PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

4 December 2001

(extract from Book 10)

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

Economic Development Committee — The Honourables R. A. Best, Andrea Coote G. R. Craige, Kaye Darveniza, N. B. Lucas, J. M. McQuilten and T. C. Theophanous.

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

Drugs and Crime Prevention Committee — (*Council*): The Honourables B. C. Boardman and S. M. Nguyen. (*Assembly*): Mr Cooper, Mr Jasper, Mr Lupton, Mr Mildenhall and Mr Wynne.

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, 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

CONTENTS

TUESDAY, 4 DECEMBER 2001

Tuesday, 4 December 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.02 a.m. and read the prayer.

CONDOLENCES

John William Storrier Radford

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

> That this house expresses its sincere sorrow at the death, on 27 November 2001, of John William Storrier Radford, and places on record its acknowledgment of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Council for the Bendigo Province from 1979–1985.

On behalf of the government I wish to express my condolences to the family of John Radford.

John was a member for Bendigo Province from 5 May 1979 to 14 July 1985 but lost his seat in a redistribution. He was well connected with the farming community. He was a grazier and a finalist in the Victorian farm management competition in 1971. He was also a lieutenant in the Citizens Military Forces and for four years he was chairman of the Avoca River Soil Conservation Committee which indicates to this house and to the community his commitment to the land and the ongoing resources it provides to Victorians. He was an executive member of what was then known as the Victorian Farmers Union, working in its pastoral division, and was chairman of the north central Dunolly silo committee, which also indicates his commitment to graziers — to ensuring that they got a good price for their product and that it was well managed and distributed throughout the market.

He was also the inaugural president of the local historical society, which shows his commitment to the community and that he wanted to pass on to his community his knowledge to ensure that the history of the area was not lost. I can understand and appreciate that as I have relatives who are very much committed to that process. He was president of the local Lions Club for a couple of years, which also shows his ongoing commitment to the community generally. As everyone knows, Lions clubs are involved in ensuring that the community is looked after, and through fundraising they assist in building the community and ensuring that the community relationship is spread out. That is important. That shows John's interest in the community and in ensuring that the community, and particularly children, knew about the past.

He was also involved in promoting the area. He was a member of the North Central Tourist Authority, which is starting to grow and is helping to make sure that the rest of the metropolitan area gets to see what is available in regional and rural Victoria. He worked tirelessly on that. He also found time to be a member of the local Country Fire Authority brigade, as are a lot of people in rural and regional Victoria who know they need to volunteer their services to protect their properties in the event of fire.

He was also involved in the grazing industry. A lot of people forget that textiles come from that industry — people think they just come from a factory machine. He was involved with the Melbourne College of Textiles advisory committee and was actively involved in the shire council for some time.

While in Parliament he was a member of the Company Takeovers Committee from July 1979 to July 1982 and a member of the Salinity Committee from 1982 to 1985, which again, shows his commitment to the land and to ensuring that it is able to be passed on from generation to generation.

On behalf of the government I pass on condolences to his family — his wife, Maggie; his children Simon, Kate and Hugh; and his grandchildren Tom, Jock, Samuel and Eliza.

Hon. BILL FORWOOD (Templestowe) — It is an honour to speak on the motion of condolence for John William Storrier Radford and to mark his record of outstanding service to this Parliament and to the Liberal Party, but above all to his community and the people of Victoria, especially country Victoria.

John Radford was born in Western Australia in 1930 but was educated in Victoria at the University of Melbourne. He became a farmer just outside St Arnaud in the early 1950s, which started a very long and involved association with that area and also with farming throughout the state. As the Leader of the Government said, he was a finalist in the farm management competition in 1971. I understand he took great pride in the property he farmed outside St Arnaud, at Gowar East.

In his initial contribution in this place in 1979 John Radford touched on a number of things. The first was local government. John served on the Shire of Kara Kara for eight years and he made the point that at that time there were 22 different municipalities within the boundaries of Bendigo Province. Obviously things have changed since then but John referred to the connection

between a local member and local government — and 22 seems a lot to me.

John Radford also talked about decentralisation and Telecom and Telecom charges; some of these things seem to go on forever. He sought an even greater reduction in Telecom's charges to the country. John also touched on an issue that was very lively earlier this year — that is, fuel prices. Many of these issues seem to remain relevant in country Victoria.

By far the greatest part of John Radford's initial contribution dealt with soil conservation. *Hansard* records Mr Radford as saying:

> I now wish to devote some time to a subject very dear to my heart, namely, soil conservation.

John went on to describe the farm that he operated as undulating to steep cropping and grazing land in the 18-inch rainfall area with sedimentary and granitic soils where soil conservation has to be an integral part of the management to ensure continuing productivity. John said:

> My association with soil conservation goes back over many years as I was an elected land-holder member of the Avoca River Soil Conservation District Advisory Committee for some 18 years.

That included four years as the committee's chairman. That is an indication of John Radford's involvement in his local community. The Leader of the Government mentioned some of the things John did in his local area. Not only was John on the silo committee but he was also the inaugural president of the historical society and president of the Lions Club. He was also on the agricultural society and the National Trust and was a member of the Maryborough solar energy committee a long time ago.

Hon. J. M. McQuilten — I knew him.

Hon. BILL FORWOOD — Mr McQuilten knew him in those days. John's contribution to his local area was outstanding and that continued for many years and expanded into statewide issues such as his involvement with the farming organisations, the textile advisory committee, the Country Fire Authority, the tourist authority and his service in the military.

John Radford was a stalwart of the Liberal Party in the area for many years. From memory he was president of his local branch for 9 or 10 years and he was chairman of his electorate council and then the Ripon one soon after that. John was also involved in the finances of the Liberal Party. It is a bit harder in the Liberal Party than in the Labor Party — we do not have unions to give us the money. John Radford's contribution as chairman of the western area finance committee was remarkable. He went on to become a member of the state finance committee and was vice-president of the Wimmera federal electorate council. John was one of those people who stood for difficult seats. In 1973 he stood for the Labor Party seat of Kara Kara near Bendigo.

As the Leader of the Government has said, John served on two committees in this place. He was an outstanding gentleman and well liked in this place. I looked at some of the contributions he made in this place and many of them had a very strong agricultural flavour. In his early years John spoke on the importation of exotic animal diseases and more than once on the spotlight shooting of deer. He spoke on the Barley Marketing (Amendment) Bill, the Canned Fruits Marketing Bill, twice on the Country Fire Authority and also on drought. He touched on education particularly in relation to Echuca and on the environment, including issues involving toxic waste disposal and the illegal dumping of wastes.

He spoke in this place about fuel costs, as I mentioned earlier; about ground water and irrigation; on more than one occasion about local government; about the protection of animals; on more than one occasion about racing and trotting, including the establishment of the Totalisator Agency Board; about Telecom charges; about vermin and noxious weeds; and about the Victorian Farmers and Graziers Association.

John Radford was a contributor in Parliament and was well known for his contributions. Apparently his contributions to the adjournment debate were lengthy — he would not have survived very long with the present 3-minute limit under President Chamberlain!

As the Leader of the Government said, the 1985 redivision saw the seat of Bendigo Province abolished and the seat of North Western Province created. In those circumstances, John Radford nominated for Liberal Party preselection for Ballarat Province, which was unusual. Apparently the redivision line went straight through his property — his house was on one side and most of his property was in Ballarat Province — and much of the Bendigo Province area came into Ballarat Province. He was unfortunate in being beaten for preselection by Dick de Fegely from Ararat . He said at the time — and it was a mark of the man — that he would continue to serve his constituents as he had always done, and he continued to do that in this Parliament for the next year before the election in 1985. His local paper said at the time that Mr Radford

had established a record of honest and untiring work, and that record is well remembered today.

On 5 June 1985 a motion of appreciation of services was moved and a number of people — including the Honourable Bruce Chamberlain, by interjection at least — spoke on that debate. I will read to the house a comment made by Bernie Dunn, who was then the Leader of the National Party. He said:

> The Honourable John Radford is a victim of redistribution. Probably the hardest thing to accept in the political scene is that one's seat can be redistributed out from under one. John Radford was a persistent person, especially during the debate on the motion for the adjournment …

He went on to say:

> He was a country man at heart and he had a commitment to the people of country Victoria. He worked and persevered constantly in that area. During much of his term in Parliament he and I were competitors in the rural area. I want him to know that members of the National Party respected his views and believed that he, with members of the National Party, was fighting for a common cause — the good of the people of country Victoria.

There is no doubt that he did fight for the good of the people of country Victoria and the people of Victoria.

On behalf of the Liberal Party, I express our condolences to his wife, Margaret; his sons, Simon and Hugh; his daughter, Kate; and other members of his family.

Hon. W. R. BAXTER (North Eastern) — It can be fairly said that by any measure John Radford was a good bloke, and I feel myself fortunate that I was able to serve with him in this Parliament.

He was good company and convivial but unpretentious. The comments made by a former Leader of the National Party in this place, the Honourable Bernie Dunn, which the Leader of the Opposition has just read summed up John Radford very well. He was a country man at heart and by deed, and Parliament benefited from his relatively brief membership of this place.

As has been explained, John Radford became a victim of a redistribution, but in a sense he came here because of a redistribution as well. At the 1979 election he defeated the Honourable Stuart McDonald, whose former Northern Province had been abolished in a redistribution. Stuart McDonald sought election to Bendigo Province because most of Northern Province had gone into Bendigo Province, and John Radford came here as a result of that redistribution. Regrettably, John went out on a redistribution after only one term. One of the risks in this game is that your seat can suddenly be taken from you.

As the Leader of the Opposition also said, John Radford was a political activist, and he served his party well. He contested a number of elections, which included taking on Esmond Curnow for the lower house seat of Kara Kara in 1973. Esmond had beaten Bill Phelan in 1970 in surprising circumstances, and even more surprising was that Essy held his seat in 1973, but there it is.

After John Radford left this place, in 1987 he and the Honourable Ron Best contested the federal seat of Bendigo, so I would have to say that John Radford was certainly a person who was prepared to put himself up for election to serve his party. He lived in that part of the state where in those times there were probably more vitriolic and bitter contests between the Country Party and the Liberal Party. Clearly he was in the thick of it, and I suppose he may well have been the cause of it in some circumstances.

He came from a place called Gowar East. I had never heard much about Gowar East until I became the roads minister and they badly needed a new bridge. Thanks to the Better Roads program I was able to provide them with a bridge. I thought of John Radford at the time.

John was a leader in his community and served it with enthusiasm and with distinction. We can be very sorrowful and regretful at his passing at a relatively young age. On behalf of the National Party I extend our condolences to his family.

Hon. M. A. BIRRELL (East Yarra) — I also want to pass on my condolences on the death of John Radford. He was a friendly farmer and a very welcoming person. I shared an office with him when I first came to Parliament, and he was someone who was always ready to have a good conversation. He had extremely strong interests in country Victoria and in farming, which for someone like me was educational, particularly as we shared an office. I remind honourable members who complain about offices that at the stage I shared an office with him there were five in the office. There are now two to an office, so conditions must be improving. There was value in a young member like me coming here and being able to learn from him.

John Radford died at the age of 71. I look back on his time in Parliament as one in which he did some very practical things and got some results. He was elected in May 1979 and entered Parliament in July of that year, having previously contested the lower house seat of Kara Kara in 1973. I was with him on the day in 1984 when the redistribution report came through. It is a humbling experience when, as an outcome of no action of your own, you read a report of someone abolishing

your entire electorate. It is an extraordinary circumstance. I saw that again with a subsequent redistribution, but I did not see it with the last. It is certainly a warning to honourable members about the rather extraordinary powers the electoral commissioners have to end their careers! His was effectively ended as a result of that. Even though he had some other options, they were not realistic ones, and therefore he had six years in the Parliament. He went on to stand again for the federal seat of Bendigo, but was beaten at the time, starting the career of John Brumby.

John Radford was an interesting character. My image of him was one of a very down-to-earth farmer with all the welcome values that that implies. It was not until I read some background material on him over the weekend that I learned of a contrasting element of his career — that he was educated at Mentone Grammar. I had not expected him to have been educated in the city; I thought he would have been educated in the country. He was head prefect and dux of the school at Mentone Grammar, and then went on to study economics at Melbourne University. Frankly, I find the contrast quite extraordinary because I did not find in him any of the airs that may be associated with those positions. In fact, I found him to be extremely down to earth. I now understand a bit better why he was such a well-versed advocate for country issues — which he was.

To a certain extent his country background, and in particular his farming background, was fortuitous as a result of his relationship with Maggie whom he went on to marry. He had decided on an army career because there was a long family history of being involved with the army. He was in the Melbourne University CMF regiment, volunteered for overseas service and was commissioned in 1950 but his wife-to-be encouraged him to be a farmer.

In agriculture he was a natural, receiving top prices for his wool and his off-shear weaners annually and he was regarded as being a very good achiever in that field. At first he lived in a small cottage next to Yawong Springs homestead. He personally made the bricks for what was to be his fine country home.

John's maiden speech was a very intelligent one; it was about his concerns particularly for issues of soil conservation, land management and a necessity for the government of the day to take action. He was as much an activist in pushing for ideas under Liberal governments as he was under the Labor governments that he came to be associated with when he was in the Parliament. He certainly put the Liberal Party on notice on issues and he did not leave them. I respected the fact that he kept coming back to an issue which he had raised but had not had a satisfactory response on. His views on these issues were reflected in a range of parliamentary speeches which the Honourable Bill Forwood and Minister for Industrial Relations have mentioned. Between 1982 and 1985 he went on to serve on what was a pioneering committee of the time, the Salinity Committee of the Parliament, and much of its policy work was picked up by the Cain government.

There is no doubt that he was a good electorate man because he doggedly pursued local issues. It is for that reason that his funeral was so well attended. He was, by all accounts, and from my personal exposure to him, a happy, contented and loving husband to Maggie and father to Simon, Kate and Hugh and, subsequently, grandfather to their children.

I pass on my condolences to Maggie. It is nice to remember someone who made a simple but important contribution to the Parliament.

The PRESIDENT — I am happy to join this motion of the house. John Radford was a big man. He had a big laugh and a warm personality. He had an interesting family background with connections to India and the military. As has been pointed out, he was active in public life before entering Parliament, as any member of this place has to have been active in the local community before they get here. I first knew John Radford on the Port of Portland Hinterland Development Committee of which he was a member from 1976 to 1978. John appreciated the importance of a strong port in regional Australia to meet the needs of rural producers and he gave his strong support to that committee. We were also fellow members of Lions International.

John was interested in all matters rural, including the Victorian Farmers Union and the Graziers Association — and didn't those two have some great scraps over the years? — the Australian wool industry conference, and his particular love was the soil conservation district advisory committee. For many years before he came to this place John was preaching about many of the matters taken as truisms today in the area of soil conservation. He was also an active member of the Country Fire Authority. He was a great advocate of the St Arnaud district including during his time as a councillor for the Shire of Kara Kara.

I suspect that John had no enemies. He and his wife, Maggie, were highly respected by all sides of the political spectrum as great contributors to their community and to rural industries in general. I pass on my condolences to Maggie; to their children Hugh, who is a well-known solicitor in St Arnaud and Donald,

Simon and Kate; to the spouses of his children Phillip and Victoria; and to their grandchildren Tom, Jock, Samuel and Eliza.

Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.

ADJOURNMENT

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

That, as a further mark of respect to the memory of the late John William Storrier Radford, the house do now adjourn for 30 minutes.

Motion agreed to.

House adjourned 10.30 a.m.

The PRESIDENT took the chair at 11.02 a.m.

ROYAL ASSENT

Message read advising royal assent to:

Sentencing (Emergency Service Costs) Act
Victorian Environment Assessment Council Act

BUSINESS OF THE HOUSE

Sessional orders

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

That so much of the sessional orders be suspended to enable general business to take precedence of all other business for 2 hours following questions during the sitting of the Council on Wednesday, 5 December 2001.

Motion agreed to.

PETITION

Monash Freeway: safety barriers

Hon. N. B. LUCAS (Eumemmerring) — I present a petition from certain citizens of Victoria requesting that the Minister for Transport immediately introduce a program for the installation of centre barriers on the Monash Freeway, eastwards from Warrigal Road. The petition is respectfully worded and in order, and bears 2108 signatures. I desire that the petition do lie on the table, and be read by the Clerk.

Petition read pursuant to standing orders:

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the deaths and injuries to motorists on the Monash Freeway as a result of vehicles crossing the grassed centre of the freeway.

Your petitioners therefore request that the Minister for Transport immediately introduce a program for the installation of centre barriers on the Monash Freeway eastwards from Warrigal Road.

Laid on table.

BLF CUSTODIAN

53rd report

Hon. M. M. GOULD (Minister for Industrial Relations) presented report dated 30 November 2001 given to Mr President pursuant to section 7A of BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

PAPERS

Laid on table by Clerk:

Desert Fringe Regional Waste Management Group — Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

EcoRecycle —

Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

Report, 2000–2001.

Melbourne Parks and Waterways — Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

Mildura Regional Waste Management Group — Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

Murray Valley Citrus Marketing Board — Minister's report of failure to submit 2000–2001 report to him within the prescribed period and the reasons therefor.

Murray Valley Wine Grape Industry Development Committee — Minister's report of failure to submit 2000–2001 report to him within the prescribed period and the reasons therefor.

Northern Victorian Fresh Tomato Industry Development Committee — Minister's report of failure to submit

2000–2001 report to him within the prescribed period and the reasons therefor.

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

Alpine Resorts Planning Scheme — Amendment C10.

Banyule Planning Scheme — Amendment C24.

Frankston Planning Scheme — Amendment C14.

Swan Hill Planning Scheme — Amendment C7.

Yarra Ranges Planning Scheme — Amendment C12.

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

Marine (Amendment) Act 2000 — All provisions — 3 December 2001 *(Gazette No. G48, 29 November 2001).*

Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 — Whole Act — 1 December 2001 *(Gazette No. G48, 29 November 2001).*

AUDIT (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The bill introduces amendments to the Audit Act to further enhance the independence of the Auditor-General, strengthen the accountability arrangements of his office and provide greater scope in his powers to promote sound financial management in the state.

In November 1999, during the debate on the Audit (Amendment) Bill 1999, the Premier advised the house that the government was considering further amendments to the Audit Act that had been requested by the Auditor-General. The Premier stated that these further amendments required more consultation than could be accommodated in the time available for the preparation of that bill. On behalf of the government, the Premier assured the house that further legislation would be introduced after the necessary consultation had occurred.

There has now been extensive consultation between the Department of Treasury and Finance, the Auditor-General, the Department of Premier and Cabinet, the Department of Justice, and other bodies, including other jurisdictions within Australia and New Zealand. As part of this consultation process the Public Accounts and Estimates Committee was also consulted fully on the Audit Act amendments. On behalf of the government I thank the chairman and members of the committee for the valuable contribution they have made to the development of the bill.

The amendments to the Audit Act introduced by this bill relate to the following issues:

Greater protection for the Auditor-General

Indemnity for Auditor-General and staff

Consistent with the government's steps in restoring the independence of the Auditor-General, the bill provides an indemnity for the Auditor-General and his staff, through amendment to section 94D of the Constitution Act. Although such indemnities in legislation are rare, this provision ensures that, as the Auditor-General is an independent officer of the Parliament, appropriate indemnity protection is provided through legislation rather than being at the discretion of the government.

Both the current Auditor-General and his predecessor have requested a statutory indemnity to cover him and his staff. In support of these requests, the Auditor-General commented that a number of other officers, such as the Regulator-General, the Ombudsman, the Legal Ombudsman and the Chief Electrical Inspector enjoy strong statutory protection.

The indemnity that has been provided exempts the Auditor-General and his staff from any personal liability for acts or omissions in performance of official duties, provided they have been done in good faith.

Disclosure of information in reports yet to be tabled

As part of the amendments to the consultative process, the government has provided the Auditor-General's proposed reports with greater protection. Under section 20A(2) of the bill, a person receiving a proposed report or part of a proposed report must not disclose any information in that report unless acting in the course of their official duties, or the information has been made public in a report by the Auditor-General to the Parliament.

The bill also introduces penalties for persons or body corporates that breach these secrecy provisions. In disclosing information outside of the avenues available under section 20A(2) a person is liable to a maximum penalty of 50 penalty units, while a body corporate is liable to a maximum penalty of 250 penalty units.

Scope of Auditor-General powers

Scope of powers

The Auditor-General has sought clarification in his powers and functions under the Audit Act. To ensure a common understanding of what types of activities his office may undertake, the Auditor-General requested the Audit Act be amended to set out clearly the general scope of his powers and therefore his duties and functions. To this end, the government has proposed in the bill amendments to the Audit Act to provide clarification of the powers and functions of the Auditor-General through a revision of the objectives of the act, under section 3A.

In addition, the government recognises the important role the Auditor-General plays in the identification of any wastage, lack of probity or financial prudence in the management or application of public resources. Accordingly, the public interest focus of the Auditor-General's work is now clearly articulated in the Audit Act.

Extension of the authorities definition

The Auditor-General has raised concerns that the definition of an authority in section 3 of the Audit Act is insufficient to give him the power to audit entities controlled by the state or other authorities.

The definition of an authority in section 3 of the Audit Act includes a corporation, all the shares of which are owned by or on behalf of the state, whether directly or indirectly. This section does not confer power on the Auditor-General to audit partly owned corporations, no matter how close to 100 per cent the state's effective shareholding is. While section 3 allows for other persons or bodies to be prescribed as authorities, the Auditor-General has expressed the preference that a power to audit bodies that are not wholly owned be provided explicitly.

The bill amends section 3 to provide the Auditor-General with the power to audit all entities controlled by or on behalf of the state or authorities.

Where the state or an authority does not hold a controlling interest in an entity, the Auditor-General shall continue, as now, to audit the authority in whose books this minority shareholding appears as an investment and comment on the value or risk of such an investment.

This amendment will ensure that the Auditor-General has responsibility for the financial audit of all entities in which the state or an authority has control.

