PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

20 November 2001

(extract from Book 8)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

Lady SOUTHEY, AM

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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TUESDAY, 20 NOVEMBER 2001

Tuesday, 20 November 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent on 14 November to Marine Safety Legislation (Lakes Hume and Mulwala) Act.

MELBOURNE CITY LINK (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

JUDICIAL REMUNERATION TRIBUNAL (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

MARINE (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

WATER (IRRIGATION FARM DAMS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

VICTORIAN ENVIRONMENTAL ASSESSMENT COUNCIL BILL

Council's amendments and Assembly's amendments

Returned from Assembly with message agreeing to Council amendments, disagreeing with other Council amendments and seeking concurrence with further Assembly amendments.

Ordered to be considered next day.

QUESTIONS WITHOUT NOTICE

Feltex Carpets Ltd

Hon. BILL FORWOOD (Templestowe) — I refer to the Feltex dispute. I understand that the Minister for Industrial Relations is meeting with representatives of the company this afternoon. The minister will be well aware that a key aspect of this dispute is not wages but the fact that the unions are demanding the establishment of a Manusafe-style trust fund. Given the importance of this industry to Victoria and Australia, and the danger that it might go overseas, will the minister negotiate with the unions to have them drop this outrageous demand?

Hon. M. M. GOULD (Minister for Industrial Relations) — From his comments the Leader of the Opposition obviously does not understand the industrial relations system. Nor does he understand the Workplace Relations Act, because if he did he would know that in the last couple of weeks a full bench of the Australian Industrial Relations Commission ruled that the matter of employee entitlements is an industrial matter. Therefore under protected action under the Workplace Relations Act employees are allowed during enterprise bargaining to put a claim to and negotiate with their employer for the protection of their entitlements.

It shows that the Leader of the Opposition does not understand industrial relations and the Workplace Relations Act put in place by his federal colleagues, and the commission has ruled accordingly.

Feltex Carpets Ltd

Hon. G. D. ROMANES (Melbourne) — Further to the previous question, I ask the Minister for Industrial Relations to inform the house of what involvement the Victorian government has had in the dispute between Feltex and the Textile, Clothing and Footwear Union of Australia.

The PRESIDENT — Order! I have to ask whether the question has already been answered. It is very close, but I will leave that to the minister.

Hon. M. M. GOULD (Minister for Industrial Relations) — The Bracks government has been closely monitoring the dispute between Feltex and the textile, clothing and footwear union. It is concerned about the effects of this dispute on the company as well as on the workers and their families.

I have met with both the representatives of Feltex and the union to discuss the dispute and to see whether there is any way the Bracks government can assist the parties. The representatives of Feltex have asked for another meeting with the government, and I will be meeting with them this afternoon.

As I indicated earlier, the dispute has arisen as a result of enterprise bargaining, and the negotiations between Feltex and the union are taking place under the Workplace Relations Act.

An honourable member interjected.

Hon. M. M. GOULD — Yes, it is about the protection of employees' entitlements. The dispute would not have occurred if the federal government had adopted an adequate scheme to protect employees' entitlements. Despite numerous chops and changes by the federal government, there is still no scheme in place to protect 100 per cent of employees' entitlements. As a result, the unions and the employers are forced to negotiate on this issue, and they do so under the conflict-based federal Workplace Relations Act.

In an attempt to resolve this matter it was brought before the Australian Industrial Relations Commission, and Senior Deputy President Williams made a recommendation to the parties that all industrial action that is being taken by either of the parties, the employer or the union, should be lifted. The commission also recommended that all legal action that is being taken by the parties ought to be withdrawn or discontinued. I restate the government's position that the recommendations by the commission should be supported. When the umpire, the Australian Industrial Relations Commission, makes a recommendation it should be accepted. But unfortunately the Australian Industrial Relations Commission is hampered in resolving this matter, and last week Senior Deputy President Williams stated that there is no doubt that the present legislation does not readily provide for an environment in which the negotiation of agreements is easily achievable.

However, despite these difficulties caused by the federal government's Workplace Relations Act, which as we know does not adequately protect employees' entitlements, the Bracks government will continue to seek to assist the parties in resolving this dispute.

Industrial relations: commonwealth act amendments

Hon. C. A. FURLETTI (Templestowe) — I ask the Minister for Industrial Relations whether, given the return of the federal coalition government and the Labor loss on 10 November, the minister will seek to convince her colleagues in the federal New Labor to support the federal government's Workplace Relations Amendment (Minimum Entitlements for Victorian Workers) Bill 2001, which will be reintroduced when the federal Parliament resumes, to improve the working conditions of Victoria's schedule 1a employees.

Hon. M. M. GOULD (Minister for Industrial Relations) — The proposed amending legislation put up by the federal workplace relations minister, the Honourable Tony Abbott, with respect to schedule 1a does not protect employees. It does not protect outworkers.

Honourable members interjecting.

Hon. M. M. GOULD — That shows once again that the opposition has no understanding of industrial relations. The Honourable Carlo Furletti would not have a clue about how these 250 000 Victorian workers have no set hours that they can be required to work, do not get paid after they have worked 38 hours, and have no entitlement to bereavement leave or carers leave.

The previous Leader of the Opposition said he was prepared to look after and consider the plight of outworkers in this state. What the federal government proposed in that piece of legislation before Parliament was prorogued was not going to deem outworkers as employees — so it was not to protect schedule 1a workers, outworkers, or to ensure they have reasonable hours, terms and conditions.

The Victorian Labor government does not support the changes proposed with respect to outworkers. They do not contain clear sets of hours or days of the week on which Victoria's schedule 1a workers will be required to work under the poor conditions set by the then opposition back in 1996.

Industrial relations: disputes

Hon. KAYE DARVENIZA (Melbourne West) — I refer the Minister for Industrial Relations to the

Australian Bureau of Statistics data on industrial disputes and ask her to advise the house what the most recent figures show with respect to Victoria.

Hon. M. M. GOULD (Minister for Industrial Relations) — I have reported to the house that for a number of consecutive months we have seen extremely positive industrial disputes figures in Victoria when compared with previous years. I am again pleased to report that the most recent figures released by the Australian Bureau of Statistics relating to August 2001 reinforce my previous comments.

For the 12-month period ending August 2001 the figures show that Victoria lost fewer working days to industrial disputes when compared with the same 12-month period in previous years. When compared to the 12 months ending in August 2000 the latest figures show a reduction of 28 per cent in the number of working days lost per 1000 employees, and there has been a 42 per cent decrease since August 1999. And when we go back to 1998 under the previous government the drop is 61 per cent. That clearly shows there has been significantly less industrial disputation over the Bracks government's first term in government than in the last two years of the Kennett government.

Although the construction industry accounted for a considerable portion of the working days lost in August, honourable members should note that the Bracks government is doing something about it. It has established the Building Industry Consultative Council to identify, promote and initiate beneficial changes in the industry. The provision of this cooperative approach through the consultative council is in contrast to the conflict-based Workplace Relations Act.

We know it is a hard road, but we are concerned. We will continue to work with the industrial parties to assist the building industry wherever possible. As I said in a previous answer, even the commission's senior deputy president acknowledges that under the Workplace Relations Act it is difficult to reach agreement through the system in place. Despite that, the Bracks government is working hard to assist Victorian employers, employees and unions to resolve their issues. We are committed to fixing the mess that was left behind by the Kennett government, which neglected Victorians with respect to industrial relations, to ensure we grow the whole of the state.

Auctions: bidding

Hon. E. J. POWELL (North Eastern) — Will the Minister for Consumer Affairs explain the difference between a vendor bid and a dummy bid?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for her question, because there were a number of definitions in the media this morning.

Hon. P. R. Hall — What's yours?

Hon. M. R. THOMSON — The issue of dummy bidding is of great concern to potential purchasers of properties in what is a hot property market at the moment. The government is looking for recommendations from the Estate Agents Council that will address the issue of dummy bidding. There are a number of definitions of dummy bidding. We do not have legislation that actually outlaws them; it is not illegal to have a dummy bid lodged at an auction. For the purposes of a definition and to clarify the issue, so far as I am concerned a vendor's bid is a valid bid so long as it is declared and it is understood to be a vendor's bid. A dummy bid is either one that is plucked from the air, from the trees or, as in the example I used, from the pet cat, or one where somebody places a bid on behalf of the vendor but it is not declared.

I have asked the Estate Agents Council to report to me with recommendations, which I am expecting shortly, on a raft of measures to enhance the industry and the way in which it practises the sale and purchase of real estate so that consumers can be confident in the process.

The Real Estate Institute of Victoria also welcomes the clarification of what is a dummy bid and of the practices that are to be put in place at auctions. We are looking forward to being able to clarify those issues in legislation.

Liquor: Zulu 42

Hon. E. C. CARBINES (Geelong) — My question to the Minister for Consumer Affairs relates to recent media coverage regarding the alcoholic pressure pack spray Zulu 42. Given the proposed banning of liquor essence, will the minister consider banning this potentially dangerous product?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — The government is concerned about unsafe or dangerous alcohol-based products that are potentially harmful not just to our young but to older people.

An article in the *Herald Sun* of 13 November raised the issue of Zulu 42. Mr President, if you are like me you would not have known what it was when you read the article. I have in my hand the Zulu 42 product. It is an alcoholic spray product that you spray into your mouth. It depends on your taste buds whether you would like it

or not. It has an alcoholic strength of 26 per cent alcohol by volume. Honourable members will be aware that the government has introduced legislation into the other place to ban the sale of alcohol-based food essences. It is a ban on bottles that hold more than 50 millilitres or, in the case of vanilla essence, more than 100 millilitres. The government will ban the sale of larger bottles of the substance in liquor stores because they have an alcohol content which may, in some instances, exceed 70 per cent alcohol by volume, which is outrageous. The product has no redeeming features; it is sold for less than $10 a bottle and is still, unfortunately, available for sale and is rather attractive to under-age drinkers.

This product was consumed by Leigh Clark of Melton in 1999. Unfortunately, Leigh died at 15 years of age and the coroner brought down her findings in relation to Leigh's death last week. Although hypothermia was given as the reason for Leigh's death, there is no doubt, according to the coroner, that had he not consumed this product he would have been able to get himself out of the environment that caused his death.

The government has introduced that legislation, but it is important that we look at products that may need to be banned in the future and not just continually rely on introducing legislation to the house every time a product comes before us that is of danger to young people and adults; we should have mechanisms to ban unsafe products or products not in the public interest. The legislation will allow the government to ban such products after a regulatory impact statement process is undertaken. A products such as Zulu 42 may just be one of those kinds of products that we wish to look at.

Workcover: premiums

Hon. P. A. KATSAMBANIS (Monash) — Will the Minister assisting the Minister for Workcover inform the house of what progress, if any, there has been to date in conducting the Workcover premium review promised by the government in August last year, and when the review is now expected to be completed?

Hon. M. M. GOULD (Minister assisting the Minister for Workcover) — I will refer that question to the Minister for Workcover in the other place and ask him to respond.

Hon. Bill Forwood — On a point of order, Mr President, I invite you to rule on the adequacy of the minister's response. In doing so, I make the following points: firstly, on 20 October 1999, the Honourable Monica Mary Gould, MLC, was sworn in as Minister for Industrial Relations and Minister assisting the Minister for Workcover, without salary, so the minister has been duly sworn in as the Minister assisting the Minister for Workcover; secondly, the rules for questions without notice say that questions may be put to a minister relating to public affairs with which he or she is officially connected, and I make no bones about the fact that she has been sworn in, so therefore she is officially connected.

I point out that last time this house sat the Honourable Bob Smith asked a question of the Minister assisting the Minister for State and Regional Development and received an answer from the Honourable Candy Broad. In those circumstances, I invite you, Mr President, to ask the Minister assisting the Minister for Workcover to respond properly to the question.

Hon. M. M. GOULD — On the point of order, I have indicated that this is a matter for the Minister for Workcover, and I will refer the question to the minister to ensure the honourable member receives a full and detailed response.

The PRESIDENT — Order! The minister comes to this house with a couple of capacities, one of which is, as pointed out, as a minister sworn in as the Minister assisting the Minister for Workcover. A number of ministers in this house have that capacity, such as the Honourable Justin Madden who is the Minister assisting the Minister for Planning, the Honourable Candy Broad who is the Minister assisting the Minister for State and Regional Development, and there are probably others.

The question is what expectations that should bring the house regarding the responsibility of that person. Does it mean the minister assisting can answer questions when it suits him or her, or is there are a more general rule?

I find it not an easy question on which to come to a conclusion. On the one hand, I do not think it is reasonable that on one day a minister can choose to answer in that capacity and on another day choose not to and say that it is a matter for the minister. On the other hand, we have to recognise that the minister who has the prime responsibility is expected to have full control of the portfolio, including policy matters.

I do not think we can require the minister to answer the question, but I think we should have a greater expectation of ministers who are assisting than we may have, or the individual ministers may have. I do not uphold the point of order on this occasion because it goes to what matters the other minister is handling, but on other occasions, depending on the nature of the

circumstances, I may rule that the minister should answer a particular question.

Hon. Bill Forwood — On a point of order, Mr President — —

The PRESIDENT — Order! Is this another point of order?

Hon. Bill Forwood — It is another point of order. In part of your ruling, Mr President, you suggest that it would be more appropriate if we had some understanding of what members opposite did in their acting capacities. I invite the Minister for Industrial Relations to turn her mind to ways in which this house could more appropriately deal with matters regarding ministers who assist in these capacities.

The PRESIDENT — Order! I will take that as a formal suggestion to the Minister for Industrial Relations.

Fishing: quotas

Hon. R. F. SMITH (Chelsea) — Will the Minister for Energy and Resources inform the house of the most recent catch and effort results for Victoria's fisheries and the economic significance of these results to rural and coastal Victoria?

Hon. C. C. BROAD (Minister for Energy and Resources) — Each year the Marine and Freshwater Resources Institute publishes a report on the status of Victoria's fisheries resources and, most importantly, the value of the fisheries to the state. The report is compiled from the data supplied by licensed commercial fishers, the Melbourne Fish Market, selected fish processors and independent research programs. The data collected is used to conduct fisheries stock assessments and analysis.

This year's report concludes that the outlook for Victoria's fisheries resources is positive. Financially, the value of Victoria's fisheries resources has risen over the last three years from $76 million to $111 million.

That is an overall increase in value of 46 per cent, which is an extremely good outcome for the thousands of Victorians who are dependent on the industry for their livelihoods, particularly within the many smaller coastal communities that depend on this industry.

It is important to note that the increase in catch value in Victoria has not been at the expense of the long-term sustainability of the resource. In fact, during this period controls over the level of harvest have increased and the number of commercial fishers in the industry has decreased.

The growth is attributable to a number of factors, including the high price paid by overseas markets for Victoria's superior products. For example, the value of the abalone fishery, which has 71 licence-holders, has risen during the past three years from $45 million in 1998–99 to $73 million in 2000–01. The aquaculture industry has also proven to be another success story in Victoria with its value increasing from $18 million in 1999–2000 to more than $21 million in 2000–01.

The Bracks government has assisted in delivering these very positive results for the fisheries industry through a number of initiatives which include developing management plans for a number of key commercial fisheries, in particular abalone; amending the Fisheries Act to improve the management and compliance arrangements for all stakeholders; and contributing some $50 000 to Seafood Services Victoria to promote a more market-driven approach to the fisheries industry. These positive results are further indications of the Bracks government's policy of balancing its social, environmental and economic responsibilities. That has resulted in an improvement in the sustainability of fishery resources while improving industry returns and securing many jobs across Victoria that depend on resource supports.

Minister for Industrial Relations: responsibilities

Hon. PHILIP DAVIS (Gippsland) — I refer the Minister for Industrial Relations to the continued involvement of the Premier's chief of staff, Tim Pallas, in dealing with industrial disputes. Given that industrial relations is her responsibility, will the minister advise what role Mr Pallas has and how it differs from hers?

Hon. M. M. GOULD (Minister for Industrial Relations) — Recently during the adjournment debate the Honourable Gordon Rich-Phillips made a comment about an article in the newspaper, and I referred to him. The Honourable Philip Davis has been around here a lot longer and I would have expected him to know that I hold the portfolio of Minister for Industrial Relations, not the chief of staff to the Premier.

Sport: major events

Hon. T. C. THEOPHANOUS (Jika Jika) — Will the Minister for Sport and Recreation inform the house of the Bracks government's proud record of attracting major sporting events to Victoria?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for his question. As honourable members would no doubt be aware of and appreciate, tonight Australia plays Uruguay at the Melbourne Cricket Ground in the first of two games as part of the qualifier for the 2002 World Cup soccer in Japan and Korea. I know honourable members are particularly excited about the prospect of Australia potentially making that qualifier. The Australians are very much supported by honourable members in the house, and we hope the green and gold does itself proud.

For those honourable members of the house who might not appreciate what a soccer guernsey looks like, I have one here in the Australian colours for them to see.

The playing of tonight's game at the Melbourne Cricket Ground reinforces the venue's status as the people's ground and underscores its importance to the state in attracting major events. It also reinforces the need for the proposed redevelopment of the northern stand at the MCG, which will maintain the ground's high standards and its reputation for being able to attract events and maintain them in this state.

Following the holding of a number of international soccer games in Melbourne, including those played as part of the Olympic competition, the previous World Cup qualifier and the recent international friendly match against France, this city can rightly claim its mantle as the capital of soccer in Australia.

Tonight's game highlights the Bracks government's capacity to continue to deliver major events in this state, despite the particularly strong competition from other states around Australia. Tonight's event will no doubt attract in the order of 90 000 spectators. The final qualifying series for the World Cup contains 32 teams, and this game will attract significant international interest, particularly in Europe and Asia, where the game will be broadcast.

The game also gives us the opportunity to broadcast vignettes highlighting Victoria's tourism features to attract and increase tourism to various destinations in the state. Tourism Victoria has also commissioned an economic impact study of the event which will inform future activity in attracting events to this state.

It is 27 years since Australia last played in a soccer World Cup final. Tonight the Socceroos have the opportunity to take the first step towards again being represented on the world soccer stage. I am sure that all members of this house would want to go to the game and not be here tonight, but I am also sure they would support me in wishing the green and gold all the best. I hope they come home — not only tonight but also in the next game — with the goods!

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 2049, 2145, 2147–8, 2156, 2158, 2160, 2191, 2201–3, 2205, 2215, 2217–8, 2221–2, 2232–5, 2244, 2246, 2248–9, 2276, 2301–4, 2308–10, 2314–24, 2326–33, 2335–8, 2357–61, 2370–3, 2381 and 2406.

Hon. Andrea Coote — On a point of order, Mr President, I could not hear the minister at all. I am waiting for answers to a number of questions and I could not properly hear the numbers read out. There are four questions from September that I need answered and I do not know whether they have been answered or whether they have not.

Hon. K. M. Smith — On the point of order, Mr President, on a regular weekly basis when the house is sitting a large number of answers to questions on notice are read out and it is very hard for members to keep in touch with where they are. I suggest that when the minister provides answers, as she has just done, she have distributed to members who have questions on the notice paper a list of the numbers that are being answered. It would then be easy for members to ascertain whether or not their questions have been answered and to raise the issue immediately if their questions have not been answered within the 30-day guidelines.

The PRESIDENT — Order! That seems to be a sensible course of action. The fact is that the minister has to read out a list, and it would only be a question of copying that list and making it available to the house. I leave that suggestion with the government.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Parliamentary Committees Act

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

> That the resolution of the Council of 1 March 2000, requiring the Scrutiny of Acts and Regulations Committee to inquire into and make recommendations for a clearer and improved Parliamentary Committees Act 1968 and to report to

> Parliament by 30 June 2001, be amended so far as to now require the committee to report by May 2002.

Motion agreed to.

LEGISLATIVE COUNCIL

A Blended House — The Legislative Council of Victoria 1851–1856

Hon. B. W. BISHOP (North Western) — On behalf of Mr President, by leave, I move:

> That there be laid before this house a copy of *A Blended House — The Legislative Council of Victoria 1851–1856.*

Hon. M. M. GOULD (Minister for Industrial Relations) — A week and 150 years ago today, on 13 November 1851, the first Legislative Council of Victoria was officially opened. It met for the last time on 20 March 1856 and then dissolved. The first Legislative Council should not be confused with the present Legislative Council of the Parliament of Victoria, which met for the first time on 25 November 1856. They were quite different and separate legislatures.

Today we acknowledge the contribution of the first Legislative Council. It was an inexperienced council, and it found itself trying to manage the world's greatest gold rush to the world's richest colony. Yet despite these challenges it achieved a great deal. Among its many contributions it drafted the constitution of Victoria, started the construction of this magnificent Parliament House, devised our system of local government, established the Supreme and County Court system of Victoria and founded the parliamentary library, the state library and the University of Melbourne.

But the most important work conducted by the Legislative Council of Victoria was the invention of the secret ballot. As we now know, the secret ballot was taken up through the democratic world when it became widely known as the 'Victorian ballot'.

All honourable members experienced going into polling booths on 10 November to take part in the federal election by lodging a secret ballot. That came about because of what happened in the Victorian Legislative Council prior to 1856.

On looking through this wonderful book that Dr Ray Wright has written what I found quite amusing among the things that happened in the early stages was the first point of order taken in the chamber. That was followed by a motion. The question was whether a prayer should be said at the beginning of the day's sitting, and on page 25 the following appears:

> The motion, 'utterly needless and unserviceable' muttered 'Garryowen', was lost in a not quite full house, 14 votes to 13.

A division was called on the question of whether they ought to say the prayer. The Attorney-General and the Colonial Secretary voted against the motion, but the Auditor-General voted in favour of the motion. Because of the lack of need to vote along party lines people voted according to their conscience more than anything else. The report goes on:

> The first major decision of the house was therefore not to start each day with a prayer, so rendering the chamber 'in its collective capacity … essentially Godless'.

That was the subject of the first point of order and motion before the house.

As I said, most importantly, as appears at page 120 of the book:

> On 28 November 1855 the Elections Regulation Bill was read for the first time. On 18 December 1855 and well before the second reading, William Nicholson moved 'That in the opinion of this house, any new electoral act should provide for electors recording their votes by secret ballot'.

That was the beginning of the secret ballot as we know it in the democratic world today. That came from the Legislative Council sittings between 1851 and 1856. The book goes on to describe the fact that the candidates were able to watch people as they voted and so they were able to get an idea of how the votes were going. If they could see that their tally was not as good as they thought it should be, they would go out and rustle up some more voters to come in and vote for them. They were also very civilised because they would have some food and drink for people to pass the time while they were voting.

With the publication and launching today of the book, it is important to put on the record that what democratic countries around the world refer to as the secret ballot is the result of what took place here in the Legislative Council more than 150 years ago. Few places in the world can claim to have contributed to the wider democratic process as we can in Victoria, as is noted in the book. As a result of the decisions made by the Legislative Council we can make such a claim.

Hon. BILL FORWOOD (Templestowe) — On behalf of the opposition, I would also like to add a few words about our first Legislative Council, which met between 1851 and 1856.

