PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

27 November 2001

(extract from Book 9)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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TUESDAY, 27 NOVEMBER 2001

Tuesday, 27 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 to:

Health Services (Conciliation and Review) (Amendment) Act
Legal Aid (Amendment) Act
Marine (Further Amendment) Act
Melbourne City Link (Further Amendment) Act
State Taxation Legislation (Amendment) Act

ANIMALS LEGISLATION (RESPONSIBLE OWNERSHIP) BILL

Introduction and first reading

Received from Assembly.

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

ROAD SAFETY (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).

TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL

Introduction and first reading

Received from Assembly.

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

VICTORIAN INSTITUTE OF TEACHING BILL

Introduction and first reading

Received from Assembly.

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

MARINE (HIRE AND DRIVE VESSELS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Ports).

ACCIDENT COMPENSATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

QUESTIONS WITHOUT NOTICE

Liquor: licences

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Small Business to reports in the Melbourne and Brisbane dailies yesterday in which Woolworths chief executive Mr Roger Corbett is reported as saying he believes the 8 per cent cap on packaged liquor licence ownership could be amended or reviewed. Will the minister give Victorian small liquor retailers an assurance that the existing level of protection they enjoy will not be affected?

Hon. M. R. THOMSON (Minister for Small Business) — I cannot answer for Roger Corbett, nor would I even attempt to.

Honourable members interjecting.

Hon. M. R. THOMSON — We brought legislation to Parliament to strengthen the 8 per cent cap. We stand by that legislation and we intend implementing it. I have also indicated there would be industry discussions about what would be put in place — that is, the 8 per cent — at the end of 2003. If there were industry agreement and we thought it was good public policy, we would look at an earlier implementation. But I make it clear that the legislation is in place. It will be adhered to and we will ensure the 8 per cent cap that was strengthened in Parliament will be implemented.

Commonwealth Games: construction unions

Hon. G. D. ROMANES (Melbourne) — It has been reported that the Minister for Industrial Relations has

met with building unions about the construction of sites for the 2006 Commonwealth Games. Will the minister advise of the purpose of the meeting and its outcomes?

Hon. M. M. GOULD (Minister for Industrial Relations) — As honourable members will be aware, Melbourne is proud to host the 2006 Commonwealth Games and it has always been a bipartisan approach. The games will be a landmark event for the state and a number of issues will have to be carefully managed. My colleague the Minister for Sport and Recreation, as honourable members will be well aware, has the primary responsibility for the games, but I am pleased to be working with him on industrial relations matters that arise as a result of the project.

On 12 November the minister and I met with a number of unions to discuss the construction phase of the Commonwealth Games. At the meeting I outlined the government's vision for the games to those unions that are likely to be involved in the construction phase. The meeting was not a forum to negotiate terms and conditions of employment, and to do so at such a meeting, to say the least, would be jumping the gun. I am pleased to report that the outcome of that meeting was that the unions now have a better understanding of what the Commonwealth Games project involves during the construction phase. We have also agreed that there will be continuing discussions about these matters as we progress closer to the construction phase of the games.

In addition, the Building Industry Consultative Council that I established and about which I have advised the house previously, includes industry representatives who will also be briefed on the games and the projects during the course of their meeting today. This approach of the government consulting with the industrial parties is consistent with the Bracks government's approach to industrial relations, which actually encourages cooperation and partnership between the employers, employees and their representatives. This can only occur through keeping good lines of communication open with the relevant parties, which is something the opposition does not understand. It does not understand industrial relations. We know opposition members have no idea and do not know anything about industrial relations.

Honourable members interjecting.

The PRESIDENT — Order! The house is entitled to hear the minister's answer, but cannot do so with both sides, particularly honourable members on my left, making a lot of noise. I ask the house to settle down and enable the minister to finish her answer.

Hon. M. M. GOULD — The opposition does not understand industrial relations. I am pleased we have commenced this process of communication in respect of the Commonwealth Games and will continue to do so — something the opposition does not understand. The government is committed to a cooperative partnership approach with employers and employees and their representatives.

Liquor: licences

Hon. BILL FORWOOD (Templestowe) — I cannot top that! Will the Minister for Small Business confirm that recently she and/or the Premier met with representatives of Woolworths at which she contrived a process that will test the 8 per cent rule in the courts?

Hon. M. R. THOMSON (Minister for Small Business) — I have had no meetings with Woolworths recently other than yesterday when I attended a meeting of all the industry stakeholders to discuss the 8 per cent and the future development of it. I have had no recent meetings with Roger Corbett about the 8 per cent.

Hon. Bill Forwood — I did not say Roger Corbett. I said Woolworths.

Hon. M. R. THOMSON — I have not had any meetings with Woolworths, other than yesterday, a meeting which I believe Woolworths attended together with all the other representatives of the liquor industry to discuss the future progress of the 8 per cent and what may be put in place in the phase-out stage of the 8 per cent.

I stress again that the government has a commitment to maintain the 8 per cent cap unless and until there is industry agreement. The government believes it is good public policy for an alternative that protects viable small business elements in the liquor industry. The government stands by this commitment and expects the legislation to be implemented in full, which will require the divestment of licences over 8 per cent that was part of the legislation that was brought into this place.

Small Business: Yellow Pages survey

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Small Business advise the house of any recent information that she has received indicating the attitudes of small and medium business and their expectations for the economy in Victoria?

Hon. M. R. THOMSON (Minister for Small Business) — Today the Yellow Pages released its quarterly survey for the period ending October 2001 which shows Victorian small businesses have a positive

outlook for the next quarter. The expectations of small business of the all-important indicators of sales and profitability outstripped the national average. Sales expectations for Victoria over the next quarter indicate a net balance of positive 27 per cent compared with a national net balance of positive 16 per cent. The profitability expectations for Victorian businesses indicate a net balance of positive 19 per cent compared with a national net balance of positive 11 per cent. The expectations for work force increases are also ahead of the national average, with Victoria indicating a net balance of positive 10 per cent compared with 5 per cent nationally.

It is also pleasing to note that confidence levels are extremely high in regional Victoria; they are among the highest of Australia's states, which demonstrates the government's commitment to governing for all Victorians and ensuring that all of Victoria benefits from economic growth. It is also notable that Victoria is the state where businesses showed the highest level of confidence for business prospects compared with national business prospects. Some 80 per cent of small and medium-sized enterprises believe the state government's policies are either supportive or had no impact on them. In the current quarter the drop in confidence was caused by the 11 September attack in the United States of America and the federal election. The reason it had a greater impact in Victoria was the collapse of Ansett. That had a huge impact in Victoria.

The Bracks government will continue to ensure that it supports and facilitates investment in this state to encourage business growth, particularly for small and medium-size enterprises, to maximise job opportunities and, more importantly, to ensure that our export base increases.

Parks: prospecting

Hon. P. R. HALL (Gippsland) — I ask the Minister for Energy and Resources what the government's policy is on prospecting in national parks.

Hon. C. C. BROAD (Minister for Energy and Resources) — The context in which this matter is being discussed currently is the Environment Conservation Council's (ECC) recommendations on box-ironbark forests. In response to those recommendations the government has indicated that it accepts in principle the boundaries and park category recommendations. The government has been talking to peak bodies — and in my case, as the Minister for Energy and Resources, the discussions include the prospectors — about the implementation of the recommendations brought down by the ECC.

The government is not intending to proceed further with these parks until it has in place comprehensive transitional arrangements that among other things address the issues raised by prospectors about prospecting in parks and a whole range of wider issues they have also raised. The government is committed to consulting with all the stakeholders, including the prospectors, on these issues.

The real question is what is the stance of the Liberal and National parties on these recommendations, given that they provided the original terms of reference for the inquiry. That is the context in which these issues ought to be addressed. Until that point these matters will continue to be addressed through the legislation currently in place for national parks in relation to prospecting, exploration and mining. Those procedures are well set out in the legislation, of which honourable members are well aware, and they will continue to be applied.

Schools: energy efficiency

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Energy and Resources to outline the details of the Bracks government's achievements in improving energy efficiency in Victorian schools.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Bracks government has been very active in supporting Victorian schools in improving their energy efficiency through a range of initiatives. The Energy Smart schools program run by the Sustainable Energy Authority, which was established by the Bracks government, assists both public and private schools in developing and implementing energy management programs. Through this program schools gain access to information and training, and technical support to identify practical, cost-effective energy-saving measures as well as to grants to assist with their implementation.

Now more than 1000 schools in metropolitan as well as regional Victoria have benefited from the program. The Department of Education, Employment and Training and the government's Sustainable Energy Authority have also worked jointly to establish guidelines for the inclusion of energy efficiency features in the design and construction of new schools. These guidelines have been incorporated into the building quality standards that apply to the construction of new school facilities. Importantly, schools investing in energy efficiency are able to retain the savings and redirect them to providing improved educational services.

I recently had the pleasure of presenting awards to the finalists in the Sustainable Energy Authority's low energy week challenge for schools. The aim of the challenge is to provide schools with an incentive to reduce by as much as possible their regular energy consumption over a period of a week, and so demonstrate the potential as well as encourage schools to undertake energy conservation practices. This is the second year of the challenge, and participation is continuing to grow.

This year's winners are Fountain Gate Primary School and Princes Hill Secondary College. Both these schools already have ongoing energy management programs, and during the week of the challenge they undertook, along with other entrants, to reduce their energy use by an average of 37 per cent. In doing so they also significantly reduced their greenhouse gas emissions. This demonstrates that a range of practical, everyday energy savings can be made.

As outlined in the government's 10-year vision for the future, Growing Victoria Together, the Bracks government has already delivered a number of significant achievements in the past two years to improve energy efficiency. Not only have we repaired the neglect of the previous government and put back $2 billion and 2000 teachers into education, we are also balancing — —

Honourable members interjecting.

The PRESIDENT — Order! I ask honourable members on my left to keep quiet. I also ask the minister to wind up her answer, as she is clearly debating the issue.

Hon. C. C. BROAD — Thank you, Mr President. I was indeed endeavouring to do so. The Bracks government will continue to balance our social and environmental responsibilities through initiatives like the energy efficiency programs I have outlined — even if the opposition does not support them.

Liquor: licences

Hon. BILL FORWOOD (Templestowe) — I ask the Minister for Small Business if it is a fact that the Premier at his meeting with Woolworths gave a commitment that the 8 per cent rule would be repealed?

Hon. M. R. THOMSON (Minister for Small Business) — There has been no suggestion of a repeal of the 8 per cent. The 8 per cent is in place, as I said at the time that piece of legislation was introduced into the Parliament. It is in place and will be adhered to unless there is industry agreement beforehand across the board supported by the government as good public policy. That was announced at that time. Unless there is industry agreement it will be phased out from the end of 2003. Those discussions are taking place. We intend adhering to the legislation.

Small business: Vic Export

Hon. R. F. SMITH (Chelsea) — The Minister for Small Business indicated in her previous answer that the government will continue to support small business and assist small business growth, with particular reference to exports. In this regard can she inform the house of the progress of Vic Export, which she launched as part of Showcasing Small Business in October 2000?

Hon. M. R. THOMSON (Minister for Small Business) — I thank the honourable member for his question. The government is committed to ensure that small business can take advantage of export opportunities around the world. To that extent, in October 2000 the government launched Vic Export, an electronic export assistance centre which helps businesses in the three major areas of trade readiness, trade promotion and trade financing.

It has an active web site providing information on all export-related matters to potential and existing exporters. It is set up in such a way that it provides logical progression through the various stages of export readiness from initial inquiry through finalisation of contracts to export expansion. To date, there have been a little over 6000 visits to the Vic Export site. I am pleased that more than 1000 of these contacts have involved clients using Vic Export to help prepare draft export plans. They are using it in a positive way. Today we have gone live with the new revamped site, which will be more accessible and easier to manoeuvre around, with additional information on export skills development and additional sources of assistance, including access to export agents.

The government is pleased with the success of Vic Export to date and with the fact that it is accessible to first-time exporters. We are also working closely with Austrade, the Australian Department of Foreign Affairs and Trade, bilateral chambers, banks and the Australian Institute of Export to ensure that we are liaising with and providing support to small business. This will ensure that integrated support is available to small businesses seeking to export and that access to support is available easily from anywhere in Victoria.

The Bracks government is committed to ensuring that these initiatives, together with the combined skills and

determination of small and medium businesses, will mean that Victoria's exports will continue to grow into the future.

Liquor: licences

Hon. C. A. FURLETTI (Templestowe) — I address my question to the Minister for Small Business. Given the minister's earlier answer confirming the government's commitment to maintaining the new 8 per cent restriction on packaging, and given the blatant disregard of Woolworths for that law and its intention to acquire further licences, will the minister commit to introducing legislation to close the loophole?

Hon. M. R. THOMSON (Minister for Small Business) — I do not believe there is an existing loophole in the legislation. The legislation states that licences will be forfeited after a 12-month period if they are over the new 8 per cent rule. I would expect that that legislation will be effected and put in place.

Youth: info card

Hon. E. C. CARBINES (Geelong) — I direct my question to the Minister for Youth Affairs. In line with the Bracks government's continuing support of the health and wellbeing of young people, will the minister provide details of initiatives in the western suburbs of Melbourne which provide accessible local information to young people?

Hon. J. M. MADDEN (Minister for Youth Affairs) — I thank the honourable member for her question. A fortnight ago I launched the Youth Info Card for the City of Moonee Valley at the Clocktower centre in Moonee Ponds. The Youth Info Card has been developed over the past eight months by youth workers and local young people from the City of Moonee Valley.

What is impressive — I hope it is not lost on opposition members — is that the Youth Info Card provides an invaluable resource for young people throughout the municipality by providing telephone numbers for a range of services, including emergency telephone contact numbers for mental health, youth, police, and drug and alcohol services. The card also allows young people to take advantage of discounts in a wide range of local stores.

It is a great partnership initiative between the youth services provided by the City of Moonee Valley and many of the local businesses. The initiative has been brought about through the commitment by the Bracks government to fund the youth services program. It is a great way to break down barriers and to get knowledge about services into the hands of young people before they need them so that when they need the telephone numbers of those services they have access to them without any stigma being attached to their search for assistance.

The cards will be distributed throughout Moonee Valley secondary schools, youth agencies and primary schools to older age groups. I congratulate the young people who have contributed to the card, such as Anthony Cameron, a young local artist for his wonderful art work on the card; Shane Wickens from the Moonee Valley youth services for the design of the card; and the numerous local businesses who have shown their commitment and support for the project by offering discounts to Youth Info Card holders. The initiative is a terrific demonstration of the partnership approach facilitated by this government and the local community, and demonstrates the government's commitment to growing the whole of the state, including young people and people in rural and regional Victoria.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 2209–12, 2250, 2305–7, 2334, 2340, 2356, 2369, 2441–4.

AUDITOR-GENERAL'S REPORTS

Response by Minister for Finance

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

> That there be laid before this house a copy of the response by the Minister for Finance to the Auditor-General's reports tabled during 2000–01.

Motion agreed to.

Laid on table.

NATIONAL ROAD TRANSPORT COMMISSION

Annual report

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

That there be laid before this house a copy of the report of the National Road Transport Commission for the year 2000–01.

Motion agreed to.

Laid on table.

DRUGS AND CRIME PREVENTION COMMITTEE

Crime trends

Hon. B. C. BOARDMAN (Chelsea) presented report, together with appendices and minutes of evidence.

Hon. B. C. BOARDMAN (Chelsea) (*By leave*) — I wish to make a brief comment about the report. This is the third report that the Drugs and Crime Prevention Committee has tabled in Parliament on its inquiry into the incidence of crime in Victoria. This report is a comprehensive analysis of the extent of crime in the Melbourne central business district (CBD). It examines the responses to city crime by key agencies and analyses the reporting of CBD crime by the print media. It is the first time that such an analysis by an independent group has been reported to the Parliament.

Some of the key findings of the report include the fact that although crime has increased throughout the state, it has unfortunately escalated at a higher rate within the CBD precinct. But I must qualify that and suggest that the proportion of crime within the CBD comprises only a very small amount of crime committed throughout the state; it in fact represents an average of about 4.8 per cent of all statewide crime. The greater proportion of criminal activity in the Melbourne CBD is property-related crime, which includes offences such as theft, theft from motor vehicles and shop stealing.

But there are some markedly different trends in the nature of crime in the CBD. Offences such as drug offences, robbery and theft, as I have just mentioned, create a different perspective because of the nature and characteristics of the CBD, which confirm the fact it is a unique urban environment. The informed commentators noticed that the media influences public perceptions, particularly the perception that certain crimes are prevalent in the CBD, crimes that are to some extent reported as being unique and endemic in certain areas.

The committee found that some of the most frequently reported crimes in the CBD receive very little media coverage, but that some of the less frequently reported crimes — the more serious crimes such as homicide, drug offences and assaults — receive a disproportionately high amount of media attention. The media concentrated its reports on three broad areas over the five years of analysis. They include: nightclub violence in King Street, drug dealing around the intersection of Russell and Bourke streets, and begging in Swanston Street. The committee notes with regret that there was a lack of accessible and independent crime data, which made the task of countering the misconception of crimes that little bit more difficult.

I want to stress that although the report sets out the facts, the committee does not comment on whether public perception is accurate or otherwise. It suggests that it is up to the reader of the report to interpret the information and to then decide whether or not the evidence and the records actually accord with public perception.

In conclusion, I would like to place on the record my and the committee's sincere thanks to our valuable staff who have worked tirelessly over a number of months to ensure that this report was compiled and was presented to Parliament today with the level of accuracy and professionalism it thoroughly deserves. I particularly thank our executive officer, Sandy Cook; our two researchers, Pete Johnston and James Rowe; our office manager, Michelle Heane; and also Chantelle Churchus, an honours student from the Department of Criminology, University of Melbourne, who conducted a thorough discourse analysis of media reporting of crime in the Melbourne CBD over a period of time, all of whom deserve special mention. I place firmly on the record my sincere thanks for their efforts.

In addition, the Melbourne City Council was a vital component of this report. Without the level of cooperation we received from the council, getting an accurate assessment on the true extent of crime within the Melbourne central business district would have been a very difficult task. I recommend that all honourable members read this report and examine the committee's findings in detail. It sets the basis for what we consider to be an accurate picture of the level of crime and the way reporting crime influences public perception. We submit that it will assist in developing future initiatives to tackle what we all consider to be a devastating part of city life — that is, the escalating rate of crime.

Laid on table.

Ordered that report and appendices be printed.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2001–02

Hon. R. M. HALLAM (Western) presented report, together with appendices, extracts from proceedings and minutes of evidence.

Hon. R. M. HALLAM (Western) (*By leave*) — In doing so I stop short of suggesting that the reading of these documents should be mandatory, but I certainly commend them to all honourable members.

Laid on table.

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

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Summary Offences Act

Hon. C. A. STRONG (Higinbotham) presented report, together with appendices and minutes of evidence.

Hon. C. A. STRONG (Higinbotham) (*By leave*) — I wish to make a few comments. The Summary Offences Act has a very long heritage. It is a piece of legislation that was introduced into Victoria many years ago based on United Kingdom legislation. The committee has found that the majority of the provisions in the act are redundant. Fairly classic provisions dealing with such things as the flying of kites are clearly so. Page after page of the act deals with provisions regarding ferity — and these days a lot of us probably do not even know what ferity is — while many provisions deal with the stealing and trade in animal hides, issues which were probably relevant to Victoria 100 years ago but which the committee found to be redundant now.

Likewise, many of the provisions deal with the use and abuse of public highways, or such things as the lighting and control of fires, which were summary offences years ago but which now are covered by their own specific purpose legislation, like the Road Traffic Act regulations and the Metropolitan Fire Brigades and Country Fire Authority acts. Therefore, these provisions are likewise redundant and inappropriate.

It should be noted that the most frequently used — to an overwhelming extent, something like in 80 per cent of the cases — provisions of the act are those dealing with drunk and disorderly conduct. At the time the subcommittee was undertaking its work, the Drugs and Crime Prevention Committee was also conducting an inquiry into public drunkenness. This report notes its support for the Drug and Crime Prevention Committee recommendations; however, those recommendations require new legislation and new facilities, et cetera. This report recommended the retention of the existing provisions pending the implementation of recommendations of the Drug and Crime Prevention Committee's report.

With the amendments to the Summary Offences Act which we have proposed, the act becomes a low-level Crimes Act, as most of the remaining provisions are those which mirror those in the Crimes Act but which are of a lower level of seriousness and have a lower level of punishment. Consequently, we took evidence on whether it was appropriate for the Summary Offences Act to be totally repealed and the Crimes Act to be amended to include a summary offences section.

Honourable members involved in committees would know how difficult it is to fit in committee meetings around their busy schedules. In that regard I would like to pay tribute to two members of the subcommittee, frankly without whose help we would not have been able to do our work.

Ms Elizabeth Beattie, the honourable member for Tullamarine in the other place, and the Honourable Maree Luckins attended almost all the meetings, and as a result the committee had a quorum and was able to proceed. I particularly thank the Honourable Maree Luckins who, on taking up her role as shadow parliamentary secretary, left the committee at the 11th hour of the finalisation of its report and therefore is perhaps not adequately acknowledged in the report's formal parts.

I also acknowledge the work done by the committee staff, who shared many of the early frustrations surrounding the carriage of this inquiry. I commend the report to the house.

Laid on table.

Ordered that report and appendices be printed.

PAPERS

Laid on table by Clerk:

Auditor-General — Report on Public Sector Agencies, November 2001.

Ballarat Health Service — Report, 2000–2001.

Chiropractors Registration Board — Minister for Health's report of 26 November 2001 of receipt of the 2000–2001 report.

Consumer and Business Affairs Victoria — Report of Director on Operations of Fair Trading Act, 2000–2001.

East Wimmera Health Service — Report, 2000–2001.

Edenhope and District Memorial Hospital — Minister for Health's report of 22 November 2001 of receipt of the 2000–2001 report.

Legal Practice Act 1996 — Practitioner Remuneration Order, 1 January 2002.

Mildura Cemetery Trust — Report, 2000–2001.

Nurses Board of Victoria — Report, 2000–2001.

Physiotherapists Registration Board of Victoria — Minister for Health's report of 23 November 2001 of receipt of the 2000–2001 report.

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

Banyule Planning Scheme — Amendment C9.

Horsham Planning Scheme — Amendment C2.

Victoria Planning Provisions — Amendment VC14.

Podiatrists Registration Board — Minister for Health's report of 26 November 2001 of receipt of the 2000–2001 report.

Stawell Regional Health — Report, 2000–2001.

WATER (IRRIGATION FARM DAMS) BILL

Second reading

Debate resumed from 20 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. C. C. BROAD (Minister for Energy and Resources) *(By leave)* — I seek to make a statement to the house regarding the second-reading speech I gave on 20 November. I have been advised that the second-reading speech should make reference to the following matters. Originally the Minister for Environment and Conservation had intended that the transition grants that are available to people who construct dams off a watercourse would be available for a period of five years, or until a total of 10 000 megalitres of water had been purchased, whichever is the sooner. This was the proposal which was outlined in the second-reading speech which I read on 20 November.

However, the Minister for Environment and Conservation has agreed with the proposition put by the honourable member for Monbulk in the other place to remove any reference to the five-year time limit so that the transition grants that are available to people who construct dams off a watercourse will be available until a total of 10 000 megalitres of water has been purchased under the arrangements.

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for drawing the attention of the house to an omission in the second-reading speech. That admission makes it easier for me to highlight the fact that there are a number of omissions. It was cavalier of the minister responsible for the carriage of the bill in this house to introduce a bill and give the second-reading speech that was made in the Legislative Assembly, given that five amendments were carried in the Assembly but the second-reading speech in this house made no reference to them. It is cavalier and reflects the slackness of the government.

There were five amendments to the bill in the other place. I shall recite them: a requirement for the minister to table in each house an order declaring a water supply protection area; a clarification of what constitutes what is wholly or predominantly a farming area; an amendment that prevents a regional water authority that is enforcing a water supply management plan from demolishing a farm dam; an extension of the qualification period for the registration of existing irrigation commercial farm dams from 5 years to 10 years; and finally, an amendment relating to water supply management plans being tabled in each house.

I will not belabour the point, but I point out that when legislation is brought into this house the second-reading speech of the minister should properly reflect what is contained in that legislation. In this case there was clearly a significant omission because of what can only be described as the government's negligence.

Hon. W. R. Baxter — It is not the first example we have seen.

Hon. PHILIP DAVIS — I am reminded by Mr Baxter that this is not the first matter. Recently the Honourable Ron Best raised an instance where the wrong second-reading speech was given.

In speaking to this bill I will make a number of points. Firstly I will make some general comments and then I will get to the particulars of the bill. To set the context for the debate I will quote from an editorial that was in the *Weekly Times* of 17 October this year. The headline was 'Water looms as the most explosive issue'. The first paragraph reads:

> Afghanistan bombings, refugees and televised political debates may grab the attention of the city voters, but water is the crucial issue for many in rural Australia.

That editorial points up the fact that water has been and will remain a major issue for all rural Australians. Ever since we have been in the business of regulating the control and use of water, it has been something that rural Victorians have felt passionately about. Since 1886 when Alfred Deakin first introduced water legislation in the then colonial Victorian Parliament the regulation of water has been a matter of substantial debate.

At the outset I refer to what seems to have been a great deal of haste on the part of some of the parties in this Parliament and interested groups outside the Parliament in settling legislation. However, the reality is that a legislative framework has been developed over more than a century in Victoria, and the development of that legislative framework has been premised on long and careful consideration of many inquiries with investigations and inevitable reviews which, in the case of water management, have generally had a high level of participation by the directly affected stakeholders.

In the mid-1980s the then Cain government sought to amend Victoria's water legislation. The process that was followed was time consuming, lengthy and detailed. When the legislation ultimately got to Parliament it took a couple of years to resolve. The opposition parties then moved something in the order — and I am sure Mr Baxter will recall the precise number — of between 500 and 600 amendments in total. Yet this government is set on a course of bringing legislation through the Parliament in one sitting period. It has not been prepared to allow the bill to lie over for lengthy consideration. It has been intent on bludgeoning all opposition to the bill. I will come back to that point shortly, because there has been intimidation and the government has threatened, through a minister of the Crown, to withdraw financial support from the people whose property rights will be confiscated. It is the most disgraceful thing I have seen and I will return to it later.

There are many threads to the bill, but the essential principle is that it is a debate about a property right given in statute. It is about who in Parliament will stand up for those property rights. Clearly the government does not intend to take any active interest in protecting the property rights of Victorians, as it has demonstrated so far consistently with its approach to resource management.

Firstly, the government introduced legislation to expunge the property rights of commercial fishermen with no compensation framework attached thereto. Secondly, it introduced legislation to further impact on the private property rights of Victorians through the creation of the Victorian Environment Assessment Council which proposed to expand the function of review and recommendation into an area that has not been subject to consideration by the predecessor organisations, the Land Conservation Council and, subsequently, the Environment Conservation Council — that is, to look at private land rather than public land.

The bill follows what I believe is a consistent approach by a government that has complete contempt for the private property rights of Victorians. I am sure we will see much more of it.

Hon. C. C. Broad — Talk about beating up an issue!

Hon. PHILIP DAVIS — The minister interjects about beating up an issue. I will return to the minister's own remarks in the fairly second-hand second-reading speech she made earlier. I will quote her words back to her. In the second-reading speech she states:

> 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.

The import of that paragraph sets out what the bill is about. The government intends to remove a private property right from those people who now have the right to catch, store and use water without fear or favour — a right they have held in statute law since 1886. Why? I again refer to the second-reading speech which states:

> 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.

It is a zero sum gain, in case the minister did not know, if a property right of one person is removed and given to another. That is a denial of the property right that is statute law in Victoria at present.

The minister has also been cavalier and dismissive on the critical issue of how to deal with these problems. Clearly the minister dismissed the need to define what is a waterway in a subsequent paragraph of the second-reading speech, when she states:

> 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 substantial management of our water resources.

That is a very offhand and cavalier way of dealing with a critical issue of resolving the complexity of interrelationships between upper and lower catchment land-holders.

