PARLIAMENT OF VICTORIA

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-FOURTH PARLIAMENT

## FIRST SESSION

**30 October 2001**

**(extract from Book 6)**

**Internet: www.parliament.vic.gov.au/downloadhansard**

**By authority of the Victorian Government Printer**

## The Governor

JOHN LANDY, AC, MBE

## The Lieutenant-Governor

Lady SOUTHEY, AM

## The Ministry

| | |
|---|---|
| Premier and Minister for Multicultural Affairs | The Hon. S. P. Bracks, MP |
| Deputy Premier, Minister for Health and Minister for Planning | The Hon. J. W. Thwaites, MP |
| Minister for Industrial Relations and Minister assisting the Minister for Workcover | The Hon. M. M. Gould, MLC |
| Minister for Transport | The Hon. P. Batchelor, MP |
| Minister for Energy and Resources, Minister for Ports and Minister assisting the Minister for State and Regional Development | The Hon. C. C. Broad, MLC |
| Minister for State and Regional Development and Treasurer | The Hon. J. M. Brumby, MP |
| Minister for Local Government, Minister for Workcover and Minister assisting the Minister for Transport regarding Roads | The Hon. R. G. Cameron, MP |
| Minister for Community Services | The Hon. C. M. Campbell, MP |
| Minister for Education and Minister for the Arts | The Hon. M. E. Delahunty, MP |
| Minister for Environment and Conservation and Minister for Women's Affairs | The Hon. S. M. Garbutt, MP |
| Minister for Police and Emergency Services and Minister for Corrections | The Hon. A. Haermeyer, MP |
| Minister for Agriculture and Minister for Aboriginal Affairs | The Hon. K. G. Hamilton, MP |
| Attorney-General, Minister for Manufacturing Industry and Minister for Racing | The Hon. R. J. Hulls, MP |
| Minister for Post Compulsory Education, Training and Employment and Minister for Finance | The Hon. L. J. Kosky, MP |
| Minister for Sport and Recreation, Minister for Youth Affairs and Minister assisting the Minister for Planning | The Hon. J. M. Madden, MLC |
| Minister for Gaming, Minister for Major Projects and Tourism and Minister assisting the Premier on Multicultural Affairs | The Hon. J. Pandazopoulos, MP |
| Minister for Housing, Minister for Aged Care and Minister assisting the Minister for Health | The Hon. B. J. Pike, MP |
| Minister for Small Business and Minister for Consumer Affairs | The Hon. M. R. Thomson, MLC |
| Parliamentary Secretary of the Cabinet | The Hon. G. W. Jennings |

## Legislative Council Committees

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**Privileges Committee** — The Honourables W. R. Baxter, D. McL. Davis, C. A. Furletti, M. M. Gould and G. W. Jennings.

**Standing Orders Committee** — The Honourables the President, G. B. Ashman, B. W. Bishop, G. W. Jennings, Jenny Mikakos, G. D. Romanes and K. M. Smith.

## Joint Committees

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**Environment and Natural Resources Committee** — (*Council*): The Honourables R. F. Smith and E. G. Stoney. (*Assembly*): Mr Delahunty, Ms Duncan, Mrs Fyffe, Ms Lindell and Mr Seitz.

**Family and Community Development Committee** — (*Council*): The Honourables E. J. Powell, G. D. Romanes and J. W. G. Ross. (*Assembly*): Mr Hardman, Mr Lim, Mr Nardella and Mrs Peulich.

**House Committee** — (*Council*): The Honourables the President (*ex officio*), G. B. Ashman, R. A. Best, J. M. McQuilten, Jenny Mikakos and R. F. Smith. (*Assembly*): Mr Speaker (*ex officio*), Ms Beattie, Mr Kilgour, Ms McCall, Mr Rowe, Mr Savage and Mr Stensholt.

**Law Reform Committee** — (*Council*): The Honourables R. H. Bowden, D. G. Hadden and P. A. Katsambanis. (*Assembly*): Mr Languiller, Ms McCall, Mr Stensholt and Mr Thompson.

**Library Committee** — (*Council*): The Honourables the President, E. C. Carbines, M. T. Luckins, E. J. Powell and C. A. Strong. (*Assembly*): Mr Speaker, Ms Duncan, Mr Languiller, Mrs Peulich and Mr Seitz.

**Printing Committee** — (*Council*): The Honourables the President, Andrea Coote, Kaye Darveniza and E. J. Powell. (*Assembly*): Mr Speaker, Ms Gillett, Mr Nardella and Mr Richardson.

**Public Accounts and Estimates Committee** — (*Council*): The Honourables D. McL. Davis, R. M. Hallam, G. K. Rich-Phillips and T. C. Theophanous. (*Assembly*): Ms Barker, Mr Clark, Ms Davies, Mr Holding, Mr Loney and Mrs Maddigan.

**Road Safety Committee** — (*Council*): The Honourables Andrew Brideson and E. C. Carbines. (*Assembly*): Mr Kilgour, Mr Langdon, Mr Plowman, Mr Spry and Mr Trezise.

**Scrutiny of Acts and Regulations Committee** — (*Council*): The Honourables M. A. Birrell, Jenny Mikakos, O. P. Olexander and C. A. Strong. (*Assembly*): Ms Beattie, Mr Carli, Ms Gillett, Mr Maclellan and Mr Robinson.

## Heads of Parliamentary Departments

*Assembly* — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

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

*Hansard* — Chief Reporter: Ms C. J. Williams

*Library* — Librarian: Mr B. J. Davidson

*Parliamentary Services* — Manager: Mr M. L. Bromley

## MEMBERS OF THE LEGISLATIVE COUNCIL

## FIFTY-FOURTH PARLIAMENT — FIRST SESSION

**President:** The Hon. B. A. CHAMBERLAIN

**Deputy President and Chairman of Committees:** The Hon. B. W. BISHOP

**Temporary Chairmen of Committees:** The Honourables G. B. Ashman, R. A. Best, Kaye Darveniza, D. G. Hadden, P. R. Hall, Jenny Mikakos, R. F. Smith, E. G. Stoney and C. A. Strong

**Leader of the Government:**
The Hon. M. M. GOULD

**Deputy Leader of the Government:**
The Hon. G. W. JENNINGS

**Leader of the Opposition:**
The Hon. BILL FORWOOD from 13 September 2001
The Hon. M. A. BIRRELL to 13 September 2001

**Deputy Leader of the Opposition:**
The Hon. C. A. FURLETTI from 13 September 2001
The Hon. BILL FORWOOD to 13 September 2001

**Leader of the National Party:**
The Hon. P. R. HALL from 20 March 2001
The Hon. R. M. HALLAM to 20 March 2001

**Deputy Leader of the National Party:**
The Hon. E. J. POWELL from 20 March 2001
The Hon. P. R. HALL to 20 March 2001

| Member | Province | Party | Member | Province | Party |
|---|---|---|---|---|---|
| Ashman, Hon. Gerald Barry | Koonung | LP | Hall, Hon. Peter Ronald | Gippsland | NP |
| Atkinson, Hon. Bruce Norman | Koonung | LP | Hallam, Hon. Roger Murray | Western | NP |
| Baxter, Hon. William Robert | North Eastern | NP | Jennings, Hon. Gavin Wayne | Melbourne | ALP |
| Best, Hon. Ronald Alexander | North Western | NP | Katsambanis, Hon. Peter Argyris | Monash | LP |
| Birrell, Hon. Mark Alexander | East Yarra | LP | Lucas, Hon. Neil Bedford, PSM | Eumemmerring | LP |
| Bishop, Hon. Barry Wilfred | North Western | NP | Luckins, Hon. Maree Therese | Waverley | LP |
| Boardman, Hon. Blair Cameron | Chelsea | LP | McQuilten, Hon. John Martin | Ballarat | ALP |
| Bowden, Hon. Ronald Henry | South Eastern | LP | Madden, Hon. Justin Mark | Doutta Galla | ALP |
| Brideson, Hon. Andrew Ronald | Waverley | LP | Mikakos, Hon. Jenny | Jika Jika | ALP |
| Broad, Hon. Candy Celeste | Melbourne North | ALP | Nguyen, Hon. Sang Minh | Melbourne West | ALP |
| Carbines, Hon. Elaine Cafferty | Geelong | ALP | Olexander, Hon. Andrew Phillip | Silvan | LP |
| Chamberlain, Hon. Bruce Anthony | Western | LP | Powell, Hon. Elizabeth Jeanette | North Eastern | NP |
| Coote, Hon. Andrea | Monash | LP | Rich-Phillips, Hon. Gordon Kenneth | Eumemmerring | LP |
| Cover, Hon. Ian James | Geelong | LP | Romanes, Hon. Glenyys Dorothy | Melbourne | ALP |
| Craige, Hon. Geoffrey Ronald | Central Highlands | LP | Ross, Hon. John William Gamaliel | Higinbotham | LP |
| Darveniza, Hon. Kaye | Melbourne West | ALP | Smith, Hon. Kenneth Maurice | South Eastern | LP |
| Davis, Hon. David McLean | East Yarra | LP | Smith, Hon. Robert Fredrick | Chelsea | ALP |
| Davis, Hon. Philip Rivers | Gippsland | LP | Smith, Hon. Wendy Irene | Silvan | LP |
| Forwood, Hon. Bill | Templestowe | LP | Stoney, Hon. Eadley Graeme | Central Highlands | LP |
| Furletti, Hon. Carlo Angelo | Templestowe | LP | Strong, Hon. Christopher Arthur | Higinbotham | LP |
| Gould, Hon. Monica Mary | Doutta Galla | ALP | Theophanous, Hon. Theo Charles | Jika Jika | ALP |
| Hadden, Hon. Dianne Gladys | Ballarat | ALP | Thomson, Hon. Marsha Rose | Melbourne North | ALP |

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## TUESDAY, 30 OCTOBER 2001

# Tuesday, 30 October 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:**

**23 October**

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

**30 October**

**Gene Technology Act**

## QUESTIONS WITHOUT NOTICE

### Freeza program

**Hon. A. P. OLEXANDER** (Silvan) — The Minister for Youth Affairs will be aware that currently allocated Freeza program funding will be exhausted by the end of December this year as a result of a state budget funding shortfall of $1 million. This has led to considerable uncertainty surrounding the Freeza program and has sent future event planning into chaos. Will the minister ensure that no Freeza program event scheduled for the first quarter of next year will be cancelled as a result of the shortage of funding?

**Hon. J. M. MADDEN** (Minister for Youth Affairs) — I thank the honourable member for his question. I have often said in this house how significant I think the Freeza program is, and I endorse that tremendous program. I have written to the Freeza providers in recent days and the Office for Youth has communicated to those providers that program funding will be extended through the first half of the next financial year. I am alleviating any fears that had been created by the mischievousness of the opposition in relation to the funding of the Freeza program.

### Industrial relations: government policy

**Hon. JENNY MIKAKOS** (Jika Jika) — Will the Minister for Industrial Relations inform the house of any recent involvement she has had with the Industrial Relations Society of Victoria?

**Hon. M. M. GOULD** (Minister for Industrial Relations) — I thank the honourable member for her question. I am pleased to advise the house that last Friday I was the keynote speaker at the annual convention of the Industrial Relations Society of Victoria.

The fact that the convention was held at the zoo was a carryover from the previous government's view on industrial relations. The Kennett government for many years left Victoria's industrial relations parties to rely on the law of the jungle!

**Hon. Bill Forwood** — Tell them I was there!

**Hon. M. M. GOULD** — I am getting there, Mr Forwood. I am also pleased that the Bracks government is committed to seeing an end to the days of the law of the jungle with respect to industrial relations. Unlike the previous government and the current federal government, we believe there are two key principles that are critical to having a fair and effective industrial relations system.

The first key principle is that we have to look after those who are most disadvantaged, which means providing fair minimum conditions for all Victorians, and one safety net of standards rather than the current discriminatory dual system.

The second key principle is the cooperative partnership approach. The Bracks government absolutely rejects the conflict-based approach of the Howard government's Workplace Relations Act.

Our main challenge, as I explained to the convention — the Honourable Bill Forwood will know this as he was there — is to turn around the many years of damage wrought on the state by the industrial relations arrangements that were put in place by the previous government. The opposition prevented the passage of the Fair Employment Bill, and as a result we are seeking changes to the federal laws. I am sure that our chances of getting a positive response will improve when following 10 November there is a Beazley government in Canberra.

In addition, as I have previously advised the house, we have made a commitment to start to restore information services to this state in a new initiative that is currently being set up within Industrial Relations Victoria. We are also working to reverse the conflict and division left from seven years of Kennett cuts and conflict. Through

the effective organisations and business development units of Industrial Relations Victoria we are focusing on the positive aspects of industrial relations to assist existing Victorian workplaces as well as encourage new investment.

As I said in concluding my address last Friday to the Industrial Relations Society of Victoria, we are committed to these principles to ensure that we grow the whole state in a way that is fair and just.

## Victorian Young Farmers

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — Given that the Office for Youth was involved in talks with the Victorian Young Farmers before the government decided to defund it, what will the Minister for Youth Affairs do to ensure that this action does not cause the demise of the organisation and the vital role it plays in Victorian rural areas?

**Hon. J. M. MADDEN** (Minister for Youth Affairs) — I thank the honourable member for his question. I have met with quite a number of members of the young farmers federation on a number of occasions and I understand that at this point in time they are concerned about the funding arrangements they have and have had over some time with the Department of Natural Resources and Environment. The honourable member will also appreciate that the comments made in the public domain about that funding were that this government was considering program funding and not ongoing funding of an executive officer. In that light the government is still considering how best to assist the young farmers federation in its program development.

## Youth: Federation forum

**Hon. KAYE DARVENIZA** (Melbourne West) — The Minister for Youth Affairs recently described how the Bracks government was listening to young people and encouraging democracy through the support of the YMCA Youth Parliament. Will the minister inform the house of other initiatives he is supporting where the voice of young people can be heard?

**Hon. J. M. MADDEN** (Minister for Youth Affairs) — I thank the honourable member for her question. A few members of this house would no doubt be aware that last week I was able to take part in and sponsor the centenary of Federation youth forum held at Parliament House. Some members opposite were there as well as a number of other members from both chambers of Parliament.

I note that the Chandler Secondary College led 140 young people from across the state in this forum, which took place within the chambers of Parliament, in discussing their vision for the future over the next 25, 50 and 100 years.

**Hon. N. B. Lucas** — You were 20 minutes late!

**Hon. J. M. MADDEN** — I hear the interjection of the Honourable Neil Lucas. If the honourable member had been there early enough he would have appreciated that I was there at the beginning of the day. He was there for only part of the day.

The topics included health, welfare and drug and alcohol issues, education, employment, early school leaving, transport, entertainment, youth services and youth image issues. The presentations were viewed by a number of parliamentary members who were in attendance and conclusions were then formulated. No doubt they will be reported to us and distributed among the members of this chamber.

I especially wish to acknowledge a number of other people who were involved. The federal member for Holt, Anthony Byrne, MP, was in attendance. I am feeling very optimistic for the young people of Australia following the launch of the federal opposition's youth policy last week. I look forward to its forming government because then this government will have an appropriate relationship with the national government. I look forward also to being able to develop positive partnerships with a federal Labor government in the area of youth in future.

I will acknowledge a number of people for their support and hard work in developing this forum. Members of this house would no doubt appreciate the outstanding work done by Mr Dave Glazebrook, who is chairperson of the Southern Metropolitan Regional Youth Committee and who also runs Visy Cares Centre in Dandenong. Honourable members will no doubt appreciate his outstanding and continued contribution to young people.

I also thank Miss Debbie Thomas and the vocational education and training students from Chandler Secondary College, who did an outstanding job in organising the day, and the regional youth committee members, who organised young people from across Victoria. I also again thank the staff of Parliament House for assisting in making the day run smoothly, as they did and as they always do.

## Fishing: inland review

**Hon. P. R. HALL** (Gippsland) — On 19 October the Minister for Energy and Resources announced a review of inland commercial fishing. Will the minister provide the house with the terms of reference for that review and details on how the review is to be conducted?

**Hon. C. C. BROAD** (Minister for Energy and Resources) — I do not have that information in front of me, but I am willing to provide information about the review. I have indicated in the announcements I have made on the review that there will be consultation with affected licence-holders. Essentially the objective the government is pursuing is to ensure that the small number of remaining commercial inland fisheries licences are targeted to species like carp and to ensure sustainable levels of fishing of other species, particularly in the interests of recreational fishers in our inland fisheries.

Given that the existing arrangements have been in place for a long time and that the number of people wishing to fish and access our inland waterways has increased dramatically, in the government's view it is time to have another look at these arrangements and to ensure they are sustainable into the future. As I said, it will be done in consultation with affected commercial licence-holders — only a small number of them remain — and I am happy to provide the details to the honourable member.

## Port of Geelong: rail access

**Hon. E. C. CARBINES** (Geelong) — Will the Minister for Ports inform the house what progress the Bracks government has made in delivering on its commitment in Labor's regional policy for Geelong to improve rail access to the port of Geelong?

**Hon. C. C. BROAD** (Minister for Ports) — I thank the honourable member for her question. A number of honourable members from both sides of the house have expressed an interest in this important initiative by the Bracks government.

I am pleased to advise the house that works have already commenced that will convert rail access to the bulk grain pier at the port of Geelong from broad gauge to dual gauge. The conversion of the grain loop, as it is known, at a cost of $3.8 million is in line with the government's $96 million plan to standardise rail gauges across Victoria, and the provision of standard gauge rail access to other facilities at the port of Geelong, which is in addition to standardising the grain loop.

The Bracks government has contributed some $1.8 million from the Regional Infrastructure Development Fund to the Geelong grain loop project, and along with other rail standardisation projects it will remove barriers affecting efficiency of rail transport and increase competition between grain handling terminals and rail freight transport service providers. The project will also improve market access.

This project is expected to save grain growers some $500 000 each year and will encourage the transport of grain from the Tatyoon, Mininera and Westmere regions by rail instead of road. The Victorian Farmers Federation has suggested that improved market access from these regions will encourage western Victorian farmers to add value to the state's gross domestic product by increasing the intensity of farming. According to the VFF the area has the potential to diversify into other crops and to become a major high-quality oilseed producer.

There is an expectation that there will be regional investment in grain handling and selling facilities as the industry further develops. This grain loop project is a partnership involving not only the Bracks government but also the Australian Rail Track Corporation and Graincorp. These three partners are sharing resources, skills and knowledge to ensure the success of this pioneering venture. This project is a further demonstration of the Bracks government investing in infrastructure, creating high-quality jobs and delivering benefits to all Victorians.

## Melbourne Cricket Ground: new stand

**Hon. I. J. COVER** (Geelong) — In the committee stage of the Commonwealth Games Arrangements Bill debate in this place on 11 October the Minister for Sport and Recreation stated that the government would guarantee the total cost of the Melbourne Cricket Ground redevelopment project. In light of indications that at least one other government minister wishes to cap the guarantee, does the minister stand by the answer he gave to the committee?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I am happy to stand by those comments made about the Melbourne Cricket Ground stand. If any changes come to light in relation to any of that information I will be happy to relay that information to members of the opposition.

## Wine: boutique industry

**Hon. D. G. HADDEN** (Ballarat) — As the Minister for Small Business is aware, there are a number of small vineyards in my electorate of Ballarat Province. Can the minister inform the house whether on her recent regional visits any issues have been raised with respect to small vineyards?

**Hon. M. R. THOMSON** (Minister for Small Business) — I thank the honourable member for her question. Honourable members will be aware that Victoria has a vibrant and successful boutique winery industry. However, some issues have been raised about those small wineries, the first of which relates to the 15 per cent cellar door wine sales subsidy.

On 1 September the Treasurer announced an extension of that subsidy to wineries that ferment product off site. Some small wineries have their wines fermented elsewhere to reduce costs and avoid the expense of having such a facility at their vineyards. Because of the conditions in place to access the 15 per cent cellar door wine cellar subsidy, those vineyards were not eligible. The Treasurer's announcement that they will now have access has been welcomed by small wineries.

However, small wineries are still concerned about the burden of the wine equalisation tax (WET). While on the one hand they were pleased about the decision of the Treasurer and the Bracks government on the cellar door sale subsidy, unfortunately on the other hand they felt disadvantaged because of the WET. It is pleasing that the federal opposition has announced that small vineyards will be exempt from the WET on the first 50 000 litres of wine produced. That will be of great benefit to the small wineries that produce less than that amount per annum. It is unfortunate that the federal government has not seen fit to extend that to the small wineries. The WET will benefit 50 per cent of Victorian wineries because we do have a large boutique winery industry — one that is good for tourism and exports and one that we want to see grow and be maintained.

## Tourism: public liability insurance

**Hon. E. G. STONEY** (Central Highlands) — I direct my question to the Minister for Small Business. The Victorian Tour Operators Association reports that 33 tour operations have already closed in Victoria as a direct result of the insurance crisis. Mr Chris Dunlop, a spokesman for another group of operators, believes that most operators will probably close within 12 months. Obviously the fallout from these closures will have catastrophic effects on many Victorian small businesses. What is the minister's plan to prevent flow-on damage to other small business if the adventure tour industry collapses?

**Hon. M. R. THOMSON** (Minister for Small Business) — I thank the honourable member for his question. In relation to the adventure tourism operators and concerns about public liability, honourable members will be aware that a summit was held, with the Honourable Lynne Kosky, the Minister for Finance in another place, and me in attendance. We are looking to progress some of the discussions arising out of that meeting. On 9 November we will meet with business organisations and the Insurance Council of Australia to talk about options available, particularly to adventure tourism as one outlet. The Victorian Tour Operators Association (VTOA) is working — —

**Hon. E. G. Stoney** — On a point of order, Mr President, my question did not relate to insurance or adventure tour operators; it related to the flow-on effects to other small businesses. I asked the minister what she is doing to prevent the flow-on effects of that industry to other small businesses — not insurance and not tour operators.

**The PRESIDENT** — Order! The preamble made reference to those other issues, so the minister is allowed to respond to those. No doubt she will now respond to the specific question raised.

**Hon. M. R. THOMSON** — We are keen to see adventure tourism continue in Victoria, because there is a place for adventure tourism in Victoria. VTOA is working hard to arrange pooling insurance arrangements so that the industry will continue and grow. Therefore, as minister, I see my job at this point as ensuring we have a vibrant adventure tourism industry in Victoria, and that is what we are working towards.

**Hon. E. G. Stoney** — On a point of order, Mr President, my question still has not been answered. My question was about flow-on effects to other small business and not about the tour operators or insurance.

**The PRESIDENT** — Order! The minister is still answering the question. She made reference earlier to a meeting that will take place on 9 November. I am not sure how that ties in with the question. Does the minister want to finish?

**Hon. M. R. THOMSON** — I have finished, Mr President.

**The PRESIDENT** — Order! The answer was responsive to the question, although not specifically in the way the honourable member wanted.

### Water safety: government initiatives

**Hon. G. D. ROMANES** (Melbourne) — I understand that last week the Minister for Sport and Recreation released the 2000–01 'Victorian drowning summary'. Will the minister inform the house what actions will be undertaken to further reduce drownings in this state?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — Last week I launched the 2000–01 'Victorian drowning summary' and the 'Aquatic and recreational signage manual'. While any drowning is a tragedy, I am pleased to report that the total number of drownings in Victoria in the last financial year was 10 fewer than the previous year, reducing the number of people who drowned from 55 to 45. I understand this is the lowest number of drownings since records began early in the 20th century.

The greatest achievement that year is that no toddlers in the 0–5 category lost their lives in home swimming pools or spas, which compares to 10 in the previous year. However, I sadly must report the drowning of one toddler this year in that situation. This reduction in drownings, particularly in this demographic, can be attributed to the combined efforts of the state's aquatic safety and recreation agencies, the swimming pool and spa safety working committee and the Victorian government's ongoing commitment to water safety under the Play it Safe by the Water campaign. The key message of the toddler drowning strategy is 'Never take your eyes off', and I believe that has been very effective in previous years.

Certainly the message is getting through and having an impact on people's behaviour. The statistical breakdown is also interesting in that six people drowned while boating or fishing, which is less than the number of recorded drownings in the previous year. Also, 14 people drowned in bay and ocean locations, which is a slight decrease from the number in the previous year.

