolen vehicles. The bill also proposes a number of improvements to drink-driving laws, in particular by establishing more consistent principles governing when a first offender should lose his or her driver's licence.

Motor vehicle thefts in Victoria are at an unacceptable level. When a vehicle is stolen, it causes hardship to the victim and higher insurance premiums for all. The National Motor Vehicle Theft Reduction Council estimates that professional car thieves carry out around 20 per cent of vehicle thefts, representing about 55 per cent of the cost of vehicle theft to the community through higher premiums.

To sell a stolen car, professional thieves frequently replace its vehicle identifiers with those of a damaged car and then pass it off as a repaired vehicle. This scam is known as rebirthing. It is estimated that each year around 2000 stolen vehicles are rebirthed, at a cost to the Australian community of over $30 million. This bill proposes measures intended to curtail this trade in stolen cars.

The register of written-off vehicles will be maintained by Vicroads and will form part of a national network of such registers. The bill will authorise regulations to be made that will make it mandatory to report written-off vehicles to Vicroads in specified circumstances. When it receives a notification, Vicroads must list the vehicle's identifier on the register. Vehicle identification numbers are unique identifiers required by the Australian design rules. Once an identification number is listed, the bill will limit the circumstances in which a vehicle with that number can be registered for use on public roads.

The bill divides written-off vehicles into two classes, statutory and repairable. Basically, a statutory write-off is one that is assessed as being so badly damaged that it cannot be safely repaired. Where a vehicle has been listed as a statutory write-off, the bill will prohibit any vehicle with that vehicle's identification number from being registered for use.

In contrast, a repairable write-off is a vehicle that could be safely repaired but is written off by an insurer or self-insurer because the cost of repair would be more than the vehicle is worth. In these cases, regulations will require that the vehicle pass an identity inspection before it can be registered for use on public roads. The usual requirement for a roadworthy inspection will also apply.

New South Wales and South Australia have already established registers of written-off vehicles. However, to be fully effective registers need to be established in each state and territory and linked into a national network. Otherwise, professional car thieves will simply sell the vehicle in the jurisdiction with the weakest safeguards. There is evidence that vehicles stolen in other states are being resold in Victoria.

It is not possible to know precisely what savings the establishment of a register of written-off vehicles would achieve, but it will be a significant addition to the range of measures available to combat vehicle theft. The effect of the proposed register in reducing the rate of vehicle theft would be greatest in relation to high-value vehicles most at risk of rebirthing.

The bill proposes changes to drink-driving laws designed to prevent and deter drink-driving and to ensure that, where drink-drivers' licences are cancelled, it will be done in accordance with a consistent set of principles.

The dangers of drink-driving cannot be overemphasised. On average, only 1 in 300 drivers tested at police booze buses is a drink-driver. Yet about 1 in 4 driver fatalities are drivers who had a blood alcohol concentration of .05 or more. Put bluntly, and it needs to be put bluntly, a person who drinks and drives is not fit to hold a drivers licence until he or she reforms. They are a danger to themselves and to others.

When a drink-driver's licence is cancelled, the person concerned naturally sees it as a punishment. But punishment is not the real purpose. Rather, the main purpose is to save lives by removing a danger from the roads by providing an opportunity for rehabilitation and by deterring others.

For these reasons, the Road Safety Act requires that drink-drivers' licences be cancelled in most cases. And the period of disqualification reflects the seriousness of the offence. The higher a driver's blood alcohol content, the longer the period the person must be disqualified from driving.

Drink-driving infringement notices issued to first offenders impose a cancellation of licence whenever the reading is .05 or more. In contrast, where first offenders with readings of less than .10 choose to go to court, more than half keep their licences.

The concept of an infringement notice is that it allows a person to accept a fixed, but normally a lesser, penalty than would be likely if a court found the person guilty. It is anomalous in principle that persons who receive infringement notices should generally suffer more severe penalties than those found guilty by a court. This bill seeks to address that problem.

The bill does this by fixing .07 as the reading at which drink-drivers must lose their licences, irrespective of whether they accept an infringement notice or are found guilty by a court. Instead, first-time drink-drivers whose blood alcohol reading is between .05 and .07 will receive 10 demerit points. In the case of persons who are subject to a zero blood alcohol condition, such as probationary drivers and truck drivers, their licences will be cancelled if their reading is .05 or more.

This will mean that first-time drink-drivers with good driving records and whose reading is just above the legal limit will not necessarily lose their licences. But they will be put on notice not to re-offend. A person who accrues 12 or more demerit points within three years risks licence suspension, with the period of suspension varying according to the number of points. Even where a driver exceeds 12 demerit points, the driver may choose to retain his or her licence by opting to risk suspension for double the period if he or she incurs any further points in the next 12 months.

Thus the bill endeavours to balance a number of competing considerations. It reinforces the message that drink-driving is totally irresponsible and that drink-drivers should expect to lose their privilege to drive. It retains a measure of leniency for first offenders who are just over the limit and who have previous good driving records. But it puts those persons on notice to drive responsibly in future and provides an incentive for them to do so. Finally, it will be fairer in that first offenders who accept infringement notices will no longer be treated more harshly than the majority of those who go to court.

The bill also proposes a number of miscellaneous amendments, and I will now outline these to the house.

The bill will allow alcohol breath tests to be administered in places other than police stations and booze buses, such as police cars and hospitals. The present restrictions on where breath tests may be administered cast an unnecessary burden on both police and motorists in rural and remote areas. In remote areas, the requirement to take the person to a police station can delay the testing process by several hours. By allowing testing in police cars or other places, the test can be completed as soon as practicable and the motorist would be free to go. In Melbourne and regional cities it is expected that most breath tests will continue to be conducted at police stations or booze buses.

The bill will make driving instructors and persons steering towed vehicles subject to all the duties of a driver.

More and more individuals are trying to evade detection and prosecution by attaching wrong numberplates to a vehicle. Methods include swapping plates between vehicles, using stolen plates or using personalised plates to which the rights have been sold but which Vicroads has not assigned to a vehicle.

The bill will address this problem by amending the owner-onus provisions. Presently, owner-onus makes the registered operator of a vehicle liable for parking, traffic camera and tolling infringements unless and until the registered operator nominates the person who was actually driving. The bill extends the owner-onus principle so that it will also treat as an owner the person who was responsible for the numberplates actually displayed on a vehicle, whether or not those plates were assigned to that vehicle. Say, for example, a vehicle involved in a hit-and-run accident was displaying the wrong plates at the time of the accident. In that case, the person who last held those plates would be under a duty to assist police to identify the driver, in the same way as vehicle owners are currently required to assist police in hit-and-run cases.

The bill will also authorise police to confiscate numberplates displayed on unregistered vehicles, but only if the registration renewal period has expired.

The minimum age for a motorcycle learner permit in Victoria is 17 years 9 months, and the minimum age for both a driver and motorcycle licence is 18 years. As motorcycle learners can ride unsupervised, the current arrangements allow a person to ride a motorcycle solo at an earlier age than to drive a car solo.

Motorcyclists in urban environments have a risk of injury per kilometre travelled that is about 17 times the risk for car drivers. Licensing data for 1996–2000 shows that about 0.9 per cent to 1.8 per cent of motorcycle learner permit holders are 17 years old. However, analysis of data on vehicle accidents for the

period 1995–99 shows that 8 per cent of motorcycle learner permit holders who were killed or seriously injured were aged 17 years.

The bill proposes to raise the minimum age for obtaining a motorcycle learners permit to 18, so that the age at which novice motorcycle riders and novice car drivers may ride or drive solo will be the same.

The bill clarifies that infringement notices, and enforcement orders may be recorded and counted for the purposes of Victorian and interstate schemes for suspending the registration of heavy vehicles that are repeatedly involved in speeding offences as well as for the purposes of the licence demerit points scheme. The bill will also make several machinery amendments to the provisions governing the use of digital technology and of Vicroads registration and licensing records in traffic camera enforcement.

To sum up, the bill proposes an important measure to combat the rising rate of vehicle theft. It will tighten drink-driving laws while at the same time making those laws fairer for first offenders whose blood alcohol is just above the legal limit. And it will make a range of minor and machinery measures designed to close loopholes in existing laws. Taken together, the bill represents a significant package of measures that should improve the safety of all road users.

I commend the bill to the house.

**Debate adjourned on motion of Mr LEIGH (Mordialloc).**

**Debate adjourned until Thursday, 15 November.**

## MARINE (HIRE AND DRIVE VESSELS) BILL

*Second reading*

**Mr BATCHELOR** (Minister for Transport) — I move:

That this bill be now read a second time.

The bill provides for improved marine safety in Victoria by:

requiring operators of some hire-and-drive vessels to hold an operator licence; and

providing specific regulation-making powers to improve the safety for all operators of hire-and-drive vessels.

The bill also implements the government's explicit commitment to introduce separate regulatory arrangements for operators of hire-and-drive vessels, which maintain the safety objectives of licensing.

In November 2000, the government announced new licensing arrangements to improve safety on Victorian waters by ensuring that operators of registered recreational boats have a basic knowledge of waterway rules and safe boat operation. Licensing is consistent with the government's objective for a safer marine environment through improved operator competencies and related safety measures.

Whilst hire-and-drive vessels are predominantly used for recreational purposes, they are classified as commercial vessels. They are surveyed annually by officers of the Marine Board of Victoria but not registered like recreational vessels. As such they do not come within the scope of the new recreational boat operator licensing system.

The uncontrolled use of hire-and-drive vessels by unlicensed operators gives rise to obvious safety concerns, but restricting their use to licensed operators only would have an unintended adverse impact on the industry.

Having regard to this, the government gave two further commitments:

firstly, the hire-and-drive industry would be closely consulted in the development of the new regulatory arrangements; and

secondly, to address the hiring of personal watercraft, commonly known as PWCs or jet skis, when licensing is introduced for operators of registered recreational PWCs.

The government is now delivering on those commitments.

The Marine Board of Victoria conducted a survey of 120 hire-and-drive businesses in Victoria to gauge their response to various options for regulation of operators of their vessels. Eighty businesses responded and some participated further in a number of focus groups.

The industry feedback confirmed the need to improve safety and competencies of operators of hire-and-drive vessels to be consistent with the objectives of licensing. However, it also confirmed the government's view that a balance needs to be struck between improving boat operators' knowledge and skills and ensuring that improved regulation of operators of hire-and-drive

vessels does not unduly impact on small business and local tourism.

**Licensing requirements**

The bill provides that new licensing for operators of registered recreational boats will also apply to:

operators of hire-and-drive PWCs;

operators of mechanically powered hire-and-drive vessels capable of 10 knots or more;

operators of prescribed classes of hire-and-drive vessels; and

young persons aged 12 years and less than 16 years, who hire mechanically powered vessels.

The licensing requirements for operators of PWCs and young persons will be introduced during the 2001–02 boating season. The licensing requirements for operators of hire-and-drive vessels capable of 10 knots or more will be introduced during the 2002–03 boating season.

This staged implementation is consistent with the arrangements for the introduction of licensing for operators of privately owned and registered recreational boats.

The bill also establishes an appropriate offence and penalty regime to ensure that safety requirements are maintained.

Persons who have been disqualified from obtaining an operator licence either in Victoria or interstate will not be allowed to hire a mechanically powered vessel during the period of that disqualification. The same will apply to persons whose operator licences are suspended or cancelled for medical reasons.

**Additional regulation-making powers**

The bill also provides additional regulation-making powers to better manage the use and operation of hire-and-drive vessels.

These powers will also allow the instructions given to the vessel operator by the vessel owner to be improved. Current arrangements for regulating the operation of hire-and-drive vessels are limited to a requirement in the Marine Regulations 1999 that a person who hires out a vessel must ensure that the operator is competent to take charge of that vessel within any specified geographical limits. Although the regulations require the operator of the vessel to sign a statement indicating that he or she fully understands the instructions given, there is no prescribed form as to how this is to be achieved or documented for audit or enforcement purposes.

It is proposed to introduce an improved comprehensive pre-trip safety briefing and safety checklist to substantially improve the existing regulations for the instructions of operators of hire-and-drive vessels. A similar system operates in NSW and Canada.

The additional regulation-making powers will also improve the records to be maintained for the hire-and-drive vessels and require them to made available for inspection and audit purposes.

Other regulation powers cover information to be displayed on hire-and-drive vessels, such as safety and waterway rules, information, additional requirements for the issue of a certificate of survey for a vessel such as safety management plans, and the information intending operators of hire-and-drive vessels must give to the vessel owner in relation to any operator licence they hold or have held.

The consultation already undertaken with the hire-and-drive industry indicates general support for the improved safety measures to be provided by the additional regulation-making powers. However, the industry will be further consulted in the development of the regulations and given sufficient time to meet the new arrangements.

I commend the bill to the house.

**Debate adjourned on motion of Mr LEIGH (Mordialloc).**

**Debate adjourned until Thursday, 15 November.**

## ANIMALS LEGISLATION (RESPONSIBLE OWNERSHIP) BILL

*Second reading*

**Mr HAMILTON** (Minister for Agriculture) — I move:

That this bill be now read a second time.

The Animal Welfare Advisory Committee is an advisory group that provides advice to the Minister for Agriculture on animal welfare policy, strategies and programs to facilitate effective application of legislation that affects the welfare of animals. The committee has made recommendations for amendments to the Prevention of Cruelty to Animals Act 1986 and the Domestic (Feral and Nuisance) Animals Act 1994.

A public discussion paper calling for public comment was released as a result of those recommendations and legislative amendment of both acts is considered to be necessary to resolve problems with enforcement of the acts and to improve animal welfare.

I will now deal briefly with some significant features of the bill.

The following comments relate to proposed amendments to the Prevention of Cruelty to Animals Act 1986.

**Regulations prohibiting the possession of certain implements or their use on animals and to prohibit certain procedures used on animals**

Currently the act must be amended each time a new cruelty offence is proposed. For example, where a specific procedure or the use of certain implements is to be prohibited, the list of cruelty offences in section 9 of the act needs to be expanded. The bill will allow regulations to be made to prohibit the possession or use of certain implements and prohibit the conduct of certain procedures. Cruelty resulting from the use of implements or conduct of procedures could still be prosecuted under the general provisions of the act.