In relation to an interpretation of the remarks I have alluded to in the second-reading speech I turn to an article by Paul McGowan in the *Weekly Times* of 14 November. I know Paul McGowan as a man of significant background in agriculture and resource management. He is a man of vast experience and was one of the very first agricultural consultants operating in Australia. He has a significant and real knowledge of resource issues and I would not in any way dismiss anything he had to say on these issues. I may not necessarily agree with him absolutely but he sums it up in this way:

> The social and financial impact on the north-east will be immediate. If passed as it stands, the bill will be seen in 10 or 20 years as an environmental and economic disaster.
>
> The bill's clearly stated purpose is to prohibit irrigation development in high rainfall areas where the water is free to farmers so government-owned rural water authorities can sell it to their lower catchment irrigation customers.

Hon. W. R. Baxter — Where in the bill does it say it will do that?

Hon. PHILIP DAVIS — In referring to that article I am highlighting the fact there are views about the impact of this legislation in the property rights of particular land-holders who will be affected by the implementation of provisions of the bill.

Hon. W. R. Baxter — It could not be that Mr McGowan is doing a beat-up, could it?

Hon. PHILIP DAVIS — Mr Baxter, I am sure in relation to any debate over water there will always be vociferously argued positions, as later I am sure during this debate you will give us the benefit and wisdom of your great experience, your having in a previous government, as I recall it, taken a lead role in reporting to the government on these matters. I certainly look forward to your contribution, Mr Baxter; I will listen attentively to it.

It is clear that Parliament should not act in haste. As I have outlined, more than a century has passed since the introduction of our first statutory regulation of water. I daresay we will be legislating in this field for many years to come.

What are the issues to consider? It has been put to me vigorously there are short-run and long-run issues that need to be taken into account. At the moment we have provisions proposed by the government, and to sweeten the mix certain financial inducements have been provided in a package to assist in transitional arrangements that are capped at $26 000 per land-holder. It would seem to me on the face of it that these look to be relatively generous provisions but only if the provisions are examined in the short term. The expungement of a property right which land-holders may not have chosen to take up at this point but may do so in a longer time frame of, say, 20 years or 50 years needs to be considered in relation to the net current values benefits arising from those alternative scenarios.

Do we presume that all land-holders have a similar time frame in which they are considering this legislation or its impact? Or do we consider that there may be for many land-holders a view that they operate on a much longer time frame than is considered in this legislation? They may not want immediately to take up the property right that is associated with developing irrigation in their particular district. They may have no plans on foot whatever. In that case they may be reserving their position on having access to that benefit of harvesting water on their land to a future date, the date to be determined by them at a time relevant to their business.

Clearly, there is a need to recognise the environmental pressures that arise as a result of activities such as water harvesting. I have been personally conscious of the effects of water harvesting in the Gippsland Lakes catchment. Some of my colleagues are aware that I have been concerned about this issue ever since I have been a member of Parliament. The Gippsland Lakes are a stressed environment by any definition. Any action on the part of the government to improve the environmental health of the Gippsland Lakes will always have my support.

Having said that, it is clear that all these matters must be managed on the basis of equity. It is evident that the legislation as it has been presented contains some inherent inequities. For example, in relation to the Gippsland region one has to consider the major benefit that has arisen as a result of the regulation of the Macalister River and the development of the Macalister irrigation district. It has created many jobs, but more importantly has been of significant economic benefit to the whole of the Gippsland region.

Since 1926 the first irrigation development in the Maffra district has progressed and expanded the productivity of businesses. That has been an economic boon for the Gippsland region. However, there have been clear environmental impacts, just as there have been with other activities in the catchment. Whether it is forest harvesting, roadmaking or other activities that

over a long period have had some impact in nitrification and sedimentation of the Gippsland Lakes that has led to the sorry condition of its water. The CSIRO believe it is critical.

Having said that, I am pleased that I have had the opportunity to be associated with and to understand these concerns, because it gives me some insight about the need to regulate the continued development of water harvesting in rivers, streams and catchments in Victoria. We have to balance that as we work to develop the ecological management with the economic management. In considering the value chain, not just the primary product, but the value adding to that product in vegetable processing or dairy processing such as the production of cheese or other dairy products, we should recognise the significant value to and impact on towns.

If we acknowledge the benefits from irrigation in the past it is clear the kinetic energy, if you like, released from the utilisation of water for irrigation practices will lead to further irrigation development in our catchments. Clearly some small communities will benefit greatly from the development of irrigation in their districts, and that is occurring in north-east Victoria. You do not have to drive far from Melbourne to see the significant growth that has occurred recently because of the irrigation of wine grapes — it is a boom industry. There is a high economic return from investment in irrigation in those crops.

Hon. J. M. McQuilten — Sometimes.

Hon. PHILIP DAVIS — The Honourable John McQuilten says from his breadth of experience in the industry that it is not a guaranteed return. We should be conscious of the fact that people are prepared to risk their equity and capital on developing industries that provide jobs and economic growth for rural districts. Should we legislate to deny that opportunity? I think not. We should legislate to ensure a fair and reasonable access to water resources in the state.

Regrettably, in my view, the debate has developed into a debate between the people in the catchments versus the people in the gravity irrigation districts. That seems to be the basis of what the arguments are about. Who gets the primary benefit of the security of the resource? How do you expunge a property right — which is clearly the outcome of the legislation — and still guarantee the catchment communities access to a fair deal? It is a hard call to make on the basis of the proposal now before Parliament. It is critically important that people in the gravity irrigation districts have security of access to water. They have developed their irrigation businesses on the basis of what they understood to be reasonable security of access to the resource. It is a difficult question.

In dealing with the legislation honourable members should be mindful of the experience in other jurisdictions. It is not a new debate. It has occurred in the Murray–Darling Basin catchment in New South Wales, where a proposal that was adopted by the New South Wales government set out a different scenario to that which is being adopted in Victoria by this Labor government. The New South Wales government recognises a continuing private right, which is summarised in its policy. The 'Farm dams assessment guide' issued by the New South Wales Department of Land and Water Conservation states:

> The new policy gives land-holders the right to capture and use for any purpose 10 per cent of the average regional yearly rainfall run-off for their property.

It is known as a harvestable right. In referring to that document I allude to the fact that the issue has been considered before. How do we allocate entitlements between one group of land-holders and another? I am sure the resolution of the issue drew just as much passion in New South Wales as it has in Victoria.

There is a developing problem in Victoria in that we do not seem to be able to develop a common view in the farming community that will be vigorously supported by the lead advocates of the farming organisations and put to the Parliament so that there is a consistency of understanding of what farmers want.

Hon. J. M. McQuilten — Peter Walsh is on the Blackmore committee.

Hon. PHILIP DAVIS — Peter Walsh is one of more than 20 000 farmers who are members of the Victorian Farmers Federation. For more than 20 years I was a member of the Victorian Farmers Federation. For 10 years I was a state executive official. Peter Walsh is but one person. The VFF's clear policy is that Victoria should adopt a similar position to that of New South Wales. If you do not know that, go down to your computer and pick it up from the VFF web site.

The VFF's policy position was set out 18 months ago, and that is the position it has had responsibility to advocate. One of the greatest difficulties with this whole debate is the very fact that the VFF has not been prepared to advocate for that. The VFF leadership has taken a position at variance with the policy adopted by the members of the VFF. It is a terrible shame. As somebody who before coming into Parliament dedicated many years to serving farmers in this state

through voluntary involvement with the VFF, I have to say that I am extremely disappointed with the approach the VFF leadership has taken. It has led to division, and I will recite some of the comments made about that division.

I refer to an article that was not written by an ordinary member of the VFF with a partisan interest in this issue but by Peter Hunt, who writes some very intelligent pieces for the *Weekly Times*. The headline of the article which appears in the *Weekly Times* of 17 October reads, 'VFF faces dam defections'. It states:

> Farmers have threatened to desert the Victorian Farmers Federation over its decision to support controversial legislation removing land-holders' rights to harvest rainfall run-off in irrigation dams.
>
> Federation district councillors representing 17 branches across the north and east of the state said they were outraged by the executive's decision to support the Victorian government's farm dams bill.
>
> 'The VFF has let us down, and there's talk of forming a breakaway group,' said Wodonga district councillor Brian Fraser. 'There's a major rift on farm dam policy and people have just not rejoined.'

Such comments did not just appear in the *Weekly Times*. A lead article on pages 1 and 2 of *Stock and Land* of 1 November headed 'Dam support' states:

> The farm dams issue has become increasingly divisive, with farmers in the north-east arguing the legislation will stifle diversification and development in the upper catchment regions by effectively handing their water to irrigators downstream and forcing them to buy it back.
>
> They have threatened to split from the Victorian Farmers Federation (VFF) in response to the federation's support for the legislation and what they say is its failure to represent all members.

Brian Fraser is quoted in this article as well. The article says:

> At the centre of the issue is the loss of a private right we've had for 150 years,' he said. 'It is not just a north-east issue, it affects every farmer in an upper catchment in the state'.

I was concerned enough about this issue of division in the VFF because of my own historical association with that organisation to consider that I should make some inquiries about why the VFF got to this position. Knowing most of the elected officials of the VFF quite well and knowing the nature of the debate that occurs within that organisation, I could not believe it is a position the VFF executive would have taken lightly. Clearly, that position would have been taken in response to some pressures which were not immediately apparent. So I did a little research and found an article written by Barry Hancock, who is the VFF's executive officer for water resources. In the article, which appears in the October issue of the magazine produced by the VFF, *Victorian Farmer*, Mr Hancock says:

> The Victorians Farmers Federation opposed the removal of this right and sought to have it replaced with a run-off formula, based on that used by New South Wales. While this approach formed the basis of the federation's submission to the Farm Dams Irrigation Review Committee, it received no support from the state's opposition political parties.

That was news to me, because there had been no consultation with the Liberal Party. Obviously the VFF had been consulting with people other than those in the Liberal Party, because the Liberal Party's position is clear: we made no submission to the Blackmore committee. We were interested to hear the views of farmers from around the state, and we relied on the policy documents which were available from various stakeholder groups, including the VFF. The policy statement which was first put out in April 2000 says in part:

> Within the Murray–Darling Basin, the VFF favours a run-off formula which parallels the approach taken in New South Wales where landowners are given the right to capture and use for any purpose 10 per cent of the average annual run-off from their property. In other parts of the state, other percentages may be appropriate.

That is the official position of the VFF. To be sure we only have to refer to the address of the general manager for policy, Clay Manners, to VFF members in Wodonga on 14 September, when in relation to the run-off formula he said:

> … we know it to be unacceptable to the government and the National Party.

Clay Manners has said the VFF policy is not acceptable to the government and the National Party. We know that is a fact. That would not disturb me ordinarily — —

Hon. J. M. McQuilten — Where do you stand?

Hon. PHILIP DAVIS — I will get to that shortly Mr McQuilten, just be patient. We know what the VFF policy is; we know the VFF has been concerned that it was unacceptable to the government and the National Party; and we have heard it recited as recently as 15 November. Peter Walsh, a very respected farmer leader, says in part in a letter to me:

> Dear Philip —

He must have been trying to persuade me that I should read the letter, which I did —

> The VFF's own policy is similar to the NSW approach and calls for the retention of private right equivalent to 10 per cent of run-off.

He goes on to say:

> The VFF's policy was not acceptable to the government or the National Party.

We are hearing that again, so there is a bit of a theme coming through here. He says further:

> The VFF's position is quite simple. While the government's bill does not equate to VFF policy, it is preferred to the status quo. Accordingly, the VFF does not support further amendments …

He goes on about wanting the bill to be passed. There must be a cause for that — a reason the VFF is so intimidated by debate on the bill. Why is it intimidated? Surprise, surprise! A press release issued by the Minister for Environment and Conservation carrying yesterday's date and headed 'Liberals urged to rethink unworkable water amendments' has turned up and says, in part:

> Ms Garbutt said she believed the National Party and the Victorian Farmers Federation supported the Bracks government's position.

It is true that the position of the leadership of the VFF — not the members' position; their policy is clear and they want something else entirely — is that it is going to roll over. But why are VFF leaders saying that? Clearly it is because there is a gun at their heads. The government has threatened the VFF that it will pull the bill if it cannot get its own way, just as it did with the marine parks bill. The government has contempt for the processes of the Parliament. It will not allow a bill to progress through the Parliament, to be debated, amended and considered appropriately, to get the best outcomes from the parliamentary process to secure the important interests of the resources of this state. The minister said in her press release:

> Victorian farmers will lose access to the state government's $10-million transitional arrangements as they will no longer apply under the proposed … amendments …

She is saying that unless the VFF leadership urges that the bill proceed, the government will renege on commitments about transitional arrangements, which they have promised to put in place. The fact of the matter is that the VFF is being bludgeoned by the threat that the government will pull the bill from the legislative program as well as by the threat of having to deal with transitional arrangement assistance.

I have received representations, and not just from north-eastern Victoria, as I am sure most honourable members have. I have been getting calls from around the state, including from Seymour, Benalla and Hamilton. Honourable members will be interested to know that even the Shire of East Gippsland has written to me — no doubt amongst others — as a local member of Parliament and made its point very clear. Its position is to support its farming community on proposals that have been advocated by stakeholders in north-eastern Victoria. That is just a reflection of the wide concern there is about this legislation.

Before I go to the detail of the bill I will recite the private rights that are being dealt with. I am pleased to be able to say that there is a significant history of private rights to water. The legislation of 1886 abolished common-law rights and created statutory rights, which were properly outlined in the Water Act 1989. They became known as private rights and amount to these: rights to water under a licence or other authorisation issued under the Water Act; rights to water lawfully taken or received from works or a water authority; rights to take water from a waterway or bore for domestic and stock use; rights to rainfall; and rights to the water that is not a waterway or a bore that flows on or occurs on land occupied by a person. I set out those private rights in the context of getting to the nub of the bill.

As I said earlier, the Liberal Party believes the bill is very important to farmers. It will establish the water licensing system for the foreseeable future and it is therefore important that Parliament take every opportunity to improve the bill. The efforts of the Liberal Party in the Legislative Assembly are a reflection of that. The Liberal Party supports proper, sustainable water resource management and has long worked to ensure that Victoria's water resources are managed in the best possible manner.

It is well accepted that Victoria leads Australia in this field. Rather than just pat ourselves on the back, however, as we sometimes do, we simply need to know that other Australian states take a lead from developments in resource management in Victoria, and that has been the case for some years now.

In developing legislation to alter our framework a number of principles must be adhered to: our water law should provide security to existing licensed users; access to stock and domestic water should remain unaltered; we should provide for substantial use of our precious and finite water resources; we should protect, and where possible enhance, the condition of our rivers and streams; we should be fair and equitable; and we should provide fair access to the resource for new entrants.

Although the general direction and tenor of the government's legislation has been supported in the community, there have been areas of substantial criticism. In high rainfall areas, both north and south of the Great Divide, there have been loud accusations that the government is favouring irrigators over other farmers who are to lose their long-held statutory right to dam and use rainfall.

Others complained that the protection offered to existing legitimate users of irrigation water from farm dams is inadequate. The definition of 'farming areas' for the purposes of deciding the make-up of local committees was also criticised. There has been substantial criticism of the one-size-fits-all approach taken by the government. Many people have argued that their local areas had characteristics that should be recognised and that set them apart from the Murray–Darling Basin. As a result they argued for a more flexible approach, one that could give the government the management framework sought but could also fit local needs.

Members of the Liberal Party listened to all these comments. We found that many were valid criticisms of the bill and that they could be accommodated within the framework of the bill without defeating its purpose. In the Legislative Assembly the Liberal Party moved a set of eight amendments in a genuine attempt to make the bill more acceptable to the critics while retaining the spirit and intent of its resource management framework.

The amendments were developed after extensive consultation with interested people across the length and breadth of Victoria. I must say that that consultation was some of the most arduous consultation the parliamentary Liberal Party has been involved in. I think my colleagues would join me in making that observation. Many a late night was spent considering these matters.

Of the eight amendments, four were accepted as is, and a fifth — to allow parliamentary scrutiny of water supply management plans — was accepted in principle. I have to acknowledge that the final wording of that amendment was developed by the National Party, but it was sympathetic with the amendment sponsored by the Liberal Party. Since the debate in the Legislative Assembly the Liberal Party has continued to consult with individuals and groups about the bill. As a result, we have modified the position we took in the Legislative Assembly. While we will pursue one of the amendments that was rejected, we will not pursue all three. The amendment we will continue with is that which provides for a once-only and free registration of irrigation-commercial use of water from existing farm dams. We believe this provides proper grandfathering of existing usage and removes an element of retrospectivity. As pointed out in the Legislative Assembly, these dams do not move, they are permanent structures, so a single registration will suffice for resource management purposes.

We will not be pursuing the requirement for water supply management plans to contain a map of all waterways within the area. However — this is a very important point — we need to point out that the plans will be tabled in both houses, and it is clear that it is quite likely that Parliament may take a dim view of a plan that fails to adequately resolve the issue of what constitutes a waterway within that area, given that this is a primary cause of the disputes that led to this legislation and that the members of the committee developing the plan will have a good mix of local knowledge, experience and expertise.

The 3 per cent proposal is the amendment that caused the most comment. Several significant commentators have questioned its impact and argued that it would be counterproductive. Others have argued that they were mistaken. In order to allow the debate to proceed in a positive manner, we have decided not to pursue the 3 per cent option.

Hon. W. R. Baxter — Surprise, surprise!

Hon. PHILIP DAVIS — Instead, Mr Baxter, we have developed an amendment that overcomes the one-size-fits-all criticism and gives greater protection to existing statutory rights. The amendment will allow flexibility to cater for the differences between areas but will give the minister the required power to properly protect the resource and to ensure it is used in a sustainable and responsible manner.

In essence, the amendment provides that it will be the declaration of a water supply protection area that will trigger the licensing and registration process. In areas where there is abundant water for environmental flows and for consumption and where the resource will not be fully allocated for some time, there is no need for a costly and bureaucratic licensing process for farm dams. Our amendment relies on the minister's power to declare a water supply protection area wherever the minister has reason to believe it is needed.

Once the declaration is made, the minister must appoint a local committee to prepare the draft water supply protection plan for the declared area. In appointing the committee the minister also has the power to issue guidelines which the committee is bound to take into account. Local farmers will comprise at least 50 per

cent of the committee's membership. The committee will be able to recommend how much, if any, water farmers should be able to dam and use as of right. The committee will, of course, need to be able to justify any recommendation and support it with data. The draft plan must then be approved by the minister and both houses before it becomes operative. This provides a dual level of scrutiny that protects against either irresponsible recommendation which unduly benefits local farmers or a manifestly unfair recommendation that is inequitable to an individual or a small group in the area.

The government's other changes to the Water Act in relation to licensed drillers, state observation bores and hazardous dams are supported by the Liberal Party.

Hon. D. G. HADDEN (Ballarat) — I support the Water (Irrigation Farm Dams) Bill because it comes at a time in this state when the issue of water and water allocation — how much there is, how much has fallen out of the sky and how much is being retained and captured and harvested on land — is very much a live issue, particularly given that we are into the fifth year of a drought. Certainly water is an important issue and a tight resource. Water must be managed properly and equitably for all across the state, including domestic and stock farm users as well as commercial users.

As the previous honourable member said, managing water resources in this state is a matter of equity and balance between ecological and economic issues. The purpose of the bill is to amend the Water Act 1989:

(a) to require the use of water in private dams or from springs or soaks for commercial and irrigation purposes to be licensed;

(b) to provide for the declaration of water supply protection areas and the preparation and implementation of management plans for those areas;

(c) to require certain dams to be licensed;

(d) to require licensed drillers to comply with the conditions of all construction licences;

(e) to make other miscellaneous amendments.

The bill requires all irrigation and commercial use to be licensed in a catchment area. This will close the water allocation loop to provide for better planning of water management in catchments. The existing licensing arrangements that presently apply to dams constructed on waterways will be extended to cover all new irrigation and commercial use in the catchment.

The Farm Dams (Irrigation) Review Committee comprised the chair, Mr Don Blackmore of the Murray-Darling Basin Commission, and five members, who were Sylvia Davey of the West Gippsland Catchment Management Authority; Tim Fischer of the Australian Conservation Foundation; Christine Forster of the Victorian Catchment Management Council, herself a farmer in the Ararat region and a person whom I have known for many years — she is a very intelligent, highly skilled and knowledgeable person on water matters; Peter Sutherland of the Department of Natural Resources and Environment; and Peter Walsh of the Victorian Farmers Federation.

The review committee met over an 18-month period and conducted more than 40 public meetings and 5 public hearings. It received approximately 462 submissions after it released its draft report on 14 December 2000. The committee made 19 recommendations on farm dam irrigation in Victoria, and the 19 recommendations have been accepted by the government and included in the bill. It is important to note that the final report of the committee stated:

> The committee believes that a statewide licensing regime is required, with a mechanism to provide for communities to be involved in making management decisions at a catchment level through stream flow management plans.

In its draft recommendation 1 the committee also considered the New South Wales 10 per cent harvestable right issue, and the review committee noted that a number of submissions had been received by the committee, including the Victorian Farmers Federation, which supported the New South Wales 10 per cent harvestable right concept, in which 10 per cent of the run-off is entitled to be used by the land-holder for any purpose and without a licence.

The committee noted that a major limitation of the New South Wales model is that although volumetric limits apply to individual properties, the cumulative impacts of uptake over time will reduce the security of existing users and impact on the health of waterways. The committee also noted the administrative cost of the New South Wales 10 per cent harvestable right concept as it would apply in Victoria and noted that the cost would be much higher than an alternative licensing structure. It would need to consider that in most dams used for irrigation there would be two types of water — one is the harvestable right and the second is the licensed volume.

The review committee consulted long and wide across Victoria and considered a cross-section of community views on what is a very emotive and important issue — that is, water management in this state. The area in which I live, Creswick, is on the northern side of the

Great Dividing Range, and is at the headwaters of and in the Upper Loddon Catchment. Slaty Creek is the start of the Loddon River. It flows into Creswick Creek and Birchs Creek before entering the Loddon River, which flows into the Murray. Ballarat and district is south of the Great Dividing Range. It has two important catchment management areas, the Corangamite and the Glenelg–Hopkins, which flow into the Yarrowee Creek and Yarrowee River and then into the Barwon River. The Miners Rest area, south-west of Ballarat, is the start of the Hopkins River system, which ends up at Warrnambool. The area where I live is important because it is the headwaters of three major catchments — the north-central, Corangamite and Glenelg–Hopkins. The region is into its fifth drought year and water is a big issue in my electorate.

The bill attempts to, and will if passed, ensure there is equitable management of water resources and that there is a balance between ecological and economic issues. That is very important. Most if not all of the material available to the general public from the Department of Natural Resources and Environment concerns managing Victoria's water resources. It is a very simple phrase but a very important one, and it is certainly what the bill hopes to achieve.

Water rights is an important issue for land-holders, whether they be city, country, rural or regional dwellers or farmers. It is important to note that in Victoria the common-law rights to water no longer exist and were abolished by legislation enacted in 1886. It is important to note that responsibilities follow rights, and we all have a responsibility to manage our water resources. Water is not an endless resource and it must be managed responsibly and equitably; that is what the bill attempts to do. Also, water is a precious resource and although we have had some great rainfalls in the last few days in my region, that has not been the case across the state and has not been for some time. Rivers, creeks and waterways need to be respected and responsibly managed so that water is available for us all into the future, especially for farmers and land-holders, who invest a lot of money, time and energy into managing their farms and businesses into the future for themselves, their families and their children.

The bill has culminated from extensive community consultation across the state, and that consultation has resulted in the committee's recommendations to the government which were accepted and put into the bill. I repeat that the bill proposes a regime that will maintain the existing licensing regime for water taken from waterways, will provide for a registration process for existing development and will extend the licensing regime for new development off waterways.

On the issue of the 10 per cent run-off option referred to by the previous speaker, as I have noted from the review committee's recommendations the 10 per cent option was assessed and rejected by the farm dams committee on the basis that it would create uncertainty for existing and new developers and it would be difficult to administer, particularly as land changes hands over time and in any case it does not provide enough water for significant development. So a licence would still be required.

It also has all the shortcomings of a 3 per cent of rainfall option because it would potentially commit approximately 400 000 megalitres of water north of the Great Dividing Range and approximately 330 000 megalitres of water south of the Divide, which is still a massive amount of water. It is important to note that the stream flow management planning committee recommended in the bill will consist of 50 per cent of farmers from the local communities. That is very important given that local communities have the skills and expertise in their areas. That knowledge needs to be taken on board and used for the benefit of all.

An article in the *Weekly Times* of 3 October noted that when the issue of compensation was raised by the opposition spokesperson, the honourable member for Monbulk in the other place, the president of the Victorian Farmers Federation, Peter Walsh, said that compensation in the form of transition packages was already built into the bill and on that basis the VFF was satisfied with the bill.

An editorial in the *Corryong Courier* of 3 October headed 'VFF influences new legislation' states:

> Following lobbying by the VFF, the government also increased the compensation payment to farmers.

The editorial went on to discuss other bills introduced by this government.

The editorial in the *Border-Mail* of 10 October headed 'Get on with dam debate' states:

> The main purpose of the Water (Irrigation Farm Dams) Bill, which is due for a second reading, is to better manage Victoria's water resources.
>
> It will amend a farmer's 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 and a financial package has been offered to help the transition.

The *Border-Mail* also noted that 40 consultation meetings had been held across the state and that the

government had promised a continued consultation arrangement with farmers.

As I said, this is an important bill. It manages a very emotive issue. Water needs to be managed equitably, fairly and responsibly so there is a balance between ecology and economy in this state. It is important to note that the purpose of this bill is to grow the whole of the state, including the regional and rural areas, to ensure that stream flow management plans are put in place and that the scarce resource of water is managed responsibly. It is on that basis that I commend the bill to the house.

Hon. W. R. BAXTER (North Eastern) — I am pleased to join in this very important debate today as I have on many occasions in dealing with amendments to water legislation since I have had the privilege of serving in this house. I remember in particular the Water Act 1989 which I believe in terms of length is probably the largest statute on the books, perhaps approached by the Accident Compensation Act which is also fairly lengthy.

As I recall, the committee stage of the debate in 1989 was unique and something I have not seen since. The representatives from the three parties — the then Labor government, the opposition and the National Party — sat at the table for the long and tedious committee debate and the 400 or more amendments the Honourable Philip Davis alluded to.

This is important legislation for the people of Victoria and it is important that the Parliament gets it right. It is important that the Parliament gives certainty to the people of Victoria, particularly water users. The genesis of the bill before the house today is to provide certainty to people, whether they are in the Murray–Darling Basin section of the state or the southern part where perhaps the water issues which have so afflicted and divided those north of the Divide for a decade or so are yet to bite. Sooner or later those issues will bite and it will be far better for those people if they have a solid bit of legislation to work with rather than the open-ended and indefinite arrangement provided for by the current situation and which I understand the amendment that may be proposed by the opposition in the committee stage would allow to continue.

Let me also say in my opening remarks that I share the concerns the Honourable Philip Davis expressed about the second-reading speech given in this chamber and the fact that it was not amended to take account of the changes made to the bill in the other place. Significant changes were made in the other place and it should have been incumbent on the government to rewrite the second-reading speech to reflect those changes. We saw earlier the minister's embarrassment about having to seek leave to make a clarification of the second-reading speech to take account of undertakings given by the minister in the other place.

I want to sketch in some of the background to the bill because in order to put into context Mr Davis's remarks and to have the house understand why I disagree with many of the comments he made and his intentions with regard to amendments, it is important to go back in history a little way. I suppose we would all acknowledge the importance of water as a finite resource and the importance of husbanding that resource, its quality, quantity, use, destination and the like. We would all acknowledge the importance of water to the state, first of all in opening up Victoria after the gold rush when the early water trusts were established. Regrettably on most occasions those trusts failed and we then had that far-reaching legislation of Alfred Deakin and then George Swinburne with the establishment of the State Rivers and Water Supply Commission which did outstanding work. It was subsequently replaced by the Rural Water Corporation and more recently by the five or six rural water authorities, dominated of course by Goulburn-Murray Water which I think handles about 74 per cent of the state's water resources.

Water has been extremely important to the state. It is a matter that has been legislated upon on many occasions. Water, whether it is too much or too little, has been the source of more than an argument or two in the Parliament and in the community. However, it was in 1994 or 1995 when the Murray–Darling Basin cap came into being that the need for a closed loop in our water law become very obvious. I think most honourable members and the community at large would acknowledge the need for the cap. We understand that very little of the water in the Murray–Darling Basin was reaching Lake Alexandrina and that we could not keep issuing licences at the rate that we had been, particularly in New South Wales but also in other states, during the 1960s and 1970s because sooner rather than later we would simply overcommit the resource. The cap was introduced with general public support throughout south-eastern Australia.