The report shows the trend is, unfortunately, for males to continue to be more likely to be involved in drownings, particularly males within the 20–29 years age group. Males aged 20 to 29 are at greatest risk, and males constitute 84.5 per cent of all drownings. Another concern is for the number of people who drowned in inland waterways. Last year 22 people drowned, which was an increase of four on the figures of the previous year.

I hope that the aquatic and recreational signage manual which I have launched will assist to prevent inland drownings. That picture-based manual with associated CD-ROM provides a valuable information guide in siting of standard water safety signs on Victoria's coastlines and inland waterways. The manual was a cooperative effort under the direction of Surf Life Saving Victoria, supported by the Victorian government and the water safety signage steering committee. That committee, with assistance from the Victorian branch of the Royal Life Saving Society, will develop a new inland waterway trial project to be funded through the Safer and Improved Aquatic Recreation program.

I take this opportunity to commend the aquatic safety and education organisations across Victoria for their dedication and hard work in making Victoria a safer place to enjoy all forms of aquatic recreation. As summer approaches I remind all Victorians, including all honourable members, of the key safety messages of the Play it Safe by the Water campaign, and I ask honourable members to promote the campaign within their electorate offices. The four messages are: swim between the flags; never take your eyes off; check it is okay to swim; and the one I particularly reinforce, life jackets save lives.

## QUESTIONS ON NOTICE

### Answers

**Hon. M. M. GOULD** (Minister for Industrial Relations) — I have answers to the following questions on notice: 1956–7, 2044, 2071–9, 2080–1, 2083, 2085–9, 2092, 2095–7, 2101, 2103–9, 2171–9, 2192, 2194, 2196, 2213–14, 2216, 2219–20, 2223, 2225–9, 2238, 2240, 2242, 2245, 2253–60, 2268, 2270–5, 2296–8, 2300, 2325, 2375 and 2376.

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 12

**Hon. A. P. OLEXANDER (Silvan) presented *Alert Digest* No. 12 of 2001, together with appendices.**

**Laid on table.**

**Ordered to be printed.**

# PAPERS

**Laid on table by Clerk:**

Agriculture Victoria Services Pty Ltd — Report, 2000–01.

Bendigo Health Care Group — Report, 2000–01.

Broiler Industry Development Committee — Minister for Agriculture's report of 19 October 2001 of receipt of the 2000–01 report.

Budget Sector — Financial Report, 2000–01, incorporating Quarterly Financial Report No. 4.

Casino and Gaming Authority — Report, 2000–01.

City West Water Limited — Report, 2000–01.

Corangamite Catchment Management Authority — Report, 2000–01.

Chief Electrical Inspector's Office — Report, 2000–01.

Electoral Commission — Report, 2000–01.

Emergency Services Superannuation Scheme — Report, 2000–01.

Environment Conservation Council — Report, 2000–01.

Environment Protection Authority — Report, 2000–01.

Gas Safety Office — Report, 2000–01.

Gascor Pty Ltd — Report, 2000–01.

Goulburn Broken Catchment Management Authority — Report, 2000–01.

Kerang and District Hospital — Report, 2000–01 (two papers).

Legal Practitioners' Liability Committee — Report, 2000–01.

Maldon Hospital — Report, 2000–01.

Mallee Catchment Management Authority — Report, 2000–01.

Mallee Track Health and Community Service — Report, 2000–01.

Maryborough District Health Service — Report, 2000–01

Melbourne Market Authority — Report, 2000–01.

Mt Alexander Hospital — Report, 2000–01.

Osteopaths Registration Board — Minister for Health's report of 26 October 2001 of receipt of the 2000–01 report.

Parks Victoria — Report, 2000–01.

Parliamentary Contributory Superannuation Fund — Report, 2000–01.

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

Cardinia Planning Scheme — Amendment C2.

Casey Planning Scheme — Amendment C37.

Darebin Planning Scheme — Amendment C33.

East Gippsland Planning Scheme — Amendment C9.

Horsham Planning Scheme — Amendment C6.

Latrobe Planning Scheme — Amendment C13.

Moreland Planning Scheme — Amendment C7.

South Gippsland Planning Scheme — Amendment C2.

Whitehorse Planning Scheme — Amendment C37.

Whittlesea Planning Scheme — Amendment C14.

Police Appeals Board — Report, 2000–01.

Port Phillip Catchment and Land Protection Board — Report, 2000–01.

Queen Victoria Women's Centre Trust — Report, 2000–01.

South East Water Limited — Report, 2000–01.

South Eastern Medical Complex Limited — Report, 2000–01

Stamps Act 1958 — Treasurer's report of 26 October 2001 of approved exemptions and partial exemptions and refunds made on corporate reconstructions for 2000–01.

State Electricity Commission — Report, 2000–01.

Statutory Rules under the following Acts of Parliament:

Cemeteries Act 1958 — No. 109.

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

Evidence Act 1958 — No. 105.

Magistrates' Court Act 1989 — No. 106.

Motor Car Traders Act 1986 — No. 107.

Pharmacists Act 1974 — No. 108.

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rule Nos 107 and 108.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 105, 106, 109 and 110.

Sustainable Energy Authority — Report, 2000–01.

Swan Hill District Hospital — Report, 2000–01.

Timboon and District Healthcare Service — Minister for Health's report of 26 October 2001 of receipt of the 2000–01 report.

Trust for Nature — Minister for Environment and Conservation's report of 18 October 2001 of receipt of the 2000–01 report.

Victorian Coastal Council — Report, 2000–01.

Victorian Funds Management Corporation — Report, 2000–01.

Victorian Government Purchasing Board — Report, 2000–01.

Victorian Managed Insurance Authority — Report, 2000–01.

Workcover Authority — Report, 2000–01.

Yarra Valley Water Limited — Report, 2000–01.

Zoological Parks and Gardens Board — Report, 2000–01.

## UNCLAIMED MONEYS AND SUPERANNUATION LEGISLATION (AMENDMENT) BILL

*Second reading*

**Debate resumed from 17 October; motion of Hon. M. M. GOULD (Minister for Industrial Relations).**

**Hon. D. McL. DAVIS** (East Yarra) — In making my contribution to the debate on the Unclaimed Moneys Superannuation Legislation (Amendment) Bill, I make the point that the opposition does not oppose the bill. Indeed, it flows largely from material that came before this house earlier in the year with the government's beneficiary choice program. It is worthwhile saying that the bill is in many senses welcome.

Although it is not large, it makes a number of significant changes of value. Firstly, it makes some changes to the beneficiary choice program to deal with difficulties that arose as that program was introduced. Because of some drafting and other errors, for which the government is responsible, a number of state government employees were not able to access the beneficiary choice program in the way that was intended. These people were under the Superannuation Act dating back to 1958 and not under the 1998 act that most people in the public sector were governed by. The drafting errors meant that 1100 people, we were informed at the briefing — and I thank the minister for the valuable briefing on this bill — were affected in that way.

The bill brings Victoria's unclaimed moneys legislation into conformity with the requirements of commonwealth legislation. I note it appears that Victoria is one of the last states to make these changes, which I believe are relatively uncontroversial.

Another purpose of the bill is to amend the definition of 'commonwealth-funded pensioner' to make it more robust and clearer. That change is also not opposed by the opposition.

The bill deals with perhaps $4 million of unclaimed moneys, but over a longer period it could involve much greater amounts. It is also worthwhile noting that the government has launched a number of programs, including web sites and so forth, to advertise these issues appropriately. That series of steps is a valuable community service and is welcome.

It is also worth putting on record the fact that when beneficiary choice came in the opposition did not oppose the principle and in many senses was pleased to see that program introduced. It not only allowed superannuation beneficiaries greater choice and options in how they handled their retirement entitlements but also was helpful in reducing the government's unfunded superannuation liabilities. That was in many senses a win-win arrangement that was very sensible indeed. I note also, going back to the period of the last government, that much of the preparatory work for the program was undertaken by the previous Minister for Finance and the then Treasurer who worked hard to put in place some of those provisions. It was this government that introduced the original bill. The opposition certainly did not oppose the changes and was quite supportive of them, in principle.

It is worth noting that a number of aspects of the beneficiary choice program appear to be less clear than the opposition would like. They are in particular the aspects of the program relating to financial counselling and giving people the option of having access to financial counsellors to assist them in making informed decisions about their options and choices. It is important that the counselling services provided are adequate and full and that they enable people to make decisions that are informed in every sense.

It is crucial that those sessions provided through public funds are not in any way able to be questioned. It is important that the service providers of that financial counselling are truly independent and have no financial interest in seeing a client return to them at some future point so that they gain some benefit or advantage through the counselling they have provided, even though that may be indirect. It is an important principle on which the house needs to be very clear, and I think there would be bipartisan agreement on the point. It is a matter that the government needs to be quite sure about

not only from the point of principle but also because in future the prospect of litigation may be opened up if a government-funded financial counsellor were to give any advice that was in any way able to be legally questioned. It would behove the government to ensure that that could not occur.

There is not a great deal more to say about the bill. I note that the amendments relating to beneficiary choice are retrospective. I note also the comments by the Scrutiny of Acts and Regulations Committee, which makes the point that the retrospective amendments are beneficial. That is absolutely correct. People are being offered a choice that was not available but was intended to be available through the first piece of legislation. In that respect we can have few quibbles despite it being a piece of legislation that alters entitlements in that particular way.

I put on the record the concerns about the operation of the beneficiary choice program. The government ought to get it right. Even beyond the legislation, the key point about retirement income issues is certainty and security to enable people to adequately plan and place their future retirement ideas. Unfortunately, the errors in the first legislation tended to create uncertainty. People who were offered the opportunity of taking up the beneficiary choice program were technically unable to do so, although it was intended they could accept it. It is important that this uncertainty and insecurity is not extended beyond what is necessary. I and many other members of this place have been spoken to by our constituents in our electorate offices about offers resulting from the beneficiary choice program, and you can only be concerned about people who may be vulnerable being unable to fathom their way through the legislation. In particular, people seeking financial advice can be more vulnerable, confused and uncertain.

As a general principle it is important to place on the record the need for the government to get these things right, and I refer to the detail as well as the principle, and to make extra efforts to ensure the removal of confusion and uncertainty so that public servants can expect that their planned retirement income arrangements are secure and are handled in a fair and reasonable way.

I reiterate that the opposition does not oppose the bill, which in large measure flows on from an earlier bill as well as tightening up federal–state arrangements, unclaimed moneys and definitional issues.

**Hon. R. M. HALLAM** (Western) — The National Party is happy to support the Unclaimed Moneys and Superannuation Legislation (Amendment) Bill. It does so on the basis that the bill, firstly, addresses some unintended consequences of recent changes to federal legislation; secondly, it retains Victoria's use of at least some unclaimed moneys pending their claim by a rightful owner; thirdly, it improves the prospect of those unclaimed moneys being claimed by the rightful owner; and fourthly, it ensures the right of commutation of members across the public sector superannuation schemes and that all superannuants will be entitled to identical provisions.

The first feature of the bill is that it is designed to change Victoria's Unclaimed Moneys Act to avoid a recent amendment to the federal legislation having an unintended consequence of requiring that the administrative responsibility for unclaimed superannuation moneys be transferred from the Department of Treasury and Finance to the Australian Taxation Office. That responsibility has been with the department, in particular the Registrar of Unclaimed Moneys, since 1997, when the legislation was enacted. Under those rules unclaimed moneys simply became part of consolidated revenue.

Under the rules, the state uses those funds pending a claim by the rightful owner so the yield on the funds becomes income in the name of the state. We are talking about a relatively small amount of unclaimed superannuation funds — the second-reading speech tells us we are talking about a figure of around $4 million per annum. As an aside, I mention that it is not likely to become much greater than that given that the subject of superannuation is unlikely to give rise to unclaimed moneys in the first place.

In addition we need to understand it may well be that we can discover the identity of the claimant long before the claimant is able to make a valid claim. There may be circumstances where the claimant is denied access to funds simply because the claim has not matured due to his or her age. In any event the bill is designed to ensure that the Department of Treasury and Finance or, more specifically, the Registrar of Unclaimed Moneys, retains responsibility for the administration of the funds rather than the funds being transferred to the Australian Taxation Office. It will mean Victoria gets the benefit of the use of those funds in the interim, and the National Party believes that is fair enough.

The second issue is that the bill requires that a superannuation provider in transferring unclaimed moneys is to quote the relevant tax file number when lodging those funds. That is an obvious advantage and improves the prospect of an eventual claim. Until now the authority to cite a tax file number has been restricted to the Australian Taxation Office or to the

superannuation funds themselves, so some basic questions are to be posed in respect to the changes in the bill. We are talking about the right of the individual to privacy, and there is a range of sensitivities involved. It is now clear that states did not enjoy the right of being able to demand or even accept, much less record or employ the tax file number of an individual for any purpose at all. On the other hand it should be recognised that the issue of privacy should not be so applicable or relevant when it is to do with the issue of unclaimed funds. I do not think the individual would be concerned if access to a tax file number means there is a greater prospect of the individual gaining access to funds which he or she did not know existed. In those circumstances I do not think one would describe it as a personal intrusion. The National Party believes the changes make good sense, and supports them.

The third change requires that the Minister for Finance remit to the Australian Taxation Office tax payable on unclaimed moneys held by the minister. Honourable member should note the tax becomes payable at the time at which it is transferred to a successful claimant. Currently the minister does not have the authority to deduct tax from those moneys, and in those circumstances it is left to the claimant to pay tax to the Australian Taxation Office. It raises all sorts of issues of security. The tax component is relatively easy to establish. Most of the taxable amount is identified at the point at which funds are transferred as unclaimed moneys to the registrar in the first place, so the actual calculation of tax is not a big deal.

Again I suggest that the change requiring the minister to deduct the tax and remit the funds to the Australian Taxation Office makes good sense. In this case what we are talking about is the right of the registrar to apply exactly the same rules as apply in any other circumstances where an employment termination payment is made. Again the National Party is happy to support the change.

Fourthly, the bill is designed to ensure that the rights of commutation recently introduced for members of the state's revised superannuation scheme are also extended to members of earlier schemes. The bill is a clarification of the application of what is now known as the beneficiary choice program. It is no secret that I am an enthusiastic supporter of that concept, and I note that it was initiated during my role as the responsible minister. It arises from the extent to which there is a variation to the entitlements of members across schemes within the public sector, and particularly the extent to which pension entitlements can be commuted to a lump sum.

The bottom line is that over the years in which these schemes have been developed entitlements have varied dramatically between them. In some cases there was no entitlement to commute any part of the pension, some enjoyed the opportunity to elect to commute 50 per cent and others were able to make an election that would have 100 per cent of their pension entitlement commuted to a lump sum. It seemed fair to us to standardise those provisions across the schemes, and more so to extend that offer not only for current members but for current pensioners — in other words, those who had been faced with that decision some time in the past — and that it was not such a big deal to go back to revisit those circumstances and make those pensioners an offer based upon their age and life expectancy. Therefore, the beneficiary choice program entitled not only current members to make a choice in respect of the commutation but was also extended to pensioners who would get a chance to reconsider their options under the superannuation entitlements.

The only hiccup was the question of the extent to which it constituted a cost shifting because it is clear that if a pensioner is entitled to convert his or her superannuation entitlement to a lump sum there is the prospect that that lump sum could be blown by that person and they could therefore have a second dip and go back on to some sort of commonwealth benefit. We recognised that to be a valid argument when it was debated at that time. However, it is the case that in the commonwealth structure superannuation members in those circumstances get the right to commute 100 per cent of their entitlement to a lump sum, and it was plain to us that the commonwealth would find it difficult to complain on that basis that this new scheme was some sort of cost shifting. We saw it simply as an issue of equity to the membership.

All of the public sector schemes under the beneficiary choice program were changed to allow each of the members and each of the pensioners the right to elect to commute 100 per cent of their pension to a lump sum, which to us seems very fair. That program has been running for some time, and many members and pensioners, after getting the best possible financial advice and having three months to decide in each case, have taken up their new rights. Many have decided to avail themselves of the new entitlement and others have decided against it, depending on their circumstances. That underscores more than anything else the appropriateness of the program itself, because although as was anticipated at the time some chose to take up the option of commutation and others chose not to it reinforced the importance of allowing individual

members to make an election based upon their personal circumstances.

It was always anticipated that the program would be available to members of all public sector schemes across the Victorian sector, but the drafting of the amendment that last year introduced that program left something of a question mark about members or pensioners of the very early schemes. When the revised superannuation scheme was introduced in 1988 the legislation which introduced that also repealed the earlier 1958 superannuation legislation, and hence it was presumed that all members and pensioners of the earlier schemes were catered for. It is not that clear today, because under the Interpretation of Legislation Act it seems the original rules may still apply, hence there is a question mark over whether members of those earlier schemes qualify as eligible pensioners under the beneficiary choice program, even though, I hasten to add, many of those members have exercised an option to commute some part of their pension and have therefore participated in the beneficiary choice program. That issue should be put beyond doubt.

In respect of what I have described as the 1958 scheme, for pensioners who exercised their option to commute some part of their entitlement the bill now clarifies their circumstances by backdating the application to 6 December, which is when the beneficiary choice program took effect and when the issue of 'eligible pensioner' was resolved. For the 1958 scheme members who have not yet retired the bill is effectively backdated to 1 July 2001, when the rules relating to the rights of commutation were changed effectively for all schemes as from that date forward. At first glance it seemed to me there was a gap between 6 December last year and 1 July this year, but that is not the case. I have been persuaded there is no problem because that period is covered by the election, and therefore any perception of a gap has been closed by the duration of the offer.

The bill confirms that the beneficiary choice program is available to every member of every scheme within the Victorian public sector stable, that the entitlements are common and that everyone who is a member or pensioner is entitled to exercise that option. Those who have taken up that option have done so in a way that is now confirmed to be valid. The bill ensures that the rights of commutation are standardised across the entire sector. That is what was intended in the first place, and it has now been now confirmed. It is on that basis that the National Party is happy to support the bill.

**Hon. JENNY MIKAKOS** (Jika Jika) — I rise to make a brief contribution in support of the Unclaimed Moneys and Superannuation Legislation (Amendment) Bill. In particular I note that it has tripartite support and that it is relatively straightforward in what it is seeking to do.

The bill has largely two purposes, one of which is to amend the Unclaimed Moneys Act 1962 as a result of changes to the commonwealth superannuation legislation and the other is to make amendments that are necessary as a result of some omissions that have become apparent since the introduction of the beneficiary choice program introduced by the government last year.

The largest number of clauses are found in part 2 of the bill and they relate to changes to the Unclaimed Moneys Act 1962, in particular to the substitution of a new part 4 to that act.

It is important to note by way of background to this bill, in particular to part 2, that the Registrar of Unclaimed Moneys has administered unclaimed superannuation benefits since 1997 and that in October 1999 the commonwealth introduced new legislation, the Superannuation (Unclaimed Money and Lost Members) Act 1999, to improve the effectiveness of reuniting people with their superannuation entitlements.

The commonwealth legislation consolidated the relevant parts of existing legislation that dealt with unclaimed superannuation and in particular introduced the ability of state governments to use tax file numbers in the unclaimed moneys registers which previously had not been the case. The commonwealth legislation also provided an ability for states to deduct any tax payable to the commonwealth from an unclaimed superannuation benefit payment.

The commonwealth scheme envisaged a transitional period of two years for states to change their own legislation; otherwise the unclaimed superannuation benefits would be required to be lodged with the Australian Taxation Office rather than going into the Victorian consolidated fund. As has already been indicated in the second-reading speech, that transitional period had the potential for Victorian taxpayers to lose an estimated $4 million per annum in unclaimed funds.

The Minister for Finance, the Honourable Lyn Kosky, is reported in an article published in yesterday's *Herald Sun* as saying that since the state government flagged its intention to change this legislation and since the publication of the existence of the unclaimed moneys register, there has been a huge increase in the level of interest in the issue and in the number of people having a look at the State Trustee's web site. Currently approximately $125 million is available in unclaimed

moneys comprising unclaimed lottery wins, superannuation payments and company dividends. The article states that:

> State Trustees has returned more than $10 million since August 1999.
>
> Last financial year, the government received just under $33 million in unclaimed money, including $10.7 million from companies and trusts, $10.3 million from Tattersalls, $8 million from Tabcorp and $4 million in superannuation.

Honourable members can see from that article that a considerable amount of money is being administered by the Registrar of Unclaimed Moneys and that a considerable amount of money will potentially be returned to Victorian citizens and taxpayers through the government's administration of this unclaimed moneys scheme and also through the passage of this legislation, which will improve the basis on which moneys — in particular superannuation entitlements — are returned to Victorian citizens.

Turning now to the changes envisaged under part 2 of the bill, as I said the passage of the commonwealth government's Superannuation (Unclaimed Money and Lost Members) Act 1999 has required the state government to act to ensure that Victorians do not lose the benefit of unclaimed superannuation entitlements. Clauses 3 and 4 of the bill make the necessary amendments to ensure that the Victorian government can continue to administer unclaimed superannuation moneys in this state.

As has already been said, the amendments to the Unclaimed Moneys Act 1962 provide for the Registrar of Unclaimed Moneys to maintain a register of unclaimed superannuation benefits paid by superannuation providers as defined under the bill to the registrar and require the superannuation providers to lodge statements with the registrar of all unclaimed superannuation benefits that might apply to their particular fund in each year.

The registrar is required to keep details as provided for in the clauses of the bill; in particular, the key change is a new requirement that tax file numbers will now be forwarded to the registrar by superannuation providers, authority for which has been given to the registrar by the corresponding commonwealth legislation. As the Honourable Roger Hallam indicated earlier, up until this time only the Australian Taxation Office and bodies such as superannuation fund providers have been authorised to require tax file number details. I am sure those details will be kept with the utmost care and in accordance also with the state government's recently passed privacy legislation.

In addition to the requirement for superannuation providers to lodge statements with the registrar and for the registrar to maintain tax file number information, the superannuation provider is required to pay to the registrar the amount equal to the sum of the unclaimed superannuation benefits as provided for in the statement to be lodged with the registrar.

A number of new provisions to be inserted in the unclaimed moneys legislation relate to the requirement and obligation of the Minister for Finance to pay an amount equal to the unclaimed superannuation benefit to a successful applicant. The applicant may be asked to provide a tax file number but is not obligated to do so. The bill, however, enables the minister to deduct an amount equal to any tax payable to the commonwealth before paying a successful applicant the amount of the unclaimed superannuation benefit. By this means the federal tax system will obviously not be subverted. That is an important provision, because while the government certainly does not want to be coercing taxpayers to provide to state bodies information they are required to provide to federal bodies such as the Australian Taxation Office, under that provision they will not be able to circumvent their requirement to pay federal income tax on those amounts.

The other purpose of the bill relates to a number of consequential amendments to the beneficiary choice program introduced by the Bracks government last year. In particular it is important to acknowledge that whilst the provisions of the bill are retrospective in nature the Scrutiny of Acts and Regulations Committee, of which I am a member, considered the bill and found that the retrospective amendments will be beneficial to persons with superannuation entitlements and are therefore regarded as acceptable in the present circumstances.

The amendments proposed in part 3 of the bill are largely definitional in nature and are designed to ensure that members of the State Superannuation Fund and other associated funds whose benefits are still governed by the Superannuation Act 1958, which I understand has subsequently been repealed, have the same commutation options as members of the State Superannuation Fund's revised scheme.

The amendments provide that pensioners and beneficiaries who have an entitlement under the 1958 act will have the same rights to seek a one-off and ongoing commutation of their entitlements in the same way as other members of the State Superannuation Fund were given under the Superannuation Acts (Beneficiary Choice) Act 2000, which was passed last year.

The amendments in the bill operate from the same date as corresponding amendments in the beneficiary choice program legislation. The legislation is intended therefore to put all current and former employees of the state government and its agencies on an equal footing.

As the Honourable Roger Hallam indicated, the Superannuation Act 1958 was repealed in 1988. However, the entitlements of pensioners and deferred beneficiaries under that legislation continue irrespective of the fact that it was repealed by section 14(2)(e) of the Interpretation of Legislation Act 1984. The proposed amendment seeks to ensure that those people caught under the old 1958 legislation have the same commutation rights for their entitlements as everybody else.

In addition, the other technical and definitional changes in part 3 of the bill relate to commonwealth-funded pensioners. It became apparent that one group of pensioners were not included in the beneficiary choice program — that is, pensioners who were partly funded by the commonwealth government's own superannuation system, in particular employees in the tertiary education sector.