The prohibition of the possession or use of a number of implements will be able to be regulated subject to the regulatory impact process. Some examples of implements which may be considered for prohibition or regulation are dog or cock-fighting implements, pronged collars and electronic dog-training collars, except when used under the supervision of suitably qualified experts.

An example of a procedure for which prohibition by regulation will be considered is the firing of horses. This is an antiquated procedure where hot irons are used to burn the skin in a pattern that increases blood supply to areas near joint/tendon injuries and immobilises the horse due to pain. There is no support in the veterinary profession for this procedure.

**Attendance at animal fights**

There are currently severe penalties, $12 000 or 12 months jail, for providing premises for animal fights and for being the owner of an animal that is injured by an organised fight. There is currently no penalty for attending an animal fight. Given that attendance at an animal fight encourages such activities to take place, the bill will make it an offence to attend an animal fight.

**Entry to a person's dwelling to investigate animal cruelty**

Inspectors appointed under the Prevention of Cruelty to Animals Act can currently enter premises, other than personal dwellings, to provide assistance to animals and to inspect for cruelty. Situations arise in urban areas where such animals may be inside a house that is used as a personal dwelling and no action can be undertaken by inspectors. The bill enables inspectors to enter a person's dwelling if there is a reasonable suspicion of cruelty but only after obtaining a warrant from a court.

**Notice to comply**

Inspectors are frequently faced with a situation where they provide reasonable advice to an owner of an animal which is at risk, but this advice is ignored or poorly implemented. The situation then declines such that animal cruelty develops or an animal's suffering continues. Currently, a court can make orders for an owner to comply but only if the owner has already been convicted of a cruelty offence. This results in many situations where an inspector cannot take timely action to prevent a cruelty situation arising if the owner is not cooperative.

The bill will allow an inspector to issue a notice to a person that requires the person to comply with specific written instructions to alleviate cruelty to an animal or to prevent a situation in which cruelty is likely to occur. It will be an offence not to comply with the notice.

**Warrants to seize animals**

The act currently includes a process whereby the minister can order a specialist inspector to seize and dispose of animals. Usually the animals remain on the property until disposal is arranged. In practical terms, this process is intended to cover farm livestock situations that are protracted and unlikely to be resolved by the owner. Currently, inspectors, as opposed to specialist inspectors, can provide assistance, feed, water and treatment to animals on site but cannot remove animals to place them in care.

The bill will allow an inspector, with the written permission of the secretary, to apply to a magistrate to seize an animal from premises, including a dwelling if the inspector believes on reasonable grounds that the welfare of the animal is at immediate risk.

I will now comment on the proposals in the bill which relate to amendments to the Domestic (Feral and Nuisance) Animals Act 1994.

### Increased penalties for dog attacks

The current penalty for a dog attack on a person or for setting a dog to attack is $500. An owner is also liable for any damage caused by an attack if convicted. A magistrate can also order the destruction of the dog. The bill increases the maximum court penalties for dog attacks in response to public concern over publicised dog attack cases and the perception that current penalties are not an adequate deterrent. The increases are significantly higher for dog attacks that result from a deliberate human action such as urging a dog to attack and for an attack by a dangerous dog that has a history of attack or attack training.

### Restricted breeds

The bill will align commonwealth and state legislation regarding pit bull terriers by introducing restrictions to be placed on restricted breed dogs. Restricted breed dogs have been defined to mean those dogs prohibited from being imported by the Commonwealth Customs (Prohibited Imports) Regulations 1956 and includes pit bull terriers. Defining restricted breed dogs in this manner will ensure consistency with the relevant commonwealth legislation.

The controls on restricted breeds include limiting the number of restricted breed dogs that can be owned without a permit to two, defining housing requirements and warning signage on the premises, controls when the dog is off the premises, permanent identification, compulsory notification upon the sale of an animal and in the event of escape, death or change of ownership of the dog. The proposed amendments will prevent ownership of a restricted breed dog by a minor.

To avoid vexatious appeals, a fee will be imposed on owners of dogs declared to be dangerous who seek a review of that declaration by the review panel. If the appeal process is shown to lead to vexatious actions then the government will take further action to ensure that it operates effectively.

Over a period of one year, the effectiveness of the restricted dog measures will be monitored and assessed. Should there be sufficient justification, the government may consider greater controls on restricted breed dogs, for example compulsory de-sexing.

The restrictions proposed in the bill are consistent with responsible pet ownership requirements, are generally consistent with the restrictions placed on owners of dangerous dogs and address concerns expressed by the community over these breeds of dog.

The bill ensures that the welfare of animals is protected and that enforcement agencies are better equipped to enforce the respective legislation. It also responds to community concerns over the keeping of animals that are perceived as having the potential to cause serious injury if they attack.

I commend the bill to the house.

**Debate adjourned on motion of Mr McARTHUR (Monbulk).**

**Debate adjourned until Thursday, 15 November.**

## VICTORIAN INSTITUTE OF TEACHING BILL

*Second reading*

**Ms DELAHUNTY** (Minister for Education) — I move:

That this bill be now read a second time.

Victoria's continued economic growth and social and cultural wellbeing are greatly affected by our capacity to successfully engage with the new knowledge economy and society. Knowledge, innovation, skills and creativity are the drivers for this emerging new world.

Education and training are therefore more important than ever before in preparing our students with the necessary knowledge and skills to successfully participate as active and informed citizens, family members and workers in this new world.

Parents know what recent research both here and overseas has consistently shown — that allowing for other factors, the most important influence on student learning is the knowledge, skills and attributes of teachers. We can all remember the teachers who helped shape our lives and careers.

Indeed where would today's lawyers, doctors, nurses and architects be without the professional knowledge, skill and dedication of our teachers. Yet it is a curious anomaly that all of these professions, each important to our social and economic wellbeing, are recognised and regulated as professions — yet teaching is not.

While Victoria's current teaching profession is the most qualified it has ever had, we and the profession face a number of emerging issues. These issues challenge us to secure the continued high-quality and improving standards that we expect from the teaching profession — in the interests not only of the profession,

but more importantly of the general public and in particular of our children.

There are three key issues which need to be addressed.

The first issue is the changing profile of the profession. The profile of the profession shows that we face a generational change in the teaching profession in the next 10 years and we must ensure the continued high quality of our teachers. The current average age of our school teachers is estimated to be close to 44 years. Within the next decade half of our current school teachers can be expected to retire.

The second issue is the changing nature of teaching. Our future generation of teachers must be better prepared for their changing role. The changing world of work, the increasing cultural diversity of our community and the changing nature of families, the increasing reach and power of information and communication technologies — these are all factors which are now irrevocably changing the learning relationship between student and teachers.

Research commissioned by the commonwealth government and presented to the recent national summit on school education highlighted that, within this context, the role of the teacher is likely to become more complex and demanding, requiring greater levels of knowledge and expertise to adapt the learning environment to the stage of development and needs of individual students.

The third issue is raising the status of teaching. We must raise the status of the teaching profession to secure the quantity and quality of the next generation of teachers. Paradoxically, while parents recognise and highly value the work of individual teachers, the community in general and teachers in particular do not believe that the teaching profession is highly valued.

Teaching is not being recognised for the highly skilled profession that it is. Unfortunately many people and groups in our community regard teaching as just a job — not a profession. Teachers are not just employees — they are professionals and should be recognised and treated as such.

Teachers see themselves as professionals but not as belonging to a profession. The social institutions which we create to recognise, support and foster other professions do not all exist for the teaching profession.

The government is therefore moving to address these issues through this bill to establish the Victorian Institute of Teaching.

The institute is part of a broader reform agenda, whereby through strategic investments in our schools and teachers, the government aims to improve Victoria's education and training services so that all Victorians have the best chance of success in the future.

The government has already moved to lift the gag on teachers so that they can contribute to public debate on educational issues. It has created a new, enhanced career structure based on high standards and is offering up to 220 teaching scholarships in this and the next two years to attract the best graduates to teaching.

This bill complements these key achievements and also fulfils the government's election commitment to establish an independent and representative professional body to advise on standards, qualifications and professional development.

The bill sees the establishment of the Victorian Institute of Teaching as a world-class standards setting authority, reflecting contemporary international best practice for teacher professional regulatory bodies.

The institute is established to promote and improve, for the public benefit, the quality of teaching in all Victorian schools through the regulation of the teaching profession.

To this end the functions of the institute will include the following.

Recommending for approval of the minister, qualifications criteria and standards for the registration of teachers in schools in Victoria.

Developing, establishing and maintaining standards of professional practice for entry into the teaching profession and for continuing membership of the profession.

Approving teacher education courses for entry to the profession.

Granting registration or permission to teach to persons seeking to teach in Victorian schools.

Maintaining a publicly available register of teachers who are registered.

Investigating the serious misconduct, incompetence or continued fitness to teach of registered teachers and impose sanctions where appropriate.

Developing and maintaining a professional learning framework to support and promote the continuing education and professional development of teachers.

Undertaking and promoting research about teaching and learning practices.

Providing advice on the professional development needs of teachers.

As the new single registration authority for all primary and secondary government and non-government school teachers, it will act to reassure the Victorian community that teachers in our government and non-government schools are qualified, competent, fit to teach and of good character.

The institute will replace the Standards Council of the Teaching Profession and have transferred to it the functions associated with the registration of non-government school teachers currently undertaken by the Registered Schools Board. The board will continue to be responsible for the registration of non-government schools and endorsement of non-government schools to accept overseas students.

The current requirement to undergo a criminal record check, which presently applies to persons seeking registration with the Registered Schools Board or employment in the department, has been incorporated into this bill. Similarly, the present provisions of the Education Act which provide for the automatic deregistration of teachers found guilty of sexual offences involving children, have also been incorporated into this bill. There is a considerable body of knowledge within both the Registered Schools Board and the department that the institute will be able to draw upon for the administration of the proposed registration requirements.

The establishment of the institute through this bill provides it with certain legal administrative powers that are quite separate to the responsibilities of employers or individuals under civil, criminal or labour law.

In the exercise of its functions the institute would need to have due regard to the actions of employers or members of the institute under such laws.

The net effect of the institute's powers and functions is to limit employers of school teachers only by the requirement to employ teachers registered by the institute. They retain all other current powers and functions.

This makes registration by the institute a necessary but not necessarily sufficient condition for employment. Employers are free, as currently, to impose higher standards for employment.

On the other hand it adds to the current powers of the employers an added sanction of referral to the institute for the possible deregistration of teachers for serious misconduct, serious incompetence or where employers believe, with due cause, that a teacher is no longer fit to teach.

As such the employment responsibilities of employers remain intact and separate.

Where formal complaints are made to the institute alleging serious misconduct, serious incompetence or that a teacher is no longer fit to teach, the institute will initially investigate such complaints through referral to an employer wherever appropriate and practicable.

The bill provides for the provisional registration of new entrants to the teaching profession, requiring that such persons demonstrate that they meet appropriate standards of professional practice for full registration. It also recognises that teaching, like many other professions, requires people to keep abreast of contemporary knowledge and practices. Therefore teachers will be required to renew their registration every five years by demonstrating that they have maintained an appropriate level of professional practice in that period.

The bill also provides that all teachers currently registered with the Registered Schools Board or employed by the Department of Education, Employment and Training in the previous two years, would be automatically registered.

A recent commonwealth report has highlighted that much is available by way of professional development for teachers and that teachers are generally deeply committed to continued professional development with a strong belief in its importance and efficacy. However, throughout the wide-ranging consultations undertaken for the establishment of the institute, teachers have repeatedly highlighted their need for sound professional advice on the best and most appropriate professional development. The institute will therefore have a critical role in developing a professional learning framework that will both guide teachers' professional growth and advise them on the professional learning needed to maintain their professional practice.

Addressing the key issues identified above requires a committed partnership between the teaching profession, government, employers and other key stakeholders.

The government's election commitment was to support the establishment of the institute through the redirection of funding for the Standards Council of the Teaching

Profession and the teacher registration function of the Registered Schools Board.

To fully support the essential work of the institute this funding will be supplemented by an annual registration fee from registered teachers. The government wants to minimise the cost of registration to teachers and in this context the institute will prepare for the approval of the minister a strategic plan and an annual business plan for the institute.

The Victorian Institute of Teaching's funding arrangements reflect that partnership, as does the composition of its governing body — the institute council.

The composition of the maximum 19-member council reflects the key principles of:

accountability;

ownership; and

partnership.

As a public statutory body, the institute will be required under the Financial Management Act 1994 to report to Parliament through the Minister for Education. In addition the institute is required to have due regard to the minister's advice in carrying out its functions.

Ownership is addressed by ensuring that a majority of the institute's governing body are practising members of the profession with the majority of this proportion being elected by the profession.

Partnership is addressed through the major stakeholders (government, employers, teacher educators and parents) being represented on the institute's governing body.

The institute will also have the capacity to establish colleges to recognise and promote high standards of practice in particular domains of practice within the profession — domains of practice distinct from practice in the regular classroom.

The institute council can decide to establish such colleges through the delegation of its powers and functions articulated in a charter. A charter must detail the purpose, delegated powers and functions of a college as well as the governance and funding arrangements for the proposed college.

In recognition of the unique and important leadership role of principals in the profession the government will support the institute in its transitional phase by establishing the first such college — the College of Principals. Work is currently under way on the drafting of a proposed charter for this college to ensure that it is established with the full support of all the major school principal organisations.

The government recognises that the institute must remain focused on meeting the contemporary expectations of government, the community and the profession. The government therefore intends to initiate a review of the institute of teaching in its fifth year of full operation.

The review will consider:

1. the appropriate objectives for the institute in the light of government policies and changes in all educational sectors since its establishment;

2. the effectiveness of the institute in achieving its original objectives;

3. the most appropriate structures for achieving the objectives identified under point 1;

4. whether the institute or a successor body has a role to play in this future environment; and

5. if the institute is to continue, changes that may be required to its functions, structure and legislative mandate.

The establishment of the Victorian Institute of Teaching will go a long way towards providing the Victorian community and the teaching profession with the assurance that we can secure and improve the high quality of our teachers for the individual and collective wellbeing of our future generations.

All governments should seek to do no less.

I commend the bill to the house.