However, as I said, if you are going to have a cap you have to account for diversions. You cannot have some sort of break in the loop which means that some people can act outside the cap. That is what we had in Victoria. We have a situation in section 8 of the 1989 Water Act which enables people in certain very narrow confines to capture and use water without that water being accounted for. I am not objecting to that circumstance;

it has been the circumstance since 1886 and it did not matter while water was plentiful. It did not matter until we had the cap and we needed to account for those diversions so Victoria could meet the undertakings it had signed up to with the commonwealth, New South Wales, Queensland and South Australian governments. It was necessary to reduce as much as possible those undefined and unaccounted-for diversions so we could meet our obligations. The upshot of all that was that the act in terms of private rights which previously had been honoured in the broad if not in the detail began to be exercised with rather more stringency.

That led to a closer examination of where dams were being built; whether they were being built in accordance with the section 8 private right, which is that you have the right to capture and store for any purpose water occurring on your property other than in a waterway or a bore; and whether they were being built in those situations other than in a waterway or in a bore or were being built on waterways within the definition of the act. It became clear, bearing in mind the breadth of the definition of 'waterway' in the act, that many of the dams that were being constructed, with the acquiescence of the relevant water authority prior to the imposition of the cap, were being built in locations that would fall within that definition.

The situation then developed of there being many arguments and contests between farmers who were proposing to build dams and the water authorities, mainly Goulburn-Murray Water because the activity was principally occurring in that authority's jurisdiction, as to whether the proposed sites were in waterways or were not. Clearly if a site was in a waterway it needed to be licensed and accounted for under the cap. The advent of the cap has meant that you need to go out and buy an entitlement on the market. If a site was not in a waterway, the very narrow private right that exists in section 8 would have covered the situation.

As I am sure occurred with other honourable members, I was called to many disputes and farming properties to look at locations to try to determine whether the proposed sites were or were not on waterways. I am the first to admit that with some of the sites I initially looked at I said, 'There is no way that that is a waterway. It is simply a fold in the land'. But when you have regard to what is in the act you can see that you have to be a little more precise than my layman's waving of the arm and making a judgment on the spot. According to the act 'waterway' means:

(a) a river, creek, stream or watercourse; or

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

That was the bone of contention. What does it mean by 'continuous'? What does it mean by 'regularly'? It does not refer to beds and banks; the definition hinges on 'regularly' but not necessarily 'continuous'. Particularly in the North Eastern Province, represented by Mrs Powell and myself, this was causing a great deal of dispute. People were constructing dams, acting in good faith and believing that they were entitled to do so, only to find someone from Goulburn-Murray Water landing on their doorstep a month or so later saying, 'Hang on a minute, you have built a dam on a waterway without an entitlement, and it is illegal'.

The previous government set about to regulate that matter, if it could. It appointed a committee made up of members of the Victorian Farmers Federation, five from the lower catchment and five from the upper catchment, and myself as the non-voting chairman. We all thought that we were fairly experienced people and that we would solve the problem in two or three meetings and all would be lovely. How wrong we were. We were supported by some expert people from Goulburn-Murray Water and the Department of Natural Resources and Environment, and we inspected a lot of locations, not only in the north-east but also around Ballarat, in the Pyrenees and elsewhere.

At meeting after meeting we agonised over the definition of waterway and tried to find a means of getting around the problem by trying to come up with a fair and equitable way of accounting for diversions under the cap so we could meet the state's obligations thereunder while at the same time respecting the rights that farmers and landowners had had under the Water Act for many years.

In due course we produced a report. That report was adopted in principle by the minister at the time, the Honourable Pat McNamara. As an aside I say that, oddly enough, one of the members of that committee was Mr Paul McGowan, who has been favourably reported on to the house today by Mr Philip Davis. I might say that I enjoyed Mr McGowan's contribution to that committee. But the house ought to know that Mr McGowan voted against the principal recommendation of that committee, although now, oddly enough, he seems to think it is the best thing since sliced bread because there is something that he likes even less.

I am the first to concede that the committee's report fell down in the sense that it failed to come up with a definition of waterway that was capable of easy and consistent application and low-cost administration. It

failed to do that. In that sense the so-called Baxter committee did not do its job well enough. But anyway, history had its — —

Hon. J. M. McQuilten — You are being very honest.

Hon. W. R. BAXTER — Mr McQuilten, I think it is the fact of the matter.

Hon. E. J. Powell — And also very unfair on yourself.

Hon. W. R. BAXTER — Perhaps so. History had its way. The electors intervened, and the government changed. The new government put aside the Baxter report — which I do not protest about — and established a further committee chaired by Don Blackmore, the chief executive officer of the Murray-Darling Basin Commission. I do not think anyone in this house would contest my assertion that Don Blackmore is one of the leading water bureaucrats not only of Australia but of the Western world. His counsel and advice is sought by many other nations, including Vietnam and China.

That committee had a range of members, not only VFF representatives. They included Peter Walsh, the state president of the VFF; Tim Fisher from the Australian Conservation Foundation, a person well known in environmental matters when it comes to water; Christine Forster, a former chairperson of the Rural Water Corporation; and a number of other personnel — all diligent people. They went around the state, heard a lot of submissions, received written submissions and the like. They moved away totally from the waterway definition concept. They concluded that they were not going to develop a workable set of accounting principles for water diversions that were underpinned by a totally unsatisfactory definition and without community consensus on what constituted a waterway and what did not.

They said, 'Let us try another tack altogether. Let us draw a line in the sand and say, yes, we will abrogate a private right that is there in the act, albeit a very narrow private right'. Honourable members need to understand that the logical place to build a dam to catch run-off on a property is at a low point on the property, in a depression or in a gully.

Hon. J. M. McQuilten interjected.

Hon. W. R. BAXTER — If that is where it is built, that will fall within the definition of a waterway, as Mr McQuilten acknowledges, and clearly that is no longer a private right. The water getting into that waterway becomes the property and responsibility of the Crown. The only place you can build a dam that fits within this narrow, private right is up on the higher ground. I think we would all acknowledge the difficulty of getting that water — economically, at least. It might be possible to do it by some pumping mechanism. Of course, once it gets into a gully you cannot pump it back up into a private rights dam unless you have a take-and-use licence, because it has already got into a location where it is under the control of the Crown.

During the course of my remarks I will emphasise again and again that the private right, the abrogation of which we heard much about from opposition members, is in theory, in reality and especially in practice a very narrow private right because there are few locations on anyone's property where a dam can be built economically, sensibly and engineering-wise within the confines of this very narrow private right.

The Blackmore committee drew a line in the sand, abrogated this right, and said that from then on there would be a different system which would close the gap in the accounting loop and from which we could go forward. Rather than just drawing a line in the sand which would result in a sudden change, the committee recommended a transitional arrangement. It said that from this point it could not be done, but it put in place a transitional provision so that over the next five years the taxpayer would subsidise someone going out onto the water trading market to buy water in lieu of their private right.

I thought that idea had a good deal of merit, as did my colleagues in the National Party. It is true that we did not think the transitional package was generous enough, but we made representations to that extent resulting in the compensation being doubled per megalitre, which was very generous. We thought the five-year time period was okay, but there was a bit of concern in the community that there should not be any time limit. I note that the government has agreed to waive the time limit. I have no objection about that at all, other than that it takes away the certainty everyone had about when the actual change was to occur. The committee set 10 000 megalitres as the amount that would be subject to the transitional package and the subsidy to purchase on the water market.

Honourable members will say, as some people in the north-east have said, that 10 000 megalitres is a small volume of water. It is when compared with the total use of water in this state for irrigation and other purposes.

Hon. J. M. McQuilten — It is a lot of water in the Pyrenees.

Hon. W. R. BAXTER — Indeed, Mr McQuilten, it would be a lot of water in the Pyrenees. However, 10 000 megalitres has some sort of logic to it. I go back to the Baxter report because that committee recommended the figure of 10 000 megalitres. How did that committee come up with 10 000 megalitres? It looked at what had been the take-up over the previous five years, which was about 4000 megalitres, doubled it, which would have been 8000, and added on 20 per cent for good luck, giving 10 000. If the take-up over the past five years is extrapolated out to 10 000 megalitres, on current day developments it will take at least a decade but probably 15 or more years before that water is taken up.

That is a fair warning to anyone of when the situation will change. It will be a two-stage process. There will be a cut-off date for the exercising of this very narrow private right, but then there will be an opportunity — which was to be 5 years but the 5 years has been taken out and now it could go out to 15 years — to get a $400 per megalitre subsidy plus some other assistance to build a farm dam. What is more, that benefit is extended to people well beyond those who would be eligible simply on the basis of a private right because now anyone in the upper catchment areas who goes out on to the water market to buy some water will be entitled to avail themselves of this transitional package. It seems to me that all the song and dance from opposition members about there being no compensation for abrogating a private right is hot air because there is a generous transitional package that has been extended to people who do not currently qualify for the private right in any event.

It also should be noted that this is the first time — at least that I could discover after some research — that a change to a statutory right has been the subject of any sort of compensation at all. In 1969 the then Liberal government overnight abrogated access to ground water that had been a long-held right with no compensation at all. When you go back and read the debates in the house it was not mentioned. No-one thought there should have been compensation.

More recent changes in what people have traditionally considered their rights include land clearing, vegetation clearing, and S11. Planning schemes were introduced that took away a long-held right that some people thought they should be able to exercise — that is, to bulldoze native vegetation. In Victoria no compensation is available for the removal of that right. We should not get too carried away and emotional about the fact that somehow or other some valuable right is being removed without any thought whatsoever. A lot of thought has gone into it and I believe that the provisions introduced by this bill are acceptable.

I return to the Blackmore recommendations. National Party members also had a couple of other concerns about those recommendations. We believed there should be 50 per cent farmer representation on the committee which will establish stream flow management plans. Those actually living, working and earning an income in the area should have the predominant say. That has been agreed to by the government without any contest at all.

The National Party also believes that exchange rates need to be introduced, bearing in mind that there are some losses — some unavoidable and some perhaps avoidable with the expenditure of money — in delivering water to irrigators on the plains. If an upper catchment farmer goes down and buys a water right and then transfers it back to the upper catchment, he should benefit from a favourable exchange right.

I am pleased that after long negotiations, conducted mainly by the honourable member for Swan Hill in another place with department officers and other experts, a satisfactory exchange rate is being developed. I understand that it will vary depending on the type of entitlement that is being purchased — for example, if an entitlement in the Goulburn Valley was being taken back up to the upper catchment it would be about 1 to 1.8. In other words, if you go down by 10 megalitres you will end up with 18. That is a form of compensation and a pretty good deal, but so far as I can see it has not been acknowledged by the opposition during any of its ranting and raving on this issue.

National Party members also want the environmental guidelines for stream flow management plans to be fleshed out and to make it clear that we are not talking in terms of the environment about an average flow of the particular stream, year on year, regardless of how wet or dry it is. We are talking about an environmental regime that replicates nature. In very dry years the stream would not be receiving much water in any event so that the farmers will still get their entitlement. It cannot be purloined by the environment on the basis that there has to be some sort of average flow in the stream, rather than one that replicates what might have occurred under entirely natural conditions.

I am pleased to say that a lengthy document has been produced on environmental guidelines for stream management flows with which I do not have too much trouble.

The house can see that what developed from the Blackmore recommendations was a set of enhancements, refinements or whatever you may like to call them that could ultimately be embodied in the bill. The bill was introduced, but still the National Party was not entirely happy. During its consultations the National Party decided on a number of amendments, some of which have been alluded to by the Honourable Philip Davis. I shall deal with them seriatim because it is important that I do so.

One amendment in particular has been grossly misunderstood by the honourable member for Benambra in the other place, and I shall set the record straight. I refer to the amendment moved by the National Party in another place that expanded, albeit in a modest way, the definition of the domestic and stock use of water. The National Party set out to cover the circumstance where a number of farmers, particularly in the upper catchment, have stock and domestic dams. I should have made it clear at the outset, but I failed to do so, that the bill does not deal with stock and domestic rights. Stock and domestic rights remain totally untrammelled by this legislation. There is an absolute right for people to collect and use water for stock and domestic purposes. Let the house not forget that; the bill does not interfere with that in any way.

The definition of 'domestic and stock use' in section 3 of the Water Act states:

> (a) household purposes; or
>
> (b) watering of animals kept as pets, or
>
> (c) watering of cattle or other stock; or
>
> (d) irrigation of a kitchen garden —
>
> but does not include use for dairies, piggeries, feed lots, poultry or any other intensive or commercial use …

It is a pity that the honourable members for Warrnambool and Polwarth in another place, who made so much comment about washing down dairies and said the bill would prevent that happening, had not read the act, because they would have noted that that has not been a stock or domestic use for many years.

In the upper catchment, and maybe elsewhere in Victoria, some farmers have stock and domestic dams, but they use the water from those dams to water around their homes as a fire prevention measure — in other words, the use is more extensive than their gardens, but it is clearly not commercial irrigation. That is not the intent. Yes, the fat lambs or cows or whatever may eat the green grass from the watering, but the farmers are not engaged in a commercial irrigation enterprise. It is simply a fire prevention measure.

If you travel up, for example, Black Flats Road at Mudgegonga you will see a house that I visited not so long ago. Large bushfires went through the area in 1968. I was shown two houses that were saved because they had some greenery around them. Even though the fires had destroyed the wood heap near the road, the house I visited was saved by the area of greenery around it. It is clear that that is not an irrigation use, but unless the definition of 'domestic and stock use' is expanded to cover that situation, they may well be caught. It may not happen very often, but let us get it right while we are doing it. Let us not impose on people the need to get an irrigation licence when what they are doing in the circumstances I have outlined is clearly not commercial irrigation.

In the other place the honourable member for Benambra said, 'Why could they not irrigate along their western boundary, that is where the bushfire comes from?'. Exactly! They could do that, but that is well beyond the definition of 'domestic and stock use'. That may well primarily be for fire prevention, but if you water to that extent I suggest it amounts to a form of irrigation. You can do it, but you will need to get an irrigation licence — and nobody could object to that.

The Honourable Philip Davis was kind enough to acknowledge that the other place accepted the National Party amendment moved there in preference to that of the Liberal Party, although they both went to the same end — that is, having some parliamentary oversight of stream flow management plans. The Liberal Party proposal was to have them tabled in Parliament and have a decision on them taken by Parliament. The National Party was of the view that that was perhaps unnecessary in the sense that many would be run of the mill and uncontested, but the fact you had to find time in the parliamentary timetable to deal with them could mean unnecessary delay.

The other place accepted the logic that you table them in Parliament, as we regularly have regulations tabled in Parliament, and a disallowance motion can be moved by either house. That still provides for parliamentary scrutiny, but it avoids having a logjam on the parliamentary program caused by a whole range of stream flow management plans to which nobody has any objection. That was a useful outcome.

The third amendment the National Party was successful with in the other place was to put in place a form of amnesty that allows people who may have a dam that is not currently properly registered or licensed, if it is

licensed at all, to bring themselves into line prior to a certain date in 2003 so we can all start off with a clean slate. That may well mean that one or two people who have blatantly illegal dams will have their dams regularised without penalty, but the intent of the amendment was to deal with people who in good faith had not previously licensed their dams. Perhaps because they did not believe their dams were on waterways, they believed they did not need to do anything; they had their section 8 rights. However, as I have explained, because of the breadth of the definition of 'waterway' a dam could well be on a waterway without their understanding that. Another small group of people could have been doing small-scale irrigation. They should have been licensed but they did not perceive that their activity was actually commercial irrigation. It is fair to allow those people the opportunity to regularise their situation. I am glad the other place accepted that amendment.

I turn to one of the most vexed issues, which has caused a deal of angst around the place. I refer to the last-minute attempt by the opposition in the other place to introduce the so-called 3 per cent amendment. I, for one, found it exceedingly disappointing that despite all the consultation that had taken place — including the Blackmore committee, the government doing its work, discussions with the National Party and the opposition by the department and the minister's office — that at 1 minute before midnight the house had wheeled in the 3 per cent run-off amendment but, worse still, dressed it up as if it were Victorian Farmers Federation policy.

It is nothing like VFF policy, because 3 per cent rainfall equates to 30 per cent run-off. The VFF policy, such as it is, is 10 per cent run-off, which is 1 per cent of rainfall. The opposition was talking about a volume three times greater than the water volume in the VFF policy, a policy the VFF did not persist with. It was dishonest to portray it as VFF policy when clearly it was not. That was one of my objections.

Another objection I have is that it is totally unworkable. How can Victoria meet its obligations under the cap if it has to make a notional reservation of a huge amount of water which we know will not be taken up, but there is a legal right to take it up? The obligation would exist to account for it. In terms of the upper catchment, figures compiled by Sinclair Knight Merz — no fools when it comes to water issues and a firm with a very high reputation — indicate that of farmland, not all land in the north-east, it would equate to something like 450 000 megalitres of water that would need to be reserved. It is a notional allocation in case it was ever going to be taken up.

Mr McQuilten interjected.

Hon. W. R. BAXTER — It exists, but it has been used and allocated to someone else. How were we to have this clawback, whether it is from the irrigators or the environment, of 450 000 megalitres of water to accommodate this open-ended 3 per cent? Members of the Liberal opposition were running around my electorate saying, 'Oh well, we did not really mean 3 per cent, we meant up to 3 per cent'. What difference does it make? It is the upper limit that you have to account for. It is the 3 per cent, not up to 3 per cent or whatever someone may use. How were people doing stream flow management plans ever going to do their work properly when they have this elastic ever moving possibility that there would be some significant amount of water out of the catchment taken up under the 3 per cent proposal. It was not practical.

I got a little concerned about it, as honourable members would expect me to. I got even more concerned when I read the headline in the *Border-Mail*, 'Nationals sold out farmers' in a story about the recent federal election. It states:

> Liberal candidate for Indi Ms Sophie Panopoulos has attacked her coalition partners about their stand on the farm dams issue.
>
> Ms Panopoulos said both the Nationals and Labor have sold out farmers.
>
> 'Yesterday (Thursday) in the state Parliament, the Liberal Party tried to amend the farms dams legislation to allow farmers to harvest a meagre 3 per cent of the water that falls on their land' —

A meagre 3 per cent!

> 'The National and Labor parties voted in the lower house to deny farmers the right to keep 3 per cent of their existing water rights.
>
> By standing with the Labor Party, the National Party has abandoned the farmers in our region'.

It is just like the 1970s again. If you want to see an example of that, Mr McQuilten, read the speech of the honourable member for Forest Hill in the other place and you will see what I mean. That is the sort of stuff we used to get in the 1970s. On 16 November there was a response in the same paper in an article entitled 'Farm dams call a cheap stunt: Baxter'. Among other things the article states:

> Mr Baxter said the test of the Liberal Party's sincerity on pushing for the figure of 3 per cent rainfall harvest would be whether it moved the amendment in the upper house, where it had the numbers.
>
> 'I suspect they will not persist with it in the Legislative Council,' Mr Baxter said.

> They know it is unworkable and by then the federal election will have been and gone and they won't any longer have a need to pull a stunt …

Where are we today? Was my prophecy borne out? Yes, it was. All we have got were weasel words from Mr Davis about why the opposition is not going on with it. They were weasel words. Mr Davis said, 'Since then, we have had some important people say to us that it would not work'. It was never a genuine deal. If it was a genuine deal I feel very sorry for the city members of the Liberal Party who sat in the Liberal Party room who were misled by someone who was running a story about longstanding rights being abrogated or whatever. I do not know the truth of the matter, but my prophecy was borne out because even though the amendments we have today are the fifth set of amendments from the Liberal Party in four weeks, the 3 per cent has disappeared into the ether.

Mr Davis also referred to Victorian Farmers Federation members resigning hand over fist because they believed the VFF was not adhering to its policy. I asked by interjection whether an alternative farmers organisation had been formed. The reply was deafening. I put on the record what some other farmers think about what the VFF has done. An office-bearer of the VFF states:

> I personally believe that the outcome the VFF achieved in relation to the farm dams review was, given the circumstances, a fantastic effort and one which I believe is a very fair and equitable one. I would like to thank you for what you achieved on behalf of all farmers throughout the state.
>
> Unfortunately, it seems that a fair proportion of my fellow north-east catchment farmers do not share this view, or is it just the very vocal minority?
>
> To continually complain about Goulburn-Murray Water pricing and confuse it with the state scenario is annoying and does not further their cause one bit.

That is an indication that not all farmers think the VFF has let the side down. I for one do not think the VFF has let the side down. It was saddled with an unworkable policy at its conference. It achieved a lot in terms of the farm dams issue, but we all acknowledge that sometimes general conferences carry motions and land their executive with ideas that will not work in practice. I applaud the leadership of the VFF for having the strength of character and showing the leadership to do what is right for the majority of farmers in the state. Mr McQuilten nods in agreement. I am pleased to have his support. All the farmers in the state will support this, because in due course people will come to acknowledge that this is the right way to go.

Mr Davis also said that he had a letter from the Shire of East Gippsland supporting the 3 per cent. I have also received a similar letter which is addressed, 'To whom it may concern'. It states:

> Re: Farm Dams (Irrigation) Review Committee Report
>
> I refer to the attached correspondence from Towong Shire Council.
>
> East Gippsland Shire Council fully supports the position adopted by Towong Shire Council. Council asks you to consider their submission as part of your deliberations in relation to this review.

I do not attribute any ill will to the Shire of East Gippsland. I think the council was grossly misled by the Shire of Towong, because in writing to the East Gippsland Shire Council on 4 October it states that the Towong council seeks from the government:

> 1. Support for the cap on diversions in the Murray–Darling Basin …

There is no contest about that.

> 2. Support for the development and implementation of stream flow management plans …

There is no contest about that.

> 3. The establishment of clear entitlements for the collection for irrigation purposes of at least 10 per cent of the water that falls on private land …

That is more than three times the Liberal Party amendment. Under the Towong shire council proposal farmers would have the right to capture virtually all the water that falls on their land that would normally run off. I do not think that is what the council actually meant. It was alluding to the situation in New South Wales — 10 per cent of run-off which is 1 per cent of rainfall. It just got it wrong and talked of a volume 10 times that amount.

The council's resolution continues:

> 4. The establishment of an exchange rate for water purchasing that recognises the efficiency of collecting and using water in the upper catchments …

That has been achieved, but the council shows how little it understands about the complexity of the situation. If farmers had got their wish for 10 per cent of the rainfall agreed to — the point to which I just referred — who would have needed to go out into the market and buy water anyway? They would have had it running out of their ears. It indicates that council has failed to grasp the complexity of the situation. Finally, it states:

> 5. The identification and gazetting of all significant watercourses.

I dare say again council has misunderstood the difference between a watercourse and a waterway, because every watercourse is already marked on maps and gazetted. This letter was driven by the mayor of Towong, Cr Fraser, who I have to say has become somewhat obsessed with this issue and has failed to grasp its complexity.

I will move on to a couple of other matters. I wish to correct a matter raised by the honourable member for Benambra in another place. I am sure the honourable member did not do it deliberately, but he tabled for inclusion in *Hansard* a map which was purported to show the rainfall of the state of Victoria. I thought to myself, 'This is interesting, I will see what my farm gets'. I had a look and saw that my farm gets 50 inches of rainfall a year. I thought, 'By Jove, that marginal country I've got, it's better than I thought', bearing in mind that it gets 17 inches of rainfall a year! That is just an indication of the failure to grasp what we are on about with this legislation — a map is inserted into *Hansard* which is clearly incorrect. I do not attribute any ill will to the honourable member for Benambra — it probably resulted from carelessness. Nevertheless, although it appears in *Hansard* it is plainly wrong.

I also want to talk a little about another misconception held by some people. An article in the *Border-Mail* of 12 October quotes the honourable member for Benambra in another place as saying:

> This loss of right will stifle development in the catchment areas of the state where irrigation opportunities will be frustrated or shelved by this legislation …

Hon. J. M. McQuilten — Rubbish!

Hon. W. R. BAXTER — I agree, Mr McQuilten, it is rubbish. He says:

> It is ironic that for the past 50 or 60 years, governments of all persuasions have been encouraging farmers to build farm dams for soil conservation reasons, to drought-proof farms and to bolster regional development in the catchment areas of the state.

It is true, they have. But my disagreement with the opening assertion that this will stifle development is that it will do the exact opposite. One has only to look around the state to see where irrigation investment is being made. Where is it being made? In the Goulburn Valley, Swan Hill and Sunraysia districts. It is not being made in north-eastern Victoria to any degree. Why? Because while there is absolute certainty and security of supply in the Goulburn Valley, Swan Hill and Sunraysia districts, the current act provides no certainty or security whatsoever for north-eastern Victoria. You can put in a licensed dam in the north-east now — you may already have a licensed dam in the north-east — but there is nothing in the current act to stop someone putting in a dam immediately upstream of you and truncating your water supply. That is why we are not getting investment in high-value horticulture production in north-eastern Victoria.

The lack of security is stifling development — not the opposite way around, as was claimed in that newspaper article. I am firmly of the belief that although there will not be an outburst of investment in irrigation in the upper catchment with the passage of this legislation there will certainly be an increase, because people will know they can acquire a water entitlement that will be solid and secure and that they can invest in the knowledge that no-one can take it from them. You get investment when you have that sort of certainty. That is what I believe it will bring to the north-east and where I disagree with my friend, Mr McGowan, who was quoted earlier today. On that issue he is wrong again. He has allowed himself to become absolutely consumed by a view that the gravity irrigators are wishing to do upper catchment farmers in the eye. He has failed to look at it objectively and see what a good piece of legislation can do for his area.

I do not want to canvass the prospective Liberal Party amendment until I see it — I dare say it will be canvassed in the committee stage. I am disappointed that division over this legislation has arisen in the Parliament to the extent that it has. Water is a very divisive issue, and it would have been better if we had all gone along without the 3 per cent amendment emerging at the 11th hour. For whatever reason the amendment was proposed, it was a very unfortunate turn of circumstance. Whether it had something to do with the federal election, a perceived loss of rights or whatever, it was very disappointing and unfortunate that it emerged.

I would counsel those people in the community — and I have one or two in my area — who are proposing to put a lot of money into a legal challenge to this bill on the basis that it somehow or other contravenes the excise powers of the commonwealth constitution. I am no lawyer, but I have read the advice they have received and I would be very surprised indeed if it stood up in any sort of contest in a court. It would be a tragedy if half a dozen really genuine, good, average citizens of the north-east, hardworking farmers, were to put thousands of dollars into what can only turn out to be a wild-goose chase. I would counsel most strongly against going down that path. They would be far better to grasp this piece of legislation and work with it, because it can deliver to each and every farmer and

every Victorian the sort of security and future we all crave.

My final comment is that we have to be very careful about the way this change to the law is marketed and spelt out. A lot of people in the north-east have done extraordinarily good work in catchment management, land care, improving water quality, fencing off streams to keep their stock out — even though they have an absolute stock and domestic right for their stock to drink from those streams — and planting thousands of trees. A former colleague, the Honourable David Evans, is one who comes to mind. He is farming in the upper King Valley and has fenced out streams and planted hundreds of trees. It would be very disappointing if we allowed such people to believe they were being done in the eye by this legislation.

The government needs to produce a good explanatory document that sets out why the changes were made, the basis on which they were made and what the future holds, because we still need those people to make a great contribution to land management in the state. I do not want them to drop their bundle because they think they have been hard done by. I think they can be convinced and persuaded that this is a valid piece of legislation, but one that needs a little bit of work done on it by the government.

I will await the committee stage to see what further advice we might get from the opposition.

Hon. E. G. STONEY (Central Highlands) — I congratulate Mr Baxter on a very eloquent and full speech on the background to the water issue. Mr Baxter probably has as much experience as anyone in either house on the matter of water and water issues over many years. I am not saying he is old; just that he has a lot of experience.

The subject of farm dams is very close to my heart. I probably need to disclose that my family owns many farm dams and I have built many myself with the old Fiat bulldozer, which sometimes used to break down on the dam floor with a thunderstorm coming on — one wondered if it would ever be seen again. Farmers are never happier than when their dams are full and never more miserable than when their dams are empty. A full dam often denotes a good season, and this year is no exception to that rule. We are having a wonderful season north of the Divide, and I understand the same is true to the south. The stock and domestic dams and the irrigation dams are looking very good at the moment.