The bill seeks to amend the definition of a commonwealth pensioner to ensure that following the changes to the tertiary education sector in recent years, in particular the amalgamations of various colleges under the administration of Victorian universities, employees of those institutions will now have the benefit of the beneficiary choice program. The bill seeks to do this by listing Victoria's universities in schedule 2 of both the State Superannuation Act 1988 and the State Employees Retirement Benefits Act 1979 to ensure that those pensioners and current and former employees have the flexibility that was offered to other state government agency employees under the beneficiary choice program.

While supporting the principle of the beneficiary choice program, the Honourable David Davis seemed to express some reservations about the operation of the scheme. It is important to note that the government has sought to ensure that any person seeking to obtain the benefit of commutation of their entitlements under the program has the best possible financial advice made available to them. For this reason — —

**Hon. D. McL. Davis** — Can you assure me that there is no self-interest in that advice?

**Hon. JENNY MIKAKOS** — I am coming to that, Mr Davis. It is for this reason that the government established a panel of financial advisers with coverage in Melbourne, across regional Victoria and in many interstate locations to ensure that people were provided with the best possible information for them to make informed decisions about their future financial position. I understand that those advisers are only paid to provide advice on whether or not a person should commute their entitlements. In their contract of engagement they are specifically not allowed to recommend particular products and any follow-up visit made by a person seeking to commute their entitlements must be made at the instigation of the client — the person seeking to commute their entitlement — not through the initiative of the financial adviser. Financial advisers are specifically not permitted to put these clients on their relevant mailing lists.

It is very clear that the government has sought to ensure there is no conflict of interest between the financial advisers providing this information to current and former state sector employees and that all the necessary safeguards that are required are contained in their contractual conditions of engagement.

With those words I reiterate my support for this legislation and I am very pleased that it has the support of all parties.

**Hon. R. H. BOWDEN** (South Eastern) — I rise to support this bill, which although not lengthy will further enhance opportunities for people who are required to be the beneficiaries of superannuation. The bill's specific aspects, clauses and provisions will assist many tens of thousands of people to improve their access to and traceability of benefits. It is a logical follow-on to the fundamental legislation, the Unclaimed Moneys Act 1962. Over a lengthy period of time both the commonwealth and the state have updated those pieces of legislation when required. This is a logical implementation of changes made in late 1999 by the commonwealth to assist the traceability and the security of certain information flows relating to tax file numbers — a subject I will come to.

Generally speaking, the thrust of one provision of the bill is to make sure that the state legislation complies with the 1999 commonwealth requirements so that Victoria can continue to use and productively apply the estimated $4 million per annum that is available in unclaimed superannuation entitlements to Victorians. The income from those unclaimed moneys is to be made available for productive application in the state. By passing this legislation that understanding between the state and the commonwealth can be implemented with security so that that logical and sensible provision can continue.

Another main provision of the bill is for superannuants under the 1958 act, and through the amendments we are discussing today, to be able to fully participate in the choice and the beneficiary choice commutation program that was discussed and brought to the attention of the house earlier this year. This will make sure that the oversight that was in place is corrected and the provisions of this bill make sure that the beneficiaries under the 1958 provisions are able to proceed with confidence and not lose any benefits they have.

I emphasise that, in one sense, it is a little disappointing that Victoria is possibly the last state to implement this. My understanding is that when the commonwealth legislation was brought in in late 1999 there was an expectation in those discussions that there would be a maximum time frame of two years. The commonwealth legislation was passed in October 1999, yet here we are late in 2001 passing the necessary Victorian legislation. In future I would like to see that the time lag is not so lengthy. Even though the bill contains appropriate retrospective provisions to protect the beneficiaries, two years is a long time for a bill to be processed when there is already a clear understanding between the state and the commonwealth.

The $4 million I have mentioned is the relevant sum per annum that is available and the general intention of the bill is to make sure that there is, to the best degree possible, the potential to reunite the true beneficiaries with those unclaimed moneys. It is a regime that is put in place with the positive intention to make sure that the genuine beneficiaries are able to be reunited with their benefits as much as possible.

In general terms I am never comfortable with the expanded use of tax file numbers. They were put in place by the commonwealth several years ago for a specific purpose. The tax file number is covered by appropriate legislation at state and federal levels to make sure it is confidential. A taxpayer should be entitled to believe that a tax file number is almost sacrosanct in its accessibility. While I do not object to the further use of tax file numbers — because such use is explained, logical and sensible and I do not have a great drama about it — I place on record that, in principle, we should be mindful of the original intent of the tax file number and that its purpose should not be continually expanded, even though it is for a very good purpose in this case. The use of tax file numbers will assist the tracking, tracing and application of the benefits to the true beneficiaries. On that basis it is a very good thing.

The second main provision that I have mentioned is to ensure that those superannuants who are covered by the Superannuation Act 1958 are not deprived of the beneficiary choice options and programs. Fundamentally there are three categories. The first will be for people who receive pensions today on the 1958 program, and who will have the opportunity to commute 50 or 100 per cent of their pensions to lump sums. The second will be for deferred members who are participating. They can make sure that, should they choose to take lump sums, that that applies to complying superannuation funds of their choice and that their entitlements are not lost.

The third category is for people who are current employees and will make certain they have access to the choice program so that their immediate lump sum on retirement is fully provided for and fully protected.

The bill clearly illustrates that the lump sum and choice programs are entirely voluntary. It is interesting to note that in the state superannuation programs across the board an estimated 54 000 people are involved in pensions, approximately 50 000 are in the deferred pensions category and 73 000 members of superannuation schemes are in the active employee or current employee category. Approximately 180 000 superannuants are involved at one stage or another through various schemes. The change affects and assists the operation of those funds and assists the beneficiaries. It is all about choice, and that the choice is clearly made and protected.

One good thing provided by the choice program has been the free government advice. I listened with great interest to the Leader of the Government's assurance that the methodology of applying that free advice was carefully thought through. I accept that is the case. I felt some disquiet prior to hearing the assurance of the methodology from and noting the confidence level of the Leader of the Government, but I am satisfied by that assurance. I accept that the arms-length relationship of the people who have been providing that assurance to the beneficiaries has been appropriate, proper and correct. It was pleasing to hear and has set my mind at rest.

In the consistent application and use of our taxation laws we have to make sure that wherever possible fair and correct collection and recording mechanisms are in place, and that we use the provision in the bill that requires the transmission by the Victorian minister under the appropriate claims process so that the commonwealth, through the Australian Taxation Office, receives the correct amount of taxation.

In conclusion, this is a worthwhile bill. It is positive and its intentions are clear. It is designed to assist

superannuation program participants. It will make certain, as well as the legislature can, that people who have legitimate rights to unclaimed moneys are able to rightfully gain access to their funds. To that extent I support the bill.

**Hon. S. M. NGUYEN** (Melbourne West) — I support the Unclaimed Moneys and Superannuation Legislation (Amendment) Bill. The bill has been introduced as a result of new commonwealth superannuation legislation that amends the Unclaimed Moneys Act 1962. The bill will give the state government the power to claim and control superannuation benefits.

It is important that the government play the important role of providing information services to the Victorian community. There are many billboards around Melbourne which explain to passing motorists that there may be unclaimed moneys belonging to them. The billboards contain the web site address encouraging people to search the Internet to find out what sorts of things they or their families may have missed out on. There may be some money there that people never thought belonged to them or to family members, especially from superannuation funds, because people forget about the things they are eligible for when they go from workplace to workplace. People who work, stop working for a few years and then come back to work seem to forget about these things.

I know that some of my constituents, especially those from non-English-speaking-background communities, do not know about the system and how to find out what money is there for them. This could be from superannuation, Tattersalls, trusts, Tabcorp — these are things people do not know. At some Tattersalls shops I have seen notices saying Tattersalls is looking for holders of winning tickets that have been sold by the shop because no-one has come to collect the prizes. People buy a ticket and then forget about it — they either lose the ticket or do not think they have the right numbers. Money is there for people to collect, but the problem is how they can find out about it.

The bill needs to be passed, because if it is not the state government will lose about $4 million a year to the commonwealth government. There have been many changes, especially to superannuation funds. Clauses 1 to 4 of the bill will ensure that the Victorian government continues to administer unclaimed superannuation funds. It is difficult for people who have a number of jobs to keep a record of which superannuation funds they belong to.

Clauses 5 to 7 amend the State Superannuation Act in respect of the State Superannuation Fund. The benefits under the fund are still governed by the Superannuation Act 1958 and its members will have the same commutation rights as revised scheme members. The amendments also allow for those members the one-off and ongoing commutation rights bestowed on other categories of State Superannuation Fund members by the Superannuation Acts (Beneficiary Choice) Act 2000.

The bill also contains identical amendments to those made to the definition of ‘commonwealth-funded pensioner’ in both the State Superannuation Act 1988 and the State Employees Retirement Benefits Act 1979. Those pensioners were not included in the beneficiary choice program. The commonwealth government was not willing to fund its share of any lump sums that would have become payable to them.

Also, the bill inserts provisions for tax file numbers to be quoted by superannuation providers in all lodgments of unclaimed moneys, so people will have to provide that information. This is to go with the new commonwealth legislation and provides a more efficient system of reuniting members of the public with their lost superannuation moneys. The government has proceeded carefully to make sure everything is correct; it is making sure everything is in order and done in the right way before people are allowed to collect moneys.

The bill also inserts provisions for the minister to deduct any tax payable to the commonwealth from an unclaimed superannuation benefit payment. So it is important to see members of the community receive the superannuation money that results from their many years of work. Many people miss out because of a lack of understanding of the taxation and accounting systems and a lack of knowledge about how to keep a record of their entitlements. This bill will help them to get their money back. The state government is very keen to provide the service to those people.

Also, when a member of their family passes away many widows or other family members do not know what that person has left for them. Obviously a lot of money is left in trust waiting to be collected by the right people. The government should concentrate on providing information to people with non-English-speaking backgrounds to make them aware of their entitlements and the services and information available to them, so they understand better and are able to approach the government to claim back any unclaimed moneys.

In conclusion, I support the bill which, if passed, will enable the Victorian government to use $4 million per year, rather than that money going to the federal government. It is appropriate for the government to use that money to provide services to the Victorian community.

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — As honourable members have heard, the bill before the house has two main purposes. The first is to amend the Unclaimed Moneys Act and the second is to amend the State Superannuation Act and the State Employees Retirement Benefits Act.

Part 2 of the bill addresses the changes to the Unclaimed Moneys Act. These amendments arise from the enactment of the commonwealth Superannuation (Unclaimed Money and Lost Members) Act 1999. This provision relates to sums of money held in superannuation accounts which have become separated from their owners. Under current law in Victoria these are transferred from the superannuation funds to the Registrar of Unclaimed Moneys. But in accordance with the commonwealth legislation, without this bill before the house, in future those moneys would be transferred to the Australian Taxation Office.

As honourable members heard from Mr Hallam, these moneys are in the order of $4 million, so it is worth the state of Victoria retaining use of that money pending its recovery by its rightful owners.

The bill will allow the money to continue to be transferred from the superannuation funds to the Registrar of Unclaimed Moneys. The other significant change relating to unclaimed moneys is that the bill will require superannuation providers, where they are able, to provide tax file numbers along with the details of unclaimed moneys; so the registrar will hold tax file numbers, which will enable the easier matching of unclaimed moneys with the rightful owners.

This is an important piece of legislation in the sense that increasingly people are having a number of jobs over their careers and invariably these jobs are with different firms or different government organisations, all of which will have very different superannuation providers. Perhaps it is a weakness of our superannuation system that people are tied to given superannuation providers depending on who their employers are. It is the case in this place that members of Parliament are tied to the Parliamentary Superannuation Scheme and public servants have their own schemes; and the private sector and different industries have their own schemes.

As you transfer from job to job you are required to transfer from superannuation scheme to superannuation scheme. With that transfer from job to job these amounts of money get lost because details are not transferred as people move to and from different schemes and employers. So if they change employers and are no longer contributing to a scheme they lose track of where their superannuation funds are held, and consequently the need for legislation such as this arises.

Perhaps a better way of dealing with the situation of unclaimed moneys would be to enable employees to select a superannuation scheme of their choice, and then participate in that scheme irrespective of which industry they are in or which employer they work for. In that way over the course of their work history, their various employers would contribute to a single scheme and the issue of unclaimed moneys resulting from transfer between jobs would no longer arise.

I might add that this is also particularly important now with young people working a number of casual and part-time jobs where they are over the threshold to require superannuation contributions but where they are jumping from job to job within very short periods and therefore not keeping track of the small amounts invested in various superannuation funds for them.

The only other comment I make in relation to this part of the bill — the Honourable David Davis touched on this — is that the commonwealth government provided a window of two years for the states to make the requisite changes to their legislation so that these unclaimed moneys could continue to be transferred to state revenue. It appears that the Victorian government elected to leave it to the very end of the two-year period before introducing these changes.

The other significant change is part 3 of the bill, which extends the beneficiary choice program to superannuants covered by the Superannuation Act 1958. Mr Hallam initiated this program in his former role as Minister for Finance, although it was implemented by the current government.

The program should be encouraged because it gives superannuants more control over their superannuation funds. The bill extends it to all people covered by state superannuation schemes. I understand that it was an oversight that the schemes that were covered by the Superannuation Act 1958, which was repealed in 1988, and continue to exist were not picked up in the initial legislation. I am pleased that the bill addresses that.

The issue of beneficiary choice is important. Both the state and commonwealth governments encourage the

idea that superannuation funds and amounts held in superannuation accounts are the property of the beneficiary yet, as members who invest in superannuation funds know, they have very limited control over the way that superannuation funds are invested and, depending on the trustee of their funds, as to how they receive the benefits of those superannuation funds. I am pleased that the scheme provides state superannuants with some flexibility in the choice of whether they have a pension or commuted lump sum. That is a step in the right direction, and encouragement should be given to further moves, both at the state level, where appropriate, and more particularly at commonwealth level, to give superannuants greater control over their superannuation funds and to recognise, as Ms Mikakos pointed out, that there need to be safeguards for superannuation funds so that they are not squandered but invested on behalf of superannuants and that those individuals should have the right to make choices about the funds.

In conclusion, the two major amendments made by the bill help improve the superannuation system: they improve the system of matching lost funds with their rightful owners and they improve the choices available to superannuants under state schemes. In that vein, the opposition does not oppose the bill.

**Motion agreed to.**

**Read second time.**

*Third reading*

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

That this bill be now read a third time.

In doing so, I thank honourable members on the other side for their support of the bill.

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ENFORCEMENT) (AMENDMENT) BILL

*Second reading*

**Debate resumed from 16 October; motion of Hon. M. R. THOMSON (Minister for Small Business).**

**Hon. C. A. FURLETTI** (Templestowe) — The Liberal opposition is pleased to support the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill 2001. The bill is not dissimilar to a bill that was before the house and was debated on the day it last sat. I refer to the Telecommunications (Interception) (State Provisions) (Amendment) Bill.

Again I begin my contribution by drawing the attention of the house to the somewhat lengthy waste of time of this house in the way that the government is presenting legislation for consideration. I have often said that what we need to do in this place is try to utilise as well as possible the time of members and the Parliament with a view to being as expeditious and efficient as possible. Again we have a situation which deserves comment because the telecommunications bill to which I referred as having been passed in this place on the last day of sitting was in effect a one-clause bill. In my contribution to the debate on that bill I indicated that it had three clauses: a purpose clause, a commencement clause, and one substantive clause. It related to the implementation of legislation at state level to accord with and reflect the changes which had been made to the appropriate corresponding commonwealth legislation.

This bill, which for purposes of brevity I will refer to as the classification bill, is a similar measure. If ever two bills could have been dealt with simultaneously in an omnibus bill to save the time of honourable members, these are clearly two bills where that could apply. It is clear from the legislative program of the government that there is no legislation and therefore members are put through the process of being required to debate all bills, no matter how long or short, even if they are one-clause bills, as has been the trend during this sitting of Parliament, just so the government gets the numbers on the board. Its attitude is: let's not worry about the quality; let's just get the numbers through.

Having said that, let me say that the opposition supports the classification bill. As has been indicated, it is an amendment to the principal legislation, the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995, which is the state

legislation which enforces the provisions of the commonwealth Classifications (Publications, Films and Computer Games) (Enforcement) Act 1995. This is, again, as with the telecommunications bill, a situation where the state and the commonwealth governments are required to cooperate and work hand in hand for the purposes of the classification of all sorts of publications and films and, most recently, computer games.

The classification of publications, films and computer games is in the hands of the commonwealth Classification Board. However, the classifications are implemented at state level on the same basis of classification through the state legislation, which is the 1995 act to which I referred. That agreement between the state and commonwealth governments provides for the state legislation to enforce the classifications as a party to an agreement between the states and territories relative to a cooperative censorship scheme which applies to the whole of Australia. The classifications are, of course, detailed in the national classification code.

The bill is based on a model bill drafted by the parliamentary counsel committee and is approved by all states. It is a bill that comes before the house to enable Victorian legislation to be coordinated due to changes to the commonwealth act, and all states and territories are expected to amend their legislation to accord with and because of the changes being made at the federal level.

As a result of that need clause 4 amends a number of definitions, and without putting on the record each of the definitions I point out that the manner in which the changes are made reinforces the purposes of the bill. For example, substitute definitions are provided for terms such as contentious material, exempt computer game and exempt film, and the amendment indicates they have the same meaning as the commonwealth act, thereby bringing them into line. That is one of the principal purposes of the bill.

However, the bill extends beyond simply making some definitional changes. Clause 9 inserts new sections 27A and 27B to provide for the sale or distribution of publications and the enforcement of certain requirements with respect to disclosure of consumer advice on publications, games and the like.

Clauses 13 and 15 insert new sections to allow the Classification Board to call in certain films for classification that were previously unclassified. Clause 15 inserts new sections 62A and 62B to allow for reclassification of products which for some reason had been given a classification no longer appropriate.

Clause 14 inserts a new subsection that provides for the classification of computer games. Clause 16 inserts new section 57A, which amends the principal act by creating a new offence with respect to transmission, publication or making available online of child pornography. It is a new offence in the sense that it requires knowledge as compared in terms of legality to the strict liability offence in the Crimes Act of possession of child pornography. So with the offence of knowingly transmitting, publishing or making available online child pornography there is the imposition of a maximum term of imprisonment of 10 years. I should point out that the opposition believes that to be a totally suitable penalty, given the pernicious nature of the offence to which it relates. The transmission or publication of child pornography is an unacceptable crime and one that the community will not and should not tolerate. It is appropriate that the penalty for the onforwarding, publishing or popularising in any way shape or form should be equivalent to the penalty for the actual production of child pornography. The government is to be commended for imposing that type of penalty in line with the primary crime of producing child pornography.

It should be noted that the strict liability for possession of child pornography remains in the Crimes Act with the maximum penalty of five years imprisonment.

The bill makes substantial amendments to the Crimes Act. Clause 20 inserts two new subsections. As I indicated, the current position is that the possession of child pornography per se with or without intent is an offence. Under a proposed new subsection (2) to section 68 law enforcement personnel and persons authorised in writing by the Chief Commissioner of Police and a class of person authorised in writing by the chief commissioner are permitted to print or otherwise make or produce child pornography in the exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this act or any other act or at common law.

I refer also to proposed subsection (2) of section 70 of the Crimes Act as it is relevant to this issue. It provides that a member or officer of a law enforcement agency or a person authorised in writing by the Chief Commissioner of Police or a person belonging to a class of persons authorised in writing by the chief commissioner assisting a member or officer can have in their possession child pornography, always in the exercise or performance of their duties. I have summarised that, but it means that because of the very nature of the technology as it is developing today, specialists and computer analysts are often called in to

assist the law enforcement agencies in the exercise of their powers and in detecting and apprehending those low-lifes who deal with and gather or produce and transmit child pornography.

The purpose of the amendment in the bill is to provide indemnity to those who possess such material in the course of exercising their powers — that is, members of the police force or law enforcement agencies and those engaged to assist those law enforcement agencies. So while the main thrust of the bill is to ensure censorship laws are enforced on a national and uniform basis, it reinforces the ability of law enforcement agencies and staff, whether sworn police members or civilians assisting them, to gather evidence from online users. The bill also increases penalties for those who disseminate that objectionable material, so its effect is to assist in the capture and conviction of those who trade in this pernicious enterprise, and on that basis the Liberal Party is pleased to support the bill and wishes it a speedy passage.

**Hon. E. C. CARBINES** (Geelong) — I am pleased to speak on the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill. As the Honourable Carlo Furletti alluded to in his contribution, it is sensible that the Australian states and territories cooperate with the federal government on matters concerning censorship in our country. Victoria is a party to the commonwealth, states and territories agreement of 1995, which provides a legislative scheme for censorship in Australia. This scheme is important because it provides uniformity. Part of the scheme involves the classification of films, publications and computer games. As a parent of young children and as a former secondary school teacher, I consider it is important to have such a system in place in our country to guide parents and educators about the suitability of publications, films and computer games for children and young teenagers.

Like many parents, I monitor the programs that my children watch, and I am guided by the classification accorded to them by the commonwealth Classification Board. When my children were very young they would happily sit and watch G-rated movies and videos, the most innocuous of all the movies and videos on show. The family has many happy memories of watching films and videos such as the Walt Disney movies over and over again. I think our family favourite was the *Wizard of Oz*. As my children have grown older — they are now 10 and 12 years of age — it is difficult to restrict their viewing to G-rated movies, videos and programs. They are not so happy now with the choices on offer. While Disney does not seem as appealing as it did a few years ago, movies classified PG and M seem much more appealing to my 10 and 12-year-olds.

Parents must be careful and weigh up the content of movies, videos and programs before deciding whether their children should watch them. I am fortunate that my children are still young enough to accept our decision. I am sure as they grow older peer group pressure will play a greater part in what they decide to watch, and we may not have as big an influence over their viewing habits. It is difficult to monitor what your children watch when they are at other children's places because other parents may not have the same values as you. I always appreciate parents taking the trouble to check before they screen a video or take my children to see a movie, but unfortunately that does not happen often.

As a secondary school teacher it is normal procedure when you wish to show a film or video to junior students to seek parental permission for any with other than a G rating. I can remember when I was a year 7 coordinator at a secondary school in the late 1980s wanting to screen a movie for an end of year treat for my year 7 students. The movie — an old one now — was called *Karate Kid*. It was hot at the time and the kids were looking forward to watching it. I sent home a permission note to the parents, and one parent sent the note back refusing permission for his son to watch *Karate Kid*. We screened the movie and an alternative activity was organised for that child. It is entirely appropriate for parents to be informed and for their permission sought when you wish to screen a movie or a video for junior students that is not G-rated. You cannot afford to presume that all parents will be happy about the screening of what many people would consider to be a very innocuous film.

The computer game industry is huge in Australia, as it is throughout the world. Many people, not only children, enjoy playing computer games, and we have to be careful about what our children are exposed to by the industry. My children are no exception and spend a great deal of time playing all types of games on their computer and Game Boys. I am pleased that such games are also classified so that we as parents can be confident when we purchase them that they are in the appropriate classification for their level of violence or themes. I ensure when I purchase games that their rating is suitable for my children's age group.

It is difficult today, when children are exposed to so much entertainment in its various forms, to have complete control and exercise close supervision at all times over what they see and play. Some of the games that have been given to my son and daughter I would

rather they did not have because they tend to be unnecessarily violent. I worry that they will become immune and desensitised to violence in the real world through their exposure to violence in the games they play. I have discussed this with them and they think I am being ridiculous. They know it is fantasy, even if I am worried about it. At this stage they seem to have a healthy attitude to it, which I hope continues.

It was interesting to read in *Hansard* the debate that took place in the other place. I was dismayed at a comment made by the shadow education minister, the Honourable Phil Honeywood, about some literature at a secondary college in Geelong. He alluded to the putting on a book list of a book entitled *Lockie Leonard, Human Torpedo*, which was incorrectly set for year 7 students. It was a controversial issue in the local community, and it was not assisted by the intervention of Mr Honeywood. The school had gone to great lengths to have the book put on the book list, and it was studied at the school for three years. Over that time one parent had complained and his child had been offered an alternative text to study. Unfortunately the honourable member for Bellarine in the other place decided to take up this matter with the aggrieved parent, much to the dismay of the school council and the school principal, who had full confidence in the English coordinator and English staff who had chosen the text.