As the Leader of the Government just said, our first Legislative Council did a fair amount in just four and a half years in very trying conditions — although, of course, its reputation is not always for being positive. Someone suggested to me that its members were in fact a touch dodgy. When I was reading the book *A Blended House*, which Dr Wright gave me, I noted that on page 128 it says of the end in 1856 of the first Legislative Council:

> As obituaries go, that of the *Argus* was hardly elegiac:
>
> > The poor, dear, old thing is gone at last. After a protracted, tottery, rickety existence, drawn out so long as to survive the respect of all friends and provoke the ridicule of enemies, the Legislative Council of Victoria is deceased, and its dust is scattered to the winds of heaven.

Dr Wright goes on to say:

> Since the day of its dissolution, the Legislative Council has been charged with ineptitude, irresponsibility and incapacity.

So added to the list of positive things that the Leader of the Government has stated, there were other views about that Legislative Council which are well canvassed in *A Blended House*.

As I said, it did have notable achievements, one of its greatest being the drafting and proclamation of the constitution of Victoria. As honourable members know, the constitution created a three-part Parliament, comprising the Crown, the Legislative Council and the Legislative Assembly. What is not widely recognised or known is that in creating an elected upper house for the Parliament our first Legislative Council was being very innovative. There was only one prior instance — in the Cape of Good Hope colony — of an elected upper house. The constitution was written in 1853 and 1854 and proclaimed on 23 November 1855, 150-odd years ago. On that day responsible government was introduced to Victoria. As a direct result of the activities of our first Legislative Council, the Parliament of Victoria met in November 1856. The constitution of Victoria, one of the most innovative of its time, may therefore be considered another major contribution by Victoria to the Westminster democratic tradition.

I congratulate the Department of the Legislative Council, which I note has copyright of this book, for publishing this history, and in particular the Usher of the Black Rod, Ray Wright, for producing a lively follow-up companion volume to his seminal work *A People's Counsel*.

Hon. P. R. HALL (Gippsland) — I welcome this opportunity to say a few words about the unique paper that has been tabled today, which takes the form, of course, of the very fine book written by Ray Wright and titled *A Blended House*.

Unlike, it seems, the Leader of the Opposition and the Leader of the Government, I have not yet had the opportunity to read the book, having just seen a copy this morning. I look forward to doing so because I think that as we grow older our interest in where we came from is heightened. It certainly is in my case. I think in the past four years I have read more history books than I had read in the previous 45 years of my life. I am getting older and I am certainly more interested in history.

We know that much has changed with the Legislative Council since the first one was formed in 1851. I also hope that some things have not changed all that much. Although I have not read the book, I am told that, for example, the pastoralists and squatters were a very vocal group in those early days of the Legislative Council. We in this corner of the chamber would like to believe that those of us who represent the pastoralists and squatters in Victoria today are still very much a vocal group and an important part of the Legislative Council chamber.

Both the Leader of the Government and the Leader of the Opposition have mentioned some significant achievements of the first Legislative Council that existed between 1851 and 1856. It has been mentioned in passing that another of the major achievements was the commissioning and construction of the Parliament House building we are in now, in particular the two chambers of the Legislative Council and the Legislative Assembly. At the time there was some debate about where the new Parliament for Victoria should be placed. Some consideration was given to putting it on the present site of the State Library or where the law courts are now situated; and there was also talk about it being located in Spring Street, opposite Little Bourke Street. Our predecessors in the Legislative Council finally chose this site, which has proved to be an excellent positioning for the Parliament of Victoria.

It was also a matter of interest to learn that the construction of the chamber we are sitting in this afternoon began on Christmas Eve 1855 and that, remarkably, both the Council and Assembly chambers were completed in time for the opening of the first Parliament of Victoria in November 1856. So the magnificent structure in which we sit was completed in less than one year. That is a remarkable achievement and testimony to the hard work, diligence and capabilities of the construction workers of those times. There are a lot of lasting memories and significant

events for which we can thank those original members of the Legislative Council of Victoria.

As I said, I look forward to reading this book. On behalf of my colleagues in the National Party I congratulate the author, Dr Ray Wright, on his excellent contribution and also those who have assisted him in the development of what is a very important book in the history of this Parliament.

The PRESIDENT — Order! I would like to be associated with this motion before the house. Later in this building I will be saying something which will be a little bit more than just supplementing the information given to the house by the previous speakers.

As has been said, the Legislative Council was opened 150 years ago as at last week and met for the last time on 20 March 1856. It was a fairly tumultuous four and a half years, particularly given that it included the gold rushes in Victoria, the Eureka Stockade and many other issues that have been highlighted by Dr Wright in his book. During that period a total of 105 members were either elected or appointed. One-third, or 10, of them were nominated by the Governor and 20 were elected. For that reason the house became known as the blended house, hence the title of Dr Wright's book.

The Legislative Council met 441 times, formed 117 select committees — a bit better strike rate than we have — and passed 175 of the 246 bills that were brought before it for consideration. The legislation passed by our first Legislative Council — you can see some of those original pieces of legislation in the exhibition in our gallery — was among the most important passed in Victoria and did much to shape the early character of Victoria. Some big names in Victoria were associated with that council: William Stawell, John Pascoe Fawkner, John Foster, John O'Shanassy and many others. Two of the most famous of our early governors were Charles Joseph La Trobe, of whom there are a number of interesting artefacts in the exhibition, and Charles Hotham. They all worked under very trying conditions. If the episode of the Eureka Stockade was the council's worst moment, the passage of the legislation for the secret ballot, the constitution and the commencement of Parliament House could be counted among the council's best.

Today, 150 years and one week later, it is appropriate to acknowledge the important contributions to the development of Victoria made by our first, forgotten Legislative Council, and I thank Dr Ray Wright for his endeavours on our behalf to produce such a magnificent result with his book, *A Blended House — The Legislative Council of Victoria 1851–1856*.

Motion agreed to.

Hon. M. M. GOULD (Minister for Industrial Relations) presented paper in compliance with foregoing order.

Laid on table.

Ordered to be printed.

HEALTH SERVICES COMMISSIONER

Annual report

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

That there be laid before this house a copy of the report of the Health Services Commissioner for the year 2000–01

Motion agreed to.

Hon. B. W. BISHOP (North Western) presented report in compliance with foregoing order.

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

National Crime Authority

Hon. A. P. OLEXANDER (Silvan) presented report.

Laid on table.

Ordered to be printed.

Alert Digest No. 13

Hon. A. P. OLEXANDER (Silvan) presented *Alert Digest* No. 13 of 2001, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Alexandra District Hospital — Minister for Health's report of 8 November 2001 of receipt of the 2000–2001 report.

Beaufort and Skipton Health Service — Report, 2000–2001.

Beechworth Hospital — Report, 2000–2001.

Casey's Weir and Major Creek Rural Water Authority — Minister for Environment and Conservation's report of 16 November 2001 of receipt of the 2000–2001 report.

Central Gippsland Health Service — Report, 2000–2001 (two papers).

Dental Health Services — Report, 2000–2001.

Electoral Commissioner — Statement of function conferred, 7 November 2001.

Environment Protection Act 1970 — Orders in Council of 31 October 2001 varying the State environment protection policy (Control of Noise from Commerce, Industry and Trade) No. N-1 and 5 November 2001 declaring industrial waste management policy (Protection of the Ozone Layer).

Footy Consortium Pty Ltd — Report for the period 13 September 2000 to 30 June 2001.

Gippsland Southern Health Service — Report, 2000–2001.

Health Services Act 1988 — Report of Community Visitors, 2000–2001.

Hepburn Health Service — Report, 2000–2001.

Kilmore and District Hospital — Report, 2000–2001.

La Trobe Regional Hospital — Report, 2000–2001 (two papers).

Legal Practice Board — Attorney-General's notice of 20 November 2001 of proposed appointments of non-practitioner members to Board.

Melbourne City Link Act 1995 —

Melbourne City Link Fifteenth Amending Deed, 15 November 2001, pursuant to section 15(2) of the Act.

City Link Extension Projects Integration and Facilitation Agreement Seventh Amending Deed, 15 November 2001, pursuant to section 15B(5).

Exhibition Street Extension Fourth Amending Deed, 15 November 2001, pursuant to section 15D(6).

Mental Health Act 1986 — Report of Community Visitors, 2000–2001.

Mental Health Review Board — Report, 2000–2001.

Numurkah District Health Service — Report, 2000–2001.

Ombudsman's Office — Report, 2000–2001.

Otway Health and Community Services — Minister for Health's report of 13 November 2001 of receipt of the 2000–2001 report.

Parliamentary Committees Act 1968 —

Minister's response to the recommendations of the Public Accounts and Estimates Committee's 41st report on the 1999–2000 Budget Outcome

Minister's response to the Law Reform Committee's review of the Theatres Act 1958.

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

Banyule Planning Scheme — Amendment C16.

Boroondara Planning Scheme — Amendment C15.

Brimbank Planning Scheme — Amendment C37.

Cardinia Planning Scheme — Amendment C21 Part 1.

Corangamite Planning Scheme — Amendment C1.

Darebin Planning Scheme — Amendments C29 and C34.

Geelong — Greater Geelong Planning Scheme — Amendment C16.

Hobsons Bay Planning Scheme — Amendments C12 and C14.

Kingston Planning Scheme — Amendment C13.

Loddon Planning Scheme — Amendment C4.

Moonee Valley Planning Scheme — Amendment C24.

Mornington Peninsula Planning Scheme — Amendment C34.

Southern Grampians Planning Scheme — Amendment C1.

Stonnington Planning Scheme — Amendment C19.

Wellington Planning Scheme — Amendment C3.

Whittlesea Planning Scheme — Amendment C3.

Psychosurgery Review Board — Report, 2000–2001.

Queen Elizabeth Centre — Minister for Health's report of receipt of the 2000–2001 report.

Seymour District Memorial Hospital — Report, 2000–2001.

Statutory Rules under the following Acts of Parliament:

Adoption Act 1984 — No. 116.

Agricultural Industry Development Act 1990 — No. 114.

Credit (Administration) Act 1984 — No. 117.

Environment Protection Act 1970 — No. 119.

Fisheries Act 1995 — No. 118.

Patriotic Funds Act 1958 — No. 120.

Subordinate Legislation Act 1994 — No. 115.

Subordinate Legislation Act 1994 —

Minister's exception certificates under section 8(4) in respect of Statutory Rule No. 115.

Minister's exemption certificates under section 9(6) in respect of Statutory Rules Nos. 114, 116, 117 and 120.

Tattersall's Club Keno Pty Ltd — Report, 2000–2001.

Tattersall's Sweeps Pty Ltd — Report, 2000–2001.

Tweddle Child and Family Health Service — Minister for Health's report of 5 November 2001 of receipt of the 2000–2001 report.

Victorian Arts Centre Trust — Report, 2000–2001.

Wimmera Health Care Group — Report, 2000–2001.

Yarrawonga District Health Service — Report, 2000–2001.

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

Health Records Act 2001 — Sections 1 to 6, Part 4 and sections 84, 87 (except paragraphs (c) to (j), (l), (p) and (s)), 88 to 91, 94, 100, 105 (except paragraphs (a), (b), (e)(ii), (l) and (m)), 107 (except paragraphs (a) and (d)), 111 (2) (except paragraph (b)), 111(3) and 111(5) — 16 November 2001 (*Gazette No. G46, 15 November 2001*).

Statute Law Amendment (Relationships) Act 2001 — Remaining provisions — 8 November 2001 (*Gazette No. G45, 8 November 2001*).

MELBOURNE CITY LINK (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

There are three main purposes of this bill.

The first purpose is to facilitate the issuing of licences to Transurban for the purposes of the project, in particular, for the installation and operation of recharge wells.

In order to fulfil its obligations to the state and to ensure that ground settlement is prevented or minimised, Transurban is required to implement a ground water management system. The installation and operation of recharge wells will form part of this system, which will ensure that the appropriate ground water equilibrium level is reached and maintained for the duration of the concession period. Such a system is necessary to protect private and public property in the vicinity of the City Link tunnels from ground settlement.

Transurban has identified in total nine sites for the implementation and operation of nine recharge wells, two of which are on reserved Crown land and seven on unreserved Crown land. All these sites are narrow strips of Crown land situated outside the land to be leased to Transurban.

Transurban is currently operating some temporary recharge wells under agreement with the relevant municipal authority. However, the tenure of these agreements will not extend to the duration of the concession period. Although licences may be issued under the Crown Land (Reserves) Act 1978, licence tenure is limited to three years.

The current powers and functions in the Melbourne City Link Act 1995 are insufficient to provide Transurban with a right to install and operate recharge wells for the duration of the concession period. In addition, the current licensing provisions in the act can only be exercised for the purpose of constructing works prior to completion of construction.

The bill provides for a licensing regime that will enable the state to grant to Transurban licences over the nine sites identified for recharge wells for the duration of the concession period. This regime will assist Transurban to operate the ground water management system during the concession period to minimise or prevent ground settlement.

The bill allows the relevant minister to issue a licence to Transurban to implement and operate the recharge wells after consultation with the minister administering the Crown Land (Reserves) Act 1978 to allow for the relevant interests of land managers to be taken into consideration.

The second purpose of the bill is to widen the application of the consumer protection provisions relating to registered vehicles.

Currently, Transurban is obliged to provide certain information (consumer protection provisions) to its registered customers. However, as Transurban has developed and improved certain products, for example pass products, the scope of the current consumer protection provisions has become restrictive. As a result, Transurban is now exempting rather than registering such vehicles.

The bill supports government's commitment to fair enforcement of the City Link arrangements by updating the consumer protection provisions. This will also enable Transurban, insofar as possible, to register those vehicles it currently has chosen to exempt.

The third purpose of the bill is to establish a director, Melbourne City Link, and conferring on the director functions and powers to enable the long-term management and monitoring of the City Link concession on behalf of the state.

The sections of the Melbourne City Link (Miscellaneous Amendments) Act 2000, which are yet to be proclaimed, provide for the state to succeed the Melbourne City Link Authority, which is currently facilitating the Melbourne City Link and Exhibition Street extension projects.

As part of the review requested by the government on public safety arrangements early this year due to the failure in the Burnley Tunnel in February, the Melbourne City Link Authority was requested to provide advice on appropriate long-term arrangements for the management and monitoring of the City Link concession.

A range of options for the ongoing management and monitoring of the City Link concession were considered. The option of establishing a director, Melbourne City Link is the preferred option. This option would involve the establishment of a statutory role of a director, Melbourne City Link to be employed under part 3 of the Public Sector Management and Employment Act 1998, within the Department of Infrastructure.

The bill provides for the establishment of the director, Melbourne City Link, and confers on the director functions and powers to enable the ongoing management and monitoring of the City Link concession.

It is intended that the proposed new arrangements for managing the City Link concession come into effect on the cessation of the Melbourne City Link Authority.

I commend the bill to the house.

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

Debate adjourned until next day.

MARINE (FURTHER AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Ports) — I move:

That this bill be now read a second time.

This bill amends the Marine Act 1988 to:

abolish the Marine Board of Victoria and create the office of the director of marine safety,

provide the minister with powers to establish any number of advisory committees to advise the minister and the director on any marine safety related matters referred to the committees,

provide improved powers related to marine safety inspections and investigations,

provide improved powers for the effective administration of local ports,

provide improved powers for the control of marine pollution, and

make other amendments to improve the operation of the act.

The Marine Act 1988 is the principal legislation governing marine safety in Victoria.

The proposed amendments take into account previous reviews of the act. In 1998, a national competition policy review of the Marine Act was undertaken, followed in 1999 by a general review of the marine legislative scheme. Both these reviews took into account submissions from the public and key stakeholders in the marine industry in Victoria.

The bill is consistent with the government's objective of improving marine safety in Victoria. Key to achieving this objective is to ensure that there is a modern and coherent legislative framework for marine safety, appropriate institutional arrangements, and that those who are given the task of managing the statutory functions have the appropriate powers to enable them to do so.

Director of marine safety

The creation of the new office of director of marine safety will modernise and streamline the institutional arrangements for the management of marine safety in Victoria. The current Marine Board of Victoria will be replaced but the current staff of the marine board will be retained within the Department of Infrastructure. The bill provides for the director to perform the former functions of the board, as well as providing additional powers.

The director's powers have been modelled on similar provisions in the Transport Act and Occupational Health and Safety Act and include:

all powers necessary to carry out the statutory requirements of the act and its regulations,

to advise the minister on the operation and administration of the act, regulations, marine pollution legislation and marine safety matters and on any matters referred by the minister,

to provide guidance and information on marine safety matters,

to commission and sponsor research into marine safety matters, and

to promote education and training in marine safety.

The director, in carrying out any function or power, will be subject to the general direction and control of the minister. He or she will also comply with directions of the minister.

Advisory committees

Consultation with the public, marine industry, vessel owners and operators and stakeholders will be improved. The minister will have the power to establish any number of advisory committees to advise the minister and the director on any marine safety-related matters referred to the committees.

This will ensure that the key issues in marine safety are identified and that appropriate initiatives and programs are put in place. It will also give greater transparency to investments made in marine safety through marine grants.

Marine safety inspections and investigations

Inspection functions and powers in the Marine Act 1988 are very limited and not consistent with comparable legislative schemes. These powers relate to marine accidents and incidents involving vessels and breaches of the act and its regulations. The bill corrects this situation by improving the powers for inspectors (subject to reasonable protections for the public) and the investigation powers to be exercised by the director of marine safety. Other provisions include provisions for appointment of inspectors, identity cards for inspectors and authorised officers and creating an offence to impersonate an inspector.

Section 83(a) is amended to make it clear that in order to go on board and inspect a vessel, an inspector has the power to stop the vessel. The bill also allows inspectors to detain vessels for up to 48 hours (or longer with authorisation from a magistrate) for the purposes of an investigation and to direct a person in charge of a vessel.

The provisions of section 84(1B) are extended to enable a marine licence or certificate to be suspended for up to 14 days (or longer if approved by the Victorian Civil and Administrative Tribunal) if an investigation is commenced. On completion of investigations, the director is given the power to access a wider set of powers including an ability to issue a reprimand, vary and impose conditions on a licence or certificate and the ability to publicly release all or part of an investigator's report.

Section 92, related to obstruction of inspectors, investigators, the director or authorised officers, is amended to make offences comparable to similar provisions in other legislation.

Local ports

The existing process of establishing a local port is complex and requires a series of ministerial appointments and orders under several pieces of legislation. The bill simplifies the process for establishing local ports and local authorities.

Currently, section 112 of the Marine Act relates to the functions and powers that local authorities may exercise in relation to local ports, by giving life to parts of the Port of Melbourne Authority Act 1958 as in force on 1 January 1995. Since the enactment of section 112 of the Marine Act, the Port of Melbourne Authority Act 1958 has been repealed and the regulations made under that act have sunsetted.

This situation has resulted in difficulties for local ports because there are no active heads of power under which new regulations may be made or previous regulations amended. There are also no penalties in the regulations.

The bill will provide local port authorities with the functions and powers to enable effective regulation and rules of conduct in relation to port safety, vessel traffic management, port operations, protection and maintenance of port assets et cetera, with compliance obligations for persons using local ports and port facilities.

Marine pollution

The current marine pollution provisions of the Marine Act generally relate to oil spills. The bill extends these provisions to cover maritime chemical spills of other noxious and hazardous substances. This is consistent with national marine pollution response arrangements and contingency plans.

The director of marine safety is provided with all relevant functions and powers, which previously have been provided to the marine board. The director's functions are extended to include the function of ensuring that there is adequate pollution response capability inside port waters, and for taking responsibility for the delivery of pollution response in state waters outside of ports. The director is also given

clear powers to enter into contracts for the provision of marine pollution response capabilities, as required.

Miscellaneous amendments

The bill also makes a number of miscellaneous amendments to improve marine safety.

It widens the obligations of vessel operators to assist persons in distress.

It makes it an offence to interfere or tamper with a navigation aid. The proposed penalty reflects the importance of these critical aids to the safety of mariners and their vessels.

The director is also given powers to order the removal of an obstruction in navigable waters and, if necessary, remove the obstruction and recover costs from the owner of the obstruction or the person responsible for the obstruction.

The bill also provides additional regulation making powers to improve administration.

The bill is important in ensuring that Victorian waters are safer for the operation of vessels, their operators, passengers, other water users and the marine environment. It also improves the arrangements for the management of local ports.

I commend the bill to the house.

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

Debate adjourned until next day.

JUDICIAL REMUNERATION TRIBUNAL (AMENDMENT) BILL

Second reading

For **Hon. M. R. THOMSON** (Minister for Small Business), Hon. M. M. Gould (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

Equality before the law requires the impartial administration of justice. Our judges are required to treat all persons who appear before our courts as subject to the same body of settled law. This is a fundamental principle of our democratic society.

Impartiality requires a judiciary which is independent of both the Parliament and the executive arm of government. This separation of powers is a precondition of the liberty of individual citizens.

Judicial independence ensures judicial impartiality by guaranteeing the freedom of the judicial branch of government from unwarranted intrusions by the legislative and executive branches of government.

In our democratic tradition, judicial independence has been secured by two important conventions. The first is by providing judges with security of tenure. Under our system of government judges hold office while they are of good behaviour and can only be removed by Parliament.

The second is by providing judges with security of remuneration. For the last 300 years — since the Act of Settlement 1701 — the remuneration of judges has been secured by being charged as a permanent appropriation on the Consolidated Revenue Fund. Judges' salaries do not form part of departmental budgets; nor are they subject to a vote of the Parliament. In addition the salaries of serving judges may not be reduced. These measures are designed to avoid the threat of coercion by Parliament.

In Victoria the remuneration of judicial officers is determined by the Judicial Remuneration Tribunal Act 1995. This act establishes the Judicial Remuneration Tribunal (JRT) to inquire into and report on the remuneration of judges, masters, magistrates and tribunal members.

In its February 2000 report, the JRT expressed concern that the system under which it operated was 'most unsatisfactory'. Following the report, the Department of Justice commissioned a review of the judicial remuneration structure by Mr Frank Honan. The Honan Report found that:

> the JRT lacked an appropriate level of independence and that this had a consequential impact on the judicial independence of Victorian judicial officers;
>
> Parliament lacked a significant role in the determination of judicial salaries; and
>
> final decisions on judicial remuneration rest with the executive by allowing the determination of the Attorney-General to be substituted for those of the JRT. This relationship was inappropriate in the context of the existing constitutional conventions.

The Honan report identifies the following main issues.

Hierarchy of powers

In Victoria, the JRT may only make recommendations to the government as to salaries and allowances. The Attorney-General can vary a recommendation by tabling a statement in Parliament. Apart from South Australia, the decisions of Australian remuneration tribunals in other jurisdictions are binding and can only be disallowed by either House of Parliament. In South Australia, determinations are binding and can only be altered by special act of Parliament. The report concluded that on an objective assessment the Victorian tribunal is the least independent in Australia. Further, there has been a greater non-acceptance of recommendations on judicial remuneration by previous Victorian government's than in any other jurisdiction.