Auditor of Victorian public sector non-authority bodies

Circumstances can arise where it is desirable for the Parliament to enable the Auditor-General to undertake financial statement audits for entities not coming within the definition of an authority under the Audit Act, but still within the Victorian public sector. An extension of the Auditor-General's powers to audit these types of entities provides him with greater opportunity to scrutinise the use and flow of public funds.

Under section 16G, the bill provides the Auditor-General with the power to audit entities outside of the definition of an authority under the Audit Act, but still within the Victorian public sector. The Auditor-General will only be able to undertake such audits if invited to do so by the entity and it is in the public interest and practicable for him to do so.

Examination of funded bodies

The Auditor-General has advised the definition of a public grant in section 20 of the Audit Act has caused some interpretive difficulties for his office. For example, the question has been raised whether goods or services provided to a community or private body at subsidised or nominal cost, or free of charge, constitute a grant within the meaning of the section.

The bill provides clarification of the nature of grants to funded agencies. The purpose of the amendment is to ensure that the Auditor-General has clear directions as to what resource flows to funded agencies he has the power to examine.

To achieve this, under section 16C of the bill, the Auditor-General has been provided with a general audit power to conduct any audit necessary to determine whether a financial benefit, paid by an authority to a person or entity that is not an authority, is being applied economically, efficiently, effectively and for the purposes for which it was given.

Revised threshold for the delegation of authority to undertake financial audits

The threshold for the Auditor-General to delegate the undertaking of a financial audit and signing of an audit opinion is currently set at authorities with net assets of $1 million or less. The Auditor-General requested this threshold be increased to cover authorities with $5 million or less in expenditure for that financial year.

The increase in the delegated threshold is not a move towards greater outsourcing of the Auditor-General's work. Approximately 70 per cent of the

Auditor-General's current financial audit work program is contracted out to private audit service providers. The main difference between contracted out work and that work coming within the delegated threshold is that an audit service provider is required to sign the audit opinion as the Auditor-General's agent under the delegated provisions.

The purpose of this amendment is to achieve greater efficiency and effectiveness in existing outsourcing arrangements of the Auditor-General. It provides him with the ability to gain greater flexibility in achieving value for money (and accountability) from private sector audit firms he contracts work to. Under the current threshold levels 91 per cent of contracted audits are required to be reviewed (and often have rework conducted) and then signed by the Auditor-General. Leaving only 9 per cent of audits being signed off by the contractor who actually did the work. This situation does not lend itself to an efficient means of contract management for the Auditor-General.

Through the bill, the new section 7G increases the threshold limit to entities with expenditure of $5 million or less. It also includes the requirement that only those persons registered as company auditors, under the Corporations Act, may be delegated the authority to undertake financial audits as agents of the Auditor-General. Although currently the Auditor-General only delegates audits to company registered auditors, the Audit Act did not specify this requirement.

More practicable time frame for tabling the Auditor-General's narrative report on the annual financial report (AFR)

The Auditor-General has requested a more practicable time frame be provided in the tabling of his narrative report on the annual financial report, under section 16A. The current timing requirement is presentation to the Parliament within seven sitting days after the tabling of the annual financial report (which is set from 27 October).

The bill provides that in section 16A(4) of the act 'seven sitting days' is deleted and the date 24 November under section 16AB(2)(b) is substituted in place thereof.

The bill also amends the current requirement in section 16A(3)(a)(ii) that states the Minister for Finance only has seven days in which to provide comment on the Auditor-General's report on the AFR. This requirement is amended to 10 business days. This provides for a more realistic time frame in which to comment and removes the confusion as to whether the number days referred to in the Audit Act are business days or calendar days.

Greater accountability for the Auditor-General

Publication of auditing standards

The Audit Act requires the Auditor-General to comply with those auditing standards produced by the accounting profession.

Section 7B(2)(f) of the bill sets out amendments whereby the Auditor-General will be required to summarise in his annual report details of any additional standards he develops above those produced by the accounting profession.

Professional quality control arrangements

In extending the powers of the Auditor-General, such as the ability to audit non-authority entities within the Victorian Public Sector and the delegation of a greater number of audits, it is important the Parliament is provided with greater accountability mechanisms over the Auditor-General's work.

As part of the development of greater accountability, the bill sets out a new requirement for the Auditor-General to summarise in his annual report the quality control processes undertaken by his office each year. This will provide an effective mechanism through which the Auditor-General can highlight to the Parliament the quality control systems he maintains and any improvements undertaken in these systems from year to year.

Auditor-General's annual plan

Under the current requirements of the Audit Act (section 7A(4A)) the Auditor-General is required to have regard for any comments received back from the PAEC on a review of his annual plan, but does not have to change the plan or document where he does not accept a recommendation. We do not believe the Auditor-General should have to change his annual plan but should have to document where changes from the PAEC recommendations have not been made. This approach provides a much stronger accountability back to the Parliament in its review of the Auditor-General's planned activities and establishes a more transparent process between the development and review of planned work.

The bill introduces a new section 7A(4A) that requires the Auditor-General to indicate in his annual plan the

nature of any changes suggested by the PAEC that he has not adopted.

Administration of the Audit Act

Clearer distinction between audit opinions and audit reports

The Audit Act contains numerous references to requirements that the Auditor-General prepare and present a report. This wording draws no distinction between a report in the sense of an audit opinion and the more extensive narrative reports that the Auditor-General prepares for some audits.

Sections 9, 9A, 15 and 16 of the Audit Act have been amended through the bill to make a clear distinction between the types of reports prepared by the Auditor-General.

Clarification of audit fee

The current wording of the Audit Act is not clear in what services the Auditor-General can charge a fee. The bill, under section 10, sets out the Auditor-General's power to only charge for his mandatory financial statements audit activities. No charges will apply to those audits and reports reflecting his discretionary work in informing the Parliament on accountability and resource matters. Instead, these audits and reports are funded through the Auditor-General's annual appropriation.

Narrative reports covering more than one financial audit

The Audit Act's current provisions provide the Auditor-General with the power to make a narrative report on a performance audit that relates to the activities of multiple authorities, but he may not make a single narrative report that relates to issues arising from the financial audits of several authorities.

The bill, through amendment to sections 15 and 16, provides the Auditor-General with the ability to make a narrative report covering more than one audit.

Enhancements to the consultative process for audit reports

In the development of a report to the Parliament the Auditor-General goes through a process of consultation with entities directly related to the report and other interested parties. As part of this process the Auditor-General is required to seek formal submissions or comments from these groups and include this material in his final report to the Parliament.

Under the current reporting provisions of the Audit Act the Auditor-General is required to provide these parties with a copy of the summary findings and proposed recommendations. However, the Auditor-General has advised government that he wishes to have the option of providing a full copy of a report or a section of a report that is relevant to a particular party. In most circumstances it is appropriate to provide an entity with a full copy of a proposed report. However, situations do arise where it is more appropriate for an entity to receive only that part of a report that directly relates to them.

Under a new section 16(3)(a) the bill provides the Auditor-General with the discretion to provide a full copy of a proposed report to an entity, or only that part or parts that directly relate to the entity, for comment.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until next day.

Hon. R. M. Hallam — On a point of order, Mr President, in the time that I have had to compare the second-reading speech just delivered by the minister and the bill that was delivered to the house, I am not convinced that the lower house amendments have been incorporated. I seek clarification from the Leader of the Government that she has read the right second-reading speech.

Hon. M. M. Gould — To be honest, I am not sure. I was handed this one as — —

An Honourable Member — You're the minister responsible, aren't you? Come on!

Hon. M. M. Gould — Mr President, I was advised by the department that the speech I have read was the right one. I will make an inquiry into whether it needed changes as a result of some alterations that have been made. I am happy to do that and advise the honourable member promptly.

Hon. R. M. Hallam — Further on the point of order, Mr President, I made the point in respect of the amendments which go to the question of a report coming from the Auditor-General when the house is in recess as opposed to when the house is not sitting. That issue was debated at some length in the other place, and I am led to believe there was agreement on that and the bill was amended. However, I refer the Leader of the Government to the heading 'Efficiency in

Auditor-General audit operations' in the second-reading speech, which states, in part:

> Under section 16AB the bill provides for the transmission of reports of the Auditor-General when the Parliament is not sitting.

I suggest to the Leader of the Government that that is one clear example of the second-reading speech being not just inappropriate but quite misleading. There may also be other instances.

The PRESIDENT — Order! Obviously, the Leader of the Government will get instructions on those matters as a matter of urgency because the house needs that information. If the second-reading speech is simply that made in the Legislative Assembly without taking into account changes made in that place, the quicker we get a fresh set of speeches the better.

LIQUOR CONTROL REFORM (PROHIBITED PRODUCTS) BILL

Second reading

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

> That this bill be now read a second time.

From time to time certain products coming on to the Victorian liquor market constitute an unacceptable risk in terms of their potential to encourage the misuse and abuse of alcohol, particularly by young people.

While there is a commitment to responsible product development, packaging and marketing from the mainstream liquor suppliers in Australia, some marginal suppliers and importers often fail to comply with such industry standards in an effort to increase their market share.

It is a deficiency of the Liquor Control Reform Act 1998 that the minister has no power to ban an alcoholic product from sale where it is apparent that the product is unacceptable to the community and/or could encourage the misuse or abuse of alcohol.

The immediate need for such a power is clearly shown through the ongoing retail availability of unacceptably high alcohol content food essences in 375 millilitre bottles which are exceedingly dangerous, particularly in the hands of young people. Some of these products have an alcohol content of over 70 per cent, which is more than twice the alcoholic content of typical spirits such as scotch or vodka.

There is ongoing potential for other unacceptable products to come onto the market from time to time, for example high-alcohol ice-creams, milk with alcohol content, products packaged in such a manner that they are particularly directed to or attractive to young people et cetera.

In exercising the regulation-making power, the minister will be required to have full regard to the community interest, particularly in respect of the harms that may arise as a consequence of the ongoing availability of alcoholic products of concern.

Such regulations will be subject to the rigorous regulatory impact statement process, including extensive community and industry consultation.

Whilst the regulation-making power is necessarily wide to cover all potential eventualities, its application will be highly targeted to specific products or types of products that are a danger to the community, particularly young people.

The potential problems caused by the sale of high-alcohol content essences was brought to the Bracks government's attention by Mr and Mrs Clark, whose son Leigh died tragically after consuming Hoyts vodka essence supplied by a family friend. The government does not wish to pre-empt the coroner's decision in this matter but has decided to act in a timely manner to further strengthen the legislation to ensure the responsible selling of alcohol and alcohol-based products in Victoria. This bill is proposed because other action taken at the Victorian and commonwealth levels to restrict the sales of high alcohol-based food essences has not been successful.

While existing regulations bring the retail sale of such products under the control of the Liquor Control Reform Act 1998, the risk of young people accessing them through home, friends or illegal sales remains.

The Liquor Control Reform (Prohibited Products) Bill provides that the minister may make regulations providing that alcoholic products or classes of products are banned from sale where it is in the community interest to do so. The bill further provides for those regulations to be disallowed by a house of the Parliament.

The penalty for breaching such regulations is to be 30 penalty units (currently $3000).

The bill further creates the offence of a person selling an alcohol-based food essence that is packaged in a container that is above 100 millilitres capacity in the

case of vanilla essence and above 50 millilitres capacity in respect of any other alcohol-based food essences.

The penalty for breaching this provision is to be 30 penalty units (currently $3000), with such offences being subject to the infringement notice provisions of the act.

The amendments will have no impact on the wholesale sale of food essences for food manufacturing purposes and for domestic use in small containers.

These amendments to the Liquor Control Reform Act 1998 will further facilitate and encourage the responsible development of the Victorian liquor industry.

I commend the bill to the house.

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

Debate adjourned until later this day.

AUCTION SALES (REPEAL) BILL

Second reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

The bill implements the government's response to the recommendations of the national competition review of the Auction Sales Act 1958 (the 'act') by repealing that act and making the necessary consequential amendments to certain other acts as a result of the repeal. The act provides for the licensing of auctioneers of goods including livestock.

The national competition review was undertaken in 1999–2000. The review involved consultation with a wide range of organisations including the Livestock Saleyards Association of Victoria, the Victorian Farmers Federation pastoral group, the Victorian Stock Agents' Association, the Auctioneers and Valuers Association, the Real Estate Institute of Victoria and the Victoria Police. The review concluded that the benefits of licensing auctioneers of goods are outweighed by the costs.

The repeal will remove a cumbersome and outmoded licensing regime, which provides no real benefit to those engaging auctioneers or those buying at auction.

A savings provision in the bill requires records of livestock kept under the act to be preserved under the Livestock Disease Control Act 1994 to maintain the benefits of record-keeping requirements in terms of tracking and controlling livestock disease.

The repeal will commence on 1 January 2002. This will enable current licensees and intending applicants to be advised of the discontinuation of licensing well in advance of the November application date for new licences.

A range of acts such as the Second-Hand Dealers and Pawnbrokers Act 1989, the Motor Car Traders Act 1986, the Summary Offences Act 1966, the Estate Agents Act 1980, the Transfer of Land Act 1958 and the Instruments Act 1958 currently recognise the licensing of auctioneers. Consequential amendments to these remove references to licensing without otherwise changing the position of auctioneers generally.

I commend the bill to the house.

Hon. C. A. Furletti — I had it in my mind that there was an agreed commencing date of 1 January 2003, and I note the second-reading speech refers to 2002. I just seek clarification and I will look at my notes as well.

Hon. M. R. THOMSON — That is right. That should read 2003.

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

Debate adjourned until later this day.

COUNTRY FIRE AUTHORITY (MISCELLANEOUS AMENDMENTS) BILL

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to implement a limited range of amendments to the Country Fire Authority Act 1958, to further improve the effectiveness of the Country Fire Authority.

Membership of the authority

This bill originally sought to simplify and streamline the current nomination procedure for members to the CFA board.

The bill proposed to remove the current requirement for the Insurance Council of Australia (ICA) to provide nominations for two positions on the board. This

change was proposed in direct response to the ICA's publicly stated policy position of not participating on the board.

The bill would have replaced the ICA nominations with a direct nomination power by the Minister for Police and Emergency Services. Ministers have already been exercising this power under default provisions in section 7(2) of the current act since the ICA stopped making nominations in the mid-1990s. The system has worked well and generated no significant complaints. The proposed change would simply have clarified what is already established practice.

The bill also sought to simplify board nomination procedures by removing the requirement for the Municipal Association of Victoria (MAV) to distinguish between rural and urban wards when making nominations for two positions on the CFA board. This proposed change was in direct response to the MAV's concerns that the current rural and urban distinction was difficult to interpret in practice.

The bill did not aim to make any substantive change to MAV's representation. The MAV would still have been required to provide nominations for two board members. It would simply have streamlined the current nomination process by letting the MAV decide who would be the most appropriate persons to nominate from local government within the CFA administered area.

Unfortunately, the opposition has determined it will play politics with these proposed changes. It indicated it would block the proposed changes, publicly characterising them as an attempt by the Victorian government to stack the CFA board.

This is clearly incorrect. The proposed changes were focused only on making commonsense improvements to current nomination processes. No substantive changes to the current structure of the board were proposed.

The bill contains a number of other important machinery changes to CFA's operations that need to be made before the next Victorian fire season. In the interests of passing these other proposed changes as speedily as possible and maximising public safety, the government decided to delete these proposed changes from the bill. The necessary house amendments have already been made in the lower house.

Under the amended bill, CFA board nomination processes will now remain unchanged.

The government regrets the opposition's position has made it impractical to pass these changes which would have been consistent with the ICA's stated policy, assisted the MAV and saved time for all concerned.

Use of prescribed devices during a fire danger period

The act already provides for the restricted use of some appliances in the country during a fire danger period. Other appliances such as gas-fired scatter guns, which are now in regular use, are not technically governed by the restrictions. There will be an amendment to allow for regulations to be made to provide for the safe usage of these appliances at a time when the risk of fire is at its height. These regulations will be developed in close collaboration with the rural industries affected in order to provide the best and most appropriate means of reducing fire risk.

Municipal fire prevention plans

A vital part of dealing more effectively with fire is appropriately locating responsibility for managing the risks in both natural and developed environments.

Municipal councils are already required to prepare a fire prevention plan, which identifies the risk treatment strategies to be used. Guidelines have been prepared by the Country Fire Authority which are comprehensive and appropriate for the needs of councils and are regularly monitored to provide the best guidance possible. Provision will be made for the municipal fire prevention plans to be prepared in accordance with those guidelines, which are expressed in the language of risk management and more suitable and flexible than regulations.

This bill will further clarify the existing responsibilities of councils, for the preparation of a municipal fire prevention plan which relates only to the land for which the municipal council has fire protection responsibility. It is proposed to specifically exclude the land which comes within the area of responsibility of the Department of Natural Resources and Environment. This will not diminish the effectiveness of the planning process, which will continue to be developed on the advice of municipal fire prevention committees which are representative of key local interest groups including the department.

It will be the responsibility of each municipal council to maintain and formally approve its plan and to act upon it. This will emphasise the importance of proper planning for the purpose of increasing fire safety for the community.

Miscellaneous

There are in addition a series of other minor amendments of a technical nature which will assist in the management of the Country Fire Authority and assist it to carry out its duties and obligations under the act.

There are also some redundant provisions which will be removed and statute law revisions.

I commend the bill to the house.

Hon. B. C. BOARDMAN (Chelsea) — Before I move that the debate be adjourned, I simply say that that is one of the most disgraceful second-reading speeches I have heard, and it will be the subject of debate on the next day of meeting. Therefore, I move:

That the debate be now adjourned.

The ACTING PRESIDENT (Hon. Jenny Mikakos) — Order! Mr Boardman will have his opportunity at that time.

Motion agreed to and debate adjourned.

Debate adjourned until next day.

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

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

That this bill be now read a second time.

This bill is designed to further clarify the regulatory framework for the electricity and gas industries. In the last session of Parliament the government completed its restructuring of gas and electricity legislation with the passage of the Gas Industry Act 2001. This bill represents a further step in refining the regulatory framework in accordance with this government's energy policy.

The bill is consistent with the government's objectives relating to the gas and electricity supply industries, including the provision of an effective and workable safety net for domestic and small business customers. The bill streamlines the existing default contract provisions in both the Electricity Industry Act 2000 and the Gas Industry Act 2001. These provisions are relevant where a customer moves into premises and takes supply of gas or electricity without having entered into a contract with the relevant retailer or, having entered into a market contract with the relevant retailer, subsequently cancels that contract during the cooling-off period. The bill also makes amendments to the supplier of last resort provisions in both the Electricity Industry Act 2000 and the Gas Industry Act 2001.

The bill also provides for technical amendments to the electricity cross-ownership restrictions as they apply to new generation facilities; the approval process applying to any retail gas market rules submitted by the Victorian Energy Networks Corporation or a gas distribution company to the Office of the Regulator-General; and the scope and operation of the cost recovery power contained in section 68 of the Gas Industry Act.

I turn now to each part of the bill. Part 1 of the bill simply states the purpose of the bill and provides for its commencement.

Part 2 of the bill contains amendments to the Electricity Industry Act 2000.

Clause 6 deals with the operation of the supplier of last resort provisions, and clarifies that terms and conditions approved by the Office of the Regulator-General in relation to supplier of last resort arrangements may also provide for the ongoing supply of electricity following the expiry of the three-month period fixed by section 27 of the Electricity Industry Act.

Clause 7 consolidates the existing provisions of the Electricity Industry Act relating to the formation of deemed contracts where customers move into premises and take supply of electricity without first formalising their contractual arrangements. Clause 7 provides that, in these circumstances, the customer will be deemed to have a contract for the supply and sale of electricity with the licensee responsible for those premises for the purposes of wholesale electricity market settlement. Clause 7 also provides for such a deemed contract to arise where the customer entered into a contract with the relevant retailer prior to entering premises but then exercises its right to cancel the contract during a cooling-off period set by the Fair Trading Act 1999 or by the Essential Services Commission (the successor to the Office of the Regulator-General) through its regulatory instruments. In each case, the tariff, terms and conditions that will apply are those that would apply if that customer were a party to a contract under section 37 of the act. In addition, the present provisions provide for when these deemed contracts come to an end. Clause 7 provides that the Office of the Regulator-General's successor, the Essential Services Commission, may determine additional events upon

which the deemed contracts come to an end — such as the receipt of two electricity bills, reflecting the end of two billing cycles.

As I noted earlier in this speech, the bill modifies the electricity cross-ownership provisions as they apply to the development of new generation facilities. Currently, the Electricity Industry Act 2000 provides that an existing generation or distribution company does not hold a prohibited interest as a result of holding an interest in another generation company which has established a new generation facility. However, as presently drafted it is technically possible for the new generation company to itself hold a prohibited interest as a result of the operation of the Corporations Act. Clause 8 therefore proposes an amendment to make plain the new generation company's entitlement to benefit from the exemption in section 68(8A) of the Electricity Industry Act 2000. This amendment is consistent with the government's objective of encouraging the development of new generation capacity in Victoria.

In addition to the above provisions, part 2 of the bill contains various miscellaneous provisions. Clause 3 ensures that the provision in the Electricity Industry Act making it relevant legislation for the purposes of the Office of the Regulator-General Act 1994 is aligned with the equivalent provision in the Gas Industry Act 2001. Clauses 4 and 9 make minor amendments consequential to clause 3 and the enactment of the Essential Services Commission Act 2001. Clause 5 makes a minor amendment consequential to clause 7.

Part 3 of the bill amends the Gas Industry Act 2001.

Clause 11 replicates clause 6 for the gas industry. It deals with the operation of the supplier of last resort provisions, and clarifies that terms and conditions approved by the Office of the Regulator-General in relation to supplier of last resort arrangements may also provide for the ongoing supply of gas following the expiry of the three-month period fixed by section 34 of the Gas Industry Act.