**Hon. D. G. Hadden** — And the author.

**Hon. E. C. CARBINES** — Yes, and the author, Tim Winton. It was an appropriate book for year 8 students. The child of the parent who had complained had been given an alternative text to study. It was disappointing that the opposition saw fit to weigh into that small issue and make much of it in our community. The intervention was unwelcome and will not be forgotten by that school.

The bill fulfils Victoria's obligations to introduce amendments that were introduced into the commonwealth act earlier this year. It seeks to amend the Victorian act so that its definitions will be in line with those of the commonwealth act. It extends the definitions of exempt films and computer games to include those for business, education, hobbies and religions, and those that are community or culturally based, so long as they are rated G or PG. That is a sensible amendment.

The bill allows 14 days for the changing of markings and issuing of consumer advice after reclassification by the commonwealth Classification Board. It will create new offences relating to the sale or delivery of publications, films or computer games contrary to imposed conditions. It will also give the director power to call in unclassified films for classification. The director will be given the power to reclassify a film, publication or a computer game. These amendments are sensible and strengthen the current legislation.

The second part of the bill deals with the serious matter of child pornography. Recently I was pleased to host a public seminar in Geelong, together with my government colleagues in the other place the honourable member for Geelong, Mr Ian Trezise, and the honourable member for Geelong North, Mr Peter Loney. The seminar was the first to be held in Victoria as part of the Attorney-General's sentencing review. It was the first seminar to take place in the state. The guest speaker was Professor Ari Frieberg of Melbourne University. The seminar was well attended and those present engaged constructively with Professor Frieberg on their views about sentencing laws in Victoria.

We were very pleased that those contributions will form part of the public consultation for the sentencing review. Several participants in the forum expressed concern about child pornography and wanted the legislation to ensure that the criminal justice system dealt appropriately with those who are found guilty of such outrageous crimes against children.

Earlier this year I was horrified to watch a documentary screened on the ABC's *Four Corners* program which detailed an international child pornography network and how its proliferation has escalated virtually out of control through Internet usage. It has to be said that a most insidious aspect of the Internet is that it can be used to aid and abet those most despicable of adults — that is, those who purvey pornographic images of children.

I congratulate the Attorney-General on including in this bill the introduction into the Victorian act of the new offence of knowingly using online information services to publish, transmit or make available for transmission child pornography. This offence will carry a maximum penalty of 10 years imprisonment. I learnt from the documentary I watched earlier this year that police all over the world go to great lengths to minimise the child pornography industry and bring those involved in it to appropriate justice.

At the request of the Victorian police this bill also sensibly provides immunity from prosecution for police and their computer analysts in matters to do with child pornography as they relate to the performance and conduct of their duty under the law.

The bill seeks to improve the classification system under our censorship laws and its passage will bring Victoria into line with national legislation. Further, this bill introduces a new offence and a maximum penalty associated with child pornography. In both respects the bill therefore aims to further protect Victoria's children and I wish it a very speedy passage through this house.

**Hon. E. J. POWELL** (North Eastern) — I am really pleased to speak on this bill on behalf of the National Party and to put on record the National Party's support. As has been said by previous speakers, it is an important bill which has a number of purposes. The bill amends the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 — or the state act — as a consequence of amendments to the Classifications (Publications, Films and Computer Games) Act 1995 of the commonwealth — better known as the commonwealth act. The bill makes a number of amendments to the commonwealth act, the Magistrates' Court Act 1989 and the Crimes Act 1958. It introduces new penalties under Victorian legislation and it also increases penalties in relation to crimes which already apply in the act.

In March 2001 the commonwealth made amendments to the commonwealth act. These amendments will come into operation on 22 March 2002 or when the states and territories have each enacted complementary legislation, whichever happens first.

As I said earlier, the National Party believes this is important legislation. There is a need for this legislation for a number of reasons, including the increased use of computers. We now have increased numbers of computers in our homes, in our businesses, in our schools and in fact right across our community. We also have more access to computers. For those who do not have computers in their homes — there are still some who do not — they can still be accessed by young people at schools, libraries, neighbourhood houses and many other organisations and places across the community. So young people have access to computers even if they do not have them in their homes.

The location of computers can also be a problem. Computers in the home are often located in a child's bedroom, which makes them very difficult to monitor. A number of parents have said to me when talking about computers that they allow their children to have the computer in their bedrooms, obviously thinking they are using the computer for school work, homework and for other educational purposes; however, as many of us know, the computer has many uses. Honourable members heard the Honourable Elaine Carbines talking about how she monitors her children's usage of the computer; that is important because some Internet sites are totally inappropriate for young people. A parent told me about a site her child had entered accidentally. The child was looking for a hotmail site, but the child had spelt it 'hotmale' and the site that came up for that child to view was very different from the site the child was looking for, and it was pornographic. Luckily the child had a good relationship with the parents and told them what was on this site, and they were appalled. Many parents do not understand that there are totally inappropriate sites out there that our children can access accidentally.

Televisions are usually located in a general purpose area and can be switched off or the channel can be changed if a program is classified not suitable for general viewing or is classified suitable for mature audiences. However, when children are using computers parents are often not aware of what is going on and many parents are computer illiterate, so this new computer technology — which we thought was going to be very advantageous — can in some instances affect children quite dramatically.

I am pleased to see that the issue of computer games is also addressed in this bill, because computer games also need appropriate and relevant classification. As the Honourable Elaine Carbines said in her contribution, she monitors what her children watch on television and what computer games they play, and that is all part of being a responsible parent. However, if a child plays computer games at a friend's place or at school — which they are still able to do — those computer games can be inappropriate.

My children are adults now but they have had computers for a long time, and some of the computer games I have seen are totally inappropriate and can desensitise children. I have seen some computer games where the aim is to blow people up or blow off their arms or legs. Adults understand that that is just a game and that they are not real people, but I have some concerns about what we are exposing our young people to and how they may become desensitised to people's pain.

I was very lucky to be part of an all-party parliamentary committee — the Family and Community Development Committee — which submitted its final report on the effects of television and multimedia on children and families in Victoria to this Parliament in October 2000. The terms of reference for that inquiry included quite a number of issues but the one that is most appropriate to this bill was the requirement to assess the likely impact on children and families of new and emerging forms of multimedia technology

including videos, video games and the Internet and to consider ways that this technology may enhance the wellbeing of Victorian families. We were also required to examine the relationship between violence on television and violent behaviour within families. That very interesting inquiry went on for 12 months. Over that time 38 witnesses give evidence and we received 64 submissions. Because it was an interesting inquiry a lot of people sought to have some input.

The committee heard from many people with a lot of expertise and experience in this area, including eminent people like Dr Patricia Edgar, who is the executive director of the Australian Children's Television Foundation; Associate Professor M. Carr-Gregg, who is the director of the Centre for Adolescent Health; psychologists; school principals; multimedia organisations; family organisations; and other community organisations. I encourage people who are interested in this subject to get a copy of that interesting report, which contains a lot of the good evidence that came before the committee. The committee also went into schools. Some schools, particularly in Melbourne, are using technology and multimedia to a great extent and to great advantage.

But we did hear that seeing violence on television affects children in different ways. Some children are more vulnerable to being exposed to violence, and certain children are more susceptible to the influence of media violence. A relationship between television violence and aggression has been observed in children as young as three years of age. As a committee we were staggered to hear that, because you would think that those sorts of traits would not come out until a child is much older. However, the evidence we heard was that children who are exposed to violence and are susceptible can become very aggressive themselves, even if they are as young as three.

We also heard that there is a sensitive period between the ages of 8 and 12, and those children are more susceptible to the influence of TV violence. We heard evidence that once children see violence on television as it comes into their lounge room, they see it as normal behaviour.

Children who come from violent homes may accept the use of violence as normal, particularly if it is reinforced on television or videos or films. The committee heard that if young children, particularly from violent homes, see violence on television they think it is normal; they do not think that they come from a home that is any different to anybody else's. It reinforces the issue of violence. Quite a number of people gave evidence about this — from psychiatrists right through to people who actually worked in the television industry.

The classification of films, videos and TV programs is important. We see examples of copycat crimes. Just recently over the past few years we have seen what has happened in America where shootings in schools were portrayed on television, and then not many months later we see the same things are happening in our Australian schools.

It cannot be underestimated that television reinforces certain sorts of behaviour. People try to depict their television heroes. That was an issue that was brought forward to the committee quite well. There was discussion about in the past where we used to have the *Superman* series, which sounds very innocuous. However, the committee heard evidence that hospitals reported more incidents of young people coming in with broken arms and legs because they had been playing Superman — dressed in the outfit and jumping from roofs. Having children about that time myself I know that they did think they were invincible. If Superman was the hero of the day these young children tried to emulate him.

We also talked about parents monitoring programs. I can remember when my children were younger and *Prisoner* was on television. That was a totally inappropriate program for young children to watch. It was in an earlier timeslot so young people, even if they were not watching the program but were doing their homework, were still exposed to the language, violence and some of the types of people it portrayed. Many schoolchildren watched the program. My children were not allowed to, but they used to come home at night-time and think that I was mean because their friends were all allowed to watch it. I said, 'Not in this house; you don't watch something like *Prisoner*'.

The classification of films, videos and TV programs is also a guide for parents to monitor children's viewing. The house has heard from other speakers that it is important that parents are able to monitor what their children watch, and say no to them or turn channels.

Adults can choose to watch a program with their children and perhaps explain it. There was some evidence given to the committee that sometimes if there is a program that the parent is concerned about, it is a good idea for the parent to sit with the child and explain what is going on in the film. Particularly in areas of viewing like the news, which often contains material with lots of violence or things that children may not understand, it was considered important for a parent to

sit with a child and explain what was going on and how it would affect them.

There was also some discussion about problems with advertising. Advertising is usually shown in children-friendly hours. There can be adult themes in children's viewing hours, and that is a concern. The concern is that the ads are not going to be classified. It is something that we need to look at as a community to make sure that inappropriate ads are not viewed in children-friendly hours.

The other area of concern was about trailers on videos, television and even in film theatres. A program might be classified as suitable for general viewing, but the trailer for the next film or video might be R-rated or totally inappropriate. Clause 15 gives power to the Classification Review Board to call in and reclassify publications of films and computer games — this is a really important clause. If the board is concerned about a classification or perhaps gets a lot of objections from people who are watching that material and there is a concern out there in the broader community, the board is able to call in those films and reclassify them with a higher classification.

The bill talks quite extensively about child pornography. Clause 16 introduces a new section into the act. Proposed section 57A deals with publication or transmission of child pornography. This is in reference to a minor of 16 years of age and under. Anyone convicted of an offence under the section is liable to a prison term not exceeding 10 years.

The committee heard evidence about how easy it was for children and adults to access pornography sites. I will read a portion from the report:

> The Victoria Police also expressed concern at the availability of sexually explicit material to minors. Although laws in Victoria prohibit the sale of pornography to children and the sale of X-rated videos at all, there is little doubt that young people are accessing such material for their own titillation or being shown such material in an attempt to induce them to engage in similar activity. Recent studies suggest 'over 50 per cent of various categories of paraphiliacs (sex offenders) had developed their deviant arousal patterns prior to age 18'. Accordingly, it is of concern that children are exposed to pornographic material at an age when they are ill equipped to develop appropriate responses. In 1992 a study of 247 American high school students found very high levels of rape supportive beliefs and acceptance of rape myths about the effect of rape on women amongst boys who were frequent consumers of pornography. The Victoria Police commented that some young victims exposed to pornography, both via the Internet and other media, have in turn offended against even younger children.

The committee felt strongly about the sort of information and evidence it received. One of the recommendations was about the importance of having a computer in an area of general access. Parents needed to understand the importance of supervised and monitored Internet usage.

Clause 20 allows section 68 of the Crimes Act to be amended and protects police and appropriately authorised assistants. These assistants may include computer analysts who are in pursuit of offenders, and who may possess, download or view evidence during a child pornography investigation. That is important because sometimes assistants and police have to view pornography and they need to make sure they are protected within law so that their viewing of such material is not seen as an offence. As the act stands, viewing evidence and downloading pornography could be an offence. This clause protects the police and those who are assisting them with the investigation of crimes and of pornographic cases in particular.

With the increasing emergence and availability of communications technology it is important that this medium be monitored. As we have heard, almost anything can be put on the Internet for people to view and download. This is interesting when compared to the publication of books where there are some checks and balances of content. For example, a publisher usually checks the authenticity of information provided. That is not so with computers. Often young children gain access to information from computers and think that it is totally reliable when it may be information that has not been properly researched and may not have been scrutinised by anybody. There is a concern that young people think everything that is on computers is okay.

The non-government members of the committee — the honourable members for Bentleigh and Bennettswood in another place and me — put in a minority report in which we recommended having a dedicated minister for multimedia, information technology and telecommunications who would ensure that the myriad emerging social policy issues would receive dedicated and ongoing ministerial consideration and attention. We also recommended the re-establishment of the Premier's multimedia task force to offer advice on benefits and challenges facing the multimedia industry. We felt that was important, but it was not accepted by the committee, so we took the opportunity to put it in a minority report.

It was interesting to note that from 1992 to 1999 the former coalition government appointed the world's first minister for multimedia — the Honourable Alan Stockdale. As I said, that was a world first and it worked well. It is important that somebody takes responsibility for new technology and the government

needs to be committed to making sure there is always somebody checking what is going on in multimedia. We felt there was a need to protect our communities from inappropriate and offensive material so that Victorians — consumers and young children — can be given the confidence of using this new technology.

For that reason and for many others this is a good bill and the National Party is happy to support it.

**Hon. D. G. HADDEN** (Ballarat) — I rise to support the bill, the purpose of which is to amend the Classifications (Publications, Films and Computer Games) (Enforcement) Act 1995 as a result of recent amendments to the commonwealth Classifications (Publications, Films and Computer Games) Act 1995, as well as to make miscellaneous amendments to the Magistrates' Court Act 1989 and the Crimes Act 1958.

This state is party to the 1995 agreement by the commonwealth, the states and the territories relating to a cooperative legislative scheme for censorship across Australia. Under this agreement the commonwealth Classification Board makes classification decisions about publications, films and computer games under the commonwealth act of 1995. These decisions are enforced in Victoria under the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995.

In March the federal Parliament amended the commonwealth act in a number of areas and those amendments will come into operation on 22 March 2002. All other states and territories have enacted complementary legislation. Whichever happens first will take effect.

This bill reflects the commonwealth amendments in that it amends the Victorian act to bring the definitions in line with those in the commonwealth act. It also extends the definitions of 'exempt films' and 'exempt computer games', and the commonwealth act will no longer apply to a range of films and computer games such as business, educational, hobbyist, religious and community or cultural related that would otherwise be of a G or PG rating.

The policy basis for these amendments is that such films and computer games should not be subject to the cost and delay of the classification process when they are uncontroversial in nature.

The bill also allows 14 days for the changing of markings and consumer advice after reclassification by the Classification Board. It also creates new offences such as sale or delivery of publications contrary to imposed conditions; selling publications without the display of consumer advice; and making a computer game available for playing on a play-and-pay basis without having determined markings and relevant consumer advice on display. In its various clauses the bill makes clear the requirements of displaying material such as restricted publications and category 1 and category 2 material as described in clauses 7, 8 and 9, to ensure that only adults are able to access this information.

The bill also gives the director of the Classification Board the power to call in unclassified films for classification. It also gives the director the power to call in a film, publication or computer game for reclassification.

Clause 16 of the bill introduces a proposed section 57A into the principal act. This relates to the publication or transmission of child pornography, and states:

> A person who knowingly uses an on-line information service to publish or transmit, or make available for transmission —

child pornography —

> objectionable material that describes or depicts a person who is, or looks like, a minor under 16 engaging in sexual activity or depicted in an indecent sexual manner or context is guilty of an indictable offence and liable to a maximum term of imprisonment not exceeding 10 years.

That is a very severe penalty, and so it should be.

Clause 19 amends schedule 4 of the Magistrates' Court Act by inserting proposed section 40, which will enable a magistrate to exercise his discretion, if appropriate, and where the defendant consents to the jurisdiction of the Magistrates Court, to have an indictable matter heard summarily in the Magistrates Court. That of course is attractive to a defendant who would be charged under this section because the maximum imprisonment cannot be imposed by the magistrate.

The magistrate's powers of imprisonment are set out in the Sentencing Act 1991. I stand to be corrected on this, but in the sections I have obtained from the library the maximum sentence to which a magistrate may sentence an offender is two years. Someone has informed me that it might be three, but I have not found that amendment yet. In any event, the act in my possession says that the court may sentence the offender for two years on one offence or a maximum of five years for cumulative or several offences. As I said, it is attractive for defendants, if that is the only offence with which they are charged, to cooperate and have the matter dealt with in the Magistrates Court rather than be faced with a maximum 10 years in a higher jurisdiction. The strict

liability offence is already in the Victorian act under section 57. It carries a maximum penalty of two years imprisonment or 20 penalty units, which is $24 000.

The other clause in the bill on which I wish to speak is clause 20, which amends the Crimes Act 1958 by inserting proposed subsection (2) into section 68, and by substituting subsection (4) in section 70. These sections provide immunity for police and their computer analyst assistants from offences of possession and printing, making or otherwise producing child pornography, providing it is in the exercise or performance of a power, function or duty conferred or imposed on the member or officer by or under this or any other act or at common law.

The police already have immunity from the possession of child pornography under section 70(4). However, due to the use of non-uniformed computer analysts this immunity will be extended to cover current police investigation and evidence collection techniques. Because of the extent to which knowledgable and computer literate offenders out there in the community will go, an immunity from prosecution under section 68 is required. It is proper for both police and their assistants to police this scourge on our community of child pornography and those who peddle it.

I refer to a couple of other matters in clause 16, which inserts proposed section 57A dealing with a person who knowingly uses an online information service to publish or transmit child pornography. There has been a question as to whether photographic images sent over the Internet fall into the category of online information service. This new offence applies to objectionable material in the section and that is defined in section 56 of the Victorian act as an objectionable publication, an objectionable film or an objectionable computer game. Publication has the same meaning in section 3 of the commonwealth act. The commonwealth act defines 'publication' as any written or pictorial matter in section 5, which would include by definition photographs. Therefore, photographic images sent over the Internet would be within the ambit of this new offence in proposed section 57A.

Another issue concerns whether this new offence applies to material transmitted over an internal network such as an intranet. The Victoria Police raised this issue during consultation, and it depends on whether the term 'online information service' in the new section extends to an intranet service. Online information service is defined in section 56 of the Victorian act as a service which permits, through a communication system, online computer access to or transmission of data or computer programs. This issue was considered by the Office of the Chief Parliamentary Counsel. It was satisfied that that term extended to an intranet service. I commend the bill to the house.

**Hon. R. F. SMITH** (Chelsea) — As a father I am pleased to engage in the debate in support of this important bill, the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill. The bill outlines the imperatives that the Bracks government places on child protection within our society. Among others, members of the Victoria Police have been prominent in raising their concerns to the government about this issue and looking for some additional strengthening of the current laws. I am pleased to say the bill delivers just that.

Victoria is party to the 1995 commonwealth states and territories agreement on censorship. Under this agreement the commonwealth enacted the Classification (Publications, Films and Computer Games) Act 1995. In Victoria the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 provides for the enforcement of the classification board decisions. The commonwealth act will no longer apply to business, educational, hobbyist, religious or community-related films or computer games that would qualify for general or parental guidance classifications. The bill includes amendments that will allow 14 days for remarking on and consumer advice after reclassification and other amendments as deemed necessary.

The commonwealth act has been amended. The bill allows Victoria to enforce those changes and amends certain definitions to bring them into line with definitions in the commonwealth act. Amendments will exclude the application of the state legislation to exempt films and computer games, consistent with the commonwealth act.

In November 2000 the penalty for possession of child pornography was increased from two to five years. Many, including me, would say harsher or more severe penalties should be prescribed for the purveyors of child pornography and other paedophilic material. I am sure the vast majority of the public would feel likewise. The increase in penalties prompted a rethink on issues connected with the online transmission of child pornographic material and as a result proposed section 57A is inserted in the act. It provides a penalty of 10 years imprisonment for the transmission of child pornography on or by computer. That is consistent with section 68 of the Crimes Act 1958.

Society is starting to understand that child pornography over the Internet is something we cannot control, although parents can buy products to block out certain material on the Net. One of the advantages of the Net is that people anywhere on our planet can access information. In some cases that could be extremely good in spreading, for instance, democracy. I imagine the Taiwanese government would be keen to see the citizens of mainland China access the Net as much as they possibly could so they may understand the differences in lifestyles, economies and standards of living between the two countries. If they could see that differences clearly exist perhaps that information from the Net would help change the political structure in China to a more democratic system of government, such as we enjoy.

I do not know what the answer is about the Internet. Far better qualified people than I are working on the issue. There are networks of people on this planet who, although I cannot understand it, actually enjoy watching and spreading child pornography. Only recently we heard of a club being exposed and broken up in the United States of America; obviously it had global connections.

For years we have seen examples of, particularly, Australian men travelling to places such as the Philippines and other Third World countries to engage in paedophilia or whatever. I am sure I speak on behalf of almost all adults in Australia when I say that that practice is an international embarrassment for Australians. But not only Australians engage in the practice, and wherever possible it is our duty to help stamp out those offensive practices.

In a small way the bill helps the police. As a father of daughters I am not referring only to gender-specific child pornography, because both sexes are vulnerable, but I would be pleased if as a result of the passage of the bill we could help reduce the effects of and the number of occasions on which child pornography is engaged in by certain people.

Section 70 of the Crimes Act makes it an offence to possess child pornography, except when it is in the possession of an officer of the law who is using the same in the performance of their duty. It also protects people who are helping the police in their duties. The bill amends section 68 of the Crimes Act to allow the police and their appropriately authorised assistants to download or reproduce such material without committing an offence. The bill ensures we may deal effectively with the necessary changes to the national act and recognises the growth in the industry, particularly over the Internet.

Finally, the bill allows the police to be unhindered in their investigations of the serious problems surrounding child pornography. Much is made of censorship in society. Many would argue that people should be able to read, practise or do whatever they wish in the privacy of their own homes. That may be acceptable in a perfect world, but in our society it is fair and reasonable that we insist laws are made and censorship occurs in certain areas. After all, we have laws that prohibit smoking in restaurants and drinking in certain places to protect the vast majority of the public. Therefore, censorship is warranted and necessary, particularly in the area of child pornography. Some may argue about the purity of a censor-free society, but they would be in the minority.

For all those reasons, and others put by other honourable members, I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

*Third reading*

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

That this bill be now read a third time.

I thank all honourable members for their contributions to the debate.

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## STATUTE LAW FURTHER AMENDMENT (RELATIONSHIPS) BILL

*Second reading*

**Debate resumed from 18 October; motion of Hon. M. R. THOMSON (Minister for Small Business).**

**Hon. C. A. FURLETTI** (Templestowe) — I am pleased to speak on the Statute Law Further Amendment (Relationships) Bill on behalf of the Liberal opposition. At the outset, as it did in the instance of the primary relationships legislation — that is, the Statute Law Amendment (Relationships) Act — the Liberal opposition will not oppose the bill, which in real terms is an extension of the first piece of legislation with which the house dealt in June 2001.

Honourable members may recall that at that time the Statute Law Amendment (Relationships) Bill had been laying over in the other place since November 2000. That legislation did not enjoy an easy passage through the Parliament. In fact, it attracted considerable debate and required a considerable amount of effort and cooperation between the government and the opposition.

In its final analysis the opposition made the point very strongly that it was very much against discrimination of any type. However, it was also very much dedicated to the fundamental mores of our society and was particularly adamant that the status and values of family should not in any way be diminished or affected by the implementation of the provisions of that legislation. It was on the basis of those principles that through the cooperation of members of this house, to which I shall refer subsequently, some common ground was found. Therefore, although not necessarily offering support for that bill — because of its nature — the opposition decided to not oppose it, as it has decided in the case of the bill now before the house.

Honourable members will also recall that the original legislation debated in the last session of Parliament amended some 44 acts and extended the parameters of those who came within associations with their partners and in relationships which had previously not been recognised in those acts. It was recognised at that time that the bill was but the first of a number of pieces of legislation that the government would need to produce, and it was recognised that the task of identifying the legislation that needed amendment could be daunting.