The final decision relating to the size of any increase in judicial salaries rests with the executive government through the Attorney-General. The report indicates that this system does not adequately safeguard the independence of the judiciary. Additionally, the current system does not give Parliament an effective role in the determination of the level of remuneration.

In order to deal with this issue, the bill will give the JRT a hierarchy of powers — determinative, recommendatory and advisory.

The first tier will give the JRT power to make determinations with regard to judicial salaries and allowances. These determinations will not be subject to disallowance except by either house of Parliament. This amendment will bring Victoria into line with the position adopted by the majority of other states.

The second tier will give the JRT recommendatory power in relation to conditions of service such as leave, travel entitlements and reimbursement of work-related expenses. The Attorney-General will have the ability to accept or reject recommendations of the JRT. If the JRT's recommendations are not accepted or the Attorney-General intends to vary the recommendation, the Attorney-General must issue a statement to Parliament within 10 days of tabling the report containing the recommendation, giving reasons for varying the recommendation or not accepting it.

The third tier allows the Attorney-General to make specific references to the JRT for an advisory opinion on particular aspects of judicial remuneration.

Inclusion of VCAT

At present, the jurisdiction of the JRT as defined in the JRT act is limited to judges and masters, magistrates and coroners, although the act provides that the Governor in Council may make an order requiring the JRT to enquire into the remuneration of members of a tribunal. In 1997 the JRT, by order of the Governor in Council, inquired into salaries and allowances of members of various tribunals that now comprise VCAT. A further inquiry into VCAT salaries and allowances was undertaken by the JRT in 2000. As VCAT members perform work of a judicial nature, it is appropriate that they are included in the JRT act on the same basis as other judicial officers. This is consistent with the recommendation contained in the Honan report.

Membership of JRT

The Honan report recommends that the exclusion of judges and retired judges from JRT membership would create a more transparent judicial remuneration system. The report also concludes that it would be appropriate to exclude any person in the service of the Crown. This would again strengthen the independence of the JRT. Apart from excluding these persons from membership, there should be no other qualifications set out in the legislation. The bill implements the substance of these recommendations. However, the bill does make provision for the Commissioner for Public Employment to be appointed as a member of the JRT, notwithstanding the general exclusion of Crown officers from membership.

Publication and reporting

Under the current system, reports of the JRT must be tabled in each house of Parliament. This is the only legislative mechanism currently available to inform the public of the contents of the JRT's reports. The Honan report found that this system can result in a considerable lapse of time between the tribunal's delivery of its report and public knowledge of its contents. The most extreme example of this occurred in 1996, when there was a nine-month delay between the JRT delivering its report to the Attorney-General and the report being tabled in Parliament. To overcome these problems, the bill provides that JRT reports are to be published in the *Government Gazette* within 21 days of receipt by the Attorney-General.

However, it is important that JRT reports continue to be tabled in Parliament. This will ensure that Parliament is informed of the JRT's report in a timely manner. Accordingly, the bill preserves the requirement for reports to be tabled in Parliament. Parliament will have 15 sitting days to consider reports and may disallow them if this is required in the public interest. This follows procedures in other Australian jurisdictions.

Principle or factors for the consideration of the JRT

The bill sets out a number of factors to be considered by the JRT in making its determinations, including the need to maintain the judiciary's standing in the community, the need to set a level of remuneration necessary to attract and retain the best candidates to judicial office, and various economic factors. The bill also requires the JRT to consider issues specific to Victoria, such as Victoria's economic circumstances, and gives the JRT the flexibility to take other relevant local factors into account when making a determination.

Inclusion of these factors in the act will ensure that the JRT addresses core issues in making its determinations, particularly given that the JRT will make determinations on levels of judicial remuneration, not merely recommendations.

Conclusion

This year marks the 300th anniversary of the Act of Settlement. The act contains the foundation principles of our constitutional system of government, and further defines the relationship between the judiciary and the legislative and executive arms of government. It is an ancient piece of legislation that still resonates in the modern world.

The bill will re-establish the constitutional relationship between the judiciary and the Parliament on issues of judicial salaries and allowances in line with Act of Settlement principles. It removes the current inappropriate relationship with the executive arm of government.

By so doing the bill enhances judicial independence in Victoria and ensures that our courts and tribunals will continue to operate impartially and uphold our constitution and democratic principles.

I commend this bill to the house.

Debate adjourned on motion of Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until later this day.

WATER (IRRIGATION FARM DAMS) BILL

Second reading

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

That this bill be now read a second time.

Introduction of bill — primary purpose

I am pleased to introduce the Water (Irrigation Farm Dams) Bill to amend the Water Act 1989.

The primary purpose of the bill is to better manage Victoria's water resources. The bill will amend the current right to store water off waterways and use it for any purpose. In future, a licence will be required for all irrigation and commercial use in a catchment.

This bill has been prepared in the following context:

The government is strongly committed to regional development.

We must avoid future fights for water that drive investment away.

A sound, well-regulated system is needed that provides security for existing users and opportunity for future development. Further development of water trading will enable water to move equitably to enterprises that provide the best economic return.

It is clear that the government must manage water for the benefit of the whole community. Advances in technology have enabled the harvesting of water for irrigation in upper catchments to an extent that was not possible in the past — even 13 years ago, when the Water Act was passed. Our management system has to keep up with these changes in technology.

Historical setting

This is an historic bill that completes Victoria's water management framework, which commenced with the introduction of the Irrigation Act of 1886.

The effect of the Irrigation Act of 1886 was to give the Crown the right to the use, flow and control of all river waters. Alfred Deakin's royal commission, which led to the Irrigation Act, recognised that water is a community resource that should be protected against overuse and degradation and that private uses of water should be consistent with the long-term protection of the resource. We now call this sustainability.

In 1970 the Groundwater Act provided for the proper management and conservation of Victoria's ground water resources. Under this legislation, introduced by the late the Honourable Bill Borthwick, Minister for Water Supply, ground water was included in the water management framework and ground water users were required to obtain licences for the use of ground water.

Under the Water Act 1958, management of water in the catchment only extended to the water that flowed in

watercourses. The Water Act 1989 extended the management regime and defined the term 'waterway'. Waterways not only include rivers, streams, creeks and watercourses but they also include natural channels where water regularly flows.

Pressures on our water resources

In recent years it has been evident that our water resources have come under increasing pressure. Significant development has occurred in the upper catchment areas, which in principle this government totally supports. However, some of this development has deprived existing water users of their water entitlements or diminished their security of supply.

Much of this development has occurred in areas where it has been difficult to determine whether the water used is harvested from a waterway or not. Until recently, people have tended to focus on definitional issues rather than the main issue, which is the sustainable management of our water resources.

Engagement of the community

In April 2000 a discussion paper was released to encourage community debate on sustainable water resource management and in particular the management of farm dams. This followed the receipt of two reports from independent committees looking at water management issues in the north east and west of the state. The overwhelming conclusion from both of these committees was that managing the state's water resources on the basis of the definition of a 'waterway' was unworkable.

Following the release of the discussion paper, the Victorian Farm Dams (Irrigation) Review Committee was appointed, chaired by Mr Don Blackmore, chief executive of the Murray-Darling Basin Commission, to propose a better water management regime for Victoria.

An extensive community participation process has been undertaken. Over 40 public meetings were held around the state. The committee held five public hearings where members of the public made over 80 verbal presentations. The committee considered 370 written submissions prior to releasing its draft report via the Sofnet interactive satellite television network to over 45 locations around the state. A further 475 written submissions were considered by the committee prior to the release of its final report. It also consulted with peak stakeholder groups throughout the process. The consultation process was exhaustive and the committee is commended for its work.

The government has accepted all of the committee's recommendations, but has made some refinements to ensure a smooth transition into the new arrangements proposed by this bill.

The government strongly believes that the total water resources of a catchment should be included within the water allocation regime. It also believes that water resource management issues involve the total catchment and require a partnership between the community and government. The bill deals with these two issues.

In addition, the membership of rural water authority water services committees will be reviewed to ensure that upper catchment farmers are properly represented.

New licensing arrangements

The bill will extend the existing licensing arrangements that at present only apply to dams constructed on waterways, to cover all new irrigation and commercial use in the catchment. Licensing is not new to Victoria; it is the primary mechanism of managing the catchment's water resources.

Licences are already required for people who take water from a waterway or ground water. This bill will extend the licensing regime to people who take water for other than domestic and stock use from a spring, soak or dam.

Existing unlicensed irrigation and commercial water users will be given the choice of applying for either:

(a) a registration licence, issued for five years and renewable on payment of a nominal fee, with the costs of the first five years to be met by government, or

(b) a standard licence, which is tradeable, to which normal annual fees apply.

This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. It will also strengthen Victoria's compliance with the Murray-Darling Basin cap.

Other important aspects of the registration and licensing arrangements are:

if a landholder has multiple dams on a property, a single licence will be available for all dams of the same type;

the licence to register existing irrigation and commercial use will only incur a non-volumetric

registration fee once every five years to recover the cost of registering and maintaining records;

no water trading will be allowed from registered dams;

meters will only be required on new irrigation and commercial dams when the licence entitlement is less than the capacity of the dam, and/or when the entitlement exceeds 20 megalitres.

Reuse facilities are also provided for in the bill. People will be entitled to use reuse water without the need of a licence subject to reasonable criteria. This will ensure that people will not be discouraged from constructing reuse facilities that prevent nutrients and chemical residues escaping from properties and causing potential environmental harm.

A system of exchange rates will be developed in respect of water that is traded. They will be used to determine the volumetric entitlement to apply to each megalitre of water traded between a regulated and unregulated system. Exchange rates are about providing equity when water is traded from one location to another.

Arrangements for domestic and stock use

The government does not propose changes to a farmer's right to take water for domestic and stock purposes and it has been very careful in drafting the bill to ensure this is the case. There are, however, provisions that allow some limitations to be placed on new domestic and stock dams on multi-lot rural residential subdivisions. The proliferation of these dams has at times affected the reliability of water entitlements downstream as well as the health of our rivers.

Quantifying the resource

There is a limit to the amount of water that can be used within the catchment and from our ground water resources. We need to define these limits and allocate our water resources within these limits to ensure they are sustainable for present and future Victorians.

To do this the bill provides for the specification of permissible annual volumes for both surface water and ground water resources. Permissible annual volumes have been used for many years to set limits in relation to our ground water resources. The Groundwater (Border Agreement) Act 1985 provides for the establishment of permissible annual volumes of ground water along the Victorian–South Australian border. Under this act limits are established and water cannot be allocated beyond these limits. It is proposed under the bill to extend these arrangements to apply to other areas of the state in respect of both ground water and surface water. If permissible annual volumes are set for water supply protection areas, management plans for these areas drafted by community consultative committees will be able to recommend changes to the permissible annual volumes for the area.

New arrangements for water supply protection areas

Presently, the Water Act allows for the establishment of ground water supply protection areas, and enables community involvement in preparing management plans for these areas. The bill proposes to extend these arrangements to surface water.

Under the arrangements there is an extensive consultation process for creating a water supply protection area and developing a management plan.

The bill allows for the declaration of water supply protection areas for ground water, surface water or both ground water and surface water together.

Consultative committees appointed by the minister will be responsible for developing a draft management plan. Fifty per cent of the members of consultative committees will be farmers appointed after consultation with the Victorian Farmers Federation.

Existing stream flow management plans that have been prepared or are currently under development will be able to be approved under the new provisions.

Transition package

To help with the transition into the new arrangements, the government will provide a financial package for land-holders who may wish to build catchment dams for irrigation or commercial purposes over the next five years, as follows:

In capped catchments:

A transition grant will be available to anyone proposing to build a catchment dam who has to purchase a water entitlement. A grant of 50 per cent of the cost of the water purchase, up to a maximum of $400/megalitre purchased, will be available.

Eligibility for the transition grant will be on a first-come, first-served basis.

The transition grant will apply to the first 50 megalitres purchased.

The transition grant will be provided after a licence to take and use water has been issued and the dam constructed.

Transition grants will be available for a period of five years or until a total of 10 000 megalitres of water has been purchased under the arrangements, whichever comes first. The transition grant will be available to people who construct dams off a watercourse.

In both capped and uncapped catchments:

Access to farm plan incentives in the form of a grant in both capped and uncapped catchments will be available to meet the costs of establishing an irrigation/commercial enterprise, as follows:

Stage 1 — 50 per cent of the cost of an approved farm plan including: layout, water requirements, drainage, reuse design, salinity, nutrient and native vegetation management, and an economic assessment (payable on completion of the farm plan).

Stage 2 — 100 per cent of the cost of an approved environmental assessment of the impact of the proposed dam (payable on completion of the environmental assessment).

Stage 3 — 50 per cent of the cost of an approved engineering design of dam (payable after the satisfactory construction of the dam).

The farm plan incentives will be available for a period of five years and will apply only to the land subject to the new irrigation/commercial development. The maximum individual farm plan incentive grant will be $6000.

Under these transition arrangements, an individual landowner may be eligible for up to $26 000.

Environmental benefits

The government believes that there will be significant environmental benefits under its proposed arrangements. These benefits will result from a water resource assessment program and the implementation of stream flow management plans. A licensing regime that aims at managing the total water resources of a catchment will also result in better environmental outcomes.

Other matters

The government has taken this opportunity to make amendments to the Water Act in relation to two other matters that were not the subject of the farm dam review. The first matter deals with state observation bores. Amendments will ensure that the government has continued access to these bores and that people who want to use them for water supply purposes must first seek permission. The second matter seeks to ensure that licensed drillers comply with the conditions of bore construction licences for which they are responsible.

Conclusion

The government came to power with strong policy commitments to ensure the sustainable use of all water resources, including ground water, and to maintain our commitment to the Murray-Darling Basin cap.

Water managers and farmers alike have been forced into protracted disputes as to what constitutes a waterway rather than focusing on the main issue.

In former Minister Borthwick's second-reading speech when introducing the Groundwater Act, he stated that, 'We will not have a bar of control for control's sake. But where there is an inescapable need for control to serve positive aims of equity and resource development, then we should not shirk control'. And so today we are in a similar situation to that faced by our predecessors.

This government believes that this bill will provide certainty to both existing and future primary producers and that it is essential for the economic and social wellbeing of regional Victoria. Prior to the introduction of this bill discussions have been held with both the Liberal Party and the National Party to seek agreement to the general thrust of the provisions contained in the bill. The government thanks the honourable members opposite for their willingness to approach this issue in a bipartisan way, with the aim of ensuring a sustainable future for Victoria's water users.

The government believes that a secure water supply is essential for long-term economic growth. The current system perpetuates economic uncertainty for investors and has the potential to result in both undesirable conflicts between users and adverse environmental outcomes.

The impact of the new arrangements on anyone who currently stores or uses water for irrigation or commercial purposes in catchment dams will be minimal.

I commend the bill to the house

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. K. M. Smith.

Debate adjourned until next day.

STATE TAXATION LEGISLATION (AMENDMENT) BILL

Second reading

Debate resumed from 7 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. D. McL. DAVIS (East Yarra) — I rise to make some comments on the State Taxation Legislation (Amendment) Bill, and in doing so I record that the opposition does not oppose the bill. In many ways it is a straightforward bill, but it is still significant.

The bill seeks to make changes to state taxation legislation, but at the same time it needs to be put in the context of the state government's efforts at revenue raising and the way it spends its money. In short the bill attempts to ensure that Victorian legislation is consistent with the legislation of other jurisdictions. It makes minor technical changes to the Duties Act, which has been before the house a number of times this year, and amends the Land Tax Act 1958 and the Taxation Administration Act.

Opposition members have no enormous concerns about much of the bill and are aware that many aspects of it are justified. However, it is important to place on record, as I have done with regard to a number of other bills that deal with taxation, that this is a very high-taxing and high-spending government and every taxation bill needs to be seen through the prism of its determination to be a very high-taxing and high-spending government.

Over recent times a number of discussions have taken place in the house about the state government's so-called taxation changes or reforms. A number of changes to taxation flowed out of the report of the Harvey committee, although specific recommendations were largely ignored. In effect the changes hand back just $100 million over the life of this Parliament and all future taxation relief is pushed off into the distance, in many cases off into the far distance of the next Parliament. One need only think of the issues that surrounded the federal Labor Party at the time of former Prime Minister Paul Keating, where legislation introduced to provide taxation relief was later overturned, to understand that if it were returned to power this government would have no compunction in reversing the claimed tax relief that appears in its distant plans.

It is also important to place on record that there is a changing international situation. It is important to understand that the world economy has weakened significantly, although I was pleased, as many others would have been, to see that the retail figures over the past couple of weeks both here and in the United States of America have been more promising than many of us would have first thought given international events. However, it is still true to say that the international situation has weakened somewhat. I think 'significantly' would be a fairer description, but certainly there has been a weakening in the international economy. The Japanese economy is weak, as are some other Asian economies. The Singapore economy is weaker than many of us would like.

Significantly these countries are Australia's trading partners and the situation affects economic performance, and it is important to note that Victoria's economic performance has been affected in a more direct and concerning way than has happened in other states. While there is still significant growth it is less than the Australian average. It is important to record that and to note that Victoria appears to have slipped somewhat in the national stakes, notwithstanding the important articles that have appeared in the past week or so that record the strength of Victorian growth over the past decade.

Even today's *Age* makes a strong point about the debt Victoria owes to the Kennett government for the reforms and economic strength it left. There is no doubt that much of the strength in the Victorian economy today is a hangover from that period. The *Age* was very clear in making significant recommendations this week to the Bracks government to get moving with a number of major projects and so forth, and I endorse that call. It is important to note that there is not just a need to have major projects in place but also to have proper taxation settings.

I turn to the recently published *2001–02 Quarterly Financial Report No. 1 for the Victorian Budget Sector — 30 September 2001*, page 2 of which states:

> The Victorian budget sector operating surplus for the three-month period to 30 September 2001 was $240 million, compared with the budgeted surplus for the year of $509 million.

It is impossible to deny the strength of those budget receipts. The report also noted that:

> … Higher than expected property taxes reflect continued strength of the Victorian property market …

This house has had significant debate about the issues surrounding the high stamp duty on residential homes that we face in Victoria — indeed, it is the highest in Australia — and the collection of that stamp duty which has been so high through this period of strong growth in the residential housing sector. It is important to again

place on the record that the government has collected significant income from that tax and that it has collected more than it budgeted for. It has continued to do that over the past few years at the expense of Victorian families and businesses and the strength of the Victorian economy.

If a government taxes an economy harder than occurs in comparable states it will have an impact on the state's level of growth and the living standards of the community. The Victorian economy is growing slower than the national economy, and it is important to view the state's growth in that context. The budget figures and the budget estimates themselves concede that fact. We will have to wait for the final figures at the end of the year for confirmation, but that is certainly the strong likelihood.

The report further states on page 4 that:

> Higher than expected taxation revenue was attributable mainly to stronger than anticipated property sales …

The issues surrounding that revenue have been well debated in this house.

The government's management of a number of aspects of the financial sector needs to be examined closely. This bill deals in part with the State Revenue Office and collections, and I note that there has been wide press coverage about the issues surrounding the State Revenue Office, of which the house needs to be aware. The house would certainly be aware of that in a public sense, but it is worth recording that many honourable members in this chamber are concerned about the performance of the State Revenue Office, its management practices, its computer systems and its approach. Ultimately the Treasurer has to bear significant responsibility for those things.

The issues surrounding the tax package and the State Revenue Office are also worthy of recording in debate on this bill — that is, the $670 000 worth of consultancies surrounding the development of the tax package announced recently by the Treasurer, John Brumby, and the $750 000 budget line item recording the communication strategies surrounding the so-called Better Business Taxes changes — although I understand that only some $600 000 of that was spent. However, a number of errors were made and I was pleased to bring some of those errors to public attention. In particular, I draw the house's attention to the fact that there were reprints of communication documents and unreasonable arrangements surrounding the communication of the government's taxation package. It was very unfortunate that that package was communicated in what can only be described as a political manner and a manner that was — —

Hon. Jenny Mikakos interjected.

Hon. D. McL. DAVIS — No, it was extremely unfortunate that the government chose to take a party-political attitude to that and to communicate that package — —

Hon. Jenny Mikakos — What about the land tax scare campaign?

Hon. D. McL. DAVIS — There was no land tax scare campaign. I note that Miss Mikakos is on the record for supporting a flat rate of land tax, which I believe is an approach that would be appreciated by very few people in her electorate. I also note her unfortunate attitude to the real estate industry which is unsatisfactory on a whole number of levels. However, I accept that she is part of a larger organisation and that the Treasurer has set the tone in his relationships with the Real Estate Institute of Victoria as a whole. It was quite unfortunate that the Treasurer chose to do that. It is certainly not becoming of his position as Treasurer to so viciously and unnecessarily attack the real estate industry in Victoria, which is a significant and important industry for Victorians.

I do not wish to say a great deal more about this bill. The relevance of the changes is clear, but it is more important to see this bill in the broader context of higher taxation and the government's failed taxation policy and determination to remain a high taxing and high spending government. With this government we will have to wait for a long time to get some decent tax relief for Victorians, something businesses as well as individuals and families very much desire.

Hon. R. M. HALLAM (Western) — The State Taxation Legislation (Amendment) Bill is quite unexceptional legislation. It is designed to overcome some anomalies and plug some loopholes that have emerged during the day-to-day administration of our tax law by the State Revenue Office. We in the National Party have concluded that all the changes that have been brought to the chamber are practical. They either streamline the administration of our tax law or clarify ambiguities where they have emerged; they certainly protect the original revenue base and alleviate some of the unintended consequences that have emerged. They line up the terminology and application of tax laws with the other jurisdictions and thereby offer an improved level of uniformity across the nation. On that basis the National Party is very happy to support the thrust of the bill.

There is only one change in policy contained in this bill and that relates to the current $6000 monthly threshold on income from hiring, and even that change has been sought by the industry itself to overcome the administrative complexity of the threshold. I will come back to that when I go through the specific clauses.

The National Party is persuaded that this is a housekeeping bill and on that basis it has resolved not to oppose it. The bill covers three acts, the first being the Duties Act 2000. We in the National Party recall that the Duties Act represents a massive rewrite of the old 1958 Stamps Act.

We also recall that that massive rewrite started way back in the early 1990s under the aegis of the Treasurer at the time, Alan Stockdale.

We also recall that that massive rewrite prompted unprecedented and very welcome cooperation across the jurisdictions. We had not known there could be such cooperation at that level. We achieved a very good outcome — uniformity of application. We streamlined the administration and we overcame some direct examples of duplication of effect in the administration of the old Stamps Act.

It was a very big task. We acknowledged at the time that it was herculean, and no-one doubted that there would be the need for further tinkering when these changes were introduced in the day-to-day operation and administration of the act. Therefore, this bill corrects some of the anomalies that have arisen as unforeseen complications; and there will no doubt be more changes required in the future as the application of the new regime unfolds.