It was not always like that. I remember in the 1940s my father pulling dead and dying stock out of muddy dams and cleaning out those dams afterwards with two old Fergie tractors, a cable and a mud scoop. Things have changed tremendously since then. Excavators with big arms and heavy-duty, powerful bulldozers have changed the way we manage our farm dams and larger irrigation dams. That is probably part of the problem, as well as being a great boon to farmers.

There are many types of stock and domestic dams. Some are very large, almost lakes, built for aesthetic purposes, that hold large amounts of water and have very little purpose other than for people to look at them. As one does, I looked over the bill and the second-reading speech to get a handle on where we were after the strong debate in the other place. In clause 10 I found a small paragraph that says:

> (8) The minister must cause an approved management plan to be laid before each house of Parliament within five sitting days of that house after it is approved under subsection (6).

That is a very important safeguard, but there is no mention of it in the second-reading speech, which is quite remarkable, given the importance of the safeguard inserted in the bill. So I went through the second-reading speech and this caught my eye:

> 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 when I went to the bill I found in clause 22, which inserts proposed section 52A, the following proposed subsection:

> (b) a licence issued under section 51(1)(ba), in respect of a spring or soak or dam, to a person who at any time during the period of 10 years immediately before the commencement of section 32 of the Water (Irrigation Farm Dams) Act 2001 —

and it goes on to explain who is eligible.

So in its second-reading speech the government was five years out, which is very sloppy. It is embarrassing and could be taken as an insult to this place that the government could not get it right before the second-reading speech was to be made in this place. It is not as if it only had a day or so to do it; it had quite a bit of time. Water is one of the biggest issues facing rural Australia. Australia has the widest variation in rainfall in the world, and water is a scarce and precious resource. In addition, as Mr Baxter has said, it is a finite resource, so we have a mutual and important responsibility to share it fairly and protect it as a resource.

My electorate of Central Highlands, which I share with the Honourable Geoff Craige, is a very good part of the Murray–Darling Basin catchment, and the rivers that run into Lake Eildon and supply the Goulburn include the Goulburn itself, the Jamieson, the Howqua and the Delatite. They make up a very large percentage of what is delivered down the Goulburn to the Murray and the Murray–Darling system.

Farm dams is about managing the water in the Murray–Darling Basin. It has not much to do with managing water south of the Great Dividing Range, except for a few notable cases that have been mentioned many times over the past few months.

The issue has been brought to a head because of the farming revolution that is occurring in higher catchments. I have to disagree with Mr Baxter because in my electorate there is a change of direction of farming into cherries and other stone fruits, vines and intense horticulture. I know the Shire of Murrindindi has been pushing this area strongly and is watching the bill with great interest. Shire representatives have spoken to me about this several times and are keen to see farmers in their area change direction into more intensive production. Over the past five to seven years it has been remarkable what has been happening in the Shire of Murrindindi with the change to irrigation for intense horticulture, stone fruits and cherries. The irrigation techniques used in that and other catchments are efficient. They use little water, are high tech and often controlled by computers.

The boom in the upper catchments, with which Mr Baxter and I disagree, will continue; that has occurred since calculations for the Murray–Darling cap were put in place. It was both necessary and probably overdue when introduced. It provides integrity of water supply to the Murray–Darling system, particularly to downstream irrigators. Without the cap there would be a collapse of guaranteed irrigation water to downstream irrigators. Unfortunately the calculations were carried out before the upstream boom was recognised and was not taken into account when the cap was established. Nobody envisaged the boom that was about to happen in the years after the Murray–Darling calculations were carried out, which has made it difficult for farmers wishing to change direction and get into irrigation because they still have a statutory right, and it was becoming more and more difficult to exercise that right.

Mr Baxter carefully outlined what is a waterway. He said that the definition of a waterway is a river or a creek where water flows regularly. Farmers do not have an automatic right to water that is in a waterway but they have a right to rain water that falls everywhere else. I disagree with Mr Baxter in that I believe there are plenty of places still left where farmers can build a dam not on a waterway and have a right to some of the water. I know in practice in recent years Goulburn-Murray Water has tightened the screws and farmers have found it increasingly difficult to find places that are not defined as waterways, but the principle still holds that a farmer has a statutory right to water that falls on some of his farm.

Where do we go from here? The 1989 debate, which has been referred to earlier today, contained long and passionate speeches, and takes up a large section of *Hansard* of that year. The recent debate in the other place was also long and passionate. I listened to the debate in the other place after dinner when it was in full swing and heard the honourable member for Benambra, who was mentioned in this place earlier, in full flight. He was very passionate about farmers' rights to water. I pay tribute to the honourable member for Benambra who has driven this debate because of his strong beliefs on what he thinks is right for his electorate. The feeling that ran through the 1989 debate and the recent debate in the other place was along the lines that farmers have a right to water. I share that view — farmers should be able to use some of the water that falls on their land. I am disappointed that the government wants to take away that right.

Over recent months debate has been raging in the rural press, and as the bill has progressed through Parliament that debate in the press has intensified. Throughout debate on the bill the Liberal Party floated various concepts which had the effect of drawing out ideas and the conclusion we have come to today with proposed amendments.

The *Weekly Times* of 7 November, before the bill was debated in the other place, reports the strong views of downstream consumers urging the passing of the bill without amendment and carries the headline, 'Irrigators warn: "Don't stuff it up"', a warning issued by the Victorian Farmers Federation water resources member, Mr Peter Sherman, a downstream irrigator. The VFF found this issue deeply difficult, and would be the first to admit that it is divided on this issue. The same article identifies that:

> The VFF had lobbied the Victorian government not to extinguish farmers' existing statutory right, and to give all land-holders the ability to capture 10 per cent of the rain which runs off their land.

There is conflict and division within the VFF, which makes our job as legislators even more important. In his contribution the Honourable Philip Davis identified some of the divisions of opinion, which are highlighted

in the article by Mr Paul McGowan, a well-known and highly respected person who lives in one of the other upper catchments. In the *Weekly Times* of 14 November under the headline, 'New water laws promise disaster' Mr McGowan states:

> The bill's clearly stated purpose is to prohibit irrigation development in high rainfall areas where the water is free to farmers so state government-owned rural water authorities can sell it to their lower catchment irrigation customers.

That is very forthright. He goes on to say:

> This bill removes that right without any compensation.
>
> Fortunately, the Liberal opposition has endeavoured to restore some measure of equity.

Mr McGowan has spent his life looking at rural issues, and his opinion is not to be dismissed lightly. He is reflecting the feeling of a great number of people in upper catchments in Victoria. I also received a letter from the VFF of 15 November saying:

> Dear Graeme —

It is probably the same letter that was addressed to 'Dear Philip' and 'Dear Bill' —

> The VFF's own policy is similar to the New South Wales approach and calls for the retention of private right equivalent to 10 per cent of run-off.

There is still much debate in the community and much was said in the other place on the bill. I do not propose to revisit everything that was said, but in rural Victoria the bill is being watched with keen interest. I was in the province of Mr Baxter and Mrs Powell at Dederang visiting my friend Jack Hicks because I bought one of his better Hereford bulls, an Ironbark bull. He showed me over his wife's dairy farm on which there is a dam on each side of the dairy. He said to me, 'Graeme, what about these farm dams?'. I said to him, 'Well, Jack, these look a bit too big to be stock and domestic dams'. He said, 'Yes, you're right, but I hope you blokes get it right, we are watching this very closely'.

Hon. W. R. Baxter interjected.

Hon. E. G. STONEY — He knows that, Mr Baxter, and it is an example of how people are really watching what is happening. I assured him that I thought the Liberal Party had it right on this occasion.

Hon. W. R. Baxter interjected.

Hon. E. G. STONEY — It was well after that, Mr Baxter. So we have an interesting position as the bill comes to this place. It is obvious the downstream irrigators have a great influence, and they wanted the bill in its original form. It is fair to say the high country farmers are most concerned for their long-term rights to water, and I emphasise 'long term'. Mr Baxter mentioned the word 'certainty', and I agree with that; everybody wants certainty.

There is no doubt that the Victorian Farmers Federation is divided on this issue, and there is no doubt it is leaning towards support for the downstream irrigators. I will not go into why I believe that is so. There is no doubt our National Party friends are leaning towards the downstream side of the issue, and that surprises me. I believe the Liberal Party has walked a fine line, but it has walked alone and tall on the issue. I believe it has handled the issue with integrity.

It is an important and difficult issue. It will have to be revisited again and again over the years. I support the amendments that will be proposed by Mr Davis.

Hon. J. M. McQUILTEN (Ballarat) — I thank Mr Craige for turning up in Parliament after his holiday of recent weeks.

Hon. G. R. Craige — You have had a long-term holiday; people reckon you are never here. This is the first time you have spoken.

Hon. J. M. McQUILTEN — I speak on important bills and say what I think.

Hon. G. R. Craige — Wait until that gets out in *Hansard*. We will put that one in the local paper for you!

Hon. J. M. McQUILTEN — That would be good. If you notice, I have no speech notes.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! Thank you Mr Craige!

Hon. G. R. Craige — Are you going to talk about dams?

Hon. J. M. McQUILTEN — I will talk about farm dams.

Hon. G. R. Craige — How many have you got on your farm?

Hon. J. M. McQUILTEN — I am talking about water, and as I have said in this place on previous occasions, in my view water is the no. 1 priority for this nation — not just for country Victorians or for Victorians in general, but for all Australians, it is the most important issue. In the past we have not focused on what we should be focusing on.

One thing I have learnt in the past approximately two years of being in this place and having to confront a lot of issues is that I generally find all issues come back to water. I am about economic development and jobs for country Victoria, and continually I find that water, salinity and all the problems associated with both are involved in the debates. If you look at forestry practices, the box-ironbark issue and the regional forest agreements that have arisen as an issue in the past 12 months, you can see that there is a strong water component in all those issues.

To date as a community and as a Parliament we have not had a tripartisan approach. That is extremely sad, because water is the most important issue, and a tripartisan approach is the one thing we must have when we start talking about water, the control of water and so on. It does not matter what we as a Parliament legislate on, unless we have a tripartisan approach we will not get anywhere on the bloody water debate.

Some 18 months ago — perhaps a little longer — I spoke with Bill Baxter and I said privately, 'Water is the most important issue confronting regional Victoria, Victoria as a whole and Australia'. I do not want to put words in Bill's mouth, but he agreed. Because of that early discussion with Bill I had some hope. However, today I am annoyed and very disappointed with the Liberal Party. The Labor Party accuses the National Party of all sorts of things, such as being irrelevant, on its death bed, losing touch and not showing leadership. I must say — and it pains me, because my Labor Party colleagues will not be very happy — that the National Party is showing leadership on this issue, and that is incredibly important.

Hon. M. M. Gould interjected.

Hon. J. M. McQUILTEN — I am sorry, Monica, but it is showing leadership.

Hon. M. M. Gould — I think we started it!

Hon. J. M. McQUILTEN — We are showing leadership. Bill Baxter spent a lot of time on a report, and it is an incredibly complex issue. I will not go into the details; I will leave that for other people. I know the politics involved in this issue, and it is incredibly difficult. In 1998, I think it was — he nodded, so it must be yes — Bill undertook an incredible task and could not quite find a solution, but he tried very hard because he knew it was so important, not just for north-east Victoria and his electorate. You did not do it just for your electorate, did you, Bill?

Hon. W. R. Baxter — No.

Hon. J. M. McQUILTEN — Because this is the most important issue in Australia, and as a nation we are not really spending time concentrating on the issue and trying to find solutions. Bill agrees, and the Victorian Farmers Federation agrees that the Bracks government has made — —

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! On at least four occasions the honourable member has referred to honourable members by their Christian names. It would be appropriate for him to use the correct titles when referring to other honourable members.

Hon. G. R. Craige — If you do not know who they are, we can give you a hand.

Hon. J. M. McQUILTEN — Thank you.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! Mr McQuilten, to continue without assistance.

Hon. J. M. McQUILTEN — The National Party is really showing some leadership for the first time, in that it is supporting the Bracks government's move in implementing the Blackmore report, and all those good people — —

Hon. W. R. Baxter interjected.

Hon. J. M. McQUILTEN — We are not talking about fast trains; we are talking about water.

Hon. G. R. Craige interjected.

Hon. J. M. McQUILTEN — You were away on a hiking trip last week, Mr Craige; I was in Parliament. I may not have been speaking, but I was here.

Hon. G. R. Craige — You might be here, but you do not contribute.

Hon. J. M. McQUILTEN — I am contributing now. This issue is so important that I have to say I am impressed with the leadership of Peter Walsh from the Victorian Farmers Federation, who I believe to be an extremely good man. Sometimes you have to show leadership; sometimes you have to lead. Sometimes you have to say, 'Okay, the right thing to do will hurt a bit but we have no choice'. During the past two years I have worked on the box-ironbark issue and the regional forest agreements. I have worked on food processing in various areas and on a range of commercial issues. Every time I end up with the water issue, because water is a major component of every bloody regional

development issue that I want to talk about and want to encourage.

I was in China with the Honourable Barry Bishop and we met with a company that was interested in investing in Donald, but one of the constraining factors was water treatment. It is expensive; I think we are talking $4.5 million, but, as I said, water was one of the main constraining factors.

As a member of the government I view this legislation as being incredibly important as a first step, because it really is only a first step. What is disappointing is that as a government Labor has the support of the National Party but not the Liberal Party. The Liberal Party is all over the place. The Liberal Party does not have a bloody idea about how to handle the farm dams issue. Where is the possibility of a bipartisan approach? Mr Baxter has worked on this issue for 20 years. He has been diligent, as has Mr Hallam. As really committed members of the government of the day those members tried to find the answers to these complex questions. I thought it was quite extraordinary and amazingly honest that Mr Baxter today admitted that they could not find the answer and that what the Bracks government is proposing is a great next step. The Honourable Bill Baxter and the National Party support that. I acknowledge that support; it is wonderful.

However, as I said, the Liberal Party is all over the place. Clearly it had enormous internal blues about how to tackle this problem. It does not understand the issue of water and how incredibly important it is. The Liberals turn on a tap and expect water to be there, but we in the bush understand that it is about economic development. We understand that we must have a supply and that a lot of tiers must be cared for and protected, from the upper catchment all the way down to the mouth of the Murray.

The Murray–Darling system is huge; I think it takes up about one-third of Australia. It is impossible for Victoria or the Labor Party to talk about the Murray–Darling Basin. It is a waste of time because unless the governments of Victoria, South Australia, New South Wales and Queensland and the federal government work together we will not be able to achieve the results we need to achieve. It must be bipartisan. I am quite amazed that the National Party is supporting this Bracks government initiative but the Liberal Party is all over the place. The Liberal Party cannot make up its mind. It is not being bipartisan on this issue. That is incredibly and unbelievably disappointing to me. It clearly means the Liberal Party has not worked out what it should be trying to do for regional Victoria and regional Australia.

Hon. E. J. POWELL (North Eastern) — I am pleased to make a contribution on the Water (Irrigation Farm Dams) Bill. As honourable members have said during the debate, water is probably one of the biggest issues for Victoria. I would like to accept the compliments of the Honourable John McQuilten. He said the National Party's position shows leadership and that it is in touch with the community, but I believe the National Party has been in touch with its community for a long time and that the decisions it makes are always based on the best interests of country Victoria. In this case those interests go right across Victoria, and the National Party is happy to support the bill before the house tonight.

As the Honourable John McQuilten said, water is a very strong economic driver right throughout Victoria. As the Honourable Bill Baxter said, that is shown particularly in the electorate he and I share. It covers the Goulburn–Murray valley, which is known Australia wide as the food bowl of Australia. That has come about because of security of the water supply. When we are talking about water and development it is all about security of supply.

As a number of speakers have said, the purpose of this bill is to better manage Victoria's water resources by providing security to existing users and opportunities for future investment in irrigation development in the upper catchment. It is important that we talk about the upper catchment. In his contribution the Honourable Graeme Stoney said that for some reason the National Party and the Victorian Farmers Federation (VFF) support and favour the irrigators. Of course we favour and support the irrigators, as well as our upper catchment farmers who are very important. We would like them to have a much bigger potential in the upper catchment. The upper catchment farmers understand the reality of water security. It is in their best interests that they have security in the development of water.

Hon. G. R. Craige — You would know about that in Shepparton!

Hon. E. J. POWELL — I do not only represent Shepparton; I also represent Dederang.

This is a very important bill and I am pleased to be following the Honourable Bill Baxter. During my contribution I will explain his important role in this bill and a number of bills that have passed through this house dealing with the development of water. As the Honourable Bill Baxter said, we have the privilege of representing the north-east, which covers both the upper and lower catchment areas. I have been in this Parliament since 1996 and before that I was a

councillor of the Shire of Shepparton. I understand the importance of water but, more importantly, I understand how it can divide people. It divides people regardless of whether they have too much or too little.

In his contribution the Honourable Philip Davis talked about the Victorian Farmers Federation and how it has not shown leadership. The VFF's membership has been divided because it has upper catchment members and irrigators. How can you have one policy when you are trying to make the best recommendations for the whole of your membership? It is not that the VFF is not showing leadership; it is very difficult for it when it has a broad spectrum of people making up its membership.

Hon. P. R. Hall — It has managed it very well.

Hon. E. J. POWELL — And it does very well, as the Honourable Peter Hall said.

The history of irrigation in Victoria is long. It has been characterised by episodes of floods, financial crises, people going bankrupt because of lack of water and a number of consequent inquiries, including several royal commissions. The first royal commission involving irrigation was established in 1884. It was chaired by Alfred Deakin who was then the Victorian Minister of Water Supply. He later became better known as an Australian Prime Minister. The royal commission on water supply led to the Irrigation Act 1886. As we have found, a number of amendments have been made to the Water Act since that time.

The Irrigation Act 1886 established the Crown's ownership of the use and control of the flow in Victoria's rivers and streams, setting the basis for water allocation in the state and ultimately the rest of Australia. The state is now responsible for allocating water rights to irrigators, industry and water users in urban and city areas. As we have all said, over the years there have been many discussions about water and many changes to the act. In 1970 changes were made to the act to include ground water in water management. That was a huge change. Under the Murray–Darling Basin cap it is important that we have an understanding of, allocate and manage all the water in our catchment.

Under the Water Act 1958 the management of water in a catchment extended only to water that flowed in a watercourse. That was extended by the Water Act 1989, which defined the term 'waterway' to include rivers, streams, creeks, watercourses and natural channels where water regularly flows. This definition of waterway has always been open to interpretation. As the Honourable Bill Baxter said, this bill moves away from having to define what is a waterway.

As a councillor of the Shire of Shepparton I was often called out to disputes, not just about building dams on watercourses or waterways but about building outhouses or other parts of houses or fences which were not able to be built on watercourses or waterways. We were often brought out to enter into disputes where water authorities had said, 'This is a waterway', and land-holders had said, 'Well, you really cannot class it as a waterway because water only goes down there about once every 10 years when there is a huge outpouring of rain'. The issue is: what is the definition of 'waterway'? Historically it has been hard to define a waterway, and the passing of this bill will find the need for defining a waterway redundant.

Over the years there have been a number of reports on water — the consumption of water, the use of water, water quality and, more importantly, sustainability, and water for the environment. A number of reports have been highlighted in the second-reading speech: the Baxter report, the Heeps report, the Hill report and the one most relevant to the bill today, the Blackmore report. But there was another report put out by a committee chaired by the honourable member for Swan Hill in the other place, Mr Steggall, called 'Sharing the Murray'. In 1995 the Murray-Darling Basin Ministerial Council, comprising the commonwealth, Queensland, New South Wales, Australian Capital Territory, South Australian and Victorian governments decided that a cap had to be set on water usage across the whole basin. The Murray water entitlement committee was set up, and it consulted for about 18 months to come up with its report. Its chairman, the honourable member for Swan Hill, is now the National Party shadow Minister for Agriculture and he has had a lot of input into the government's decisions about some parts of the bill.

The committee had 30 members, so it was quite a large committee with a lot of expertise. It had all the stakeholders on it — from industry, from the environment, from the government, from the Victorian Farmers Federation — from right across the spectrum. The members on that committee not only had the expertise but, more importantly, were committed to finding a solution to how we use water, not just in Victoria but right across Australia. Water is needed for a number of diverse reasons — not just for agriculture but for horticulture, for industry and for other urban use. Just as importantly, water is needed for the environment because it keeps our streams and rivers healthy. Over the last short while we have heard discussions in this Parliament about the Snowy River and, importantly for the Honourable Bill Baxter and me, the Murray River. The environment and health of that great river is also under stress.

It is important to make sure there is sufficient water for all those uses. As a number of members have said, water is a finite resource. Rather than try to get more water, we have to do better with the water we have at hand. The 'Sharing the Murray' report came out with the fact that water from the Murray has to stay capped at an average of 1621 gigalitres a year — that is if the weather stays the same as it was 100 years ago. Having regard to the weather patterns, the amount of water under the cap could be changed if it were needed, but that cap is currently in place and it is important that we do not go over the cap. If we do we must ensure that extra water is not taken out the next year or the following year.

There has been a bit of discussion about the Baxter report. The Honourable Bill Baxter very modestly said that his committee was not able to come up with the definition of a 'waterway'. But the committee, which was called the northern Victorian water consultative committee, came up with a number of very good recommendations. It examined people's rights to water. One of the big issues was what constitutes a waterway. As the Honourable Bill Baxter said, the committee was not able to come up with a consensus of opinion on what constitutes a waterway. The members of the committee were nominated by the VFF. It was a very equal committee; with five respected members from the upper catchment and five respected members from the lower catchment. A lot of support and expertise was given to them by the Department of Natural Resources and Environment and the Goulburn-Murray Rural Water Authority.

During the time of the Baxter committee there was much consultation right across the whole of Victoria. As the Honourable Bill Baxter said, it travelled to many areas and looked at a number of properties and tried to find its way through some of the issues, including defining waterways and a number of other issues under its terms of reference. While they worked very well together, the committee members could not agree on the waterway issue or that private-right water should be permitted to be stored in waterways in the upper catchment up to an aggregate volume of 10 000 megalitres. That is the amount proposed in this bill, but as the Honourable Bill Baxter has said, the figure of 10 000 megalitres was also put forward by his committee.

It is interesting to note that the upper catchment farmers said, 'No, 10 000 megalitres is not enough' while the lower catchment farmers and land-holders said, 'No, 10 000 megalitres is far too much'. There were two divided groups of people both working towards the same goal — that is, of supporting agriculture and developing their industries — but who were not able to come to some consensus about the amount of water that could be stored or the amount of water that each person should have.

A number of recommendations were made, some of which were supported unanimously, some of which were supported by the majority, but some on which they could not come to an agreement. As the Honourable Bill Baxter said, Paul McGowan, a much-respected member from the upper catchment area, was on that committee. While he did not support the recommendations in the Baxter report, when he spoke to me at a committee meeting he asked, 'Why can't we now use the Baxter report? We feel that is a very fair way to go about allocating water'. So Paul McGowan changed his mind; it was good to hear that he thought that about the Baxter report. If he had thought that at the time, I guess the Baxter report would have been supported and adopted in its entirety.

The most recent report I wish to talk about is that of the Victorian farm dams (irrigation) review committee, which was chaired by Don Blackmore. In his presentation the Honourable Bill Baxter referred to how experienced Don Blackmore is. He went everywhere and anywhere he was asked to go to consult and to put across what his committee was trying to do. There was a great deal of consultation. People have talked about there having been 40 public meetings and 5 public hearings around Victoria and 840 submissions having been received after the draft report was released. That is an astronomical amount of submissions; most people do not like putting in submissions.

Before the Blackmore report came out it took into account all those expert opinions and points of view. I think it came up with a fair report, given that it was not going to have consensus; representing both the upper and lower catchments, the Honourable Bill Baxter and I know that first-hand. There is not going to be a consensus on who will have fair and equitable water allocations, but I think what we have now is something that people in both the lower and upper catchments should be able to live with. If some sort of private water right has been removed it has certainly been compensated for. During its deliberations with the government the National Party made sure that even if a small private water right had been removed people were able to get compensation.

The National Party met with a number of people, making its views known and listening to people. I went to a public meeting at Tallangatta in the upper catchment of the north-east where 700 people attended. The Honourable Bill Baxter, the honourable member

for Swan Hill, Mr Steggall, and the honourable members for Benambra and Monbulk in the other place also attended.

That was a fairly full-on public meeting. To his credit, Don Blackmore explained his report and gave all the people at the meeting an opportunity to air their views. He made sure he was able to answer their questions, some of which were based on misinformation. Some people were quite unhappy with one of the recommendations in the report, and Don Blackmore was able in his own way to make sure people understood what the committee was trying to do.

Hon. W. R. Baxter — He did a good job because, apart from half a dozen, we did not hear a squeak from the other 700 for the rest of the year!

Hon. E. J. POWELL — That is right. This is where it is difficult. An opposition member mentioned the letters received by Mr Baxter. I have not received any letters from people complaining about the bill. A number of people have said they are upset about some issues in the bill, and of course there will always be disagreement over the amount of water allocated. Whether it be 10 000 megalitres, 3 per cent or 1 per cent, it will never be enough. Those people who want more will always want more.

It is important to note that the National Party made its decisions based on a lot of consultation and after listening to both irrigators and upper catchment people, because it wants to see development in Victoria, particularly rural Victoria. The only way to get development is with security of water supply. That has been mentioned by most speakers during this debate. The National Party also put in a submission on the report, as did a number of councils in my electorate, particularly councils in the upper catchment that felt aggrieved by some of the decisions and wanted to make sure their views were put across. I understand the Liberal Party did not put in a submission, which was probably an oversight because it would have been able to put across some of the issues it has mentioned today and over the last week.

The government has now accepted all the Blackmore committee's recommendations, which is to be commended. The government has also agreed to the National Party's three amendments. We are happy they have been accepted because they are commonsense, they are well thought out and we think they are fair. It is thanks to the Honourable Bill Baxter and the honourable member for Swan Hill in the other place, Mr Barry Steggall, that those amendments were put to the government in a succinct and well-thought-out manner.

The Honourable Bill Baxter touched on the amendments, but I will refer to them again. One amendment was to accept registration or licensing of dams that are under dispute due to the waterway definition. Sometimes there is a dispute about where somebody puts a dam. They may think it is not on a waterway until somebody comes along and says they should not have built the dam there, that it is in the wrong place and will need to be brought under the authority. There will be an amnesty that will allow those people to be brought under the management regime without any penalties. Under the amnesty, people with dams that have not previously been registered for whatever reason — such as a belief that they did need to be registered, or because it was thought they could get away with not being registered — will get a new start. That means all the water will be accounted for under the cap.

Another amendment was to extend the definition of stock and domestic water to include 3 acres or 1.2 hectares of irrigation around private residences for fire prevention purposes. As the Honourable Bill Baxter said, we cannot say that watering 3 acres is irrigation. A lot of people who live in areas that are prone to bushfires are being told to protect their properties from fire and not to have trees close to their houses but to have an area cleared. If you do not water a cleared area it will just be dirt that is full of weeds. The fact that they can water a small part of their garden and extend it a bit will not only give their homes an aesthetically pleasing look but also enable them to take an important and commonsense approach for fire protection purposes.

The other amendment provides for a change to the water supply protection areas, resulting in plans being tabled in Parliament. That will give local members a chance to represent their constituents and challenge the minister in the event of a dispute. It also makes sense to provide an opportunity to challenge or dispute those plans to get some sort of consensus.

As I said earlier, as well as putting up the amendments the National Party negotiated strongly with the Minister for Environment and Conservation in the other place. Issues raised in our submission included the need for an increase in farmer representation on the stream flow management plan committees. That was taken up by the government. Now a stream flow management committee will have a 50 per cent farmer representation from the local area. That is important, because those plans are being made up with local content.

We also negotiated for a more generous transitional package, as the Honourable Bill Baxter mentioned. The transitional package for capped catchments will make available new irrigation dams where water entitlements must be purchased on a first-come, first-served basis. Fifty per cent of the cost of purchase to a maximum of $400 a megalitre will be provided. It was originally proposed to be $200 a megalitre, but the National Party negotiated to double that amount, so it is now $400 a megalitre for the first 50 megalitres purchased until approximately 10 000 megalitres have been purchased. In a capped and uncapped catchment, the transitional package will be 50 per cent of the cost of approved farm plans, which are necessary, to a maximum of $6000; 100 per cent of the cost of approved environmental assessments; 50 per cent of the cost of approved engineering designs for dams; and all those to a maximum cost of $26 000. That will be a great asset to farmers wanting to get involved in those plans and the better management of water usage.