Honourable members will also recall that the Liberal opposition pressed very strongly for amendments, and indeed some 87 amendments were eventually introduced in this house to obtain a better definition and to identify more appropriate parameters for the benefit of the antidiscrimination measures contained in that bill. The Liberal opposition has said on a number of occasions in this place that a great volume of the legislation which is being introduced by the government should be introduced in the form of an omnibus bill. The Statute Law Amendment (Relationships) Bill of June last year was a classic example of what an omnibus bill can do. Indeed, the bill before the house today, which amends some 13 pieces of legislation, is also proof that if the government had a will to do so it could well introduce much more of its legislation which has some thread of common purpose about it in this way.

One of the significant things that occurred during the debate on the Statute Law Amendment (Relationships) Bill in the last sittings was the introduction of a new objects clause, which was introduced by way of amendment in this place at the instigation of the Liberal opposition. That amendment is detailed in *Hansard* of 5 June and it underscores the core antidiscrimination focus of the Statute Law Amendment (Relationships) Bill, as it then was, while reinforcing the value which, in the opinion of the Liberal opposition, the community places on long-term relationships and the paramount consideration of the best interests of the security of children. That statement is very significant in interpreting the provisions not only of that original relationships bill but also this bill — and I am sure following tranches of legislation which we can, I suspect, expect in the not-too-distant future.

I should like to put on record that the 87 amendments to the bill debated and passed in the last session were introduced after the bill had been laying over. The inclusion of the objects clause to which I referred was very significant in terms of setting, for a future interpretation of that legislation, the environment within which the thrust of that measure should be understood and the manner in which its particular provisions need to be interpreted.

The debate on the purpose of the Statue Law Further Amendment (Relationships) Bill now before the house has already occurred. As I said, that debate occurred in the last sittings when the first relationships legislation was debated. There is no need to reconsider or revisit the issues and objects of this bill — they have already been examined: they were dissected at that time, many of the clauses were considered, and finally, after a considerable period of negotiation, that legislation was supported by a majority of the members of this house and became law.

I have said that it is also understood that the original bill was merely the first step in a process which may require some time and, I dare say, considerable effort to achieve its cited objectives: to remove discrimination that may exist in numerous pieces of legislation that refer to relationships, which are interpreted at law as being restricted to heterosexual and/or marital relationships.

The original legislation amended 44 acts to expand the interpretive envelope to include same-sex and, as previously coined, de facto relationships into the category of relationships to which those acts refer. The broadening of the parties encompassed in the operation of those acts was the beginning. It should be made clear that not only do the amendments introduce and extend benefits to classes of persons that were previously excluded; they also impose obligations, restrictions and,

indeed, in some cases constraints on those same classes of people in other areas.

The amendments in this bill to 13 acts — and a 14th act, which is corrected in clause 5 — represent the second tranche of the proposed implementation of the government's purpose and intent. The government now has the obligation of trawling through a whole raft of legislation that exists in Victoria. All of the statutes in the books on the table in this house need to be examined and analysed to see whether any of them require amendment to ensure that any discriminatory provisions that exist are found and removed.

There is no argument with the objective of the bill. As I said, the Liberal Party has already indicated it will not oppose it. The hard yards that were required to achieve this state of play were done in the past with the shadow Attorney-General in the other place and with Mr Katsambanis and Mr Olexander in this place, who were performing their duties as members of this house of Parliament and fulfilling a significant role in this house. They should be congratulated and applauded for the outcomes they have achieved and the manner in which they have achieved them.

Those outcomes were achieved by those honourable members reviewing the legislation which was introduced in the other place and allowed to sit for well over six months in a form that has previously been discussed and considered in this place, which was hardly acceptable and which was not drafted in a way that would achieve what had been disclosed by the government in its policy speeches. Those same members were able to isolate areas of serious concern in the bill and they were able to consult broadly with the community to determine what the community wanted and needed. They were also able to negotiate satisfactory amendments to the bill so as to enable those areas of discrimination which needed to be addressed to be addressed, therefore allowing passage through this place. That particular effort and involvement certainly limited and restrained the unbridled exercise of power which the Labor government intended and it prevented the passage of flawed and poorly drafted legislation in this place, which undoubtedly would have created greater confusion and difficulties with the passage of time.

As a result of the hard work and effort then, the bill is acceptable to the Liberal opposition and can be dealt with in this chamber far more efficiently than the bill that was introduced previously. It is to be hoped the bill will limit discrimination, grant rights and impose obligations in circumstances of relationships where principles of equality and fairness are implemented. Those honourable objectives should be achieved without in any way adversely affecting or undermining family values or structures. It is significant that at the end of the day the primary consideration of the wellbeing and stability of children needs to be of paramount interest.

In addressing the bill I repeat a comment I have made on a number of occasions over the past 9 or 10 months — this is a very brief bill. It consists of five clauses. Given that clause 5 is an amendment to the Parliamentary Salaries and Superannuation Act and is intended to correct an error in the original Statute Law Amendment (Relationships) Bill, we end up with only four clauses. In addressing clause 5, I indicate that it amends the 14th act, the other 13 acts being listed in the schedule to the bill. The purpose of clause 5 is referred to and explained adequately in the second-reading speech, and I do not intend to merely reiterate that explanation. Suffice it to say that while the original Statute Law Amendment (Relationships) Act made amendments to part of the Parliamentary Salaries and Superannuation Act it failed to make amendments to the whole of the act and therefore it is necessary to introduce clause 5.

It is also essential to note that the operation of clause 5 is intended to be retrospective to fully correct the error made back in June and to give effect to the operation of clause 5 simultaneously with the amendment introduced in the autumn sitting of Parliament by the Statute Law Amendment (Relationships) Act.

Excluding clause 5 and clause 4, which contain some very minor consequential amendments, we find the bill is a very brief measure. The substantive clause is clause 3, which amends the 13 acts I referred to which are listed in the schedule. Each of those acts is somewhat different but if they can be grouped, they can be put into three or four different categories.

The main purpose is to extend the envelope, as was done in the Statute Law Amendment (Relationships) Act passed in June in the autumn sittings, which I will refer to as the original relationships act. As happened in the amendments made by that act to 44 acts, the intention is to amend those words which refer to relationships in the various forms that are used so as to extend those words to include either the narrow or broad definition of 'domestic partner'. For example, there are acts that control professions and industries, such the Architects Act, the Estate Agents Act and the Legal Practice Act, which relate to some professions; and the Meat Industry Act and even the Firearms Act, which relate to industry.

There is a common thread in the amendments, irrespective of the broad terminology, whether a related person is defined or referred to, as in the Architects Act, as a 'prescribed relative', or as in the Corrections Act a 'relative' or 'near relative', or as in the Legal Practice Act a 'family member', or as in the Water Act a 'member with an interest'. I do not envy those in the Department of Justice their task of having to go through the legislation to identify and make very significant evaluations of each of the terms. In each of those instances the envelope is broadened to include within the definitions and words used in each piece of legislation those same-sex or de facto couples who are living in a long, intended and strong relationship which brings them the benefits which the amendments will provide but also includes for the same purpose the obligations and constraints that are imposed in some of the legislation which is being amended.

As indicated, members of the Liberal opposition acknowledge that the bill is an extension of the Statute Law Amendment (Relationships) Act which was passed in June. We are also very much aware that on a number of occasions in the future we will undoubtedly be making speeches in this place similar to the one I have just delivered to ensure that the whole of our legislation is amended to accord with the intention of the government, which the Liberal opposition does not oppose.

**Hon. KAYE DARVENIZA** (Melbourne West) — I am very pleased to have an opportunity to make a contribution to this important debate and to speak in support of the bill before the house, which is supported by the Liberal opposition but which I understand is, very unfortunately, opposed by the National Party.

With this bill the Bracks government is delivering on its election commitments. The Labor Party made a commitment to the non-heterosexual community that it would strive to create a society that was more just so that unacceptable levels of discrimination levelled at the gay and lesbian community were reduced.

The government has done that in a number of ways. In November 2000 the government introduced the Statute Law Amendment (Relationships) Bill and gave a further commitment to introduce amendments to deal with a number of other statutes discriminating against gay and lesbian couples. The Statute Law Amendment (Relationships) Act 2001, passed with bipartisan support in the autumn session, amended 43 acts in a number of areas, including property-related benefits, compensation schemes, superannuation and, of course, health-related and criminal law legislation.

The Statute Law Amendment (Relationships) Act 2001 was a major step forward in reducing unacceptable levels of discrimination that we all know exists against gay and lesbians in this state almost every day of their lives.

This bill is about reducing the level of discrimination that occurs. The government has received a positive response from the community, not just those directly affected by legislation passed through the Parliament recently, but overwhelmingly across the community people have been positive about the changes made to alleviate discrimination against a section of the community.

The bill amends some 13 acts. They are the Architects Act 1991, the Children and Young Persons Act 1989, the Conservation, Forests and Lands the Act 1987, the Corrections Act 1986, the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997, the Discharge Servicemen's Preference Act 1943, the Estate Agents Act 1980, the Firearms Act 1996, the Legal Practice Act 1996, the Meat Industry Act 1993, the Racing Act 1958, the Water Act 1989 and the Witness Protection Act 1991.

The amendments recognise both the rights and obligations of gay and lesbian couples in domestic relationships. The bill defines a 'partner' to mean a person's spouse or domestic partner, and 'spouse' is defined as a partner to a marriage. The cohabitation definition of 'domestic partner' adopted in the bill requires domestic partners to be living as a couple on a genuine domestic basis. Section 275(2) of the Property Law Act 1958 sets out the circumstances to be taken into account in determining a domestic relationship. The definition of 'domestic partner' expressly recognises relationships where people do not necessarily live under the one roof yet are mutually committed to and support each other within the shared life as a couple. So couples must have a mutual commitment and a supportive relationship.

To assist in determining whether or not a domestic relationship exists a range of circumstances is set out in the Property Law Act 1958. The house will note that the criteria set out in the act must be met to demonstrate the couple have a shared life, a commitment to each other and are mutually supportive. The matters taken into account when determining a domestic relationship are not matters that can be taken lightly and go to issues such as the nature and extent of common residence, the duration of the relationship, whether or not a sexual relationship exists, the degree of mutual commitment to a shared life, the degree of financial dependence or interdependence, the ownership, use and acquisition of

property, the care and support of children, and the reputation and public aspects of the relationship.

The amendments to the Children and Young Persons Act will recognise what is the reality for many children who are cared for by a parent who is gay or lesbian or who is in a gay or lesbian relationship. Honourable members know that people in same-sex relationships may have a biological child living as part of that relationship.

I know how important the legislation is on a practical and an emotional level to those who are caring for people and who are parents. I know from my own experience of many same-sex couples in my electorate who live in caring, loving and mutually supportive relationships who welcome these amendments. We do not want to see parts of Victorian society living under circumstances where they are actively discriminated against in so many areas of their daily lives. As I said earlier, the Labor Party made a commitment prior to the 1999 election that in government it would do everything it could to reduce the level of discrimination against same-sex couples and transgender people.

The legislation is another step forward in achieving a society that is more equitable and which appreciates differences. It will help to ensure that people are treated equally and are not discriminated against. This is good legislation because it removes discrimination that presently exists against sections of the community. It deserves the support of all honourable members and I commend it to the house.

**Hon. P. R. HALL** (Gippsland) — The Statute Law Amendment (Relationships) Bill, which was debated on 5 June 2001, amended in excess of 40 acts of Parliament. The Statute Law Further Amendment (Relationships) Bill amends another 14 acts. Earlier this year the National Party opposed the previous bill, and for many of the reasons that were indicated at that time will also oppose this bill.

Firstly, I want to set out some of the National Party's general views which I believe are shared by the majority of people I represent in Gippsland Province. The National Party believes people should be free to choose the way in which they live their lives so long as that choice does not impact unduly on those with whom they share the community. Religion and lifestyle are elements of that choice which should be respected. I believe those views are generally well respected in the society in which we live.

The second point is that the National Party believes the traditional family of a marriage between a heterosexual couple provides the best structure for raising children and for promoting enduring relationships. The act of marriage requires significant commitments from both in the partnership and hence provides the best opportunity for creating stability in the partnership. In my view that stability is vital in assisting young people to grow and develop.

I acknowledge that not all marriages are perfect. Marriage brings with it no guarantees that things will work smoothly and that all the ideals that one aspires to in a heterosexual marriage relationship will always be achieved. I also acknowledge that children and relationship structures in a non-traditional family structure have been very successful. I have no doubt that single-parent families can demonstrate and give the same love and care to young people within such a relationship as can a married couple. Indeed, although I do not personally know of any same-sex couples who are involved in the raising of children, I am sure there are probably same-sex couples who can also give young children in such a relationship structure love and care and make it a perfectly satisfactory relationship for their upbringing.

But on balance the National Party believes the traditional family structure provides the best opportunity for providing all that young children need. Some people would say that the bill does not undermine that traditional family structure, but the National Party says that it does to the extent that what we are doing by sanctioning the changes encompassed in the bill and the previous bill is saying that marriage is not so important any more — but I happen to think it is, perhaps even more so in today's uncertain climate because of recent events.

I also acknowledge in this debate that the law may discriminate against some who choose to live their lives other than in a traditional family structure. For example, same-sex couples and single-parent families in some cases may well be discriminated against in some ways. Those who have chosen to live their lives without any form of relationship may also be discriminated against by the law. The law in some instances discriminates against those who may lose a spouse. In one constituent matter with which I am currently dealing with the government a wife has lost her husband through an accident, and I believe the current law discriminates against her on property rights associated with her marriage. I acknowledge that there are instances where the current laws discriminate against some forms of relationship structures in our society.

I said in the debate earlier this year that it was impossible to consider fairly the impact the changes

would have on the number of pieces of legislation amended by that bill when we were considering amendments to more than 40 acts of Parliament. I say the same thing with this bill, which amends 14 acts of Parliament. It is difficult to consider fairly the impact that these changes will have on those 14 pieces of legislation. I find it particularly confusing when the same term is defined differently in a number of those 14 acts.

In some cases the definition of 'domestic partner' is different between one act and the next. It is confusing when there are different definitions of the same term in different acts of Parliament. I said at the time of the debate earlier this year on this particular provision when the 40 acts were being amended that I for one was prepared to look at each of those acts in turn and give each fair consideration on its own merits. I said then, when more than 40 acts of Parliament were being amended, that it was impossible for any one of us to give a fair judgment about the impact of the changes on each one of those 40 acts.

I understand why they are all being lumped together, but because of the importance of this bill it is difficult for the National Party to judge each fairly. Many minor amendments to bills are currently being introduced one at a time, and I believe we could do the same with the changes in this bill — that is, separate the 14 acts that are being amended by the bill and look at each of them in turn. I would be more comfortable with that, because I believe there are ways in which we could reduce discrimination, and not only against same-sex relationships. As I said before, some of our acts of Parliament discriminate against people in other forms of relationships. I would be far happier to deal with those on a one-by-one basis.

Perhaps the term 'nominated person' could be used to overcome some of the deficiencies identified in various acts. It could be used in a way that did not impact on the traditional family structure that we hold dear to our hearts. I do not know why there has not been some discussion of and consideration given at an individual level to using terms such as 'nominated person' to overcome some of those difficulties.

This has not been an easy subject for the National Party to deal with. We respect the rights of individuals to live in the way they choose, but at the same time we uphold our strong belief in the traditional family structure. We believe this bill devalues that structure, and as such we cannot support it. I repeat that we remain prepared to participate in forums that seek to address deficiencies in the law so long as the importance of the traditional family structure is at all times preserved and promoted.

**Hon. P. A. KATSAMBANIS** (Monash) — It is a pleasure to speak on the Statute Law Further Amendment (Relationships) Bill, which is a follow-up bill to the one that was debated in this place in June of this year. At that time we were breaking new ground, passing a bill that addressed issues of discrimination relating specifically to certain people in our community. The majority of honourable members in this place spoke about how it was a step in the right direction.

At the time some honourable members decided that the legislation was not a good step and made their views clear. I feel somewhat justified in the position I took at that time in that in the five or six months since we have heard little about any negative impacts of the bill. In fact, I have heard nothing about the negative impacts of the bill that was passed in June.

However, many people have written to me, rung me, come up to me at various functions, visited my office and sent me emails and faxes thanking me and my colleagues for the great step we took which made their lives easier and made them feel for the first time in a long time as though their society as represented by its legislators — the people elected to represent everyone in society — was actually representing everyone and was passing laws which, in the case of the legislation passed in June, tried wherever possible to treat people as equals irrespective of their sexual orientation. So it was with a great deal of pride that I could look these people in the eye and say, 'If that small step made your lives a little bit easier, then that is a fantastic thing and a wonderful outcome'.

It makes me proud to be a member of this place when we can achieve what are small steps for legislation and small steps for society but very big steps for improving the lives of a number of people who live within our society. That is what we should be about as legislators — that is, legislating to make people's lives better, to remove discrimination wherever possible, to treat people as equals and to ensure that people do not feel they are outcasts in society or that they are less than equal but rather that they have their rights, liberties and obligations protected and outlined in our legislative framework.

That is what the Statute Law Amendment (Relationships) Bill did when it was passed in June, and this small bill we have before us today simply enhances the legislative protections that were put in place back then by adding a series of other acts to the ambit of the main legislation.

The various acts of Parliament that are being amended by this bill are not acts that bestow positive rights onto

people; rather, they take the form of legislation that in the main imposes certain obligations on people mainly due to the relationships they keep with other people. For example, we see in the Architects Act, the Estate Agents Act, the Firearms Act, the Legal Practice Act, the Meat Industry Act, the Racing Act and other relevant acts that if you are in a relationship with someone then you are deemed to be an associate of that person, and if that person is banned from undertaking a particular task then you are also banned from undertaking that task. The legislation in question imposes obligations on people, and this bill extends the purview of those obligations to people living not only in legal marriages under the Marriage Act but also those living in de facto relationships, be they of a heterosexual, same-gender or intersex nature.

The bill equalises people, irrespective of the relationships they choose to live in. It does not affect anybody else. By imposing rights and obligations on these people the bill does not diminish or increase the rights and obligations of anybody else, but it does send a very strong message to our community that wherever possible the legislation will treat every individual equally in society. It will not discriminate against people on the basis of their relationships or their sexuality unless there is a really good reason to do so. As I said earlier, that is what legislation should be about — making everybody equal wherever possible.

I do not see the bill in front of us as being radical and I do not see it as effecting any major changes to our law. We have gone through that process; we have debated those changes and passed them in legislation, and so far the only comments about the operation of that act have been positive. There might be some concern and there might be some fear, but all the comments that have been made about the practical operation of the act passed in June have been extraordinarily positive, and the result will be the same with this bill.

The bill is to all intents and purposes fairly innocuous. Its major impact will be in the operation of the Children and Young Persons Act which, as Mr Furletti rightly pointed out in his contribution, has been passed by this Parliament in order to protect the primary interests of children. The more people who can be brought in under the notification requirements and coverage of that act and the more adults who can be brought under its purview, the greater protection will be afforded to children. Extending the coverage of that act to include all domestic partners simply means that the rights and interests of children and young people in our society will be more fully protected than they are today, and that is a very positive thing.

The bill simply extends the provisions of the act to cover all domestic partners so they can be brought within the ambit of the Children and Young Persons Act and be notified of any actions taken under the act to protect the primary interests of children — not the primary interests of either domestic partner. The primary purpose of the Children and Young Persons Act is the protection of children, and by introducing this amendment the bill will enhance its ability to achieve that primary purpose rather than diminish it, and that is a good thing.

Most of the amendments to other acts proposed by the bill are fairly straightforward and primarily impose obligations on people in domestic relationships that they did not have before. Once again, that is all part of making sure that wherever possible the laws of our land treat people's sexuality and their choices about their sexuality as completely neutral to the exercise of justice.

The process that the legislature and we as individual legislators went through when the original Statute Law Amendment (Relationships) Bill was being discussed, debated and in many ways dissected almost word for word created a number of lasting and very beneficial relationships between the public and us as their elected representatives. Since that time my own relationship with the gay, lesbian, transgender and intersex communities has become one of greater understanding, greater knowledge and greater trust.

In my contribution back in June I said that a lot of the misconceptions that people have are because of a lack of engagement and a lack of real knowledge. When we see something from the outside and have no personal understanding of the effect it has on people it is harder for us to make a decision on that topic, no matter what it is.

Through the debate and through the discussion and the working relationship that we built up, I have been able to gain a better understanding of the issues in those communities. But from the other side of the fence it has also enabled people in the gay and lesbian and transgender communities to understand the issues that we face as legislators, and it has enabled us to build a better working relationship. That relationship is built on dialogue, discussion and understanding rather than on an adversarial process. It will be very positive for everyone working into the future.

I commend the initiative of my colleagues — the Honourable Andrea Coote in this place, and the honourable member for Prahran, Leonie Burke, in the other place — who together with me formed a group

that meets regularly with representatives from the gay, lesbian, bisexual, transgender and intersex communities in Melbourne. It is a loose group that enables us to have an open and frank discussion on issues that are important to those communities. The communities often speak with a common voice; sometimes each community has its own individual issues. As I said, by opening up dialogue in the future the process will be less adversarial and will be built on more discussion and working towards possible common goals and outcomes wherever those common goals and outcomes can be achieved. It is a wonderful initiative that began at the instigation of Andrea Coote and with the full cooperation of Leonie Burke and me. It will be of great benefit to everyone involved in the process. I commend Andrea for that.

The bill is just one more small step in addressing the discrimination that exists in our legislative framework. I am sure, as Mr Furletti pointed out, that there are probably a few bureaucrats over at the Department of Justice poring through the legislation to find other bits of legislation where the terms 'domestic partner' and 'spouse' can be included to address other areas of discrimination within our legislation. I am also sure that the acts that have been left out of the current net are small and probably less consequential acts and that in due course issues relating to those acts will be brought into this house and addressed. I hope they are addressed in the same sensible, logical and rational manner as this small but valuable and important bill has been addressed in the main by all of us in this place and in the other place as well. I commend the bill to the house.

**Hon. E. J. POWELL** (North Eastern) — I am pleased to make a brief contribution to the Statute Law Further Amendment (Relationships) Bill mainly to put on record that the National Party will oppose it, just as it opposed the original bill, which was introduced into this house in November 2000.

As has been said by a number of other honourable members the original bill attracted considerable debate in both houses of Parliament and indeed in the community. It was put on the record that members of the National Party spoke at length on that bill. So, many of us have decided not to speak at length on this bill, which makes no major changes; it just amends a number of acts.

The debate that was heard during the time the original bill was brought into the house was dealt with sensitively, openly and honestly. There was considerable debate in the house at that time and there was much division within the parties. We in the National Party unanimously supported the decision to oppose the bill, but in some parties there was some concern about the bill before the house at that time.

The original bill amended 43 acts. This bill, as has been stated, amends 14 acts. It was debated in this house on Tuesday, 5 June, and I was able to contribute to that debate. As I said earlier, my comments on this bill will be considerably brief.

The bill adopts the model definitions of 'spouse', 'domestic partner' and 'partner', which are used in the Statute Law Amendment (Relationships) Act. According to the second-reading speech, the definition of 'spouse' refers to a party to a marriage only. I was pleased to see that following huge community outcry about the word 'spouse' applying to a domestic partner, the government decided to call a married person a spouse, as should be rightly the case because there needs to be a definition of a person who is legally married and a person who is not legally married.

As the Honourable Peter Hall said very strongly in his presentation, the National Party believes the institution of marriage should be protected, preserved and supported. Unfortunately, as we know, marriages break down. The statistics we hear time and again are that 1 in 3 marriages end in divorce. Another interesting statistic is that people still like the institution of marriage because many of those people who divorce also remarry.

The National Party also believes that a loving, supporting family is the best environment in which to raise a child. The Honourable Peter Hall spoke about the National Party's commitment to the family environment and the best way to raise a child. While there is also much talk about same-sex couples, those relationships also break down. They are not immune from the pressures that married people face. They are under much more pressure than married couples. But there are no statistics on the length or duration of those relationships so we are not able to compare them. While we say that marriage is not brilliant because 1 in 3 end in divorce, we cannot compare that with same-sex couples.