**Debate adjourned on motion of Mr HONEYWOOD (Warrandyte).**

**Debate adjourned until Thursday, 15 November.**

## FILM BILL

*Second reading*

**Ms DELAHUNTY** (Minister for the Arts) — I move:

That this bill be now read a second time.

This bill supports a key Bracks government commitment to make Victoria a centre of excellence for

film, television and multimedia production and ensure a strong future for the industry.

One of the first actions of the Bracks government was to establish the Victorian Film and Television Industry Taskforce, chaired by Sigrid Thornton. The task force spent several months consulting with film and television industry practitioners, receiving 80 formal submissions and meeting with more than 30 other groups and individuals.

The task force report was delivered to government in September 2000. Its first and key recommendation was for a re-invigorated state film and television funding body — 'It is critical that Victoria has a well regarded and well-funded government film and television body … submissions to this review have been quite clear about this. They overwhelmingly favour change'.

The evidence detailed in the task force report proved that the Victorian film and television industry has suffered significantly without a dedicated government body focused on its strategic needs. Victoria's share of the total national value of Australian and foreign production reached a low of 17 per cent in 1998–99 — a drop of more than 10 per cent from 1988–89.

The Victorian government is committed to implementing the recommendations of the Victorian Film and Television Industry Taskforce to re-establish the industry and exploit its potential for the economic and cultural good of all Victorians.

This legislation is the latest in a series of initiatives to secure the renaissance of the Victorian film, television and multimedia industry. Initiatives to date include:

Extension of the department of state and regional development's strategic initiative industry program to film and television.

Increased recurrent funding of $31.6 million over four years for industry development and investment in film, television and new media production.

Recurrent funding of $13.13 million over four years, and capital funding of $13.84 million in 2001–02 for the Australian Centre for the Moving Image.

Up to $40 million for the Docklands studio development

These initiatives, in response to the task force recommendations, will revitalise the Victorian film and television industry and will result in increased employment from more film and television production. In 1998–99 Victorian-based companies generated production activity worth $117 million. The task force estimated that, following implementation of its recommendations, in three years:

Independent film and television productions will be worth between $150 and $200 million annually.

The combined impacts of domestic and footloose production (and through the multiplier effect) will inject $500–$700 million into the Victorian economy.

This bill delivers robust and necessary changes to government film and cultural institution structures.

In 1997, the Australian Centre for the Moving Image, was only an idea. Opening shortly, the vibrant centre will need specific legislative functions and powers, and require focused attention and management capacity to realise its potential

The case for two new statutory bodies is compelling, and there is overwhelming industry support for change.

The bill repeals the Cinemedia Corporation Act 1997, abolishes Cinemedia, and establishes, from the partitioning of the assets and human resources of Cinemedia, two entirely new and separate bodies which have different charters and objectives.

Film Victoria, a small statutory authority, will be the government's dedicated and strategically focused film, television and multimedia industry policy and funding body. Film Victoria will fund projects which are significantly Australian in content and which are controlled, developed and produced by Victorians in Victoria or which provide clear economic benefits to Victoria. Together with other initiatives already announced, Film Victoria will help focus and restore Victoria's national and international position.

The Australian Centre for the Moving Image (ACMI for short), will manage the new facility at Federation Square, and promote screen culture to a national audience. ACMI will showcase the moving image and the screen arts, promote events, festivals, and other activities, and advance public education. ACMI will be Victoria's seventh major cultural institution and venue (after the State Library of Victoria, Museum Victoria, National Gallery of Victoria, Public Record Office Victoria, Victorian Arts Centre, and the Geelong Performing Arts Centre).

Cooperation between Film Victoria and ACMI, and an effective use of government resources, will be assured. Both new bodies will be in the arts portfolio. The

statutory functions of the bodies require the development of relationships and partnerships.

**The main features of the bill**

This bill includes many provisions commonly found in other statutory bodies' legislation, particularly in respect of procedures for member appointments and corporate governance arrangements. As with all statutory bodies' legislation, the key provisions in this bill are the unique functions and powers prescribed for the two new bodies.

Part 1 repeals the existing Cinemedia Corporation Act 1997, and establishes two new Crown inner budget statutory arts bodies, Film Victoria, and the Australian Centre for the Moving Image. A brief description of the new bodies' overall aims/objectives is included.

It is the government's intention to proclaim a commencement date of 1 January 2002.

Part 2 establishes Film Victoria, sets out the functions and powers of the new body, and specifies its membership and governance structure. Members of Film Victoria will be appointed by the Governor in Council. The majority of members of Film Victoria will be chosen from persons who are, in the opinion of the minister, experienced in the film, television or multimedia industry. Provision is also made for the establishment of committees, the appointment of a chief executive officer and the employment of other staff. As a grant and investment body, specific conflict of interest provisions have been included for Film Victoria's members, committees, CEO and employees.

Part 3 establishes the Australian Centre for the Moving Image. This part substantially mirrors the structure of part 2. However, ACMI's functions are quite different to those of Film Victoria. Other differences are to be found in ACMI's powers and its membership constitution. There are also specific provisions relating to the sale or disposal of items in ACMI's collections.

Part 5 sets out transitional arrangements. In summary, it provides for the partitioning of Cinemedia's human resources, assets and liabilities between Film Victoria and ACMI.

A schedule sets out some common provisions for Film Victoria and ACMI in relation to procedural matters for the appointment of members, and for meeting procedures including quorums and voting.

This bill is the product of extensive consultation with the industry and government bodies. Firstly through the Thornton task force and subsequently, at various stages of the bill's development, with members of the task force, representatives of the film and television industry working party, Cinemedia board members and other industry experts.

I have been pleased, but not surprised, by the energy, diligence and goodwill of everyone who has participated in this legislative reform project, and I would like to record my appreciation.

I commend the bill to the house.

**Debate adjourned for Mrs ELLIOTT (Mooroolbark) on motion of Ms Asher.**

**Debate adjourned until Thursday, 15 November.**

## ACCIDENT COMPENSATION (AMENDMENT) BILL

*Second reading*

**Mr CAMERON** (Minister for Workcover) — I move:

That this bill be now read a second time.

**Voluntary settlements**

The prime purpose of the bill is to implement commitments in relation to voluntary Workcover settlements made by the government in April last year during debate on the Accident Compensation (Common Law and Benefits) Act 2000.

The government is committed to a system of weekly benefit payments for workers compensation, which focuses on creating strong incentives for rehabilitation. It believes that, for the vast majority of injured workers, an indexed weekly payment is the most appropriate compensation for economic loss. Of paramount importance is the fact that no eligible injured worker will be forced to take any settlement, and may instead choose to receive an indexed weekly payment for as long as he or she remains entitled to one.

The current settlements provisions of the Accident Compensation Act 1985 are unduly restrictive as they do not enable the calculation of different settlement amounts to differentiate between categories of applicants by reference to particular injury dates. In addition, they do not establish sufficiently clear and robust administrative processes for settlements. Legal advice has also reinforced concerns that the existing section 115 may expose the Workcover scheme to considerable and unintended financial loss.

In these circumstances, the government has decided to legislate specifically for a limited range of the voluntary settlements provisions.

***ICRP claimants***

First, the government honours its April 2000 commitment to make voluntary settlements available to certain workers injured during the non-common-law period. These workers are those who were seriously injured between 12 November 1997, when access to common law was removed by the Kennett government, and 19 October 1999, after which access was restored by this government under the Accident Compensation (Common Law and Benefits) Act 2000.

As announced by the government in April last year, the intensive case review program (ICRP) was established to assist these workers to ensure they received the maximum benefits to which they were entitled. It was originally intended to use the existing settlement provisions in the act. However, as outlined above, legal advice suggested that this would be problematic given the rigidity of the existing act. The advice was to the effect that specific amending provisions should be adopted — which is the purpose of this bill. As common-law access was reinstated for serious injuries from October 1999, many workers in this ICRP period have now been on weekly benefits for more than two years.

As per the government's commitment in autumn last year, the amendments in the bill will make voluntary settlements available to those ICRP workers who:

are assessed as having a whole person impairment of 30 per cent or more using the AMA Guides fourth edition; and

have been on weekly payments for at least 104 weeks; and

who are assessed as having no current work capacity indefinitely.

***Workcare claimants***

In addition, the government has decided to legislate to allow VWA to make voluntary settlements available to workers who were injured before 1 December 1992 and so did not generally have access to common-law damages for economic loss. This allows for some policy consistency regarding injuries during periods when common-law benefits were not available. Again, this will only be relevant to those injured workers who choose not to exercise their right to continue receiving weekly payments. The Governor in Council is empowered to determine a suitable payments table for this group within six months of the commencement of the new legislation with such determination being made on the advice of the VWA board.

Should such a payments table be introduced, then under these arrangements a worker will be entitled to apply for a voluntary settlement in respect of a work-related injury if he or she:

suffered the injury between 31 August 1985 and 1 December 1992;

was receiving weekly payments at the date of submitting an expression of interest;

is assessed either as having no current work capacity indefinitely, or as having a serious injury for the purposes of receiving weekly payments; and

as at 3 September 2001, was receiving weekly payments and had received them for a total of at least 104 weeks.

The bill includes a table of settlement payments for ICRP claimants. This table has been calculated based on actuarial advice, as envisaged by the government in April last year. Consistent with the government's concern to ensure the financial viability of Workcover, the table delivers benefits that are reasonable and do not put the scheme at risk, even if all eligible workers took up their entitlement. The table is actuarially determined, as envisaged in autumn last year.

***Current claimants***

Certain ICRP and Workcare claimants have applied to VWA since 4 November 2000 or to a self-insurer since 28 November 2000 for settlements under section 115 of the act. Those claimants whose applications are pending may request VWA or the self-insurer to defer consideration of their application until the new provisions come into operation, as the ICRP and (if acted upon) Workcare-specific settlement tables may be more generous than the existing section 115 table.

Again, I emphasise that all settlements are voluntary and the injured worker will have the right to continue to receive his or her current indexed weekly payment, subject of course to continuing to meet the relevant criteria, or to choose a settlement.

***Other voluntary settlements claimants***

In addition, existing opportunities to apply for voluntary settlements will remain for some claimants. However, the bill removes the existing requirement for

some applicants to show that they require the settlement for an income-producing project. The existing power to extend opportunities to offer settlements by regulation is retained.

***Administrative procedures for voluntary settlements***

The bill also introduces certain formal administrative procedures into the act relating to making and processing of settlements applications and, in order to avoid disputes, settlement amounts will be calculated in accordance with set formulae. Workers' rights will also be protected by requiring them to obtain independent legal and financial advice on any settlement amount advised to them by VWA or a self-insurer prior to making any decision. VWA or a self-insurer will pay the reasonable costs of obtaining such legal and financial advice, up to a maximum amount to be set by ministerial direction. VWA or the self-insurer will also retain a limited discretion to refuse to offer any settlement.

***Taxation status of voluntary settlements***

The Australian Taxation Office has advised VWA that it currently treats lump sum payments such as the settlements provided for in this bill as not constituting assessable income. For this reason, the bill uses the net-of-tax amount of weekly payments as the basis for the settlement calculation.

The ATO has indicated that this policy is currently under review. The state government does not support such a change in commonwealth tax policy, and believes that it would severely disadvantage injured workers. It would also be inconsistent with the policy recently announced by the commonwealth in respect of structured settlements.

However, should the commonwealth change its current tax policy in such an outrageous and unfair way, the Victorian government is determined to ensure that injured workers do not suffer a financial penalty. The bill takes this possibility into account and gives options for the government to assist affected workers.

I now turn to the other provisions of the bill.

**Conciliation service**

The role of conciliation officers has been very important in handling disputes between parties in relation to workers compensation claims in a sensible manner. However, the conciliation service itself has had an ambiguous structure since its inception. Conciliation officers are currently engaged by VWA on the nomination of the minister, but are not subject to direction by VWA. The senior conciliation officer is responsible for allocating cases to conciliation officers, but has no administrative authority for the service.

In keeping with the government's election commitment to an independent dispute-resolution process, this bill establishes the conciliation service, for the first time, on a clearly independent basis. The bill creates the Accident Compensation Conciliation Service as a body corporate, separate from VWA. The senior conciliation officer, as the sole member of that body corporate, is given the necessary powers to run the conciliation service. All conciliation officers will now be appointed by the Governor in Council, on terms and conditions agreed by the minister. The conciliation officers retain their independence in carrying out their duties in providing conciliation services, and are immune from any liability for acts done or omitted to be done in good faith in the exercise of their duties, with any such liability attaching to the service and not to the conciliation officer.

The bill provides for the removal or suspension of a conciliation officer by the Governor in Council for a serious breach of his or her duties. The government received legal advice that under the present act, such a removal could only be effected through the very public and dramatic process of a resolution of both houses of this Parliament. While it would be hoped that these new provisions will never have to be used, they have been carefully drafted to ensure that natural justice will be required to be followed if any such case should unfortunately arise.

The bill also removes the requirement for compulsory conciliation of claims for compensation for the death of a worker. As these tragic claims must be determined by the County Court, such conciliation achieves nothing but a delay.

**Part 5 of the bill: I. R. Cootes and SBA Foods litigation**

On 6 June 2001, the Court of Appeal handed down its decision in the case of the *Victorian Workcover Authority v. I. R. Cootes Pty Ltd*. In that case, the court read down a number of key provisions in the Accident Compensation (Workcover Insurance) Act 1993 and the premiums order made under that act. In effect, the Court of Appeal determined that VWA cannot recover recalculated employer premium prior to the current policy year, except in very limited circumstances.

The full extent of the decision is unclear, but even on a conservative reading it has widespread implications for Workcover funding, for VWA's practices, and for

employers. Since 1993, Workcover premiums have been determined by employers self-assessing their industry classification with VWA using an audit system at the conclusion of policy years to determine if the correct premium has been paid or whether an adjustment is necessary.

Further uncertainty about the extent of the decision in Cootes arises from the later decision of the Supreme Court of Victoria in *SBA Foods v. Victorian Workcover Authority* where Justice Gillard found that VWA did have sufficient statutory power to recalculate and recover employer premiums in respect of past policy years.

VWA's legal advice was that the Cootes and SBA Foods decisions are incompatible and leave the law on these points uncertain. This situation would be ultimately detrimental to the interests of VWA and of most employers. Although VWA has sought special leave to appeal the Cootes decision to the High Court, it could be at least two years before this is resolved.