Of the changes which warrant particular comment, I refer first of all to clause 4, which clarifies section 10(1)(g) of the Duties Act by excluding a mortgagee's interest in shares or units from the definition of that which constitutes dutiable property.

The bottom line is that an interest in realty is not dutiable; whereas an interest in shares is dutiable. So if the transfer of interest relates to land, it is not dutiable and if the transfer relates to an interest in shares it is dutiable. That is understood pretty widely, but what about the circumstances where a mortgagee's interest in real property is secured by market securities offered as collateral? The question then arises as to whether the transfer relates to the land or to the shares.

We have always presumed that the transfer would relate to the land. It is now clarified that the interest relates to the property mortgaged, not that which is offered as security. So the question of the application of duty is put beyond doubt. That was well and truly understood, and the complication is unfortunate, but it is in my view a direct result of the search for the common duties template being overcooked in the process. That is a welcome point of clarification.

Clause 5 relates to the deeming of a transfer of land to evidence any goods passing with the land. The amendment supports the policy that the parties need only stamp one transfer form. This reinstates the effect of the old Stamps Act because it means the instrument of transfer of land also effects the transfer of goods sold as part of the deal. Again it seems pretty simple on the surface, but the change overcomes any complication as to the timing of the transfer of those goods or what goods should have been deemed to have been involved.

We now have a much clearer situation. It is understood better because we now have reinstated what was the previous case. We now have a rule of law which is identical to that which applies in New South Wales. It makes it very clear indeed that the parties need only stamp one transfer form, so we see another practical solution effected by the bill.

Clause 6 is also worthy of note because it relates to the operation of the law in respect of the refurbished lot provisions. It goes to the question of the off-the-plan benefits, where these relate to the refurbishment of a common tenancy property. More particularly, it goes to how the bill overcomes the complication where part of that property is held as common — it may be a liftwell or a laneway, for example — and the intention of the developer to allocate that common property across the new individual owners in the refurbishment process. This bill says that in those circumstances the off-the-plan benefit shall certainly apply. Again that is a point of clarification, and on that basis again it is supported by the National Party.

The fourth clause that I want to talk to in particular is clause 10(2), which goes to the issue I mentioned earlier of the effect of abolishing the $6000 duty-free threshold for hiring charges received by commercial hire businesses under equipment finance arrangements. The bill effectively deletes that threshold.

The threshold was designed in the first place to take out the small players. It was specifically designed to ensure that the corner store was not captured in the application of the duty. It was done quite deliberately and with good effect to the extent that it went, but the remedy proved more trouble than it was worth because the maximum relief in duty terms was $45 per month, and then the taxpayer had to go through the process of allocating the benefit to his or her customers, and the

question arose as to whether the benefit was worth the effort.

Government informs us that the industry itself has sought a better form of relief than the threshold and has told the government it is prepared to forgo the $45 per month. It is quite ironic, but an industry saying goes, 'Please give us some relief from the relief you are already giving us'. The solution is that the $6000 threshold stays, but it is more specific in its application. It does not apply to the corner store, where a sideline might be the casual hire of videotapes and so on — that operator will still be exempt — but it will apply to 'equipment financiers' — that is, the big players.

Therefore we have a very practical outcome. The small player is exempted, which is what was originally intended. On the other hand the big player no longer has to go through the administrative process of allocating the $45 of benefits each month across the clientele. And if there is a bonus it is that the public purse picks up about $80 000 per annum as a result of the deletion of that threshold. So it is a good deal all around and the National Party is prepared to support the bill.

The second act affected by the bill is the Land Tax Act 1958. The effect of the change in this case is to lift the provisions of the Taxation Administration Act insofar as they relate to the administration process and insert them lock, stock and barrel into the Land Tax Act and therefore make that part of the Taxation Administration Act identical to the Duties Act, where exactly the same lift has been employed.

We understand the only reason that lift was not effected earlier was that the government simply ran out of time. We acknowledge that the reform agenda was very crowded and the undertaking quite extraordinary, and the bill is a good outcome. It has taken some time to get there, but that delay is for very good reason. It means that the land tax process provisions have been updated and that modern terminology and technology have been accommodated so that, for instance, electronic service and email shall be specifically provided for. It means that the act will match the effect and form of the commonwealth act, which again is a point in its favour. We think it makes good commercial sense.

For a moment I want to plead a case for relief from land tax. I know that this issue has been canvassed in another place but I think it is important to put it on the record. In early September I wrote to the Treasurer, saying:

> It has come to my attention that the Elmore and District Machinery Field Days Inc and the Kyabram AH and P Society have both been unsuccessful in their applications for exemption from land tax. I presume, particularly given the clarity of the State Revenue Office correspondence to these particular applicants, that this ruling applies to all such organisations throughout Victoria.

I asked that the Treasurer intercede, and stated:

> I submit that the question of whether a P and A society show or a regional field day does or does not constitute a 'cultural' or (worse still) 'similar facility or objective' is hardly an appropriate test of whether an exemption should be granted.

I went on to plead the case on behalf of those organisations, and also made the point that they are a very important feature of the rural community and our rate of progress.

Early last month, on 5 October, I received a response from the Treasurer, in which he acknowledged my representations. He said that he was unable to intervene because it was inappropriate that the Treasurer do so. I acknowledge that argument. He also went on to say that:

> whether … 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 am delighted to get that undertaking and I look forward to the Treasurer actually meeting that commitment. I also look forward to the exemption, because I think the merit of the application would stand in its stead. It is a very powerful argument. I simply want to put on the record that I expect the government to fulfil that commitment.

The third act amended by the bill, particularly clause 15, is the Taxation Administration Act 1997. In the explanatory memorandum to clause 15 we read that:

> The purpose of this amendment is to introduce an equivalent provision to section 40 of the Stamps Act 1958 which enabled the commissioner to recover unpaid tax from persons acting as agents on the commissioner's behalf.

Again we have a reversion to the provisions of the old Stamps Act. In this case that reversion goes to the opportunity for the commissioner to recover unpaid tax from agents of the commissioner. We in the National Party note that without this bill the commissioner would still have rights as an unpaid creditor, but the commissioner would have to start the process through the Magistrates Court, like any other unsatisfied creditor. What the bill does is offer the commissioner a walk-up start. It enables him to commence the process in the Supreme Court, where he can seek an order for acknowledgment of the debt and its payment.

I acknowledge that any self-respecting civil libertarian would raise an eyebrow at this, because we are giving the Commissioner of Taxation some pretty special treatment, and the question arises as to why he should be given an advantage over other creditors. However, it is clear from the bill and it is the conclusion reached by the National Party that it is fair enough in this case because the commissioner would not get an automatic order. He would have to plead his case before the Supreme Court; he would have to satisfy the court that an order was appropriate, given all the circumstances. We also took into account that what we are talking about here is action against his own agent, so we conclude that there is a contractual relationship involved there in the first instance and that we are not talking about an ordinary taxpayer being the subject of such an order.

We note that that is obviously a reaction to a highly publicised recent case involving the agent TQM, which apparently blew a substantial amount of tax collected on behalf of the commissioner. We acknowledge that out in the marketplace there are plenty of commercial operators arranging stamping and so on and that that is quite common. It is not uncommon, as well, for those persons to be appointed agents for the commissioner and for them to actually provide the tax in the form of periodic payment. I might add that the most common of those agents are the commercial banks. We acknowledge that the appointment of agents in those circumstances makes very good sense and leads to administrative efficiency. We also acknowledge that it is fair enough that the government would want to protect its revenue base in this way. We presume that in future the commissioner might be a little more fussy as to who he appoints as an agent. I am sure that he might supervise the operation of those agents a little more closely. Be that as it may, the National Party is happy to support the effect of the bill. Notwithstanding that we acknowledge that in this case it gives quite special treatment to the commissioner, we think that special treatment is justified.

Against that background, we have concluded this is a housekeeping bill. It is the sort of bill we expect to see each session of Parliament. We expect that there will be more in the future, as these anomalies keep cropping up. We look forward to tax relief eventually being provided to our pastoral and agricultural societies and our field day committees. On that basis, I record that the National Party is prepared to support the bill.

Hon. JENNY MIKAKOS (Jika Jika) — I rise to make a brief contribution in support of the State Taxation Legislation (Amendment) Bill and to record the fact that the bill is seeking to continue the streamlining process commenced by the state duty rewrite that produced the Duties Act and is part of the government's ongoing commitment to simplifying our taxation system and producing a taxation system that delivers for all Victorians.

The previous speakers have already indicated that in recent times there was a significant review of the state's stamp duty legislation, which I was very pleased to speak on at the time and to strongly support, having previously practised law in the commercial area, including in the taxation field. I am pleased to see that the State Revenue Office is continuing its very good work in ensuring that the taxation regime in this state meets the ongoing needs of Victorian taxpayers and Victorian business.

The bill makes a number of rather technical and minor amendments to three pieces of state taxation legislation, and with only one exception there is no policy change. In that case it is with the support and actually at the request of the relevant industry body.

It is important to see the overall context of this proposed legislation as part of the Bracks Labor government's commitment to delivering a simplified tax regime which delivers for all Victorians. Recently we saw the most significant reform in this area in the form of the Better Business Taxes package, which was passed through this Parliament as part of this year's state budget and saw $774 million worth of tax cuts over four years being targeted particularly towards small business. I am sure that tax package will continue the very strong economic growth this government has produced in this state.

The Honourable David Davis referred in his contribution to the recently tabled quarterly financial report of 2001–02. That document indicates that the Victorian economy grew by an estimated 2.5 per cent in 2000–01, which was above the national increase of 1.9 per cent, and that employment in Victoria rose by 3.5 per cent, or 77 000 persons, in that period. That is the strongest increase in employment of all the states and represents over 40 per cent of new job creation in Australia. In addition, Victoria's strong economy continues to attract interstate migration at very high levels.

It is important to put these figures on the record and to acknowledge, as the Honourable David Davis did in his contribution, that we are going into very uncertain economic times given recent events and the current economic position of some of our key trading partners. The Australian economy is likely to go into recession in the near future, which is something I am sure concerns

all members of this Parliament. However, the Victorian economy is in a very strong position, as is the budgetary position of this state. We have all the fundamentals to take us through an economic slowdown in the smoothest way possible in the circumstances.

Given the economic uncertainty, it is difficult to say what the revenue proceeds from stamp duty are likely to be in the next 12 months. In previous debates I have spoken about how the cyclical nature of the Australian property market makes it difficult to know or predict what the revenue is likely to be in the area of stamp duty, particularly with conveyancing duty. The Honourable David Davis referred to this issue again in his contribution, and it is important to note the cyclical nature of the property market. Let us hope the Victorian housing market continues to boom and exceeds the national average as it has done at least with housing construction and approvals. However, it is difficult to say with any certainty what the future position will be. I note the Liberal Party's position on this issue: it has not been prepared to give any public commitment to making any alteration to conveyancing stamp duty, yet it keeps trotting out the campaign of the Real Estate Institute of Victoria at every opportunity despite committing itself to tax cuts of more than $4.4 billion over four years. It has left itself with very little room to move on stamp duty in the conveyancing area.

Nevertheless, the Bracks Labor government has been prepared to commit itself to the most significant tax cuts in the recent history of this state. This bill builds on reforms to ensure that we have a tax system that delivers for all Victorians and seeks to promote employment.

I turn now to the proposed changes in the bill. As I said earlier, it is important to note that the bill does not seek to make any changes in policy with one exception relating to commercial hire businesses, which I will discuss in a moment. The other amendments are essentially technical changes that clarify the current position. They were brought about following consultation with the business sector and affected taxpayers.

Clause 4 seeks to clarify the position in relation to a mortgagee's interest in marketable securities. Under the current provisions a mortgage over land creates an interest in the land but not one that is dutiable property under section 10 of the Duties Act. However, a mortgage over marketable securities — that is, shares or units in a unit trust — can create an interest that could potentially be regarded as dutiable property, where you have a transfer of a mortgage over shares or units. This proposed amendment seeks to put marketable securities and land in the same situation — that is, one where a mortgagee's interest in those types of property would not attract duty under the Duties Act.

The other changes being proposed to the Duties Act relate to the transfer of land where goods are being sold together with the land. The simplification proposed here is for the administrative convenience of the State Revenue Office. Currently someone transferring land together with goods has to complete two forms: one relating to the transfer of land itself and one relating to the transfer of goods. The proposed change is a deeming provision. It deems the transfer of land to be evidence of goods being passed together with the land and will ensure that the parties are only required to stamp one document rather than two upon such a transfer.

The other technical change relates to a clarification in relation to refurbished lots. Honourable members will remember that when we passed the Better Business Taxes package the government indicated it was committed to retaining the stamp duty concession on off-the-plan purchases, because it makes a valuable contribution to housing construction in the state. The amendment proposed in clause 6 is for clarification. It seeks to ensure that we preserve the duty concession applicable to persons who are executing a contract in relation to a lot that is part of a proposed subdivision. It also seeks to mirror provisions that used to exist in the Stamps Act and does not represent any policy shift.

The other amendments to the Duties Act are fairly minor in nature so I will not discuss them in any detail. Suffice it to say they are quite technical in nature and seek in a number of cases to reflect provisions which used to exist in the Stamps Act 1958 and which did not come across into the Duties Act when the rewrite happened.

In a significant alteration to the Duties Act, clause 10 (2) seeks to abolish the $6000 duty-free threshold for hiring charges received by commercial hire businesses under equipment financing arrangements. This change is the product of an industry request to forgo the concession to make it more convenient for those in the industry to administer the current hire-of-goods duty provisions and also to make the law uniform across jurisdictions. In his contribution the Honourable Roger Hallam explained the background to this amendment. It was originally introduced as a form of relief to businesses which pay the hire-of-goods duty. However, the administration of that relief strategy created a lot of complexity for the small number of businesses that pay this type of duty in

that they are required to pass on to their customers the benefit of the $45 a month relief. It is more trouble than it is worth. At the request of the Australian Finance Conference, which is the peak body for equipment financiers, the threshold is being removed from that area. That is the only policy change contained in the bill.

The bill proposes a number of minor amendments to the Land Tax Act 1958, and seeks in particular to introduce new provisions relating to the service of documents. As with many other pieces of legislation that come before the Parliament the bill moves towards a more modern system whereby taxpayers are able to lodge documents electronically by email or facsimile. These changes to the Land Tax Act seek to do the same thing — that is, allow taxpayers to reduce their compliance costs by lodging and serving documents electronically.

The final lot of changes proposed in the bill relate to amendments to the Taxation Administration Act 1997. I concur with the sentiments expressed by the Honourable Roger Hallam that on the face of it the changes proposed would raise the eyebrows of civil libertarians.

I think of myself as a civil libertarian, so I looked at the proposed changes with some interest. I concur with the conclusions of the Honourable Roger Hallam that in the current instance the reason why the commissioner is being given quite an unusual treatment under the Taxation Administration Act is because we are dealing with agents of the commissioner, not with taxpayers generally. The proposed alterations seek to ensure that such agents of the commissioner comply with their obligation to pass on taxation revenue they have collected on the commissioner's behalf and to redress the fact that currently under the Duties Act and the Taxation Administration Act the commissioner does not have the ability to recover unpaid tax that has been collected by a person acting as agent for the commissioner, although there are provisions relating to the recovery of outstanding taxes owed by taxpayers.

For this reason the changes to the Taxation Administration Act would give the commissioner, in certain circumstances, an ability to apply directly to the Supreme Court upon providing an affidavit that would enable the commissioner to go through this process in a far easier way than having to prosecute in the Magistrates Court a matter related to a failure to remit the tax revenue collected and to have to wait for that matter to lead to a conviction. Some safeguards are contained in clauses 15 and 17, which make the proposed changes more palatable.

With those few words I seek to record my support for this legislation. The Bracks Labor government is committed to ensuring that the taxation regime in this state is as simple as possible to comply with and is inherently fair. I think the business tax package the government has delivered is sound in that it seeks to promote continued employment growth in this state.

I categorically reject the assertion made earlier by the Honourable David Davis that I have in any way supported a flat tax for land tax. I certainly have not; I am a firm supporter of progressive taxation. The Better Business Taxes package is inherently fair in that it spreads the benefits of the tax cuts across big business, which will benefit from the changes to payroll tax, but ensures that small businesses and land-holders will benefit from the changes being made to the land tax threshold and through the removal of stamp duty on mortgages, commercial leases and other transactions. With those few words, I commend the bill to the house.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — It is always interesting to follow Ms Mikakos in debates on taxation bills. I particularly note that she again harked back to the Better Business Taxes package, which was debated at length the last time a piece of legislation to amend the Duties Act came before the house. It is interesting to reflect on Ms Mikakos's comments that the package will encourage employment. She is obviously oblivious to the most recent unemployment statistics for Victoria, which show that over the period of the Bracks government unemployment in Victoria has increased from around 6 per cent to 7 per cent — that is, a full percentage point increase. It clearly shows that the Better Business Taxes package is not delivering what Ms Mikakos claims it will deliver.

It is also interesting to pick up on another couple of points on that package, one of which relates to the land tax threshold. While it is admirable that the threshold has been increased, the government appears oblivious to the fact that there has also been a rapid escalation in land prices over the last two to three years. Any benefit that will accrue through an increase in the land tax threshold will be eaten up by the fact that land prices have increased. It is a Clayton's tax cut — there is no real gain for anyone who is subject to land tax because the value of their property has increased more than the increase in the land tax threshold.

The other issue picked up by Ms Mikakos in her concluding comments was the removal of mortgage duty. However, she failed to mention that that arises from the federal government's tax package, which the newly re-elected federal Treasurer, Peter Costello, and

the newly re-elected Prime Minister implemented as part of their election promises before the previous election. The stunning victory last Saturday week, with the re-election of the Prime Minister, indicates the support in the community for the new federal taxation package. The community has accepted that package — it has seen its benefits and taken to it so well.

I turn to the bill. I know it always pleases you, Mr Deputy President, when I turn to debate a bill before the house.

Hon. R. A. Best — It is a nice change.

Hon. G. K. RICH-PHILLIPS — We try to get there occasionally, Mr Best, though I do not intend to dwell on the legislation!

The bill primarily amends the Duties Act 2000, which was passed by the house last year. At the time we were told it was introduced on the basis of repealing the Stamps Act and introducing template legislation that would result in consistencies across jurisdictions on taxation matters relating to stamp duty. It is a matter of regret that this bill is the second piece of legislation to come into Parliament to amend that principal act. Earlier this year, before the Duties Act came into effect on 1 July, a piece of legislation passed through the house to correct errors in the principal act, and the bill before the house today in many respects corrects further errors in that act.

The previous speakers in the debate — Ms Mikakos and Mr Hallam — have picked up the nature of those changes, some of which clarify issues of policy on the way taxation matters are dealt with which obviously were not clarified when the principal act was passed last year. Subsequent clarification was required to ensure consistency with existing government policy. Some changes revert to the provisions that were contained in the repealed Stamps Act, which the Duties Act replaced last year. Apparently we have moved in the direction of template legislation, only to twice amend that and in some cases revert back to the original legislation that the template legislation was supposed to replace.

The State Taxation Legislation (Amendment) Bill amends the Duties Act 2000, the Land Tax Act 1958 and the Taxation Administration Act 1997, and I will make some comments regarding those various taxation measures. I reflect on the comments of the Honourable Jenny Mikakos regarding the government's approach to business taxation. It is worth putting on the record the comments made during the debate on the principal act that the alleged benefits accruing from the Better Business Taxes package barely equals the increased taxation revenue that the government has experienced in the past two years. So what has been collected in extra revenue due to strong economic conditions is going to be given back in a number of years time. The government is promoting this as a good tax package for business when, in fact, all business is getting back is what it has already paid in extra taxation above and beyond what the government had expected to collect because of strong economic conditions.

There is a very worrying trend in this. I refer honourable members to the annual financial statement released by the Treasurer recently which shows that revenue for the state of Victoria for the 2000–01 financial year was reported at $29.47 billion, an increase of 7.8 per cent above and beyond the previous financial year. More importantly, the figure was above budget estimates due to the strong economic factors that have endured during the 2000–01 financial year.

On the flip side, we have had an increase in state expenditure for that financial year to $28.47 billion. That situation is fine for that financial year because the increase in revenue exceeded the increase in expenditure, and thus the Victorian public sector budget remained in surplus, but the windfall gain in revenue cannot be expected to continue. In the last quarter a number of international and domestic factors occurred which indicate that economic growth over the current financial year will slow, which will lead to a decrease in the windfall gain for the Victorian budget. The government is spending more than it expected to spend and is earning more than it expected to earn, but once it stops earning that extra revenue and continues to spend beyond the budget estimates Victoria will be in real trouble. It will be back to running actual budget deficits. It is only a short 10 years ago since the previous Kirner Labor government was in office. Many of the people in cabinet today were participants in the previous government in various forms.

Hon. W. R. Baxter — They were pulling the strings.

Hon. G. K. RICH-PHILLIPS — They were pulling the strings, Mr Baxter. The Minister for Energy and Resources, who has not bothered to be present in the chamber during the debate on this bill for which she is responsible, was the chief of staff of Premier Kirner. So the Minister for Energy and Resources had a direct role in the administration of that previous government and the way it ran the Victorian economy into debt. Who will forget that under the Kirner administration Victoria was running recurrent budget deficits of $2 billion? Some $2000 000 000 more was being spent

than was being earned and the government was flogging off assets left, right and centre to fund these deficits as well as running up state debt! People such as the former Minister for Finance, the Honourable Roger Hallam, inherited the mess and had to correct it.

In talking earlier about the growth in revenue, despite all the work the previous Kennett government did in fixing up the state budget and in turning around the budget deficit it inherited from the former Cain and Kirner governments, the percentage growth in taxation revenue under the seven years of the Kennett government was less than what has been experienced under the past two years of the Bracks government. State taxation has grown more in two years under the administration of the Bracks government than it did in the seven years of the Kennett government! It reaffirms the nature of this government and the fact that its tax cuts that the Honourable Jenny Mikakos speaks about are Clayton's tax cuts. This government is collecting more tax than any other state government has ever collected. The growth rate of that tax is higher than any previous state government.

I refer to stamp duty, which has a direct bearing on the bill before the house. The rate at which stamp duty is levied in Victoria and the impact it is having on the housing market is extraordinary. On a median-priced house in Melbourne stamp duty of $14 440 is payable. Every time someone buys a house at the median house price in Melbourne $14 440 is payable to the government. What makes that figure extraordinary is that it is more than the amount that the first home buyer can gain from the first home owner scheme introduced by the federal government as part of its new tax system. So what the federal government and the federal Treasurer give to first home buyers to buy new homes, the state government and Treasurer Brumby collect back in stamp duty! The federal government gives it to you and the state government takes it away. In fact, the state government takes away more than the grant given by the federal government under the first home owner scheme. It is extraordinary that with this level of stamp duty due to the increase in house prices any benefit gained from the first home owner scheme is taken away by Treasurer Brumby and the Bracks government.