We also negotiated a better exchange rate: 1 for 1.85 megalitres. This will provide equity between locations for water trading. We heard about people in the upper catchments saying they wanted some advantage; this will advantage people who have to water trade in areas where they have not traded before.

Most importantly, one of the issues National Party members would not negotiate on and which we put on the table right from the start was that there was to be no change to farmers' rights to take water for stock and domestic purposes. The National Party said it would oppose any changes on the stock and domestic dams issues. Sometimes that has been overlooked out in the community. There has been some concern that this bill also provides for stock and domestic dams. We want to put on record that at no time did the National Party ever support any changes to water rights for stock and domestic dams.

The Honourable Bill Baxter spoke about the Liberal Party amendment proposed in the lower house giving farmers a right to harvest 3 per cent of the rain that falls on their property, and he also recognised that it was not brought into this house. It is disappointing, because if the Liberal Party felt so strongly about proposing it in the lower house perhaps it should have been put to this house to gauge the level of support for it. We are not talking about a small amount of water but a huge amount of water. The Honourable Bill Baxter referred to 450 000 megalitres in north-eastern Victoria. He also said that this amount has already been allocated and is accounted for under the cap. It does not make sense to have that water just sitting somewhere in limbo in case somebody wants to take it up. Fortunately, the government did not take up that proposition.

The question of where that water would come from needs to be asked. Would it come from agriculture, industry, urban users or the environment? If another right or entitlement is given, it has to come from somewhere else, because that water is already accounted for. It would also create a new right that has never existed in the 120 years of water law in Victoria and would put at risk the downstream neighbours who have dams that were properly licensed under the 1989 Water Act. I am pleased that it was not proposed in the upper house, although it would have been interesting to see it tested on the floor of this house.

There have always been disputes over water, either the lack of it or there being too much of it. During the 1993 floods I was the shire president. The State Emergency Service regional manager told me that fires always bring communities together but water — whether it be too much such as in times of floods as was the case then, or too little in times of drought — divides communities. That is true. There will always be disputes over water. You will never have consensus; there will always be differences as to whether it is too much or too little. In some way the bill will bring agreement about where the water goes and who gets it.

Now that water is a tradeable commodity people can buy extra water when they need it. We should ensure that water goes to the high-value areas and that we can provide water where it is not normally available, such as in the upper catchment areas that usually rely on rainfall.

The security of water supply is vital for development and we hope the bill will provide that security. Also, water must be accounted for under the cap. Australia is a dry continent with rainfall being distributed unevenly across the country. Very little water — only about 12 per cent — runs off into the rivers. As I said earlier, the National Party has consulted widely to come to agreement with irrigators and upper catchment farmers. It met with a number of representatives of the upper catchment area for about 2½ hours in the National Party room on 11 October. The party understands all their views and consensus was reached on many of them.

In the second-reading speech the minister acknowledges the support of and consultation with the National Party and Liberal Party, and thanked members of the parties. On behalf of the National Party I place on record the party's thanks for the work done on the bill by the honourable member for Swan Hill in the other place and the Honourable Bill Baxter. I also thank them

for their work over many years and their commitment to try to find a fairer, more equitable and sustainable use of water in Victoria. The bill is important and it must be passed today. I wish it a speedy passage.

Hon. R. F. SMITH (Chelsea) — I speak on the Water (Irrigation Farm Dams) Bill with some hope that commonsense in the debate will prevail. The issue, the subject of the bill, affects everybody and we all have a keen interest in water.

Hon. Bill Forwood — I thought you drank wine.

Hon. R. F. SMITH — It comes from water, Mr Forwood. Since time immemorial people on the planet have considered water as being sacred in one form or another. I remind the house of how the Hindus regard the Ganges River as sacred. Also, in ancient Greece the goddess mother of Achilles, Thetis, held her son by the ankle or heel and dipped him in the Styx River. That story must be true because today we refer to a weakness as an Achilles heel.

People across the planet have considered water to be sacred. I am coming to the view that water is of increasing importance in Australia. Good examples are the Murray–Darling Basin, and the conflicts between farmers in Queensland and New South Wales about access to water, particularly who is getting what from the water allocations.

Cotton, which is being grown in northern New South Wales, is an extremely thirsty crop. I daresay that in the not-too-distant future people may be debating the economical viability of the crops we grow. For example, extensive amounts of rice are being grown in the Ord River area of Western Australia but I do not think that is a particular problem there given the damming of the river and the amount of water available.

About two or three years ago I read an article written by B. A. Santamaria who suggested that for the betterment of all Australians, the flow of the Fitzroy River could be reversed. When you think of the amount of water that flows from the Fitzroy River into the Timor Sea it seems incredible that we should waste so much water.

Earlier this year I also read an article about the discovery of the underground freshwater resource east of Perth. It was stated that that underground sea contained enough freshwater to supply Sydney for 4000 years, which is quite incredible. That artesian basin would seem to contain an inexhaustible source of water for Australia. I have gained the impression that we are not using our resources in the best possible way for the country as a whole.

In recent times we have heard arguments about water flows in certain rivers, particularly the Snowy River, and the impact that could have on irrigators through the greater demands being placed on water resources. It is a genuine concern to everybody that we should manage the resource as best we can.

It is interesting to note that the National Party is supporting the government on this issue and is at odds with its conservative partners or friends in the Liberal Party. Later I will refer to some remarks made by the Honourable Bill Baxter, which I found quite amusing.

Arguments abound not only throughout Victoria but Australia about who owns or should have access to rainfall. Given that about 150 gigalitres of precipitation falls in Victoria annually in the form of snow or rain, I would have thought we would have had more than enough water. But when you consider that 84 per cent of rainfall evaporates or is taken up by plants it is clear that we need to manage the resource as smartly as possible. Clearly there is enough water in Australia if we tap into it sensibly and manage it properly. In a small way the bill takes a step towards doing that. It is a step in the right direction.

I also suggest that more than a little or a significant amount of consultation has taken place over a long time with the relevant parties on this bill. A tremendous amount of consultation has taken place. Later I will discuss the form it took.

The main purpose of the bill is to amend the act so we can better manage water resources. It amends the current right of people to store off waterways and use water in any way they see fit. The bill will require a licence for all irrigation and commercial use in a catchment. Earlier Mr Baxter said some honourable members in the other place have suggested that the act will impact detrimentally on farmers and that it could severely impact on, for example, dairy farmers. That is quite untrue. I note that the honourable member in the other place who made that statement in his contribution to the debate there sits in this house today.

Hon. W. R. Baxter — You can't do that; you'll have him thrown out.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! Mr Smith is not able to refer to anybody in the gallery.

Hon. R. F. SMITH — I did not refer to anybody. I did not name anyone.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! I will not debate the

issue with Mr Smith but remind him of the rules of the house.

Hon. R. F. SMITH — The bill clearly demonstrates the government's commitment to regional Victoria. It understands the importance of investment in regional Victoria and the job creation that flows from that. As one who has been involved over at least 15 years in trying to attract investment to Victoria I clearly understand that we need to offer investors every opportunity and advantage possible to attract that investment.

Hon. W. R. Baxter — You should try to tell your union mates that.

Hon. R. F. SMITH — Mr Baxter refers to my union mates. I remind him that I was a union leader, but I say again that for 15 years I was heavily involved in attracting investment to the state. Some of the agreements that we put in place are still in place today and have stood up wonderfully well. I will save that for another day. It is a sorry state of affairs and of concern that the Liberal Party is politicising the issue to the point that it could delay investment in the state.

This is an historical bill because it completes the Victorian water management framework which started with the Irrigation Act of 1886, which gave the Crown the right to the use, flow and control of all river waters. Alfred Deakin appointed a royal commission which recommended that water was a community resource and as such should be controlled by the government. I have no doubt that had the Kennett government been returned to government in 1999 Victoria would be selling off its water like it has everything else and it would be in dire straits. Further down the track people would suffer significant hardship. I guarantee the house that it will not happen under the Labor government.

I referred earlier to the extraordinary amount of consultation that has occurred on this issue. In April 2000 the discussion paper was released to encourage debate. This followed two reports from independent committees in north-eastern and western Victoria regarding water management. Both those committees recommended that the management of water on the basis of waterways was unworkable. A review committee held over 40 public meetings, held 5 public hearings, received 80 verbal submissions and 370 written submissions. Its draft report via the Sofnet interactive service went to more than 45 sites in Victoria and resulted in a further 475 written submissions.

The committee also consulted with key stakeholders, and it is worth noting that the government accepted all the independent committee's recommendations with some finetuning. The bill extends licensing arrangements that currently apply only to dams constructed on waterways to cover new irrigation and commercial uses in the catchment. Licensing arrangements are not new in Victoria. It is the main mechanism of managing water resources.

The government has got it right with this bill. The opposition, excluding National Party members, ought to support the bill. I said earlier that the Liberal Party is playing politics in the rural areas of Victoria, which is demonstrated by the fact that it is rejecting the compensation scheme proposed by the government. Mr Baxter highlighted it and said it was a first. The previous government unilaterally — as in the times of Ramses II, who said, 'Let it be written, let it be done' — made changes to the Water Act without any compensation. We have an opportunity to compensate farmers in a way that benefits them and any delays will severely impact on their livelihood and future investment in the state. For all those reasons I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I have great pleasure in joining the debate on the Water (Irrigation Farm Dams) Bill. Honourable members may wonder why an honourable member for Monash Province is speaking on a bill dealing with farm dams. Although there are no farm dams in my province, I have a significant involvement through my family in a number of irrigation areas in New South Wales and Victoria. In Balranald we are pumping significant amounts of water from the Murrumbidgee River for a 1200 hectare vineyard; in Axedale, out of Bendigo, we are pumping water out of the Campaspe River for a 100 hectare vineyard; and in Boundary Bend, another waterway system on the Murray, we are taking out a significant amount of water and using it wisely on a 2000 hectare olive grove. I believe my credentials are good for looking into the issue of water, water rights and saleable water.

Hon. W. R. Baxter — And property rights!

Hon. ANDREA COOTE — Absolutely. My experience with the bill has been extensive. I have had numerous briefings and extensive meetings with the government and Don Blackmore, the chairman of the farm dams review committee, who is also the chief executive officer of the Murray-Darling Basin Commission. Indeed, like other members of the house I have read the articles in the rural press, notably the *Weekly Times* and *Stock and Land*, and I have received

letters from the Victorian Farmers Federation (VFF), the Australian Conservation Foundation and Environment Victoria. I have learnt a great deal from them, but I have also learnt from the contribution of Mr Baxter. I have learnt that Mr Baxter is not so good on his arithmetic. In his contribution he referred to a Bureau of Meteorology map indicating rainfall. If he had read it correctly he would know that it refers to the accumulation of three years of rainfall, so he had only to divide 50 by 3 to get the amount of rainfall in his area.

I learnt something that has reinforced for me the importance of water for all Victorians and the importance of recognising the rights of Victorian farmers. I remind the house of Alfred Deakin, of whom many honourable members have spoken. He was a visionary in so far as water and water rights were concerned. The second-reading speech refers to the Irrigation Act of 1886, more than 115 years ago, and states:

> 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.

This house is debating that very issue today 115 years on from the introduction of that act. Alfred Deakin was, indeed, a visionary.

I have also learnt what constitutes a waterway. We have had some excellent definitions of that from the Honourable Bill Baxter and the Honourable Jeanette Powell. They have indicated how complicated and complex the definition and the issue are. Mr Baxter said how important it was to have a secure system for farmers. It is important there is a secure system of water and farm dams for farmers; no-one disputes that. Farmers want a fair system that is not just for the north-east but for the whole of the state.

Hon. W. R. Baxter — So do I.

Hon. ANDREA COOTE — I have also learnt a lot about stock and domestic and commercial use of farm dams and how contentious these issues can be, which reinforces how difficult the issue of water and farm dams can be. Much has been said about the difference between 10 per cent run-off and 3 per cent of rainfall and the ramifications and implications of that.

Once again I refer to Mr Baxter's contribution. He said he felt very sorry for the Liberal Party's city members and that the Liberal Party had got the VFF's position wrong. He also said he felt very sorry for the city members having to sit through and listen to the debate in the Liberal party room. I have to say that I am a city member, but I did not find it difficult at all. In fact, I do not think the Liberal Party under any circumstances misread the VFF's position. Like other members in this chamber, I received a letter from Mr Peter Walsh, which was addressed to me in the form of 'Dear Ms Coote'.

An Honourable Member — Not 'Dear Andrea'?

Hon. ANDREA COOTE — No, I got a 'Dear Ms Coote' letter. Mr Walsh says:

> The VFF recognises the Liberal Party's intention in moving this amendment to preserve a limited private right to build new irrigation dams. The VFF's own policy is similar to the New South Wales approach and calls for the retention of private right equivalent to 10 per cent of run-off.

Mr Baxter said the Liberal Party got the VFF's position wrong, but I will quote an article by Peter Hunt which appeared in the *Weekly Times* of 17 October. I will read several parts of this extensive article. Mr Hunt says:

> Farmers have threatened to desert the Victorian Farmers Federation over its decision to support controversial legislation removing land-holders' rights to harvest rainfall run-off in irrigation dams.

It goes on to say:

> 'The VFF has let us down and there is talk of forming a breakaway group,' said Wodonga district councillor, Brian Fraser.

The article goes on to talk about Mr Baxter's own area. It says:

> North-east district councillors and branch presidents said they were frustrated at the lack of debate on the farm dams issue within the VFF.

There we have it. The Honourable Philip Davis spoke about the second-reading speech in his contribution. I too find it very disappointing that the minister had to clarify the second-reading speech at the outset of this debate. All parties agree it is a huge and very contentious issue, which is affecting a great deal of Victoria, and it will continue to do so in the future. For a bill of such significance it was extremely disappointing that the government did not even get the second-reading speech right.

Hon. E. G. Stoney interjected.

Hon. ANDREA COOTE — As Mr Stoney said, it was very sloppy work. Mr Bob Smith said — it is sad he has now left the chamber — that the Liberal Party politicised this issue. As I said, the Liberal Party

consulted widely right throughout the state. I acknowledge the good contribution to this debate made by the honourable member for Benambra in another place in clarifying the situation for many of us, including me. The amendments that were passed through the Legislative Assembly have been enunciated today.

Briefly, they prevent any rural water authority from demolishing a pre-existing dam; ensure that farmers are guaranteed half the positions on consultative committees; give landowners the right to registered free-of-charge water used from a farm dam within the past 10 years for commercial or irrigation purposes; and require the minister to table before both houses of Parliament any declaration of a water supply protection area.

I support the amendments foreshadowed by the Honourable Philip Davis. They will form the centrepiece of water management for the whole of rural Victoria in a fair and secure way. I have enjoyed being part of this debate. I am looking forward to the committee stage, and I wish the bill a speedy passage.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. C. C. BROAD (Minister for Energy and Resources) — I will deal with the matters raised in the second-reading debate in relation to the amendments when we get to those points.

Clause agreed to; clause 3 agreed to.

Clause 4

Hon. PHILIP DAVIS (Gippsland) — I move:

1. Clause 4, page 3, line 11, after "51(1A)" insert "or 51(1B)".

This is an alteration to the definition of 'registration licence' to take account of the fact that there will be two separate streams of registration licences in the future: those existing dams that are registered within the year prescribed after the proclamation of the bill and those that are registered after the approval of a future water supply management plan.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not accept the amendment. I propose to speak to this amendment and a number of others consequential to it. The government, as the honourable member has indicated in responding to these proposed amendments, which aim to limit the licensing arrangements proposed in the government's bill to water supply protection areas, considers there are many fundamental problems with the management regime that would result if the amendments proposed by the Liberal Party were accepted.

Firstly, the basic problem of waterway determinations would, in the government's view, be made worse. It would still be necessary for the rural water authorities to do waterway determinations for all new dam sites outside the water supply protection areas to establish whether a licence was required or not. They would also have to do waterway determinations for existing dams to establish whether they needed to be registered, because they may be on waterways other than watercourses. In the government's view the level of disputation would increase significantly, whereas under the government's proposal the waterway determination has been taken out of the equation for water allocations.

Secondly, the proposed management regime would not solve the problems that arise when farmers construct catchment dams that adversely affect their immediate neighbours. A farmer who currently relies on water, either for irrigation or for domestic and stock use, can be deprived of the water as a result of a neighbour building a large dam immediately upstream, and similarly in the government's view the environment would be at serious risk.

Thirdly, there is a real risk that the approach would lead to overallocation and stress on our catchments. Local farmers are, in the government's view, only likely to consider putting in place a proper licensing regime once the system is under stress. The proposed solution would in the government's view be divisive and ultimately against sustainable development. It would also lead to the need to claw back water to fix overallocated catchments.

Fourthly, in northern Victoria in particular compliance with the Murray–Darling Basin cap would, in the government's view, be a real problem. Under the scheme that is being proposed through these Liberal Party amendments the level of unsustainable development would increase. In relation to the cap, the government's view is that the Liberal Party approach would not work in the majority of catchments of the Murray–Darling Basin north of the Divide, many of which are under stress and all of which are subject to

the Murray–Darling Basin cap — a point that was made in the second-reading debate. Only part of the Murray–Darling Basin area is subject to the development of stream flow management plans at present, but the Murray-Darling Basin Commission cap applies to the whole basin.

The only option available to manage the situation would, under these amendments, be through the water supply protection area process. In the government's view the clearing of a water supply protection area for the whole of north-east Victoria would not be a serious proposition. Water management plans are primarily designed to deal with local issues and are prepared by local catchment communities rather than by regional committees, which serve areas as large as northern Victoria. In the government's view this practice has been well accepted by all sides of the Parliament. The argument about private rights in northern Victoria would still be an issue for that community as well as for the Parliament if the proposed Liberal Party amendments were carried.

In addition, in the government's view instead of a workable allocation framework that relies on a detailed knowledge of water resource commitments, a less reliable framework would continue and overallocation would be difficult to determine. It is likely that the security of existing users would decline with more frequent water restrictions resulting. The health of our waterways would deteriorate, and the situation would also make the water management planning process itself more difficult because a debate on the registration and licensing issue would ensue in every individual case.

The debate would, in the government's view, be most likely to continue in Parliament when a management plan was laid before Parliament, and pressure would be brought to bear on local members to support a particular view, so their impartiality would be severely tested. The government's view is that consultative committees would be faced with making decisions without the knowledge of the total water usage within their catchments, and there would be no information available to them on catchment dams during the crucial decision points.

This proposed amendment does not make clear what would happen to the government's transition package. Presumably — and this point has been raised in the second-reading debate — it would no longer apply, and farmers across the state would lose out. Most importantly, it would not address the issue in the north-east of Victoria. Retaining statutory rights in the Murray–Darling Basin area undermines the solution developed by the farm dams committee that has been put forward by the government after some 18 months of consultation. So, instead of proper planning, the approach advocated by the Liberal Party amendments would allow problems to be created and an attempt would then be made to fix them retrospectively. It is the government's contention that it is infinitely better to prevent the problems from arising rather than endeavouring to fix them after the damage has been done.

The government has proposed that all existing irrigation and commercial dams that are currently not licensed be registered. In the government's view one of the great benefits of the registration system proposed by the government is that water managers would know the amount of water that is used in the catchment and that they would be aware of the new proposals, whereas under the amendments proposed by the Liberal Party water managers would not know about existing or new proposals off waterways until the system became stressed.

In short, in catchments which are not capped, water managers would be forced to estimate a potential commitment, and allocation of water for new licences would be severely curtailed to ensure that allocations remain within the sustainable limits of the resource. This would be a significant barrier to regional development and economic growth. Development would be stifled because possible future development must be allowed for.

In conclusion, the proposed Liberal amendments would be both divisive and ultimately against sustainable development. It would lead to expensive attempts to claw back water and lead to a continuation of arguments for the next 30 to 50 years. Those are the main points about the set of amendments I refer to as substantive amendment 1. There is a series of amendments, and I propose to have these statements stand in relation to that set of amendments.

Debate interrupted.

DISTINGUISHED VISITOR

The CHAIRMAN — Order! I interrupt to welcome Mr Ron Barassi to the gallery.

Sitting suspended 6.34 p.m. until 8.07 p.m.

Debate resumed.

Hon. W. R. BAXTER (North Eastern) — The Honourable Philip Davis did the committee a disservice

by not explaining the intent of amendment 1. My interpretation of the amendment is that it is really a test for the opposition's principal amendment, amendment 11. In the absence of some proposition as to why I should support amendment 1, I am left with taking on board what the minister said about amendment 1.

Anyone fairly assessing the minister's explanation to the committee would have to conclude that it absolutely demolished the need for the amendment. I make that assertion with some trepidation because I did not get from the mover of the amendment an explanation of why it was being moved. I am therefore left in the invidious position of having to take the minister's response on board at face value, and at face value it demolishes the amendment.

Over the dinner break I have given the matter some consideration. It seems to me that the amendment, which is really a test for amendment 11, the substantive amendment the opposition is leading to, does not solve the underlying problem with waterway determination. We are still left with that tricky divisive argument as to whether a proposed site is located on a waterway, and that surely was one of the initial instigators of the legislation — to try to move away from that circumstance.

The erosion of reliability of supplies from existing dams due to construction of additional dams upstream is not rectified, so the security of people who have currently built dams in accordance with the rules and regulations, and are now properly licensed, or are part of the existing section 8, still remain under threat by this amendment. It does not help that at all.

It also seems likely that the water supply protection area will only be declared once it is recognised that a catchment is under stress. That means that sustainable limits for water use will already have been exceeded and degradation of the environment commenced prior to a stream flow management plan being put in place. That sounds crazy. We would put on the statute book of Victoria a situation where we would say, 'Yes, we acknowledge there will be a problem here but we will not do anything about it until after it has manifested itself'. We will have to engage in some sort of clawback mechanism to get back to a reasonable benchmark where the security of existing users or the entitlement of the environment will not be detrimentally affected.

I cannot see any substance in this amendment. It does not advance us; in fact it takes us backwards. Parliament has a responsibility wherever it can to legislate with certainty so that people know their rights, the circumstances and the benchmarks. It would be unwise to go down this track.

Hon. PHILIP DAVIS (Gippsland) — In response to the minister's rhetorical question earlier when she said it is not clear from the amendments what happens to the transition package, I suggest to her that this is a matter of government policy, and the minister can answer her own question. If she is not aware of the government's policy on this matter she should refer to her colleague the Minister for Environment and Conservation in the other place who issued the press release yesterday, to which I referred earlier.

Clearly the minister in the other place has made it clear with the legislation before Parliament that she has a gun at their head and that unless it passes unaltered she will do two things: pull the bill from the legislative program and withdraw the transitional funding package. I shall let the minister answer her own question.

Out of courtesy to Mr Baxter I presume he was fully tuned in to the second-reading debate, and I recall he sat through my contribution. Indeed, in the second-reading debate he criticised some of the comments I made which indicated to me that he fully understood the position of the opposition. Therefore when introducing this clause I did not think it was necessary to recite the substance of the second-reading debate. The dinner adjournment has obviously produced a forgetful memory, so I will reiterate what I said.

Earlier tonight I said that the Liberal Party had developed an amendment to overcome the problem of one size fits all. That refers to the fact that there are clearly differing circumstances throughout Victoria with regard to the degree that catchments are stressed and the level of development of irrigation and other consumptive use. There are very clear differences, particularly between those catchments north of the Divide, which are affected by the Murray–Darling Basin cap, and those south of the Divide, such as Gippsland and certainly south-western Victoria, where there is simply not an analogous situation to that of the northern part of the state. With that in mind the Liberal Party developed an approach to try to overcome this issue of one size fits all, which was the approach the government took. Clearly as part of that we were cognisant of the need to give greater protection to existing statutory rights.

Mr Baxter is correct that amendment 1 very much relates to amendment 11, but given the rules of debate on clauses in this chamber I was loath to step into debating amendment 11, which we will have an opportunity to do later this evening or perhaps

tomorrow or next week. However, on the basis that I have been invited to make some observations, I shall proceed.

The amendment before us goes to the issue of flexibility to cater for differences between areas. It will give the minister the required powers to properly protect the resource and to ensure it is used in a sustainable and responsible manner. In essence the amendment provides that the declaration of a water supply protection area will trigger the licensing and registration process. In areas where there is abundant water for environmental flows and consumptive use and where the resource will not be fully allocated for some time, there is no need for a costly and bureaucratic licensing process for farm dams.

The Liberal Party amendment relies on the minister's power to declare a water supply a protection area whenever the minister has reason to believe it is needed. With regard to the mechanics of these amendments, farmers will have two avenues in respect of registration: they can register existing use within the year provided after the proclamation of the legislation; or they can register within a year after the approval of a water supply management plan covering their area.

I need to draw back to the particularity of this amendment, the purpose of which is to provide an alteration to the definition of 'registration licence' to take account of the fact that there will be two separate streams of registration licences in the future: those existing dams that are registered within the year prescribed after the proclamation of the bill; and those that are registered after the approval of a future water supply management plan.

Mr Chairman, I do not intend that this contribution should be prolonged. Mr Baxter has clearly indicated that he believes amendment 1 will test the amendments that the Liberal Party is proposing, and that being the case I will rest on the comments I have made.

Hon. W. R. BAXTER (North Eastern) — I thank Mr Davis for his concluding advice that he sees this as the test case and the graciousness of Mr Davis in that acknowledgment. I sympathise with him with regard to the forms of the house where you have an amendment which is fairly minimal but which provides the test for something that will happen subsequently. We cannot help it that that happens to be the forms of the house. I accept the honourable member's graciousness on this matter.

Notwithstanding that, I am still not convinced by the argument he advanced. If this amendment and amendment 11 were subsequently carried, the upshot would be that for example, in north-eastern Victoria — that part within the Murray–Darling Basin area — the whole of the area would need to be forthwith declared a water supply protection area and we would have a large area included in a single assessment as set out in the other provision of the bill and the existing provision of the Water Act. That flies in the face of the very thing the National Party has been trying to achieve — and, I believe, the government and the opposition — and that is that stream flow management plans and water supply protection areas are local in content and input and deal with relatively small areas not a vast quadrant of the state which would be the effect if this amendment were carried.

Bearing in mind that it is already a stressed catchment, a declaration would need to be made virtually forthwith by the minister of the day to declare that whole area a water supply protection area and the local input which we are all seeking would therefore be abrogated. To that extent I do not think it is a practical measure.

My second objection is that, frankly, I do not see that there is a particular objection to the proposals in the bill, which will not limit the issue of new licences for farm dams and catchments that are not under stress. I acknowledge that in Gippsland mainly they are not under stress, and possibly in south-western Victoria, with the exception perhaps of the Hopkins area. At this point in time those areas are not under stress, but licensing will surely mean that we have a better understanding of the resource to take up in the catchment and we can apply the precautionary principle and stop issuing new licences before we reach the point where the rights of existing users and, I emphasise, the environment are put at risk and undermined. It seems to me that we are far better sticking with the principles of the bill before the house than introducing the circumstance that these amendments would introduce — that is, putting off making a decision and at the same time putting at risk not only existing users but also the environment.

Hon. PHILIP DAVIS (Gippsland) — While I did indicate that I would not delay the debate, I cannot help but comment on Mr Baxter's remarks. It seems to me that there is a fundamental difference in the approach to this matter which will not be resolved on the basis of a logical debate in this house. It is clear that Mr Baxter has made the point that he is entirely satisfied with the government's approach to expunging the private property rights of land-holders in relation to their dealing with water on their land.

That seems to me to be the point at issue in relation to the Liberal Party's stand on this bill. The Liberal Party has been seeking through vigorous discussion with stakeholders, within the parliamentary Liberal Party and indeed through negotiations with the government, to find a way to preserve and protect that private property right which I recited earlier. It seems that only the Liberal Party is prepared to advocate for that right, given that the Victorian Farmers Federation, the National Party and the government seem to have abandoned that hope.

The legislative process of this Parliament is such that we can explore these options. The purpose of these amendments is to do that precise thing. I am confident that Mr Baxter is able to advocate his view, and I respect it, because he is a very knowledgeable member of the Council, having served here for a long time, but his view comes from a different premise from that on which the Liberal Party is operating.