In the meantime, VWA and employers are likely to be engaged in protracted and expensive litigation.

Further, VWA will be required at least to double its audit program of employers, if it is to prevent revenue leakage arising from the Cootes decision. This is part of the fiduciary duties of the board requiring it to take the most cautious approach, given the unresolved nature of this issue. If VWA did not do this, the lost revenue would eventually have to be recouped across all employers, not just those employers whose industry classifications were incorrect. The shorter the period in which incorrect premium can be collected, the more intense the VWA audit program has to be, as would be expected.

The government seeks to avert a massive rise in the number of audits and wants to avoid an unnecessary increase in premium for those employers whose industry classification is correct.

Consistent with its desire to stabilise the operation of the Workcover scheme, the government would prefer to be proactive and provide definitive rules for the determination of premiums, rather than enter into a two-year period of uncertainty and extended litigation.

In these circumstances, the government seeks to clarify the law by including appropriate amendments in this bill. Part 5 of the bill effectively reinstates the practices that have operated since 1993, but with some adjustments, which include limiting the power of the VWA to recover past premiums. This limitation of period is four years, rather than six years.

The amendments seek to entrench in a fair and even-handed way the rights of both VWA and employers under the act in relation to the recalculation of premium from past policy years. The reasons for entrenching VWA's rights are best summed up in the following extract from the Supreme Court decision of Justice Gillard in the SBA Foods case:

> In the end, under the scheme, employers must provide the funds to meet the obligations on the statutory fund, and if employers fail to pay the proper premium in accordance with the premiums order, the burden is thrown upon other employers. Clearly, it is in the interests of all participants in the Workcover scheme that each employer pay the premium which is payable pursuant to the premiums order … If errors are made, wrong facts are relied upon, decisions are made contrary to the facts, which result in the wrong premium being calculated and paid, the legislative scheme is in danger of collapsing.

The government appreciates the various views provided by VECCI, AIG, VACC and other peak employer groups in assessing the impact of the Cootes decision. The government appreciates that there is a variety of views around this issue. The government wants to provide certainty, and avoid the massive increase in audits that would otherwise result.

In addition to providing certainty, the government makes concessions to employers, such as reducing from six years to four years the period over which the VWA can recoup underpaid premium. The government believes that this is a more sensible provision.

The government is not just moving on the legislative front to assist employers. Employer associations have advised that many employers would appreciate the opportunity to have their premium calculations checked by Workcover, without the risk of significant amounts of adjusted premiums and penalties being collected for past years. VWA accepts that a moratorium for past premium years would assist employers, claims agents and the Workcover system.

To this end, VWA will initiate a moratorium, other than where fraud is involved, on collection of incorrectly calculated premiums and penalties for prior years. The moratorium will run from the date of passage of this bill in the spring 2001 session until at least 30 May 2002.

Following the I. R. Cootes decision, Workcover retained Pricewaterhousecoopers to review the employer audit program and the management by claims agents of the workplace industry classification system. Workcover will be seeking the active involvement of employer associations in the review and their contribution to the revised program. It is hoped that this

will decrease the number of incorrect workplace industry classifications.

Consistent with the government's desire not to penalise employers who are doing the right thing, the bill also gives, as part of this package, a discretion for VWA to apply reduced penalties, or no penalty, in some circumstances where a heavy penalty is currently mandatory. One example is of an employer who becomes incorporated, fails to notify their agent of the change, continues to pay a premium for the old entity, and fails to take out coverage for the new entity. In such a case there may be no increased insurance risk to VWA, but without a discretion at present VWA is obliged to charge a 200 per cent premium penalty for the failure of the new entity to be insured.

**Other amendments**

At present, the OHS act does not apply in licensed mines where the Mineral Resources Development Act covers occupational health and safety matters. This bill extends OHS act coverage to mines and quarries, and provides for DNRE staff to have power to enforce these provisions, thereby contributing to improved safety in these often dangerous workplaces.

The bill also extends regulation-making powers under the OHS act and the Dangerous Goods Act. While these extended powers are not limited to any particular materials, they will now be available to allow the government to provide for the licensing of asbestos-removal firms, and to prohibit the manufacture and use of products containing asbestos.

The bill implements some recommendations from the government's review of business taxation to harmonise the definitions of the remuneration bases on which payroll tax and workers compensation insurance premiums are calculated. Bringing these definitions closer together will reduce the administrative burden on employers.

The bill extends from 12 months to three years the term for which a hearing loss examiner is approved. This will remove an unnecessary administrative burden in renewing approvals every year.

The bill also extends the discretion for VWA to permit a common-law action for damages to be commenced outside the time limits under the act, thereby enabling some cases to proceed to a damages hearing when previously they could not. This provision will relieve the hardship suffered by those cases whom VWA previously had no power to help. The exercise of this discretion rests with VWA alone. I can assure the house that this provision will not enable cupboards full of long-delayed actions to be revived.

The bill delivers on important commitments and effects other changes in a way that is both responsible and affordable.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until Thursday, 15 November.**

## HOUSE CONTRACTS GUARANTEE (HIH FURTHER AMENDMENT) BILL

*Second reading*

**Ms KOSKY** (Minister for Finance) — I move:

That this bill be now read a second time.

The House Contracts Guarantee (HIH Further Amendment) Bill addresses a number of issues that have arisen in respect of the operation of the state's HIH builders' warranty insurance package since its implementation in June this year.

As honourable members will recall, after insurance companies in the HIH group were placed in provisional liquidation in May, the government acted promptly to assess the impact of the collapse on the state and on the people of Victoria. The relevant departments encountered extreme difficulty in obtaining access to much information held by HIH because of both the inevitable disruption the provisional liquidation caused to HIH's operations and the pre-existing chaotic state of HIH's files, particularly in relation to builders' warranty insurance.

The House Contracts Guarantee (HIH) Act 2001 was necessarily prepared and passed quickly to prevent hardship to home owners and builders affected by the collapse. I record again the government's gratitude for the assistance provided by all parties at the time. The speedy passage of the bill has meant that over 800 claims have been able to be lodged. Around $2 million has been paid to affected home owners.

The act was developed in a very short period, given the complex issues arising from the collapse of an insurance group and the nature of the builders' warranty product. It was developed on the basis of the best information that could be obtained at the time, and the most thorough due diligence that could be conducted given the state of HIH's files.

Despite continuing difficulties in obtaining information from HIH files, the act is generally operating very well. I want to make it clear that these difficulties do not arise through lack of effort on the part of Victorian agencies or building associations, nor through lack of cooperation by the liquidator. They are the result of the poor state of HIH's files, and the logistical difficulties of dealing with companies in liquidation.

However, some problems have emerged that could not have been anticipated when the act was prepared. These problems arise mainly from the nature of some HIH insurance policies and the way in which the builders' warranty insurance scheme operated before the current ministerial order was implemented on 1 December 1998.

The problems that are addressed by this bill relate to:

excluding claims by property developers;

excluding claims unrelated to builders' warranty insurance;

enabling claims by home owners whose policies lapsed when HIH ceased to trade;

precluding HGFL from being obliged to accept claims simply because they were lodged with HIH more than 90 days previously; and

enabling direct claims on HGFL, as agent for the state, by home owners under HIH policies where the builder was the insured.

**Claims by developers**

The first of these problems relates to the ability of developers to claim under the state's builders' warranty HIH indemnity scheme. The indemnity scheme was developed and implemented with the intention of assisting home owners, not commercial promoters of residential developments. In my second-reading speech on the act, I stated that:

> The government accepts that, while the state does not have a legal obligation to assist home owners who are no longer adequately covered by builders' warranty policies issued by HIH, it nonetheless has a moral responsibility to do so.

A close reading of the parliamentary debates on the act confirms that all parties shared the view that the scheme was intended to benefit families and individuals.

The government did not believe then, and does not believe now, that the state's moral duty extended to assisting property developers. This view is consistent with that of the other states and the commonwealth in implementing their various HIH rescue packages. For example, the commonwealth has imposed an income test on claims by individuals under its scheme, and has completely excluded claims by corporations with more than 50 employees.

However, because developers were covered by builders' warranty insurance under some HIH policies, the act unintentionally created a legal obligation for the state to indemnify developers with builders' warranty claims against HIH. Some developers' legal advisers have already stated their desire to lodge claims against the state through HGFL.

This bill excludes developers from being entitled to an indemnity from the state. The bill explicitly provides that this exclusion is retrospective to the establishment of the state indemnity scheme on 8 June 2001. The bill also explicitly provides that this exclusion is intended to apply to matters that are currently the subject of legal proceedings.

Honourable members should note, however, that this exclusion from the state indemnity scheme in no way affects the rights of developers under their insurance policies. Developers are fully entitled to pursue their claims with the liquidator. This places them in the same position as other businesses who held policies with HIH. Nor does the exclusion affect in any way the rights of home owners who have purchased homes that were originally owned by developers to claim under the state scheme.

The whole of this bill has retrospective application, as it is deemed to have commenced in its entirety on 8 June 2001, the commencement date of the major provisions of the House Contracts Guarantee (HIH) Act 2001 that implemented the state scheme. This bill will therefore provide retrospective benefit to some home owners, while restoring developers to the position that they were in between HIH entering provisional liquidation in March this year and the commencement of the state scheme.

The government shares the view that has been expressed by the Scrutiny of Acts and Regulations Committee over many years that retrospective legislation is not a step that should be taken lightly. The government considered carefully the arguments for and against retrospective legislation, including seeking legal advice.

The Victorian Government Solicitor has provided advice that:

> There is a well-known assumption that legislation is not retrospective in the absence of some clear statement to the

> contrary … I consider there is clear power for the Parliament to pass retrospective legislation in the terms proposed and moreover that such legislation and the retrospectivity would be considered reasonable in the circumstances.

**Provision of insurance other than builders' warranty insurance**

The bill provides that the government's indemnity is restricted to claims that relate to builders' warranty insurance. The act provides that the state's indemnity is the same as that provided by HIH under a HIH policy. However, it has become apparent that HIH issued some bundled policies in which other types of insurance, such as public liability, were provided as well as builders' warranty cover.

While no claims have yet been received by HGFL in relation to insurance other than builders' warranty, the bill will ensure that the state is not obliged to meet claims that do not relate to the state's statutory builders' warranty scheme. Claims in relation to other HIH insurance matters are generally the responsibility of the commonwealth under their scheme.

**Claims accepted after 90 days**

The ministerial orders provide that if a claim is received by an insurer and that claim has not been determined within 90 days of its receipt, the claim is deemed to be accepted. Generally, this is an admirable provision that is designed to prevent insurance companies from delaying their handling of claims. However, this provision creates particular problems for the state indemnity scheme that is intended to provide social relief in aberrant circumstances.

As the scheme is voluntary, it remains possible for home owners to lodge builders' warranty claims directly with HIH. Understandably, such claims do not rank high on the liquidator's current priorities, as he will most probably not be making any payments to creditors for at least two years. It is quite likely, therefore, that a claim made direct to HIH will not be determined within 90 days of its receipt.

Should the home owner subsequently lodge a claim with HGFL, the act requires the state to provide the same indemnity that HIH does under the policy. However, if 90 days have elapsed since a claim was received by HIH, HIH may be deemed to have accepted the claim and therefore to have provided an indemnity to the home owner. Consequently the state may also have automatically provided an indemnity; before the merits of the claim have been established and, in all likelihood, before HGFL has even received the claim.

To avoid unnecessary cost to the taxpayers, and the risk of litigation on purely technical points, the bill provides that an indemnity from the state is not created solely through 90 days having elapsed since a claim was received by HIH.

**Cease to trade provisions**

Previous ministerial orders enabled insurers — including HIH — to include in their policies a frankly extraordinary provision that the policy's cover ended if the insurer ceased to trade. HIH ceased to trade when it entered full liquidation on 28 August this year. Consequently, any such policies are now effectively worthless.

While I am advised that claims already made under such policies before that date must be honoured by HIH, claims made after 28 August will not be. Under the act as it currently stands, there would be no indemnity from HIH to any home owner lodging a claim under such a policy after that date. Consequently, there would not be a state indemnity either.

The government's intention was never to exclude these home owners because of the fine print in their insurance policy. The bill therefore provides that the state's indemnity is available to home owners whose claims are made under a builders' warranty policy with such a provision, despite the home owner — and consequently the state — having no entitlement to claim against HIH.

**Builder, not owner, the insured**

Some HIH policies provided that the builder, not the home owner, was the insured. Under such a policy, a home owner seeking to have a home completed or a defect corrected, had to seek restitution from the builder, and then claim against HIH if the builder failed to meet his obligations.

Since the act explicitly provides that a builder is not entitled to an indemnity under the state scheme, a home owner covered by such a policy can only lodge a claim against HGFL after pursuing legal action against their builder that has succeeded in establishing the home owner's right to restitution from HIH. With HIH in liquidation, such legal action is likely to be extremely protracted, with the home owner therefore not obtaining satisfaction for their claim for some years.

The bill therefore provides that where the HIH policy indemnifies the builder, not the home owner, a state indemnity exists to the home owner. Home owners covered by such policies will therefore be able to have their claims handled expeditiously by HGFL.

I advise the house that, if enacted in their entirety, the provisions of this bill will not change the cost estimates of $35 million for the state indemnity scheme. The original actuarial projections assumed that all genuine claims by individual and family home owners would be met by the state. These projections therefore did not allow for claims by developers; but nor did they assume that some claims by home owners would be denied through the technicalities of 'cease to trade' and 'builder, not owner, the insured' clauses in HIH policies. This bill will restore the actual operation of the scheme to its original intentions.

In closing, I would again like to thank those organisations and individuals who have assisted in the rapid development of this bill, and in particular the Housing Guarantee Fund Ltd, which as I have said has to date paid out around $2 million in claims. I cannot overemphasise the administrative complexities faced by HGFL because of the inadequate state of HIH's documentation. HGFL is doing its very best to assess claims fairly and quickly.

Honourable members should be sensitive to the fact that in many cases problems in claims management for distressed home owners result from the appalling state of HIH paperwork on which HGFL has to rely, and in some cases the total absence of records of policies against which home owners are seeking to claim.