It is a similar story with various other taxation measures. Even with this extreme growth in revenue the government has not recognised the need to address these windfall gains in taxation. It is not sustainable for the government to continue to levy taxation such as property taxes on the value of property without recognising the shift that has occurred in relative values. It is fine to charge $14 000 stamp duty on an expensive property, but once the property market reaches the point where the median-priced property incurs stamp duty of $14 000, it is no longer sustainable and the government should recognise that and adjust taxation scales to reflect the change in the economy and in property values and other taxation based on values such as property values.

Another example is payroll tax. The increase in the payroll tax threshold does not reflect the growth in wages and the economy. Any real benefit deriving from that is eliminated because the inflationary growth in those measures is such that even increasing thresholds means no benefit will flow to employers.

The opposition does not oppose the legislation. This is the second time the government has sought amendments to the Duties Act. The legislation was not rushed through Parliament; it was introduced last year and came into effect in the middle of this year. There was plenty of time for the government to get it right. This is the second time Parliament has been asked to pass legislation to correct errors and issues that have arisen from the Duties Act.

It is time the government realised its responsibilities by ensuring in future that when it introduces legislation it is correct and performs the tasks it is supposed to perform.

Motion agreed to.

Read second time.

Third reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — By leave, I move:

That this bill be now read a third time.

In so doing, I thank honourable members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HEALTH SERVICES (CONCILIATION AND REVIEW) (AMENDMENT) BILL

Second reading

Debate resumed from 7 November; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. ANDREA COOTE (Monash) — I have pleasure in speaking to the Health Services (Conciliation and Review) (Amendment) Bill, and in so doing find myself in an extraordinary position, perhaps one I will never find myself in again in this chamber, but it is an interesting and gratifying position to be in.

In the mid-1990s I was appointed by the then Minister for Health, the Honourable Marie Tehan, to the position of president of the Health Services Review Council, a position I served in with a great deal of pride and where I learnt a great deal about the Health Services Review Council and the Health Services Commissioner. The Health Services Review Council advises the Minister for Health, and we advised the then health minister, the Honourable Rob Knowles, an excellent member of this chamber and an excellent health minister, to appoint Beth Wilson as the Health Services Commissioner.

The appointment of Beth Wilson has proved to be one of the best and wisest decisions ever made. Ms Wilson has enhanced the position of Health Services Commissioner, and has done an excellent job not only in Victoria but throughout Australia. She is highly regarded by her colleagues in Victoria and interstate. All Victorians owe Ms Wilson a great deal of praise. She brings many skills to the job of Health Services Commissioner, one being that she was a lawyer, which has helped us get to the stage of the bill being introduced today. She has been instrumental in doing the background work in preparing the bill and introducing the amendments. I commend her for the excellent work she has done.

As a Health Services Review Council, and under the Honourable Rob Knowles, we initiated a review of the current legislation in the 1990s dealing with the Health Services (Conciliation and Review) Act 1987. The honourable member for Malvern in the other place, the Honourable Robert Doyle, was extremely helpful. I put on the record his considerable help in examining this legislation with the degree of expertise that was required at the time. He spent considerable time working with both the commissioner and the council looking at issues that had to be addressed, long-term ramifications, and how we could make the bill reflect the needs of all Victorians in a better way.

I commend him for that excellent groundwork and the framework he put into this whole process. That was more than three years ago, and I now find myself in this chamber speaking on a bill that I initiated. It is a remarkable position to be in.

Hon. R. A. Best — The Labor Party moved quickly!

Hon. ANDREA COOTE — Absolutely, the Labor Party moved quickly — it has taken it three years to get to this point on the legislation we initiated. However, I will not be opposing the bill.

In the three years since I was president of the Health Services Review Council many changes have taken place, one being my successor, Michael Gorton. I put on the record my acknowledgment of the excellent work that he has done, both with the Health Services Review Council and in advising the commissioner. Michael Gorton is a senior legal partner with Russell Kennedy, solicitors. His expertise has helped get the bill to this stage. I commend both him and his current council for their excellent work.

I shall outline the relationship between the Health Services Commissioner, Beth Wilson, and the Health Services Review Council, the current president being Michael Gorton. The annual report of the Health Services Commissioner for 1999–2000 states, under the heading of 'The role and functions of the council':

> The council plays a strong advisory role, and works closely with the Health Services Commissioner.
>
> Section 14 of the Health Services (Conciliation and Review) Act requires the council:
>
> (a) to advise the minister on the health complaints system and the operations of the commissioner;
>
> (b) to advise the minister and the commissioner on issues referred to it by the commissioner; and
>
> (c) with the minister's approval to refer matters relating to health service complaints to the commissioner for inquiry.

The council and the commission have had a close relationship, and I am pleased to note in the annual report that Michael Gorton says that he is also:

> … pleased to report that the council has a strong working relationship with the commissioner. The commissioner plays a significant role in ensuring that our health service system is accountable and fair. The commissioner's office must be valued as an important process in ensuring that the interests of users and providers are met and balanced.

The Health Services Review Council plays an integral and vital role in its relationship with the commissioner and the minister.

Under the heading of 'The Role of the Commissioner', the report states:

> The Office of the Health Services Commissioner (HSC) was established in Victoria in 1988. The commissioner's role is to receive, investigate and resolve complaints from users of health services, to support health care services in providing quality of care and to assist them in resolving complaints. The

legislation also requires that information gained from complaints should be used to improve the standards of health care and prevent breaches of these standards.

It is important that Victorians have a safe and secure health system and feel that they have some comeback and an opportunity for criticism where it is due, to be able to air grievances and know that their grievances and problems can be dealt with with security and confidentiality. It enhances our health system to know that we have such excellent support and methodology for dealing with complaints.

While I was president of the Health Services Review Council many people would say, 'That's all very well but what does it mean?'. People have asked Beth Wilson the same question: 'What is the health commissioner?'. The best analogy is to say the position is like that of a health ombudsman. The commissioner does not deal with the fact that the cheese in the fridge might be rotten or that the eggs in the supermarket are off; it deals with more far-ranging issues such as complaints people have with health services and providers.

The complaints are dealt with through mediation and conciliation, and I praise the conciliators from the commissioner's office. These people do a most extraordinary job. They must be good listeners and often they deal with difficult people in extreme circumstances who are very agitated and concerned about a service that has gone wrong either with themselves or with a loved one or family member. They often have to tease out the situation from an initial approach. In many instances the conciliators can take the procedures all the way through and mediate something that has a good conclusion for everyone concerned. On the other hand if the issue comes within the auspices of the Medical Practitioners Board or the Dental Practitioners Board it is passed on to those bodies to deal with.

I turn to the guiding principles of the office as set out in its annual report of 1999–2000, and it is important to get them on the record. The guiding principles of the Health Services (Conciliation and Review) Act promote:

(a) quality health care given as promptly as circumstances permit …

By way of an aside I note that people expect to have their differences and misunderstandings clarified as quickly as possible, but in many instances the issues are complex and it is hard to resolve them promptly. The guidelines continue:

(b) considerate health care; and

(c) respect for privacy and dignity of persons being given health care; and

(d) the provision of adequate information on services provided or treatment available in terms which are understandable; and

(e) participation in decision making affecting individual health care; and

(f) an environment of informed choice in accepting or refusing treatment or participation in education or research programs; and

(g) reasonable access to information in records relating to personal use of the health care system …

(h) the confidentiality of personal health records.

It is pleasing to see the amendments to the act because many of these issues are enhanced, clarified and detailed, and the guiding principles will be made clearer for people in the future.

I turn to some examples of situations that have resulted in people approaching the Health Services Commissioner and the sorts of questions and problems that arise. The first example concerned a family who left their father in a stable condition in hospital expecting him to be well looked after. The father was quite ill. They rang the hospital on a frequent basis to see whether he was all right and on one occasion when they rang they were told that he was critically ill and they should hasten to the hospital as fast as they could. When they got to the hospital they found that he had been moved from a public ward into a private room because they knew he was seriously ill and they wanted to allow him the dignity of dying in private. Along the way the hospital had forgotten to advise the family that their beloved father was in such a critical condition. The family had a genuine concern, and that is an example of the type of concern that families have and of an issue that is taken to the Health Services Commissioner.

Another worrying complaint concerned a pregnant woman who presented to a hospital with abdominal pain. No-one bothered to examine the woman and subsequently she was found to have appendicitis. That is another example of a situation that should never have occurred and of an issue of concern.

The final example involved a patient who went to a private hospital with breathing difficulties and was given medication for a strained muscle. The patient became worse and returned to the hospital. An extremely rude nurse said that the person was suffering from mastitis and should stop complaining. At a later stage the patient was diagnosed with pneumonia. The

complaints involve many different treatments and issues of negligence, provision of care and rudeness. The examples show the type and range of complaints the commissioner has to deal with.

I turn to a statistical analysis in the annual report that deals with the types of treatments and complaints that are dealt with and the proportion of complaints. Some 50 per cent of complaints involved treatment. That category deals with inadequate diagnosis, and I have provided an example of that situation. Another category is negligent treatment, which can involve treatment that is negligent or is perceived to have been negligent. One can understand the difficulties a conciliator has to deal with. Another category is unskilled treatment, which results from people in hospitals being overstretched when nurse numbers are inadequate. The Minister for Health said that some hospitals have put on too many nurses. I do not think we can have too many nurses. There are still an enormous number of patients on trolleys, and the minister tells us we have too many nurses! I find that extraordinary.

Another type of complaint that causes grave concern for the community at large is communication, and some 14 per cent of complaints to the commissioner involved that issue. This category can involve failing to consult, and I provided the example of a family not being told that their father was dying. It is a very serious issue for the people involved.

Another complaint concerns the absence of caring. People want to be treated with respect and they want to be treated in a caring way when they are under enormous stress, such as in medical situations. Some people are given wrong or misleading information. That can easily happen, and it is important that all staff are aware that wrong and misleading information can cause profound agitation for the people concerned. Some 11 per cent of complaints related to rights, and that covers issues such as accuracy of records, access to records, assault and discrimination.

Some 8 per cent of complaints related to access, for example, delay in admission, treatment or transfer. Only 5 per cent of complaints related to cost, which is interesting to note. On the whole people seem to be not terribly concerned about cost, and when one looks at cost the issues are usually to do with amounts charged or billing practices, such as double billing, and some probably genuine mistakes. Some 3 per cent of complaints concern administration — that is, the management practices of the hospitals or the providers, inadequate responses, failure to provide certificates and those sorts of administration issues. I have provided examples of the types of complaints that the commissioner must deal with, and one can see there are many areas that would be difficult for conciliators to try to resolve.

The categories of complaints are quite interesting and probably not as we would expect them to be. I again quote from the annual report, which notes that in the category of complaints against health service providers, 41 per cent were against medical practitioners, 15 per cent were against remaining providers and a large 8 per cent were against dentists. Apparently people have many concerns about their dentists! Some 30 per cent of complaints were against hospitals, which is probably to be expected, and about 6 per cent were non-specified. It is interesting to see that the capacity for people to make a complaint is increasing. It is pleasing to note that there are now more than 150 complaints officers in various hospitals throughout Victoria.

It is very good that members of the public can feel secure in the knowledge that if they have a genuine concern they can take it to the complaints officers within these institutions and feel fairly confident that their concern will either be dealt with at that stage or, if they are not given a satisfactory answer, they can go further and take it up with the Health Services Commissioner.

I turn to the clauses of the bill, some of which I will go through in detail. Clause 4 amends various definitions, and I was very pleased to see these enunciated. For example, clause 4(b) amends the definition of a health service to include therapeutic counselling and psychotherapeutic services. It is very important in this day and age, when we have so many different service providers, to enunciate what services we are talking about. Clause 4(b) also clarifies the position of laundry, cleaning and catering services. Clause 4(d) amends the definition of ‘provider’ by inserting:

> (ab) a person or body which holds himself, herself or itself out as providing a health service; …

That is a very important addition.

I was also pleased to see that clause 5 clarifies the functions of the commissioner. When I was the president of the Health Services Review Council I found it was very important that the council talked about educating the whole of the community on the role of the commissioner, so I am extremely pleased to see this clause included in the bill.

I would also like the government to ensure that Aboriginal people and people from non-English-speaking backgrounds are included in that

education process and that brochures and information are published in several languages to enable non-English-speaking people to understand that they can make complaints about the system. That understanding is very important, and I welcome clause 5 in particular.

Clause 6 is also important as it encourages providers to distribute, display or make available information about the Health Services Commissioner. It is extremely important not only that the information is in several languages so that members of all sectors of our community have access to it, as I just mentioned, but also that doctors and other service providers understand what the Health Services Commissioner does and the vital role he or she can play in helping to mediate and conciliate in areas of concern.

Clause 7 gives the commissioner power to name a person in an annual report or a report to Parliament, which power has not been available before. As legislators we have to be certain that those dealing with people's health are aware of the enormous responsibility they have when dealing with people who are vulnerable. Given the abuses of the system that we sometimes see, it is vital that the commissioner has this ultimate power to name persons and to ensure that at all costs they are discouraged from taking advantage of people in delicate circumstances. Proposed section 11(6) inserted by clause 7 places certain constraints on the commissioner to ensure that he or she cannot name people without just cause. The commissioner is required to give 14 days notice in writing to the person to be named and the person concerned has an opportunity to object.

New section 11(5) provides that a person may be named if:

> (b) the person is a provider who has unreasonably failed to take action that has been specified in a notice under section 22(6) to remedy a complaint and has been given a notice under section 22(12).

When I was president of the Health Services Review Council I was constantly amazed at the number of doctors or other health providers who had been disbarred by the Medical Practitioners Board or one of the other boards for doing something incorrect who just put up a noticeboard saying, 'I am a therapist'. There was no comeback and no opportunity to question their credentials, so it is very pleasing to see that position now being clarified in this bill.

Clause 8 is quite interesting. It is a technical provision clarifying the process for the removal of members from the council if they have been guilty of misconduct. When I was involved with the council the job was too important for a member to miss three consecutive meetings, which is one of the bases upon which a member can be dismissed. At that time the council was a vital body which worked very cooperatively, as it does today. I am certain that if a council member were to continually miss meetings there would be somebody else available who would want to do the job, so I am very pleased to see that provision.

The functions of the council are amended by clause 9 to include:

> to promote the Commissioner, the operations of the Commissioner and the guiding principles; …

I am extremely pleased to see this function included, because it requires the council to go out across Victoria to talk about the excellent work the commissioner has done and to educate all members of the community so they are aware of their rights. The current commissioner is an excellent advocate for the health services commission. She is constantly out in the community addressing various groups and she is a very informative, entertaining and knowledgeable speaker. I encourage any honourable members who have the opportunity to invite her to their various electorates to do so, because she is an extremely authoritative speaker.

Clause 10 deals with complaints made on behalf of deceased users of health services. I mentioned before the great job that conciliators do and how important it is that they are sensitive and understanding in their mediation. I invite all honourable members to reflect for a moment on how difficult it is for someone who is genuinely concerned about the treatment, service or communication received from doctors or service providers by a person who subsequently dies. That is a very sensitive area, and an area that is easy to ignore. I have nothing but praise for people who are grieving but who make the effort to make a genuine complaint to the commissioner, because the only way the system can be fixed in the long term is if people make their concerns known. I am pleased to see that that is recognised in the bill.

I turn now to the conciliation process addressed in clause 13. I am very pleased to see that most of these issues have finally been clarified, and clarified very well. In particular, proposed section 20(10B) inserted by clause 13 provides that:

> The Commissioner may stop dealing with a complaint, whether or not a recommendation of a conciliator has been made, if the commissioner is of the view that —
>
> (a) the complaint cannot be conciliated; and

(b) no further action is warranted.

As honourable members can imagine, there are several vexatious complainants who take up an enormous amount of the commissioner's time, and it is important that the commissioner can say with confidence that the complaints have gone on for long enough. I was very pleased to see that power formalised.

It is also interesting to see in proposed new section 20(13B) that for the first time:

> A conciliator may discuss any matter arising in relation to the performance of his or her functions as a conciliator under this Act with any other conciliator.

Honourable members would appreciate that in some of these very vexatious areas the people concerned are grieving and it is important that conciliators are able to consult with their colleagues in confidence to establish the best way to handle something that probably needs sensitive treatment.

I will now turn to the position of confidentiality, which is dealt with by clause 18. The bill identifies specific areas in which sensitive and confidential information can be disclosed. The areas in which issues can now be disclosed are where it is in the public interest, where it is needed for a criminal case, if the user and the provider both agree that it can be disclosed, and upon a decision by the minister.

It is imperative that this is clarified. Confidentiality is an important aspect of the whole of the Health Services Review Council, and if members of the public do not feel confident that they will have their details treated with confidentiality the whole system will not work properly. I am pleased to see the detail included in clause 18.

I charge the Minister for Health to ensure that all the above changes are fully and adequately funded and that significant additional funds are made available for the important educative role. If we want people across the state to understand it, it is no good just putting a few brochures in doctors' rooms or hospital waiting areas. A comprehensive strategy needs to be developed whereby the council and the commissioner can go across the state and speak to everybody. However, that needs to be properly funded, especially for the indigenous people and those for whom English is not their first language. I will be watching with interest to see what the minister does in this area. I hope specific funds have been set aside for making certain this happens.

I would also like the minister to investigate closely the issue of remuneration for members of the Health Services Review Council. It does a fantastic job and has a great deal of responsibility, and although I have not discussed it with the current president, I believe it needs recognition for the excellent work it does. I put on the record that increased remuneration would be my suggestion, and I will certainly be watching to see what happens.

Hon. R. A. Best — They don't get as much as the Independents get!

Hon. ANDREA COOTE — Certainly not! The Independents get an enormous amount! I am pleased to have had the opportunity to speak to the bill. It is particularly close to my heart, and I wish it a speedy passage and congratulate everybody who has been associated with bringing these amendments to the Parliament.

Hon. R. A. BEST (North Western) — The National Party supports the bill. Before I commence my comments I put on record my congratulations and appreciation of the role the Honourable Andrea Coote played while she was president of the Health Services Review Council. As we have heard today, she took the position very seriously. To ensure public confidence and respect for the way in which the Health Service Commissioner and the council do their job it is very important that the process for complaints is handled well because we need to have public confidence in our health system. Therefore, it is with great pleasure that I congratulate Andrea Coote on the job she has done, the many people who serve on that council, and particularly the role the Health Services Commissioner is doing in performing her duties.

The bill contains a range of amendments which we believe are sensible and appropriate in assisting the health commissioner and the review council in performing their duties. The bill redefines health services to include social work, laundry, cleaning, catering services and psychotherapeutic services, which impact on the care and treatment of a person receiving a health service.

The definition of 'provider' has also been changed to allow a complaint to be made against a group of people who hold themselves out to be providing a health service, but are not caught by the current definitions and therefore fall outside the jurisdiction of the Health Services Commissioner.

Hopefully, this amendment will provide greater protection for health consumers. The definition of 'user' has also been changed so that a person who has been unreasonably denied access to a health service or

who has in the past been the recipient of a health service and wishes to complain about that health service is able to do so. The bill also gives the commissioner the function of providing education training and researching the complaints relating to the health service.

The bill has had quite a gestation period. Its genesis occurred back in 1999 under the former government. A discussion paper was issued in September 2000 to assess whether the function of the Health Services Commissioner and the Health Services Review Council should be expanded and whether amendments should be made to improve the effective operation of the act and the capacity of the commissioner to deal with complaints against unregistered providers of health services.

The consultation process has been very wide. All health providers have had the opportunity for input. It is a testament to the way the commissioner has performed her role and the way people have been able to gain confidence in the process that this bill comes before the house.

Members of the National Party have consulted widely with health service providers within our electorates, and there is no concern regarding this bill or its effect on the way the commissioner or the council will perform their duties.

I wish to put a number of issues on the record. The Honourable Andrea Coote has gone through many of the clauses in the bill, and I will not replicate those issues. However, I would like to place on the record a couple of issues of concern to me that need to be handled in a very professional and delicate manner. The first is the confidentiality provisions for the minister to disclose what he believes is in the public interest. That enormous power needs to be handled in consultation with the commissioner and the council to ensure that public confidence in the health system and in the way in which health services are provided is not undermined.

Sometimes in this place we must be careful in the way we disclose information. On some occasions members are a little reckless in the way they use parliamentary privilege. I am not suggesting for one moment that the Minister for Health is in that category, but I urge that the issues associated with parliamentary privilege as it applies to the commissioner and the council are handled with care.

One of the areas that will assist the public in retaining confidence in the system is the opportunity to deal with unregistered health providers of a health service, receiving complaints and dealing with those complaints. During the briefing I asked for examples from the department of where there had been what I would call ‘unprofessional’ conduct. I was pleased that officers provided me with four examples, three of which I will quote, because it gives an opportunity for the house to appreciate the aims of the bill and provides confidence to the public that if a person behaves improperly, there is a course of action open to them.

The first example given to me was of a therapist who invited a person who suffered from muscular problems to attend him for assistance. He told her that her problems arose from sexual repression and then assaulted her. The matter was referred to the police and charges were laid. Another was of a woman who attended a therapist who advised her that she needed to see him for ongoing care. The therapist 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. Finally, a woman who attended a therapist for massage complained that the therapist made sexual advances which were unwelcome. A copy of the therapist’s letter to the commissioner was given to the complainant, who decided not to pursue the complaint.

The issue I want to raise by using those examples is that unfortunately there are people who do not behave in a professional manner. The bill provides an opportunity for public confidence to be generated, because people have a proper and appropriate process under which complaints can be made, investigated by the commissioner and reviewed by the council. As I said at the beginning, one of the things that the bill provides is that public confidence in the health system can be maintained.

One of the issues alluded to earlier was the structure of the Health Services Review Council. It is worth putting on the record the role that those volunteers play. As the Honourable Andrea Coote explained, they are unpaid. A provision in the bill gives the minister the powers to remove a member from the council for good cause. I join the Honourable Andrea Coote in recognising the outstanding contribution that those people make. I would be very surprised if there were an occasion where someone was removed from that council.

I put on the record that the bill addresses three main issues. The first is whether the functions of the Health Services Commissioner and the Health Services Review Council should be expanded. The National Party considers they should be. The second issue is whether amendments should be made to improve the

effective operation of the act. We agree with that. The third is the capacity of the commissioner to deal with complaints against unregistered providers of health services. As I said in providing the examples to the house, there is certainly a need for the commissioner to act as an ombudsman between the public and providers of health services to ensure there is customer satisfaction and that the public have faith and confidence in our public health system. The amendments are appropriate.

The National Party welcomes the bill. We do not oppose its passage and again express our support for the amendments before the house.

Hon. KAYE DARVENIZA (Melbourne West) — I rise to speak in support of the bill, which I am pleased to say has the support of both the Liberal Party and the National Party. With the introduction of the bill, again we see the Bracks government implementing commitments it made to the community during the last election campaign in 1999. The government made a commitment to the electorate that the health policy would strengthen the protection provided to consumers of health services and health care. This bill is yet another way of achieving that.