Similarly, clause 12 replicates clause 7 for the gas industry. Clause 12 consolidates the existing provisions of the Gas Industry Act on the formation of deemed contracts where customers move into premises and take supply of gas without first formalising their contractual arrangements. It will also arise in circumstances where the customer entered into a contract with the relevant retailer prior to entering premises but then exercises its right to cancel the contract during a cooling-off period set by the Fair Trading Act 1999 or by the Essential Services Commission through its regulatory instruments. In each case, the tariff, terms and conditions that will apply are those that would apply if that customer were a party to a contract under section 44 of the act. In addition, the present provisions provide for when these deemed contracts come to an end. Clause 7 provides that the Office of the Regulator-General's successor, the Essential Services Commission, may determine additional events upon which the deemed contracts come to an end — such as the receipt of two gas bills, reflecting the end of two billing cycles.

Clause 13 amends section 65 of the Gas Industry Act 2001 to clarify that the Office of the Regulator-General can require changes to any retail gas market rules submitted to it by Vencorp or a gas distribution company for approval.

Section 68 of the Gas Industry Act 2001 provides for cost recovery by the distribution companies of the costs they incur in relation to implementation and development of retail gas market rules. Clause 14 amends this section to clarify the intended scope and operation of that cost recovery power.

Clause 15 allows for Vencorp to provide systems and services relating to full retail competition outside of the state. This amendment recognises Vencorp's substantial contribution to the implementation of full retail competition in Victoria, and the value that this work may hold for other jurisdictions. It will allow other jurisdictions to benefit from Vencorp's expertise in operational aspects of a competitive retail gas market, and may ultimately permit gas market participants to benefit from greater national harmonisation. The provision of these services outside of Victoria is subject to the approval of the minister, following consultation with the Treasurer.

Clause 16 corrects minor errors.

I commend the bill to the house.

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

Debate adjourned until later this day.

ANIMALS LEGISLATION (RESPONSIBLE OWNERSHIP) BILL

Second reading

Debate resumed from 28 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — In speaking on the Animals Legislation (Responsible Ownership) Bill my initial remarks will be to outline briefly the purposes of the bill. Broadly, it seeks to amend both the Prevention of Cruelty to Animals Act 1986 and the Domestic (Feral and Nuisance) Animals Act 1994. In respect of those two acts it inserts new offences, extends regulation-making powers and provides for the search of dwellings and the seizure of animals, which will be subject to a warrant. It also deals with the registration and control of restricted breed dogs: it amends the enforcement powers, increases the registration fee paid by councils from $1 to $2.50 per dog and extends the uses to which the money can be put.

That is an overview. I will now go through the rest of the bill in more detail. The bill seeks in part to deal with attendance at animal fights. We know that there is a cultural attitude to some sporting activity which can only be described as not customary in Australia — that is, to pit animals against each other for the purpose of some form of sporting entertainment. Clause 3 of the bill deals with the creation of an offence to discourage people from attending animal fights. If it is an offence to attend a fight the promoters of such activities will be discouraged further, notwithstanding that there are already severe penalties for providing premises and being the owner of animals involved in such fights.

The bill also deals with the matter of inspectors entering dwellings. It increases the capacity for intervention by inspectors in the interests of animal welfare so that if there is a reasonable suspicion of cruelty the inspector can apply for a warrant from the court so that they can pursue the protection of animals.

In addition the bill contains a power to deal with compliance. Inspectors are often faced with situations where they provide advice to owners of animals at risk but the advice is ignored. At present in a situation where cruelty may cause an animal to continue to suffer because of inaction on the part of the owner or the person responsible for it, the court can make orders for the owner to comply but only if he has already been convicted of the offence. This delays the opportunity for timely intervention. The bill will allow an inspector to issue a notice that requires a person to comply with specific written instructions to alleviate cruelty to the animal or to prevent a situation in which cruelty is likely to occur. It will be an offence not to comply with a notice, and I think that is a sensible approach.

Clause 7 of the bill deals with warrants to seize animals. The bill allows an inspector with written permission of the secretary to apply to a magistrate to seize an animal from premises, including a dwelling, if the inspector reasonably believes that the welfare of the animal is at risk.

Clauses 24, 25 and 26 deal with increased penalties for dog attacks. Regrettably we see in the media presently reports of what would on the face of it appear to be a spate of increased dog attacks. I am not sure whether statistically that is the case, but given the way these matters are reported one cannot help but feel some sense of intimidation for the community when people are assaulted by what appear to be vicious dogs. There is no doubt that improving the accountability of owners of dogs is important. That provision is sensible.

Clause 9 deals with restricted breeds and certain arrangements in place at a commonwealth level. The commonwealth legislation restricts certain breeds of dogs from being imported into Australia. The dog breeds currently prohibited from being imported are the dogo Argentino, the fila Brasileiro, or however you say it, the Japanese tosa and the American pit bull terrier or pit bull terrier.

Hon. E. G. Stoney — You obviously don't own one.

Hon. PHILIP DAVIS — No, I do not.

Hon. E. G. Stoney interjected.

Hon. PHILIP DAVIS — Mr Stoney is right, I am not familiar with these dogs — kelpies and blue heelers are more my line. If he wants I could talk about a few good kelpies: Jess, Judy, Lucy, Twiggy, Nick, Rusty and Jock. I can pronounce those names pretty freely, because as most farmers know, you always name a dog so that you can use a four-letter word when you call it to come. It makes getting on with the business of handling stock a lot easier does it not, Mr Bishop?

Hon. B. W. Bishop — It does indeed.

Hon. PHILIP DAVIS — In any event, I am not familiar with those dogs, but the commonwealth legislation prohibits them from being imported. In this bill the government is asking the Parliament to deal with the registration and control of the restricted breeds. In effect that deals with the American pit bull terrier, the breed presently in Australia. The bill requires a level of control of that animal.

This is not a field in which I am an expert, but I am advised a range of views is held about whether certain breeds of dogs should be targeted as dangerous dogs. However, this debate will go on. I am sure there are members of breed societies and breeders of particular

dogs who have the view that it is the action and not the breed of a dog that should determine whether it is dangerous. On the other hand, a strong concern is currently being raised within the community about what is seen to be the collective behaviour of particular breeds of dogs and, given the incidence of dog attacks, the government is probably right to deal with that concern. However, the Liberal opposition has certainly come to no final conclusion about that matter.

The bill makes other minor but important changes which, as has been set out in the second-reading speech, are self-evident. The one area I want to comment on in particular relates to clause 8, which deals with regulations prohibiting certain activities, procedures and implements. The bill proposes regulations that will prohibit the use of pronged dog collars and electronic dog training collars and also the pin firing of horses. While Liberal opposition members have no problem with those or other regulations prohibiting the possession of certain dogfighting or cockfighting implements, this clause in its original form did present us with a difficulty.

In its original form clause 8 proposed much wider regulation-making powers which would have imposed prohibitions on traditional farming activities. I refer specifically to activities such as marking of calves and lambs, branding, dehorning and mulesing. The prohibition of those agricultural activities would have caused significant and serious consequences for the welfare and health of livestock and there is no doubt such regulations would have interfered with proper commercial agricultural practices. Further, those wide regulation-making powers could have seen a move to outlaw, for example, the possession of rabbit traps — I know Mr Stoney has a particular interest in that area — and branding irons and calf-marking equipment.

The Liberal Party raised that aspect of clause 8 and I am pleased to note that the Minister for Agriculture in the other place succumbed to its representations and that the bill has been amended by the removal of those wide regulation-making powers. As a result, I can say with some confidence that while the Liberal opposition is concerned about some aspects of this bill, it will not delay its passage.

Hon. KAYE DARVENIZA (Melbourne West) — I am very pleased to have an opportunity to speak in support of the Animals Legislation (Responsible Ownership) Bill 2001. I am pleased to be able to say that the bill will not be opposed but will be supported in its passage through the house by both the Liberals and the Nationals.

The bill amends both the Prevention of Cruelty to Animals Act 1986 and the Domestic (Feral and Nuisance) Animals Act 1994. Like some of my colleagues in this chamber, I am an animal lover and a dog owner. I believe very strongly that the amendments proposed in this bill are necessary because they will help to protect animals from cruel acts that are inflicted upon them by humans who have absolutely no excuse for what can only be described as appalling behaviour and treatment of the animals that they are responsible for.

As the previous speaker, Mr Philip Davis, said, we only have to look at the stories reported by the newspapers and by the media generally to get an understanding of not only the apprehension that members of the public have about dogs and dog attacks which they perceive as vicious but also some of the very cruel and inhumane acts that are inflicted upon animals by their owners. The amendments in this bill will alleviate the cruelty that is inflicted upon animals and they will also instil greater confidence in members of the public generally in their apprehension about dogs and dog attacks.

As with other bills that have come before this house, the government has been through an exhaustive consultation process with all the stakeholders with an interest in the changes to the legislation, as well as the general public.

The Animal Welfare Advisory Committee advises the minister on issues that affect animal welfare. That includes giving advice on programs and strategies for the practical application and implementation of legislation, as well as advice on policy recommendations for changes to legislation which will result in improved welfare for animals in this state.

The Animal Welfare Advisory Committee made a number of recommendations to the Minister for Agriculture for amendments to the Prevention of Cruelty to Animals Act and the Domestic (Feral and Nuisance) Animals Act. As a result of that committee's recommendations a discussion paper that included the proposed amendments to the legislation was developed. The discussion paper was widely distributed, and stakeholders and the community were consulted on the proposed amendments. In response to the discussion paper there was consultation not only with the Animal Welfare Advisory Committee but also the Municipal Association of Victoria, the Royal Society for the Prevention of Cruelty to Animals, the Lost Dogs Home and the public.

The bill aims to improve the welfare of animals in this state in a number of very important ways. It will ensure

that animals in distress can be assisted and can be removed when necessary from a distressing or cruel situation. It will prevent the use of various procedures and implements on animals that could cause them harm or suffering. It also seeks to improve public safety and confidence by introducing banning some breeds of dogs from importation because of their history of being bred for fighting and their being perceived as potentially dangerous. As the honourable Mr Philip Davis has said, some discussion still needs to be had about that being because of the breed of an animal — —

Hon. Philip Davis — Breed or deed.

Hon. KAYE DARVENIZA — Or the animal itself. My own dogs and I have spent quite a bit of time with a dog trainer, Mr Vern Ryan, who works in Werribee in my electorate. When I go along to his classes Vern always maintains that it is the owners he is training, not the dogs, and that owners have to take a great deal of responsibility for the behaviour of their animals.

I know that not everyone would agree with that, but there are breeds of dogs which are bred for the activity of dogfighting. It is also true that there are some breeds of dogs that appeal very much to some dog owners who in some instances conduct themselves in ways that do not represent responsible dog ownership and who want a particular breed of dog because they want to teach the dog to attack and assault people and to be a guard dog on their premises or in their homes. Often the way they handle, train and treat their dogs is not conducive to the dogs being well socialised and able to move within the community so the community is kept confident and safe.

I will now go to the bill and deal with a couple of clauses in it. Clause 3 makes it an offence to attend an animal fight. Subclause (4) states:

> A person must not attend an event at which an animal is encouraged to fight another animal.

At present the Prevention of Cruelty to Animals Act allows for the prosecution of those who own animals injured in or provide facilities for animal fights. But animal welfare organisations and the general public believe that by attending dogfights you are just as culpable, because you are encouraging the fights to take place and are continually sustaining those activities and practices. The clause therefore inserts a new offence of attending a dogfight.

Clause 4 expands the enforcement powers of the Prevention of Cruelty to Animals Act. It extends the powers of an inspector so an inspector can enter private residences under a magistrate's warrant. It will allow for controlled entry where there is sufficient evidence of continuing cruelty to animals.

Cases of trapped and neglected animals can be attended to with this extended power without a risk of charge against the inspector for forced entry or trespass. Where there is sufficient evidence that animals are being abused or have been injured and the owner chooses to hide them inside their own residence they will now be accessible because inspectors will be able to enter and locate these animals and provide adequate treatment for them.

Clause 6 provides the power for a warrant to be issued by the magistrate and allows the inspector to seize an animal from the premises, including a person's dwelling, if the inspector believes on reasonable grounds that the welfare of the animal is at immediate risk. A warrant issued under this provision authorises the inspector, together with a member of the police force if necessary, to seize an animal and to take that animal to any place that the inspector sees fit and to retain possession of an animal for any time necessary for the animal to be adequately cared for and treated. These provisions strengthen the ability of the inspector to intervene putting an end to any cruelty that might occur to an animal. We know there are animal owners who are not prepared to take the necessary action to stop the suffering of animals that they are responsible for. This provision protects the animals against that type of owner.

Clause 8 inserts the new regulation-making powers and will allow regulation to be made to prohibit the possession and use of certain implements and will also prohibit the undertaking of certain procedures on animals. If cruelty occurs as a result of the use of implements or the performance of particular procedures, under the general provisions of the act, prosecution can occur.

The new regulating-making powers will allow the minister after both an impact assessment and consultation with the public to regulate procedures, activities, devices and equipment which are judged likely to cause harm to an animal. Devices such as electronic training collars, steel-jawed traps and implements used for animal fighting might be included in the banned and controlled regulations. Procedures such as tail docking of puppies and firing of horses are the sorts of procedures that will be covered by the regulations.

The aim of the clause is to make a considered assessment of the issues and then to introduce regulations that will be acceptable to both the

community and to animal welfare agencies. This section of the bill is about prevention so that acts of cruelty do not occur and the clause allows for regulations to be made that the government sees as being necessary.

Clause 10 provides for the recognition of organisations that represent responsible restricted breed owners. At the moment, under the act, the minister is not able to give any recognition to any organisation representing restricted breed owners. The government believes it is only reasonable that if an act is to recognise the breed for the purposes of restriction it should also be possible to recognise the efforts of various organisations to have standards promoting management and ownership of restricted breeds. These organisations would demonstrate a commitment to the development of responsible dog ownership by being involved in activities such as programs of education and support that would focus on the owners of these types of dogs.

Clause 23 of the bill aligns the commonwealth and state legislation regarding pit bull terriers. Clearly the commonwealth has made an assessment that certain breeds of dog bred for fighting are an undesirable type of dog to be in the community for all the reasons previously outlined: that they are bred for dogfights; that the community does not have confidence that these dogs will not attack them or their children or other dogs; and that these dogs are often attractive to particular types of owners who want to have aggressive dogs with attack capabilities.

Where such dogs are present in the Victorian community it is only reasonable that they are managed by their owners in a manner that ensures both public safety and community confidence. A number of restrictions will apply to the restricted breeds of dogs: that there is a maximum of two restricted dogs per person without a permit from the council; escape-proof and child-proof fencing; permanent identification by use of microchip technology; compulsory notification to the council if the dog escapes, attacks or dies or there is a change of ownership; and compulsory notification by a prospective owner that the dog is of a restricted breed.

Muzzling and leashing of dogs when in public areas are signs that alert the public to restricted dogs. The government believes that there should be modest signs indicating there is a restricted dog on the premises such as signs that say ‘Beware, restricted dog’. A restricted dog cannot be owned or tended by a minor. It cannot be out in the community, whether it is muzzled, on a leash, or in any other way, if it is under the control of a minor. The amendments proposed in the bill go to the reasonable behaviour of a dog owner. The government believes these sorts of restrictions will address many community concerns regarding these types of dogs.

The last clause I will mention is clause 27, which is headed ‘Payments to the Treasurer’. This clause requires councils to pay the Treasurer an additional $1.50 for each dog registered. The government believes there is a need to fund education programs and other initiatives so that people understand the legislation and the restrictions that will be placed on them. Education cannot be undertaken without the appropriate funding, which is really about returning the funds to the community so that the community can understand the new law.

Funds could also be allocated to enable research into domestic animal management and to establish the best ways to inform members of the community about possible causes of dog attacks in our community. A number of dreadful attacks have occurred causing significant injuries and even resulting in the deaths of members of our community. Only last week two Rottweilers set upon a gentleman in suburban Melbourne, inflicting serious injuries on him. The community needs to feel much safer about the sorts of dogs that are being kept and about how they are being housed, cared for and tended when in public.

In conclusion, this is good legislation that addresses a whole range of concerns and issues that have been raised by the welfare advisory committee, as well as other interested groups and the community generally. The bill will protect animal welfare and ensure that those who are responsible for enforcing the legislation are better equipped and better able to go about their duties and carry out their responsibilities in line with the law. The bill deals with community concerns about the keeping of animals that they believe may attack, be dangerous and cause serious injury. It is good legislation and deserves the support of all members of the chamber. I commend the bill to the house.

Hon. B. W. BISHOP (North Western) — It is always a pleasure for members of the National Party to speak on bills such as the Animal Legislation (Responsible Ownership) Bill. Honourable members who are based in country areas are pleased to talk about dogs in the farming environment and also the metropolitan environment.

Hon. Philip Davis — Name them!

Hon. B. W. BISHOP — I will, just give me a moment. The National Party does not oppose the bill. I put on the record the National Party’s commitment to

responsible and caring ownership of animals and the prevention of cruelty to those animals. I make that point strongly because it is like caring for the land. If we do not care for our animals and the land our production is not sustainable and economic pressure is put on our farming systems.

I have often observed some tension between the metropolitan and non-metropolitan areas as to how the two areas treat and care for their animals. I understand that clearly because it is a totally different approach. Today we will probably use the example of dogs in the metropolitan and non-metropolitan areas. I am sure all dogs in the metropolitan area are well treated, loved and cared for. One of the dogs that always features in this house when we talk about dogs is the Honourable Neil Lucas's dog, Watto. He has been mentioned on the record a few times and I am sure that the treatment of Mr Lucas's dog would typify most if not all those living in metropolitan areas.

Hon. N. B. Lucas — He is a good-looking dog!

Hon. B. W. BISHOP — We have had some great debates in this house of a serious nature but also had a bit of fun on the side. Mr Stoney and I have often chuckled about the performance of our farm dogs. We had that opportunity during what I will loosely call the debate on the legislation covering dogs on the backs of utes, which we have had a couple of goes at in the Parliament.

I thought about all of the dogs we have had on our farm, and I must admit it took me some time to remember them all, but I thought I would give them a run today — and Mr Stoney might do some of his later, as well. Their names were: Bob; Digger; Lass; Snifter, a great dog and very handy; Chippy, and she was also a good dog; Boss; Blue; and Zip. I admit that our farm now has only one dog, and he is hardly what you would call a working dog, although if he were identified, I am sure he would think himself very suitably tagged a working dog. His name is Nick, and he is a Jack Russell. One might think he is pretty harmless, but he certainly works hard. When the ute is going around he doesn't get on the back; he sits up behind the driver's head, which is a very privileged position for a dog of that type. His vision is good, and he can take care of all the events that come within his line of vision. All of the dogs we have owned were different; but I can assure honourable members that they were all loved and well cared for during their time on the farm.

Last night at a function a group of us were talking about this bill, and Don Kilgour — the honourable member for Shepparton in the other place — and his wife Cheryl spruiked about their dog Mitchell. I am absolutely certain that that dog holds a strong and privileged position in their house, and like dogs on backs of utes, if ownership papers were handed out for the Kilgours, Mitchell would be well up on the ownership list of that household.

Everyone cares for their dogs in different ways. On our farm, because they are working dogs, they will work until they drop, whether it be working stock on the road or in the yard in hot weather. The owners of working dogs have to carefully husband the resources of those dogs by tying them up either in the back of the ute or on the back of the motorbike to give them a spell, but those dogs are bred to work, and that is what they want to do. It is a very good education for people to see working dogs in full flight at any of the country shows. Those sheep dogs are absolutely committed to the task. That is so from pups onwards, they have it bred in them. I am sure agricultural pursuits in Australia would not be possible without Australia's working dogs. Now I had better get back to the bill.

It deals with two principal acts. One is the Prevention of Cruelty to Animals Act 1986 and the other is the Domestic (Feral and Nuisance) Animals Act 1994. During the briefing on this bill the National Party expressed extreme concerns with the original clause 8. We are delighted that the pressure we and others applied saw that clause amended by the other house. It has been replaced by provisions setting out specifically what the legislation will ban.

Some examples are dog and cockfighting implements, and many other similar fighting implements. It also talks about pronged collars and electronic dog training collars. I suspect that the regulatory powers would see such things as, for example, electronic dog training collars being used under particular circumstances. I am not sure of that, but perhaps that is the way it goes. I know myself, training eager young working dogs, that while I would never use those electronic collars I have sometimes thought they would be very handy with a really keen dog, to teach it some discipline when still in the learning phase.

The real problem the National Party had prior to clause 8 being altered was the problem of regulations. They could impact strongly on agricultural practices, without standing the scrutiny and accountability that Parliament imposes, and that is from both sides of the ledger. We are pleased that that situation has been altered. Anything that changes existing procedures dramatically should come before Parliament where adequate scrutiny can be carried out.

There is a difficulty in bridging the gap between city and country on those issues, and we have had some good debates in this house on that topic. One such difficulty is the right to farm where there are differences between metropolitan and non-metropolitan areas and where the two overlap as they do sometimes. There are cases where the urban sprawl spreads out into agricultural areas, and people raise concerns that, for example, grape harvesters might operate at night, in what is almost an urban environment. Put simply, the best thing to do in a case such as that is to decide who was there first. It is a zoning issue, but it is an example of difficulties that arise between metro and non-metro areas. While the agricultural practices are within acceptable guidelines for agriculture, they should remain where they have been for many years. It is really a zoning issue.

The agricultural practices that we were concerned about, where regulations could simply have been brought in, include the practices in piggeries, broiler production, chicken production, feed lots, egg production and a number of other agricultural industries. They could have been very exposed if the original clause 8 had not been altered.

A good example would have been the views of our good friend Dr Hugh Wirth from the Royal Society for the Prevention of Cruelty to Animals, who was carrying on about rabbit traps. I understand he believes no-one should possess a rabbit trap. I cannot remember the last time a rabbit trap was used on our farm, but I am quite sure that somewhere in the back of the shed there are a few rabbit traps hanging up that we have used in the past, and the National Party does not want to have regulations sneaked into this place that make innocent people criminals overnight when they have done absolutely no wrong. So I am pleased to see that provision disappear.

The bill gives increased powers to enter and search premises and to seize animals. Although the National Party supports the legislation, we are often wary of such provisions because these matters must be handled sensitively and not in a heavy-handed way by the officers who might carry out the provisions. They are strong provisions and must be used sensitively and with accountability.