Hon. W. R. BAXTER (North Eastern) — Far from abandoning hope, my colleagues in the National Party and I are attempting to work our way through this very difficult situation and at the same time provide certainty not only for those people who are having what is acknowledged as a very narrow private right expunged but also provide certainty for — and I am particularly keen to do this — those persons who have properly licensed catchment dams. At the moment they are at grave risk that if the law were not amended their security would be put in a perilous situation because there is no control on someone building a dam immediately above them and expropriating their water.

The National Party is trying to achieve a fair and equitable mechanism of accounting for all water diversions, especially in that part of Victoria that falls within the Murray–Darling Basin and is therefore under the cap. It has already been acknowledged that nearly all of us adhere to that cap and agree that it is essential. The National Party is trying to put in place a mechanism that will give certainty in the rest of the state and over time as those catchments become stressed, as they inevitably will. It is regrettable, but it is a fact, that as consumption goes up the catchments will become stressed. The National Party is trying to ensure that there is certainty and a mechanism in place that caters for that event when it occurs so we do not have the sort of arguments in the community that we are having at the moment. I am simply saying that this is a balance, as so much of the legislation is. It is a balance between competing interests to try to be fair and equitable to everyone. That is certainly the circumstance as I see it.

My final observation is that the Honourable Jeanette Powell referred to a meeting in Tallangatta on a very hot night last February attended by 700 people. The meeting was addressed by the honourable member for Benambra in the other place, by Mr McGowan, who was referred to earlier in the debate, and by Mr Blackmore, the chairman of the committee that was then inquiring into this issue and, as I have already noted, the chief executive officer of the Murray-Darling Basin Commission.

To an extent it was a fairly raucous meeting at times. The interesting point is that Mr Blackmore's persuasive, diligent and very measured contribution clearly satisfied about 680 of the 700 people present. Since then there has not been a squeak out of 680 people; since then we have had a fairly small minority continuing their agitation. As much as I might honour the commitment and genuineness of those people and acknowledge their right to put their point of view forward, at the end of the day in a democratic society the majority rules. I am clearly saying that the evidence of that meeting is that the overwhelming majority were satisfied by Mr Blackmore's explanation.

The Blackmore committee's recommendations have already been modified in a positive way by the government, through requests made by the National Party and by suggestions from the opposition. I am confident that out of all this going on — it was probably the largest public meeting I have attended for some time — satisfaction has emerged with the great bulk of people except for those who, for one reason or another, refuse to understand or accept the very narrow private right that is contained in section 8 of the Water Act 1989. We are moving forward and taking with us the vast majority of our constituents and the population at large.

Committee divided on amendment:

Ayes, 23

Ashman, Mr	Furletti, Mr
Atkinson, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms
Bowden, Mr	Olexander, Mr
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs	Ross, Dr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr D. McL. (*Teller*)	Stoney, Mr
Davis, Mr P. R.	Strong, Mr (*Teller*)
Forwood, Mr	

Noes, 17

Baxter, Mr	Madden, Mr
Best, Mr	Mikakos, Ms (*Teller*)

Broad, Ms
Carbines, Mrs
Darveniza, Ms
Gould, Ms
Hadden, Ms (*Teller*)
Hall, Mr
Hallam, Mr
Nguyen, Mr
Powell, Mrs
Romanes, Ms
Smith, Mr R. F.
Theophanous, Mr
Thomson, Ms

Amendment agreed to.

Amended clause agreed to; clause 5 agreed to.

Clause 6

Hon. PHILIP DAVIS (Gippsland) — I move:

2. Clause 6, lines 4 to 11 omit all words and expressions on these lines and insert —

'(2) In section 8(6) of the Principal Act, after paragraph (c) **insert** —

"(ca) a restriction or prohibition on the use, other than domestic and stock use, of water from a spring or soak or water from a private dam (to the extent that it is not rainwater supplied to the dam from the roof of a building) contained in an approved management plan drawn up under Division 3 of Part 3 for a water supply protection area; or".'.

In moving amendment no. 2 I indicate that this is the operative amendment to create the triggering of licensing provisions by the declaration of a water supply management area. It deletes proposed section 8(5A), which would extend the requirement for licensing to all new irrigation farm dams, and replaces it with a new subsection. Proposed section 8(6)(ca) will allow the statutory rights conferred by the act to be restricted, or prohibited, by an approved water supply management plan. As the point was made earlier, this links up to the operative provision, section 11 of the act. I indicate that clearly this is an important amendment in the series of amendments the opposition is proposing this evening.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this amendment. I have outlined the reasons in my earlier remarks, and I do not propose to go through them again.

Hon. W. R. BAXTER (North Eastern) — Mr Chairman, I find myself in a similar position to that of the minister. The committee has decided on the previous amendment, and this is really an integral part of the whole set of amendments the opposition is proposing. While I do not agree with it, bearing in mind that the committee has already made a decision to test the opposition's proposals, there is nothing more I can add.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

3. Clause 6, after line 11 insert —

"(3) In section 8(6)(d) of the Principal Act for "the prescriptions" **substitute** "any other prescriptions"

This amendment is consequential on amendment no. 2, which was the matter we have just dealt with. It ensures that other prescriptions within existing or future plans, other than those relating to statutory rights, have force. Summarising the position which has been elucidated by the minister and by Mr Baxter, I indicate that this is of course part of the package of amendments we are dealing with this evening.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to; amended clause agreed to; clauses 7 to 9 agreed to.

Clause 10

Hon. PHILIP DAVIS (Gippsland) — I move:

4. Clause 10, page 15, after line 14 insert —

"(k) restrictions or prohibitions on the use, other than domestic and stock use, of water from a spring or soak or water from a private dam (to the extent that it is not rainwater supplied to the dam from the roof of a building);".

This amendment provides local committees with the capacity to make recommendations about farmers' statutory rights as part of the development of the draft water supply management plan. This is part of the package of amendments the opposition is moving.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this amendment for the reasons I outlined earlier in the committee.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

5. Clause 10, page 15, line 15, omit "(k)" and insert "(l)".

6. Clause 10, page 15, line 17, omit "(l)" and insert "(m)".

7. Clause 10, page 15, line 22, omit "(m)" and insert "(n)".

8. Clause 10, page 15, line 30, omit "(n)" and insert "(o)".

9. Clause 10, page 16, line 4, omit "(o)" and insert "(p)".

Amendments 5 to 9 are consequential renumbering of paragraphs.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support these consequential amendments.

Amendments agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

10. Clause 10, page 17, after line 33 insert —

"(14) Sub-section (13) does not apply to a contravention of a kind referred to in section 63(1A).".

This amendment stipulates it is not an offence for a farmer to continue using water from an existing dam between the time a water supply management plan comes into effect and the farmer registers that usage providing he does so within 12 months. Again this is part of the package of amendments to clauses that the opposition is moving tonight.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this amendment for the reasons outlined earlier in the committee.

Amendment agreed to; amended clause agreed to; clauses 11 to 18 agreed to.

Clause 19

Hon. PHILIP DAVIS (Gippsland) — I move:

11. Clause 19, lines 26 to 33 and page 29, lines 1 to 26, omit all words and expressions on these lines and insert —

"(1A) During the period commencing on 1 February 2002 and ending on 31 January 2003, a person may apply, without payment of an application fee, to the Minister for the issue of a registration licence to take and use water from a dam on a waterway other than a river, creek, stream or watercourse for a use other than domestic and stock use.

(1B) If an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a private dam, a person may, during the period of 12 months after the approval of that management plan, apply, without payment of an application fee, to the Minister for the issue of a registration licence to take and use water from the spring or soak or water from the dam (to the extent that it is not rainwater supplied to the dam from the roof of a building or water supplied to the dam from a waterway or bore), for a use other than domestic and stock use.

(1C) Sub-section (1A) only applies, in relation to a dam, to a person who at any time during the period of 10 years immediately before the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001** was taking and using water from the dam for a use (other than domestic and stock use) for which a licence under sub-section (1)(a) is not in force.

(1D) Sub-section (1B) only applies, in relation to a spring, soak or dam, to a person who at any time during the period of 10 years immediately before the approval of the relevant management plan was taking and using water from the spring or soak or water from the dam (other than water supplied to the dam from a waterway or bore) for a use other than domestic and stock use.".

This amendment replicates the existing registration process within the bill and provides the same process for the registration of existing dams after the approval of a water supply management plan. Thus farmers will have two avenues to registration. They can register existing use within the year provided after the proclamation of the legislation, or they can register within a year after the approval of a water supply management plan covering their area. Of course, as has been alluded to, this is a critical clause in relation to the package.

Hon. C. C. BROAD (Minister for Energy and Resources) — As indicated earlier in the committee, the government does not believe this is a viable approach and as a result it does not support this amendment.

Hon. W. R. BAXTER (North Eastern) — As this is the principal amendment I feel I should place on record the National Party's reluctance to accept this proposal. It introduces a measure of uncertainty at the very time when we are trying to give water users throughout the state some commonality, some definite advice, a period when they can regularise matters which may not be quite in accordance with the existing or the proposed law, and to introduce a double-barrelled effect will only cause angst in the community later when people fall between the two and are caught up and prosecuted. They will not thank the Parliament for doing this.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

12. Clause 19, page 29, line 29 omit "(1C)" and insert "(1E)".

The amendment is a consequential renumbering amendment.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

13. Clause 19, page 30, lines 12 to 35, omit all words and expressions on these lines and insert —

"(ba) in the case of an application under sub-section (1A) in relation to a dam by a person who at any time during the period of 10 years immediately before the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001** was taking and using water from the dam for a use (other than domestic and stock use), set out the maximum volume of water to be used by the applicant in each year during the period of the licence, determined in accordance with the criteria specified by Order under section 52A; and

(bb) in the case of an application under sub-section (1)(ba) or (1B) in relation to a spring or soak or dam by a person who, at any time during the period of 10 years immediately before the approval of a management plan for the water supply protection area for which the application is made that prohibits or restricts the use of water from the spring or soak or dam, was taking and using water from the spring or soak or water from the dam (other than water supplied to the dam from a waterway or bore) for a use other than domestic and stock use, set out the maximum volume of water to be used by the applicant in each year during the period of the licence, determined in accordance with the criteria specified by Order under section 52A; and".

Amendment 13 is a consequential rewording of the provisions of the bill allowing farmers to register existing dams if they have used the water from those dams for commercial irrigation purposes within the last 10 years.

Hon. C. C. BROAD (Minister for Energy and Resources) — Again, for the reasons set out earlier in the committee, the government does not support this amendment.

Amendment agreed to; amended clause agreed to; clauses 20 and 21 agreed to.

Clause 22

Hon. PHILIP DAVIS (Gippsland) — I move:

14. Clause 22, lines 18 to 20, omit "the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001**" and insert "the approval of a management plan under Division 3 of Part 3 that prohibits or restricts the use of water from the spring or soak or dam".

Amendment 14 varies the commencement of a new offence provision from the commencement of the legislation to the approval of a water supply management plan.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to; amended clause agreed to; clauses 23 to 25 agreed to.

Clause 26

Hon. PHILIP DAVIS (Gippsland) — I move:

15. Clause 26, lines 23 and 24, omit "licence issued under section 51(1A)" and insert "registration licence".

Amendment 15 is about consequential rewording that recognises that there are two paths to registration rather than one.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

16. Clause 26, lines 31 to 33 and page 38, lines 1 and 2, omit all words and expressions on these lines and insert —

"51(1A) remains in force for an unlimited period.".

This brings us to a different group of amendments. We are seeking to deal with the free registration on a once-only basis of irrigation commercial use of water in farm dams. We believe this provides a proper grandfathering of existing usage and removes an element of retrospectivity. As was pointed out during the debate in the Legislative Assembly, these dams do not move, they are permanent structures, so single registration will suffice for resource management purposes. In particular, the clause provides for the registration licences that will be permanent rather than limited to a five-year period.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response, the government does not support this amendment. In the government's view a five-year renewal is important in that it ensures a live register, it maintains the accuracy of the register, and provides useful information to farmers and stream flow management committee members to assist them with their understanding of catchment areas. In the government's view it is important to recognise that

dams may not be useful and are sometimes removed from service. New dams may be built and the use to which they are put may change over time.

In addition, under the bill the initial costs of registration are to be met by the government and only a nominal renewal cost will be needed to keep records up to date. In the government's view, the amendment by the Liberal Party would have the effect of removing the ability of management plans to restrict the renewal of registration licences. This provision is contained in the bill and is designed to allow registration licences to be converted into standard licences.

Hon. W. R. BAXTER (North Eastern) — The amendment presumes that the water industry is static. It is not — it is a moving feast — and I have changed my views considerably on a number of aspects of the water industry over the past 20 years. I have no doubt I will change my mind again in the future as matters develop, new industries come into being, water comes under more demand and catchments become more stressed. It seems to me that Parliament acknowledges the importance of water as a finite resource and a resource that needs to be well managed as the committee contemplates tonight, on 27 November 2001, cementing forever registration of a particular piece of infrastructure. It seems to me reasonable that we should have a five-year rollover.

If circumstances do not change there is no great difficulty in simply rolling it over, but if the circumstances have changed it is as well that we, as a community at large, know about it and can adjust our policies accordingly. Although I do not want for one moment to burden farmers with more bureaucratic red tape than they already suffer from, there is an acknowledgment in the community that water is a resource that needs to be managed and managed well. Surely it is a contradiction in terms if you acknowledge the need for good management to say you will put in place a circumstance that remains untouched ad infinitum. It is nonsensical.

Hon. PHILIP DAVIS (Gippsland) — I wish to respond to Mr Baxter to say that the Liberal Party is seeking to pass this amendment to resolve the many concerns that farmers have, as I am sure he would acknowledge, about the risk that a government, either this or a future government, may use the opportunity of a register to raise revenue. Albeit that the measure is being introduced for the best of reasons and with the best of intentions as part of a resource management inventory, it is clearly critical that farmers have the confidence that by the very fact of registering their resource they will not in the future be subject to an additional tax and, as Mr Baxter alluded to, the inevitable bureaucratic process of regular registration of those dams.

The Liberal Party stands behind this set of amendments. It thinks they are fair. If the National Party or the government can provide an alternative assurance to the farming community, I am sure that could well have been contemplated in the formulation of the bill. We do not think it has been considered properly by the government. The Liberal Party therefore seeks to correct it.

Amendment agreed to; amended clause agreed; clause 27 agreed to.

Clause 28

Hon. PHILIP DAVIS (Gippsland) — I move:

17. Clause 28, after line 9 insert —

'(1) In section 58(1) of the Principal Act, for "51" substitute "51(1)".'.

This is a consequential renumbering amendment.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

18. Clause 28, after line 17 insert —

'( ) In section 58(3) of the Principal Act, for "51" substitute "51(1)".'.

This is a consequential renumbering amendment.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

19. Clause 28, lines 21 to 28, omit sub-clause (3).

This amendment is consequential upon amendment 16 being adopted, which was to move to permanent registration.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to; amended clause agreed to; clauses 29 to 31 agreed to.

Clause 32

Hon. PHILIP DAVIS (Gippsland) — I move:

20. Clause 32, line 24, after "must not" insert "in contravention of an approved management plan for a water supply protection area".

This amends the offence provision to make it clear that it is the water supply management plan that limits access to a statutory right to water.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to.

Hon. PHILIP DAVIS (Gippsland) — I move:

21. Clause 32, page 40, lines 16 to 24, omit all words and expressions on these lines and insert —

"(4) If, an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a dam not on a waterway and at any time during the period of 10 years immediately before the approval of the management plan, a person was taking and using water from the spring or soak or water from the dam, sub-section (1A) does not apply in respect of that person in respect of that spring or soak or dam until the end of the period of 12 months after the approval of the management plan.".

It provides that farmers have 12 months after the approval of a management plan to register existing use.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Amendment agreed to; amended clause agreed to; clauses 33 to 55 agreed to.

Clause 56

Hon. PHILIP DAVIS (Gippsland) — I move:

22. Clause 56, page 53, lines 19 to 33, omit all words and expressions on these lines and insert —

"(8) If an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a dam (other than water supplied to the dam from a waterway or a bore) for a use other than domestic and stock use, a person who —

(a) at any time during the period of 10 years immediately before the approval of the management plan was taking and using water from that spring or soak or water from that dam (other than water supplied to the dam from a waterway or a bore, for a use other than domestic or stock use; and

(b) before the end of the period of 12 months after the approval of the management plan applies for a licence under section 51(1)(ba) in relation to the spring or soak or dam —

is not liable to pay an application fee in respect of the application.".

This amendment provides for free-of-cost registration to farmers who register existing use after the approval of a management plan.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government does not support this consequential amendment.

Hon. W. R. BAXTER (North Eastern) — I do not want to be put in a position by members of the opposition somehow suggesting members of the National Party are opposed to free registration. Of course we are not; we simply think that the opposition's suite of amendments do not add anything to the bill — in fact, they complicate it and introduce a large element of uncertainty. But if the consequence of the opposition's amendments is that there is an opportunity for free registration following the management plan that the suite of amendments contemplates, of course members of the National Party would not want to be seen to be opposing free registration and imposing some sort of cost when the opposition was offering free registration. We would go along with that.

Hon. PHILIP DAVIS (Gippsland) — I take the opportunity to thank the National Party for its support on at least one of the amendments the Liberal Party has moved.

Hon. W. R. BAXTER (North Eastern) — I have to make it clear that I do not support the principle espoused, but if the principle that is being carried by the committee becomes law and the government accepts it in due course, of course I would not object to free registration.

Amendment agreed to; amended clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

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

That this bill be now read a third time.

I particularly thank the National Party for its support of the government's position.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

FILM BILL

Second reading

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

That this bill be now read a second time.

This bill supports a key Bracks government commitment to make Victoria a centre of excellence for film, television and multimedia production, and ensure a strong future for the industry.

One of the first actions of the Bracks government was to establish the Victorian Film and Television Industry Taskforce, chaired by Sigrid Thornton. The task force spent several months consulting with film and television industry practitioners, receiving 80 formal submissions and meeting with more than 30 other groups and individuals.

The task force report was delivered to government in September 2000. Its first and key recommendation was for a reinvigorated state film and television funding body — 'It is critical that Victoria has a well-regarded and well-funded government film and television body … submissions to this review have been quite clear about this. They overwhelmingly favour change'.

The evidence detailed in the task force report proved that the Victorian film and television industry has suffered significantly without a dedicated government body focused on its strategic needs. Victoria's share of the total national value of Australian and foreign production reached a low of 17 per cent in 1998–99 — a drop of more than 10 per cent from 1988–89.

The Victorian government is committed to implementing the recommendations of the Victorian film and television industry task force to re-establish the industry and exploit its potential for the economic and cultural good of all Victorians.

This legislation is the latest in a series of initiatives to secure the renaissance of the Victorian film, television and multimedia industry. Initiatives to date include:

extension of the Department of State and Regional Development's strategic initiative industry program to film and television;

increased recurrent funding of $31.6 million over four years for industry development and investment in film, television and new media production;

recurrent funding of $13.13 million over four years, and capital funding of $13.84 million in 2001–02 for the Australian Centre for the Moving Image;

up to $40 million for the Docklands studio development.

These initiatives, in response to the task force recommendations, will revitalise the Victorian film and television industry and will result in increased employment from more film and television production. In 1998–99 Victorian-based companies generated production activity worth $117 million. The task force estimated that following implementation of its recommendations, in three years:

independent film and television productions will be worth between $150 and $200 million annually;

the combined impacts of domestic and 'footloose' production (and through the multiplier effect) will inject $500–$700 million into the Victorian economy.

This bill delivers robust and necessary changes to government film and cultural institution structures.

In 1997 the Australian Centre for the Moving Image was only an idea. Opening shortly, the vibrant centre will need specific legislative functions and powers and require focused attention and management capacity to realise its potential.

The case for two new statutory bodies is compelling, and there is overwhelming industry support for change.

The bill repeals the Cinemedia Corporation Act 1997, abolishes Cinemedia and establishes, from the partitioning of the assets and human resources of Cinemedia, two entirely new and separate bodies which have different charters and objectives.

Film Victoria, a small statutory authority, will be the government's dedicated and strategically focused film, television and multimedia industry policy and funding body. Film Victoria will fund projects which are

significantly Australian in content and which are controlled, developed and produced by Victorians in Victoria or which provide clear economic benefits to Victoria. Together with other initiatives already announced, Film Victoria will help focus and restore Victoria's national and international position.

The Australian Centre for the Moving Image (ACMI), will manage the new facility at Federation Square, and promote screen culture to a national audience. ACMI will showcase the moving image and the screen arts, promote events, festivals, and other activities, and advance public education. ACMI will be Victoria's seventh major cultural institution and venue (after the State Library of Victoria, Museum Victoria, National Gallery of Victoria, Public Record Office Victoria, Victorian Arts Centre and the Geelong Performing Arts Centre).

Cooperation between Film Victoria and ACMI, and an effective use of government resources, will be assured. Both new bodies will be in the arts portfolio. The statutory functions of the bodies require the development of relationships and partnerships.

The main features of the bill

This bill includes many provisions commonly found in other statutory bodies legislation, particularly in respect of procedures for member appointments and corporate governance arrangements. As with all statutory bodies legislation, the key provisions in this bill are the unique functions and powers prescribed for the two new bodies.

Part 1 repeals the existing Cinemedia Corporation Act 1997, and establishes two new Crown inner budget statutory arts bodies, Film Victoria, and the Australian Centre for the Moving Image. A brief description of the new bodies' overall aims/objectives is included.

It is the government's intention to proclaim a commencement date of 1 January 2002.

Part 2 establishes Film Victoria, sets out the functions and powers of the new body, and specifies its membership and governance structure. Members of Film Victoria will be appointed by the Governor in Council. The majority of members of Film Victoria will be chosen from persons who are, in the opinion of the minister, experienced in the film, television or multimedia industry. Provision is also made for the establishment of committees, the appointment of a chief executive officer and the employment of other staff. As a grant and investment body, specific conflict of interest provisions have been included for Film Victoria's members, committees, CEO and employees.

Part 3 establishes the Australian Centre for the Moving Image. This part substantially mirrors the structure of part 2. However, ACMI's functions are quite different to those of Film Victoria. Other differences are to be found in ACMI's powers and its membership constitution. There are also specific provisions relating to the sale or disposal of items in ACMI's collections.

Part 5 sets out transitional arrangements. In summary, it provides for the partitioning of Cinemedia's human resources, assets and liabilities between Film Victoria and ACMI.

A schedule sets out some common provisions for Film Victoria and ACMI in relation to procedural matters for the appointment of members, and for meeting procedures including quorums and voting.

This bill is the product of extensive consultation with the industry and government bodies, firstly through the Thornton task force and subsequently, at various stages of the bill's development, with members of the task force, representatives of the film and television industry working party, Cinemedia board members and other industry experts.

I have been pleased, but not surprised, by the energy, diligence and goodwill of everyone who has participated in this legislative reform project, and I would like to record my appreciation.

I commend the bill to the house.

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

Debate adjourned until next day.

PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL

Second reading

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

That this bill be now read a second time.

This bill restores the Petroleum (Submerged Lands) Act 1982 to mirror status with the equivalent commonwealth act in accordance with the Offshore Constitutional Settlement of 1967.

The preambles of the Victorian and commonwealth petroleum (submerged lands) acts summarise the constitutional settlement that these acts implement. The acts provide for the exploration and exploitation of

petroleum resources of submerged lands. By agreement between the commonwealth and the states, the commonwealth act applies to waters beyond the territorial sea adjacent to the state and the Victorian act applies to the territorial waters. It was further agreed that the breadth of those waters is 3 nautical miles.

It was also agreed that 'the commonwealth and the states should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources'.

As Victoria administers matters in both the state coastal waters and the contiguous commonwealth area, it is highly desirable to maintain the mirror status of the relevant commonwealth and state legislation governing these areas. Maintaining this objective will facilitate certainty and clarity and minimise regulatory compliance costs for affected industry parties, as well as minimising administrative costs for government. To this end, it is desirable to have identical language and corresponding numbering of provisions in both the commonwealth and state provisions as far as possible. Unnecessary differences in the two sets of laws would potentially act as a barrier to smaller industry players wishing to enter the petroleum exploration and exploitation industries, due to the need for them to allocate increased resources to determine their legal obligations and monitor their regulatory compliance. With this goal in mind, it is proposed to complement certain amendments to the Commonwealth Petroleum (Submerged Lands) Act 1967 made through seven commonwealth amending acts since 1994.

Activity in the coastal waters has been relatively limited. One well, a small gas discovery, was drilled in 1967 near Golden Beach, and a small amount of seismic data has been acquired.

The major investment occurring under the act has been the seven pipelines which cross the coastal waters in the Gippsland Basin, built by Esso–BHP for the transport of oil and gas from the offshore fields to the Longford plant. There are four current proposals for pipelines that will cross the coastal waters, three of which are in the Gippsland Basin.

There are currently no exploration permits in the coastal waters. There has, however, been an upsurge in interest in exploration and development in waters off Victoria and it might be expected that some of that interest will extend to the coastal waters. This legislation will ensure consistency between state and commonwealth acts, reducing the complexity facing explorers and developers.

The bill creates infrastructure licences.

This will allow production facilities to be built outside of production licence areas, for example for a single facility to service a number of smaller fields. It also allows a facility to continue after production in a production licence area had ceased, providing for extended use of infrastructure.

The bill will strengthen the work program bidding system.

Work program bidding for exploration acreage is preferred as the process that leads to the best exploration outcomes. Rather than bidding cash for areas, companies bid a guaranteed work program that they will undertake. This makes capital available to undertake exploration rather than having acreage tied up as real estate with no commitment to actually undertake exploration. The current work program bidding process is to be strengthened.

Bids for exploration acreage are often by joint ventures. Amendments will enable applications to continue if one party in a joint venture withdraws.

If there has been more than one bid for an area, then the effect of a bid group withdrawing prior to an award of the acreage will be that the process can continue as if that group had not bid. This will enable a grant of a permit to be made without having to restart the advertising process.

Compliance with work programs is strengthened. If an application is made to surrender a permit and the work program bid by the permit-holder has not been completed, then the permit-holder will be taken not to have complied with the conditions of the permit.

The bill limits the number of renewals of exploration permits.

This will provide for greater turnover in acreage and access to that acreage for more players. Permits will be granted for an initial term of six years. At the end of that time there will be a relinquishment of 50 per cent and the remainder will be renewed for a further five years. The minimum size that can be renewed is four blocks and this only once. At the end of the five-year term of a four block area, the permit is surrendered.

The bill improves the rights of titleholders.

When a discovery is made in an exploration permit, the title-holder will make an application for a retention lease or a production licence. If that application is made near to the time that the permit would need to be

surrendered because it was unable to be renewed, an amendment will ensure that the permit continues until a decision has been made by the minister.

An amendment will also enable rights and responsibilities conferred by a permit or lease to be suspended if it is in the interests of the state.

If a person has discovered petroleum and has complied with the conditions of their permit or lease and provided information required, then the minister must grant a production licence. An amendment will provide that, if the application is refused because inadequate information has been provided or if the minister is not satisfied that a block in the application contains petroleum, then the minister must give written reasons for the decision. This will improve transparency in decision making.

The bill updates arrangements for pipeline licences.

Amendments will clarify that pipeline licences can be held by non-holders of a production licence. It will also be made clear that the petroleum within the pipeline can originate from outside of the adjacent area. This will provide for a more certain title for pipelines such as the Tasmanian pipeline where Duke Energy is not a production licence-holder.

A pipeline proposed to run through another person's production licence area will require the consent of the production licence-holder or a ministerial override. This will ensure that a pipeline is not located where, for example, a production facility is proposed.

Water and secondary lines will no longer be required to have pipeline licences. These lines are associated with infrastructure and are best addressed in regulations.

The bill introduces indefinite terms for production and pipeline licences.

The term of production licences and pipeline licences is to be changed from 21 years to an indefinite term with cancellation if there are no operations for five years. Provisions relating to removal of equipment continue. This reflects the existing situation where there is an as-of-right renewal if the operator is complying with the legislation. It also means that in the case of small fields with a life of only, say, five years, companies cannot retain the licence to prevent others from gaining access to an area. Production licence-holders will have the opportunity to convert to a retention lease if the field becomes uncommercial but is likely to become commercial within 15 years.

The bill creates a new offence of intentionally or recklessly interfering with or damaging operations.