As has already been alluded to by both the previous speakers, it was the Labor government back in 1987 that first identified the need to establish the position of Health Services Commissioner. It is a very important position and previous speakers, particularly Mrs Coote, who has a close association and has had personal experience with both the commission and the council, went into some detail about it. With the enacting of the legislation back in 1987, Victoria was the first state in Australia to introduce such an important position with very important functions that ensure that people who use our health care services and services provided by health professionals have an avenue for complaint and that when complaints are made there are processes and procedures for those complaints to be dealt with efficiently, effectively and in a speedy manner.

The Health Services Commissioner is appointed under the Health Services (Conciliation and Review) Act 1987. The commissioner has jurisdiction relating to complaints against both public and private health providers. The act also establishes the Health Services Review Council. Mrs Coote has already gone into some detail about that and has explained that it is an advisory council to the commission. It gives the commissioner important and vital advice. The commissioner's functions are to conciliate complaints against health service providers when complaints are made by the users of those services. In situations where conciliation is unsuccessful or a complaint is not suitable for conciliation, the commissioner has the power to investigate the complaint and determine whether it is justifiable.

Before the bill was introduced there was a great deal of consultation with the community in general and with stakeholders in particular. In preparing the bill the government went through a very exhaustive process of consulting with the major stakeholders and people with an interest in or who are involved in the area to seek their views about what sort of amendments needed to be brought before the house to strengthen the role of the commissioner and the council and ensure we have the most effective means of dealing with complaints of consumers when dealing with health services and health service providers.

The review of the act was considered necessary because concerns had been raised about its general effectiveness. In particular, concerns were raised about dealing with unregistered providers of health services. The discussion paper developed in September 2000 was widely distributed for consultation, and submissions from stakeholders and interested parties were encouraged. The discussion paper invited comment on a number of issues, including a number of amendments that were suggested and proposed by both the commissioner and the review council. Views were sought on whether the functions of the Health Services Commissioner and the Health Services Review Council should be expanded and whether the act was adequate in dealing with complaints against unregistered providers of health services — that is, those who are not regulated by profession-specific legislation.

We have seen legislation coming into this house and being amended in relation to a whole range of those professional regulatory bodies such as the Nurses Board of Victoria, which I am pleased to say I was a member of prior to becoming involved in politics; the Medical Practitioners Board of Victoria, and the Psychologists Registration Board of Victoria. They are just a few of the regulatory boards which are in existence and have profession-specific legislation.

A departmental working party was also established. That party ensured that the discussion paper was developed and widely distributed and encouraged people to respond to it and make submissions regarding amendments to the act. The discussion paper was distributed in September 2000, and, as I said earlier, it was circulated widely to key stakeholders. Submissions were made by a number of organisations to the working party in response to the discussion paper. Those organisations include Consumer and Business Affairs

Victoria, the Mental Health Legal Centre, Rural Ambulance Victoria, Community and Institutional Parents' Action on Intellectual Disability, the Australian Dental Association, Southern Health, the Australian Nursing Federation, the Australian Association of Social Workers, the Australian Psychological Society (College of Counselling Psychologists), the Australian False Memory Association, the Victorian Association of Psychotherapists, the Law Institute of Victoria, the Queensland Health Rights Commission, the Psychologists Registration Board of Victoria, the Resolution Resource Network, the Health Services Commissioner, the Health Care Complaints Commission and the Australian Association of Occupational Therapists, as well as a number of individual submissions. The Health Services Commissioner and the Health Services Review Council were also consulted in the development of the bill.

Included in the 2001 annual report of the Health Services Commissioner, which was tabled in Parliament today, is the Health Services Review Council president's report, which refers to the review of the act and the consultative process that occurred. The president says that during the year the minister released a discussion paper in relation to a number of important reforms to the act. He also says at page 7 of the report:

> The council was represented on the working party which assisted in the development of the discussion paper. The council assisted in the promotion and dissemination of the discussion paper to ensure proper consultation throughout the community in relation to the issues raised.
>
> The council undertook much work in preparing its own submission in relation to the discussion paper, and we are pleased that the council has had an opportunity to discuss its submissions with representatives of the Department of Human Services.

I am sure the other organisations that took the time to make submissions also welcomed the opportunity to make recommendations and give advice to the government on ways of making amendments to this important act and to the functions and operations of the commissioner and the review council.

The purpose of the bill is to improve the operations of the act and to address a range of concerns in implementing the act in its current form. As I said, the annual report of the Health Services Commissioner clearly expresses the review council's appreciation of its involvement in the review process and of being able to make submissions. It is important to point out the important work done by the commissioner and the review council. I know both previous speakers in the debate discussed this, but it is important to look at some of the — —

The ACTING PRESIDENT (Hon. E. G. Stoney) — Order! It is time for the suspension of the sitting — firstly, to attend the opening of 'Victoria's forgotten legislature', an exhibition commemorating the 150th anniversary of the first Legislative Council of Victoria and the launch of *A Blended House — the Legislative Council of Victoria 1851–1856*; and secondly, to have the dinner break.

Sitting suspended 6.02 p.m. until 8.03 p.m.

Hon. KAYE DARVENIZA — I will run through a few of the activities the commissioner is involved in to give the chamber some idea of the type of work the commissioner deals with.

In its annual report tabled in Parliament today the commission offers an analysis of trends in the types of complaints received. The commissioner receives a whole range of complaints by telephone and mail and some people even see her in person. Those complaints can be handled immediately and are often simply recorded as inquiries. The total number of inquiries and cases for 2000–01 was 9786 compared with 9654 in 1999–2000, showing a slight increase in the number of complaints received by the commissioner in the last year.

Complaints can cover a whole variety of matters related to fees, food and environmental health issues, or to matters that fall outside the human services jurisdiction, in which case callers are referred on to another agency. Often concerns relate to access to records. There is a large range of types of complaints that can be made by individuals about the health services they receive, from trivial and minor matters through routine matters up to substantial and serious matters. However, what the commissioner wants is that complaints be dealt with efficiently and that matters be resolved as quickly as possible. The commission believes the most effective means of resolving complaints is as set out at page 26 of the annual report. It states:

> The most effective means of resolving complaints is where the provider responds in a timely and empathetic way. An apology, where appropriate, is also useful. Most people who do lodge complaints want to know what went wrong and why, and they want to make sure the same thing does not happen to someone else. In other words, they are seeking quality improvements.

The aim is to deal with a matter as quickly as possible. Often that can happen simply by an acknowledgment that there was a problem and that the complaint is genuine and has some validity, or by the matter being

taken up and the issue explained to the complainant, or a simple apology being given to them.

I would like to take honourable members to the bill. Clause 4 amends definitions. The definition of 'health services' has been amended to better reflect the current health services environment. In particular therapeutic counselling and psychotherapy services are now included, services that reflect some of the changes that have occurred in the delivery of health services since the act was first introduced. The clause will correct an inadvertent error caused by the Public Sector Reform (Miscellaneous Amendments) Act 1998, which had the effect of removing services provided by the Department of Human Services, or the secretary of that department, from the definition of 'human services'.

The definition of 'user' is also amended to ensure that complaints can be made by a person in relation to a past use of a service and that complaints can be made by a person who has been unreasonably denied a health service. It is not just about being able to complain about a service that you believed was inadequate or one that did not fulfil your expectations or disappointed you in some way, but the amendments set out in the bill ensure that if you are unreasonably denied access to a health service you will have grounds for a complaint.

Clause 5 amends the functions of the commissioner. The amendments recognise her role in providing education, information and training to providers as well as users about the prevention and resolution of complaints relating to health services. The amendments permit the commissioner to conduct research into complaints relating to health services.

Clause 6 requires the commissioner to encourage providers to distribute, display or make available material produced by the commission about the resolution of complaints. That matter is raised in the annual report of the Health Services Commissioner where, on page 8, Michael Gorton, president of the Health Services Review Council, talks about training and prevention, and the council viewing prevention as being preferable to a cure. He says the council supports the functions of the commissioner and states:

> Council's experience clearly indicates that, if complaints are dealt with at source, they are more readily resolved, more likely to address the concerns of all parties involved, and substantially reduce the costs to the institution or health provider associated with the complaint.

The amendments in the bill strengthen the issues of training, education and the distribution of information.

On page 10 under the heading 'statutory function' the annual report deals with liaison, training and promotion. It talks about the work of the commissioner in regularly meeting with the various boards of professional bodies to determine the most effective and efficient means of handling complaints about registered practitioners.

The report says that the commissioner also discussed relevant issues with:

> … the Ombudsman, the Mental Health Review Board, the Intellectual Disability Review Panel, the Office of the Public Advocate, the Coroner, the Commissioner for Equal Opportunity and other relevant authorities. These links assist our work especially where the management of complaints involves more than one office.
>
> The commissioner places strong emphasis on promotion and training to improve accessibility of the HSC to the public and health service providers.

The amendments in the bill strengthen those activities that the commissioner and the council find so important and vital in being able to carry out their functions in the most efficient and effective manner.

Clause 9 deals with the functions of the council. They have been enhanced by clause 9 through permitting the council to provide expertise, advice and guidance to the commissioner and to promote the operations of the commission and its guiding principles. Again, it is all about the commission and the council having enshrined in legislation that this is a vital and important part of their work.

Clauses 11, 13, 14 and 17 improve the operational effectiveness of the act by making amendments to the commissioner's jurisdiction and the procedures for handling complaints and confidentiality provisions in the act. With the introduction of the amendments to the act the commissioner will now be able to reject a complaint if it is misconceived or lacking in substance or has already been determined by the Coroner. Those provisions will give the commissioner the ability to split off a complaint based on provisions in, say, the Health Records Act so that part can be treated as a separate complaint.

Clause 11 also allows the commissioner to extend by 28 days the period before she must decide whether to accept, reject or refer a complaint if she considers it would allow the matter to be resolved. Clause 11 also clarifies the material the commissioner may forward when referring a complaint to a registration board or another body.

Clause 13 enables the commissioner to request that a conciliator provide a report on the progress of a conciliation process, and it enables the commissioner to

stop dealing with complaints if she cannot conciliate and no further action is warranted.

Clause 14 enables the commissioner to refer complaints to conciliation if she decides in the course of an investigation that a complaint is suitable for conciliation.

Clause 17 allows the commissioner to use existing investigative powers to compel attendance and to call for evidence and documents when she is conducting an inquiry into a matter that has been referred by the council or into a broader issue of health care.

Greater power over both registered and unregistered providers is covered in the bill by strengthening the commissioner's powers. This is particularly important for those providers who are unregistered because a registration board ultimately has the power to deregister somebody. If a complaint is of such a nature that it ends up being referred to a registration board, the board has the power to deal with most serious matters by deregistering people. However, that is not the case for unregistered providers. The provisions in the bill will lead to greater accountability for services provided by unregistered providers.

Clause 15 strengthens the powers of the Health Services Commissioner when she finds that a complaint is justified. Currently a provider must report to the commissioner within 45 days, but that period may be extended by the commissioner. The provider must report after he or she has received a notice about the actions which the commissioner believes should be taken to remedy a complaint.

The penalty for failing to provide the report will increase from 10 to 60 penalty units, which is a fine of $1000 to $6000 — a significant increase. The commissioner will be able to require a provider to provide further information on the action he or she has taken to remedy a complaint. There will be no limit on the number of times that a request can be made by the commissioner. A new penalty of 60 penalty units or $6000 is introduced for failing to comply with the request of the commissioner.

The annual report of the Health Services Commissioner refers to the problems of unregistered providers. For example, a health professional who is registered with a practitioners registration board and has disciplinary action taken against them resulting in deregistration can then hang up a service provider plaque saying they are a counsellor or a psychotherapist and continue practising. This problem has occurred in the past and is one that the commissioner needs to be able to deal with. It is alluded to at page 20 of the report and is identified by the commissioner, the Health Services Review Council and health providers as needing some stronger remedy than currently exists under the principal act. These provisions will address those concerns.

These provisions give strength to the commissioner's ability to carry out and conduct inquiries. The provisions in clause 15 allow the commissioner to conduct inquiries into action taken by providers and to compel attendance at the inquiry. She will have the power to call evidence and documents as part of the inquiry. These are new powers given to the commissioner.

The commissioner will be able to name in Parliament or in the annual report a provider who has unreasonably failed to take action requested by the commissioner. This power already exists, but the commissioner will now be able to name a person in her report to Parliament or her annual report to prevent or lessen the risk of a serious threat to life, health, safety or welfare of any person or of the public; so it is really a public interest provision that has been given to the commissioner. The amendments in clause 7 will provide guidance about the circumstances in which the commissioner can exercise the power to name people in her report to Parliament or in the annual report.

The issue of confidentiality is identified as part of the discussions and submissions made in relation to the changes that should be introduced in Parliament. The changes to the confidentiality provisions are set out in clause 18, which amends the principal act to allow for information that would otherwise be confidential to be disclosed in a number of circumstances. There are four circumstances in which the information can be disclosed. Firstly, it can be in the course of criminal proceedings: the amendments enable a person to give confidential information to a court in criminal proceedings without ministerial consent and clarify that the commissioner and her staff cannot be compelled to give evidence in criminal proceedings. A second case is where the Minister for Health decides that disclosure would be in the public interest. The third provision provides that the release of confidential information when consent is given by both the provider of the service as well as the person who has made a complaint, and the fourth provision permits the commissioner to refer information he or she has received that may not relate to a complaint to a registration board or another body with the consent of either the person who has provided the information or the consent of the minister.

Another important amendment set out in clause 13 which also goes to confidentiality will enable conciliators to discuss issues that arise as part of the conciliation process with each other and to allow them to discuss strategies and seek guidance from each other.

In conclusion, the amendments will strengthen and expand the powers of both the commissioner and the council. They will ensure a more effective and improved process for complaints against health providers to be dealt with. They will enhance public confidence, because people will have greater faith in the strength and ability of the commissioner and the council to carry out their roles, responsibilities and powers regarding complaints.

The provisions that allow for the training, information and education of health providers, professionals, the community and consumers are important in ensuring the confidence of the public about the sort of health services provided. This is a good bill because ultimately it will lead to an improvement in health services throughout the state, and it deserves the support of all honourable members. I commend it to the house.

Hon. M. T. LUCKINS (Waverley) — I am pleased to have the opportunity to make a contribution to the debate on the Health Services (Conciliation and Review) (Amendment) Bill. The amendments in the bill are sensible and appropriate and will improve the effectiveness of the act and strengthen the role of the Health Services Commissioner. They will raise public awareness about the role and the capacity of the commissioner and staff to conciliate and arbitrate on complaints made against health service providers.

I have had the opportunity to work closely with the Health Services Commissioner, Beth Wilson, on a number of occasions. I have been delighted with both her professionalism and that of her employees as part of a fair and conciliatory body that is committed to the philosophy of assisting those who are some of the most vulnerable in our community and who have had a negative experience with the health service.

The bill amends the definition of 'health service' to include social work services, therapeutic counselling and psychotherapeutic services. This is an important and sensible amendment that increases the power of the Health Services Commissioner to intervene in disputes and hear complaints made by individuals or by parties on behalf of individuals about the poor health services they have received. The addition of social work services, therapeutic counselling and also psychotherapeutic services is important because the health professionals or clinicians providing those services are in a position of power. They gain the trust of people that they seek to assist, or purport to assist, and experience over many years has shown that unfortunately some individuals use that power and trust inappropriately.

Under the proposed amendments the Health Services Commissioner will have the ability to hear disputes and allow members of the public to make complaints about services they have received. It also extends the definition of 'health service' to include laundry, cleaning and catering where those services affect the health care or the treatment of a person using or receiving a health service.

Previous speakers, including the Honourable Andrea Coote, who is a former chairman of the Health Services Review Council, and the Honourable Kaye Darveniza, have gone into some detail about both the genesis of the bill and some of the anecdotal evidence from past annual reports of the Health Services Commissioner, which give some detail of the type of work and the cases that the commissioner and her staff must deal with.

I commend the Honourable Andrea Coote for her clear articulation of the genesis of the bill and of the roles of the Health Services Commissioner and the Health Services Review Council, of which she is a former chairman. I also place on record the involvement of the Honourable Robert Doyle, the honourable member for Malvern in the other place, who was instrumental in initiating the legislation when we were in government. It has taken two years for the government to introduce the amendments sought by the Health Services Commissioner and the Health Services Review Council, which were widely endorsed by clinicians, the health industry and also stakeholders and which make fundamental improvements to the operation of the existing act.

The bill also amends the definition of 'provider' to allow complaints to be made against a person or body that provides a health service. The definition of 'user' is amended to ensure that a complaint can be made by a person in relation to the past use of a health service, and also by those who feel aggrieved that they were unreasonably denied access to a health service.

The bill deals with three major issues: the functions of the Health Services Review Council and the Health Services Commissioner, Beth Wilson; amendments to improve the effectiveness of the principal act; and the strengthening of the commissioner's powers under the act.

Clause 5 amends section 9 of the principal act to provide that the commissioner has the functions of providing education, information and training, and can also conduct research into complaints relating to health services. The amendment clarifies that the commissioner can refer issues to the Health Services Review Council for advice. That is important where the commissioner may consider that a number of complaints or anomalies occurring in one area of her responsibility may require closer investigation and provides the ability for a broader application of some of her powers.

Clause 6 amends section 10 of the principal act to provide additional power to the Health Services Commissioner to encourage providers to distribute and display information produced by the commissioner's office in relation to the resolution of complaints. I am sure most honourable members have in their office, or certainly have had forwarded to them, information packs from the Health Services Commissioner, the Ombudsman and other statutory office-holders so they can provide practical assistance to constituents who come to them with complaints of the nature that the office-holders investigate from time to time. It is important that members of the wider community are not only aware of the position of the Health Services Commissioner but also that they are empowered to take action if they are aggrieved or feel they have been badly treated by a health service or while seeking health treatment.

Clause 7 amends section 11 of the principal act by defining the circumstances in which the commissioner may name a person in an annual report or a report to a house of Parliament and outlining the procedure the commissioner must follow. That is important to strengthen accountability given the deterrent value of the threat of an individual or corporation that has been found to have acted inappropriately being named.

Clause 8 amends section 12 of the principal act by outlining the grounds on which the minister may remove a member of the Health Services Review Council. The amendment provides guidance for the first time for the Health Services Commissioner, and is consistent with the provisions made in other acts, including most of the health acts, for the removal of a board member for a number of reasons set out in proposed section 12(7A):

(a) the member is guilty of misconduct in carrying out the duties of his or her office;

(b) the member is mentally or physically incapable of satisfactorily carrying out the duties of his or her office;

(c) the member has failed to attend 3 consecutive meetings of the Council without leave from the Council;

(d) the member is convicted of an indictable offence or and offence that, if committed in Victoria, would be an indictable offence;

(e) the member becomes an insolvent under administration.

That provides the minister with grounds and guidance on when it is appropriate to remove a person from the Health Services Review Council. It is important that there is consistency across acts and that people who are privileged to hold office on statutory authorities are made accountable for their actions, particularly when they have to arbitrate on decisions which affect people and service providers who may make complaints against them.

Clause 9 amends section 14 of the principal act. The amendment gives the council additional functions to allow it to provide expertise and advice to the Health Services Commissioner.

Clause 10 amends sections 15 and 16 of the principal act to allow a person to make a complaint on behalf of a user who has died if the commissioner recognises that person as the user's appropriate representative.

That is very important from the accountability perspective. If someone sadly and unfortunately dies as a result of negligence in the health sector in Victoria it is only right and fair that either the loved ones or a person who is close to the deceased and has been recognised by the commissioner as an appropriate person to be the deceased's representative has the opportunity to have their complaint arbitrated to ensure that it does not happen to anybody else.

Clause 11 amends section 19 of the principal act. The amendment provides grounds on which the commissioner can reject complaints — that is, if it is misconceived or lacking in substance — and that the commissioner must reject a complaint that relates to an issue that has already been determined by a coroner. That clause satisfies the limitations of power on the Health Services Commissioner.

Clause 12 inserts proposed section 19A, which allows the commissioner to split complaints into parts so that they can be treated separately. It might be that the complainant has a number of grievances in a number of areas and they are most appropriately dealt with separately. It also provides the opportunity to gain good, sound and timely advice on the different areas without different aspects of the complaint being inadvertently held up.

Clause 13 amends section 20 of the principal act and allows conciliators to assist the commissioner to perform his or her new functions; gives the commissioner the power to stop dealing with a complaint; and also gives the commissioner the power to reopen a complaint. It gives conciliators the power to discuss cases among themselves without breaching the confidentiality provision, which is sensible and enables conciliators to seek advice from their colleagues.

Clause 14 amends section 21 of the principal act to ensure that the commissioner refers all matters that are suitable for conciliation without delay. That will help to facilitate the swift resolution of any outstanding issues.

Clause 15 amends section 22 of the principal act. These amendments ensure that if the commissioner refers a complaint to a registration board — which would be a medical registration board — the commissioner must give the provider and the user of the health service any information that has been provided to it. The penalty for a provider that fails to report to the commissioner has been increased to $6000 or 60 penalty units. That is an important deterrent and an added incentive for providers to ensure they comply with all the acts that are relevant in their field of clinical expertise. It will ensure that they discharge their responsibilities properly. The commissioner can also continue to make repeated requests for information from a provider regarding an action. The commissioner also has the power to conduct an inquiry into the action taken by a provider upon a complaint.

Clause 17 amends section 25 of the principal act and allows the commissioner to exercise powers under the Evidence Act 1958. The commissioner can compel attendance and call evidence and documents under the provisions of that act for hearings and deliberations on complaints. The circumstances in which the commissioner can employ these powers are, for example, when conducting an inquiry to ascertain whether the action taken by a provider to remedy a complaint is acceptable, and also when the commissioner is conducting an inquiry into matters referred to him or her — in this case 'her' — by the Health Services Review Council. Those changes are quite appropriate.

Clause 18, which the Honourable Kaye Darveniza explained in great detail, amends section 32 of the principal act. Those amendments concern the confidentiality provisions and more specifically provide that a person who holds or has held a position within the meaning of the section is able to give evidence to a court in the course of criminal proceedings even though the evidence contains confidential information. It also provides that confidential information can be disclosed or communicated if the minister has authorised the disclosure in the public interest or if the user — the health service user — has authorised disclosure.

This provision also outlines that confidential information which does not relate to a complaint can be disclosed by the commissioner if the minister authorises the disclosure in the public interest or with the authority of the person who provided the information. Again, it is a matter of consent to ensure that that information can be made public, or the minister can make a determination that is in the public interest to release it.

Clause 19 amends section 33 of the principal act and enables the commissioner to fix the period in which a prescribed provider of a health service must make returns to the commissioner in relation to the complaints received and the action taken during that period. More accountability is being put on the health service providers in this case.

As I mentioned in my opening remarks, the opposition is supportive of the amendments proposed and considers them to be both sensible and timely. The opposition has consulted widely with the hospitals and health care networks, the health industry and the Health Services Commissioner, as well as with other stakeholders. We are satisfied that all have supported the amendments and moreover they have reported to us that there should be no negative impact on the Victorian health system as a consequence of the amendments before the house. Indeed, the system should be strengthened by the new accountability provided in the amendments that will be passed today. The bill also strengthens the power of the commissioner to intervene in disputes between people acting on behalf of deceased individuals and health service providers. The aim of the amendments is considered, sensible, practical and appropriate. On that note I commend the bill to the house.