Reference is made to cockfighting and dogfighting, which is already banned, and rightly so in today's age. It may have been popular a long time ago but certainly not now. Any of us who have been around animals are always disturbed when animals fight, because animals do fight. I have seen horses, dogs, chooks, roosters and sheep, particularly rams, fighting, and we do all in our power to stop them. It beats me why anybody would want to see an organised fight of that sort. The National Party is delighted at that inclusion in the bill. While other legislation imposes severe penalties for providing premises for animal fights, now there are severe penalties for people who attend and watch such fights. I understand fines of up to $6000 can be imposed, which the National Party strongly supports.

Basically there are three amendments to the Domestic (Feral and Nuisance) Animals Act 1994. The bill introduces definitions for 'restricted breed' of dogs and 'recognised organisation'. As I understand it, a recognised organisation is an organisation concerned with restricted breed dogs. I believe a number of organisations are in that category, which I remember from past legislation.

The bill has an owner-onus provision under which an owner who registers a dog must declare that dog, if it is of a particular type, as a restricted breed, and councils will also be required to register the restricted breed. I have a letter the honourable member for Wimmera in the other place received from the Northern Grampians Shire Council, which states:

> In reading the proposals included within the abovementioned bill we were very interested to note the intention to increase the payment made by councils to the Treasurer for each dog registration from $1 to $2.50.
>
> As council is already required to act as a collection agency for the fee we have no concern with this arrangement continuing; however, we do have concerns about the proposal to increase the level of payment.
>
> Councils will have two choices if this proposal is enacted. We can absorb the fee into our own registration costs or increase the fee to cover it. Absorption is unlikely to be favoured, especially in rural areas, as the fees currently charged are generally minimal. It is much more likely that fees will have to be increased, and if this is the case the anticipated concerns and complaints about the increase will no doubt be directed at local government, it being the point of collection.
>
> My council would be most interested in knowing whether or not the state government intends to publicise the increase, should it eventuate, and how it is intended that the extra revenue will be expended and for what benefit.
>
> Council does support the changes to the relevant acts and has for some time asked for clearer and more stringent responsibilities to be placed with dog owners but has no information to equate the increase in fees to the new proposals.

The letter is signed by the corporate services manager, Peter Elliott. Councils must be notified within 24 hours when a restricted breed dog is sold or lost, and a new owner must be notified if they purchase a dog that the dog is a restricted breed and of a particular type. I noted

that the Honourable Philip Davis struggled to name the dogs, but they are all a particular breed of dog.

The restricted breed must be confined within the owners premises and people can own only two restricted breed dogs. They may obtain a permit from the council if they want another dog, provided it is available. The National Party was interested to learn at what age the dogs had to be under control and was informed that breeders are all right because pups under six months of age are not seen as dogs. Therefore breeders will have the flexibility to continue to breed dogs of that type.

A person under 17 years of age cannot own a restricted breed. I suspect the aspect of the bill that will cause the most difficulty will be in that breed-specific area. The National Party heard some diametrically opposed opinions when this matter was discussed. I must say that some of the dogs on our farm would be nearly unidentifiable if one wanted to trace them back. I can remember my son having a three-quarter bull terrier and one-quarter Queensland heeler, whose name was Boss. He was probably properly named, but it would have been hard, unless one had a fair idea, to accurately identify that dog. He was a wonderful dog with kids and people, but he was tough on other dogs. I suspect that breed had a stubbornness that was not always dangerous to humans but in a territorial sense was tough on other animals.

It is difficult to pick the most dangerous dogs. I have seen excellent Queensland heeler work dogs being very touchy and having to be treated with the utmost care. At the other end of the scale I have seen a fox terrier bitch with pups who would take to anyone who went near her pups. I have seen kelpie mothers who would certainly have a real go at you if you went near their pups, so it is hard to identify what would be recognised and categorised as a dangerous dog in relation to the safety of our communities.

Members of the National Party had a good look at the review panel process. That will be interesting too, because the panel will be charged with the responsibility of classing a dog as a restricted breed. For example, if someone disagrees about his or her dog being classified as a restricted breed he or she has 30 days to have that reviewed, for which a fee is payable. The panel consists of three people. I note that the Royal Society for the Prevention of Cruelty to Animals has avoided that responsibility, as it is not represented on the panel. The review panel must make a decision about the dog. As I went through the legislation I could see no provision for the owner to appeal against the panel's decision, but the minister might clear that up in the third-reading response.

To put it frankly, the National Party reckons that all this area is a bit wobbly, and I suspect that the courts will get a fair run at it when the bill comes into operation. The National Party suspects that the bill will do little to solve the problem of dog attacks on people in the community. It will simply multiply the complexity of dog owners' compliance with councils. I make that point because a careful reading of the statistics shows that about 80 per cent of dog attacks occur in the backyard, where the family dog will nip a visitor or one of the family. While there is a wide difference of opinion — for example, many people would say, 'It is not the breed, it is the deed' — to a reasonable degree we in Victoria manage that well through the dangerous dog provisions in the act. Perhaps the next bill will show a greater focus on the management of dogs and community safety relative to dog attacks.

To conclude, the alteration to clause 8 removes many of the difficulties the National Party had with the bill. We were concerned about the wide-sweeping power to make regulations that would have been conferred by the original clause 8, which could have made it difficult for people in rural agricultural pursuits, but some of our concerns have been removed now that that provision has been deleted. However, we believe it will be difficult to put some of the provisions of the bill in place, especially those relating to particular breeds of dogs.

The National Party therefore urges the government to go back and have a good look at the dangerous dog section of the legislation, which has a good mechanism for public safety and the management of dogs. It seems to me that we are making an issue out of particular breeds of dogs. Some may be very difficult to identify, and that certainly puts a difficult task in front of the owners, the new review board and the councils. Again I suspect that the courts will get a fair bit of business from this legislation.

Hon. E. G. STONEY (Central Highlands) — I rise to speak briefly on the Animals (Responsible Ownership) Bill. Today honourable members have been challenged to name their dogs. We have heard about Mr Bishop's dogs, Mr Davis's dogs and Mr Lucas's dogs. I want to tell the house about my dogs, and the three that come to mind are Tex, Tan and Ring, but my favourite was Flirty. I do not know why we called her Flirty, but she always had pups in tow!

Owning and managing animals responsibly means you have to walk a fine line. It has been my experience that

people who do not have a background in owning animals do one of two things: they either spoil them and love them to death, or they lose interest, treat their animals carelessly and cause them pain and distress. We often hear of horses starving in paddocks, of sheep, fly-blown and dying in the corners, jammed up in small blocks adjacent to towns. I know of a mob of 20 sheep that were all fly-blown and several had gone off into corners to die. That was caused through a lack of attention after people thought they would love to have a few sheep, but then lost interest in them. You hear about dogs tied up for weeks on end, barking and distressed, because as Mr Bishop would know, you need to keep a dog's interest, particularly that of a working dog. You must keep him exercised and doing the things he really loves. Either Mr Bishop or Mr Davis said that when that is done, working dogs — heelers and kelpies and indeed short-haired border collies — will work until they drop because they love it so much.

I make the point that very rarely do you find that people who farm animals commercially ill treat them. Apart from the fact that they really like and understand their animals, ill treating their animals is very bad for farmers' hip pockets. There is a combination of the fact that they farm animals because they like doing so and the fact that they know it is bad commercial practice to ill treat them.

The bill amends both the Prevention of Cruelty to Animals Act and the Domestic (Feral and Nuisance) Animals Act. Farmers and other commercial owners of animals have been wary of both of those acts. There have been repeated attempts over many years to tighten how farmers and other people who farm animals commercially treat animals. Home owners of pets are generally the ones being targeted by these acts, but I fully agree that farmers also need to protect their animals.

As has been alluded to earlier, it happened again with this bill, because farmers were gathered up in the original clause 8. When the bill was introduced into the other place it had the potential to stop dead many traditional farming methods. It would have introduced the power to bring in regulations that could have stopped very important farm management techniques such as mulesing and calf and sheep marking — in fact even the ear marking of calves, which is very important for identifying stock, especially up in the high plains where a lot of stock run together.

All these were gathered up in the push to outlaw things like cockfighting, dogfighting and pin firing of horses. What got me really going and what caused publicity in rural Victoria was a proposal to ban the use and possession of steel-jawed traps. The feeling in rural Victoria was that this was absolute rubbish. I am not sure what Ms Darveniza said in her contribution, but I suspect she believes it is still possible to ban or outlaw steel-jawed traps. I understand proposed section 42(1) of the Prevention of Cruelty to Animals Act inserted by clause 8 prohibits the introduction of regulations to ban the use or possession of steel-jawed traps.

The press in country Victoria really got fired up on this issue. A couple of country members, including the honourable member for Swan Hill in the other place and I, publicised the proposition to ban steel-jawed traps. A long article in the Warrnambool *Standard* of 12 July refers to this issue and states:

> Retired farmer Dudley Wythe said he started trapping rabbits as a 14-year-old, catching up to a 1000 a week …
>
> He said the traps were handy for problem foxes and should be allowed on private land. Trapping was not cruel if traps were checked regularly, he said.

An article in the *Weekly Times* of 8 August records comments against the proposal, particularly one from Geoff Hahn of Perry Bridge, near Maffra. The article states:

> 'Without rabbit trapping, we and many other families would have gone broke.
>
> …
>
> Don't smash rabbit traps: instead proudly hang them up in honour as they deserve a real place in our history'.
>
> Of all the forms of rabbit control, Geoff suggests the simple trap is the most humane.

Experienced rural people have come out against a silly proposal to ban steel-jawed traps.

Mr Ricky Seiter of the Australian Mouse and Rat Trap Museum at Shepparton, in North Eastern Province, represented by the Honourables Bill Baxter and Jeanette Powell, sent me an email which states:

> I am writing to express my anger at the proposed amendments to the Prevention of Cruelty to Animals Act 1986, in particular the sections pertaining to the banning of possession of steel-jawed rabbit traps. Once again wildlife protection groups have overstated the need to ban these from ownership. I note the use of a clause '(unless possessed as a curio and disabled)'. I feel that disabling traps that are kept as part of a collection is totally uncalled for. I have spent many years and much money assembling my collection and do not wish to see them destroyed because a select minority do not like them.

The government has misread the mood of rural people. It was a stupid, badly thought out idea that deserved to be thrown out. Farmers have a long and proud history with animal husbandry. Long before veterinarians

established themselves in rural Victoria — and we are blessed with a fine profession of veterinarians throughout rural Victoria — local farmers developed a knowledge and flair for animal husbandry, and many farmers were in great demand in helping with calving. Indeed, my father was very good at helping heifers calve. I remember one year having 80 heifers joined with a short-horned bull — a bad move — and 78 heifers had to be assisted, which taught me a great deal about delivering calves. I am sure many honourable members in this place and in the other place have delivered many calves and lambs, and have done it quite well.

In closing I take issue with the marking of lambs and calves. After marking they jump up and, with a swish of their tails, rush off to their mothers to have a drink and are as right as pie. With the swish of a few tails in this house, this legislation will be supported, now minus a very stupid and unworthy provision that would have impacted on how many farmers manage their stock and their collections of steel-jawed traps.

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.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 1.01 p.m. to 2.02 p.m.

QUESTIONS WITHOUT NOTICE

Alpine Resorts Coordinating Council: appointment

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Industrial Relations to the recent appointment of ALP and trade union mate, Bill Shorten, who is secretary of the Australian Workers Union and a preselected candidate for the ALP, to a paid position on the Alpine Resorts Coordinating Council. Is this not just another example of mates for the boys — jobs for the boys?

Hon. M. M. GOULD (Minister for Industrial Relations) — I take slight offence at the Leader of the Opposition referring to ‘mates for the boys’; I think he was referring to jobs for the boys.

The government has made clear its consultative approach, which contrasts to the approach taken by the opposition. The government will involve all stakeholders in its discussions with the community to ensure that boards appropriately represent all stakeholders.

Hon. Bill Forwood — What can he do? Ski?

Hon. M. M. GOULD — On the comment made by the Leader of the Opposition on the appointment of Bill Shorten to a position on the board, it is appropriate to ensure that all stakeholders are involved in the board. Bill Shorten has coverage of numerous employees there and will ensure that their interests are taken up with the board. I have no problems with Mr Shorten’s appointment

Yallourn Energy: dispute

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Industrial Relations inform the house of the purpose of yesterday’s meeting that she convened between Yallourn Energy and the relevant unions?

Hon. M. M. GOULD (Minister for Industrial Relations) — As honourable members are aware, there have been ongoing industrial relations problems at Yallourn Energy. These issues stretch back to prior to the start of the Bracks government, and they have been ongoing for almost three years. With regard to this dispute there are two main groups of employees at Yallourn — the mine maintenance workers and the operators. In September of this year the Australian Industrial Relations Commission (AIRC) arbitrated on an agreement with respect to the operators. The maintenance employees have been involved in separate discussions on their new enterprise agreement.

On 28 November Yallourn Energy applied to the federal commission to have the maintenance union’s bargaining period terminated and to have that matter arbitrated. The maintenance union responded by taking industrial action, which started yesterday. That action is legally protected action under the Workplace Relations Act.

Honourable members interjecting.

The PRESIDENT — Order! I am trying to hear the Leader of the Government. I ask honourable members on both sides of the house to allow the minister to be heard.

Hon. M. M. GOULD — The government believes it is time for this matter to be fixed once and for all. Therefore yesterday I held a meeting with the unions and the company to make clear the government's position on the matter. The government will not allow this matter to compromise the electricity supply, and I made that abundantly clear to the parties yesterday. Another purpose for the meeting was to make sure the parties were encouraged to get together and resolve these issues as soon as possible. The meeting provided the parties with an opportunity to clarify their positions, and they worked towards identifying the common ground.

The Bracks government has made it clear that it will act decisively to ensure supply is not put at risk. The company and the unions must now move to resolve this issue either through negotiation or by using the services of the AIRC. As I said earlier, the matter is before the commission today as we speak, and unfortunately, as this house is well aware, this state is the only state in Australia that can rely only on the federal Workplace Relations Act. That causes long and protracted disputes like this one. Nevertheless, we have done what we can to see if we can assist the parties to get this matter fixed once and for all, and now it is in the hands of the AIRC.

Industrial Relations Victoria: executive director

Hon. BILL FORWOOD (Templestowe) — I address a question to the Minister for Industrial Relations. Is it a fact that the government's hand-picked chief executive officer in charge of industrial relations in this state has resigned because he has lost confidence in the Premier, the Treasurer and the Minister for Industrial Relations?

Hon. M. M. GOULD (Minister for Industrial Relations) — Honourable members opposite have no idea. Honourable members will be aware that when the Bracks government came to office in October 1999 it was faced with the legacy of seven years of a Kennett government approach to industrial relations. It got rid of — —

Honourable members interjecting.

The PRESIDENT — Order! The opposition has asked a question of the minister, and I am sure the house wants to hear the response.

Hon. M. M. GOULD — The former government got rid of the state's industrial relations system, it got rid of fair minimum conditions and it got rid of the government structure that could help Victorians understand industrial relations. It did not even have an industrial relations minister! It left Victoria's industrial relations to the law of the jungle.

Industrial Relations Victoria (IRV), a division of the Department of State and Regional Development, was established by the Bracks government to address the appalling state of affairs left by the previous government. IRV was established as part of the whole-of-government approach. It has a central role in monitoring and administering the government's industrial relations policy.

Geoff Fary commenced as executive director of IRV on 1 May last year. In the past 18 months he has done an outstanding job of building up the capacity and the capabilities of IRV. He was recently offered an excellent opportunity to return to the private sector, and he has chosen to take that up.

Honourable members interjecting.

The PRESIDENT — Order! The opposition has asked the Leader of the Government a question. I want to hear the answer, and I want the rest of the house to hear it as well.

Hon. M. M. GOULD — I am sorry to see Geoff go, and I wish him every success in the future. One of the things that Geoff has done very well, among a number of other things, is that he has been a good leader and has built up a great and very strong team. I would like to take the opportunity to thank him and his team for the work they have done. Without his leadership it would not have been as successful as it has.

The government will continue to develop IRV and will go through a process in line with departmental procedures to find a replacement, as Geoff will not be leaving until February.

Small business: Streetlife program

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Small Business to inform the house how the Bracks government's revamp of the guidelines for the Streetlife program will further assist Victorian small businesses.

Hon. M. R. THOMSON (Minister for Small Business) — I thank the honourable member for her question. This program was introduced by the former minister, the Honourable Mark Birrell, as an

employment program. It was of great benefit to small business, even though it came out of Mr Birrell's portfolio area. It focused on the retail sector throughout Victoria.

Yesterday I launched the new guidelines for the Streetlife program and announced funding of $1 million over the next two years. The government has changed the focus of Streetlife to that of a small business program to develop and assist small business in understanding that working together can produce greater outcomes than working in isolation, and that working in partnership with the community and local councils can also aid small business.

The government has extended the guidelines to include all business sectors, from home-based businesses to industrial-based businesses and also businesses run by people who have come from a non-English-speaking background. We have changed the grant allocation from a $10 000 grant or a $20 000 grant to grants ranging from $5000 up to $40 000. This is to broaden the scope for people who can apply for funding under the Streetlife program. The government will be looking to ensure that Streetlife offers an opportunity to enhance the skills of those who operate businesses. The beauty of Streetlife is the partnership approach and a broadening of the approach to working together with local government and looking at regional applications from a number of councils, together with local communities, so there can be multiple — —

Honourable members interjecting.

The PRESIDENT — Order! The house is trying to hear the minister. Mr Theophanous is not a minister, if he does not realise that, and I ask him to keep quiet while his minister is speaking.

Hon. M. R. THOMSON — It will allow councils to join together for regional development of projects on a number of sites. What we see with the Streetlife program is a broadening of its application to a number of businesses to ensure that Victorian businesses, no matter where they are in the state, have the opportunity to grow and develop.

Urban and Regional Land Corporation: managing director

Hon. R. M. HALLAM (Western) — My question is addressed to the Minister for Industrial Relations in her capacity as the Leader of the Government. I refer the minister to the appointment of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation.

Hon. D. G. Hadden — Let it go! Give it a rest!

Hon. R. M. HALLAM — Thank you for that in-depth interpretation.

Is the minister aware of any other instance under the Bracks administration in which an appointment has been made on the basis of personal friendship or party allegiance as distinct from professional qualification, or is it that only the Premier — —

Honourable members interjecting.

The PRESIDENT — Order! I will not have an honourable member who is trying to ask a question being talked over by a number of honourable members of the house. I ask the honourable member to finish his question.

Hon. R. M. HALLAM — Thank you, Mr President. Is it that only the Premier and Deputy Premier enjoy such latitude under Labor's rules?

Hon. M. M. GOULD (Minister for Industrial Relations) — It shows the honourable member's understanding that he poses such a question. All people who have been appointed to boards or any other committees by the government have been appointed on merit and because of their ability. To cast such aspersions on the Premier and the Deputy Premier is an absolute outrage.

Fishing: recreational grants

Hon. E. C. CARBINES (Geelong) — Following the government's establishment of the Recreational Fishing Licence Trust, will the Minister for Energy and Resources inform the house of details of the Bracks government's recreational fishing grants program?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for her question and for her interest in recreational fishing. I am pleased to announce today that the Bracks government will provide up to $750 000 in 2002 for projects aimed at improving recreational fishing in Victoria under the new recreational fishing grants program.

The government has delivered on its election commitment to Victoria's recreational fishers by legislating to establish a trust fund, the recreational fishing licence trust account, and to establish a stakeholder-based fisheries revenue allocation committee to administer that trust fund and the grants program. In future years this trust account will provide

up to $2.5 million for fishing grants following the conclusion of payments for the bay and inlets buyback.

Today's launch of the recreational fishing grants program for 2002 is further proof that the Bracks government is working with local communities, including fishing clubs, peak recreational fishing bodies and other stakeholders, to improve recreational fishing in Victoria. Under the grants program there are four categories of projects to which revenue can be allocated. They are education, information and training; research; access and facilities; and sustainability and habitat improvement, including fish stocking.

I have written to all recreational fishing clubs, catchment management authorities, regional water authorities, municipal authorities and other interested stakeholders inviting their applications for eligible projects. Applications for fish stocking projects will close on 11 January, and grant applications from everyone else for all other projects will close at the end of February.

Projects must be designed with a clearly defined objective that will be a direct benefit for Victoria's recreational fishers. I look forward to announcing the successful projects in May next year, and they will have funds allocated to them by July next year. This initiative demonstrates the Bracks government's strong support for recreational fishing in Victoria and the delivery of its policy to develop partnerships with the recreational fishing community to protect, sustain and improve our world-class recreational fisheries.

Public sector: appointments

Hon. I. J. COVER (Geelong) — I ask the Minister for Sport and Recreation, who is also the Minister for Youth Affairs, to advise the house whether he condones the practice of making public sector appointments on the basis of personal friendships and/or party allegiances as distinct from professional qualifications and whether he can give a categorical assurance that all appointments made within his time and scope of ministerial responsibility have been strictly merit based.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the honourable member's question. The appointments the government makes throughout its respective portfolios, my portfolio in particular, will be based on merit and skill and considered accordingly, as they have been in the past. That is unlike the situation under the previous government, which for seven years surrounded itself with cronies to the point where it did not appreciate the mistakes it was making until the electorate told it at the last election.

Sport: facilities

Hon. JENNY MIKAKOS (Jika Jika) — I ask the Minister for Sport and Recreation: in light of the Bracks government's commitment to boosting sporting opportunities for all Victorians, what steps has he taken to achieve this outcome?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for her question. Members of this house should appreciate the commitment the government has to grassroots participation in this state and the impact that it seeks to have on participation at a local community level in terms of activity, health, fitness and sport and recreation.

The high number of applications made to the Community Facilities Funding program for 2002–03 has been very impressive. There has been an outstanding level of interest in the application process. In the order of 52 planning projects were received as part of applications to develop proposals along strategic lines, which the government encourages, particularly at a community level; in the order of 27 applications were received for multipurpose and regional single-purpose facilities in the community; in the order of nine new aquatic developments were applied for; and there were something in the order of 34 applications for planned redevelopments of existing pools.