As I said in my presentation on the original bill, I attended a commitment ceremony between two ladies. One of them had been married before and had two children from a heterosexual marriage. These two ladies committed themselves for the rest of their lives in a ceremony that was witnessed by a lot of family and friends in the family home of the parents. It was a very loving ceremony and the two children were there, as was the original husband of one of the partners. Same-sex couples are committing, and it is interesting

to see that, while they cannot marry, they can commit to each other. We have yet to see how long those sorts of commitments continue.

During the debate on the original bill, the Statute Law Amendment (Relationships) Bill, I outlined the consultation the National Party had with its constituents in making its decision to oppose the bill. Honourable members in this house were inundated with letters, emails and phone calls that supported or did not support the bill. The majority of the letters, emails and phone calls that came into my office — almost 90 per cent of them — urged me not to support the bill. Like many of my parliamentary colleagues in the National Party, I raised the issue to find out how we should vote on this fairly sensitive bill. Overwhelmingly our community told us that it did not want us to support the bill. Interestingly, I spoke to people who voted Labor and asked them if they understood that the Bracks government came into office having committed itself to bringing in this type of bill. Although the people I spoke to had voted for Labor they did not support the bill or the principles it contained. It was not well known that the Bracks government was committed to bringing in a bill of this type.

Marriage and family are cornerstones of our society. They are where young people gain their values and their morals and, more importantly, how they learn to relate to and value other people. In the debate in both this house and the other place it was stated that the world had moved on, society had changed and that that was the reason for supporting the bill. When we talked about those sorts of issues, the people in my electorate said they believed that changes in society are not always good. At the moment young people are confused and need stability in their lives, particularly in the impressionable years up to the ages of 5 or 6. During those years they form their opinions about what is normal, what is acceptable, what they like and what they do not like. As I said, it is confusing enough already.

In conclusion, the National Party did not support the original bill and this one is no different — it just amends different acts. The National Party does not support this bill.

**Hon. ANDREA COOTE** (Monash) — I have much pleasure in speaking on the Statute Law Further Amendment (Relationships) Bill. As my colleagues have said, the Liberal Party does not intend to oppose it. The passing of the Statute Law Amendment (Relationships) Bill late last year marked a milestone in antidiscrimination in Victoria and, as a community, we should feel proud of it. It is a great reflection of the maturity of our community and the long-overdue recognition of unacceptable discrimination against members of the gay, lesbian, transgender and intersex communities.

As has been mentioned several times in this debate, when the Statute Law Amendment (Relationships) Bill was passed in the spring session last year it dealt with 43 acts. The amendments to this bill were flagged at that time, and today's bill amends a further 14 acts.

One aspect of this bill deals with the broader term and definition of 'domestic partner' in particular. The explanatory memorandum states that the principal definition of 'domestic partner' means:

> … a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender).

This bill refers to changing the Conservation, Forests and Lands Act, the Corrections Act, the Children and Young Persons Act, and the Water Act.

The explanatory memorandum further states that:

> The broader definition of 'domestic partner' differs from the principal definition by expressly recognising relationships where people may not necessarily live under one roof, yet are mutually committed to and supportive of each other within their shared life as a couple.

This relates to the Crimes (Mental Impairment and Unfitness to be Tried) Act, the Legal Practice Act and the Meat Industry Act.

Referring to the Property Law Act, the explanatory memorandum continues:

> Factors to be taken into account in determining whether the persons are domestic partners of each other include the duration of the relationship, the nature and extent of common residence, whether or not a sexual relationship exists and the degree of mutual commitment to a shared life.

It is important that these definitions are written so succinctly because language and its misinterpretation can cause and does promote discrimination and concern among various members of our community.

When the Statute Law Amendment (Relationships) Bill was debated in the last spring session, the Honourable Peter Katsambanis, the honourable member for Prahran in another place, Leonie Burke, and I decided that we would meet with the people affected. Between us we have the largest gay, lesbian, transgender and intersex groups in our electorates. It is a very large community and one that we are proud to work with closely. At that time I said that I would initiate regular meetings with the members of these peak organisations. We have had

one successful meeting and another subcommittee meeting that was also successful.

As the Honourable Peter Katsambanis said, the meetings are open to dialogue, not only so that members of the gay, lesbian, transgender and intersex communities can talk to their local politicians but also to give politicians the opportunity to listen to what their issues are and for the people of those communities to hear some of the constraints and issues that politicians need to deal with so that we can help them better understand the parliamentary and legislative processes.

It has built on the relationship that the Honourable Peter Katsambanis established with the various groups when he and Richard Wynne, the honourable member for Richmond in another place, worked closely together to get the original bill passed. I commend both honourable members for the work they did to get to that stage. It was very impressive on everyone's behalf.

As I said before, all the peak industry groups are represented within my electorate, and it is pleasing that we can work so closely together. We have had one meeting and a second subcommittee meeting. Meetings have been scheduled into next year, and we all believe it will progress and take us further forward.

One of the most surprising results from that first meeting was the issue of language. Inadvertently, together with other colleagues and members of the media, I used terminology that is very offensive and seen to be deeply discriminating against the gay, lesbian, transgender and intersex groups. This is inadvertent on my part, and I feel sorry that I have caused concern to any of those groups by not fully understanding terminology that may have been offensive. One of the words they find difficult to deal with is 'flaunting'. I had never considered this word to be offensive. I am pleased to know they feel this is not acceptable, and I will make certain that I announce that to as many people as possible so we do not inadvertently offend people we do not want to offend.

That is why I am pleased to see that 'domestic partner' has been clearly defined in the bill. It will eliminate any future concerns that there might be about 'domestic partner' and its interpretation.

The electorates of Monash Province and Prahran are fortunate to have such professional peak gay, lesbian, transgender and intersex organisations within them. I have enjoyed working with those groups and I look forward to working with them again.

In conclusion, our future work will ensure that one of the Liberal Party's basic tenets — that is, antidiscrimination — can be enhanced by the ongoing work undertaken by the three electorate representatives and hopefully bring proper debate into this chamber.

**House divided on motion:**

*Ayes, 35*

| | |
|---|---|
| Ashman, Mr | Katsambanis, Mr (*Teller*) |
| Atkinson, Mr | Lucas, Mr |
| Birrell, Mr | McQuilten, Mr (*Teller*) |
| Boardman, Mr | Madden, Mr |
| Bowden, Mr | Mikakos, Ms |
| Brideson, Mr | Nguyen, Mr |
| Broad, Ms | Olexander, Mr |
| Carbines, Mrs | Rich-Phillips, Mr |
| Coote, Mrs | Romanes, Ms |
| Cover, Mr | Ross, Dr |
| Craige, Mr | Smith, Mr K. M. |
| Darveniza, Ms | Smith, Mr R. F. |
| Davis, Mr D. McL. | Smith, Ms |
| Forwood, Mr | Stoney, Mr |
| Furletti, Mr | Strong, Mr |
| Gould, Ms | Theophanous, Mr |
| Hadden, Ms | Thomson, Ms |
| Jennings, Mr | |

*Noes, 4*

| | |
|---|---|
| Baxter, Mr (*Teller*) | Hall, Mr |
| Best, Mr (*Teller*) | Powell, Mrs |

*Pair*

| | |
|---|---|
| Luckins, Ms | Hallam, Mr |

**Motion agreed to.**

**Read second time.**

*Third reading*

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

That this bill be now read a third time.

In so doing, I thank honourable members for their contributions to the second-reading debate.

**House divided on motion:**

*Ayes, 35*

| | |
|---|---|
| Ashman, Mr | Katsambanis, Mr |
| Atkinson, Mr | Lucas, Mr (*Teller*) |
| Birrell, Mr | McQuilten, Mr |
| Boardman, Mr | Madden, Mr |
| Bowden, Mr | Mikakos, Ms |
| Brideson, Mr | Nguyen, Mr (*Teller*) |
| Broad, Ms | Olexander, Mr |
| Carbines, Mrs | Rich-Phillips, Mr |
| Coote, Mrs | Romanes, Ms |
| Cover, Mr | Ross, Dr |
| Craige, Mr | Smith, Mr K. M. |

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|---|---|
| Darveniza, Ms | Smith, Mr R. F. |
| Davis, Mr D. McL. | Smith, Ms |
| Forwood, Mr | Stoney, Mr |
| Furletti, Mr | Strong, Mr |
| Gould, Ms | Theophanous, Mr |
| Hadden, Ms | Thomson, Ms |
| Jennings, Mr | |

*Noes, 4*

| | |
|---|---|
| Baxter, Mr | Hallam, Mr |
| Hall, Mr (*Teller*) | Powell, Mrs (*Teller*) |

*Pair*

| | |
|---|---|
| Davis, Mr P. R. | Best, Mr |

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

**Sitting suspended 6.27 p.m. until 8.01 p.m.**

## BUILDING (AMENDMENT) BILL

*Second reading*

**Debate resumed from 18 October; motion of Hon. J. M. MADDEN (Minister assisting the Minister for Planning)**

**Hon. P. A. KATSAMBANIS** (Monash) — The opposition does not oppose the Building (Amendment) Bill. However, in the debate members of the opposition want to highlight a number of fairly significant issues. The first really goes to the heart of what this government is about. The Bracks Labor government can be characterised as one of lots of style and spin but very little substance. When one looks at the legislative program presented to this place and the people of Victoria, one can understand why it is very fair to suggest that the government has no substance. It certainly has lots of spin. I do not know about style — I certainly do not like its style and most people in Victoria I speak to do not like the style of the government — but there is no substance.

This is a small bill yet it is probably the most substantial piece of legislation that this place will deal with this week, which in many ways goes to show that the emperor and his team have no clothes. The public of Victoria is slowly coming to realise that there is no driving legislative agenda. There is no driving desire in this government to effect any positive change for the public of Victoria. There is a lot of wanting to stay on the Treasury benches to enjoy the spoils of government just for the sake of being there, rather than to effect much positive change. That is sad, but in time the public of Victoria will have the opportunity of passing judgment on this do-nothing government that has no vision, no purpose and no substance.

The bill does a number of things. Some of them are good and some of them are innocuous, but some of them — which I will come to in a minute — reinforce that the government was told that the supposed jewel in the crown of its new planning regime, Rescode, was a flawed instrument. This is the first of what I imagine will be many bills that will make significant changes to the Rescode process.

The first substantive change in the bill is in clause 3, which is the perfect example of what the government is about. Clause 3 changes the name of the Building Control Commission to the Building Commission. I am surprised the government did not appoint a committee before deciding to change the name. Maybe it did, but did not tell anyone about it!

Clause 3 does not change the purpose or functions of or remove from or add substantially to the powers of the commission, but it changes its name, its logo and its stationery. Honourable members in this place and the public of Victoria understand that it is more about style and spin than anything to do with substance. Maybe the name change will give the new Building Commission a more strategic place in the scheme of things in controlling building in Victoria.

In the main the Building Control Commission has done a good job over many years, and I imagine that the newly named Building Commission, which for all intents and purposes will be exactly the same as the Building Control Commission but with a new logo, a new coat of paint and a new set of clothes — a new bag of fruit — will continue to do the good work that has been done on behalf of Victorians. I tend to consider this an unnecessary change, but the government wants to put its imprimatur on things — and good luck to it. The public of Victoria will judge it for the sort of window-dressing that is being undertaken in clause 3.

Clauses 4 and 5 highlight the already emerging problems with the government's Rescode planning system. This is a little bit of 'I told you so'. Certainly when the proposal to implement Rescode was being debated the honourable member for Box Hill in the other place made it very clear, as did I and other speakers from the opposition in this place, that there was a significant risk that the changes introduced in creating Rescode would turn the building regulations and the building permit system into a de facto planning

system, with its rules, regulations, difficulties and delays. There is no doubt that in many ways the changes in clauses 4 and 5 recognise that the changes made to implement Rescode imported new conditions from the planning system into the building system. With clauses 4 and 5 the government is ensuring that, given that the planning rules will now substantially become part of the building rules, there will be no need to go through two sets of regulations and two sets of regulatory impact statements and so forth to incorporate by reference the rules in the planning scheme into the building regulations.

As I said, this will probably be the first of many attempts by the government to tinker with Rescode to make it a useable and user-friendly scheme. That quest, as I outlined when the proposal to implement Rescode was debated, will fail because the government has introduced a system that is clearly second best.

It is a system that is not as bad as the original incarnation of Rescode which was put out for discussion and debate and which was universally slammed by all involved in the planning system. The government then cobbled together Rescode 2 with the help of experts in the area. The experts tried their best, but they were hamstrung by some of the baggage the government brought to the area from the previous election campaign, and so we have ended up with the system we have today. The legislative changes set out in clauses 4 and 5 will no doubt be the first of many changes the government will introduce on the run to patch up the problems it has created, not just for itself but for every Victorian resident and stakeholder involved in the planning system under Rescode.

Clause 6 should be referred to as the Hurtle Lupton clause. The clause was introduced after a long campaign by my good friend the honourable member for Knox in the other place to ensure that regulations relating to fences around swimming pools and spas were strong enough to deal with all circumstances. Under the existing legislation people have to erect fences around their swimming pools that must be of the right size, shape and have a gate with the right locking mechanism — effectively it has to be childproof — but there is no regulation to say that the gate must be closed. Unfortunately some incidents have led to tragedies that have affected many Victorian families. The loss of a loved one, particularly a young child, in a swimming pool accident is an absolute tragedy and a disaster. One life lost in that way is one life that should not have been lost.

My heart goes out to anyone who has lost a child for any reason, but especially to those who have lost a child through the child falling into a swimming pool. That is why we all should recognise the campaign by the honourable member for Knox in the other place as being worthy and why I said that in all seriousness the clause should be referred to as the Hurtle Lupton clause, because the honourable member for Knox championed the provision after a family in his electorate was struck down by such a tragedy. He has led the campaign to have a provision in the legislation which will not only ensure we get appropriate swimming pool fences but which will deal with people who do not shut security gates on such fences. I hope, trust and know that the clause will save many innocent young lives, and it is one I wholeheartedly support.

I note that the penalties for not complying with the provisions relating to fences for swimming pools and spas have been increased from $1000 to $5000, or 50 penalty units. That is a good thing because it sends a strong message from this place to the public of Victoria that the safety of our young children around swimming pools is paramount.

Clause 7 deals with protection work on building sites and insurance for that protection work, particularly relating to neighbouring properties. In undertaking work on a building site involving the shifting of soil or earth, especially near boundaries, you are often at risk of causing damage to, movement of or some other loss to adjoining properties. The legislation currently requires that insurance be taken out so that the work is protected and adjoining property owners do not end up paying the price of accidents or incidents that happen because of building work on their neighbouring properties.

In many cases the problem of doubling up on insurance has occurred because the legislation requires the owner to take out insurance and in normal practice the builder will also take out insurance. This provision will make owners responsible for arranging insurance, which means the risk of doubling up on insurance premiums is taken away while adequate protection is still provided, because if the builder has not taken out adequate protection the owner must. The owner will be responsible for insurance cover being renewed and in place for up to 12 months after the work is completed to protect the adjoining property owners. Again that is a good thing.

Clause 8 deals with new members of statutory bodies established under the Building Act. Those bodies are the Building Appeals Board, the Building Practitioners Board and the Building Advisory Council. The statutory bodies are comprised of various individuals nominated by stakeholder organisations and appointed

by the minister. Clause 8 gives the minister the power to appoint additional to the current members of each of those boards a legal practitioner and a consumer representative. As a lawyer I have to say that the legal profession is an honourable one and to appoint legal practitioners to each of the boards seems to me eminently sensible. I am sure practically everyone in this place has served on boards in an honorary capacity and appreciates that often legal issues arise when boards and committees come to consider complex issues, and having a lawyer on the board is always an advantage.

**Hon. N. B. Lucas** — That is your story.

**Hon. P. A. KATSAMBANIS** — That is my story and I am sticking to it. I will always stick up for the legal profession because 99.9 per cent of those in the profession are honourable people who perform a valuable service to the community. You will not get too much of a dispute from me that it is a good thing to appoint a lawyer to each of these boards. However, I sound a word of caution. Each of the statutory boards, although they may have a lawyer as a board member as a result of these amendments, should not accept that the lawyer is present to provide legal advice. The lawyer is a member of the board just as any other member of the board, and will offer professional expertise, but when it comes to complex legal matters the boards understand their legal obligations. I do not need to preach to them, but I am sure they know that even with a lawyer as a member of the board, independent legal advice should be sought.

The appointment of a consumer representative is a good thing. Building planning affects everyone. I have a query: because the word ‘consumer’ in relation to building and planning is a wide term and there are various stakeholders, at some point people could be on one side or the other of a building dispute depending on their circumstances.

How you find one person to represent all the broader interests of the various consumers will be a King Solomon-type act, and that power is given to the minister. The opposition will be watching. I believe the minister will pay due regard to the fact that it is difficult to find a person who will be broadly representative of a body of consumers but does not have too much else in common. I imagine the minister will do the right thing and appoint to the three statutory bodies someone who is well regarded as being a strong advocate for consumers.

Clause 9 covers the situation where building practitioners registered by the Building Practitioners Board will be able to carry out work only within that category or class but not use their limited or restricted registration as a building practitioner to carry out work outside the class in which they are authorised. That is a sensible provision.

Clause 10 corrects another anomaly with the Building Practitioners Board. It is an issue that goes to statutory interpretation, but there is no problem in clarifying the intent of the legislation. When a complaint is made against someone who was registered as a building practitioner when they performed certain work but is no longer registered or their registration has been suspended by the board, there is a grey area whether the Building Practitioners Board can investigate those people. The bill makes it clear that if a building practitioner was registered at the time the conduct that is to be investigated occurred the board can conduct an investigation whether that building practitioner is still registered, whether their registration is currently suspended or whether they are unregistered. That makes sense. We are dealing with a set of events or particular conduct that happened at a time that that building practitioner was registered, and the rules as they applied when they were registered should apply and the board should have full power to investigate those circumstances.

Clause 11 allows a council’s building surveyor to delegate any functions under the Building Act or the regulations to any other person employed or engaged by the council who is also registered as a building surveyor. That makes eminent sense. Councils are concerned that this may add additional cost and place a burden on them. We will be watching it from this side of the house to ensure that if that is the case councils should be compensated.

Clause 12 enables notices to be served on and enforcement action to be taken against a lessee or licensee of Crown land as if that lessee or licensee were the owner of the land. That is a sensible provision, but concern has been expressed by councils that it may impose additional burdens. With my limited knowledge of this area, I do not see that there will be a significant burden, but if it becomes a burden honourable members on this side of the house will be watching to see what the government does to ensure that local government is properly resourced to fulfil its tasks under that clause.

Clause 13 allows regulations to be made to prescribe fees payable to reporting authorities for consideration of applications for permits referred to them under the act. It inserts a new head of regulation-making power, which deals with the testing of essential services in buildings, building work and places of public

entertainment. Local government is concerned that this may transfer responsibility and costs for ensuring that essential services in buildings, in building work and in places of public entertainment are maintained. There is a fear there will be a shift in emphasis from the owner-occupier of the building or the premises to local councils and a fear that this will add additional cost as well as additional burden.

We hope regulations will clarify that under the new regulation-making power and it will not impose an additional burden upon local government but that, rightly, the occupiers of the land will be the ones who meet the costs and the burdens. Concern has been expressed about adequate consultation before setting the prescribed fees to ensure that they are set at an appropriate level so that councils are not out of pocket for performing work under the Building Act and that the system is one of cost recovery and user pays. I imagine the minister will ensure that that is the case. The opposition will be looking closely at that to ensure that adequate consultation takes place before fees are set.

Clauses 14 to 20 are transitionary, consequential, machinery provisions and do not add significantly to the main purposes the bill is intended to cover. I shall not go through them in any detail, suffice it to say that, as I said at the outset, the bill is a little bit but not a lot. In doing that little bit it highlights significant failings of the government. Firstly, it highlights its failings in the area of planning, and highlights the fact that only two months after the introduction of Rescode, amendments are being made because the government created a system that was too cumbersome. It was turning the building permit process into a de facto planning permit process.

I am not sure that the amendments will change that. The proof will be in the pudding. Anecdotally in my province it is clear that the introduction of Rescode has caused significant new issues and problems for both developers and residents. It has also caused problems for the group in our community that we sometimes forget when dealing with the planning process, the non-professional developer, the small person, the single property holder who wants to either demolish and build a new building on or effect some substantial renovations to their property. We often forget that a large number of building and planning permit applications are not lodged by professionals looking to make profits on the transaction but by ordinary Victorians simply trying to effect changes to their place of abode.

They are treated as though they are professionals with deep pockets and with an intricate knowledge of the planning and building systems, which is often not the case. Significant concern has been expressed to me from all those quarters — from the little person trying to make a few changes right through to the property developer, and from residents who are affected by developments in their neighbourhoods right across the board — that Rescode is, to quote a number of them, a mess. Some of that is teething problems; I accept that. It takes a while for people to come to grips with a new system, especially one that effects significant change to the old ways that existed before the new system. However, in this case it is also quite clear that Rescode is proving to be a real impediment to certainty in planning. Rather than adding to certainty, which is what every side of the planning debate was asking for, Rescode has simply added to the confusion and decreased certainty. That is a failing of this government.

The other failings that are highlighted by this bill are how little substance there is in this government; how weak its legislative program is; how intent it is to dress things up; and how intent it is to give statutory bodies a new coat of paint, a new logo, a new name and some new stationery and to add a couple of other cosmetic bits and pieces to their offices. The Building Control Commission will be called the Building Commission but for all intents and purposes it will do exactly the same job it was doing yesterday. Those failings will in time come to be the great legacy and the great millstone around the neck of this government — a government that does very little good and is about shifting deckchairs, creating illusions and hoodwinking the public of Victoria.

I repeat that the opposition does not oppose the Building (Amendment) Bill. In many cases opposition members think it does some great things, especially clause 6, which relates to swimming pools and spas and which protects our infant children and toddlers by strengthening the protection the legislation offers. However, in other ways this bill is unfortunately more of the same from a do-nothing government.

**Hon. G. D. ROMANES** (Melbourne) — I believe the Building Amendment Bill is an important bill, and I do not share the pessimism of Mr Katsambanis. The bill heralds some very important changes, not the least of which is the first purpose of the bill, which is to change the name of the Building Control Commission to the Building Commission. ‘What is in a name?’, some people may ask. Is it just a rebadging or, as Mr Katsambanis said, a shifting of the deck chairs? I

contend that there is a lot in this name change and that it reflects an important shift in the culture and vision of the Building Control Commission, especially under the leadership of the new commissioner, Mr Tony Arnel.

Mr Katsambanis was the one who mentioned style. I remind Mr Katsambanis and other members in the house of the style of the previous planning minister in the Kennett government, Mr Robert Maclellan, the honourable member for Pakenham in the other place, and the former Building Control Commissioner, Mr Max Croxford. I suggest that their style was one of utter intransigence, because they refused over a number of years to respond to a whole range of problems the community kept putting forward which related to planning and building issues in this state. It was not until the election in September 1999 that Mr Maclellan put into the former government's election policy platform some of the changes which were very similar to the commitments made by the Labor opposition at the time and which it is implementing in government at this point in time.

The commission has long been advised by the building industry that the name 'Building Control Commission' has generally been perceived as negative, and under section 198 of the Building Act the functions of the BCC are much broader than control. The Building Control Commission currently has authority to conduct or promote research relating to regulation of the building industry. It also has the powers necessary to promote better building standards both nationally and internationally, and I draw the house's attention to the fact that the commission has recently been involved with the Victorian government in assisting the people of East Timor develop building standards for one of their towns. It also has the function of providing information and training to assist a whole range of practitioners carrying out building functions in this state.

In this spirit of considering the broader role of the Building Control Commission the building commissioner, Mr Tony Arnel, put together a major building industry summit in March of 2001 with the objective of consulting with industry about a change of direction and emphasis he wanted to put in place for the future role of the commission. I was present at that summit, which was an event where people worked hard putting together ideas, listening to key speakers and giving responses to the ideas aired. Mr Arnel stated very clearly where he wanted to position the building regulatory system in this state. I will outline for the house some of the headings under which he spoke about the new direction in which he wanted the Building Control Commission to go.

The principles that would underpin the new direction were a move from mandated scrutiny to transparent accountability; from mandated power in a niche to negotiated influence over a wide field; and from limited relationships to active partnering with a whole range of stakeholders such as the building industry, local government and consumers.