Hon. E. C. CARBINES (Geelong) — I am pleased to rise to speak in support of the Health Services (Conciliation Review) (Amendment) Bill. It seeks to improve the workings of both the Health Services Review Council and the Health Services Commissioner. It is thanks to the fine work of the previous Cain Labor government in Victoria that we have had in place since 1987 an independent, informal and inexpensive system of complaint investigation for health services. It is essential that Victorians who wish to make complaints about a health service have confidence that the complaints will be dealt with sensitively and will be taken seriously and resolved promptly to the satisfaction of all parties involved.

At page 9 of the 2001 annual report of the Health Services Commissioner, Beth Wilson, her role is outlined and defined as:

> … to receive, investigate and resolve complaints from users of health services, to support health care services in providing quality health care and to assist them in resolving complaints. The legislation also requires that information gained from complaints should be used to improve the standards of health care and prevent breaches of these standards.

Working strongly with the Health Services Commissioner is the Health Services Review Council, which is an advisory body made up of nine members, one-third of whom are health providers, one-third of whom are health service consumers and one-third of whom are deemed to be independent of both those groups and not affiliated with any health organisation. The council's role is to advise both the Minister for Health and the Health Services Commissioner on the health complaint system in our state.

I was interested to read in the 2001 annual report of the Health Services Commissioner about some of the complaints the commissioner has dealt with over the past year. The report outlines the two formal investigations that have taken place over that period under the auspices of the Health Services Commissioner and the Health Services Review Council. The first was an investigation into repressed memory treatment following a complaint being lodged by a patient's sister concerning the patient's treatment in a Victorian country town. The Health Services Commissioner acted very decisively and thoroughly to investigate that complaint, and the details are outlined in the report.

The second formal investigation followed a referral to the Health Services Commissioner of a matter concerning infection control at the Monash Medical Centre by the Minister for Health in the other place. The results of that investigation are thoroughly outlined in the report. I will not go into details of it now, but I was impressed by the thoroughness of the comprehensive investigation that took place and the findings in the report.

Further, page 21 of the annual report contains an analysis of complaint trends, which provides interesting reading. The Health Services Commissioner most appropriately says:

> As is consistent with previous years a timely response and explanation, accompanied, where appropriate by an apology, is the best way to resolve disputes quickly.
>
> On the other hand delays, secretiveness, a refusal to apologise and unnecessary delays escalate disputes …

It sounds simple, but as is evidenced by the annual report of the Health Services Commissioner, it bears fruit. Most cases that have come before her have been able to be resolved in that way. Half of the complaints received by the commissioner have been resolved following a single contact with the commissioner, which shows, as was outlined earlier, that her advice is often followed and leads to the resolution of disputes which could otherwise unnecessarily become very complicated.

The report details the way in which the commissioner and her council analyse complaints that are lodged in categories ranging from trivial through to very serious. The Health Services Review Council analyses the complexity of each complaint lodged and deems it to be in a certain category. A trivial rating involves frivolous, vexatious or obviously misconceived complaints or complaints where an investigation is unwarranted. The next category involves minor complaints where the problem is easily resolved by a phone call or a letter, and where an explanation is sufficient. The middle range of categories includes routine complaints where there has been a misunderstanding and which frequently involve access to records, disputes about costs, discourtesy or diagnostic or treatment errors without serious sequel. The next category is substantial complaints where there are significant quality assurance implications, where changes in practice are needed to avoid a recurrence or where there is a need for policy development. Finally, the most serious complaints are usually associated with personal injury, professional misconduct, unlawful or unethical acts or lack of informed consent with adverse outcomes.

It is interesting to look at the consumer profile by gender on page 24 of the annual report. A pie chart shows that 50 per cent of complainants are female, only 36 per cent are male and 14 per cent are not specified. That may lead to the observation by some people that women complain more about health services than men, but the commissioner adds the rider to that chart that women tend to come into contact with health services more often than men and are frequently carers complaining on behalf of others.

In September last year the Minister for Health in the other place released a very comprehensive discussion paper which canvassed a number of reforms in relation to the functions of the office of the Health Service Commissioner and of the Health Services Review Council. These reforms are detailed in the second-reading speech. They arose out of the experience of the commissioner and the council with the administration of the act and also out of examples of legislative innovation in other states. The minister

released a discussion paper and invited submissions in response. The 22 submissions received have helped inform the shape of the bill before us today.

The current president of the Health Services Review Council, Michael Gorton, outlines in his report, which is presented in the annual report of the Health Services Commissioner, his feelings and the feelings of his council about this bill. Mr Gorton says on pages 6 and 7:

> During the year, the minister released a discussion paper in relation to the reform of the act, importantly including:
>
> > increased functions and powers for the commissioner;
> >
> > amendment to the role and functions of the council;
> >
> > administrative changes to the processes under the act;
> >
> > proposals and options for addressing complaints concerning unregistered providers of health services, which are not otherwise currently dealt with under the act.

He goes on to explain that the Health Services Review Council:

> … was represented on the working party which assisted in the development of the discussion paper. The council assisted in the promotion and dissemination of the discussion paper to ensure proper consultation throughout the community in relation to the issues raised.
>
> The council undertook much work in preparing its own submission in relation to the discussion paper, and we are pleased that the council has had an opportunity to discuss its submissions with representatives of the Department of Human Services.
>
> At the time of this report, we note that proposed reform legislation is being developed.

That is the bill before us today.

> We are pleased that the council has been consulted in relation to the development of the amending legislation and are confident that the Health Services (Conciliation and Review) Act 1987 will be strengthened and improved as a result.

The bill before us tonight aims to clarify the functions and improve the operational effectiveness of both the Health Services Commissioner and the Health Services Review Council. It will also strengthen the capacity of the commissioner to deal effectively with complaints by Victorians about the health system.

I am very pleased to note that both opposition parties support the bill, because it is all about improving health service provision to Victorians. I wish it a very speedy passage through this house.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to make a brief contribution to the bill. The opposition will not oppose it. The bill is one of a raft of health issues and the examination of services that have come before the house as a result of initiatives taken by the previous government.

The bill is by and large in line with decisions taken by the Kennett government prior to the last election on the need to update the functions and powers of the Health Services Commissioner and the Health Services Review Council. I also compliment the government on taking up that issue and preparing a discussion paper which was widely circulated in September last year and which canvassed the issues of whether the functions of the commissioner and the council should be expanded, whether amendments should be made to improve the effective operation of the act and the capacity of the commissioner to deal with complaints against unregistered providers of health services. The bill addresses many of those issues.

The opposition has undertaken independent consultation on the bill, and it is pleased that the Health Services Commissioner, Beth Wilson, has ticked off on the proposals. We have also had positive feedback from representatives of various health care networks and other health services.

Victoria has held a predominant position in the resolution of health-related complaints in this country and the groundbreaking work that occurred in Victoria has provided the community with the opportunity to resolve problems where they believe they have been aggrieved by the provision of health services.

The bill implements the collective experience of the Health Services Commissioner, the government, the broader community and the opposition, and accordingly it will dramatically extend the purview of the principal act.

Experience has shown that many complaints could not be addressed because of the restrictive and impractically tight definitions of what currently constitutes a health service. So the act will be expanded to include the power of the commissioner to address complaints from a broader range of allied health disciplines. These disciplines include fields such as social work and therapeutic counselling that hitherto have not been subjected to the close examination that their position in the health care industry warrants.

I was also pleased to be in attendance at a departmental briefing, and I thank the government for providing that briefing. It was made clear that that expansion of services would also include youth counselling.

The bill also extends the definition of provider to include groups of individuals who can as a result of the services they offer to the community generate a public expectation on the part of patients and other client groups that they are indeed providers of health and ancillary services. Indeed, the scope of this legislation has been in some circumstances greatly extended to areas such as medical and hospital hotel services, and I refer in particular to procedures such as the handling of laundry, the cleaning of facilities and the provision of catering services.

Another gap that has been addressed in the definition of 'user' is where it is made clear that complaints can be made in respect of alleged denial of health services that have occurred retrospectively. The bill addresses instances that are especially difficult. The commissioner fulfils a vital role, and I have had a limited number of instances where constituents have sought my support in dealing with the Health Services Commissioner.

I certainly do not intend to go down the path of relating individual instances, but there are some general issues that I believe the bill has addressed. One is the situation of aggrieved spouses who may well be concerned with the quality of care provided to their wife or husband, as the case may be, during the terminal phases of an illness. From an individual standpoint the bill addresses a number of issues of that type.

It is important that the bill amends the principal act to deal with issues related to deceased persons that might be brought by a surviving spouse, sibling or other family member. Indeed, there are issues of which I am aware where a large amount of resources were expended by the Health Services Commissioner in dealing with an issue relating to deceased patients. I was particularly struck with the sensitive way in which the issue was handled.

It certainly appeared that part of the issue was the grieving process of a surviving spouse, and the issues were unable to be resolved by a number of repeated conciliations. However, part of the problem was that along the way the issue was haunted by whether public resources used were strictly in accordance with the legislation. The commissioner was essentially dealing with a complaint and acting on behalf of a health services consumer who was deceased. I have nothing but praise for the way the matter was dealt with, but it also raised the issue of a complainant never fully accepting the outcome of several processes of conciliation.

That raised another problem related to whether the commissioner could legitimately conclude that every possible line of inquiry, advice and investigation had been exhausted and a final determination was needed to close the file. This bill recognises that particular problem — that in some circumstances the commissioner will be required to deal with what in reality are irreconcilable and unresolvable issues on the part — for example, of a spouse, or unrealistic expectations on the part of patients or other consumers of health services.

Therefore as a further practical move and in recognition of the difficulties of some cases I fully support the proposal for the commissioner to be given power to subdivide certain complaints into component parts to deal with those parts separately. This will provide the commissioner with an opportunity to deal with the fine details of what might be very complex complaints too hard to resolve as a single complaint.

As part of that process of being able to resolve such complex issues, I again applaud the government in providing the commissioner with the power to extend investigations by 28 days to gain closure by the process of conciliation. That very sensible option should lead to better outcomes, where timeliness and closure of the issue have become factors.

The provision in the bill that allows for the commissioner to fail to initiate an investigation or to terminate an investigation on the basis that it was either misconceived or lacking in substance is also sensible and a more sensitive proposition than is provided in the current legislation. The problem until now has been that certain complaints that were neither vexatious nor frivolous were unable to be resolved or were impossible to resolve, in the eyes of the complainant. In my experience the provision will provide a dignified option for the commissioner to acknowledge that an investigation has been carried forward as far as possible but is still either beyond resolution or reconciliation as far as the particular complainant is concerned. This is a far more contemporary approach and is doubtless based on experience. As I said, the option provides the opportunity for a far more sensitive finding than the heavy-handed one that the complaint is vexatious or frivolous. Such stark findings can be counterproductive to a complainant who could easily be in a state of unresolved grief or misapprehension. Therefore I believe that the provisions in the bill for the commissioner to fail to initiate an investigation or terminate an investigation on the basis that it was either misconceived or lacking in substance are eminently sensible and a more sensitive proposition than that provided in the current legislation.

The bill also provides for a greatly expanded role for the commissioner in areas such as research, training and education. This is essentially supportable on several grounds. It is clearly more cost effective for the commissioner to apprise health practitioners of their obligations to clients and patients by a process of education and training. This provides an important component of any comprehensive program of health promotion in its broadest sense. Such education and more specific forms of training also need to be based on the latest research findings. That field has been sorely neglected for a very long time. It goes without saying that we on this side of the house fully support the provisions of the bill in these regards, provided that adequate resources are available to back up the rhetoric.

There are a number of legal and parliamentary sanctions that I want to touch on briefly. I make the point that one of the hallmarks of the operation of an effective health complaints system in Victoria in particular has been the proclivity of the commissioner to resolve complaints mainly by the application of the prestige and status of her office, and that as far as possible we have avoided being too prescriptive in the application of black-letter law and prescribed penalties. Moral persuasion and the unarguable need to respect confidentiality in medicine and allied professions have always been considered preferable to legal coercion in the health sector. Nevertheless we on this side of the house recognise that there are clear instances where a more stringent approach is warranted and compelling arguments militate against the application of moral persuasion. The increase in penalties for recalcitrant practitioners who do not respond to the orders made by the commissioner are most appropriate.

There is a whole raft of issues revolving around confidentiality in the inquiries of the Health Services Commissioner. Once again, the bill addresses those in a realistic way. The process should not be hogtied by a situation where confidential information is never made available, even in appropriate circumstances.

The bill recognises that, and there are a number of instances where confidential information can be divulged. They are: when it is in the public interest to do so and on the decision of the Minister for Health; where information is required in criminal proceedings; where the health care user and provider have given their authorisation for the disclosure of what in other circumstances would be regarded as confidential information; or where the confidential information is needed simply for the investigative or assessment phases of an inquiry and to all intents and purposes the information is maintained confidentially but there is an ability for officers in the legitimate exercise of their duties to share information in order to come to realistic conclusions.

In fact, the bill probably does not go far enough in the provision of legal sanctions that I mentioned where health care providers are found to flout the findings of the commissioner. I have already mentioned the increased penalty for not responding to the orders of the Health Services Commissioner, but I also make the point that the commissioner, in addition to the moral persuasion and status of her office, as a further resort has the ability to name individuals or services in Parliament and also has the capacity in respect of registered health practitioners to draw the issues to the attention of the various health registration authorities. It is easy to realise that practitioners who flout the order of the Health Services Commissioner are putting their registration at risk.

The Health Services (Conciliation and Review) (Amendment) Bill is an eminently sensible piece of legislation that builds on the collective experience of governments on both sides of the political divide in what is a very difficult and sensitive area. As I have indicated, the legislation greatly expands the role and functions of the Health Services Commissioner. It goes without saying that additional logistic support and public funding will be needed, otherwise the bill will not achieve its objectives. Indeed, it would place the Health Services Commissioner in an intolerable position. I look forward to the government matching the legislation with adequate additional resources for its full implementation. I repeat that the opposition does not intend to oppose the bill, and I wish it a speedy passage through the house.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to speak in support of the Health Services (Conciliation and Review) (Amendment) Bill which amends the Health Services (Conciliation and Review) Act and is important for health services in Victoria.

After listening to the contributions to the debate by people on both sides in support of the bill, I note that Victoria is a state that provides some of the best services in Australia and around the world. We are very proud of that record. To compare with other places around the world, we not only provide the services but we ensure our consumers are receiving the best. To do that we have to make sure the public is aware of how to make and lodge a complaint with the board. The 2001 annual report of the Health Services Commissioner, Beth Wilson, shows that the commissioner worked closely with the Medical Practitioners Board of Victoria, the Dental Practitioners Board and the Nurses Board of Victoria. It is important that everyone works

together to solve the problem rather than kicking it around.

Health and education are the major issues in Victoria. The state government provides those services to the Victorian community. Health is an important issue under the management of the Victorian government, and it tries to ensure that the community receives the best service possible. The position of the Health Services Commissioner was established under John Cain in 1988. John Cain and his ministers looked after the interests of the Victorian community. The role of the commissioner is to receive, investigate and resolve complaints by users of health services and to support health care services in providing quality health care and resolving complaints.

Complaints are often made by people who are not happy about how much they pay to a health service provider. They expect the health service provider to do its best to protect the community interest. The government is committed to always delivering quality services to the community. That is why the bill is before Parliament today and why the annual report is prepared every year to show the public how the board performs. This year the minister released a discussion paper on the reform of the act.

The bill increases the functions and powers of commissioners, amends the role and function of the council, makes administrative changes to the process under the act and includes a proposal for addressing complaints concerning providers of health services which are not otherwise currently dealt with under the act. The commissioner will work with the Health Services Review Council. The council will keep an eye on the commissioner and her department and staff to make sure they are working well under the guidelines of the board.

The annual report shows that many formal and informal complaints are made, and the commissioner takes care of those complaints. There are many things we should be aware of, and one is unregistered providers. Some people in the community practise without licences and are not registered under the Health Act. Sometimes it is very hard for the commissioner to investigate them, because they are not covered by the board. The council will keep a closer eye on the people who provide services without licences.

A better process is provided for people in rural areas. Rural people in particular complain about waiting lists. People have to wait for hospital beds longer in rural areas than in metropolitan areas. The report shows that the commissioner has received many complaints by telephone, by mail and in person, and a number of inquiries have been made. About 9786 complaints were made this year compared with 9654 complaints made last year — over 100 more cases were reported this year than last year. People complain about dental services, public hospital services and private hospital services.

Of the complaints made against health service providers 40 per cent were against medical practitioners, 32 per cent were against hospitals, 7 per cent were against dentists in private practice, remaining providers were 15 per cent and 6 per cent of complaints were not specified. So medical practitioners receive about 40 per cent of all complaints against health service providers, and the hospitals come second. ‘Medical practitioners’ includes all doctors, and the most common issues in those complaints related more to treatment than to communications. During this year there have been 195 complaints against dentists, 10 less than last year. Seventy-four of these complaints were the subject of a formal assessment by the Health Services Commissioner. Treatment issues accounted for about 80 per cent of the complaints, and there were also complaints about cost.

It is important to note that many patients know how to make complaints. They pay for services and should receive what they pay for. The report includes many details of how the board and the commissioners want to improve services for the coming year so that Victoria can offer a better and quicker response to people who make complaints.

In conclusion, I believe the government is keen to get opinions from members of the community because it is committed to and accountable to the community for all the services it provides. It is also keen to see the board performs well by making sure every service provider meets the guidelines and provides the best service to our Victorian community. I support the bill before the house.

Motion agreed to.

Read second time.

Third reading

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

That this bill be now read a third time.

In doing so I thank honourable members for their contributions. I also thank the Liberal and National parties for supporting the passage of the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Fishing: rock lobster

Hon. PHILIP DAVIS (Gippsland) — Through the Minister for Energy and Resources I raise for the Minister for Environment and Conservation a matter raised with me over the past couple of days concerning harassment of commercial fishermen in regard to enforcement issues. What has been transpiring is alarming. On 15 November at approximately 1.30 p.m. at Queenscliff three licensed commercial rock lobster fishers had their pots confiscated. In the case of Mr Jarrod Capon 42 pots were taken; 21 pots with floats and ropes were taken from Mr Geoff Lafferty; and Mr Jason Milliken lost 14 pots, 7 of which were still on his trailer.

The reason for concern is that, apart from the incident being coincidental with the implementation of the new rock lobster season and the new regulations that apply thereto, this appears to be an unnecessary level of enforcement. Two of the fishermen, Mr Capon and Mr Milliken, had left the port and were called back by fisheries officers on the pretext of discussing their licence transfers. In fact they then had their pots checked when they returned to port. The pots on Mr Milliken's trailer were confiscated as well.

The issue as I understand it is that there are escape gaps in the pots to allow juvenile or undersized animals to escape when the pots are being hauled to the surface. None of the escape gaps was of an incorrect size, situated to gain advantage or positioned wrongly on purpose. The pots had been previously inspected by officers — —

The PRESIDENT — Order! Put your question, please.

Hon. PHILIP DAVIS — The result was that they had been used before.

The PRESIDENT — Order! Would you put your question, please?

Hon. PHILIP DAVIS — My question to the minister concerns an over-officious level of activity by fisheries offices. The pots were confiscated which had been previously — —

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

Vegco Pty Ltd

Hon. P. R. HALL (Gippsland) — I raise a matter for the Minister for Energy and Resources for the attention of the Minister for State and Regional Development in the other place. It concerns employment opportunities in country Victoria. If the government is fair dinkum about creating further employment opportunities in country Victoria, tonight I give it a golden opportunity to put its money where its mouth is.

I refer to a company called Vegco Pty Ltd that is based in Bairnsdale, East Gippsland, in my electorate. It is a wholly owned subsidiary of Harvest Freshcuts that has a factory in Queensland. Vegco processes ready-to-eat salad mixes that you may buy in supermarkets such as Woolworths, Coles, Bi-Lo and Franklins. They will have come either from Vegco in Bairnsdale or the company's factory in Queensland. The company has more than 1000 outlets across Australia.

Vegco currently employs 215 people and is the second-largest employer in East Gippsland. The business is growing at a rate of 30 per cent a year, which is not bad for a food processing business. The company wants to grow more. It is looking to install a world best practice coleslaw and baby leaf lettuce processing line, and to have it completed by January next. It will create direct employment — namely, 100 new jobs over three years.

The decision is whether to install the new production facility in its Bairnsdale factory or its Queensland factory. It involves an investment of some $1 million by Vegco and will create, as I said earlier, 100 jobs over three years.

If the government is fair dinkum about creating jobs and assisting to grow jobs in country Victoria I urge it to put its money where its mouth is and support this major industry in East Gippsland.

Country Fire Authority: Geelong West brigade

Hon. E. C. CARBINES (Geelong) — I direct an issue to the Minister for Sport and Recreation for the attention of the Minister for Police and Emergency Services in the other place. As an honourable member for Geelong Province I was devastated to learn that today a fire has destroyed part of the Geelong West fire station. Honourable members who are paying me the courtesy of listening may remember that it is almost three years since the Geelong West fire brigade, through a most tragic incident, etched itself into our nation's conscience when five of its young volunteer firefighters died when fighting the Linton fires.

The Geelong community will never forget that five of its young men lost their lives almost three years ago when fighting bushfires to protect our state. The fires and the deaths of those young men are a poignant memory for me, as the youngest member of those firefighters, Matthew Armstrong, was a student of mine at Western Heights College.

In memory of Matthew and his colleagues, today the Geelong West fire brigade needs the minister's support. What action will the minister take to assist the brigade in the light of today's fire?

Road safety: grass plantings

Hon. G. B. ASHMAN (Koonung) — I direct a matter to the Minister for Energy and Resources for the attention of the Minister for Transport in the other place. In the last couple of weeks this house has debated motions about the liability of local government for accidents that occur on council property and on Crown land. The issue I raise is an important safety matter. It concerns the maintenance of the infrastructure for our road network, and particularly some of the plantings that have occurred on Vicroads arterial roads.

I refer to the native grass plantings on some metropolitan roads. They are aesthetically pleasing and definitely a major improvement on the grasses that were planted and mown in the past. The issue I raise tonight is a safety issue given that many of the native grasses have been planted for two to three years. They are reaching a height where they are obscuring the clear view of traffic completing U-turns and right-hand turns. Two examples are a section of Canterbury Road in Forest Hill and a section of Boronia Road east of Dandenong Creek. In each of those locations the grass has grown to more than 1 metre in height. Drivers doing U-turns and seeking to do right-hand turns are finding that their vision of oncoming traffic is obscured. Will the minister introduce some form of monitoring of the height of the grasses to ensure safety hazards are not created by the plantings and to ensure local government and Vicroads follow the government's policy of maintaining roads to the highest possible standard and maintaining a safe environment for motorists?