The maximum penalty for this offence is 10 years imprisonment. This reflects the potential risk that such an action could bring. In the case where damage or interference may be of a less serious nature, section 133 of the act provides that such offences may be determined by a court of summary jurisdiction. The penalty in this case would not exceed $10 000 or two years imprisonment.

The bill rewrites in clearer terms the confidentiality periods relating to release of information provided by companies.

Data acquired by companies is required to be submitted to the government and, after a confidentiality period, is made available to the industry thus reducing duplication of acquisition and providing a marketing tool for the government. The existing legislation in relation to the length of the confidentiality periods lacks clarity and the proposed wording makes the provisions clearer.

The confidentiality provisions are also extended to address three-dimensional seismic data recorded on a non-exclusive basis by a contractor. This data is usually recorded by a contractor in open acreage prior to release of the area. The data is sold to companies wanting to bid. This data is valuable in promoting an area to the industry and so, to encourage its acquisition, the amendment provides a longer confidentiality period.

The bill revises cash bidding arrangements for surrendered areas in which petroleum has been discovered.

Cash bidding for areas is provided for in the special case where a surrendered area contains petroleum. A 10 per cent deposit is required with an application. An amendment will allow this deposit to be in the form of a bank guarantee. A further amendment removes the discretion to refund the application fee if an offer of the area is not accepted. This will encourage genuine applications. Successful cash bids will no longer be able to be paid by instalment.

The bill makes various other minor and technical amendments.

The ability in the act of the minister to direct in relation to provision of particular information in the event of a discovery or on the surveying the location of a well will be removed. This ability will continue in the general ability to give directions.

The requirement to seek special consent when drilling within 300 metres of a title boundary will be removed. The effects of such drilling can be considered in the overall approval of the well.

The requirement of an access licence applicant to give one month's notice if the affected title holder gives written consent to access will be removed.

The Geocentric Datum of Australia for surveying is adopted. Requirements to use approved forms are removed. Monetary penalties are changed from fixed values to penalty units. Gender-specific terms are replaced with gender neutral terms.

In putting forward this bill the government is mindful of the economic benefit that the petroleum industry can bring to this state. The bill seeks to develop a more competitive market for exploration and production of this state's petroleum resources which in turn will contribute to a more competitive supply market for petroleum.

This bill restores the Victorian Petroleum (Submerged Lands) Act to 'mirror' status with the equivalent commonwealth act making compliance and participation easier for companies and providing greater certainty for industry investment.

I commend the bill to the house.

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

Debate adjourned until next day.

SENTENCING (EMERGENCY SERVICE COSTS) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — I move:

That this bill be now read a second time.

The events of 11 September changed the world that we live in. Although Australia is not under any direct threat, Victorians have felt fear associated with the sending of hoax letters.

We, as Victorians, are united in our condemnation of the terrorist attacks. There are, however, people who, for whatever reason, think that it is clever or a good idea to parcel up some powder in an envelope and send it off to a newspaper, or to some other large office. In the last month we have seen buildings evacuated, workers decontaminated and losses to productivity. These hoaxes have created fear and panic and caused major disruption to Victorians trying to go about their normal business.

Our emergency services have responded promptly and professionally and Victorians can be assured that we are protected by an outstanding group of people who are well prepared and have advanced plans for dealing with occurrences such as these. However, this level of response does not come cheap, and Victorian taxpayers are faced with a bill for up to $60 000 each time someone decides to perpetrate one of these hoaxes.

This government is committed to a safe and a secure Victoria. We will not tolerate the disruption of our society nor the intimidation of our people. These hoaxes are already a crime and, with this bill, we are creating a further financial deterrent to this type of behaviour. This bill amends the law so that anyone who commits a hoax offence can be ordered to repay emergency services' reasonable costs of responding to the bogus threat.

The courts will not just be asking people to pay this amount out of whatever cash they may have. The debt that will be owed to emergency services will be treated as a judgment debt and so may be repaid by sale of assets or by garnisheeing of wages.

There are several criminal offences that cover hoaxes and deliberate false alarms. The offence of contamination of goods makes it a crime to make any goods appear as if they are contaminated or have been interfered with. It is also a crime to threaten to contaminate any good or to falsely claim that goods have been contaminated.

'Goods' is defined to include any substance, whether natural or manufactured. This extremely wide definition was included so that the offence would cover those who contaminate or interfere with food, water, air or any other substance. This gives the contamination of goods offences the scope to cover a wide range of offending behaviour, including the hoaxes we have seen in the last month. When a person commits any of these offences intending to cause public alarm or anxiety or to cause economic loss he or she is liable to be imprisoned for up to 10 years.

The contamination of goods offences are not the only offences that can be used against those who trick people into thinking that a danger exists. It is an offence to make a bomb hoax, and it is an offence to either make a false report to police or to do something that causes another person to make a false report to police.

This bill will amend all of these offences so that a person convicted of committing any one of them can be ordered by the court to repay emergency services' reasonable expenses of responding to the situation.

The courts already have the power to order that a person convicted of making a false report to police repay the reasonable expenses incurred by police. However, this does not yet extend beyond police to other emergency services. This bill amends this offence so that any emergency service agency that gets caught up in answering a false report can have their expenses repaid.

This bill makes it very clear that anyone who wastes emergency services' time and money by crying wolf will not only be guilty of a criminal offence — they may be ordered to pay back the considerable costs of responding to the fake emergency they created.

I commend the bill to the house.

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

Debate adjourned until next day.

VICTORIAN INSTITUTE OF TEACHING BILL

Second reading

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

That this bill be now read a second time.

Victoria's continued economic growth and social and cultural wellbeing are greatly affected by our capacity to successfully engage with the new knowledge economy and society. Knowledge, innovation, skills and creativity are the drivers for this emerging new world.

Education and training are therefore more important than ever before in preparing our students with the necessary knowledge and skills to successfully participate as active and informed citizens, family members and workers in this new world.

Parents know what recent research both here and overseas has consistently shown — that, allowing for other factors, the most important influence on student learning is the knowledge, skills and attributes of teachers. We can all remember the teachers who helped shape our lives and careers.

Indeed where would today's lawyers, doctors, nurses and architects be without the professional knowledge, skill and dedication of our teachers. Yet it is a curious anomaly that all of these professions, each important to our social and economic wellbeing, are recognised and regulated as professions — yet teaching is not.

While Victoria's current teaching profession is the most qualified it has ever had, we and the profession face a number of emerging issues. These issues challenge us to secure the continued high quality and improving standards that we expect from the teaching profession — in the interests not only of the profession, but more importantly of the general public and, in particular, of our children.

There are three key issues which need to be addressed.

The first issue is the changing profile of the profession. The profile of the profession shows that we face a generational change in the teaching profession in the next 10 years and we must ensure the continued high quality of our teachers. The current average age of our schoolteachers is estimated to be close to 44 years. Within the next decade half of our current schoolteachers can be expected to retire.

The second issue is the changing nature of teaching. Our future generation of teachers must be better prepared for their changing role. The changing world of work, the increasing cultural diversity of our community and the changing nature of families, the increasing reach and power of information and communication technologies — these are all factors which are now irrevocably changing the learning relationship between student and teachers.

Research commissioned by the commonwealth government and presented to the recent national summit on school education highlighted that, within this context, the role of the teacher is likely to become more complex and demanding, requiring greater levels of knowledge and expertise to adapt the learning environment to the stage of development and needs of individual students.

The third issue is raising the status of teaching. We must raise the status of the teaching profession to secure the quantity and quality of the next generation of teachers. Paradoxically while parents recognise and highly value the work of individual teachers, the community in general and teachers in particular do not believe that the teaching profession is highly valued.

Teaching is not being recognised for the highly skilled profession that it is. Unfortunately many people and groups in our community regard teaching as just a

job — not a profession. Teachers are not just employees — they are professionals and should be recognised and treated as such.

Teachers see themselves as professionals but not as belonging to a profession. The social institutions which we create to recognise, support and foster other professions do not all exist for the teaching profession.

The government is therefore moving to address these issues through this bill to establish the Victorian Institute of Teaching.

The institute is part of a broader reform agenda, whereby through strategic investments in our schools and teachers, the government aims to improve Victoria's education and training services so that all Victorians have the best chance of success in the future.

The government has already moved to lift the gag on teachers so that they can contribute to public debate on educational issues. It has created a new enhanced career structure based on high standards and is offering up to 220 teaching scholarships in this and the next two years to attract the best graduates to teaching.

This bill complements these key achievements and also fulfils the government's election commitment to 'establish an independent and representative professional body to advise on standards, qualifications and professional development'.

The bill sees the establishment of the Victorian Institute of Teaching as a world-class standards setting authority, reflecting contemporary international best practice for teacher professional regulatory bodies.

The institute is established to promote and improve, for the public benefit, the quality of teaching in all Victorian schools through the regulation of the teaching profession.

To this end the functions of the institute will include the following.

Recommending for approval of the minister, qualifications criteria and standards for the registration of teachers in schools in Victoria.

Developing, establishing and maintaining standards of professional practice for entry into the teaching profession and for continuing membership of the profession.

Approving teacher education courses for entry to the profession.

Granting registration or permission to teach to persons seeking to teach in Victorian schools.

Maintaining a publicly available register of teachers who are registered.

Investigating the serious misconduct, incompetence or continued fitness to teach of registered teachers and impose sanctions where appropriate.

Developing and maintaining a professional learning framework to support and promote the continuing education and professional development of teachers.

Undertaking and promoting research about teaching and learning practices.

Providing advice on the professional development needs of teachers.

As the new single registration authority for all primary and secondary government and non-government schoolteachers, it will act to reassure the Victorian community that teachers in our government and non-government schools are qualified, competent, fit to teach and of good character.

The institute will replace the Standards Council of the Teaching Profession and have transferred to it the functions associated with the registration of non-government schoolteachers currently undertaken by the Registered Schools Board. The board will continue to be responsible for the registration of non-government schools and endorsement of non-government schools to accept overseas students.

The current requirement to undergo a criminal record check, which presently applies to persons seeking registration with the Registered Schools Board or employment in the department, has been incorporated into this bill. Similarly, the present provisions of the Education Act which provide for the automatic deregistration of teachers found guilty of sexual offences involving children, have also been incorporated into this bill. There is a considerable body of knowledge within both the Registered Schools Board and the department that the institute will be able to draw upon for the administration of the proposed registration requirements.

The establishment of the institute through this bill provides it with certain legal administrative powers that are quite separate to the responsibilities of employers or individuals under civil, criminal or labour law.

In the exercise of its functions the institute would need to have due regard to the actions of employers or members of the institute under such laws.

The net effect of the institute's powers and functions is to limit employers of schoolteachers only by the requirement to employ teachers registered by the institute. They retain all other current powers and functions.

This makes registration by the institute a necessary but not necessarily sufficient condition for employment. Employers are free, as currently, to impose higher standards for employment.

On the other hand it adds to the current powers of the employers an added sanction of referral to the institute for the possible deregistration of teachers for serious misconduct, serious incompetence or where employers believe, with due cause, that a teacher is no longer fit to teach.

As such the employment responsibilities of employers remain intact and separate.

Where formal complaints are made to the institute alleging serious misconduct, serious incompetence or that a teacher is no longer fit to teach, the institute will initially investigate such complaints through referral to an employer wherever appropriate and practicable.

The bill provides for the provisional registration of new entrants to the teaching profession, requiring that such persons demonstrate that they meet appropriate standards of professional practice for full registration. It also recognises that teaching, like many other professions, requires people to keep abreast of contemporary knowledge and practices. Therefore teachers will be required to renew their registration every five years by demonstrating that they have maintained an appropriate level of professional practice in that period.

The bill also provides that all teachers currently registered with the Registered Schools Board or employed by the Department of Education, Employment and Training in the previous two years would be automatically registered.

A recent commonwealth report has highlighted that much is available by way of professional development for teachers and that teachers are generally deeply committed to continued professional development with a strong belief in its importance and efficacy. However, throughout the wide-ranging consultations undertaken for the establishment of the institute, teachers have repeatedly highlighted their need for sound professional advice on the best and most appropriate professional development. The institute will therefore have a critical role in developing a professional learning framework that will both guide teachers' professional growth and advise them on the professional learning needed to maintain their professional practice.

Addressing the key issues identified above requires a committed partnership between the teaching profession, government, employers and other key stakeholders.

The government's election commitment was to support the establishment of the institute through the redirection of funding for the standards council of the teaching profession and the teacher registration function of the registered schools board.

To fully support the essential work of the institute this funding will be supplemented by an annual registration fee from registered teachers. The government wants to minimise the cost of registration to teachers and in this context the institute will prepare for the approval of the minister a strategic plan and an annual business plan for the institute.

The Victorian Institute of Teaching's funding arrangements reflect that partnership as does the composition of its governing body — the institute council.

The composition of the maximum 19 member council reflects the key principles of:

accountability;

ownership; and

partnership.

As a public statutory body, the institute will be required under the Financial Management Act 1994 to report to parliament through the Minister for Education. In addition the institute is required to have due regard to the minister's advice in carrying out its functions.

Ownership is addressed by ensuring that a majority of the institute's governing body are practising members of the profession with the majority of this proportion being elected by the profession.

Partnership is addressed through the major stakeholders (government, employers, teacher educators and parents) being represented on the institute's governing body.

The government's amendments introduced through the Legislative Assembly now ensure that the diversity within the non-government sector will be represented in the institute council. The bill now requires the minister

to ensure that, either through the election or appointment process, the membership of the council includes a teacher, principal and employer representative from the Catholic and non-Catholic non-government sector.

The amendments elaborate on the election process. On the advice of the Victorian Electoral Commissioner they will minimise the opportunity for sectional and sectoral interests to dominate in the election of members to the institute council and will be fairer. The amendment also ensures that candidates are able to present their policy positions when standing for election.

The institute will also have the capacity to establish colleges to recognise and promote high standards of practice in particular domains of practice within the profession — domains of practice distinct from practice in the regular classroom.

The institute council can decide to establish such colleges through the delegation of its powers and functions articulated in a charter. A charter must detail the purpose, delegated powers and functions of a college, as well as the governance and funding arrangements for the proposed college.

In recognition of the unique and important leadership role of principals in the profession, the government will support the institute in its transitional phase, by establishing the first such college — the College of Principals. Work is currently under way on the drafting of a proposed charter for this college to ensure that it is established with the full support of all the major school principal organisations.

The government recognises that the institute must remain focused on meeting the contemporary expectations of government, the community and the profession. The government therefore intends to initiate a review of the institute of teaching in its fifth year of full operation.

The review will consider:

1. the appropriate objectives for the institute in the light of government policies and changes in all educational sectors since its establishment;

2. the effectiveness of the institute in achieving its original objectives;

3. the most appropriate structures for achieving the objectives identified under point 1;

4. whether the institute or a successor body has a role to play in this future environment; and

5. if the institute is to continue, changes that may be required to its functions, structure and legislative mandate.

The establishment of the Victorian Institute of Teaching will go a long way towards providing the Victorian community and the teaching profession with the assurance that we can secure and improve the high quality of our teachers for the individual and collective wellbeing of our future generation.

All governments should seek to do no less.

I commend the bill to the house.

Debate adjourned on motion of Hon. ANDREW BRIDESON (Waverley).

Debate adjourned until next day.

VICTORIAN ENVIRONMENTAL ASSESSMENT COUNCIL BILL

Council's amendments and Assembly's amendments

Message from Assembly agreeing to some Council amendments, disagreeing with other Council amendments and seeking concurrence with further Assembly amendments considered:

Assembly's message:

Council's amendments 1, 3, 5, 6, 7, 13 and 14 agreed with.

Council's amendments 2 and 4 as follows disagreed with:

2. Clause 3, line 14, omit "8(4)" and insert "8(5)".

4. Clause 3, after line 23 insert —

"(2) Before the Minister can make any request under section 15, the Minister must by notice published in the Government Gazette declare —

(a) organisations which the Minister considers represents environment protection and conservation interests; and

(c) organisations which the Minister considers represents the interests of recreational users of public land; and

(d) organisations which the Minister considers represents the interests of holders of licences or leases on public land —

to be recognised peak bodies.".

Council's amendment 8 as follows disagreed with:

8. Clause 8, after line 24 insert —

"(3) Before making a recommendation under sub-section (1), the Minister must consult with the recognised peak bodies.".

but following amendment made by Assembly:

Clause 8, page 6, after line 5 insert —

"(6) Before an appointment can be made under this section, the Minister must publish notice of the vacancy in newspapers circulating generally throughout Victoria.".

Council's amendments 9 and 10 as follows disagreed with:

9. Clause 8, page 6, line 2, omit "(4)" and insert "(5)".

10. Clause 8, page 6, after line 5 insert —

"(6) If the Minister proposes to make a request under section 15 which is likely to impact upon the rights of any class of leaseholders or licenceholders or recreational users of public land, the Minister must request in writing —

(a) the recognised peak bodies representing leaseholders or licenceholders and recreational users of public land to nominate a panel of between 2 and 5 names of persons expert in the issues relevant to the request; and

(b) the recognised peak bodies representing environment protection and conservation interests in the subject matter of' the request to nominate a panel of between 2 and 5 names of persons expert in the issue relevant to the request.

(7) The recognised peak bodies may submit the panels of names to the Minister in writing within 28 days of receipt of the request from the Minister or such longer period as the Minister may allow.

(8) If a recognised peak body advises the Minister that it does not wish to nominate or does not respond to the request, the Minister may seek nominations from another comparable body in the state of Victoria.

(9) If the recognised peak bodies requested under sub-section (6)(a) and the recognised peak bodies requested under sub-section (6)(b) nominate panels of names which include the name of the same person, the Minister must appoint that person as a member of the Council for the purposes of the particular investigation.

(10) If the recognised peak bodies nominate panels of names which do not include a commonly nominated person, the Minister must appoint one from the panel of names submitted by the recognised peak bodies requested under sub-section (6)(a) and one from the panel of names submitted by the recognised peak bodies requested under sub-section (6)(b).".

Council's amendment 11 as follows disagreed with:

11. Clause 13, line 25, omit "unions" and insert "employees".

but following amendment made by Assembly:

Clause 13, omit line 25 and insert —

"(d) unions and employees;

(e) tourism industry;

(f) lease holders of relevant public land;

(g) licence holders of relevant public land;

(h) recreational users of relevant public land;".

Council's amendment 12 as follows disagreed with:

12. Clause 15, after line 4 insert —

"(2) Before the Minister can make a request to the Council under sub-section (1), the Minister must consult the recognised peak bodies as to the contents of the request and whether or not any appointments should be made under sections 8(4) and 8(5) for the purposes of the investigation.

(3) The Minister must not make a request to the Council unless —

(a) the Minister has caused an advertisement to be published in a newspaper circulating generally throughout Victoria which sets out the proposed terms of reference; and

(b) 28 days has elapsed since the date of publication of the advertisement.".

but following amendment made by Assembly:

Clause 15, after line 4 insert —

"(2) The Minister may make a request to the Council under sub-section (1) after the Minister has —

(a) caused a notice of the investigation to be published in newspapers circulating generally throughout Victoria which specifies the proposed terms of reference for the investigation;

(b) complied with sub-section (3).

(3) The Minister must allow 28 days for the notification period under sub-section (2).".

Clause 16, after line 13 insert —

"(2) Within 7 sitting days of each House of the Parliament after the period specified in section 15(3), the Minister must cause to be laid before each House of the Parliament a statement specifying how any comments received on the proposed terms of reference have been dealt with.".

Council's amendment 15 as follows disagreed with:

15. Clause 18, line 15, omit "geological or geomorphological"

Council's amendment 16 as follows disagreed with:

16. Clause 20, page 15, after line 4 insert —

"(4) If an investigation is likely to affect the existing rights of a licenceholder or leaseholder, the Council must make reasonable efforts to advise each person affected in writing where it is practicable to do so.

(5) If an investigation is likely to impact upon the existing rights of any identified recreational user of the land or area in question, the Council must make reasonable efforts to advise the recognised peak body representing the users in writing.

(6) If any investigation is undertaken into a particular identified area of public land, the Council must cause notices to be placed on bulletin boards and government offices in and around the area of public land".

but following amendment made by Assembly:

Clause 20, page 15, after line 4 insert —

"(4) If an investigation is likely to affect the existing rights in the relevant public land of any lease holder, licence holder or recreational user, the Council must —

(a) make reasonable efforts to advise those persons and peak bodies representing those persons; and

(b) where practicable, cause notices to be placed on Department of Natural Resources and Environment notice boards in and around the relevant public land.".

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

That the Council do not insist on their amendments with which the Assembly have disagreed and agree to the amendments now made by the Assembly in the bill.

Hon. P. R. HALL (Gippsland) — This matter came on more quickly than I expected, but I am happy to respond. To those who criticise the Legislative Council as not serving a worthwhile purpose, I invite them to have a look at the history of this bill. The Constitution Commission of Victoria is currently out in the community looking at the role of the upper house and suggesting that it does not act as a house of review. I advise the constitutional commission to look at how this bill has been treated by the Parliament of Victoria and assess whether it agrees with me that the Legislative Council played a very important role in the refinement of the Victorian Environmental Assessment Council Bill.

It has been some time since we debated the bill in this house, and I believe it was in May of this year that debate on the bill was subject to the guillotine in the Legislative Assembly. The National Party had flagged that it wanted to move amendments but was not allowed to do so. I believe the Independents also wanted to move some amendments at that time, but they were not allowed to do so either because of the guillotine being applied in the Legislative Assembly. Fair, open and constructive debate was not permitted.

The bill came to the Council and was debated on 12 June. I moved some 16 amendments on behalf of the National Party. The Honourable Philip Davis also moved amendments on behalf of the Liberal Party at that time. It was an interesting debate. At the end of the day some of the National Party amendments were accepted and supported by the Liberal Party, and the National Party supported some of the Liberal Party amendments. There was two-way interaction between the parties, and the government also made comments about some of the amendments that were put and in principle said it might be prepared to accept some and not others.

I point that out because it has been an interesting process. The interval between debate in the Legislative Assembly and debate in the Legislative Council provided an opportunity for everybody to sit back, have a look and reassess their views about the bill. The National Party followed through on its views of the bill, echoed them and had the opportunity to talk in detail about them in the Legislative Council debate. In fairness to Liberal Party members, they too reassessed their views about the bill during the passage of time between the debates in the Legislative Assembly and the Legislative Council. I believe that is how a house of review should work. It gives the Parliament of Victoria a second opportunity to look at an issue after hearing considered debate by members of the other chamber.

To those who go out and criticise and suggest that this Council does not operate as a true house of review, I suggest that this is a classic example where it has acted that way. After the amendments were moved here and accepted by this chamber the bill went back to the Legislative Assembly, and the government chewed over the amendments for the best part of six months until the bill was resurrected in the Legislative Assembly last week. Now it is back in the Legislative Council. To its credit, the government finally decided to accept some of the amendments as well. The government has undertaken a process of review during the interval in the debate between the two houses to reassess its views about some of the matters contained in the bill.

Tonight we have a collection of amendments before us, some of which have been accepted by the government. Certainly the National Party did not get all its amendments up, and nor did the Liberal Party. However, at the end of the day we have a fairly reasonable position agreed to by the three parties in the Victorian Parliament — the Labor Party, the Liberal Party and the National Party. As a house of review I say this is a classic example where a bill has really been improved because of the role the upper house played. I urge the Constitution Commission of Victoria to examine the history of this bill and to look at the role the Legislative Council has played in its development.

I want to comment very quickly on the changes that have been accepted by the Legislative Assembly. The National Party thanks the government for accepting its views about restricting the ambit of the Victorian Environmental Assessment Council to public land. The National Party has been steadfast in its view that this particular council should only consider environmental issues in relation to public land. It believes we have a catchment management council and local catchment authorities that can best assess the environmental needs of private land. We do not need to duplicate that role. That is why the National Party has been strong and steadfast in its view that the Victorian Environmental Assessment Council should restrict itself to consideration of matters only on public land.

Public land management is an increasing challenge for this government. No government in the history of Victoria has found public land management an easy issue to deal with. The traditional methods of land management have to some extent failed us in this state. We need look no further than the *State of the Parks* report published by the government to prove that public land management is not what we would all hope it to be. Therefore, we need to start thinking a little bit more creatively in this Parliament about how we correctly and properly manage our public land to bring about the best environmental and use outcomes for public land. The National Party is very pleased, and it thanks the government for accepting its amendment on the issue of public land versus private land.

The National Party was disappointed that some of the other amendments moved by it were not accepted by the government, but so be it. The National Party realises that if everybody gives a bit and takes a bit we will get a better outcome, and so we have. The National Party is pleased that some of the amendments to the composition of the Victorian Environmental Assessment Council have been accepted. These amendments were moved by the Liberal Party, and the National Party supported them at the time. It is pleased that the government has accepted those recommendations in part.

In the end I think we have a better bill before us now than we did six months ago because of the very important work all parties did and the role the Legislative Council played in reviewing and refining this bill by suggesting amendments to the Legislative Assembly. The National Party is pleased to accept the form in which the bill has been presented to the house tonight.

Hon. PHILIP DAVIS (Gippsland) — I would firstly like to acknowledge the contribution just made by the Honourable Peter Hall. He used the Victorian Environmental Assessment Council Bill to succinctly set out the basis upon which this chamber is relevant in the legislative process. It is a fact that the legislation we have before us — a bill to create a new resource and environmental assessment body to be known as the Victorian Environmental Assessment Council which will displace the Environment Conservation Council, the successor body to the Land Conservation Council — is much improved from that which the Parliament first sighted some six months ago. The reason for that is the government tried to bring in legislation which was well beyond its policy platform. It tried to introduce into the Parliament a bill to extend the function of an environmental assessment council well beyond public land to incorporate private land.

As we have seen, it is difficult enough to deal with the challenges of finding a balance in such things as timber resources and the allocation of forest to reserves for conservation or sustainable timber resource. That is but one of the issues which inevitably comes around in the environment debate. We constantly see a revisitation of the allocation of public land to a conservation purpose. Were that to be extended to private land, debates such as the one we had earlier today about water and the use of water on private land would be much more complex. It is difficult enough for the Parliament to resolve these issues in the high spirits and goodwill it brings to these debates. To have a body intruding on private land with the powers proposed to be given to the Victorian Environmental Assessment Council would have created a huge level of consternation among the farming community. That was expressed to parliamentarians by representatives of the Victorian Farmers Federation and others in May of this year.

Clearly it is the case that we want to see a body which can function to give advice to government in a way that produces satisfactory outcomes. We know how difficult that is. There has been a consideration of recommendations in relation to marine parks as a result

of the inquiries by the former Land Conservation Council and its successor body, the Environment Conservation Council. Those recommendations finally formed a legislative package earlier this year. The recommendations in themselves were so concerning to stakeholders that it was not possible to get agreement between stakeholders and the government about progressing them, to the extent that the government withdrew the bill because it found that the bill and the lack of compensation arrangements were unsatisfactory.

It is clear that for the future of the management of our public resources there must be confidence in such a body as the Victorian Environmental Assessment Council. I think there will be more confidence because there have been some modest improvements to the operation of the organisation — for example, there will be a requisite notice in relation to vacancies and the appointment of councillors. Notice will be required of references being given to the council for investigation so representative organisations and individuals will be able to see those public notices and comment on them.

Of course, notices will be required to be given in relation to the impacts of any review on a certain group of stakeholders — for example, in proximity to a particular area of public land in the state of Victoria where there is a particular investigation there will be a requirement for public notices to be posted in that area. Importantly, classes of licensees and leaseholders will now as of right be required to have all due effort made to notify them of any investigations which potentially affect their rights as licensees and leaseholders. Those are significant improvements.

While it will not be in any sense frustrating the passage of this bill further, the opposition is disappointed that the government did not adhere to its own policy commitment to appoint representatives to its council. I must pay due recognition to the Public Land Council of Victoria (PLCV), Ian Hamilton, and the executive officer, Tim Barker.

Hon. E. G. Stoney — Good men.

Hon. PHILIP DAVIS — They are both good men. The PLCV represents the Australian Deer Association, the Prospectors and Miners Association, Timber Communities Australia, the Victorian Apiarists Association, the Victorian Chamber of Mines, the Mountain Cattlemen's Association of Victoria, Seafood Industry Victoria, the Victorian Association of Four-Wheel Drive Clubs, the Victorian Association of Forest Industries and the Victorian Farmers Federation. As the peak body dealing with matters affecting public land the PLCV is a strong advocate of the need for stakeholders, both resource users and recreational users, as well as environmentalists to be involved directly in matters to do with resource assessment.