For the practitioners Mr Arnel put forward his views of practitioners moving from required registration to value branding; from poorly resourced, piecemeal and minimally accountable research and development to leadership of a major building innovation program; and from lack of confidence in practitioners in the community to full confidence in practitioner skills, viability and ethics. He wanted to see informed consumers. He wanted to see a move from the excess risks of owner building to fully informed consumer choices about owner building; a move from building surveyors acting for builders to clear building surveyor independence; and, with regard to the rules of the game, a move from a narrow regulatory compliance role in consumer disputes to leadership to reduce the level of disputes.

The approach that Mr Tony Arnel put forward at the March building industry summit was well received, and a mandate was given to the Building Control Commission by the participants to pursue a leadership role for the building industry and thereby to achieve better outcomes into the future.

The second purpose outlined in the bill is to streamline processes involved in applying, adopting or incorporating planning schemes into building regulations. Clause 4 provides that section 32 of the Interpretation of Legislation Act 1984 does not apply to the application, adoption or incorporation by the building regulations of any matter contained in a planning scheme approved under the Planning and Environment Act 1987 because public access to those documents is already provided in planning scheme processes.

For similar reasons clause 5 provides that regulatory impact statements are not required for certain amendments of the Building Act 1993. Again this is because planning provisions have already been through an extensive consultation process under the planning act.

These two clauses reflect the development of the planning and building systems within this state under

the government's planning agenda as outlined very early when coming to office by the Minister for Planning in the other place, the Honourable John Thwaites, in his *State Planning Agenda — A Sensible Balance*.

The clauses in this bill take us another important step in that direction. They carry through the government's commitment in a practical way to replace the *Good Design Guide* and Viccode 1 with an integrated and comprehensive Rescode. The purpose of Rescode is to protect neighbourhood character and urban amenity, to provide certainty for the building industry and developers and to improve environmental sustainability. Rescode affects both planning and building decisions and activities. It is not a single document, which is something we have to bear in mind, but a series of tools incorporated into both the planning and building systems to provide certainty to developers and to protect the public. Through these clauses and Rescode the government is bringing consistency to this state's building and planning systems.

In the previous autumn sittings amendments were made to the Building Act which allowed Rescode standards to be applied to single dwellings that do not require planning permits. Those Rescode standards include within the building regulations a subset of a broader range of standards applied via the planning system. Through Rescode we have a basic set of 15 new standards that apply to single dwellings that do not require planning permits. These are: maximum street setback; minimum street setback; building height; site coverage; permeability; parking; side and rear setbacks; walls on boundaries; daylight to existing windows; north facing windows; overshadowing open space; overlooking; daylight to new windows; private open space; and fence heights. Those standards are set and are applied by building surveyors in the building industry. Six additional standards apply for single dwellings requiring planning permits, while 14 standards apply under the planning provisions for multi-unit dwellings.

The building regulations also have a capacity to cross-reference to planning schemes, which would enable local variations to Rescode standards provided for under planning schemes to also be applied under the building regulations. So things can change locally, whether that is through local government applying various overlays or changes to residential zones or local policies. The legislation provides that when this change happens locally the building regulations can respond to that.

As honourable members would know, in putting together Rescode there have been extensive consultations across the state. The building regulations were widely supported as the appropriate location for such additional controls and standards in this state. Since we last spoke on this issue in the house numerous training programs have been put in place to support the planners, those who are practitioners in the building industry, in applying Rescode in the planning and building systems.

Mr Katsambanis mentioned additional burdens. There is no doubt that we are still in a transition phase, but everything is being done to support those who have the responsibility of implementing these programs.

Clause 8 in the bill provides for the widening of the classes of persons who can be appointed as members of various bodies established under the Building Act. Currently representation on the statutory bodies established under the Building Act, such as the Building Appeals Board and the Building Advisory Council, is exclusively from the building industry. This clause provides, first of all, for representation by consumers. Those consumer interests are most likely to be from domestic consumers, who constitute the largest group of consumers who are involved in the building industry. The government's view is that it is important for the building industry to better understand the range of concerns that consumers have and to emphasise the need to listen to them in order to maintain their confidence in the building industry.

The government is providing a place for a legal practitioner on each of the statutory bodies set up under the Building Act in order to more strongly emphasise the need to better protect the rights and interests of persons affected by building activity. I agree with the Honourable Peter Katsambanis that the addition of a legal practitioner to each of the statutory authorities is a good idea for the reason that I have outlined. However, the government understands that legal practitioners who take up those positions are not there to act as lawyers but as members who may be able to provide a different perspective from the other members of those boards or authorities.

A number of other measures included in this bill are designed to improve the operation of the Building Act. Clause 6 tightens the requirements in the building regulations with respect to swimming pools and spas. In question time today we heard from the Minister for Sport and Recreation about recently released figures concerning drownings in Victoria. In 2000–01 there was a decrease in drownings from 55 to 45, which is the lowest since records have been kept since early in

the 20th century. The minister made the point that in that year no toddlers in the 0–5 age group had drowned in home pools and spas, but already this year one toddler has drowned in a home swimming pool. That reminds us how vigilant and careful we need to be to ensure that the right regulations and legislation are in place, as well as education programs and actions, to protect the lives of young children. The government has made a commitment to achieving maximum protection for those young children.

Clause 6 responds to the need to improve the controls for swimming pool safety barriers. The amendments will allow regulations to be made to introduce maintenance requirements for gate closers, locking devices and other safety barriers, because currently there are no obligations to maintain safety equipment in a home swimming pool or to make sure that gates are closed rather than open. Through this amendment the government will apply increased pressure, in particular through increasing the maximum penalty for offences against the building legislation in regard to swimming pools from $1000 to $5000.

Clause 7 provides for insurance for protection work and obliges the owner to ensure that the required insurance is obtained to make sure that neighbours' protection work is in place to protect the interests of properties neighbouring building sites. Clause 9 provides for builders being registered in the proper category or class to make sure that the legislation supports the consumer protection principles in the Domestic Building Contracts Act. Clause 10 clarifies the current situation by providing for an inquiry to take place into the conduct of a building practitioner who is no longer registered.

Clause 11 inserts a new section 216B that clarifies the power of municipal building surveyors to delegate and removes any doubt about the legality of municipal building surveyors delegating responsibilities to building practitioners registered by the Building Practitioners Board. That provision is necessary because municipal building surveyors have a wide range of responsibilities and have to undertake a wide range of tasks. These herculean responsibilities could never be carried out by one person, therefore it is inevitable that they will need to delegate some of those responsibilities along the way. This clause makes clear what those legal responsibilities and powers to delegate are all about.

Clause 12 provides that the legislation can be applied to a licensee or lessee of Crown lands and gives the government the ability to enforce the requirement of a notice or order. Clause 13 provides new regulation-making powers for the setting of fees.

Mr Katsambanis raised some queries about fees payable for consideration by reporting authorities of applications for permits for consent and report, and I draw the attention of the house to the fact that the power to set these fees is designed to bring consistency into the fee structures for the building industry and for consumers. However, those fees will not be set without consultation through a regulatory impact statement process.

The bill also provides powers to test essential services — not just to inspect but to physically test essential services such as fire hose reels and other safety equipment. Clauses 14 to 20 cover transitional or consequential provisions.

The bill is another important step in refining and developing Rescode and its application, and in improving the building regulations and acts in Victoria to protect and enhance the health, safety and welfare of the citizens of this state. I commend the bill to the house.

**Hon. E. J. POWELL** (North Eastern) — I am happy to make a contribution to the debate on the Building (Amendment) Bill and to put on record that the National Party will not oppose the bill. The bill's main purpose is to amend the Building Act 1993: to change the title of the Building Control Commission to the Building Commission; to streamline the processes involved in applying, adopting or incorporating planning schemes into the building regulations; to widen the classes of person who can be appointed as members of various bodies under that act; and to strengthen certain provisions in the act and provide increased penalties for failure to comply with provisions in the act.

One of the main parts of the bill is clause 3, which deals with the name change. I am not sure — and nobody has been able to explain it to me — why the word 'control' is being deleted. After the briefing with the office of the Minister for Planning and representatives from the Building Control Commission, I understand there are no problems with that decision. The Building Control Commission did not tell us there was a problem with it.

Clause 4 overcomes the need for duplication. It provides that section 32 of the Interpretation of Legislation Act does not apply where provisions of planning schemes are applied, adopted or incorporated by reference into the building regulations. The requirements of section 32, which are that relevant

documents be tabled in Parliament and copies held for public inspection by the relevant department, would duplicate the provisions of the Planning and Environment Act 1987, which requires that planning schemes from councils be made available at council offices and offices of the Department of Infrastructure. This duplication would result in an extra administrative burden and extra cost without much public benefit, because the public has an opportunity to view the council planning schemes and object if they are not happy with them. The National Party believes that is a commonsense approach.

Clause 5 provides that regulatory impact statements are not required for certain amendments. As I said, a planning scheme will have been on show with an opportunity for community input, assessment and comment, so there will be no need for a regulatory impact statement.

Clause 6 amends the regulation-making powers with respect to the construction, installation, maintenance and operation of swimming pools and spas. This has caused a bit of debate in this house particularly, but also in the other place, about the importance of pool and spa safety and maintenance. I hope the provisions of this bill will better address those issues.

In 1994 the former coalition government introduced legislation requiring that all domestic swimming pools and spas be fenced. It has been said in this house that while there was a requirement for swimming pools to be fenced appropriately it seemed there was an omission in that there was no requirement for swimming pool gates to be closed. Gates could be left open. There have been some tragedies where that has been the case — toddlers have been able to access swimming pools purely by going through gates. The bill will correct an anomaly where we said that for safety reasons there must be a fence of a certain height around a pool and gate latches at a certain height but made no recommendation that pool gates needed to be closed.

**Hon. W. R. Baxter** — We thought it was commonsense at the time.

**Hon. E. J. POWELL** — It is commonsense, but I guess it was overlooked by those who drafted the bill. It looked like commonsense, and I guess people wondered why that was omitted. The bill clarifies that situation.

At the briefing with representatives from the minister's office one of the questions we asked — because we keep getting asked this by members of our community — was what constitutes a swimming pool? We were told that a swimming pool is 15 cubic metres in volume and 300 millimetres in depth. It can be much bigger, but as soon as it hits that size then there are certain regulations that must be followed by the person buying the pool or getting the pool built.

The bill will increase penalties for people who do not have their pools fenced, who do not put the latches in place or who leave the gates open. However, the biggest penalty is to the family that loses a child. You can ask them to pay a monetary penalty, but somebody who has lost a child, or whose neighbour has wandered in and drowned in their pool, can pay no further penalty than to know that due to their negligence their own child or a friend's child has drowned in their pool.

As we have heard before, fences are no substitute for parental supervision. Where there are drownings, particularly with toddlers, you often hear parents say that they only turned their backs for a moment. As a parent I know that the only deterrent to stop a child going into a pool is having your eye on them all the time. Unfortunately that is not always possible; sometimes you do take your eye off them for a moment. That supervision is always there, but the moment you stop the child is attracted to the water, and if it is possible for them to reach to the water and they cannot swim it is possible for them to die.

One of the areas referred to in the bill is pool maintenance. There has not been a lot of discussion about pool maintenance. It is not just about locks and height but about keeping pools clean. That situation is highlighted in a press cutting from the *Border Mail* of 11 October, which under the heading 'Missing toddler drowned in pool' states:

> The search for a three-year-old girl ended tragically when her body was found at the bottom of a murky pool in her family's backyard in western Sydney yesterday.
>
> …
>
> Police said the pool had been checked several times during the 25 hours that she was missing but the girl's body had been missed in the murky water.
>
> About 100 searchers including the dog squad, mounted police and the fire service joined with neighbours in a grid search of the area surrounding the home yesterday.
>
> 'The pool was fenced and had been searched but the water was murky', police said.
>
> …
>
> 'Too many children are being lost in preventable water deaths', Mr Bradley said.
>
> 'People have to remember that a fence is no substitute for continued adult supervision.'

…

Mr Bradley —

who is the chief executive of the Royal Life Saving Society —

> said that for every child drowned, three others were admitted to hospital every year as near drownings.

While we understand the impact of death, we also need to be aware of the impact of children nearly drowning or having some sort of long-term incapacity because of near drowning.

A man phoned me in January 2000 — I will not mention his name because I have not asked him if I can use his name; he is from the electorate that the Honourable Bill Baxter and I serve — whose three-year-old child drowned in his backyard pool. He and his family were obviously devastated. He wanted to warn other parents about the impact of the drowning and the need to supervise children at all times. He wanted to speak to the Minister for Planning. We arranged for him to speak to Mr Thwaites, but his issue was that he had bought the pool and had not been told by the person who sold it to him that he needed a fence. He put a fence around it anyway because he had children, but the fence was not childproof.

His complaint was that sometimes parents inadvertently do not do the right thing because they are not warned by the salesperson that the pool needs to be fenced. People who construct pools should have an absolute understanding of the requirements of the legislation.

At that time, because of the drownings, an advertisement was to be run on television to warn parents of the dangers. The public relations officer of the Building Control Commission spoke to the gentleman and asked him if he would like to be included in the advertisement. He agreed and said he was happy to be of positive assistance. I am not sure if he was included in the advertisement, but he spoke to the public relations officer of the commission and the minister. He felt he was able to give some positive feedback and perhaps in some way alert parents to the fact that somebody else's child could drown in a backyard swimming pool. He hoped his warnings would stop parents from thinking they need not put a fence around their small backyard swimming pools.

Clause 7 refers to insurance for protection work. The principal act presently specifies that an owner must enter into a contract of insurance. The words to be substituted by clause 7(1) state:

> Before any protection work is commenced in respect of an adjoining property, an owner must ensure that a contract of insurance is in force, in accordance with this section …

The insurance is still the owner's responsibility but now the owner can have a builder arrange insurance cover as an agent of the owner. The prescribed penalty units are the same as in the act. Penalties prescribed in clause 7(3) are not in the original act. Clause 7(4) states:

> The owner must ensure that the contract of insurance is renewed or extended as often as may be necessary during the carrying out of the building work and for 12 months after the work is completed.

The act says the contract of insurance is to be renewed so that no responsibility is placed on the owner. The bill makes clear that the owner must ensure that the contract of insurance is renewed and extended for 12 months after the work has been completed.

No penalty is prescribed in the act, but the bill imposes 100 penalty units in the case of a natural person and 500 penalty units in the case of a body corporate if the owner does not ensure that a contract is in place.

There is a need for insurance because section 98 of the Building Act 1993 prescribes:

> An owner must compensate any adjoining owner or adjoining occupier for inconvenience, loss or damage suffered by the adjoining owner or adjoining occupier in connection with the carrying out of protection work under this Part.

It pays for the owner to ensure there is some sort of insurance cover over protection work because even 12 months after the building has been finished, cracks could occur in the adjoining neighbour's wall or house, or even in the footpath.

Clause 8 widens the class of persons who can be appointed to various statutory bodies under the act, which established four bodies. They include two statutory bodies and two advisory bodies. The two statutory bodies are the Building Practitioners Board and the Building Appeals Board. The two advisory bodies are the Building Advisory Council and the Building Regulations Advisory Committee. The bill adds representatives from the legal profession and from the community. I am not sure why those representatives need to be on the committee, the boards and the council; there may have been problems in the past and they found they needed representation. However, the National Party does not oppose those additions, which will probably strengthen those bodies.

If there is a need to broaden representation on those bodies and advisory committees, country people should

be represented. So often boards and advisory bodies established in Melbourne do not include country people in their membership. If the government is looking at broadening representation on boards and committees, that is fine, but there must be some representation on all those boards from country areas so country people can lend their expertise and skill. It is also important if the government is looking at broadening the membership of boards that it should examine gender balance and ensure the appropriate representatives can bring their skills and experience on board.

The National Party supports the requirement in clause 9 that a builder must be registered in a proper category or class. The bill provides that a builder must not carry out domestic building work under a major building contract unless the builder is registered as a domestic builder in the appropriate category or class. That will stop the major contractors taking on small jobs when they are not busy. It is important that smaller builders can continue with their work. The requirement is that if a major contractor wants to take on smaller jobs, he or she must be registered and meet all the guidelines and conditions of that category.

Clause 10 enables the Building Practitioners Board to conduct inquiries into the conduct of building practitioners whose registration has been suspended. That makes a lot of commonsense, and the National Party strongly supports that provision. It makes builders liable even if they are deregistered or if they have left the industry. If they have left the industry under a cloud, they can still be subject to an inquiry so that the person whose home they have been working on has a claim to some compensation.

Clause 11 enables a municipal building surveyor to delegate his or her function and powers under the act to a qualified person employed or engaged by the council who is registered as a building surveyor under part 11 of the act. That provision is important, particularly for rural councils who increasingly delegate their responsibilities. I refer to an article from the *Riverine Herald* of 19 October which carries a message from the mayor of the Shire of Campaspe, Cr Peter Williams. He states, in part:

> As the building regulations specify a time limit of 15 business days for consent and process, it is not possible for permits to be determined at council's monthly meetings.
>
> Council has decided to delegate various provisions of Rescode to the shire's building surveyor and team leader statutory planning.

Country councils will probably use that provision given that, as was announced, it will be impossible for the councils to ratify those sorts of conditions at their council meetings.

Clause 12 enables notices to be served on and enforcement action to be taken against a lessee or licensee of Crown land under part 8 of the act as if the lessee or licensee were an owner of that Crown land. As councils are the responsible authorities it is important and appropriate for them to have control over all land in their municipality. If an excessive burden is placed on council due to Crown land responsibility, the government needs to examine the matter and perhaps subsidise or support local councils for their extra work.

Building surveyors will be now able to enforce regulations on buildings on Crown land. Previously it has been unclear who would enforce the provisions, but the bill makes it clear that if there is something wrong with a building or an activity on Crown land, the council officers can enforce regulations on the buildings.

As the bill will have a strong impact and a number of clauses will impact greatly on local government I wrote to the nine councils in the north-east that I represent. I received a limited response, but most say they see no problems. The Shire of Campaspe said it did not have a problem with any aspects of the bill.

The honourable member for Wimmera in the other place wrote to five of his councils. Only one responded to say it had no concerns. I also wrote to the Municipal Association of Victoria and to the Victorian Local Governance Association. To date I have not received any response. But there is a difficulty in attracting appropriate skilled people to country Victoria, more particularly for remote councils.

Clause 13 regulates fees payable to reporting authorities for consideration of applications for permits referred to them under the act or regulations for consent or report. It makes sense because it means fees and charges will be uniform across all councils. It also requires or authorises the testing of essential services in building work and places of public entertainment.

The essential services are things like fire services and making sure fire escapes and fire regulations in buildings are appropriate. Other essential services could include water and making sure that the appropriate requirements are complied with.

There is confusion now about who will ultimately be responsible for compliance — the owners, the builders of the building, or the council. For example, if there are not enough fire escapes, too many people in a place of

entertainment or a blocked fire escape, who will be responsible — the council, the owner of the building, or the person actually running the place of entertainment?

As has been said, clauses 14 to 20 are mainly consequential or transitional amendments. There has been a bit of talk in this house today about Rescode. In August 2001 the government implemented its residential code for Victoria, which is known widely as Rescode. The National Party is reserving its judgment on how effective Rescode is, especially in country Victoria. Country developers have said to me that it is very much a citycentric code and that it is very much to the benefit of urban areas. Architects have warned me that it will take design and innovation back decades. And how do you define neighbourhood character, which is one of the needs of Rescode?

I have raised concerns with the Minister for Planning a number of times about training for Rescode in country areas and the lack of or conflicting information about it. Initially when information forums were held on Rescode before its adoption, I received a number of calls from councillors that there was only about a week's notice before they went to the information sessions. They got conflicting information from different people at the sessions and there was not enough information.

I received a letter from the Minister for Planning on 9 August — I guess many of us got this — announcing that Rescode would be part of planning schemes from 24 August 2001. The minister talked about assisting councils with arrangements and training for Rescode and included an information sheet on where those forums would be held. The training program shows that Rescode one-day training sessions were held mainly at Victoria University, the RMIT University, Ballarat and Bendigo, and Holmesglen TAFE. I asked whether any sessions would be held in north-east Victoria; there were none, and none are proposed. I have to say some information is on the Web, and a web site has been posted so that people can get information.

However, I thought the cost of these one-day training sessions, which is $175 to $200, was inappropriate. The price includes lunch, morning and afternoon tea, course materials and Rescode documents. I would have thought that since the government was implementing Rescode it would find it was in its best interests to run these training courses at no cost to councils. There is a bigger cost for country councils because they have travel and accommodation costs and the loss of a whole day and sometimes two days if they have to travel great distances.

There is some confusion about how Rescode, the ministerial guidelines and municipal councils' own planning schemes will work. I guess we will find that out as Rescode unfolds over the next 12 months. How will the councils be able to vary the six Rescode standards which do not meet the ministerial guidelines, but which they believe are in their own community's best interests, such as street setbacks, building height, site coverage, side and rear setbacks, private open space and front fence height? The country areas have different needs from the city. We need more space and so forth.

Prior to the last election the coalition's own planning policy indicated there would be changes. The coalition already understood that it needed to change its planning policy. It is too early to tell whether Rescode and its implications will be of benefit to the Victorian community. The National Party will be monitoring Rescode's progress to make sure that rural development and housing will not be disadvantaged by its regulations and restrictions.

Although the National Party has reservations about Rescode, the bill contains a number of provisions that it hopes will improve the Building Act. The National Party wishes the bill a speedy passage through the house.

**Hon. S. M. NGUYEN** (Melbourne West) — I rise to speak in support of the Building (Amendment) Bill now before the house. The Bracks government promised before the last state election that it would introduce this important bill. The government wants to deliver what it promised to the Victorian community.

The bill makes many changes. A main purpose of the bill is to amend the Building Act 1993 to change the title of the Building Control Commission to the Building Commission. The minister has undertaken work to show the difference between the new Building Commission and the old commission. Among the important provisions the bill contains are a number of administrative amendments that will improve the operation of the Building Act. These include changing the name of the commission to better reflect its role of leadership and regulation rather than control of the building industry and also extending the membership of all the statutory bodies created under the Building Act to include community representatives and representatives of the legal profession.

There are many things I would like to mention about this bill. In August 2001 the government implemented its new residential code for Victoria, known as Rescode. It is a new comprehensive residential code.

Rescode is a package of tools, implemented through the planning schemes and building regulations.

It is important to see the government take up the concerns of the community. It was very controversial for many years under the previous government because owners of neighbouring properties had very little say on planning and building schemes. It happens in my electorate around Footscray, Yarraville and Williamstown. Because the values of properties are high, a number of old buildings have been pulled down and multistorey units or apartments constructed. A lot of people went to the west to buy and invest, because it is profitable to invest in building. Many properties lost their views or were overshadowed by neighbouring buildings. Many things were of concern to the community, which often had very little say on the granting of a permit relating to a next-door property.

As I said, clause 1 amends the Building Act to change the name of the Building Control Commission to the Building Commission and to streamline the processes involved in applying, adopting or incorporating planning schemes into the building regulations.

Clause 1 also widens the classes of person who can be appointed to the bodies established under the Building Act. Allowing legally trained professional persons to represent the interests of consumers is a very important policy of fairness and the protection of the rights and interests of consumers.

Clause 2 provides for the commencement of the provisions of the bill. Clauses 3 and 14 deal with the name change of the commission, and those provisions will come into operation on 1 January 2002. Clauses 8 and 15 allow lead time for appointments to be made to the statutory bodies.

Clauses 6 and 16 deal with swimming pool safety controls and allow for a public awareness campaign and training for building surveyors and local government regarding the new provision.

Clause 3 provides for the change of the name of the commission to import the positive new roles of the commission into the changed name. The role of the commission is to conduct or promote research into matters relating to the regulating of the building industry, to promote better building standards both nationally and internationally, and to provide information and training to assist persons and bodies in carrying out functions under the act.

The bill allows the commission to develop its role from mandated scrutiny to transparent accountability, from legislated power in a narrow field to a negotiated influence over a wide field, from piecemeal research to leading major building innovation. That is one of the key things in the industry.

Clause 4 deals with the requirements of the Interpretation of Legislation Act 1984. Clause 5 inserts new section 9A to exempt the minister from the requirement to ensure that a regulatory impact statement is prepared.