It shows not only a need for but also the government's commitment to ensuring the development of community facilities across the whole of the state, and the government has altered the funding ratios to make sure that there is greater opportunity for the communities in regional Victoria. The government expects to achieve in this coming year more than $32 million worth of investment, which was the investment in sporting infrastructure in the previous year, to continue to grow the whole of the state.

Electricity: supply

Hon. PHILIP DAVIS (Gippsland) — I ask the Minister for Energy and Resources whether in regard to the threat to power supplies by the industrial dispute at Yallourn Energy she will use the emergency provisions under part 6 of the Electricity Industry Act to guarantee Victorians electricity supplies during this summer.

Hon. C. C. BROAD (Minister for Energy and Resources) — There is no threat to Victoria's power

supplies. The management company for the national electricity market has confirmed that there is no threat to Victoria's power supplies, and that continues to be the advice to me.

I suggest that the honourable member knows full well that the powers under the act to which he has referred are only able to be exercised if there is a threat, and there is no threat to Victoria's power supplies. The government has demonstrated that it has the capacity to act decisively if there is a threat to Victoria's power supplies. The government has acted decisively in the past and it will do so again if that is necessary. However, I repeat that there is no threat to Victoria's power supplies.

Commonsense would dictate to anyone who cares to look out the window that there is no threat to Victoria's power supplies. Those forecasts have been prepared on the assumption that even without the Yallourn power station the forecast can be met by the other sources of supply.

Hon. Philip Davis — Mr President, I raise a point of order in the context of the question. Given that the Minister for Industrial Relations said in relation to this matter that, 'The government will not allow this matter to compromise the electricity supply' and further said that the government will act decisively to ensure supply is not put at risk, I asked this question of the minister responsible for energy in relation to security of supply for this summer. The Minister for Energy and Resources has not answered the question in relation to whether she will use the emergency provisions of part 6 of the Electricity Industry Act to secure supply this summer.

The PRESIDENT — Order! I listened very carefully to the question and the answer. The minister did respond. She indicated that she has no power to invoke that legislation while there is not an emergency and in her opinion there is no emergency. Am I paraphrasing the minister correctly?

Hon. C. C. BROAD — The advice to the government is there is no threat to Victoria's power supplies.

The PRESIDENT — Order! I cannot uphold the point of order.

Consumer affairs: Christmas credit campaign

Hon. T. C. THEOPHANOUS (Jika Jika) — The Minister for Consumer Affairs would be aware of my interest in consumer credit protection and education. Can the minister inform the house of what the Bracks government is doing to educate consumers on ways of using credit wisely this Christmas?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for his question. The Bracks government is committed to tackling the issue of consumer debt and consumer awareness of how to properly manage credit and debt. The government has moved on a number of fronts in this area, including payday lending, but it wishes to ensure that consumers are aware of how they can use credit wisely and escape some of the traps.

The Reserve Bank of Australia estimates that Australian household debt stands at $75 billion and that Australia owes more than $16 billion in credit debt alone. In 1999 the Australian Retailers Association conducted a Christmas survey and found that 45 per cent of those surveyed were likely to use credit cards to pay for all their Christmas purchases. Christmas is a time when consumers often rely very heavily on the use of credit.

This year the government has again launched a Christmas credit campaign. The government wants to ensure that consumers are able to enjoy Christmas and the period after Christmas. This year Consumer and Business Affairs Victoria has decided to take a more light-hearted approach to the information it provides to consumers to encourage them to think wisely before they shop, to take time to think about how much they can afford to put on credit and to use lay-bys and pay by cash.

Rudolph the In-the-Red Reindeer has been featured on a card which will be given out to consumers to encourage them to think about their purchases over the Christmas period and to spend within their means. Some 140 000 of these cards will be distributed around Victoria as a reminder to consumers to think about their purchases. I encourage consumers who receive those cards to pass them on to others who may benefit from the light-hearted but serious message that appears on them so that this year people can enjoy their Christmas, enjoy their Christmas presents, and more importantly, be able to pay for them come January.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 2355, 2382, 2440 and 2462–4.

The PRESIDENT — Order! The Honourable Andrea Coote has written to me seeking my ruling in relation to question on notice 2431 relating to the recommendations of the review of the extension education program. In my opinion the question has not been answered. I therefore direct that it be reinstated on the notice paper.

Hon. C. A. FURLETTI (Templestowe) — I seek an answer to question on notice 2339, which I asked of the Minister for Industrial Relations in this house on 9 October.

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member has written to me regarding question on notice 2339, which was directed to the Premier. I have raised it with the Premier's office, indicating that I have received a letter from the honourable member and asking the Premier to supply the answer.

The PRESIDENT — Order! It is always difficult when ministers are representing other ministers in the other place. The presumption is that the Minister for Industrial Relations will be pursuing the matter and will eventually supply the answer to the honourable member.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Parts 1 and 2 of question on notice 2213 as reinstated by you, Mr President, and questions 2251 and 2252 standing in my name, have been on the notice paper for in excess of 30 days. I have written to the Minister for Industrial Relations advising her of that, and I now seek an explanation of when answers will be provided.

Hon. M. M. GOULD (Minister for Industrial Relations) — I have received correspondence from the honourable member about that matter and I have raised it with the appropriate minister. I am pursuing the matter and will continue to do so to get an answer for the honourable member.

Hon. G. B. ASHMAN (Koonung) — Yesterday I emailed the Minister for Energy and Resources in relation to a number of questions on notice directed to the Minister for Transport — that is, questions 2311–12, 2363–5 and 2401–10 — seeking confirmation that they will be responded to. I now seek some explanation as to why the time for the answering of these questions has been exceeded.

Hon. C. C. BROAD (Minister for Energy and Resources) — As the honourable member has said, these questions were asked of me for referral to the Minister for Transport. I will seek advice from the minister as to the answering of those questions and endeavour to ensure that the honourable member receives replies to them as soon as possible.

Hon. ANDREW BRIDESON (Waverley) — Question 2153 on the notice paper in my name was a question directed to the Minister for Education. I seek an explanation from the Minister for Sport and Recreation on when I might receive an answer to that question. I wrote to the Minister for Education on 30 November on this matter.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Appreciating the sense of urgency by the honourable member, I will raise it with the Minister for Education and seek an answer at the earliest possible opportunity.

AUDIT (FURTHER AMENDMENT) BILL

Second reading

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

> That so much of the standing orders be suspended as would prevent motions for the second reading of the Audit (Further Amendment) Bill and for the adjournment of the debate on the bill being again moved.

The Honourable Roger Hallam raised this matter with me. I said I would get back to him on it. I wish to apologise to the house for the inconvenience of reading a second-reading speech the department forwarded to me. It did have a replacement copy, but that was not received in my office. I have taken it up with the department. As I said, I apologise to the house for any inconvenience.

Hon. R. M. Hallam — Thank you.

Hon. M. M. GOULD — I thank the Honourable Roger Hallam for picking up the issue. With the leave of the house, I propose to move the second-reading speech again.

Motion agreed to.

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

> That this bill be now read a second time.

The bill introduces amendments to the Audit Act to further enhance the independence of the Auditor-General, strengthen the accountability arrangements of his office and provide greater scope in his powers to promote sound financial management in the state.

In November 1999, during the debate on the Audit (Amendment) Bill 1999, the Premier advised the other place that the government was considering further amendments to the Audit Act that had been requested by the Auditor-General. The Premier stated that these further amendments required more consultation than could be accommodated in the time available for the preparation of that bill. On behalf of the government, the Premier assured the other place that further legislation would be introduced after the necessary consultation had occurred.

There has now been extensive consultation between the Department of Treasury and Finance, the Auditor-General, the Department of Premier and Cabinet, the Department of Justice, and other bodies, including other jurisdictions within Australia and New Zealand. As part of this consultation process the Public Accounts and Estimates Committee was also consulted fully on the Audit Act amendments. On behalf of the government I thank the chairman and members of the committee for the valuable contribution they have made to the development of the bill.

The amendments to the Audit Act introduced by this bill relate to the following issues:

Greater protection for the Auditor-General

1. Indemnity for Auditor-General and staff

Consistent with the government's steps in restoring the independence of the Auditor-General, the bill provides an indemnity for the Auditor-General and his staff, through amendment to section 94D of the Constitution Act. Although such indemnities in legislation are rare, this provision ensures that as the Auditor-General is an independent officer of the Parliament, appropriate indemnity protection is provided through legislation rather than being at the discretion of the government.

Both the current Auditor-General and his predecessor have requested a statutory indemnity to cover him and his staff. In support of these requests, the Auditor-General commented that a number of other officers, such as the Regulator-General, the Ombudsman, the Legal Ombudsman and the Chief Electrical Inspector enjoy strong statutory protection.

The indemnity that has been provided exempts the Auditor-General and his staff from any personal liability for acts or omissions in performance of official duties, provided they have been done in good faith.

2. Disclosure of information in reports yet to be tabled

As part of the amendments to the consultative process, the government has provided the Auditor-General's proposed reports with greater protection. Under section 20A(2) of the bill, a person receiving a proposed report or part of a proposed report must not disclose any information in that report unless acting in the course of their official duties, or the information has been made public in a report by the Auditor-General to the Parliament.

The bill also introduces penalties for persons or body corporates that breach these secrecy provisions. In disclosing information outside of the avenues available under section 20A(2) a person is liable to a maximum penalty of 50 penalty units, while a body corporate is liable to a maximum penalty of 250 penalty units.

Scope of Auditor-General powers

3. Scope of powers

The Auditor-General has sought clarification in his powers and functions under the Audit Act. To ensure a common understanding of what types of activities his office may undertake, the Auditor-General requested the Audit Act be amended to set out clearly the general scope of his powers and therefore his duties and functions. To this end, the government has proposed in the bill amendments to the Audit Act to provide clarification of the powers and functions of the Auditor-General through a revision of the objectives of the act, under section 3A.

In addition, the government recognises the important role the Auditor-General plays in the identification of any wastage, lack of probity or financial prudence in the management or application of public resources. Accordingly, the public interest focus of the Auditor-General's work is now clearly articulated in the Audit Act.

4. Extension of the authorities definition

The Auditor-General has raised concerns that the definition of an authority in section 3 of the Audit Act is insufficient to give him the power to audit entities controlled by the state or other authorities.

The definition of an authority in section 3 of the Audit Act includes 'a corporation, all the shares of which are owned by or on behalf of the state, whether directly or indirectly'. This section does not confer power on the Auditor-General to audit partly owned corporations, no matter how close to 100 per cent the state's effective

shareholding is. While section 3 allows for other persons or bodies to be prescribed as authorities, the Auditor-General has expressed the preference that a power to audit bodies that are not wholly owned be provided explicitly.

The bill amends section 3 to provide the Auditor-General with the power to audit all entities controlled by or on behalf of the state or authorities.

Where the state or an authority does not hold a controlling interest in an entity, the Auditor-General shall continue, as now, to audit the authority in whose books this minority shareholding appears as an investment and comment on the value or risk of such an investment.

This amendment will ensure that the Auditor-General has responsibility for the financial audit of all entities in which the state or an authority has control.

5. Auditor of Victorian public sector non-authority bodies

Circumstances can arise where it is desirable for the Parliament to enable the Auditor-General to undertake financial statement audits for entities not coming within the definition of an authority under the Audit Act, but still within the Victorian public sector. An extension of the Auditor-General's powers to audit these types of entities provides him with greater opportunity to scrutinise the use and flow of public funds.

Under section 16G, the bill provides the Auditor-General with the power to audit entities outside of the definition of an authority under the Audit Act, but still within the Victorian public sector. The Auditor-General will only be able to undertake such audits if invited to do so by the entity and it is in the public interest and practicable for him to do so.

6. Examination of funded bodies

The Auditor-General has advised the definition of a public grant in section 20 of the Audit Act has caused some interpretive difficulties for his office. For example, the question has been raised whether goods or services provided to a community or private body at subsidised or nominal cost, or free of charge, constitute a grant within the meaning of the section.

The bill provides clarification of the nature of grants to funded agencies. The purpose of the amendment is to ensure that the Auditor-General has clear directions as to what resource flows to funded agencies he has the power to examine.

To achieve this, under section 16C of the bill, the Auditor-General has been provided with a general audit power to conduct any audit necessary to determine whether a financial benefit, paid by an authority to a person or entity that is not an authority, is being applied economically, efficiently, effectively and for the purposes for which it was given.

7. Other audit services

The Auditor-General has sought an explicit power in the Audit Act to enable him to provide additional auditing services to authorities, when requested to do so. Situations can arise where, due to the knowledge the Auditor-General may have of an authority's activities or particular expertise in a sector, an authority may wish to engage the Auditor-General to undertake additional audit services.

Through section 16E the bill provides for a limited extension of the Auditor-General's powers to undertake additional audit services for authorities. Under this provision, the Auditor-General can only provide these services where an authority has requested him to do so and the authority has gained the approval of its responsible minister to make the request.

8. Information to public officials during the course of an audit

The Auditor-General has requested he be provided with the ability to communicate information to other persons and bodies where it is considered appropriate.

A situation may arise during the course of an audit where the Auditor-General becomes aware of information that is more suitably dealt with by another person or body. For example, if fraud is found taking place in an authority the Auditor-General may wish to pass on this information to the Chief Commissioner of Police. However, under the current provisions of the Audit Act the Auditor-General cannot pass on any information, obtained during an audit, to other persons or bodies.

A new section 16F is proposed in the bill to enable the Auditor-General to provide written information to a minister, the Chief Commissioner of Police, an authority, a member, officer or employee of an authority and a statutory office-holder — for example the Ombudsman. Where the Auditor-General passes information on under this section, he must notify the Premier.

Efficiency in Auditor-General audit operations

9. Capacity to transmit reports to the Parliament out of session

The Auditor-General has requested that he be provided with the power to send his completed reports to the Parliament when it is in recess and therefore be provided with parliamentary privilege. This would obviate the need for additional work to ensure that reports are still current at the time of transmission to the Parliament and would better meet the public need for information to be available as soon as possible after an audit is completed.

Under section 16AB the bill provides for the transmission of reports of the Auditor-General when the Parliament is in recess. Section 16AB sets out specific requirements for both the Auditor-General and the Clerks of the Parliament in the operation of this provision. The Auditor-General is required to give one business day's notice of his intention to transmit a report to the Parliament and once the report has been provided to the Clerks, the Auditor-General is required to publish the report on his Internet web site.

As part of this process the Clerks must notify members on the same day of the receipt of the notice from the Auditor-General and distribute the reports to members as soon as practicable. The report must then be laid before the house on the next day of sitting. This last provision is to ensure a report transmitted to the Parliament, while in recess, is not precluded from being debated in the Parliament once the Parliament is sitting.

10. Revised threshold for the delegation of authority to undertake financial audits

The threshold for the Auditor-General to delegate the undertaking of a financial audit and signing of an audit opinion is currently set at authorities with net assets of $1 million or less. The Auditor-General requested this threshold be increased to cover authorities with $5 million or less in expenditure for that financial year.

The increase in the delegated threshold is not a move towards greater outsourcing of the Auditor-General's work. Approximately 70 per cent of the Auditor-General's current financial audit work program is contracted out to private audit service providers. The main difference between contracted-out work and that work coming within the delegated threshold is that an audit service provider is required to sign the audit opinion as the Auditor-General's agent under the delegated provisions.

The purpose of this amendment is to achieve greater efficiency and effectiveness in existing outsourcing arrangements of the Auditor-General. It provides him with the ability to gain greater flexibility in achieving value for money (and accountability) from private sector audit firms he contracts work to. Under the current threshold levels 91 per cent of contracted audits are required to be reviewed (and often have rework conducted) and then signed by the Auditor-General, leaving only 9 per cent of audits being signed off by the contractor who actually did the work. This situation does not lend itself to an efficient means of contract management for the Auditor-General.

Through the bill, the new section 7G increases the threshold limit to entities with expenditure of $5 million or less. It also includes the requirement that only those persons registered as company auditors, under the Corporations Act, may be delegated the authority to undertake financial audits as agents of the Auditor-General. Although currently the Auditor-General only delegates audits to company registered auditors, the Audit Act did not specify this requirement.

11. More practicable time frame for tabling the Auditor-General's narrative report on the annual financial report (AFR)

The Auditor-General has requested a more practicable time frame be provided in the tabling of his narrative report on the annual financial report, under section 16A. The current timing requirement is presentation to the Parliament within seven sitting days after the tabling of the annual financial report (which is set from 27 October).

The bill provides that in section 16A(4) of the act 'seven sitting days' is deleted and the date 24 November under section 16AB(2)(b) is substituted in place thereof.

The bill also amends the current requirement in section 16A(3)(a)(ii) that states the Minister for Finance only has seven days in which to provide comment on the Auditor-General's report on the AFR. This requirement is amended to 10 business days. This provides for a more realistic time frame in which to comment and removes the confusion as to whether the number of days referred to in the Audit Act are business days or calendar days.

Greater accountability for the Auditor-General

12. Publication of auditing standards

The Audit Act requires the Auditor-General to comply with those auditing standards produced by the accounting profession.

Section 7B(2)(f) of the bill sets out amendments whereby the Auditor-General will be required to summarise in his annual report details of any additional standards he develops above those produced by the accounting profession.

13. Professional quality control arrangements

In extending the powers of the Auditor-General, such as the ability to audit non-authority entities within the Victorian public sector and the delegation of a greater number of audits, it is important the Parliament is provided with greater accountability mechanisms over the Auditor-General's work.

As part of the development of greater accountability, the bill sets out a new requirement for the Auditor-General to summarise in his annual report the quality control processes undertaken by his office each year. This will provide an effective mechanism through which the Auditor-General can highlight to the Parliament the quality control systems he maintains and any improvements undertaken in these systems from year to year.

14. Auditor-General's annual plan

Under the current requirements of the Audit Act (section 7A(4A)) the Auditor-General is required to have regard for any comments received back from the PAEC on a review of his annual plan, but does not have to change the plan or document where he does not accept a recommendation. We do not believe the Auditor-General should have to change his annual plan but should have to document where changes from the PAEC recommendations have not been made. This approach provides a much stronger accountability back to the Parliament in its review of the Auditor-General's planned activities and establishes a more transparent process between the development and review of planned work.

The bill introduces a new section 7A(4A) that requires the Auditor-General to indicate in his annual plan the nature of any changes suggested by the PAEC that he has not adopted.

Administration of the Audit Act

15. Clearer distinction between audit opinions and audit reports

The Audit Act contains numerous references to requirements that the Auditor-General prepare and present a report. This wording draws no distinction between a report in the sense of an audit opinion and the more extensive narrative reports that the Auditor-General prepares for some audits.

Sections 9, 9A, 15 and 16 of the Audit Act have been amended through the bill to make a clear distinction between the types of reports prepared by the Auditor-General.

16. Clarification of audit fee

The current wording of the Audit Act is not clear for what services the Auditor-General can charge a fee. The bill, under section 10, sets out the Auditor-General's power to only charge for his mandatory financial statements audit activities. No charges will apply to those audits and reports reflecting his discretionary work in informing the Parliament on accountability and resource matters. Instead, these audits and reports are funded through the Auditor-General's annual appropriation.

17. Narrative reports covering more than one financial audit

The Audit Act's current provisions provide the Auditor-General with the power to make a narrative report on a performance audit that relates to the activities of multiple authorities, but he may not make a single narrative report that relates to issues arising from the financial audits of several authorities.

The bill, through amendment to sections 15 and 16, provides the Auditor-General with the ability to make a narrative report covering more than one audit.

18. Enhancements to the consultative process for audit reports

In the development of a report to the Parliament the Auditor-General goes through a process of consultation with entities directly related to the report and other interested parties. As part of this process the Auditor-General is required to seek formal submissions or comments from these groups and include this material in his final report to the Parliament.

Under the current reporting provisions of the Audit Act the Auditor-General is required to provide these parties

with a copy of the summary findings and proposed recommendations. However, the Auditor-General has advised government that he wishes to have the option of providing a full copy of a report or a section of a report that is relevant to a particular party. In most circumstances it is appropriate to provide an entity with a full copy of a proposed report. However, situations do arise where it is more appropriate for an entity to receive only that part of a report that directly relates to them.

Under a new section 16(3)(a) the bill provides the Auditor-General with the discretion to provide a full copy of a proposed report to an entity, or only that part or parts that directly relate to the entity, for comment.

I commend the bill to the house.

Hon. D. McL. Davis — On a point of order, Mr President, earlier today there was a difficulty with the second-reading speech. I draw the minister's attention to the section of the speech she has just read before point 11. Under point 10 there may be some material missing out of the second-reading speech that was circulated. I appreciate that the minister has the right to vary her second-reading speech. I am seeking some clarification.

Hon. M. M. GOULD — On the point of order, Mr President, the honourable member would be aware that under point 9 there were some changes as a result of amendments that were completed in the other house. This has been a cut-and-paste job, which is why it looks blank, but it flows; nothing has been left out.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until later this day.

PETROLEUM (SUBMERGED LANDS) (AMENDMENT) BILL

Second reading

Debate resumed from 27 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — I am delighted to have the opportunity to speak on the Petroleum (Submerged Lands) (Amendment) Bill because — and I am sorry the minister responsible for the bill is not in the house, but maybe the Leader of the Government will relay this comment to her — I can say absolutely that the Liberal Party supports the bill without reservation at this point.

Hon. R. M. Hallam — It is a big call.

Hon. PHILIP DAVIS — It is a big call; we do not often do it.

The principal purposes of the bill are: to complement certain amendments to the commonwealth Petroleum (Submerged Lands) Act 1967, which have been made through seven commonwealth amending acts since 1994; to create infrastructure licenses; to strengthen the work program bidding system; to strengthen compliance with work programs; to limit the number of renewals of exploration permits; to improve the rights of titleholders; to enable rights and responsibilities conferred by a permit or lease to be suspended if it is in the interests of the state; to update arrangements for pipeline licences; to introduce indefinite terms for production of pipeline licences; to create a new offence of intentionally or recklessly interfering with or damaging operations; to rewrite in clearer terms the confidentiality periods relating to the release of information provided by companies; to revise the cash bidding arrangements for surrendered areas in which petroleum has been discovered; and to make various minor and technical amendments.