Pakenham bypass

Hon. N. B. LUCAS (Eumemmerring) — I raise a matter for the Minister for Energy and Resources to refer to the Minister for Transport in the other place. In the federal election campaign before the recent one the Liberal government promised $30 million for the Pakenham bypass. It is sad that the Victorian transport minister has not matched that amount of money during the term of the current Bracks government because we could have spent $60 million on getting that project going.

During the most recent federal election campaign the federal opposition and the federal government pledged $100 million to the project, which was welcomed by the local community. Many members of the community attended a public meeting at the Pakenham hall organised by a local resident, Tracy Radford, to hear members of both the government, including the Minister for Transport, and the opposition talk about the funding of this much-needed piece of infrastructure.

It is a shame that no money has been spent, but it is a fact that Vicroads has proposed to have this project proceed in two sections — that is, $60 million of preliminary works, land acquisition, planning and design; and a further $140 million to do the road and bridge work. Accordingly, given that $30 million is now on the table from the federal government, I ask the minister to advise whether the Bracks government will immediately accept and match the federal government's $30 million grant so that a $60 million start can be made on this much-needed project.

Roads: speed limits

Hon. B. W. BISHOP (North Western) — The issue I raise is directed to the Minister for Energy and Resources for the attention of the Minister for Transport in the other place. It concerns speed limits applying on streets shared by both residential and commercial properties. The matter has been raised with me by the Mildura City Council on behalf of a constituent, Mr Jim Moore, of Merbein.

A road in a residential area with 10 houses has a speed limit of 50 kilometres an hour while a street in the main business district, which is shared by approximately

200 houses, has a speed limit of 60 kilometres an hour. My constituent has been advised that the reason for the higher speed limit in the higher density area is that the road is classified as a nominated road or highway, which, he maintains, defeats the whole purpose of the reduced speed limit. Where a highway passes schools such as the Irymple or South Mildura primary schools the speed limit applicable to that highway is 70 kilometres an hour which is the case for each of those two examples.

To prove these issues are widespread, and whilst Dunolly will not be part of the North Western Province after the next election due to the electoral redistribution, a similar situation has been raised by my colleague the Honourable Ron Best.

I attended a meeting at Dunolly two or three weeks ago to examine the issue. It was a well-attended meeting with Cr Valerie Andrews from the Central Goldfields Shire Council, members of the Dunolly Community Action Group, the principal of the local primary school, business people, parents and other community representatives such as Fred Davies, a great supporter and worker for the Dunolly area.

The major issues raised were threefold: the speed of the traffic passing the primary school, which I understand is being addressed; the speed of the traffic down the main street of Dunolly; and perhaps a truck bypass which would ease the situation. I suggested that the group put together a package. They have a good opportunity as they have an offer to work with the consultant to improve the presentation and customer appeal of the main street. There are a number of similar issues.

Will the minister address these anomalies with one suggestion being a change in legislation for highway codes where highways transit residential streets and school environments in an effort to correct this difficult issue?

Roads: black spot program

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Energy and Resources in her capacity as the representative of the Minister for Transport in the other place. On 4 October last year in the adjournment debate I raised an issue concerning road safety at the intersection where Hawkins and Fultons roads meet on the Baxter–Tooradin Road adjacent to the Baxter railway station.

Following the raising of that issue I received a letter from the Minister for Transport indicating that works would be done where the railway crossing meets that intersection. Indeed some works have been done by the Mornington Peninsula Shire Council on that intersection. Although the work done is appreciated and has assisted in a minor degree, there is still a major traffic hazard at the intersection. I have checked with the council as recently as yesterday and it has said that the application it put in some time ago was rejected. I ask the minister to take a serious look at this issue and to revisit it because it is a hazard at a major intersection that is subject to heavy traffic. It is one of the most serious traffic areas in my province. I would appreciate the minister's attention to this issue.

Personalised numberplates

Hon. E. J. POWELL (North Eastern) — I raise for the attention of the Minister for Energy and Resources in her capacity as the representative of the Minister for Transport in the other place the issue of personalised numberplates. Last week, a constituent of mine and the Honourable Bill Baxter, Mr Alan Hendy, a hardworking man, came into my office and left a letter with me. He had just changed over his car and his concern was that if he keeps his personalised numberplate he will have to pay an extra $104. He says that to put new plates on his traded car would cost $24 plus $80 for the original personalised plates that were a 21st birthday present 23 years ago from his great-aunt. He now feels he is being discriminated against by having to keep the numberplates as a memento and pay this large amount of money each year.

Many people like Mr Hendy are given personalised numberplates as gifts and the givers are probably unaware of the continuing high cost of keeping the numberplates. Will the minister investigate the reason for this exorbitantly high cost of retaining personalised numberplates and urgently address the issue.

Schools: welfare programs

Hon. E. G. STONEY (Central Highlands) — I raise a matter with the Minister for Sport and Recreation in his capacity as the representative of the Minister for Education in this place. Concerns have been voiced by primary schools in Central Highlands regarding welfare funding. My various visits to primary schools reveal a common thread — a lack of welfare funding for primary schools. For example, last week at Myrtleford the school council raised this issue with me and I noted it is not the only school that needs attention. It is not just an isolated case. We need a specific program to meet the growing demand for welfare funding in primary schools. May I suggest objectively based criteria to target specific needs in Central Highlands

because school communities are struggling to contain problems under current funding arrangements.

Swan Hill and District Aboriginal Cooperative: termination payment

Hon. R. M. HALLAM (Western) — I raise a matter for the Minister for Small Business as the representative of the Minister for Aboriginal Affairs in the other place. My request is that the Minister for Aboriginal Affairs urgently intervene to assist my constituent and long-time friend, Ned Shannon, of 7 Mitchell Street, Casterton, who is the victim of the worst case of maladministration I think I have ever come across in my entire political career.

Ned Shannon took on the position as administrator of the Swan Hill and District Aboriginal Cooperative Ltd in May 1980. He was promoted to chief executive officer and served in that capacity for several years until his employment was terminated in June 2000.

I have known Ned Shannon for many years and I can vouch for his personal integrity. Indeed, he reminds me that I gave him a personal reference when he originally applied for the job in Swan Hill. He has told me that he is devastated at the circumstances of the termination of his employment.

To add insult to injury Ned is still to receive his long service leave entitlement, notwithstanding that the debt is acknowledged by the administrator of the employer. At my insistence, the administrator, Michael Scales of Ernst and Young, confirmed that Ned is owed precisely $11 935.27, representing 13.066 weeks long service leave. But my constituent and friend has been told that he will have to wait until the funds are released through property sale settlements.

Ned is not a rich man and he would forgive me for saying that, and $11 000 is pretty important to him. However, even if he were a millionaire I would still run his case and be unhappy with the treatment he has been given. I have refrained from raising the issue in the past to give the administrator the chance to meet his undertakings, but fair is fair. My plea to the Minister for Aboriginal Affairs is that he take direct and personal involvement in the case to ensure that Ned Shannon is paid his entire long service leave without further delay.

Yarra Valley Hockey Club

Hon. C. A. FURLETTI (Templestowe) — I direct to the Minister for Sport and Recreation an issue I have raised previously regarding the Yarra Valley Hockey Club. The minister will recall that my colleague the Leader of the Opposition in this place and I have been badgering the minister on behalf of the club to ensure in the first instance that funding was available from the government, but more recently to seek clarification from the minister as to the relocation of the club either at Banksia Secondary College, the preferred venue of his colleague the honourable member for Ivanhoe or the Cyril Cummins Reserve, the venue being examined by the City of Banyule.

I recently received a letter from a young man, Nicolas Walton-Healy, that I would like to put on the record. Nicolas says:

> I am currently 15 years old and have played hockey since the age of six and now the thought of being yet another adolescent that has seemingly dropped out of competitive sport at this age is fast becoming a reality.

I am sure that would touch the minister's heart given his concern for keeping young people in sport. The letter continues:

> I write this letter in concern over the location of the Yarra Valley Hockey Club and for the season 2001.

In the letter he goes on to talk about how passionate he is about the sport and says that for him as an adolescent who lives in an inner suburb, hockey provides an alternative that has given him a positive attitude. He talks about it being a shame that kids:

> … my age or younger, lose the opportunities that I have been fortunate enough to receive …

Nicolas has played state championship hockey and has represented his district on a number of occasions. He finishes his letter by asking me for a written answer about what I can do to arrange a suitable place for him to play next season and in future seasons. Given that the minister has committed funding to the Yarra Valley Hockey Club — my colleague, the Banyule City Council, the Yarra Valley Hockey Club and I are grateful for that — will he confirm which venue the hockey club will call home next season?

Country Fire Authority: Golden Square station

Hon. R. A. BEST (North Western) — I raise with the Minister for Sport and Recreation for the attention of the Minister for Police and Emergency Services in another place the matter of the Golden Square fire station.

The fire station was constructed in 1909, in an era when there was only one fire engine and the call on services was much less. It is totally inadequate for a modern fire service. Today four appliances are housed in the building and there is no training or meeting area, no showers or change facilities and no truck servicing area.

In fact, the trucks are serviced on High Street, one of the major arterial streets in Bendigo, which causes enormous problems because about 28 000 vehicles pass the fire station each day.

The brigade has about 200 active responses to fires and incidents per annum, not only in the immediate vicinity of the station but also in the surrounding district. Importantly the response times fall within Country Fire Authority service standards. The Golden Square response area population is projected to increase in line with the Bendigo strategy plan from 8000 to 12 000 by 2005. In order to deliver fire services that will protect the community this brigade needs a new station. Over the years the station has been at the top of the list but it has failed to be upgraded and is now at the bottom of the list, which is disappointing.

Will the Minister for Police and Emergency Services provide sufficient funds to the Country Fire Authority for capital works for the establishment of a new fire station for the Golden Square fire brigade to ensure that the brigade is capable of responding to the level of call outs that it currently faces and of meeting the community's needs?

Unions: intimidation

Hon. B. C. BOARDMAN (Chelsea) — I direct my question to the Minister for Industrial Relations. Like me, many honourable members in this place and many members of the greater Victorian community would be extremely concerned about the prevalence of union bullying and violence which it clearly seems is becoming endemic in industrial situations throughout Victoria. As we watch the daily television reporting of the Feltex situation in Braybrook we see a section of union representatives intimidating, coercing and clearly standing over innocent professionals who are trying to go about their daily duties. We can only grieve with those honest Victorians and feel a sense of shame that they are being prevented from participating in activities that it is their given and legal right to participate in.

This came to light in an article in the *Age* of last Saturday entitled 'Police seek crackdown on unionists', with which the minister would be familiar. In the article reference is made to a number of examples of the behaviour of certain prominent individuals in the trade union movement that not only implicated their specific unions, to their disadvantage in the circumstances, but also made the minister's intervention in the circumstances appear exceptionally dubious. It refers to a:

> … wild 'run-through' at the Johnson Tiles company in Dorset Road, Bayswater, in July, which has been the subject of Federal Court action for damages.
>
> Police want charges to be laid against unionists including Australian Manufacturing Workers Union secretary, Craig Johnston, recognised as leader of the union's 'Workers First' faction.

The article says the police want to question an additional 20 people within that union with regard to that action, and goes on to state that there were reports of:

> … allegedly violent and aggressive confrontation involving the union's Workers First faction in Geelong at Holden's Fishermans Bend complex.

The article does not stop there. Another union organiser called Russell Gardner was apparently bashed in front of the marquee in Geelong, and it refers to another incident, which can wait for another time.

What action has the minister or the minister's department taken to stamp out what clearly is union thuggery in Victoria?

Commonwealth Games: Albert Park access

Hon. ANDREA COOTE (Monash) — I raise a matter with the Minister for Sport and Recreation. Over the next few years Albert Park will come under increasing pressure and face disruption at the site of one of the main Commonwealth Games developments — that is, the Melbourne Sports and Aquatic Centre. A number of constituents have come to me expressing concern because local sporting clubs and regular users of the park are worried about the disruption to their enjoyment of it and its availability for their sporting activities during development of the new pool.

Will the minister guarantee that access to the park for local sporting clubs and other members of the community will not be restricted during the development of the Melbourne Sports and Aquatic Centre?

Monash Freeway: traffic control

Hon. ANDREW BRIDESON (Waverley) — I raise with the Minister for Sport and Recreation for the attention of the Minister for Police and Emergency Services in another place the issue of road safety. I am pleased at the number of road safety issues that have been raised in the chamber tonight.

Not many honourable members would realise that there was an important international road safety research, policing and education conference held in Melbourne

over the last three days. During that conference a number of thought-provoking papers were presented, and this afternoon I was absent from the chamber attending it. It is unfortunate that all honourable members could not have attended with me. Two good papers were presented by Dr Bonnie Dobbs and her husband, Dr Allen Dobbs from Edmonton in Alberta, Canada, who were hosts of the Road Safety Committee in July this year.

I was also fortunate last Sunday to participate in the launch of the Organisation for Economic Cooperation and Development report entitled 'Ageing and transport — Mobility needs and safety issues'. Dr John Eberhardt from the National Highway and Transport Safety Administration based in Washington DC in the United States of America was the chairman of that committee.

That is all by way of preamble. The road safety issue I wish to raise builds on the issue I raised on 29 February last year, when I called for a greater police presence on the Monash Freeway. The government responded and there was an increased policing presence, but unfortunately last week a motorcyclist ran under a truck and was killed. As a result of going to the road safety conference and thinking about what further improvements could be made on the Monash Freeway, I thought it might be timely to ask the minister to implement a trial of fixed safety cameras. I use the word 'safety' cameras because I believe the terminology should be changed from 'speed' cameras to 'safety' cameras. I specifically request that safety cameras be mounted on the Monash Freeway as an aid to cutting excessive speed, which is obviously a cause of great concern to the community. If honourable members have listened to the radio over the past week, they will have noticed that road safety is an important community concern.

Pakenham–Gembrook road: upgrade

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I direct a matter to the attention of the Minister for Energy and Resources as the representative in this place of the Minister for Transport. It is a road safety issue, and in particular I raise with the minister the Pakenham–Gembrook road in my electorate in the Shire of Cardinia. Not surprisingly, this road connects the townships of Gembrook and Pakenham, and at this stage it is a minor connector road. However, with the growth of those two townships, in particular Pakenham, the road is required to carry a significant volume of traffic. Currently it is basically a dirt road which has been upgraded by the application of a minor layer of bitumen down the centre of the road, which is no more than one vehicle wide. It is a winding road and the speed limit is 100 kilometres an hour. The road is now carrying a significant volume of commuter traffic between Gembrook and Pakenham, and it also carries heavy vehicles. The situation cannot continue. The road is not up to the standard required to carry the volume and type of traffic that it is currently carrying.

I ask the Minister for Transport to instruct Vicroads to work with the Shire of Cardinia to ensure that the Pakenham–Gembrook road is upgraded as a matter of priority.

Gippsland: tree clearance

Hon. M. A. BIRRELL (East Yarra) — I raise a matter for the attention of the Minister for Energy and Resources as the representative in this place of the Minister for Environment and Conservation. The matter, which has disturbed me, involves the irresponsible and quite tragic clearing of 100-year-old forest red gums in Gippsland. The matter has been drawn to my attention by members of the outstanding Trust for Nature organisation, and it is concerned about what I believe has been a decision in error by the Department of Natural Resources and Environment to approve the devastation of these magnificent trees, given that most people would hold as a very high objective the idea of protecting quite unusual examples of large clusters of red gums.

In a letter to the minister from the Trust for Nature it was pointed out that:

> … it is frustrating and disappointing to have to bring to your attention departmental advice that conflicts with the community's desire to see threatened vegetation protected and restored …

The letter continues:

> The East Gippsland Shire Council has recently approved an application to clear remnant vegetation on a property at Forge Creek, near Bairnsdale, to facilitate the establishment of irrigated introduced pasture for a dairy farm. The site is located a short distance from the Gippsland Lakes, and is subject to an environmental significance overlay and vegetation protection overlay. The shire's approval appears to be largely based on the department's support for the application.
>
> What is most disturbing is that the department's support required the initial application to be modified such that the final outcome has resulted in more than twice the number of standing trees being cleared.

The letter further states that there has been no consultation with the local community about the land clearing, nor has there been any specific consultation with the Bairnsdale Farm Trees group about the

proposal, and as the Trust for Nature points out, it cannot believe that there is something more important than protecting 300 mature remnant forest red gums.

I therefore ask the minister to revise the process that led to departmental officers approving the clearing of 100-year-old forest red gums without proper consultation with the local community and to modify it to ensure — the error does not appear to be of the minister's making — that this type of clearing of great old Victorian trees does not occur again.

Minister for Industrial Relations: responsibilities

Hon. BILL FORWOOD (Templestowe) — I raise an issue with the Minister for Industrial Relations in her capacity as the Minister assisting the Minister for Workcover. I invite the minister to detail for the information of the house what matters have been delegated to her as the Minister assisting the Minister for Workcover since she was sworn in in 1999.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Cameron Boardman raised the matter of concerns about militant action taken by certain elements within the trade union movement in Victoria. As I have stated in the house before, the government is concerned about some of this action. A number of the matters raised by the honourable member are undergoing civil and criminal court action, and I will not comment on them. I recall at the time I indicated that the government did not support the action undertaken by some people during the course of the run through at Johnson Tiles and subsequently at Skilled Engineering. That was not acceptable behaviour and the government has been talking to a number of unions and the trade union movement in general about that sort of behaviour.

Other issues raised by the honourable member are internal matters, and I believe the union is dealing with them. As I have indicated, the government has spoken to the union and the individuals concerned about the unacceptable behaviour. I have also indicated to the house that with respect to individuals from the union presiding on some of the committees that the government has been involved in instigating, if such charges are proven the government would find it inappropriate for those people to hold such positions.

On the issue of individual behaviour, it is extremely difficult for the government to tell people exactly what they can and cannot do. With regard to people who have breached the law, criminal proceedings are before the courts. The police are investigating the run through at Johnson Tiles and are taking witness statements. It is a matter for the police to deal with, not the government. It is not for the government to intervene in an investigation that is currently under way.

The Honourable Bill Forwood raised the matter of my position as Minister assisting the Minister for Workcover. As I indicated to the house some time ago my role is to assist the minister to ensure there is proper liaison between the trade union movement and employer organisations with respect to the establishment of any committees or working parties that the minister proposes to establish and has established over the two years since the election of the government, and I will continue in that role.

Hon. C. C. BROAD (Minister for Energy and Resources) — In relation to the complaint raised by the Honourable Philip Davis, I make the following offer: if he provides me with a copy of the complaint that has been made to him I will seek advice from the department about the matter.

The Honourable Peter Hall requested the Minister for State and Regional Development in the other place to give consideration to providing government support for a company by the name of Vegco Pty Ltd in Bairnsdale, and I will refer that request to the minister.

The Honourable Gerald Ashman requested the Minister for Transport in the other place to examine a method for monitoring the height of native grass plantings on roadsides with a view to ensuring visibility, and I will refer that matter to the minister.

The Honourable Neil Lucas requested the Minister for Transport to provide advice regarding state funding in relation to the Pakenham bypass, and I will refer that matter to the minister.

The Honourable Barry Bishop requested the Minister for Transport to consider speed limit anomalies in Dunolly, and I will ask the minister to examine that matter.

The Honourable Ron Bowden raised a road safety issue which he has raised previously and requested the Minister for Transport to provide early attention to this matter.

The Honourable Jeanette Powell requested the Minister for Transport to consider the cost of personalised numberplates relative to regular numberplates, and I will refer that request to the minister.

The Honourable Gordon Rich-Phillips requested the Minister for Transport to require Vicroads to work with the Shire of Cardinia to upgrade the Pakenham–Gembrook road, and I will refer that request to the minister.

The Honourable Mark Birrell requested the Minister for Environment and Conservation in the other place to review the process employed in relation to clearing of a forest area in East Gippsland with a view to ensuring consultation about these matters in the future, and I will refer that request to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Roger Hallam raised for the Minister for Aboriginal Affairs in the other place a matter concerning Ned Shannon, whose employment with the Swan Hill and District Aboriginal Cooperative was terminated in June 2000 and who is yet to receive his long service payments amounting to $11 535.25. He has been told by the administrator he would have to wait for the sale of property to occur before he could be paid his long service entitlements. Mr Hallam asked the minister to take up the matter personally to see if it can be resolved. I will pass that on to the minister for his response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Elaine Carbines raised the matter of the support needed to overcome the impact of today's fire at the Geelong West fire station. I will refer this to the Minister for Police and Emergency Services in the other place.

The Honourable Graeme Stoney raised the matter of primary schools in the Central Highlands region and welfare funding, and I will refer this to the Minister for Education in the other place.

The Honourable Carlo Furletti raised the matter of the Yarra Valley Hockey Club. As honourable members would no doubt be aware, the Yarra Valley Hockey Club home ground is located in the centre of the Northcote velodrome, and that velodrome is located within the John Cain Reserve. As the velodrome is to be upgraded it will no longer be able to be used for hockey, so the Yarra Valley Hockey Club will be required to relocate to another venue. That is just a bit of background for members of the house who may not be aware of the issues.

However, I am pleased to say, as was highlighted by the Honourable Carlo Furletti, that I recently announced the allocation of an additional $150 000 to the City of Banyule to enable the development of the synthetic hockey pitch and the upgrade of the pavilion at the Cyril Cummins Reserve in West Ivanhoe to proceed. This allocation is additional to the $287 000 already committed to the project.

I am informed that taking into account appropriate planning procedures, the redevelopment of the Cyril Cummins Reserve may not be available for the commencement of the 2002 hockey season, but I have also been informed that discussions have taken place with a number of facility providers, including the City of Darebin, with the result being that the Yarra Valley Hockey Club will use existing facilities, including the facilities at Hardman Reserve, for training and that home games will be spread across a number of venues until the Cyril Cummins Reserve facility is available.

An honourable member interjected.

Hon. J. M. MADDEN — That is anticipated to be completed after appropriate planning procedures are carried out by the local council. I would like to thank the City of Darebin for assisting in this process and also the Yarra Valley Hockey Club and its president in particular, Mr Richard Bladen, for their patience and cooperation.

The Honourable Ron Best raised the issue of the Golden Square fire station and issues associated with that ageing facility, and I will refer this to the Minister for Police and Emergency Services in the other place.

The Honourable Andrea Coote raised the matter of access to sporting and other facilities in Albert Park during the redevelopment of the Melbourne Sports and Aquatic Centre facility in preparation for the Commonwealth Games. I am advised there will be no interruption to access to the clubs or sporting facilities in that precinct during those building works.

Following a lengthy introduction the Honourable Andrew Brideson raised issues associated with the Monash Freeway and safety cameras, and I am happy to refer this to the Minister for Police and Emergency Services in the other place.

I am also pleased to inform members of the house that due to our very vocal support earlier in the day, Australia has won the qualifier tonight 1–0.

Motion agreed to.

House adjourned 10.20 p.m.