It was pleased that the government had a policy commitment on this matter at the last election, particularly given the argument that had been put so strongly by the honourable member for Bundoora, now the Minister for Environment and Conservation, at the time of the introduction of the Environment Conservation Council legislation in 1997, when the minister made a significant point of the fact that appointees to the ECC were ministerial appointments only, and then made a commitment that there would be a different approach by any incoming Labor government and that there would be representation.

It is the case that the government and the minister have abandoned that pledge. That has left some stakeholders disappointed; it has certainly left the Public Land Council of Victoria and its constituent organisations very disappointed. But some ground has been gained, because provision has been made for a widening of the appointment to advisory committees. I think this is frankly a sop, but it is the best the government can do.

On balance, taken as a whole the bill has improved, but only because of the bicameral system of parliamentary democracy we have in this state. Clearly the bill the government intended to ram through the Assembly would not have satisfied the government's obligations to the community. In particular it would have been a breach of trust in relation to dealing with private land in this state.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Foster Plastics Industries

Hon. BILL FORWOOD (Templestowe) — I wish to raise an issue with the Minister for Industrial Relations. Yesterday I became aware of an industrial dispute at Foster Plastics Industries in Glenroy. I was told that the original cause of this dispute was that a worker in the factory threatened other workers that they would be bashed if they worked overtime on Saturday. As a result of that, the manager of the factory dismissed the person in question. Since that time, over a month

ago, the dispute has escalated. Now there is a picket line, and the dispute has evolved into an enterprise bargaining agreement (EBA) dispute as well as an occupational health and safety dispute. This morning at 6.30 I visited the factory and went in and spoke to the owner.

Hon. T. C. Theophanous — What time?

Hon. BILL FORWOOD — At 6.30 this morning. The picket line was there at 6.30, and I was entitled to be there too. I met the manager of the factory, Mr Glen Brachen. Can I say that in my view he is a genuine, straightforward person trying to do a job. I have here a letter he has written to the commission. I would like to read a few paragraphs. It says:

> They are crippling this business and are achieving this by intimidating, obstructing, spitting, frightening, both verbally and physically, to persons and property not only upon ourselves who are coming to work but those of us who are at home and are too scared to come to work.
>
> We are being victimised by the people on the picket line and the union —

reps —

> of the Australian Workers Union. I cannot sit across the table, let alone negotiate with these people. They are now making spurious accusations on me, my personnel and the manner in which this business is being run.

He says further:

> Under my leadership and guidance over the last 17 years this company has grown from a mere 10 employees to nearly 100. But now I do not wish to continue to run the business at this current level because what my employees, family, mother, extended family and friends have had to endure over the last two months is unimaginable and perpetrated by the union —

reps —

> and by a small group of employees who have been with us between one to six years. They are hell-bent on destroying this company. All of our employees have been paid —

over the award, and he goes into some details. He says further:

> We are a successful business and 30 years of hard work is being shattered, along with the employment security and the flow-on benefits our manufacturing operations bring to the … community.

The PRESIDENT — Order! Put the question.

Hon. BILL FORWOOD — This is an awful case. I ask the minister to speak to her friends in the union movement to see if they can fix up this issue.

Latrobe: governance

Hon. P. R. HALL (Gippsland) — I wish to raise a matter with the Minister for Energy and Resources, representing the Minister for Local Government in another place. I raise the issue of concern on behalf of my constituent Brenda Hickson. Brenda is the president of the Association of Ratepayers and Residents of Latrobe City, which uses the acronym ARROLC. The association has had some ongoing concerns with the good governance of Latrobe by the current elected council and has sought to raise these matters in a responsible way with the Minister for Local Government.

On 13 November Mrs Hickson sought the assistance of the honourable member for Narracan, part of whose electorate lies within the Latrobe City Council area. She was advised by the honourable member for Narracan that if she sent him an email detailing the association's concerns he would ensure that those concerns were put before the Minister for Local Government.
Mrs Hickson sent that email to the honourable member for Narracan and sent a copy to the Minister for Local Government outlining some of the concerns. She has written to me, saying:

> I know from my electronic receipts that both MPs opened the email sent on 14 November.

She has also informed me that:

> Neither of them have either acknowledged or responded to —

the association's email. We are two weeks down the track and there has been no acknowledgment of, let alone a response to, the email sent on 14 November. I would have thought it would be a matter of common courtesy, particularly if the local member had promised some action on this matter, that at least an acknowledgment be forwarded on. It has not been.

I ask the minister urgently to provide a response to the association and explain what action he is now prepared to take, given it seems that the council is not prepared to participate in the mediation process that was previously suggested by the minister.

Bellarine Secondary College

Hon. E. C. CARBINES (Geelong) — I raise a matter with the Minister for Sport and Recreation as the representative of the Minister for Education in the other place. The Ocean Grove campus of the Bellarine Secondary College consists entirely of relocatable or portable buildings. It houses the year 7 and year 8 students of the school, but the year 9 to year 12 students attend the Drysdale campus. The Ocean Grove campus

is important to the Bellarine Secondary College community, which sees it as integral to the school.

During the Kennett years the Ocean Grove community became very concerned that the Kennett government planned to close the Ocean Grove campus and consolidate the whole school at the Drysdale site. In recognition of the support for the Ocean Grove campus by the Bellarine Secondary College and Ocean Grove communities, the Bracks government gave an election commitment to replace the current relocatables with permanent facilities. Accordingly, I ask what action the minister is taking to fulfil this well-supported election commitment in my electorate.

Women: media portrayal

Hon. M. T. LUCKINS (Waverley) — I raise a matter for the Minister for Small Business representing the Minister for Women's Affairs in another place. In the lead-up to the 1999 election the ALP said that if elected it would examine the portrayal of women in the media. In a press release dated 22 March 2000, following concern about a billboard ad campaign by Windsor Smith Shoes, the minister announced that the Office of Women's Policy will be commencing a project to consider the media's portrayal of women and will be examining the issue of regulation of the advertising industry, including the possibility of the state government regulating advertising on billboards.

The issue was then dropped into the now-familiar Bracks government abyss for a year, until 8 March this year, when the minister finally announced the commencement of a project with a steering committee chaired by the honourable member for Essendon in another place. The discussion paper was released in June this year. It quotes the minister as saying:

> I have asked the committee to provide me with advice and recommendations by 30 September 2001.

Given that the government could not manage to release *Growing Victoria Together* until six weeks after the second anniversary it was supposed to commemorate, did the minister receive the report from the steering committee on 30 September as she requested and, if so, why has she not publicly released the advice and the recommendations on this important issue two months later?

Boating: licences

Hon. B. W. BISHOP (North Western) — As the Minister for Ports is aware, I have written to her about the important issue of licensing recreational boat operators. The National Party is committed to avoiding the anomaly that will occur on Monday, 3 December 2001, when Victoria will require operator licences for all vessels that are motor driven. This particularly includes vessels which travel under 10 knots and which are not required to be licensed in New South Wales. So the new Victorian licensing provisions will catch every roof-rack tinnie operator, scores of yacht owners, casual duck shooters, bay and inland fishermen and youngsters learning about boat craft.

We reluctantly supported the amendment to the Marine Act last year on the minister's advice that New South Wales would follow Victoria and unless we agreed we would find ourselves creating an anomaly. We have now learnt that New South Wales has no intention of licensing boat operators who travel at less than 10 knots so we have been misled and we are not very happy about that at all. We have huge support from organisations such as the Boating Industry Association, which opposes the licensing of roof-rack tinnies and wants it changed.

There are also hundreds of boat operators just finding out about these ridiculous rules for operators of boats that travel under 10 knots, and there is a huge groundswell about to engulf the government. I implore the minister to suspend any licensing arrangements for those boat operators who travel under 10 knots and to adopt the sensible and practical New South Wales rules that cater for everyone, including volunteer operators of rescue boats such as our State Emergency Service. The National Party's plea is that the minister removes this ridiculous anomaly between New South Wales and Victoria to avoid the confusion the anomaly will create and to give a fair go to those families and pensioners who may only use their tinnies a few times a year.

Electricity: tariffs

Hon. D. G. HADDEN (Ballarat) — I refer the Minister for Energy and Resources to Victoria's privatised electricity companies foreshadowing substantial average price rises to come into effect when the domestic retail electricity market moves to full competition next January. The proposed price rises sought by the five companies for standard domestic off-peak customers range from 12.7 per cent to 22.3 per cent. However, the requested increase in off-peak rates for water storage heating tariffs is 16 per cent for AGL, 40 per cent for Citipower, 77 per cent for Origin, 48 per cent for Pulse and 109 per cent for TXU. These represent an increase in off-peak power in excess of 10 times the average consumer price index and would have a detrimental impact on rural households and small businesses, especially in my electorate. Will the minister advise what action she is taking on this matter.

Roads: Frankston

Hon. B. C. BOARDMAN (Chelsea) — I raise a serious issue with the Minister for Transport in the other place through the Minister for Energy and Resources. The Frankston municipality, in fact the whole region that covers division 1, region 5, in the police district, has one of the highest road fatality rates anywhere in the state. There have been 18 road fatalities in the Frankston municipality this year and 35 in the district, which is totally unacceptable but more importantly is a statistic that should never have happened in the first place.

A number of factors have obviously contributed to this horrendous statistic, including speeding; lack of motor skills of certain drivers, particularly young drivers; lack of enforcement, particularly speed camera enforcement which was endemic through the recent police pay dispute; and also the state of roads in the municipality of Frankston and surrounding areas, particularly the Mornington Peninsula Freeway, Cranbourne Road and the Moorooduc Highway, which becomes Moorooduc Road, all of which are through roads that unfortunately receive a fair share of attention. All those roads are due for a significant upgrade and require considerable emergency government funding to carry that out.

The tragedy in this situation is that for a number of years the Frankston municipality has constantly missed out on Vicroads funding. The government has not given a satisfactory explanation about why that has been the case, particularly when neighbouring municipalities such as the City of Kingston, the City of Casey and the Shire of Mornington Peninsula seem to receive a reasonable share of Vicroads funding to deal with road improvement issues. The City of Frankston unfortunately, and quite tragically through these terrible statistics, misses out.

I understand the mayor of the City of Frankston is meeting with the transport minister tomorrow. Although I welcome the mayor taking the initiative to meet with the minister, I want to place on the record a request to the minister to give serious consideration to ensuring the City of Frankston is not faced with the devastating prospect it has faced for a number of years by missing out on vital Vicroads funding. The City of Frankston's request to upgrade the roads I have mentioned should be treated with the dignity and the urgency that it deserves because — —

Hon. R. F. Smith interjected.

Hon. B. C. BOARDMAN — Mr Smith, if you would like to make a political situation out of these statistics then you go right ahead and place that firmly on the record because it is a serious issue that affects all people. If you want to gloat and play politics with 35 people who have died on the peninsula's roads then you go right ahead. I am doing this with the degree of sensitivity that it deserves and I am happy for you to be the buffoon you really are!

Hon. R. F. Smith interjected.

Hon. B. C. BOARDMAN — You idiot! Mr Smith, if you want to continue with that, we will go outside and settle it.

Hon. R. F. Smith interjected.

The PRESIDENT — Order! Mr Smith, I suggest you and your colleague just quietly — —

Hon. M. M. Gould interjected.

The PRESIDENT — Order! This is a two-handed thing, he and his colleague — —

Hon. M. M. Gould — On that side.

The PRESIDENT — Order! That is where my hand was pointing; what more does the honourable member want? If the Honourables Cameron Boardman and Bob Smith want to continue this argument they can do it outside. I suggest one goes out one door and the other goes out the other.

Snowy River

Hon. R. M. HALLAM (Western) — By way of relief I refer an issue to the Minister for Energy and Resources. Again I refer to the government's specific commitments regarding increased environmental flows in the Snowy River and in particular the government's reporting of the $40 million output initiative relating to the project in 2000–01. At least the minister is now on record as saying that the $40 million was an output initiative in name only because, as has now been confirmed, only $2.4 million of that was invested in the project that year.

Now we come to the next important question — that is, where the $2.4 million has been actually recorded in the budget documents. The last time I raised this was on Wednesday, 21 November, and the minister said that $1.6 million of the investment was actually included in the Treasurer's advance. When I invited the minister to report where that appeared, she offered this gem to the chamber, and I quote directly:

> I do not have the budget papers in front of me, Mr President —

I am not sure what you had to do with it, Mr President, but I leave that to one side —

> but the Treasurer's advance is clearly identified in the budget papers. The remaining amount, which is $800 000 —

I agree with that —

> is contained in the Department of Natural Resources and Environment Snowy River budget, which is also clearly identified in the budget papers that were published prior to this expenditure, which as the honourable member well knows is not recorded in the budget papers.

Hon. R. F. Smith — Make up your mind.

Hon. R. M. HALLAM — That interjection is appropriate, as I too am confused. My only consolation is that other honourable members would be confused, and I think the minister may also be confused. I am at a loss to understand why this open and accountable government finds it so difficult to report actual expenditure on the Snowy River project. After all, the minister can hardly say I have sneaked up on her with this issue.

I note the minister has no trouble whatsoever in reporting what she intends to spend on the Snowy River project. In fact, she is keen to report that commitment. She tells the house that the government intends to spend $243 million on the project over 10 years.

The PRESIDENT — Order! Will the honourable member put his question?

Hon. R. M. HALLAM — Why is it so easy to report commitment and so difficult to report actual expenditure? I will make my request simple: I want to know where the $2.4 million the minister assured the house was spent in 2000–01 is reported in the budget documents. I want to know the line item and the page number.

Trams: Knox City extension

Hon. B. N. ATKINSON (Koonung) — I direct an issue to the Minister for Energy and Resources for the Minister for Transport in another place. I am concerned about a promise made by the Labor Party in opposition, before it assumed government, to extend the tramline along Burwood Highway from Blackburn Road, East Burwood, to the Knox City shopping centre. The promise was made in the context of the election campaign and has been maintained on a number of occasions as an ongoing commitment of the Labor government. During a recent debate the Honourable Gavin Jennings said it was a commitment of the Labor government, and that has created a lot of interest among my constituents.

I am now informed that the government has started to back away from the extension of the tramline to Knox City and is negotiating with bus operators to establish increased bus services along Burwood Highway rather than extending the tramline. I ask if the Minister for Transport could inform me what work has been done by the government in patronage surveys and whether the government remains committed to the extension of the tramline as per its election promise.

Fruit bats: control

Hon. ANDREA COOTE (Monash) — I direct to the Minister for Energy and Resources for the attention of the Minister for Environment and Conservation in another place a matter concerning the government's bat relocation experiment. Given the urgency of the bat situation at the Royal Botanic Gardens and the time it has taken to make a decision on the fate of the bats I was very surprised to read an article in the *Stonnington Leader* of 19 November about the relocation plans. The article states that the Banyule City Council, the council with control over the area to which the bats will be relocated, said that the government needed to follow the proper planning procedures and apply to move the bats to the nominated site.

Cr Mulholland of the Banyule City Council said the council offered two options: one was to apply for a permit that requires 14 days consultation and the other was to apply to amend the planning scheme, which requires 30 days consultation. Cr Mulholland is quoted as having said the council preferred the planning scheme process, which could take as long as six months.

The article says that 200 grey-headed bats are to be relocated. If 200 bats are to be relocated and the minister has put aside $900 000, the total per bat relocation is $4500. Will the minister advise which option she is taking, and will she guarantee that this never-ending process will not be delayed for another six months?

Trams: Monash University service

Hon. ANDREW BRIDESON (Waverley) — I direct an issue to the Minister for Energy and Resources for the attention of the Minister for Transport in the other place. I raise this issue on behalf of Liz Turner and Rhea Dillon, representatives of the Monash Student Association in Clayton. They say that the student association cautiously welcomes the state and federal Australian Labor Party commitment to spend $110 million on public transport upgrades in Melbourne's outer east, specifically to extend the light

rail from Huntingdale railway station up North Road and across Wellington Road to Monash University.

The student association wants to know whether the commitment was just a hollow election promise and, given the outcome of the federal election, whether the Bracks government proposes to continue with the project.

Workcover: premiums

Hon. P. A. KATSAMBANIS (Monash) — I direct an issue to the Minister assisting the Minister for Workcover. During questions without notice in this house on 20 November I asked the minister whether she could:

> … 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.

The minister chose not to answer the question, but in her answer she handpassed it directly to the Minister for Workcover in the other place. That does not appear satisfactory from my perspective or the perspective of the public of Victoria, but that is the minister's prerogative and she chose to take that course of action. However, I utilised the opportunity of questions without notice for a reason: they are important and urgent questions relating to government administration that need to be answered very promptly so as to keep the public informed.

Yet one week later I have received no answer or even an acknowledgment from the Minister for Workcover that my question has been received, let alone been answered. I am not sure whether the Minister assisting the Minister for Workcover has yet fulfilled her commitment to pass the question on to the Minister for Workcover. Tonight I ask the minister when will I and the public of Victoria receive an answer from the Minister for Workcover to this important question.

GST: small business

Hon. C. A. FURLETTI (Templestowe) — I raise an issue with the Minister for Small Business. I refer to the minister's 33 references in questions without notice as at last week and numerous other references in her contributions in this house about the detrimental effect of the GST on small business in Victoria. I refer the minister to an article that appeared in the *Age* of 1 November under the heading 'Bankruptcies on rise again'. It refers to the annual report of Insolvency and Trustee Service Australia. In that report the executive director, Peter Lowe, states:

> There is no overt sign of a relationship between the GST and the number of bankruptcies.

Mr Lowe was reported to have said:

> … out of 13 000 bankruptcies in the first half of the financial year, fewer than 100 had cited a link to the GST.

Given that report, will the minister now acknowledge that she has been misleading the Victorian public or has been ignorant of the true sentiments of small business?

Commonwealth Games: construction unions

Hon. I. J. COVER (Geelong) — I refer the Minister for Sport and Recreation to the appropriation for the 2006 Commonwealth Games, which in recent days has received some coverage in the media. The concerns were articulated by the minister when he referred to a budget blow-out of more than double the anticipated budget when the games were awarded to Victoria during the term of the previous government.

A question was asked about this matter during question time today, and while I may have had some problems with my eyes my hearing is still intact. I am sure I heard the Honourable Glenyys Romanes ask the Minister for Industrial Relations about a meeting attended by the minister, the Minister for Sport and Recreation and representatives of building unions on 12 November. The minister said in response that it was a warm and fuzzy meeting. As luck would have it at the time I had a copy of the *Herald Sun*, which included an article headed 'Stoush looms over games' and with the subheading 'Building unions reject peace deal'. Honourable members heard one version from the minister about a warm and fuzzy meeting that would result in an industrial agreement to ensure the construction required to provide the facilities for the games, whereas the article refers to a stoush looming.

Hon. C. A. Furletti interjected.

Hon. I. J. COVER — Indeed, Mr Furletti, it may be a warm and fuzzy stoush. The report in the *Herald Sun* said that an early agreement for the Commonwealth Games had been rejected by the unions, which could jeopardise construction projects.

Hon. B. N. Atkinson interjected.

Hon. I. J. COVER — No, it may not have been, Mr Atkinson, but it was reported that union luminaries such as Brian Boyd, Dean Mighell and Martin Kingham were among the union representatives at the meeting. The *Herald Sun* article further reported that according to one source it was not exactly a pleasant conversation and the atmosphere was very tense. I seek

the advice of the minister as to who is correct, Mark Phillips and Felicity Dargan from the *Herald Sun* or Minister Gould?

Koo Wee Rup Regional Health Service

Hon. K. M. SMITH (South Eastern) — I raise with the Minister for Industrial Relations as the representative in this house of the Minister for Health an issue of great concern to me involving the Koo Wee Rup Regional Health Service. The hospital has just recently appointed a number of board members and the advertisement inviting people to apply for the positions referred to an honorary appointment for a period of three years. The members who were appointed were advised by the Minister for Health that they had been appointed again for a 12-month period. This is the third time the members of the board had been appointed for a 12-month period. In his letter the minister states:

> … at this time you will reflect upon the role of the board in setting the overall strategic directions of the hospital …

I wonder what the Minister for Health expects the board to do in 12 months when there is no tenure, because 12 months is not sufficient for them to give proper consideration to the structure of the hospital. What has the minister got planned for the hospital? Is it a forced amalgamation with the Gippsland or Southern hospitals? I want to know what underhanded tricks the minister is up to; he is obviously doing something. Because of the short tenure of appointment board members will not have the opportunity to look at the strategic direction of the board and may well be in the position of not being able to put together a proper strategic plan. It may mean the hospital misses out on its accreditation in the coming year. I do not think it is fair to board members or the people of Koo Wee Rup who rely on this facility to deliver a health service. I ask the minister to be fair dinkum and ask the Minister for Health to provide a reasonable answer and to appoint board members for three years and not 12 months. It is not good enough.

Freeza program

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Youth Affairs. Again I raise the important issue of the Freeza program which operates for young people in Victoria to provide drug and alcohol-free entertainment. Like many Freeza providers in the community, I was confused over the sources and level of funding applicable to this important program. That is why I was pleased to read in the Public Accounts and Estimates Committee 43rd report on the 2001–02 budget estimates something which I believe threw some light on it. I refer honourable members to page 233 of the report which states:

> During 2000–01, the Freeza program received $2 million through the Office for Youth. In respect of the 2001–02 year, funding of $1 million will be provided from the Community Support Fund for the period July to December 2001. The minister indicated to the committee that, for the balance of the 2001–02 year to June 2002, the program would be funded from within the Office for Youth.

My assumption when I read this was that last year the program received $2 million, but to the end of December this year it has received $1 million, with the remainder of the funding coming from the Office for Youth. I ask the minister whether the level of funding will be $1 million or is he seeking to defund the Freeza program by stealth.

Bayside: Black Rock covenant

Hon. C. A. STRONG (Higinbotham) — I direct to the attention of the Minister for Energy and Resources, as the representative in this house of the Minister for Local Government, a planning issue concerning St Andrews Court, Black Rock, which was an early 1980s subdivision known locally as the Semco estate. The subdivision was designed to be an environmentally sympathetic natural development in keeping with the local Black Rock vegetation and environment. Each block required a 4.5 metre vegetation strip between the building line and the property boundary. It required and had specific plantings to match the local vegetation both in proportion and in variety.

To ensure the ongoing conformity of this development with these special conditions in a period before normal planning conditions mandated these things, each lot holder entered a covenant with the local council to ensure the conditions were followed — that is, the setback, the vegetation, and so on. There was a covenant between the property owner and the council, which stood in the place of the normal planning scheme. One would expect the local council to enforce those covenants as one would expect the local council to enforce the local planning scheme.

One of my constituents, Mrs Betty McCallum of 18 St Andrews Court, Black Rock, informs me that over many years the council has failed to properly enforce these covenant conditions. Will the minister investigate the failure of Bayside City Council to enforce the covenant conditions, which is akin to the failure to enforce planning conditions, and direct the council to act appropriately.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Bill Forwood raised with me a matter concerning an industrial dispute at Fosters Plastics Industries. Firstly, I would like to remind the honourable member that Victoria is the only state in the country that does not have its own state industrial relations system. That is because the opposition refused to pass the Fair Employment Bill, so we have a conflict-based Workplace Relations Act that allows people — —

Hon. Bill Forwood interjected.

Hon. M. M. GOULD — The honourable member comes in here and talks about an industrial dispute — —

Honourable members interjecting.

The PRESIDENT — Order! The matter has been put to the Leader of the Government by the Leader of the Opposition. The Leader of the Government is responding — let us hear her answer.

Hon. M. M. GOULD — We have a conflict-based Workplace Relations Act that allows people to take protected action. As the honourable member said, an enterprise bargaining agreement process was taking place and occupational health and safety and a number of other issues were raised. With respect to this particular issue I am happy to have my officers get in touch with both the company and the union concerned. I offer the services of my officers to assist in resolving this dispute so the company can get back to operating in a productive manner.

Hon. Bill Forwood — And advise the house as a result?

Hon. M. M. GOULD — Yes, I am happy to do that when the issue is resolved.

An honourable member interjected.

Hon. M. M. GOULD — I am very generous. I know opposition members have difficulty understanding industrial relations, but I am more than happy to advise them of that.

The Honourable Peter Katsambanis asked when the Minister for Workcover would respond to a matter he raised earlier. I cannot answer that, but I can say that I raised the matter with the minister and he will respond to the honourable member.

The Honourable Ken Smith raised a matter for the Minister for Health. I will pass the matter on to the minister and ask him to respond in the usual manner.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the — —

Honourable members interjecting.

The PRESIDENT — Order! The minister is responding to questions that have been put to her.

Hon. C. C. BROAD — The Honourable Peter Hall requested that the Minister for Local Government respond to communications concerning matters regarding Latrobe City Council. I will refer that request to the minister.

In response to the Honourable Barry Bishop, I do not accept the assertion that anyone was misled at the time the government passed legislation through the Parliament without opposition from either the opposition or the National Party. I have prepared a detailed response to the matters raised by the honourable member which I will provide to him tomorrow. It sets out the reasons for the government intending to proceed with licensing on 3 December and why the government believes the proposals for hire and drive vessels are significantly different from those applying to privately registered recreational powered vessels.

In response to the Honourable Dianne Hadden, I can indicate that the government has asked the Office of the Regulator-General to assess all electricity prices proposed for households and businesses in 2002, and the report will be available to the government in December. At that time the government will consider whether the prices proposed for 2002, including the prices proposed for off-peak services, are justified on the basis of the Regulator-General's report.

The Honourable Cameron Boardman requested that the Minister for Transport give consideration to improved funding for road safety in the City of Frankston. I will refer that request to the minister.

The Honourable Roger Hallam again raised the matter of increased environmental flows to the Snowy River. I indicate again in response to the honourable member that I believe I have provided him on a number of occasions with the information he has sought. I also indicate that the budget at the time that it is prepared does not record actual expenditures but records allocations.

The Honourable Bruce Atkinson requested from the Minister for Transport information regarding the progress of patronage surveys in relation to a tramline extension. I will refer that request to the minister.

The Honourable Andrea Coote requested the Minister for Environment and Conservation to advise of progress in relation to bats and the City of Banyule. I will refer that request to the minister.

In response to the Honourable Andrew Brideson's request to the Minister for Transport in relation to the extension of light rail, I will refer that request to the minister.

The Honourable Chris Strong requested that the Minister for Local Government investigate the enforcement of covenanted conditions by Bayside City Council in relation to a development in Black Rock. I will refer that request to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Maree Luckins raised a matter for the Minister for Women's Affairs concerning the portrayal of women in advertising and a report with recommendations that was requested to be delivered to the minister on 30 September. She asked whether the minister had received the report and about the timing and release of the recommendations contained in that report. I will pass that matter on to the minister for her direct response.

The Honourable Carlo Furletti raised the matter of GST, specifically an article in the *Age* about bankruptcy which cites GST as the reason for bankruptcies. He also asked whether I stand by the comments I made in this place and in other places about GST and its effect on small business.

I stand by everything I have said about the GST and how it has affected small business. Not only that, throughout the last 12 months many accounting firms, accountancy organisations, small business organisations and small businesses themselves cited the difficulties they were having with the GST. Even the Honourable Ian Macfarlane conceded that the GST caused pain to small business. I believe I am keeping the company of a number of people who say that the implementation of the GST caused a great deal of pain to small business.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Elaine Carbines asked about the Ocean Grove campus of the Bellarine Secondary College, the issue of portable classrooms and the government's commitment. I will refer that matter to the Minister for Education in the other place.

In answer to the Honourable Ian Cover regarding preparations for the Commonwealth Games and associated budget issues, I note that the article he made reference to mentions the word 'stoush'. I confirm that the article was incorrect and that the description made by the Minister for Small Business was entirely accurate. 'Stoush' is an interesting word. We do not get to hear it very often and I look forward to the next time it is written in the *Herald Sun*. No doubt the next time it uses the word 'stoush' it will be a reference to the stoush in the parliamentary Liberal Party over its leadership.

The Honourable Andrew Olexander asked about Freeza-related issues and comments made in the Public Accounts and Estimates Committee report. As I have mentioned previously in this house, the Freeza funding has been extended until the end of June next year. That has been achieved through the use of rollover funds and efficiency savings within the program and within the department.

Motion agreed to.

House adjourned 10.46 p.m.