The Liberal Party has consulted widely with stakeholders and found universal support for the bill, which is probably best summarised by this response from the Australian Petroleum Production and Exploration Association:

> APPEA supports the Petroleum (Submerged Lands) (Amendment) Bill since it brings the Victorian act into line with amendments already made to the commonwealth act.

It further says:

> We regard this consistency as important.

Obviously it is important from a regulatory perspective. Industry, in any field, does not need to be burdened with overly complex regulatory arrangements, particularly in the petroleum industry where there is a great range of players in terms of the size of the businesses involved in the industry.

We should put into context the need for such legislation. Obviously state and territorial borders do not define where petroleum will be found. Necessarily, therefore, there is an overlay and complex relationship between jurisdictions concerning the regulation of the petroleum industry, and obviously arrangements need to be coordinated.

As a result of the federal and state Offshore Constitutional Settlement of 1967, when a scheme was agreed to by the states, territories and the

commonwealth to deal with the issue of who deals with offshore waters, when it was agreed that the states would be responsible for the coastal water being 3 nautical miles to seaward, with commonwealth waters being the balance of the national Australian sovereign waters beyond the 3 nautical mile limit, since then efforts have been made to ensure that there is a reasonable conformity between the legislative and regulatory framework with respect to petroleum in Australia; and the Victorian legislation has set out to mirror the arrangements set for the commonwealth.

There have been seven amending acts in the commonwealth since 1994, and therefore Victoria's legislation is now, as a result of amendments in the commonwealth Parliament, out of step in some respects with commonwealth legislation. Therefore it is sensible that this amending bill brings the legislation back into conformity.

The petroleum industry is very important not just to Victoria but Australia, and I will put that comment into context. I am advised that production in 1999–2000 of crude and liquid petroleum gas and natural gas had a total value of $8 billion, and of that there were net exports of $1 billion. That is quite important in the national economic scene, but we need to fit that figure into the context of the location of that energy fuel source relevant to the total national requirements for energy.

Oil and natural gas account for about 54 per cent of Australia's energy fuels, but certainly there is a keen interest in the petroleum industry from the perspective of commonwealth revenues, and it is astounding — given the telephone-book size numbers we deal with when talking about the oil industry — to find that the petroleum resource rent tax remitted to the commonwealth government in the last financial year of 2000–01 was an estimated $1.76 billion.

Excise fees on petroleum products and crude oil are expected to contribute, in the same period, $12.892 billion to the commonwealth government, and the minister might be able to inform the house — because in my research I was unable to find it easily — of the amount paid by producers, who also pay exploration and production licence fees to the Victorian government. I am not sure of the total value, and I would be pleased to be advised of the amount during the course of this debate if somebody is able to provide that information to the house. But it is certainly nothing of the scale that is generated to the commonwealth.

Nevertheless, there are the economic spin-offs which are so very important to the whole of Victoria, and Victoria does share in that windfall through other revenue streams such as payroll tax and other taxes over which the state has control, but particularly it is important to the general economic welfare of the state.

I can say with some personal awareness that it is important to the Gippsland region in particular, especially to Sale. Not only do I come from the Sale district of Gippsland, but I also worked for four years in the 1970s in the oil industry. I fondly remember my time associated with Esso, although I have to say that when I went back to full-time farming I thought I had got away from shift work — that is, until I came into Parliament and found that here there is shift work wherever you go. My desire to participate in this debate is premised on a recognition of the importance of the oil industry to Victoria.

At present Australia produces about 80 to 85 per cent of its crude oil requirements, with 44 per cent of crude oil and condensate produced out of Bass Strait. The Carnarvon Basin off the north-west coast of Western Australia is the next biggest producer, with around 41 per cent of Australia's total oil production. The Gippsland Basin leads the way as Australia's largest producer of natural gas. It has a 33 per cent share of the nation's natural gas market and 69 per cent of its liquid petroleum gas production. North West Shelf Gas Pty Ltd is Australia's largest liquefied natural gas producer.

It is important to put into perspective what resources are available. Obviously changes occur in investment in innovative technology for exploration and development, but at the present rate of consumption it is estimated that the world has reserves of around 50 years of crude oil and over 70 years of natural gas. The first Australian oil was discovered in 1924 at Lake Bunga in Victoria's south-east Gippsland region, not far from Lakes Entrance. The Gippsland Basin oilfields were first discovered in 1965. The Barracouta field has dominated crude oil production in Australia since its commission in 1968.

In 1985 production from the Gippsland Basin peaked at an annual average of 450 000 barrels per day. I recall that when I was there in the 1970s Longford was producing in excess of 480 000 barrels per day, but it was not a consistent rate of production. Average daily oil production declined to 200 000 barrels per day in 1999–2000. Although the decline in that level of production is significant, it is still the source of almost 37 per cent of Australia's crude oil production.

Gas is increasingly important to consumers in the domestic and retail market, and obviously as an industrial fuel. The significant demand for gas is

growing at a rate of about 1.3 per cent per year . In 1999–2000 Bass Strait produced about 538 million cubic feet per day, representing 23 per cent of national gas sales. The Otway Basin, which occupies the south-west edge of Victoria and extends across to South Australia, has been a relatively immature source compared with Bass Strait, but recent discoveries offshore at Minerva and La Bella have enhanced the potential situation there considerably, and now there are onshore discovery developments. Victoria has a history of oil production, and with new production opportunities there are some exciting developments occurring with gas.

With further development of the petroleum industry it is important to recognise the need for consistency of approach between the commonwealth and state regulators. There are three principal acts under which the Victorian government regulates the industry. They are the Petroleum (Submerged Lands) Act, the Petroleum Act, which deals with landward issues, and the Pipelines Act. The amendments we are dealing with today are exclusive to the Petroleum (Submerged Lands) Act.

Five principal changes are worth noting. One is the implementation of infrastructure licences that deal with production facilities that will be built outside licensed production areas. For example, an existing platform for a production licence area may have ceased viable production but may be within proximity of other licence areas into which that platform could be plumbed, which means that the infrastructure assets on the seabed can have a longer life, be better utilised and do not have to be removed immediately upon the decline in production from a particular licence area.

The bill also strengthens the work bidding system, which means that instead of bidding cash to deal with exploration licences, operators may bid a guaranteed work program that they will undertake. That makes the utilisation of resources more pertinent to the interests of both the state and the stakeholders, because instead of having real estate tied up as acreage operators will be able to effectively undertake active exploration programs. That is an important initiative.

The limit on the number of exploration permits to be renewed will provide greater turnover of and access to that acreage by players. Permits will be granted for an initial term of six years, at the end of which 50 per cent will be relinquished and the remainder will be renewed for a further five years. The minimum size that can be renewed is four blocks, and that is only once. At the end of the five-year term of a four-block area the permit is surrendered.

For clarification I am advised that a block is equivalent to 5 minutes of latitude by 5 minutes of longitude, which is approximately 65 square kilometres or part thereof — and the ‘part thereof’ is because the blocks are adjacent in some cases to the coast, which does not run according to the grid maps, so inevitably a part of a block will run into the coast.

Further, the bill provides for the introduction of production and pipeline licences for indefinite terms, which in effect recognises that these facilities are put in place for the life of the field. Again that is a sensible move away from the 21-year licence arrangement which gave an opportunity to continue to roll the licences over. The bill provides for a licence to be surrendered at the end of the production life of the field rather than lasting for 21 years when a field may have a limited production life of, say, only 5 years.

My only other comment relates to the creation in the bill of a new offence of intentionally or recklessly interfering with or damaging operations. A maximum penalty of 10 years imprisonment is introduced for this offence, and that is a reflection of the potential risks such action could bring. I have been advised that there is capacity to deal with these issues under the Crimes Act, but I take it that the intention of this provision is to ensure that there are additional remedies and deterrents in the event of people who, for some reasons, deliberately and recklessly damage any facilities involved in the oil and gas production industry. There is a heightened awareness of matters relating to the protection of community resources and security of our oil and gas supplies, and it is critically important that this provision be adopted.

I congratulate the government on introducing the bill. It is a sensible addition to the legislative program. Whereas I am not so generous in my remarks about some other bills, this is an appropriate measure, and I have pleasure in supporting it.

Hon. P. R. HALL (Gippsland) — I am pleased to make a few comments on the Petroleum (Submerged Lands) (Amendment) Bill and to indicate that the National Party supports the bill.

As Mr Davis said, offshore oil and gas exploration is very important to this state. It is a generator of much economic activity. Without the rich natural gas fields in other parts of Victoria and particularly off the Gippsland coast, we would be at a competitive disadvantage in both the living standards that we enjoy in this state and our manufacturing activity.

We in Victoria often take for granted our good fortune in having natural gas supplies. For many of us the basics in life such as heating, cooking, hot water, the fuel we use in our cars and even some of the power we use are products of the natural gas supplies that we enjoy in this state. Without those supplies the impact on both living standards and manufacturing in Victoria would be dramatic. But we also often forget that many people in Victoria still do not enjoy the luxury of having a natural gas connection. There are still large parts of Victoria that are not on a natural gas reticulation network and consequently people in those areas rely on bottled gas for much of their domestic purposes. So when we talk about our good fortune in having such large quantities of natural gas we should bear in mind that the benefits of that are not enjoyed by all Victorians. Many people have for a long time been paying excessive prices for bottled gas.

I welcome the government inquiry, of which I have just learnt today, into the price of bottled gas to see whether there is a monopoly in that area. For a long time we in the National Party have complained that more needs to be done to address the issue of increasing bottled gas prices. I support the inquiry that the government has finally said it is prepared to take. I understand the government will be directing the Essential Services Commissioner to review the pricing of bottled gas used for domestic and commercial purposes.

The National Party looks forward to the review and will take great interest in its outcome. I hope it delivers beneficial outcomes to the people we represent, especially in the more remote areas of the state.

Oil exploration is an important industry. It has flow-on effects to other industries. Mr Davis put on record the contribution the industry makes to Victorian commodities. Unfortunately, Australia's reserves of oil are not unlimited. It is better off with its natural gas reserves, which will last for a long time. Australia relies on oil imports to meet its needs for petroleum products. Sometimes that is to Australia's disadvantage and is why it is subject to world oil parity pricing. It is difficult to understand why petrol prices increase so rapidly, why they are higher in country Victoria than in metropolitan areas and why we have world parity in the pricing of oil products. The reason is that Australia is not self-sufficient in oil. International companies own oil supplies, which impacts on where they process and sell their products. Australia is not an island in isolation but trades internationally and is subject to the pressures of international markets. Oil is one of those commodities that is dictated by economies much bigger than ours, and we are forced to accept the trade conditions offered from being part of the international market.

The bill amends the Petroleum (Submerged Lands) Act 1982, which establishes the framework for offshore oil exploration and the production of petroleum resources. As mentioned in the second-reading speech, there is commonwealth and individual state legislation to reflect the common framework. Some may ask: why do we need commonwealth and state legislation to control this matter and not have one piece of legislation? It is tied up with the fact that the states manage certain lands and consequently have a constitutional role in controlling drylands and coastal waters 3 nautical miles from the coast, while the commonwealth has jurisdiction for international waters. Therefore we need state and commonwealth acts covering oil and gas exploration and production. Much of the exploration for oil and gas takes place in commonwealth waters. There are some minor exploration activities in coastal waters, but the pipelines traverse coastal waters and are part of the Victorian government's jurisdiction.

A joint agreement between the state and the commonwealth called the Offshore Constitutional Settlement of 1967 sets out jurisdictional issues. Victoria administers all oil and gas exploration, which is commonsense, because even though there is separate state and commonwealth legislation, having one jurisdiction controlling the administration of all matters eliminates duplication and the possible frustration of the industry. Because of the agreement every time the commonwealth act is amended state acts of Parliament have also to be amended, which is why we are here today debating a series of amendments to the state act that mirror those previously made to the commonwealth act.

I am informed the state act was last changed in 1993. I will not elaborate on all the amendments, which cover issues involving infrastructure licences, changes to the work program bidding system, renewal of exploration permits, rights of titleholders and pipeline licences. That is an important amendment. I refer honourable members to the second-reading speech which refers to the arrangements for pipeline licences and states:

> This will provide for a more certain title for pipelines such as the Tasmanian pipeline where Duke Energy is not a production licence-holder.

Duke Energy is not involved in the production of natural gas, but is involved in the piping of natural gas and there are several examples in Gippsland where it has played an active role. It is involved in the construction of a pipeline connecting Victoria and Tasmania to supply Tasmania with natural gas, which

will be of great benefit to the people of Tasmania. The pipeline will run to Bell Bay which has electric generation capacity and the Tasmanian government will use the natural gas produced in the Gippsland Basin to fire electric generators. For some time Tasmania has had concerns about security of supply and has used oil to drive some of the generators. Natural gas is more efficient and a more environmentally friendly fuel, so I am sure it is a welcome addition to the Tasmanian economy. The pipeline begins at Longford and there will be flow-on effects to the Victorian economy because the natural gas we find will be piped across to Tasmania.

Some of the other amendments in this bill cover the area of the terms for production and pipeline licences. It also introduces offences for intentionally or recklessly interfering with operations and one or two other amendments of a technical nature. All the amendments are rather technical in nature and I do not intend to go into them, but the people with whom we have consulted believe these changes will improve the exploration and production of offshore oil and gas and ensure they are efficient.

The Australia Petroleum Production and Exploration Association was consulted. It is the peak organisation for producers and explorers in this area. We have had confirmation from it that its members are very happy with the bill and believe it will bring benefits to the exploration and production of oil and gas in Victoria.

The bill appears to have the support of all those in the industry, and I am happy to add the support of the National Party.

Hon. G. D. ROMANES (Melbourne) — I am pleased to speak on the Petroleum (Submerged Lands) (Amendment) Bill, the purpose of which is to harmonise Victorian legislation with the commonwealth Petroleum (Submerged Lands) Legislation Amendment Act 1994 in honour of the offshore constitutional settlement that was reached between the commonwealth and the states in 1967 under which the commonwealth and the states agreed that they should:

> … endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources in submerged lands.

This bill is in line with the government's desire to encourage new and responsible oil and gas exploration in Victoria. It is a cornerstone of the state's resource policy and is part of an important strategy for broadening the state's energy supply options.

By bringing the Victorian act of 1982 to mirror status with the commonwealth act the government aims to reduce complexity for offshore petroleum explorers and developers and to provide consistency, certainty and confidence. Since 1994 there have been seven commonwealth acts to which there have been seven sets of amendments that have put in place changes to the legislation at that level. While there are small, incremental changes going on all the time, these changes have had a cumulative effect over the last seven years and the time has come to restore the Victorian act and make it consistent with the commonwealth act. This has been precipitated by the substantial changes to the infrastructure licences and confidentiality clauses which have been put forward as amendments to the commonwealth act in the last couple of years.

All those changes have made it imperative that Victoria's legislation mirror the commonwealth legislation in order to honour the previous agreements made with other states and the commonwealth. Victoria is the first state to take this step. The proposed changes in the bill have been put forward with the agreement of the commonwealth and the states, and as the Honourable Phil Davis indicated earlier, with much enthusiastic support from industry and other stakeholders. I am pleased that both the Liberal and National parties have indicated strong support for the bill.

I do not propose to mention all the changes made in the bill, which will amend the Victorian act to mirror the commonwealth act, because a number of them have been referred to by previous speakers. In particular the bill provides for a new class of licence — that is, the infrastructure licence. The bill will strengthen the system of work program bidding for exploration permits and will limit the number of times an exploration permit may be renewed. The bill updates arrangements for pipeline licences and introduces indefinite terms for production and pipeline licences with cancellation if an area pipeline is not operated for five years. The bill makes it an offence to intentionally or recklessly interfere with or damage offshore petroleum operations or facilities.

Although all of those provisions in the bill have been mentioned by the two previous speakers, there are some others that I will add to that list. The bill improves the rights of titleholders and mirrors the commonwealth act to provide that where an exploration permit-holder applies for a retention lease or a production licence close to surrender time the permit continues until a minister decides whether or not to grant that permit. Within the act there are limited grounds for refusal —

for example, if an applicant for a permit gave inadequate information in the application. The grounds for refusal open to the minister are limited. When the minister makes a decision, he or she must give reasons in order to ensure transparency in the processes.

The bill mirrors the commonwealth act to enable rights and responsibilities conferred by a permit or lease to be suspended if it is in the interests of the state.

The bill also rewrites in clearer terms the confidentiality periods relating to release of information provided by companies. It mirrors the commonwealth act to substitute clearer provisions relating to when other parties may have access to petroleum-related data required by companies and submitted to the government. In doing so it saves on duplication of effort to collect relevant data and thereby assists in investment in the petroleum industry in this state.

The bill also mirrors the commonwealth act to provide new arrangements with regard to highly valuable three-dimensional seismic data recorded commercially for sale on a non-exclusive basis. It gives the collector an opportunity to gain a return on investment with a longer period open to the investor. It encourages the collection of data and thereby takes those valuable steps in promoting the area of investment to bidders in the industry. The bill also revises cash bidding arrangements for surrendered areas in which petroleum has been discovered and makes various other minor and technical amendments.

One area in which the bill is ahead of the commonwealth act is in the provision of the gender-neutral terminology outlined through the terms of the bill.

The Victorian government has a clear commitment to encourage petroleum exploration and production in Victoria. By the end of the year we may see the highest level of exploration in over a decade and renewed attraction to activity in onshore and offshore petroleum exploration. In support of that commitment the Bracks government is funding a program of research, mapping and databasing to encourage industry investment. It has increased funding of $7.5 million for development and regulation over the next four years.

We should note that there is new development in the state and four projects under way, with an increased supply of energy to Victoria and the opportunity to diversify the supply of energy in this state and to therefore help secure the supply of petroleum and gas. The new projects are Patricia Baleen in the Gippsland Basin, Yolla in the Bass Basin, Minerva in the Otway Basin and other Otway Basin discoveries that have increased gas reserves adjacent to Victoria by approximately 25 per cent.

Exploration in Victoria is also at a new level. Pan Canadian Petroleum Ltd recently gained two deepwater exploration permits in the Gippsland Basin, and this is the first release of much of the deepwater acreage in 34 years. There is also one retention lease which has been under way for 15 years offshore from Golden Beach. Esso also is undertaking a 4000-square kilometre three-dimensional seismic survey over its fields in the Gippsland Basin with the potential outcome from its activity to disclose many drilling targets for the future.

Increasing activity and interest in the petroleum industry can be seen, and is a clear demonstration of the positive business climate for investment throughout the state under the Bracks Labor government. The increasing interest, exploration and discoveries at this time will in turn further accelerate activity in Victoria along the coast in particular. A framework of certainty is needed to facilitate that activity, to allow new players to enter the field and to assist them with rules that are clear.

The regulatory framework and the rules of both the Victorian and commonwealth governments need to be consistent, provide clarity and facilitate activity by providing confidence in the framework that is in place within which the industry will operate. I understand that the regulatory framework in Victoria provides a reasonable level of certainty that is not available in many other countries. The amendments being put forward by the bill will add to that certainty and clarity, and in particular will provide consistency, which will mean that many companies acting in the field of exploration and development will find it easier to participate because they will need to work with only one set of documents, one set of rules and therefore one set of paperwork. It will make it easier for them to comply with the two sets of legislation governing the adjoining offshore zones, given that the Victorian legislation covers the 3 nautical miles from our coast and the commonwealth legislation covers the area beyond.

One of the issues for many companies is that it is the Victorian government which administers the legislative provisions and framework on behalf of the commonwealth, and therefore the processes will be greatly simplified by harmonising the rules in the two zones.

As I said before, one of the important outcomes of the bill is to provide that certainty and consistency and the clear regulatory framework to encourage confidence in the industry, to thereby encourage investment activity and to build the resources and provide a diverse and increasing supply of energy for the state.

In putting this bill before the house the government is acutely aware of the need to reach those objectives and to assist in strengthening the petroleum industry and facilitating its capacity to supply petroleum and gas to meet the future needs of the people of Victoria. I have much pleasure, along with previous speakers from the Liberal Party and the National Party, in commending this important bill to the house.

Hon. C. A. STRONG (Higinbotham) — In speaking on the Petroleum (Submerged Lands) (Amendment) Bill I believe we need to acknowledge the importance of petroleum products to our lifestyle and our economy. To think about that we only have to look at a typical day. Probably most of us have started the day in a house that has some gas heating in it. We have used hot water in the morning, which has been generated either by gas or by electricity, which also uses petroleum products in gas-fired generation.

Petroleum products are an essential part of our lifestyle in every way. Because they are such an essential part of our lifestyle, they are of necessity also enormously important to our economy. Among many other areas of use, petroleum products are used in transport, and in a large landmass like Australia, transport is an enormously important factor in the costs of our goods and services. Petroleum products are enormously important there.

Petroleum products such as gas and diesel are important in industry. No advanced economy can really exist without the use of these products, and likewise no lifestyle to which we have become accustomed can exist without these products. If Australia did not have petroleum products, we would have to import them from overseas. To do so would have an enormous impact on our balance of payments. The mere fact that we produce petroleum in this country which we can use and which in fact meets most of our requirements means that Australia is blessed, because there is an enormous saving that helps our balance of payments, the strength of our currency and all those related issues. Therefore, it is absolutely critical that petroleum is produced in Australia and that there is an ongoing ability to explore for petroleum to ensure that we can find new sources when the existing sources are being depleted and so on.

The other truth of the matter is that the exploration for and exploitation of petroleum is done by large international corporations. It is an incredibly expensive enterprise to explore for petroleum, particularly offshore. That is why most of the onshore exploration has already taken place and all over the world offshore exploration is being conducted. That offshore exploration is very difficult and very expensive.