I also again extend the government's appreciation to the cooperation of all parties who have agreed to fast track this bill so that home owners will obtain the relief intended when the original legislation was enacted.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Ms KOSKY** (Minister for Finance) — I move:

That the debate be adjourned for two weeks.

**Mr CLARK** (Box Hill) — On the question of time, Mr Acting Speaker, I want to make this point in relation to the minister's closing remarks. While it is fair to say that all parties appreciate the reasons underlying this bill and the importance of the matters raised in it, I am not sure it is accurate to go as far as the minister has to say that there has been agreement to fast track the bill. Nonetheless, on behalf of the opposition, I say that we will look at the bill quickly and hopefully be in a position to respond to it and enable it to proceed through the Parliament expeditiously, provided no problems emerge.

**Motion agreed to and debate adjourned until Thursday, 15 November.**

## AUDIT (FURTHER AMENDMENT) BILL

*Second reading*

**Ms KOSKY** (Minister for Finance) — I move:

That this bill be now read a second time.

The bill introduces amendments to the Audit Act to further enhance the independence of the Auditor-General, strengthen the accountability arrangements of his office and provide greater scope in his powers to promote sound financial management in the state.

In November 1999, during the debate on the Audit (Amendment) Bill 1999, the Premier advised the house that the government was considering further amendments to the Audit Act that had been requested by the Auditor-General. The Premier stated that these further amendments required more consultation than could be accommodated in the time available for the preparation of that bill. On behalf of the government, the Premier assured the house that further legislation would be introduced after the necessary consultation had occurred.

There has now been extensive consultation between the Department of Treasury and Finance, the Auditor-General, the Department of Premier and Cabinet, the Department of Justice, and other bodies, including other jurisdictions within Australia and New Zealand. As part of this consultation process the Public Accounts and Estimates Committee was also consulted fully on the Audit Act amendments. On behalf of the government I thank the chairman and members of the committee for the valuable contribution they have made to the development of the bill.

The amendments to the Audit Act introduced by this bill relate to the following issues:

### Greater protection for the Auditor-General

#### *Indemnity for Auditor-General and staff*

Consistent with the government's steps in restoring the independence of the Auditor-General, the bill provides an indemnity for the Auditor-General and his staff, through amendment to section 94D of the Constitution Act. Although such indemnities in legislation are rare, this provision ensures that as the Auditor-General is an independent officer of the Parliament, appropriate indemnity protection is provided through legislation rather than being at the discretion of the government.

Both the current Auditor-General and his predecessor have requested a statutory indemnity to cover him and

his staff. In support of these requests, the Auditor-General commented that a number of other officers, such as the Regulator-General, the Ombudsman, the Legal Ombudsman and the Chief Electrical Inspector enjoy strong statutory protection.

The indemnity that has been provided exempts the Auditor-General and his staff from any personal liability for acts or omissions in performance of official duties, provided they have been done in good faith.

***Disclosure of information in reports yet to be tabled***

As part of the amendments to the consultative process, the government has provided the Auditor-General's proposed reports with greater protection. Under section 20A(2) of the bill, a person receiving a proposed report or part of a proposed report must not disclose any information in that report unless acting in the course of their official duties, or the information has been made public in a report by the Auditor-General to the Parliament.

The bill also introduces penalties for persons or body corporates that breach these secrecy provisions. In disclosing information outside of the avenues available under section 20A(2) a person is liable to a maximum penalty of 50 penalty units, while a body corporate is liable to a maximum penalty of 250 penalty units.

**Scope of Auditor-General powers**

***Scope of powers***

The Auditor-General has sought clarification in his powers and functions under the Audit Act. To ensure a common understanding of what types of activities his office may undertake, the Auditor-General requested the Audit Act be amended to set out clearly the general scope of his powers and therefore his duties and functions. To this end, the government has proposed in the bill amendments to the Audit Act to provide clarification of the powers and functions of the Auditor-General through a revision of the objectives of the act, under section 3A.

In addition, the government recognises the important role the Auditor-General plays in the identification of any wastage, lack of probity or financial prudence in the management or application of public resources. Accordingly, the public interest focus of the Auditor-General's work is now clearly articulated in the Audit Act.

***Extension of the authorities definition***

The Auditor-General has raised concerns that the definition of an authority in section 3 of the Audit Act is insufficient to give him the power to audit entities controlled by the state or other authorities.

The definition of an authority in section 3 of the Audit Act includes a corporation, all the shares of which are owned by or on behalf of the state, whether directly or indirectly. This section does not confer power on the Auditor-General to audit partly owned corporations, no matter how close to 100 per cent the state's effective shareholding is. While section 3 allows for other persons or bodies to be prescribed as authorities, the Auditor-General has expressed the preference that a power to audit bodies that are not wholly owned be provided explicitly.

The bill amends section 3 to provide the Auditor-General with the power to audit all entities controlled by or on behalf of the state or authorities.

Where the state or an authority does not hold a controlling interest in an entity, the Auditor-General shall continue, as now, to audit the authority in whose books this minority shareholding appears as an investment and comment on the value or risk of such an investment.

This amendment will ensure that the Auditor-General has responsibility for the financial audit of all entities in which the state or an authority has control.

***Auditor of Victorian public sector non-authority bodies***

Circumstances can arise where it is desirable for the Parliament to enable the Auditor-General to undertake financial statement audits for entities not coming within the definition of an authority under the Audit Act, but still within the Victorian public sector. An extension of the Auditor-General's powers to audit these types of entities provides him with greater opportunity to scrutinise the use and flow of public funds.

Under section 16G, the bill provides the Auditor-General with the power to audit entities outside of the definition of an authority under the Audit Act, but still within the Victorian public sector. The Auditor-General will only be able to undertake such audits if invited to do so by the entity and it is in the public interest and practicable for him to do so.

***Examination of funded bodies***

The Auditor-General has advised the definition of a public grant in section 20 of the Audit Act has caused some interpretive difficulties for his office. For example, the question has been raised whether goods or services provided to a community or private body at subsidised or nominal cost, or free of charge, constitute a grant within the meaning of the section.

The bill provides clarification of the nature of grants to funded agencies. The purpose of the amendment is to ensure that the Auditor-General has clear directions as to what resource flows to funded agencies he has the power to examine.

To achieve this, under section 16C of the bill, the Auditor-General has been provided with a general audit power to conduct any audit necessary to determine whether a financial benefit, paid by an authority to a person or entity that is not an authority, is being applied economically, efficiently, effectively and for the purposes for which it was given.

***Other audit services***

The Auditor-General has sought an explicit power in the Audit Act to enable him to provide additional auditing services to authorities, when requested to do so. Situations can arise where, due to the knowledge the Auditor-General may have of an authority's activities or particular expertise in a sector, an authority may wish to engage the Auditor-General to undertake additional audit services.

Through section 16E the bill provides for a limited extension of the Auditor-General's powers to undertake additional audit services for authorities. Under this provision, the Auditor-General can only provide these services where an authority has requested him to do so and the authority has gained the approval of its responsible minister to make the request.

***Information to public officials during the course of an audit***

The Auditor-General has requested he be provided with the ability to communicate information to other persons and bodies where it is considered appropriate.

A situation may arise during the course of an audit where the Auditor-General becomes aware of information that is more suitably dealt with by another person or body. For example, if fraud is found taking place in an authority the Auditor-General may wish to pass on this information to the Chief Commissioner of Police. However, under the current provisions of the Audit Act the Auditor-General cannot pass on any information, obtained during an audit, to other persons or bodies.

A new section 16F is proposed in the bill to enable the Auditor-General to provide written information to a minister, the Chief Commissioner of Police, an authority, a member, officer or employee of an authority and a statutory office holder — for example the Ombudsman. Where the Auditor-General passes information on under this section, he must notify the Premier.

**Efficiency in Auditor-General audit operations**

***Capacity to transmit reports to the Parliament out of session***

The Auditor-General has requested that he be provided with the power to send his completed reports to the Parliament when it is not sitting and therefore be provided with parliamentary privilege. This would obviate the need for additional work to ensure that reports are still current at the time of transmission to the Parliament and would better meet the public need for information to be available as soon as possible after an audit is undertaken.

Under section 16AB the bill provides for the transmission of reports of the Auditor-General when the Parliament is not sitting. This, however, will not preclude the report from being debated in the Parliament once the Parliament is sitting.

***Revised threshold for the delegation of authority to undertake financial audits***

The threshold for the Auditor-General to delegate the undertaking of a financial audit and signing of an audit opinion is currently set at authorities with net assets of $1 million or less. The Auditor General requested this threshold be increased to cover authorities with $5 million or less in expenditure for that financial year.

The increase in the delegated threshold is not a move towards greater outsourcing of the Auditor-General's work. Approximately 70 per cent of the Auditor-General's current financial audit work program is contracted out to private audit service providers. The main difference between contracted-out work and that work coming within the delegated threshold is that an audit service provider is required to sign the audit opinion as the Auditor-General's agent under the delegated provisions.

The purpose of this amendment is to achieve greater efficiency and effectiveness in existing outsourcing

arrangements of the Auditor-General. It provides him with the ability to gain greater flexibility in achieving value for money (and accountability) from private sector audit firms he contracts work to. Under the current threshold levels 91 per cent of contracted audits are required to be reviewed (and often have rework conducted) and then signed by the Auditor-General, leaving only 9 per cent of audits being signed off by the contractor who actually did the work. This situation does not lend itself to an efficient means of contract management for the Auditor-General.

Through the bill, the new section 7G increases the threshold limit to entities with expenditure of $5 million or less. It also includes the requirement that only those persons registered as company auditors, under the Corporations Act, may be delegated the authority to undertake financial audits as agents of the Auditor-General. Although currently the Auditor-General only delegates audits to company registered auditors, the Audit Act did not specify this requirement.

***More practicable time frame for tabling the Auditor-General's narrative report on the annual financial report (AFR)***

The Auditor-General has requested a more practicable time frame be provided in the tabling of his narrative report on the annual financial report, under section 16A. The current timing requirement is presentation to the Parliament within seven sitting days after the tabling of the annual financial report (which is set from 27 October).

The bill provides that in section 16A(4) of the act 'seven sitting days' is deleted and the date 24 November under section 16AB(2)(b) is substituted in place thereof.

The bill also amends the current requirement in section 16A(3)(a)(ii) that states the Minister for Finance only has seven days in which to provide comment on the Auditor-General's report on the AFR. This requirement is amended to 10 business days. This provides for a more realistic time frame in which to comment and removes the confusion as to whether the number of days referred to in the Audit Act are business days or calendar days.

**Greater accountability for the Auditor-General**

***Publication of auditing standards***

The Audit Act requires the Auditor-General to comply with those auditing standards produced by the accounting profession.

Section 7B(2)(f) of the bill sets out amendments whereby the Auditor-General will be required to summarise in his annual report details of any additional standards he develops above those produced by the accounting profession.

***Professional quality control arrangements***

In extending the powers of the Auditor-General, such as the ability to audit non-authority entities within the Victorian public sector and the delegation of a greater number of audits, it is important the Parliament is provided with greater accountability mechanisms over the Auditor-General's work.

As part of the development of greater accountability, the bill sets out a new requirement for the Auditor-General to summarise in his annual report the quality control processes undertaken by his office each year. This will provide an effective mechanism through which the Auditor-General can highlight to the Parliament the quality control systems he maintains and any improvements undertaken in these systems from year to year.

***Auditor-General's annual plan***

Under the current requirements of the Audit Act (section 7A(4A)) the Auditor-General is required to have regard for any comments received back from the PAEC on a review of his annual plan, but does not have to change the plan or document where he does not accept a recommendation. We do not believe the Auditor-General should have to change his annual plan but should have to document where changes from the PAEC recommendations have not been made. This approach provides a much stronger accountability back to the Parliament in its review of the Auditor-General's planned activities and establishes a more transparent process between the development and review of planned work.

The bill introduces a new section 7A(4A) that requires the Auditor-General to indicate in his annual plan the nature of any changes suggested by the PAEC that he has not adopted.

**Administration of the Audit Act**

***Clearer distinction between audit opinions and audit reports***

The Audit Act contains numerous references to requirements that the Auditor-General prepare and present a report. This wording draws no distinction between a report in the sense of an audit opinion and

the more extensive narrative reports that the Auditor-General prepares for some audits.

Sections 9, 9A, 15 and 16 of the Audit Act have been amended through the bill to make a clear distinction between the types of reports prepared by the Auditor-General.

***Clarification of audit fee***

The current wording of the Audit Act is not clear in what services the Auditor-General can charge a fee. The bill, under section 10, sets out the Auditor-General's power to only charge for his mandatory financial statements audit activities. No charges will apply to those audits and reports reflecting his discretionary work in informing the Parliament on accountability and resource matters. Instead, these audits and reports are funded through the Auditor-General's annual appropriation.

***Narrative reports covering more than one financial audit***

The Audit Act's current provisions provide the Auditor-General with the power to make a narrative report on a performance audit that relates to the activities of multiple authorities, but he may not make a single narrative report that relates to issues arising from the financial audits of several authorities.

The bill, through amendment to sections 15 and 16, provides the Auditor-General with the ability to make a narrative report covering more than one audit.

***Enhancements to the consultative process for audit reports***

In the development of a report to the Parliament the Auditor-General goes through a process of consultation with entities directly related to the report and other interested parties. As part of this process the Auditor-General is required to seek formal submissions or comments from these groups and include this material in his final report to the Parliament.

Under the current reporting provisions of the Audit Act the Auditor-General is required to provide these parties with a copy of the summary findings and proposed recommendations. However, the Auditor-General has advised government that he wishes to have the option of providing a full copy of a report or a section of a report that is relevant to a particular party. In most circumstances it is appropriate to provide an entity with a full copy of a proposed report. However, situations do arise where it is more appropriate for an entity to receive only that part of a report that directly relates to them.

Under a new section 16(3)(a) the bill provides the Auditor-General with the discretion to provide a full copy of a proposed report to an entity, or only that part or parts that directly relate to the entity, for comment.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until Thursday, 15 November.**

## FAIR TRADING (UNCONSCIONABLE CONDUCT) BILL

*Second reading*

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The bill before the house fulfils the government's small business election commitment to introduce unfair and unconscionable trading clauses to the Fair Trading Act 1999 to provide a safety net against predatory trading practices.