The government is concerned to ensure that the development of planning and building has a lot of input from local councils. It is a good way for people to get involved with their councils. Members of the community will have more chance to speak up and raise their concerns relating to their neighbours.

The bill also provides for swimming pool safety controls. It is important to ensure that young children are safe. Many children have drowned because of the lack of safety fences around backyard pools and spas. Many young kids could easily drown if there is no safety fence around a backyard pool. There are some differences in the law. People who had pools built before 1991 are subject to different rules. As Mrs Powell mentioned, some people buy houses that have swimming pools and the new buyers are not aware of the swimming pool regulations. Sometimes they do not know that they must build a fence around the swimming pool to protect children from being drowned. Local councils have a very important role in checking which houses with pools do not comply with all the safety requirements. The government takes the matter very seriously and is increasing the fine for non-compliance from $500 to $5000. The government wants pool owners to take the matter seriously and install what needs to be put in place.

The bill also deals with the many builders who have lost their building licences but are still working. The government must ensure that people who use builders are protected because there are people who are doing building work without a licence. In my electorate office we have received a lot of complaints. Many people have used the services of building consultants who do not have licences. Sometimes they are ill advised and have not got a building permit before they build. Some of them have built and got their money. Later the consumers have had complaints from the council and the council has asked them to pull down some of the new work. They cannot find the builders because they have run away.

In many cases I have helped people to talk to council to get things legalised. They also have to do a lot of work

to fix what was built illegally. In many cases the community is not aware of the rules. People trust the builders whose names they have seen in advertisements in newspapers or on business cards. Many builders are still practising without a licence. The Building Control Commission has had to keep a close eye on those people so that our community is protected. People do not want to pay a lot of money to get a headache. The bill highlights many important changes to protect Victorian consumers.

In the past few years building was a booming industry so there were a lot of good builders, but there were also a lot of bad builders. Many people went broke because they were poor managers. Some of them did not have enough insurance. They had only a low level of insurance and they built more than they were allowed to build.

Councils also play an important role in keeping an eye on what happens in their local areas. The bill allows residents to work with their councils. A copy of the planning permit will be sent to the council and the responsible department.

In conclusion, I support the bill. It demonstrates the commitment of the Premier and the minister to the promises they made to tidy up planning issues prior to the election of the government.

**Motion agreed to.**

**Read second time.**

*Third reading*

**Hon. J. M. MADDEN** (Minister assisting the Minister for Planning) — By leave, I move:

That this bill be now read a third time.

I thank the Honourables Glenyys Romanes, Sang Nguyen, Jeanette Powell and Peter Katsambanis for their contributions.

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

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

*Introduction and first reading*

**Received from Assembly.**

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

## ADJOURNMENT

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

That the house do now adjourn.

### Pakenham bypass

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I raise a matter for the attention of the Minister for Energy and Resources, as the representative in this place of the Minister for Transport. This morning I had the pleasure of going to Pakenham with the federal Treasurer, the Honourable Peter Costello, the member for La Trobe, Bob Charles, and the Liberal candidate for McMillan, Jim Forbes. I was delighted to be there when the federal Treasurer announced that the commonwealth government would commit $100 million for the construction of the Pakenham bypass. It was a fantastic announcement for my electorate.

The issue of concern is that the Pakenham bypass is a road of national importance (RONI), which dictates that it receive fifty-fifty funding from the state and federal governments. The commonwealth government has committed $100 million to the project, which is estimated to cost $200 million. In August this year the *Pakenham–Berwick Gazette* asked the Premier for his views on the Pakenham bypass, and in response to the question ‘When will construction on the Pakenham Bypass begin?’ the Premier said:

Construction will only begin when the federal government commits to full RONI funding.

Today the federal Treasurer, on behalf of the federal government, has committed to full RONI funding for the Pakenham bypass. According to the Premier’s comments of 8 August we should expect the Bracks government to commit its 50 per cent share for this very important project.

I understand that comments by the Premier made in the other place and reported in the media indicate that the government is not committing to the project. The

people of Pakenham are not getting the commitment to the project they deserve from this government. I ask the Minister for Transport, in accordance with the Premier's comments two months ago, to commit the state government to match the federal government's funding so that the project can get under way.

## Water: Latrobe aquifer

**Hon. P. R. HALL** (Gippsland) — I raise for the attention of the Minister for Energy and Resources the answers I have received to four questions on notice that I have had on the notice paper, all regarding the Latrobe aquifer. On 18 October, the last week of the sitting, I received answers to questions on notice 2197, 2198 and 2199. Each of those answers was responsive to the question asked, and I thank the minister for them. Today I received a response to question on notice 2196, also on the topic of the Latrobe aquifer. I quote the answer the minister gave me:

> I am informed that under the Water Act 1989, management of ground water issues does not fall within my portfolio responsibility and the question should more appropriately be addressed to the Minister for Environment and Conservation.

It puzzles me why I received answers to three questions on notice on this subject last week and a no answer to the question today. I also draw to the minister's attention a media release dated 27 September issued by her and headed 'Bracks government acts on subsidence'. Throughout the press release the minister speaks about the Latrobe aquifer and in particular a moratorium on new ground water licences.

I believe there are three possible conclusions: firstly, between 18 October and 30 October the minister has had responsibility for this issue taken away from her; secondly, the minister mistakenly answered my three previous questions and the wrong name was put on the press release of 27 September; or thirdly, the minister is now refusing to answer questions on this matter.

I do not know or care which conclusion is correct; all I want is an answer to my question on notice. I give the minister a further opportunity to answer my question on notice which was:

> What action is the government planning to address the economic impact falling water levels is having on both current and potential users of the Latrobe aquifer?

## Victorian Young Farmers

**Hon. M. A. BIRRELL** (East Yarra) — I raise a matter with the Minister for Energy and Resources, as the representative in this house of the Minister for Agriculture. Like other members of Parliament I have received correspondence this week from the Victorian Young Farmers organisation, which is concerned about its future, given the threat to its funding base as a result of a state government decision. I am concerned about this and hope the government will reconsider its stance.

In the letter to me dated 24 October, the Victorian Young Farmers state president, Tim Dwyer, states:

> The current state government has informed the VYF that core funding will not be provided breaking a partnership in excess of 35 years.
>
> The VYF was only verbally informed of this decision last week by a senior bureaucrat … On 4 April 2001 VYF was officially advised by Minister Keith Hamilton that the Department of Natural Resources and Environment core funding, usually paid in January, would not be renewed in 2001. He further advised that VYF should make application to the Department of State and Regional Development for project funding.

I regard this as extremely concerning because Victorian Young Farmers is one of the most successful youth organisations in Australia, with a history dating back decades. I have had pleasure over the years working with the organisation both in an individual capacity and as a minister, because it provides a rare interface with an organised youth wing of country people. In these days when people have plenty of other things to do it is hard to get people to join organisations as successful as this, particularly one that has leadership training as one of its clear objectives.

I ask the government to reconsider its decision, particularly in light of fact that this is the International Year of Volunteers. It seems extraordinary that the government would seek to cut core funding of this organisation.

I ask the government in particular not to continue with the thought of only giving project funding to the organisation, as project funding will not be a sustainable basis for it to exist on in the medium term, and anyone who is put on the drip of uncertain funding from project grants will know that it is not sufficient for the long term.

## Heathcote–Graytown national park

**Hon. W. R. BAXTER** (North Eastern) — I direct a matter for the attention of the Minister for Industrial Relations for reference to the Premier. Last Thursday the Honourable Jeanette Powell, the honourable member for Rodney in another place and I were pleased to accompany a number of people involved in the timber industry to look at box-ironbark forests in the Rushworth and Heathcote area in the North Eastern Province — under the new boundaries even more

territory that comes into the North Eastern Province — and to take account of the ramifications of the recommendations of the Environment Conservation Council for additional national parks in that location.

My concern is, and this is why I am raising it with the Premier rather than the Minister for Environment and Conservation, that there appears to be government policy that Parliament is to be disregarded and in fact ignored, and recommendations of the ECC are to be put in place before Parliament has made a decision on those recommendations and even before legislation is introduced. It was drawn to our attention that the proposed Heathcote–Graytown national park is now being treated by the Department of Natural Resources and Environment as if it were already a national park. Foresters are unable to move on to the next coupe, which they would have been able to do had these recommendations not been in the public arena.

That is an insult to the Parliament if the department is acting as if the Parliament had already taken a decision when clearly it has not had an opportunity to even consider it, let alone make a decision. I ask the minister to request that the Premier issue appropriate instructions that proper process be followed.

## Rail: Bentleigh crossing

**Hon. J. W. G. ROSS** (Higinbotham) — The matter I raise with the Minister for Energy and Resources for referral to the Minister for Transport in the other place is the poor state of repair, in particular the uneven surface, at the railway crossing in Centre Road, Bentleigh. The surface is so uneven that vehicles risk damage when they cross the railway line, and there is an associated safety issue of drivers maintaining control of their vehicles as they move through the crossing.

I ask the minister to arrange an inspection of the level crossing at the Bentleigh railway station in Centre Road and to initiate the required repairs.

## Narre Warren–Cranbourne Road–Pound Road: traffic control

**Hon. N. B. LUCAS** (Eumemmerring) — I raise with the Minister for Energy and Resources, who represents the Minister for Transport in another place, the matter of the intersection of Greaves and Pound roads with Narre Warren–Cranbourne Road. Sadly, last week there was another death on that road as a result of a motorist, as I understand it, doing a right-hand turn onto the roadway. This is something that happens all the time in a growth area where new subdivisions are developed adjacent to major roads, with people establishing themselves in new subdivisions heading off to work in the morning and trying to get on to a main road without the availability of traffic lights.

That is the situation at the corner of Pound and Greaves roads with Narre Warren–Cranbourne Road. I am concerned about this intersection because it has been the place where a number of accidents have occurred over the years. There is good news in the area in that announcements have been made about traffic lights at another intersection further up the road, but this intersection is as deserving as the other intersection, given the continued growth in that area on both sides of that major intersection to which I have referred.

I draw the minister's attention to this matter and hope he will give serious consideration to providing funding for a realignment of the intersection and the provision of traffic lights with a view to providing the opportunity to new residents in my province of being able to access the main road with safety. Will the minister give every consideration to undertaking the works I have outlined as soon as possible?

## Water: Edenhope supply

**Hon. R. M. HALLAM** (Western) — I raise an issue with the Minister for Sport and Recreation. On 19 September, I am sure the minister will recall, he received a deputation from the community of Edenhope that had been arranged through the Shire of West Wimmera and included Crs Waite and Gutheridge. That deputation pleaded the case for government financial assistance on behalf of Edenhope's major sporting clubs, which are determined to develop an alternative source of water for their facilities, given that Lake Wallace, which has been their source of water up until now, is no longer viable.

Lake Wallace is currently in a sad state in respect of both water levels and water quality. I am told that the minister readily agreed to receive the deputation and showed the deputation every courtesy. He was sympathetic to the predicament facing the community of Edenhope, all of which is genuinely appreciated. However, I am also told that the minister gave the deputation the commitment that he would provide an answer within two weeks. The deputation members are adamant on that commitment. It is now some six weeks later, the summer season is approaching and on my last check with the council it confirms that it has yet to hear from the minister.

I am sure he will appreciate this gentle reminder, and I feel I am able to offer a further assurance that if the financial support requested by the deputation is now

confirmed by the government I reckon the minister's tardiness to this point would be forgiven.

## Whitehorse: community cabinet visit

**Hon. D. McL. DAVIS** (East Yarra) — I direct my adjournment issue to the Minister for Industrial Relations representing the Premier, and it concerns the community cabinet visit to the City of Whitehorse on 15 June last year. As a local member of Parliament who is in regular communication with my municipalities, including the City of Whitehorse, I seek the assistance of the Premier in obtaining information from the local area research undertaken by the community cabinet prior to its visit on 15 June last year. I am interested to see that research because it affects things like home and community care funding, which is impacted on by those state and local government decisions. I understand that the research has been undertaken through focus groups in the local area. A number of people I know in the local area were involved in those focus groups and I am interested to hear the detailed research that is involved there. I have spoken to a number of local council members and know that they have concerns and believe this information would be of assistance to the City of Whitehorse in its planning activities and in relation to the delivery of government services.

Given that $184 000 of government money has been spent on community polling local area research around the state, and perhaps as much as $18 000 per municipality has been spent on this detailed and possibly intrusive and sensitive research, I seek some assistance from the Premier in releasing the information and sticking to his pledge to involve not only local government but a broader range of community groups in the governance of this state in being open, transparent and accountable. I hope he will be prepared to release the research to the City of Whitehorse, to local members of Parliament and other community groups.

## Dunolly Primary School

**Hon. B. W. BISHOP** (North Western) — I direct to the attention of the Minister for Sport and Recreation, representing the Minister for Police and Emergency Services in the other place, an issue relating to the enforcement of speed limits in some country areas. This urgent issue has been raised with me by the Dunolly Primary School council president, Des Melton, secretary, Judy Gloury, and the executive officer, Garry Lavars, who is well known and respected as a very good teacher in that area.

The Dunolly Primary School is a great school. It had an innovative library–activities room built about three years ago which has been very beneficial to the operations of the school. The school is on the outskirts of Dunolly on the Tarnagulla Road, which carries a fair amount of commercial traffic. Much of this traffic is large semitrailers and the occasional B-double which are most likely bound for or from the Dunolly grain storage, which is an important hub in Victoria's grain handling system.

The school council is very concerned about the speed at which these trucks travel in front of the school and have raised this issue previously. I have been advised that the local municipality has responded that a speed sign is only as good as the enforcement behind it, which is probably right as the school reports speeds well in excess of the posted 60-kilometre-per-hour limit.

I request the Minister for Police and Emergency Services to immediately confer with his colleague the Minister for Transport and to work together on signage, education, awareness and enforcement programs to ensure that a safe speed environment is sustained into the future in front of the Dunolly Primary School.

## State Library of Victoria: newspapers

**Hon. ANDREA COOTE** (Monash) — I raise with the Minister for Industrial Relations, representing the Minister for the Arts in another place, the cost of the cleaning services used at the State Library of Victoria to eradicate the mould in the newspaper collection. I was very pleased that the government has hired a specialist cleaning service to try to eradicate the mould; however, I am very concerned about the cost of cleaning up.

On 27 June the minister advised me by letter that the cost of the cleaning up was $220 000; then at the beginning of September in answer to an adjournment matter I raised I was advised by the minister that the cost was $194 461.86. That is a difference of $25 538.14, and I am very confused about that because that $25 000 could have gone towards something else at the state library. I am very concerned about what is happening. Will the minister please clarify the cost of the cleaning service used for the newspaper collection at the state library?

## Shepparton: Junior Gators

**Hon. E. J. POWELL** (North Eastern) — I raise an issue with the Minister for Sport and Recreation. I have just received a letter from Mrs Vera Fleming of the Greater Shepparton Basketball Association, who has written on behalf of the Junior Gators representative

squad committee. Mrs Fleming has written to me seeking assistance in obtaining support for the junior squad team of basketball players, comprising players from 9 to 18 years of age. The squad comes from the greater Shepparton area with its great cultural background and represents the region in tournaments that are held right around the state. They are very proud because squad numbers have now increased to 140 enthusiastic and committed players. Mrs Fleming says that:

> Participating in sport is an important part of social wellbeing in rural communities, as well as teaching these kids about teamwork that can then be used outside of sport. It is also about keeping them active and 'off the streets'…

She goes on to say that although the Greater Shepparton Basketball Association assists with some seed funding, the players and the parents still have to pay a number of costs such as entrance fees to games and travel as well as accommodation, because they travel quite a bit.

The squad tournaments are now commencing and they will be held at the following locations, which will give honourable members some idea of the distances from the greater Shepparton area. They travel 120 kilometres to Echuca; 440 kilometres to Bulleen; 140 kilometres to Seymour; 125 kilometres to Benalla; 200 kilometres to Wangaratta; 490 kilometres to Werribee; 245 kilometres to Bendigo; 440 kilometres to Melbourne; and 890 kilometres to Mildura.

Mrs Fleming talks about the increase in fuel prices and the necessity for the squad to travel long distances. I ask the minister to assist with a small amount of funding to allow these country teams to continue to travel around Victoria to participate in the tournaments.

## Cape Schanck: boardwalk

**Hon. BILL FORWOOD** (Templestowe) — I raise an issue with the Minister for Energy and Resources, representing the Minister for Environment and Conservation in the other place. On 19 October I had the pleasure of visiting the Mornington Peninsula National Park at Cape Schanck.

**Hon. J. M. McQuilten** — There's a nice golf course down there!

**Hon. BILL FORWOOD** — Let me make the point that I did not go to play golf at Cape Schanck; I went to visit the national park and the lighthouse. It is a fantastic part of Victoria's coastline and many people have been there. A lot of work was done for the area by Mr Birrell in his past incarnation and by the local members. The area is a significant part not only of Victoria's parks but also its tourist activities.

I was privileged to walk around the site with the current manager, Tony Sher. I climbed up the lighthouse, which was an experience I can recommend, with the wind coming in from the ocean.

**Hon. M. M. Gould** — As it does.

**Hon. BILL FORWOOD** — As it does. I visited the museum and then walked down the boardwalk. As honourable members would know, when you get to the start of the boardwalk that leads across the ridge down to the coastline you reach a gate that says, 'Please go no further. Closed'. As you look down you can see why. In March this year — some months ago — a landslide caused some damage to the boardwalk, pushing it off its foundations.

I accept that this is a significant issue and that we need to be really concerned about safety in our national parks, but we are coming into the peak season and this significant park is visited by hundreds of thousands of people a year; yet since March it has been impossible for people to walk down the boardwalk.

The request I make through the Minister for Energy and Resources to her colleague in the other place is for some speedy action to be taken to repair the boardwalk as quickly as possible so that at least over the forthcoming summer period— we are at the end of October and almost into November — the boardwalk is able to be used by the people of Victoria.

## Somerville secondary college

**Hon. R. H. BOWDEN** (South Eastern) — Last evening I had the pleasure of attending a large public meeting in Somerville.

**The PRESIDENT** — Order! To which minister are you referring this matter?

**Hon. R. H. BOWDEN** — Mr President, my enthusiasm carried me away. I address my matter to the Minister for Sport and Recreation, representing the Minister for Education in the other place. The large public meeting in Somerville last night, which was very well attended, was held to further pursue the issue of the Somerville secondary college site. I have raised this matter twice before, once last year and once earlier this year.

The happy occasion referred to last night was that some days ago a letter was received from the regional director indicating that the minister has decided the

school site will not be sold. There was also a press release of yesterday's date confirming that the school site would not be sold. That was the result of a great deal of concern expressed by several thousands of my constituents in the Somerville area.

The committee, which has over a long period shepherded this issue successfully to the point where the minister is reported to have decided not to sell the school, is very pleased and has asked me to ask the Minister for Education if she would be prepared to provide a letter from the minister's desk and perhaps be willing to exchange signatures with the committee.

They do not have a letter from the minister and they would appreciate one. In view of the importance and value of the site and the concern expressed by several thousand constituents it would be good if the minister could provide that letter.

The other thing the committee asked me to do was to inform the government and the minister in particular that it would value a school in due course. Will a letter and a document be produced by the minister for co-signing with the committee?

## Freeza program

**Hon. A. P. OLEXANDER** (Silvan) — I seek the assistance of the Minister for Youth Affairs. Again I raise the issue of the Freeza program, which the minister is well aware was a very successful Kennett government initiative that provides drug and alcohol-free entertainment for young people across the state.

The minister should also be aware that over the past six months, at least since the handing down of the last state budget in May, there has been considerable uncertainty surrounding the program — about a shortfall in funding of approximately $1 million — and many Freeza programs around the state have been uncertain about their futures.

This afternoon in response to my question without notice the minister indicated that he had recently written to Freeza providers around the state to inform them that he was in a position to guarantee funds for the continuation of the program for the first six months, and he was very specific about that time of next year. Will the minister inform the chamber how much funding in dollar terms has been allocated to Freeza for the six months commencing 1 January 2002?

## Financial counselling: funding

**Hon. C. A. FURLETTI** (Templestowe) — I raise an issue with the Minister for Small Business about the funding of financial counselling services. Many low-income and vulnerable consumers who are in financial crisis require access to prompt assistance and advice. People cannot always advocate for themselves and frequently their problems are complex and require one-to-one counselling. The range of problems is varied and diverse, ranging from debtor harassment to disconnection of services in some instances and even to bankruptcy.

The Community Support Fund currently funds some Victorian counselling services, but the funding is allocated only until the end of June next year. Will the minister endorse the objectives of reputable and effective financial counselling organisations and commit to procuring funds and ongoing support for the provision of independent advice and information to needy Victorians about their financial rights and obligations beyond June 2002?

## Responses

**Hon. M. M. GOULD** (Minister for Industrial Relations) — The Honourable Bill Baxter raised a matter for the attention of the Premier. I will ask him to respond in the usual form.

The Honourable David Davis raised a matter for the Premier and I will ask him to respond.

The Honourable Andrea Coote raised an issue for the attention of the Minister for the Arts. I will ask the minister to respond in the usual manner.

**Hon. C. C. BROAD** (Minister for Energy and Resources) — The Honourable Gordon Rich-Phillips asked that the Minister for Transport give consideration to funding for the Pakenham bypass. I will refer that matter to the minister.

In relation to the matters raised by the Honourable Peter Hall and the questions on notice to which he referred, to the extent that those questions on notice refer to the matter of subsidence and the related matter of declining ground water levels in Gippsland, I have certainly responded to those matters. This reflects the high degree of cooperation between the Minister for Environment and Conservation, who is responsible for water, and me in addressing these related issues.

However, the questions specifically about declining ground water levels are clearly matters which are the responsibility of the Minister for Environment and

Conservation, not me, very specifically under the Water Act. I am sure the honourable member is aware that since he placed those questions on notice the responsible minister has acted to release a report on declining ground water levels and to establish a ground water supply protection area to pursue these matters. She has also announced a consultative committee, which will involve local irrigators, to deal with these matters. The minister responsible for water can provide more detail on the economic impacts of these matters. Certainly to the extent that they relate to subsidence and my responsibilities I have responded to those matters in my answers.

The Honourable Mark Birrell asked that the Minister for Agriculture give consideration to funding of the Victorian Young Farmers organisation. I will refer that to the minister.

The Honourable John Ross asked that the Minister for Transport inspect safety issues associated with the Bentleigh railway station crossing at Centre Road. I will refer that matter to the minister.

The Honourable Neil Lucas raised for the attention of the Minister for Transport funding for the realignment of the intersection of Narre-Warren–Cranbourne Road. I will refer that request to the minister.

The Honourable Bill Forwood asked that the Minister for Environment and Conservation undertake repairs to the boardwalk near the lighthouse at Cape Schanck. I will refer that to the minister.

**Hon. M. R. THOMSON** (Minister for Small Business) — The Honourable Carlo Furletti raised the matter of financial and counselling services and the assistance provided by financial counselling organisations to the disadvantaged in our community and the need for continued funding of those services. It is a matter for the Minister for Community Services and I will pass it on for her direct response to the honourable member.

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — In relation to the question of the Honourable Roger Hallam regarding representatives from Edenhope's major sporting clubs seeking assistance regarding bore water, I gave the group a sympathetic hearing and I believe a verbal message was relayed to the group within two weeks. Whilst I did not have the capacity to provide funding we were still ascertaining the possibility of other departments providing potential funding for bore water. That is still the case. If there is a degree of impatience I will have officers from my department contact the clubs urgently to clarify the situation and let them know the progress of that project.

I will refer the question of the Honourable Barry Bishop regarding the concerns of the Dunolly Primary School council about traffic on the road adjacent to the school to the Minister for Police and Emergency Services in the other place.

In relation to the question of the Honourable Jeanette Powell regarding the basketball squad from the Greater Shepparton Basketball Association, I will inform officers from the department that I am happy for them to make contact with the group to link it with any potential existing funding programs or at least to clarify whether such programs exist.

I will refer the question of the Honourable Ron Bowden regarding the Somerville secondary college site and associated issues of community concern to the Minister for Education in the other place.

In relation to the question of the Honourable Andrew Olexander regarding Freeza program funding, I look forward to making announcements regarding direct funding to those Freeza providers in the next few weeks.

**Motion agreed to.**

**House adjourned 10.14 p.m.**