What also needs to be said is that there is, in reality, no scarcity of places where exploration can be carried out. Therefore it is critical that artificial barriers to entry that would discourage petroleum exploration in Australia are not erected. As I have said, petroleum products are vital to our lifestyle, our economy and our balance of payments, so it is enormously important that we do not erect artificial barriers to entry that would mean that large international companies do their petroleum exploration somewhere else. It is critical that we are a jurisdiction that is attractive to petroleum exploration and exploitation.

One of the last things any petroleum exploration company would want would be artificial interjurisdictional regulations. When these companies come to Australia they want to be able to explore and exploit petroleum reserves under the one set of rules and regulations. They do not want to be on one of the side of the border in an exploration field exploring under New South Wales laws and regulations and on the side be exploring under Victorian laws and regulations. The last thing they want are those sorts of complications. It is appropriate, therefore, that there is a consistent set of laws and regulations that cover the exploitation of this resource in Australia, whether it be in New South Wales, Queensland, South Australia or Victoria or in the commonwealth jurisdiction. The same rules, regulations and laws must apply.

There was a successful attempt to harmonise these in the 1960s so that the commonwealth had jurisdiction over all waters in excess of 3 nautical miles from the Australian coastline and the various states had jurisdiction over the area from the shoreline to 3 nautical miles out. However, as a result of the agreements in the 1960s it was decided quite correctly that whether they be state or federal all the regulations should be made uniform and consistent so that exploration and production were carried out under the same laws and regulations.

Over time laws are changed, and the commonwealth legislation has been amended on various occasions since 1967, as of course have the regulations of Victoria and the other states. In the past six years various amendments have been made to the commonwealth

legislation and it is necessary for the state's regulations and legislation to be brought up to date with the commonwealth act so there is a consistent set of laws and regulations across Australia. This is what the bill does. Basically it is mirror legislation which picks up and amends the Victorian act to bring it into line with the federal act. As other speakers have said, it has the enthusiastic support of all sides of the house because petroleum exploration and exploitation is such an important lifestyle and economic factor.

I will quickly run through some of the major issues that have changed as a result of the amendments. One of the major amendments is the ability to have an infrastructure licence. In the past if you wanted to build some sort of infrastructure it had to be part of a production licence, but now there is the ability to have either new or existing infrastructure that can be used for other production licences. There might be oil drilling or exploration equipment which was put in place for a production tenement 10, 15 or 20 years ago that is now exhausted, but with new technology that same production equipment can be used for a new exploration area. So the infrastructure licence facility allows for infrastructure which is no longer within a production licence area to be maintained so long as it is used for production or exploration somewhere adjacent. That is an important amendment.

There are a couple of important amendments that deal with the whole question of incentives for exploration. Quite clearly if you are in the exploration business you want to get exploration rights over as large a potential area of oil or gas supply as you possibly can, and you try to keep that exploration licence for as long as possible to build up a bank of healthy exploration areas to use. However, it is clearly not in Australia's interest for people to take an exploration licence over a potentially prosperous area and not work it.

We want people to get out, do their exploration and turn the field into a productive one rather than proving it up and leaving it as insurance for when fields elsewhere might be under stress. A few things in the bill encourage that process. One is the ability to use bank guarantees instead of cash deposits for a guarantee of exploiting an exploration area. Another is the limit to the number of renewals that an explorer can take over an exploration area — that is, they are not able to renew their exploration licences indefinitely. It is part of encouraging people to get to, to focus on the best area and to move into production as soon as possible. There is a new regime in place for handing back exploration areas and a time limit on that.

Similarly, as with the infrastructure licence arrangements, there are also amendments which make clear the licensing of pipelines. Once again, as exploration expands there is the potential as well as the actuality of pipelines from one production area crossing another production area. Amendments in the bill clarify these arrangements.

In the area of encouraging exploration there is some clarification on the release of survey data. As some honourable members may be aware, it is generally a condition of exploration licences, whether they are for petroleum or minerals and the like, that the exploration information a mining or petroleum company gathers as part of its exploratory activities is handed over to the government at the end of the exploration period. The logic is fairly clear: it is to allow the government, which obviously has an interest in the ultimate exploitation of these resources, to establish a database of what minerals are available in Victoria.

Mineral exploration has been occurring for more than 100 years, and some of the data is 50, 60 or even 100 years old. Many of the areas have been re-explored. For example, an area might have been subject to an exploration licence 60 years ago; then someone else comes along 20 years later and has a look; then another explorer comes along 10 years later, so the accuracy of the information is built up over time and made available to anybody who wants to use it to explore the mineral resources of the state. Similar provisions exist for petroleum mining. The provisions are further clarified in this bill to make sure that fairness and equity are preserved.

An explorer who has put in an enormous amount of work and expense into getting seismic and other information can use that information or sell it to other explorers. The bill stipulates that after a certain time that information must be handed over to the government, the length of time depending on the sort of information it is: it must be handed over to the government in five years in the case of two-dimensional surveys and after eight years in the case of three-dimensional surveys. That is an important clarification.

Anybody involved in exploration knows you simply cannot overestimate the value of this historical exploration information — it allows you to pinpoint the best and most productive places to further explore. With those few comments I have much pleasure in supporting the bill.

Motion agreed to.

Read second time.

Third reading

For **Hon. C. C. BROAD** (Minister for Energy and Resources), Hon. M. R. Thomson (Minister for Small Business) — By leave, I move

That this bill be now read a third time.

I thank honourable members for their contributions to the debate and the opposition and the National Party for their support of this bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL

Second reading

Debate resumed from 28 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. G. B. ASHMAN (Koonung) — The Transport (Alcohol and Drug Controls) Bill amends the Transport Act 1983 and the Constitution Act 1975. It is worth noting that the bill requires a section 85 statement of an amendment to the Constitution Act. The government, when in opposition, was critical of section 85 statements, but their inclusion is now a regular occurrence in its legislation. The opposition will not oppose this bill, and therefore the debate on it will be reasonably brief.

It is very difficult to argue against the objectives of the bill. We already have zero blood alcohol legislation in place for some employees of public transport operators and this legislation has been introduced with the aim of extending that zero blood alcohol requirement to a wider range of employees.

It is stated that this legislation comes out of three incidents in the public transport system: one each at Ararat, Holmesglen and Footscray. There was a derailment at Ararat and the subsequent investigation led to the dismissal of a long-term employee. The second incident, at Holmesglen, occurred under slightly different circumstances although at the time the Minister for Transport indicated quite clearly that it was the operator's fault. Subsequent inquiries clearly showed that it was not the operator's fault but that the driver had overridden the safety provisions and collided with the rear of a train, having proceeded at the normal speed and not at the designated speed, which I understand is a significantly reduced speed after a safety incident. This painted Connex in quite a bad light and it found that it needed to respond quite quickly to try to save its reputation with its passengers, that is, its customer base.

That incident indicates why we should not jump to conclusions when such incidents occur on the rail system but rather should allow the investigators to assess all of the facts and wait for the reports. There is a significant financial investment by the private transport operators in the system and they need to protect that investment. As a community we need to protect the reputation and integrity of the public transport system.

The third incident, at Footscray, involved an empty train returning to Williamstown. As I understand it, the driver was not found to be under the influence of alcohol or illicit drugs but may possibly have been under the influence of a prescription drug.

This bill introduces some new offences. In doing so it picks up many of the provisions of the Road Safety Act in relation to alcohol and drug testing. The definitions of drugs and prescribed drugs in this legislation will be identical to those contained in the Road Safety Act so we will have consistency across the legislation.

The bill makes it an offence for rail safety workers to be engaged in their work while impaired. The definition of a rail safety worker is quite broad. It does not extend to just drivers, station masters and signal operators but also workers who may be involved in track maintenance. It will extend to anyone who will be in a position where they could be required to assist with evacuating passengers or guiding them to safe areas if there were to be an incident. Therefore, the definition of a safety worker is now quite broad.

Under the legislation employers can be prosecuted if a worker is found to be under the influence of drugs while on the job. As it was explained to me, the testing regime will not be a 100 per cent test of employees. Rather it will be a random test that will be undertaken when the employer believes there may be some influence of drugs or alcohol. However, that raises some interesting questions as to whether there should be mandatory testing of all employees, hence my reference to the minister. The penalties proposed by the bill to be applied to the operator are quite significant. If I have read it correctly, they are up to $200 000 for an offence, and a number of offences could lead to the cancellation of the operator's accreditation.

There is some potential under this legislation for the operators to take the view that they should test all their employees on a regular basis. I hope that the Minister for Industrial Relations will be sympathetic if that course of action is taken. I am not persuaded that the union movement will readily accept what will amount to being very close to being mandatory testing of all employees. But the penalties proposed are such that operators will incur significant fines if their employees are under the influence of alcohol and drugs.

The issue will be monitored by other groups of employers, because the practice of employers requiring their employees to have zero blood alcohol levels and to present to work free of drugs that can influence their behaviour is increasing across a whole range of employment areas. I can think of a number of industries where that might apply: the transport industry certainly requires workers to have zero blood alcohol, and I am well aware of a number of road transport companies that are conducting regular blood alcohol checks on their employees.

The amendment to the act will accredit a number of authorised officers to carry out alcohol and drug testing. As I have said, the provisions under this legislation will be the same as those under the Road Safety Act. The police will also be able to conduct tests, but generally only when there has been an incident that they have been called in to deal with.

It is interesting to consider what other areas this zero blood alcohol requirement might expand into. It might be appropriate if the requirements expanded to include local government by-laws officers who are dealing with the public on a regular basis and who from time to time have to deal with incidents in public places.

The bill will extend coverage of the act to include tourist railways, of which there are a number in Victoria, but on my reading of the bill I am unclear whether or not it will include operators of chairlifts. It strikes me as being quite reasonable that the legislation should cover chairlift operators and operators of passenger boats and other craft because all of them deal with the public and all of them may at some stage be called upon to provide emergency services to the public.

Under proposed section 93(5A) inserted by clause 7, if safety workers are tested within 3 hours of finishing work and they are found to have drugs or alcohol present in their blood, it is presumed that they have performed safety work in the past 3 hours and the onus of proof is then placed on them to demonstrate that they have not performed any safety work in that period. As I understand it, that is the only provision in the bill which places an obligation on workers. As is the case with motor vehicle drivers, workers in these circumstances cannot refuse to take a blood test. The method of testing is the same as that provided for in the Road Safety Act, and as I understand it the penalties are similar.

Clause 6 of the bill states that proposed section 93(1AA) will allow the minister to declare drugs to be prohibited substances. The bill is unclear as to who will make that declaration, but I assume it will be the Minister for Transport and that the declaration of prohibited substances will be identical to that contained in the Road Safety Act.

The bill provides for a new offence, which is worth some comment, because when I first read it I had some concerns that it might be the forerunner to the introduction of industrial manslaughter legislation and that that legislation would overflow into the act. I am assured that that is not the intention of clause 20, which provides that a person who is accredited must comply with a condition of accreditation set out in section 117(4A) and that failure to do so will result in a penalty of up to 2000 penalty units. That is a very significant penalty on employers.

What concerns me is proposed section 118(3) inserted by clause 20, which states that:

> In any proceedings for an offence under subsection (2) against a person who is accredited, the fact that a worker has been found guilty of an offence against section 94(1)(a) or (ab) while carrying out safety work for that person is admissible in evidence.

My concern is that that evidence could flow into other jurisdictions. I seek some clarification of what that subsection means and what other jurisdictions that evidence is proposed to flow into. Will it mean that, if criminal proceedings are instigated against the employer of such a person, that evidence can be admitted? If so, what opportunities will there be for cross-examination on that evidence?

Although it has some minor concerns, which I have briefly outlined, the Liberal Party is not opposing this legislation. We note that it comes into effect on 1 July 2002, so there is sufficient time for some of these matters to be clarified. That would be very useful for the operators and for the employees. As I said, we do not oppose the bill.

Hon. B. W. BISHOP (North Western) — It is with much pleasure that I rise to speak on behalf of the National Party on the Transport (Alcohol and Drug Controls) Bill. The National Party believes this is quite an important bill. Its purpose is to put in place three

main changes. The first is to prohibit the carrying out of safety work while impaired by a drug. The second is to make further provision for a condition of accreditation under division 3 of part 6 of the Transport Act that requires persons accredited under that division to take responsible steps to ensure that workers employed or engaged by them do not carry out safety work after consuming alcohol or while impaired by any other drug. The third is to create a new offence for a failure to comply with the condition of accreditation referred to.

National Party members consulted widely on this bill. We certainly had some concerns in our early briefings on a couple of aspects of it. We went out and requested comment from Freight Australia, the National Express group, the Transport Workers Union, Australian Southern Railroad, West Coast Railway, the Royal Automobile Club of Victoria, Victorian Employers Chamber of Commerce and Industry, Yarra Trams and Connex Trains, and we got good responses. I report to the house that the National Party will not oppose this bill.

I should also report that during the run-up to the introduction in the house of this bill we had a couple of briefings from departmental officers. I would like to thank them for the generous amount of time and the effort they put into the briefings. As usual, they were very good.

At one stage the National Party was going to raise in committee some issues of concern that had been brought to it by Freight Australia and by Yarra Trams. However, during the process of the briefings and negotiations with the minister, the minister sent me a letter which the National Party believes — and Freight Australia and Yarra Trams also believe, as we have discussed it with them — covers the issue. But I will deal with that later. As I said, the National Party had some real concerns with this bill. Put quite simply, our concerns were — and to a degree still are — that this bill puts full legislative onus on the accredited persons or companies for all their safety workers and underpins that requirement with a new maximum penalty of 2000 penalty points, or $200 000 — quite a substantial amount of money.

During the briefings we found that these new provisions that have come into place are a joint consequence of accident reports, highlighting the need for better safety arrangements to be put into place with drugs, including prescription and over-the-counter drugs, and coming into line with amendments introduced earlier this year to the Road Safety Act to include testing for those who are reasonably suspected of being impaired from illicit prescription and over-the-counter drug use.

It is interesting to note that in 1994 legislation was introduced to cover the testing and penalties relating to zero alcohol in safety workers. This bill proposes to extend that process to drugs and applies not quite the same but similar procedures as applied by the Road Safety Act. As noted by the Scrutiny of Acts and Regulations Committee, this bill does not provide a defence to a drug impairment of a worker following medical advice.

Each accredited company will nominate authorised officers who will undergo training to equip them to test the safety workers whom they believe are impaired by alcohol or drugs. Authorised officers, irrespective of which accredited company nominates them, can be seconded by the Secretary of the Department of Infrastructure to conduct tests where required. This was important to us, particularly as the National Party represents a large part of regional and rural Victoria, including some isolated areas, where there is likely to be limited access to those authorised officers.

The police are only involved in testing after an accident or by request after an incident. We should note that an accident is a physical collision, whereas an incident is a serious breach of safety regulations. Police testing and the procedures they will use will closely mirror those provided by the Road Safety (Alcohol and Drugs Enforcement Measures) Bill, which we passed earlier this year. During the briefing we were advised that the gazetted list of prescription and over-the-counter drugs for this bill will be based on that gazetted for the Road Safety (Alcohol and Drugs Enforcement Measures) Bill. The final list will be released on the commencement of the legislation.

It is also interesting to note — and we were somewhat comforted by the fact — that a six-month training and education program will be undertaken before the commencement of the legislation, which is envisaged to be 1 July 2002. So there is a bit of time to work through the issues raised by the bill.

I should note that the bill includes a section 85 statement relating to the registered medical practitioners and approved health professionals who will take blood and urine samples. That is what the bill does. I will now return to the areas of concern that have been raised with the National Party. I have three contributions. I refer the house to a letter I received from Mr Terry Poynton, head of safety of the National Express group, which represents the National Bus Company, V/Line, M Train and M Tram. He states:

> I am writing in response to your recent letter regarding the introduction into Parliament of the subject bill.

He is referring to the Transport (Alcohol and Drug Controls) Bill. He continues:

> As a major operator of public transport services, National Express fully supports the intent of the bill, to strengthen the rail safety provisions of the present legislation. It is important that staff in key safety-related positions are free from impairment. Indeed, National Express has in place a zero tolerance policy for all staff.
>
> This policy ensures that potential employees are tested prior to employment and all staff are tested as specified in the present legislation. We generally have the support of the work force in this matter and do not anticipate any obstacles in implementation of the new regime.
>
> We have been involved in the consultation with the Department of Infrastructure and anticipate further consultation as staff are trained and authorised under the new legislation.
>
> I hope this will help you in your deliberations. Please do not hesitate to contact me in the future if I may be of further assistance.

However, when we came to Yarra Trams, it raised an issue and I would like to report to the house what the issue was. A letter to me pointing out that issue states:

> Yarra Trams agrees with the intent of the proposed bill. We do, however, believe that the legislation may create the potential for abuse by one operator against another through the sharing of authorised officers.

We mentioned that point in the run-up to this debate. It continues:

> We suggest that an appropriate amendment to the proposed legislation should reflect that in the event that an organisation's authorised officer attends a location that involves that organisation when an authorised officer from another organisation is already in attendance, control with respect to issues which involve the proposed legislation should automatically pass to the authorised officer of the interested organisation.
>
> Should you require any further comments regarding this matter, please contact our legal officer, Mr Boyd Power …

That is signed by Hubert Guyot, chief executive officer of Yarra Trams, so that company had some concerns. So did Freight Australia which raised three issues of concern: one in section 14 of the act; two in section 19; and three in section 20. I will run through those because they are quite interesting.

At this point in time I thank my colleague the Honourable Roger Hallam, who gave me great assistance in working through what appeared at the start to be relatively complex issues, as we met with people such as Brian McNaught, manager of access and property for Freight Australia. In section 14 Freight Australia had concerns with the broadening of the act to include officers of the department and the definition of authorised officers. The correspondence states:

> We also agree with the concerns raised by Yarra Trams that it may not be appropriate for 'authorised officers' of one company dealing with the staff of another.
>
> Addressing the issue of authorised officers from one company auditing another, in the circumstances where a serious event occurs the principal responsibility for collecting evidence lies with the police, who would on all occasions attend the scene. Police are rightly granted the authority in the bill.
>
> Where an employee of an accredited operator becomes an 'authorised officer' (section 14(1)(a)), such persons should be restricted in accordance with section 14(2).

The company sought an interpretation of that from the Minister for Transport. It also added that:

> Freight Australia is also concerned that section 14(1)(b) introduces the officers of the department as 'authorised officers'. This extends the current role of the department from being a co-regulator with the industry to a active policeman with interventionist's role. For the following reasons we would seek and undertaking from the minister indicating the application of that clause …

They are the issues Freight Australia raises on section 14.

On section 19 Freight Australia says:

> Requires that an accredited person 'takes reasonable steps' to ensure a worker is alcohol and drug free. Part of accreditation requirements is that an accredited body demonstrates how and what it does to prevent alcohol and drug abuse in the safe working environment. This must be done before an organisation is accredited. Why then introduce this 'reasonable' requirement? If the actions are approved by the director/secretary and being followed (failure to do so would mean an accredited organisation would lose its accreditation). This clause introduces a further uncertainty. An accredited organisation, acting in good faith, according to its accreditation requirements, can be found to be 'unreasonable' by the courts. One would expect that the director's staff would be the best judge of the requirements of the industry. If on the other hand the courts agree, the whole section is unnecessary.

On behalf of Freight Australia the question is then asked:

> Can the minister give an undertaking that it is 'reasonable' for the accredited organisation to comply with its approved procedures defined in its accreditation?

In regard to section 20 Freight Australia says that it:

> … seems unreasonable. The number of people found guilty of alcohol and drug abuse is determined by a number of factors. It can be that the company is vigorous in testing staff and applies its procedures strictly, thus giving rise to many convictions. Alternatively, it may mean that the organisation

has careful selection criteria and does not hire staff at risk of alcohol and drug abuse. The number of convictions is likely not to have any bearing on the organisation's compliance with its accreditation, or on its behaviour being 'reasonable'.

Freight Australia has requested an explanation from the minister. They are the three issues raised by Freight Australia and it also raises the one that Yarra Trams brought to our attention.

We then had a further briefing from the Minister for Transport's department, which was also excellent, and undertook negotiations with the minister. We then received a letter from the minister which we believed in most parts satisfied the concerns of our constituents, the operators.

During discussions with the representatives of the operators — that is, Mr Boyd Power from Yarra Trams and Mr Brian McNaught from Freight Australia — they also agreed that the bulk of their concerns in that area were addressed.

I have permission from the President and Hansard for the minister's letter to be incorporated into *Hansard*, as it does a good job of answering operators' concerns. I ask for leave to have it incorporated in *Hansard*.

Leave granted; see page 1673.

Hon. B. W. BISHOP — I again thank the minister and his staff for working through these issues to reach what we consider to be a satisfactory conclusion. I compliment Freight Australia, Yarra Trams and National Express on their interest in this process and their commitment to safety, as I am sure is shared by all the other operators around Australia. I have been further advised by the operators that the Department of Infrastructure is now holding discussions with them and is working through the issues, many of which were raised with us, to ensure that a sensible and practical application of all the relevant safety procedures is put in place for the safety of all concerned.

In conclusion, this has been a good exercise for the National Party. We have had a strong consultative process with the operators. We still have some nagging concerns about some issues in the bill and will continue to monitor them through the operation of the bill in the future. The National Party does not oppose the bill.

Hon. S. M. NGUYEN (Melbourne West) — I am pleased to contribute to the debate on the Transport (Alcohol and Drug Controls) Bill. The bill shows the government's commitment to making Victoria one of the safest places to work and also the safest place for using public transport. Not long ago we were talking about road safety, and now we are talking about rail safety in public transport. The bill will strengthen the rail safety provisions of Victoria's transport legislation.

One of the reasons for the changes proposed by the bill has been the number of accidents relating to our workers in the past 12 months. The bill will protect the interests of the Victorian community. Under the Transport Act and transport regulations, Victorian rail safety workers are required to have a zero blood alcohol level when they are carrying out safety work.

Mention has been made of both trains and trams in railway and road operations. The bill identifies many things about alcohol and drugs in relation to safety workers and safety work. Public transport users and motor car users always expect train or tram drivers to have a zero blood alcohol level when they operate or drive trains or trams. It is important for the government to identify that and to make the appropriate changes to the legislation.