The bill effectively replicates section 51AC of the Trade Practices Act 1974, which prohibits unconscionable conduct in business transactions of $3 million or less, and inserts it in the Fair Trading Act 1999.

Without section 51AC of the bill, the equitable doctrine of unconscionable conduct developed by the courts is the only prohibition on unconscionable conduct in business transactions.

Under the equitable doctrine, a small trader must establish that he or she suffers from a lack of English or a special disability, such as drunkenness or other incapacitating condition, and that the stronger party unconscionably took advantage of that disability.

Under section 51AC and the provision inserted by the bill, a wide range of matters, including 12 listed matters, can be considered. The case law on section 51AC indicates that it is not limited by the concepts developed under the equitable doctrine, such as special disability.

The drawdown of section 51AC will mean that at least three additional important matters will now be able to be considered in establishing whether unconscionable

conduct occurred. These are the requirements of any applicable industry code, the extent to which the small trader could have obtained a better deal elsewhere, and the extent to which the stronger party was prepared to negotiate the terms of any contract.

A number of cases have been brought under section 51AC since it was introduced in 1998 and there have been several significant victories for small traders. In particular, in the Simply-No-Knead case, (*ACCC v. Simply No-Knead (Franchising) Pty Ltd* (2000) 178 ALR 304) the Federal Court extended the meaning of unconscionable conduct to include such actions as a franchisor authorising an incursion into a franchisee's territory, omitting the names of dissenting franchisees from advertising material and refusing requests to negotiate disputes over the terms of the franchise agreement.

The bill will apply to all persons and effectively bring into the net any unconscionable conduct by an unincorporated trader against another unincorporated trader. Previously, this situation was not covered by section 51AC because of the commonwealth's constitutional limitations.

More importantly, a dispute under the bill will be a fair trading dispute under the Fair Trading Act 1999. This means that small traders, including retail tenants, can take these disputes to the Victorian Civil and Administrative Tribunal. The tribunal is an alternative to a court and has less formal procedures, cheaper application fees and a strong emphasis on mediation.

The combination of section 51AC and the bill should increase the competitiveness of small businesses by providing the full range of remedies under the Trade Practices Act 1974 and the Fair Trading Act 1999. These remedies are available to them to combat unconscionable conduct that destroys their business or damages their competitiveness. Small businesses will also have access to the full range of courts and tribunals.

The fulfilment of the government's election commitment, through this bill, has been delayed pending the commencement, on 28 June 2001, of the Trade Practices Amendment Act (No. 1) 2001. This act clarified that state versions of section 51AC can operate concurrently with section 51AC. The government is therefore taking the earliest opportunity to fulfil its commitment to small business.

I commend the bill to the house.

**Debate adjourned on motion of Mrs SHARDEY (Caulfield).**

**Debate adjourned until Thursday, 15 November.**

## LIQUOR CONTROL REFORM (PROHIBITED PRODUCTS) BILL

*Second reading*

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

From time to time certain products coming onto the Victorian liquor market constitute an unacceptable risk in terms of their potential to encourage the misuse and abuse of alcohol, particularly by young people.

While there is a commitment to responsible product development, packaging and marketing from the mainstream liquor suppliers in Australia, some marginal suppliers and importers often fail to comply with such industry standards in an effort to increase their market share.

It is a deficiency of the Liquor Control Reform Act 1998 that the minister has no power to ban an alcoholic product from sale where it is apparent that the product is unacceptable to the community and/or could encourage the misuse or abuse of alcohol.

The immediate need for such a power is clearly shown through the ongoing retail availability of unacceptably high-alcohol content food essences in 375 millilitre bottles which are exceedingly dangerous, particularly in the hands of young people. Some of these products have an alcohol content of over 70 per cent, which is more than twice the alcoholic content of typical spirits such as scotch or vodka.

There is ongoing potential for other unacceptable products to come onto the market from time to time, for example, high-alcohol ice-creams, milk with alcohol content, products packaged in such a manner that they are particularly directed to or attractive to young people, et cetera.

In exercising the regulation-making power, the minister will be required to have full regard to the community interest, particularly in respect of the harms that may arise as a consequence of the ongoing availability of alcoholic products of concern.

Such regulations will be subject to the rigorous regulatory impact statement process, including extensive community and industry consultation.

Whilst the regulation-making power is necessarily wide to cover all potential eventualities, its application will be highly targeted to specific products or types of products that are a danger to the community, particularly young people.

The potential problems caused by the sale of high-alcohol content essences was brought to the Bracks government's attention by Mr and Mrs Clark, whose son Leigh died tragically after consuming Hoyts vodka essence supplied by a family friend. The government does not wish to pre-empt the coroner's decision in this matter but has decided to act in a timely manner to further strengthen the legislation to ensure the responsible selling of alcohol and alcohol-based products in Victoria. This bill is proposed because other action taken at the Victorian and commonwealth levels to restrict the sales of high-alcohol-based food essences has not been successful.

While existing regulations bring the retail sale of such products under the control of the Liquor Control Reform Act 1998, the risk of young people accessing them through home, friends or illegal sales remains.

The Liquor Control Reform (Prohibited Products) Bill provides that the minister may make regulations providing that alcoholic products or classes of products are banned from sale where it is in the community interest to do so.

The penalty for breaching such regulations is to be 30 penalty units (currently $3000).

The bill further creates the offence of a person selling an alcohol-based food essence that is packaged in a container that is above 100 millilitres capacity in the case of vanilla essence and above 50 millilitres capacity in respect of any other alcohol-based food essences.

The penalty for breaching this provision is to be 30 penalty units (currently $3000), with such offences being subject to the infringement notice provisions of the act.

The amendments will have no impact on the wholesale sale of food essences for food manufacturing purposes and for domestic use in small containers.

These amendments to the Liquor Control Reform Act 1998 will further facilitate and encourage the responsible development of the Victorian liquor industry.

I commend the bill to the house.

**Debate adjourned on motion of Mrs SHARDEY (Caulfield).**

**Debate adjourned until Thursday, 15 November.**

## SECOND-HAND DEALERS AND PAWNBROKERS (AMENDMENT) BILL

*Second reading*

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The bill implements the recommendations flowing from a review of the Second-Hand Dealers and Pawnbrokers Act 1989 (the act), which was undertaken as part of the government's commitment to consumer protection. The review examined adequacy and effectiveness of the various information and other mechanisms in the act intended to protect the rights of people who pawn goods, noting that often these people are disadvantaged and amenable to exploitation. Extensive consultation with representatives of consumer and pawnbroker organisations was undertaken as part of the review.

It concluded that non-compliance by some elements of the pawnbroking industry has given rise to a need for better identification of who in the marketplace is conducting the business of a pawnbroker, and for improved enforcement mechanisms to enhance compliance with the act. Accordingly, it recommended that a registration scheme be introduced to distinguish pawnbrokers from second-hand dealers, and strengthening of the enforcement mechanisms in the act.

The bill provides for the separate registration of pawnbrokers, which will be effected by providing those second-hand dealers who wish to also trade as pawnbrokers with an authority, endorsed on their second-hand dealers certificate, to conduct the business of a pawnbroker.

The bill also introduces powers of inspection for Consumer and Business Affairs Victoria. These powers will enable inspectors to monitor compliance by pawnbrokers with the signage, notification and record-keeping requirements imposed by the act. These requirements help in tracing stolen goods, and ensure that consumers of pawnbrokers' services are informed of their rights and responsibilities.

The bill contains a number of measures to improve enforcement. It increases certain penalties that apply to

signage and other notice requirements under the act in order to improve compliance, and introduces the power to issue infringement notices for some offences. The bill empowers the Business Licensing Authority to impose conditions on second-hand dealer registration and pawnbroker endorsement. It also enables the Victorian Civil and Administrative Tribunal to discipline second-hand dealers and pawnbrokers in relation to their conduct and the conduct of their business.

The bill reinstates the entitlement of a person who has pawned goods to claim any residual equity in their goods, if they do not redeem the goods and the pawnbroker subsequently sells them. The residual equity is the amount remaining after the reasonable costs of selling the pawned goods and the amount owing under the loan contract have been deducted from the proceeds of sale.

The customer will have the right to claim the residual equity payable within 12 months of the goods being sold. The bill makes it an offence for a pawnbroker not to pay the residual equity to the customer upon request, and empowers the court to order the pawnbroker to pay the residual equity to the person entitled to it.

The bill also prohibits the pawning of motor vehicles to stop the practice identified in the review, of pawnbrokers advancing disproportionately small amounts of money on the pledge of a motor car of potentially much higher value as security. The review also concluded that it is inappropriate to allow for the pawning of motor cars because they are in many cases one of a person's most valuable assets.

Finally, an additional purpose is added by the bill to clarify that the act is intended to protect the rights of customers of pawnbrokers and second-hand dealers as consumers.

This bill is an important initiative that protects the rights of consumers without imposing an unreasonable burden on the pawnbroking industry.

I commend the bill to the house.

**Debate adjourned on motion of Mrs SHARDEY (Caulfield).**

**Debate adjourned until Thursday, 15 November.**

**Remaining business postponed on motion of Mr HAERMEYER (Minister for Police and Emergency Services).**

## ADJOURNMENT

**Mr HAERMEYER** (Minister for Police and Emergency Services) — I move:

That the house do now adjourn.

### Albury-Wodonga: council merger

**Ms BURKE** (Prahran) — I raise for the attention of the Minister for Local Government a query regarding the merger of the cities of Albury and Wodonga. With the announcement of the merger with considerable fanfare more than seven months ago there was a sense that perhaps the prospect of a merger of the two important cities was more than just an empty promise.

Unfortunately the consultation process seems to have stalled, and nowhere is that more evident than in the concerns expressed by the chairman of the Albury Wodonga Development Corporation in its latest report. He noted that in the year 2000–01 the Victorian government did not pass the winding-up legislation. One wonders about the commitment of the Victorian government to the proposal, given that it has dragged its feet on this matter compared to the commonwealth and New South Wales governments, which have already passed winding-up and draft winding-up legislation agreements.

The minister seems to have forgotten that one of the most important basic tenets of this joint announcement with the New South Wales Minister for Local Government was to consult with the local community in both cities. It seems the minister has less interest in following through with that commitment than might have been perceived through his statement at the time.

There are few people, especially among the residents of Wodonga and Albury, who would disagree with either the merger or the fact that it would bring enormous benefits to their community. However, this does not seem to matter to the minister, who will not instigate the single most effective way of demonstrating the level of the government's support.

I ask the minister to make the necessary preparations to conduct a plebiscite or a referendum of residents of Wodonga and to have the New South Wales Minister for Local Government do the same, if he can be convinced to do so, for Albury residents. That would highlight the government's commitment to the proposal and be an unequivocal demonstration of support from that community on the issue of the merger. Will the minister conduct a plebiscite of residents and ratepayers of Wodonga to determine their support for the proposal? As many in this house would realise, they

need the support of the community to have such a matter go through.

I have with me thousands of names of residents from the area who would like to have the right to say yes or no to the merger. Government members know what happens if you do not get agreement with the community on a merger. I ask the minister to stop the rhetoric on democracy and deliver on the promise that he made to those people — that is, to let them say whether or not they want their communities to merge.

## Latrobe: governance

**Mr MAXFIELD** (Narracan) — I request action from the Minister for Local Government. There is a bit of a dispute between the parts that form the City of Latrobe, which is driven around the desire of the city to relocate council offices to Morwell. Fundamentally this is a problem that was driven by the honourable member for Prahran, who together with her commissioners made some very bad decisions when she was in government, decisions in which she was aided and abetted by some upper house members.

In the last three years there have been several petitions that have come out of Traralgon. The result has been that there is some ill will about the proposal to relocate the council offices, and obviously that ill will has spilled over into other parts of the Latrobe Valley and, in my view, is not helping the unity of the valley or the government's ability to drive the Latrobe Valley forward.

I ask the Minister for Local Government to assist the parties involved in improving their lines of communication if they wish to do so.

## Voice of Special Children

**Mr RYAN** (Leader of the National Party) — I raise an issue for the attention of the Minister for Community Services. It is a matter of the gravest concern for the people on whose behalf I raise it. I seek the minister's response on a number of issues that have been put to me by Mr Tim Bull of Bairnsdale in his capacity as the chairman of the Voice of Special Children. This unique organisation comprises the parents of children in the Gippsland region who are disadvantaged in various ways. These children's problems might include autism or other forms of disability; however, they have a mutual interest in the fact that the parents have come together to form this wonderful group.

Only about 10 days ago I attended a forum in the company of the federal member for Gippsland, the Honourable Peter McGauran, in the course of which a number of issues were raised for his consideration on behalf of this group, which does fantastic work for children who suffer terrible disabilities. I am sure all honourable members recognise the important work these people do.

Speaking from my own perspective, it is a compelling experience to be among these parents, who are utterly and completely committed to the welfare of their children. They raised with me and with Mr McGauran a number of issues pertaining to some correspondence written by the minister to Mr McGauran on 14 December last year. They asked me to bring that correspondence to the attention of the minister for her further consideration.

Most particularly the parents are interested in the current developments concerning further strategies to which the minister referred in her correspondence. They also raised funding of aides for year 4 special needs kindergarten students and the degree of assistance that is available by way of aide funding in the private school system as opposed to the public school system in Victoria. They illustrated that in a number of instances.

We had the privilege, as I said, of hearing the experiences of these extraordinary parents in accommodating the special needs of these special children. I undertook to raise those matters for the consideration of the minister. The parents of these children are concerned to have her response, and I would be pleased if the minister could provide answers to the issues I have put to her.

## Australian Defence Industries: rural jobs

**Ms ALLEN** (Benalla) — I refer the Minister for Manufacturing Industry to the important issue of retaining jobs in rural Victoria. I want the minister to take action to ensure that the federal government will commit fully to the retaining of more than 500 jobs at the Benalla and Mulwala Australian Defence Industries plants. ADI commenced operations at Benalla eight and a half years ago and has provided jobs for more than 300 workers. The value of this plant to the Benalla economy is millions of dollars and without the plant those workers would be out of work, out of their homes and out on the street.

The plight of ADI was brought to the attention of the federal government and the communities of Benalla and Mulwala by the Australian Labor Party regional policy committee led by Barb Murdoch, the federal ALP candidate, and the union. Rallies were then organised by union representatives. In particular I

commend Colin Riddell of Benalla for his passion and determination to win this battle.

**Ms McCall** — On a point of order, Mr Speaker, the honourable member for Benalla requested a minister of the state government to ensure action be taken by the federal government. I am not sure if that is within the allowable jurisdiction of the adjournment debate.

**The SPEAKER** — Order! On the point of order, the Chair understood the honourable member for Benalla to be asking the minister for action to ensure the continuation of 500 jobs. There is no point of order.

**Ms ALLEN** — The workers and their families and hundreds of members of the community in Benalla and Mulwala marched in the streets demanding the federal government commit to keeping their plants open. I remember the image of a little 10-year-old girl carrying a banner which read 'Save my pop's job, save my dad's job and save our home'.

The mayors of both Delatite and Moira shires travelled to Canberra to meet with the defence minister to plead their case. The federal government was dragged kicking and screaming to the table to negotiate keeping the plants going. I want the minister to take action to ensure that the federal government keeps its commitment to retain the 500 jobs in Benalla and Mulwala.

## Victorian Young Farmers

**Mr McARTHUR** (Monbulk) — I seek the assistance and action of the Minister for State and Regional Development to immediately and urgently intervene and help to restore funding to a worthwhile organisation — that is, Victorian Young Farmers. In raising the issue I will provide a little background for honourable members. The VYF has been operating for more than half a century in this state. It has been doing a wonderful job across the length and breadth of country Victoria.

From the membership of Victorian Young Farmers a number of significant figures in agricultural industries have come forth, and in the future we can expect something similar. Over the last 35 years there has been a history of cooperation between the state government and the VYF, and the VYF has received core funding for that period. It was dismayed to hear from the Department of Natural Resources and Environment earlier this year that that was to cease. The VYF was told it should apply for funding through the Department of State and Regional Development and for other project funding through other departments. When it took that advice and applied for funding through the Department of State and Regional Development it was told by the Minister for Agriculture that he would assist, sponsor and support its application. Its members were therefore very dismayed when on 18 October a DSRD adviser, one Stephen Newnham, advised them it had been decided that the VYF would not receive continuing funding, that the organisation could apply for non-guaranteed one-off project funding, that members would not be given a chance to meet with the Minister for State and Regional Development and — most outrageous of all — that Victorian Young Farmers was an irrelevant organisation. I find that surprising.

The honourable member for Bendigo East laughs about young farmers. She thinks they are irrelevant, but let me tell you what the Minister for State and Regional Development said when as the shadow minister he was the guest speaker at the 1999 state conference of Victorian Young Farmers. He said that the key to success across Victoria for rural industries is being able to export, and that Australia has earned its standing in the world through its export trade. He said that to achieve the $12 billion expected increase in rural export earnings would mean better advantages for rural youth, that there was a need for better infrastructure in rural areas and that VYF members should be vigilant and make sure that rural industries in the bush had the support of government. That is not irrelevant!

## Autistic Citizens Residential and Resources Society of Victoria

**Mr LIM** (Clayton) — I draw to the attention of the Minister for Community Services the plight of the Autistic Citizens Residential and Resources Society of Victoria in providing services to people with disabilities in the southern metropolitan region. I ask the minister to take action to address the difficulties faced by the ACRRSV by way of resourcing it appropriately to ensure that it is in the position to provide a high-quality service for its clients.

By way of background I advise the house of the following: in 1992 the Autistic Citizens Residential and Resources Society of Victoria established the Wickham adult training and support service, which is a day service. For many years it has operated from leased premises in Wickham Road, Moorabbin. The building is substandard. Formerly a dairy, it consists of a small room with inadequate heating and cooling, limited toilet facilities and a restricted kitchen and eating area, and it has electrical problems.

The Moorabbin service is considerably below acceptable standards. The environment is inappropriate, which has exacerbated clients' challenging behaviour. Most of the clients of this day service have autism spectrum disorder, and several display challenging behaviour that has led to the need for additional funding for them. I believe there is a compelling rationale for the government to respond positively to the demonstrated need of the clients of ACRRSV to be treated with dignity and to be provided with quality services. I ask the minister to respond accordingly.

## Anthrax: Warrnambool scare

**Dr NAPTHINE** (Leader of the Opposition) — I ask the Premier to investigate allegations raised and respond immediately to a letter he will be receiving or has received from a Mr Leigh Allen of Narrawong, following a genuine anthrax alert in Warrnambool recently. I will read the letter into *Hansard*:

> I am writing to register my absolute disgust at the treatment I have received from a senior bureaucrat within the Department of Human Services.
>
> In particular my concern is in relation to the appalling reception I received to my inquiries about possible compensation and financial assistance after I provided professional trauma counselling to eight of my employees and one employee's wife after an anthrax alert in Warrnambool this week.
>
> I am a small business operator who runs a courier service, based in Portland in south-west Victoria. We routinely transport parcels, packages and a variety of items all over the country, regional and metropolitan Victoria.
>
> On Tuesday night my employees were involved in the transportation of a number of parcels from Melbourne to the Hamilton office of member for Wannon David Hawker.
>
> When the parcels reached Warrnambool for further transfer on to Hamilton, my employees noticed white powder leaking out. I was notified and we immediately alerted police and the CFA. All necessary steps were taken to decontaminate the area, my employees and their trucks. Several items including the suspect parcels, the employees' clothing, mobile phones and so on were seized for closer examination.
>
> Even though the police and CFA were completely professional about the whole thing and treated my employees with the utmost compassion, respect and understanding, my employees were traumatised by the thought of possibly coming into contact with anthrax, and with having to strip down and undergo high-pressure, freezing cold showers in the open air in the middle of the night.
>
> I organised trauma counsellors to talk to my employees at considerable personal cost. In fact, this whole episode has been extremely costly to me in terms of lost time, lost productivity, money spent and the personal impact on my staff.
>
> On Wednesday I contacted the Department of Human Services and spoke to a Mr Paul Van Brynder. This particular individual I found totally unsympathetic and unhelpful. His attitude was:
>
> > Emergency service workers (police and CFA firefighters) 'overreacted' and were 'over the top'.
> >
> > The department had received a large number of reports of powder in letters/parcels and all of them had turned out negative.
> >
> > If he were in charge, he would not have travelled to Warrnambool because it would have turned out to be a hoax anyway.
> >
> > He indicated that a lot of reports were coming in which were not worth investigating.
> >
> > The anthrax scare was basically 'bullshit' in Victoria and Australia.

He did not receive any indication of any assistance from Mr Van Brynder. He is absolutely disgusted with the attitude of this senior bureaucrat and the Department of Human Services. I must say I share that disgust if these allegations are true.

Anthrax is a serious matter. It is being treated seriously around the world. It was treated seriously by the police and the Country Fire Authority, and it is about time it was treated seriously by the Department of Human Services. I ask the Premier to investigate the matter immediately.

## Schools: Keilor–Melton

**Mr SEITZ** (Keilor) — I raise a matter for the attention of the Minister for Education, and I ask her to take appropriate action. Students and other people in my electorate of Keilor, and particularly in the Keilor–Melton growth area, should not miss out on educational opportunities and the development of school buildings and the facilities surrounding them just because it is a very fast-growing area which already has overcrowding.

I received a letter from one of the schools, which is enthusiastic about the extra funds the minister is putting into developing the schools as a catch-up. However, we also need to ensure that the new growth area does not drop behind while we are extending our classrooms in existing schools. The growth in the Keilor–Melton corridor is something that has been underestimated by most bureaucrats over a period of time because it has grown so fast that people have not factored it into their growth planning.

Now the kindergartens are full, and the City of Brimbank has had to establish a temporary kindergarten on the Sydenham Primary School site. Within two or

three years those children will all be ready to go into primary school. We have built a new secondary campus at Sydenham, but that building work will need to continue in the rest of the growth area. I ask the minister to ensure that the department, with its forward planning over a number of years, takes into account the growth of that corridor, because it is one of the fastest growing corridors in the suburbs.

I do not want to be in the same position we were in with the kindergarten, when we virtually had to push and hurry to get it finished in a portable building to meet the needs of the community. As honourable members know, this year we had a census. They are always well behind, and it is four or six years before the proper results are known.

I want the minister to take the appropriate action now to ensure that future needs are met for the expansion in Hillside and right through that area in the Keilor–Melton corridor and that there are enough secondary colleges to meet the needs of the students. At present the Taylors Lakes and Keilor Downs secondary colleges are overcrowded, as are the buses that transport the students from the Keilor–Melton corridor to the existing Keilor schools. I am sure the minister will take note of that and will ensure that the planning is carried out and that the budget allocations are done for the years to come so there is not a backlog in meeting the needs of the people in my electorate.

## Frankston Hospital

**Mr COOPER** (Mornington) — I want the Minister for Health to take urgent action to stop a Labor Party candidate for the federal election on 10 November from his activities, which I have been told are dangerous to patient care.

In the house yesterday the honourable member for Frankston East claimed that the total budget at Frankston Hospital has increased by 18 per cent and that an additional 80 nurses have been employed. He went on to give credit for all of that to Mark Conroy, the Labor candidate for Dunkley. If Mr Conroy is the man responsible for everything that is going on at the Frankston Hospital, as the honourable member for Frankston East claims, the voters in Dunkley will be very unhappy to hear that Mr Conroy is overseeing staff cuts in the midwifery section of the hospital — in the delivery suite area, in fact — that I am told will be dangerous to patient care.

**Mr Nardella** — By whom?

**Mr COOPER** — I ask the minister why he has allowed — —

**Mr Nardella** interjected.

**Mr COOPER** — Would you mind stopping that, moron!

**The SPEAKER** — Order! The honourable member for Melton! The honourable member for Mornington, continuing his remarks.

**Mr COOPER** — I ask the minister why he has allowed Mr Conroy to become involved in the running of the Frankston Hospital, and will he now step in and stop the dangerous activities of this idiot before the lives of mothers and babies are put at risk?

## La Trobe University

**Ms ALLAN** (Bendigo East) — I raise a matter for the Minister for Health regarding some developments at the Bendigo campus of the La Trobe University. The action I seek from the minister is that he support the establishment of a centre for professional development at La Trobe University, Bendigo.

A lot of new initiatives have occurred throughout the university at Bendigo. This is another important one for the university in the area of human services, particularly that of supporting the nursing profession. Initiatives like these are important to encourage people to take up nursing, and in country Victoria it is certainly very important to encourage more people into the nursing profession. It is also important to keep people in the nursing profession once they are there. We all know how important their job is and how important it is to keep the maximum number of nurses in the profession and to provide them with the support they need in their professional development. The Bracks government understands this, unlike the previous government, as we heard about yesterday, with the number of nurses that it slashed from the system during its seven years in government in this state.

I am very pleased to see that the initiative at La Trobe University will support the extra 52 equivalent full-time nursing positions at the Bendigo Health Care Group. In reality that number is many more, when you consider that many people in the nursing profession work part time; it can become quite a flexible occupation for people. In reality that number is likely to be much higher than 52. With the government's ongoing nurse attraction program, which is very important to attracting nurses around the state, no doubt the numbers will continue to grow.

I am very pleased to support this initiative at La Trobe University, Bendigo, which I must declare I am a

former student of and am very proud to say so. It is certainly an important educational provider — —

**Mr Wynne** interjected.

**Ms ALLAN** — It would surprise you to hear that I was an arts student. It is an important education provider for the region and for many country students — not just those like myself who resided in Bendigo, but for country students around northern Victoria. La Trobe University, Bendigo, has been and continues to be an important source for access to tertiary education, particularly for those who for family reasons are not able to live and support themselves in Melbourne and find the choice of a regional university much more affordable.

The Bracks government recognises the importance of the regional university in Bendigo and has already supported it through funding for the Centre for Sustainable Regional Communities and $3.2 million funding for the information communications technology centre. Again we make the contrast with the federal government, which continues — —

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

## Frankston Hospital

**Ms McCALL** (Frankston) — I raise for the attention of the Minister for Health serious allegations about the status of elective surgery and staff levels at Frankston Hospital. Honourable members may recall that the honourable member for Frankston East made some serious comments about the sorry state of Frankston Hospital after a number of people and members of the community approached him anonymously during the last state election campaign. Let me reassure the honourable member for Frankston East that I am now receiving those anonymous phone calls from people raising serious allegations, some of which have been raised by the honourable member for Mornington, regarding staff cuts in midwifery and in the delivery suite. I am reliably informed that babies wait for no man or beast, so to say there is no staff in the midwifery section is serious stuff.

Serious allegations have been made about underfunding in the accident and emergency areas because no money is available in the hospital coffers. Anonymous phone calls have been received from nurses at the hospital claiming promises made by the then opposition and the then candidate for the electorate of Frankston East are now not being fulfilled. They are concerned that the confidence they showed in him during that election campaign was clearly unfounded. They were idle promises. I therefore ask the part-time Minister for Health, when he is working in whichever department or office he may be working in at present, to come into the chamber and seriously undertake to investigate the allegations made by both the honourable member for Mornington and myself. The members of the community of Frankston who are served by Frankston Hospital deserve the allegations to be investigated, and I urge the minister to appear to do so.

## Spring Racing Carnival

**Mr ROBINSON** (Mitcham) — I raise for the attention of the Minister for Racing the forthcoming Spring Racing Carnival, a great highlight in the racing calendar of the state of Victoria. The action I seek from the minister this evening is to provide an assurance to the house and the Victorian community that every arrangement and provision is being made for the good conduct of the Spring Racing Carnival, which commences at Flemington on Saturday with the time-honoured Victorian Derby.

Recently we have seen with some sporting organisations — the Australian Football League comes to mind — that problems have occurred with the organisation of major events. Honourable members understand that in Melbourne every spring we go through the routine of tickets for AFL finals being organised in a most unreasonable way. Mr Speaker, I know you suffered the ignominy of having to line up for finals tickets in a manner that you would and the honourable member for Gippsland South would find less than satisfactory.

We do not want the racing industry to suffer the same difficulties. I seek from the minister an assurance that all arrangements are in place for the Victorian public to attend a series of magnificent sporting events in Melbourne.

## Responses

**Mr HULLS** (Minister for Manufacturing Industry) — The honourable member for Benalla is right to be concerned about the future of Australian Defence Industries. I too am concerned that the commonwealth defence manufacturing facility has not received adequate support from the Howard government.

The Howard government was caught out recently in a Senate estimates committee hearing drawing up plans to import its ammunition and explosives. I have raised the future of the facility with the federal government, as have local communities and the workers at those two

plants. I have visited the site in Mulwala and it is in urgent need of an upgrade.

After local workers raised the issue and after visiting the facilities, the Howard government announced it would upgrade the facility at Mulwala. The Howard government has had years to fund this project. It has also had months since the announcement to sign a contract, but it has put no money at all towards its so-called commitment to upgrade this very important facility and therefore no money to keep the hundreds of jobs there. It is an unfunded commitment by the Howard government and should be treated as just another Howard government non-core promise.

The honourable member ought be concerned that the federal government has made no concrete proposals to upgrade the facility. If the honourable member really wants to ensure the best outcome for her constituents — as I know she does — she should be telling every single one of them to ensure they support Barbara Murdoch at the forthcoming federal election because Barbara has been outspoken and vigilant about this facility and the protection of jobs at Mulwala, Yarrawonga and Benalla.

The coalition candidate, Sophie Panopoulos, has done absolutely nothing about those jobs. I have drawn the matter to the attention of Peter Reith and Brendan Nelson, who have made hollow promises and no commitment. The only person who has made a commitment is Barbara Murdoch. Therefore it is only the Labor Party that has committed to signing a contract for the redevelopment of the facilities and it is only the Labor Party that has made provision for funding this project. It is important that the people of the area understand that Barbara Murdoch has fought for the survival of those facilities and jobs and that she is the only candidate who has taken concrete action in relation to the jobs.

The honourable member for Mitcham raised a matter for my attention in my capacity as Minister for Racing. Can I just say that all roads will be leading to Flemington on Saturday for the Victoria Derby, on Tuesday for the Melbourne Cup, on Thursday for the Oaks and on the following Saturday for Emirates Stakes Day. Unfortunately I will not be at the Oaks on Thursday, and neither will any other honourable member, because we will be sitting here ensuring that democracy is alive and well in this place.

I understand that transport arrangements are in place. There will be a large crowd at the Derby on Saturday and a huge crowd at the Melbourne Cup. You get all sorts of tips as racing minister, but I expect the Bart Cummings horse, Ustinov, to win the Derby on Saturday and probably Universal Prince or Rain Gauge will win the Melbourne Cup.

**Dr Napthine** interjected.

**Mr HULLS** — An offer has been made to me by the Leader of the Opposition. He said, 'Hullsy, Let's Elope'. There is absolutely no way I intend eloping with the Leader of the Opposition. But if he is at Flemington on Saturday it will be interesting to see whether or not he is wearing a morning suit. That will be the test. I have been trying to bring the racing industry into the 21st century with a new governing structure. I will not be wearing a morning suit on Saturday.

**Dr Napthine** interjected.

**Mr HULLS** — The Leader of the Opposition says that therefore I should not be allowed in. He should be wearing a mourning suit — that is, a m-o-u-r-n-i-n-g suit.

*Honourable members interjecting.*

**The SPEAKER** — Order! Will the house come to order, and will the minister come back to addressing the issue that was raised by the honourable member for Mitcham, which was about preparations for the Spring Racing Carnival.

**Mr HULLS** — Preparations are all in order. I was out there this morning. The roses are looking absolutely magnificent. They are blooming. I give everyone a tip: get out there on Saturday, get out there on Tuesday. It is going to be a great carnival!

**Ms CAMPBELL** (Minister for Community Services) — The first matter was raised by the Leader of the National Party on behalf of Mr Tim Bull, representing his organisation the Voice of Special Children. I join with the Leader of the National Party in paying tribute to Mr Bull. I have met him on a previous occasion, and he speaks forcefully and clearly on behalf of his own family and many other families with children with special needs.

The matters raised went to two specifics, but before I go to those I will briefly mention that not only did I meet with Mr Bull but the regional director at the Gippsland regional office and senior staff have been working with parents in the Gippsland region to come up with better systems and outcomes for children with disabilities, particularly in the early intervention area. Mr Bull and local parents have worked cooperatively in that regard.

In regard to early intervention services, the last budget and the one before have provided an additional 12 per cent in funding for children with special needs. The government is proud of the additional 12 per cent, which has enabled hundreds of families to access additional services. We are doing that in the face of being underfunded by the federal government to the tune of around $10 million for disability services compared to other states. That has not stopped the government putting in and focusing on the needs of families and children with special needs. That the state is underfunded by $10 million is relevant because our preschool specialist integration aides are funded by the commonwealth government. We worked with my interstate colleagues at the last ministerial council to try to emphasise to the commonwealth that underfunding Victoria by $10 million has a significant impact on families. Mr Bull would be aware of that.

In relation to the point raised concerning the Catholic school system, that is a matter that is rightly the responsibility of the Minister for Education, and I will pass that over to the minister.

The honourable member for Clayton raised the Autistic Citizens Residential and Resources Society of Victoria, which has been working for over four years to have better infrastructure for its people with disabilities. This government delivers: it has provided a good outcome to the society. I am pleased to inform the honourable member for Clayton that in line with the government's policy of inclusion we have approved $870 000 for the purchase and refurbishment of a property for the society. Further, in line with the government's policy to promote inclusion of people with a disability, that infrastructure will be based on community life, and a hall will be upgraded, which will enable not only the society's clients but others in the community to enjoy the infrastructure.

The clients currently attending the day service have high support needs. The government will make sure that is taken into account in the infrastructure bill, and I look forward to joining the honourable member for Clayton at the opening of the site in 2002.

**Mr CAMERON** (Minister for Local Government) — The honourable member for Narracan raised a matter concerning the City of Latrobe, where a dispute is taking place. It seems that the relocation of offices from Traralgon to Morwell is the root cause of the dispute. A petition has been circulated in the Traralgon community seeking that the council be sacked. I have asked my department if there is anything the council has done which would trigger the Local Government Act provision, and the answer is no. Notwithstanding that, it seems, as the honourable member for Narracan suggests, that there has been a breakdown in communication on both sides. We want the region to work well. Other municipalities with diverse communities work well. From what I have read I realise that the local member, the Honourable Peter Hall in the other place, does not seek to interfere in local government matters, but he has an opinion. If both sides want an independent facilitator to help with lines of communication, although it cannot be done legislatively, if there is an approach I will ensure that a facilitator is provided.

The honourable member for Prahran raised a matter concerning the amalgamation of Albury-Wodonga to bring about Australia's first national city, a city that will speak with one voice for that metropolis. Certainly the honourable member for Prahran had hoped for more since the promise was made by the states that we would seek to bring together the joint city. To that end, and wanting to move the process along more quickly to bring about the joint city, the honourable member wanted legislation passed for the winding-up of the Albury-Wodonga Development Corporation.

I thank the opposition for its support in wanting to quickly bring it about. However, the Honourable Ian Sinclair is involved and consulting with the community, and people want state and local government issues addressed. The honourable member for Benambra is a keen supporter of the joint city. We have made it clear that we want to survey community opinion to see if they want to bring about the benefits of a joint city and the benefit of doing away with some of the state anomalies. I thank the opposition for its support.

The Leader of the Opposition and the honourable members for Monbulk, Keilor, Mornington, Bendigo East and Frankston raised matters for the attention of ministers. I shall forward those matters on to them.

**Motion agreed to.**

**House adjourned 8.53 p.m. until Wednesday, 7 November.**

# 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 Assembly.***
***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.***

## Tuesday, 30 October 2001

### Health: Bennettswood — Royal Dental Hospital waiting list

**365. MR WILSON** — To ask the Honourable the Minister for Health — how many Victorians from each of the postcodes 3125, 3128, 3130, 3149 and 3151 were on the Royal Dental Hospital waiting list for treatment at the end of each month from August 2000 to April 2001 inclusive.

**ANSWER:**

The number of Victorians from postcode areas 3125, 3128, 3130, 3149 and 3151 who were on the waiting list for treatment at the Royal Dental Hospital at the end of each month from August 2000 to April 2001 inclusive is as follows:

| **Number of Victorians on RDHM Waiting List for Postcodes 3125, 3128, 3130, 3149 and 3151 As At:** | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **31/8/00** | **31/9/00** | **30/10/00** | **30/11/00** | **31/12/00** | **31/01/01** | **28/02/01** | **31/03/01** | **30/04/01** |
| 1841 | 1875 | 1902 | 1939 | 1940 | 1920 | 1910 | 1901 | 1911 |

### Premier: ministerial officers' pecuniary interests

**433(a). MR KOTSIRAS** — To ask the Premier whether all ministerial officers currently or previously employed by the Premier have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All ministerial officers currently employed by me have completed a declaration of pecuniary interest form.

### Multicultural Affairs: ministerial officers' pecuniary interests

**433(b). MR KOTSIRAS** — To ask the Minister for Multicultural Affairs whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

I wish to advise that in my capacity as the Minister for Multicultural Affairs, I do not employ staff.

## Treasurer: ministerial officers' pecuniary interests

**433(d). MR KOTSIRAS** — To ask the Treasurer whether all ministerial officers currently or previously employed by the Treasurer have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Workcover: ministerial officers' pecuniary interests

**433(g). MR KOTSIRAS** — To ask the Minister for Workcover whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Community Services: ministerial officers' pecuniary interests

**433(h). MR KOTSIRAS** — To ask the Minister for Community Services whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Environment and Conservation: ministerial officers' pecuniary interests

**433(k). MR KOTSIRAS** — To ask the Minister for Environment and Conservation whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Police and Emergency Services: ministerial officers' pecuniary interests

**433(m). MR KOTSIRAS** — To ask the Minister for Police and Emergency Services whether all ministerial officers currently or previously employed by the Ministers have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Corrections: ministerial officers' pecuniary interests

**433(n). MR KOTSIRAS** — To ask the Minister for Corrections whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Agriculture: ministerial officers' pecuniary interests

**433(o). MR KOTSIRAS** — To ask the Minister for Agriculture whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Aboriginal Affairs: ministerial officers' pecuniary interests

**433(p). MR KOTSIRAS** — To ask the Minister for Aboriginal Affairs whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Attorney-General: ministerial officers' pecuniary interests

**433(q). MR KOTSIRAS** — To ask the Attorney-General whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### Health: ministerial officers' pecuniary interests

**433(z). MR KOTSIRAS** — To ask the Minister for Health whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### Ports: ministerial officers' pecuniary interests

**433(ab). MR KOTSIRAS** — To ask the Minister for Transport representing the Minister for Ports whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### Energy and Resources: ministerial officers' pecuniary interests

**433(ad). MR KOTSIRAS** — To ask the Minister for Environment and Conservation representing the Minister for Energy and Resources whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### Consumer Affairs: ministerial officers' pecuniary interests

**433(ag). MR KOTSIRAS** — To ask the Minister for Corrections representing the Minister for Consumer Affairs whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Treasurer: payroll tax payers

**440. MS ASHER** — To ask the Honourable the Treasurer — what was the total number of businesses paying payroll tax as — (a) at June 1999; (b) at June 2000; (c) at June 2001; and (d) an estimate for June 2002.

**ANSWER:**

I am informed that:

Registered Employers (including authorised employment agencies) paying payroll tax as at June 1999 and June 2000 are reported in the State Revenue Office Annual reports 1998/1999 and 1999/2000. Web site: www.sro.vic.gov.au/.

The number of the above employers as at June 2001 will be reported in the 2000/2001 Annual Report to be released late in 2001.

Reliable estimates of the number of Registered Businesses as at June 2002 are not available.

## Treasurer: land tax payers

**441. MS ASHER** — To ask the Honourable the Treasurer — what was the total number of land tax payers as — (a) at June 1999; (b) at June 2000; (c) at June 2001; and (d) an estimate for June 2002.

**ANSWER:**

I am informed that:

Land tax payers as at June 1999 and June 2000 are reported in the State Revenue Office Annual reports 1998/1999 and 1999/2000. Web site: www.sro.vic.gov.au/.

The number of land tax payers will be reported in the 2000/2001 Annual Report to be released late in 2001.

Reliable estimates of the number of land tax payers as at June 2002 are not available.

## Transport: route 109 project

**470. MR LEIGH** — To ask the Honourable the Minister for Transport with reference to expenditure on the Yarra Trams Route 109 Project — (a) what has been the Government's expenditure; (b) what future expenditure has been committed; and (c) how much of the project is being funded by Yarra Trams.

**ANSWER:**

Tram 109 is a major project with many elements. Some of the existing Yarra Trams franchise commitments are consistent with and will enhance the Tram 109 project. The key elements include:

(a) Box Hill tram extension — a $22 million project (including land acquisition) of which $4 million has been paid to date.

(b) Construction of a number of tram 'Superstops', the first two of which are under construction at the Collins Street/Swanston Street intersection (no payment to Yarra Trams has been made as yet).

(c) In addition, Yarra Trams will introduce 36 new 'low floor' trams — a $100 million investment — as part of their Franchise Agreement with the Government.

Yarra Trams is providing support, concept design and advice, working in partnership with the Government to deliver this project.

Opportunities to improve journey times and reliability on route 109 through changes to traffic management are still being examined, and will be considered by the Government for funding in future budgets in conjunction with other competing public transport projects.

## Transport: road/bridge funding

**494. MR MAUGHAN** — To ask the Honourable the Minister for Transport — what is the Government's policy with regard to the ongoing funding of existing state highways and bridges where either a new highway or bridge is built to bypass a town.

**ANSWER:**

In the situation where a town is bypassed with the construction of a highway, the classification of the original route through the town would be reviewed following the opening of the bypass to reflect the changed function of the road through the town. It may be downgraded from a declared State Highway to a Main Road or, in the case where the old route reverts to solely a local access function, it may be unclassified to a Local Road status.

Construction and maintenance activities on both declared State Highways and Main Roads are fully funded by the State Government through Vicroads. In the case where a State Highway is reclassified to a declared Main Road, the State would continue to fund ongoing maintenance activities for both the road and any bridges along the route.

Local roads are typically funded and managed by Local Government with funding assistance grants provided by the Federal Government. If a road were to be unclassified to a Local Road status, the local municipality would assume responsibility for ongoing maintenance required.

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