Train and tram drivers and rail safety workers have to be responsible and make sure they do not consume alcohol when they operate machines or do other work. That is especially so with trams, because trams are on the roads with cars. During peak times when there are many cars and other forms of transport on the road, people want to be sure they can travel safely and that there are no accidents. Traffic jams may occur if there is a car accident involving a tram. They cause a lot of problems on the road, which take a lot of time to resolve. The police also have to become involved, and the transport company needs to investigate and do all sorts of tests to make sure everything was done the right way.

We emphasise that we want to make sure workers know better before they undertake their duties. The accredited company has to be responsible and ensure its workers know everything and understand things in the way the government requires.

The background to the bill mentions three rail accidents. One was a goods train accident at Ararat, the second was at Holmesglen and the third was at Footscray. It has been suggested strongly by the media and also the public that the government has to take a strong stance against people who drive a train or tram after having consumed alcohol or drugs, and this bill will provide more power to the authorised officers or the police to conduct breath tests. In addition, an authorised officer who believes a worker is about to carry out or is carrying out safety work, or an authorised officer or a police officer who believes a worker has in the past 3 hours carried out safety work, may require that worker to undertake a preliminary

breath test provided there is a belief on reasonable grounds that there is alcohol in the worker's blood. It is an offence for safety workers to have a blood alcohol level above zero per cent, so it ensures there is no alcohol at all, not even 0.01 per cent, in their blood.

The accredited rail operators are required by their rail safety accreditation conditions to have in place a safety management system to better control the staff, to ensure the staff understand that they must maintain zero blood alcohol and not be impaired by illegal drugs. Anyone who breaches these requirements can be sacked. The government is not trying to punish the workers through this legislation; rather it is trying to better educate the community and workers. The bill will force accredited organisations to provide community education to workers to enable them to better understand the effect prescription drugs can have on their work and to encourage them to take more responsibility.

Information will be multilingual to ensure non-English-speaking-background workers understand the new laws and changes and their responsibility for turning Victoria into a safer place to work. Some workers do not feel comfortable about this measure. They feel the government is trying to punish them or sack them. That is what we have heard from the workers, but we will take the time to educate them and ensure that they better understand the situation and feel more confident to do their duties. We are talking about prescription drugs, over-the-counter medication and those sorts of things. People with illnesses use these drugs to help their conditions, but these measures will ensure that workers understand how they can report to their employers and how they can look after themselves without it affecting their performance.

Covering the large number of accidents costs governments and companies money. If any incidents occur they will be investigated by the Department of Infrastructure, and the police will take a key role in the investigating and also in taking blood tests. Anyone with alcohol or drugs in their systems will be sanctioned strongly.

This bill concerns people's safety. The government is interested in seeing motorists and workers drive and work safely. Public transport users need to have faith in the public transport system. The bill provides penalties for workers and employers who breach the law — up to $250 000 for a company. The department will consult with the community, the workers and the relevant organisations such as health professionals and the transport industry. Those involved should have a say so there is a win-win situation rather than not supporting changes. The government will take a strong stance against people who do not take drugs or alcohol responsibly.

The bill will take effect from July next year. Workers will be more informed through better education programs. I support the bill.

Hon. ANDREW BRIDESON (Waverley) — It is a pleasure to speak on the Transport (Alcohol and Drug Controls) Bill. Previous speakers have outlined the purpose of the bill and many issues have been canvassed. I was impressed by the National Party's presentation, which canvassed issues with the transport companies and received appropriate and necessary responses from the minister, which is pleasing to have on the record.

The Honourable Sang Nguyen raised the matter of education programs for non-English-speaking migrants. The second-reading speech states:

> … because of the high proportion of non-English-speaking workers in the industry, the material will be available in several languages.

It sounds as though only printed material will be supplied. Alcohol abuse in the workplace, particularly in transport companies, is an extremely serious matter because of the safety requirements for users of the transport system. Comprehensive education programs should be implemented. The government should not rely only on the handing out of printed material because there is no guarantee that it will be read.

I suggest to the transport companies and the government that hands-on, classroom and experiential-type programs be conducted so that non-English speakers will appreciate why they must comply with the provisions of the bill. Ultimately the community benefits.

I turn to the much broader area of alcohol and drug abuse, particularly the use of licit and illicit drugs in the workplace. During the mid-1980s — it may be news to many government members that I was a Trades Hall Council delegate, although I am from this side of the chamber — I attended several good occupational health and safety programs. Even in the 1980s I was surprised at the number of fatalities and serious injuries that occurred in the workplace as a result of the excessive use of alcohol and drugs. It did not matter whether it occurred on factory floors or in mechanics or panel beating shops. Certainly building sites came in for much mention, as did farms, where many farm workers seemed to imbibe inappropriately, and as a result accidents occurred.

It behoves the government to extend the safety programs implied in the bill into the wider work community. I urge the government to ensure that occupational health and safety programs are enforced much more stringently than they are in an effort to reduce the number of accidents, particularly in transport companies, the subject of the bill.

All honourable members who have contributed to the debate have said that the reforms are the result of recommendations of inquiries into rail accidents which occurred in Footscray, Ararat and Holmesglen. Although I do not have the minute details of those accidents, suffice it to say they should not have occurred. I trust that with the implementation of the legislation such accidents will not occur again.

The opposition does not oppose the legislation. We consulted widely with the transport community, including over 480 interested parties. Organisations consulted include Transurban Ltd, the Royal Automobile Club of Victoria and the Public Transport Users Association. Specific advice was sought from the Australian Industry Group and the Victorian Employers Chamber of Commerce and Industry. Issues raised by those organisations have been canvassed, and there is generally wide support for the legislation.

Hon. R. H. BOWDEN (South Eastern) — It is with pleasure that I rise to lend my support to and concur with this legislation, which I think is timely and important. The use of rail in our public transport system is long established. The large numbers of people who use vital rail and tram services each day for work and recreation expect and require the highest safety standards, and indeed understand that they have the perfect right to ask the legislature and all those who are professionally involved to ensure the highest possible safety standards. The bill is part of a raft of legislation that is being constantly looked at by responsible governments to ensure to the best of their ability that transportation — in this case trams and trains — is the best that can be provided.

The intention of the bill is to ensure that the performance of people providing those services is not compromised by the unwise intake of alcohol or drugs, which includes prescription drugs. Essentially the bill makes certain that it is the responsibility of the companies who are given this privilege and responsibility by the community to ensure that operators at all times understand that they are not to have their faculties impaired or their performance affected by the improper use of drugs and alcohol.

I will mention a few aspects of the bill in passing, and I will be brief because of the time. It will be an offence for a rail safety worker to perform safety work while impaired by the consequences of partaking of a drug or alcohol. The bill makes this very clear. For an employee to say they are acting on medical advice is not — I repeat, not — a defence. The whole test of this is whether the community may expect there will be no impairment of a safety worker while they are doing this important work.

It is important for industrial relations and for the workplace environment that a test can only be conducted if there is a reasonable belief that a worker may be impaired or that an employer's behaviour suggests impairment. It is not intended that a company or a supervisor can at random and for no real reason demand a test. There has to be reasonable grounds to believe that a test would be a wise course of events.

A police officer will be able to require a drug assessment after an accident or if a rail operator requests a police officer to carry out a test after an incident. That is not unreasonable and would be a perfectly acceptable course of events.

It is a condition of accreditation that an operator ensure that employees comply with drug and alcohol safety management systems. The accredited operator is required to have management plans for drug and alcohol procedures. While it is the responsibility of a safety worker to ensure that he or she is not impaired by the intake of substances there is also a corresponding and a serious onus on an accredited operator to make sure that they have viable and sensible operating plans in place and educational programs available to safety workers so it is clearly understood as an attitude, as a requirement and as an expectation, and there is no basis for misunderstanding.

The legislation is intended to come into effect on 1 July next year, which will give adequate time for many of the details to be further refined. Educational literature and other means of communication will need to be developed because many of the safety workers will not have English as their first language. It is essential for their safety that workers are given the opportunity to understand the importance that is attached to the legislation, so quality and informative literature will need to be developed, and 1 July 2002 seems to be a sensible date.

I conclude by saying that tram and train infrastructure is widely used, the potential for community disaster is there and the consequences of lapses in safety are severe. Therefore this legislation will make a sensible

contribution to further enhancing the safety standards that this state requires.

Hon. KAYE DARVENIZA (Melbourne West) — I am pleased to support the Transport (Alcohol and Drug Controls) Bill, which also has the support of the Liberal and National parties. The bill will make train and tram travel safer than it already is by introducing new provisions to tighten drug and alcohol consumption in the industry.

The purpose of the bill is outlined in clause 1, which is to amend the Transport Act 1983 to:

(a) prohibit the carrying out of safety work while impaired by a drug; and

(b) make further provision for a condition of accreditation under Division 3 of Part 6 of that Act that requires persons accredited under that Division to take reasonable steps to ensure that workers employed or engaged by them do not carry out safety work after consuming alcohol or while by any other drug; and

(c) create a new offence for a failure to comply with the condition of accreditation referred to in paragraph (b).

I stress that the government's chief purpose in introducing the legislation is to prevent accidents and to make the public transport system safer than it already is — not to persecute or punish workers.

By way of background, rail safety workers are people who work on or near the operation of tram or train lines or on tram or train infrastructure. They are required to have a zero blood alcohol reading and may be subjected to breath tests. These provisions have been in force in the Transport Act since 1996 and have been instrumental in changing the culture of work in this industry, which is overwhelmingly free of alcohol.

Rail safety accreditation already requires operators to have a system in place for managing illicit drugs or alcohol in the workplace, but the system deals only with illicit drugs and alcohol, not with the use of prescription medication and the effects that may have on the ability of workers to carry out their jobs. The system does not cover over-the-counter preparations that do not require prescriptions but may have side effects or impair the consumer of the medication in doing their job.

The bill specifically deals with prescription medication and over-the-counter preparations. As with other bills introduced in this place, the government has taken into account the recommendations of independent reports into train collisions at Ararat and Holmesglen. During the past year extensive consultation has been undertaken with tram and train operators, unions, the medical and pharmaceutical professions, Victoria Police and Vicroads. The procedural drug-testing provisions of the bill are generally based on those already implemented for motor car drivers under road safety legislation. Proposed section 94 of the Transport Act inserted by clause 8 creates new offences for the carrying out of safety work while impaired by a drug. It extends the legislative requirements to cover both over-the-counter and prescription medication.

As I said earlier, the bill does not introduce a zero drug requirement, but it ensures both the operator and the safety worker take the necessary steps to ensure a person who is performing rail or safety work is not impaired by drugs or medication.

Clause 6, the definitions clause, inserts definitions of drug and substance. It provides for the minister to declare a substance a drug, and the list of such drugs will be published in the *Government Gazette*. The list will initially be based on those drugs to which the drug-testing powers in the Road Safety Act already apply. This approach is taken because the road safety list was developed after extensive consultation. It is widely recognised by the medical profession and should provide consistency for rail safety workers and employers who must comply with these provisions. Consistency is important in dealing with these matters.

The government has made it clear that the provisions apply only where a person is impaired while undertaking safety work. If a drug on the list of drugs is taken in a way that does not impair a safety worker's performance, the listing of that particular drug does not mean the safety worker cannot continue to work. So the legislation is not about saying that you are unable to carry out your work if you are taking one of these drugs. It is about the effect of the drug and whether it impairs your ability to do your job. The provisions are not meant to discourage workers from taking appropriate medication when they need it — far from it! When people need to take particular medication for an ailment or illness, we want them to be able to take that medication. However, if that medication is impairing their ability to do their jobs, then we need to take steps to make sure that safety is not compromised.

Although existing legislation requires safety workers to have a zero blood alcohol level, the drug provisions do not refer to a particular level of drug in the body, and the drug control regime will only be activated if the listed drug level is such that the workers' ability to perform their safety work is impaired. Safety workers will need to ensure that, if their performance is going to be impaired by a prescription or an over-the-counter drug, they report the matter to their supervisors.

However, there will not be any requirement that a worker inform the employer in regard to every drug that is listed on the gazette that they are taking that medication. The legislation is about ensuring that, when performance may be impaired by medication, workers inform their supervisors.

The bill introduces two new offences. Firstly, it will be an offence for a safety worker to perform safety work while impaired by a drug, and the penalty will be the same as that for the existing offence of breaching the zero blood alcohol requirement, which is a maximum fine of $1200 for the first offence and a maximum fine of $2500 or up to three months jail for any subsequent offences.

The second new offence, which is set out in proposed section 118(3) inserted by clause 20, is for a breach of the rail safety accreditation conditions imposed by this bill that require an accredited operator to take reasonable steps to ensure that safety workers are not above the zero blood alcohol level and are not impaired by drugs. A breach of this new condition of accreditation has a maximum fine of $200 000.

These new offences and the penalties that are introduced by this bill indicate very clearly the seriousness with which the offences are regarded. An operator will need to take reasonable steps to have in place appropriate systems that will ensure that its workers are not impaired by any type of drug, whether illegal drugs or over-the-counter or prescription medication, and they will have to have a zero blood alcohol level.

The government is keen to ensure through the drug-testing procedures that will be implemented under the act that safety workers are not discriminated against in the workplace because they are taking particular medication for an illness or a condition from which they suffer.

Education and training will play a very important role in this legislation to ensure that safety workers in the tram and train industry are well prepared for the implementation of this legislation. To ensure that the procedures to be implemented are appropriate and supported by all of those involved it is intended that there will be extensive consultation. This consultation will be with tram and train operators, unions, Victoria Police and Vicroads, and with bodies that represent health professionals, including the Australian Medical Association, which will be consulted about the protocols, education and training that will be required to support the introduction of the legislation before it comes into effect.

Under these new provisions drug tests may be undertaken where there is a reasonable belief that a tram or train safety worker's ability to carry out and perform their duties and undertake their responsibilities is impaired. Those in safety positions can be tested before starting work, during the time they are undertaking their work or up to 3 hours after they have completed their work. It will be an offence to refuse to undergo a drug test.

The government believes the new drug reforms will provide a significant change within the rail industry, particularly with respect to prescription drugs and over-the-counter medication. Victoria will lead the way for the rest of Australia in these sorts of safety precautions.

One of the most important purposes of the bill is to encourage a culture in public transport that recognises that many substances, both legal and illegal, can affect a person's ability to perform their work. This is an important safety issue for both train and tram operators. The government believes these provisions will foster a greater understanding of the needs of workers in the public transport area and will have a very direct effect on public safety. The legislation will ensure that workers will be aware of the effects that taking certain drugs or having certain drugs in their systems could have on their ability to do their jobs, and a knowledge and understanding that even though a doctor has prescribed medication for them or even if it is simply a preparation bought over the counter, these are medications and drugs that can affect them and their ability to perform and carry out their work and responsibilities effectively.

In conclusion, the bill is important because it will assist in ensuring the safety of our rail and tram services, and I believe it will increase the public's confidence in using those services. We all want to see our train and tram systems made safer, and the bill sets out new laws which will tighten drug and alcohol controls in this industry, making what are already very safe services even safer. It is a good bill and it deserves the support of this chamber. I commend the bill to the house.

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. As there is not an absolute majority of members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

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

Required number of members having risen:

Motion agreed to by absolute majority.

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.

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

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

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

MARINE (HIRE AND DRIVE VESSELS) BILL

Second reading

Debate resumed from 28 November; motion of Hon. C. C. BROAD (Minister for Ports).

Hon. PHILIP DAVIS (Gippsland) — I am pleased to have the opportunity to speak on the Marine (Hire and Drive Vessels) Bill. I will make a number of comments on the bill and refer to its purpose, which is to provide for improved marine safety in Victoria by requiring operators of some hire-and-drive vessels to hold an operator licence, and by providing specific regulation-making powers to improve safety for all operators of hire-and-drive vessels.

The principal purpose of the bill is to extend the licensing regime established by the Marine (Amendment) Act 2000 to the operators of hire-and-drive vessels that are able to attain a speed of 10 knots or more or that are personal watercraft. The bill refers to those vessels as 'regulated hire-and-drive vessels'. In future, in order to operate a regulated hire-and-drive vessel a person will have to hold an operator licence that authorises him or her to operate an equivalent recreational vessel. The bill does not create a separate licensing system for regulated hire-and-drive vessels — instead, it is designed to supplement the recreational vessel licensing regime. That is possible because although recreational vessels and hire-and-drive vessels are legally distinct under the act, in practice they are usually identical vessels. They are treated differently under the act only because of the nature of their ownership and use.

The bill also requires that people aged between 12 and 16 years hold a licence to operate a hire-and-drive vessel that has an engine that is used for propulsion. Section 17 of the act already forbids people under the age of 12 from operating vessels with engines used for propulsion. The bill also inserts into the act regulation-making powers that specifically relate to the operation of hire-and-drive vessels.

Although the Liberal Party will not be opposing the bill, a number of points need to be made during the course of the debate. It is noteworthy that although we have consulted widely on the bill and there is general support for it, particularly from hire-and-drive operators, some groups have reservations — which I will set out.

The reason for not opposing the bill is that the purpose is meritorious in extending the operator safety regime implemented by the government, but as is the case now and was the case when we debated the initial boat operator licensing bill in November last year, the legislation is deficient and has some anomalies, which I will come to.

One of the significant anomalies in the bill is that it creates significant inconsistency between owner-operators and hirers of vessels capable of less than 10 knots. In other words, the operator of a vessel that is identical in every respect except for its ownership — —

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! There is too much noise in the house.

Hon. PHILIP DAVIS — Well done! Thank you very much; I needed your support, Madam Acting President.

The operators of vessels that are identical in every respect except for their ownership are treated

differently. There is a difference between a vessel being owned and operated and one that is operated under hire. The simple example I would give is if you decided to hire a yacht for the weekend from Riviera Nautic at Metung, managed by Fred and Jenny Herbert, without holding a boat operators licence you would be able to take out that yacht, which has motorised propulsion, and cruise the Gippsland Lakes.

However, if you walked 300 metres or 400 metres to the south of that establishment to the Metung marina and took out your own yacht with power of any description but identical in every respect to the yacht from Riviera Nautic, you could operate that yacht only if you held a boat operators licence.

This conundrum will cause real resentment among the boating fraternity. I stress that the inconsistent approach of the government to boat operator licensing is causing great anxiety among some groups.

It should also be noted that the hirer of a vessel capable of a speed of less than 10 knots will not be required to hold a boat operators licence unless they are aged between 12 and 16 years of age — a point I will have delight in coming back to shortly because I will explain the difficulties that will create for some small business operators whose businesses depend upon young people hiring their boats for recreation. I am sure the minister will be well able to tell the house what a small business might do if it faces a predicament because it has a high dependency on people aged between 12 and 16.

I will summarise the representations made to the Liberal Party about boat operator licensing. A number of points were made during the debate in November last year and have been recited to the opposition over the past 12 months about the difficulties involved. For example, some yachties who are very enthusiastic about sailing but inevitably have small, low-powered motors for manoeuvring in and out of marinas are concerned that there should have been an exemption for yachts operating under sail alone.

Real concerns have been expressed by pensioners about the cost of test and licence fees. I recall that recently on ABC radio an interstate transport operator said it costs less to have a road traffic licence to drive an interstate heavy transport rig than it costs to have and hold a boat operators licence.

There is no provision for learner boat operators. To operate a boat of any description under power one must hold a boat operators licence, irrespective of one's age and experience, even though one might be under supervision from an experienced and licensed operator.

Another factor is the cost imposed on volunteers who operate search and rescue craft, even as part of a recreational boating organisation involved in the supervision of a boating event. A rowing coach operating a power boat while following a racing eight up the Yarra River would still need to have a boat operators licence, even though his power boat would not be travelling at excessive speed nor would it be a navigational hazard. It is self-evident from those examples that there are concerns among the community about certain provisions of the bill.

I have received and, I daresay I will continue to receive, many representations on the issue. I hope the minister is equally sharing this burden of responding to the community in a way that reflects that the minister is aware and concerned about the impact of her legislation on the community at large.

I refer to one letter I have taken at random, which I believe expresses the sentiments of many. I certainly did not choose it for its detailed arguments, but it reflects the views of a family. It states:

> We wish to add our concerns over the proposed new marine act. We operate a small (18-foot long) trailer-sailer as a family activity. We use a small outboard motor to get in and out of harbour and to get home when the wind fails. We sail most of the time. We have been sailing for over 40 years without serious accident. The impost of expensive fees on such craft and activities seems excessive. Our boat can't physically exceed 6 knots under power, and even at full speed (which it never is) it poses no danger to the public. Please try to have the act amended to exempt auxiliary engines and slow craft such as displacement type fishing boats.

It goes on in a similar vein. It is from the Martin family of Toorak. They are not known to me but I have pulled out their letter as a general example of what people are saying about boat operator licensing regulations.

Concerns were expressed in the *Altona–Laverton Mail* of 24 October. Under the headings 'Owners slam boat licence testing plan' and 'Making waves' an article headed 'They're killing the fishing industry' states:

> Altona Boating and Angling Club secretary John Ross said the introduction of licence tests, to be administered by Vicroads, was nothing but a 'revenue-raising exercise'.
>
> 'We are not happy about it … They're killing the fishing industry,' he said.

The article goes on in a similar tone. So there is a great deal of concern in the community about the impact of the boat operator licensing laws and regulations. But to demonstrate that there is not an absolutely consistent view about all of this, VRFish wrote to me on 16 November and said:

> If boat licensing is being introduced for safety reasons then yachts should also be licensed.

I ask the minister whether yachts should be licensed. Is that the next stage?

Hon. R. F. Smith interjected.

Hon. PHILIP DAVIS — No, I am asking the minister, Mr Smith. It is the minister's legislation. She has designed the framework and created anomalies which are causing consternation in the community at large. Indeed, I have correspondence from Lindsay Grenfell, the chief executive officer of the Boating Industry Association (BIA) in respect to this matter. Under the subheading 'Should all persons be licensed?' he states, in part:

> The BIA believes that everyone should obtain a licence — it is the fairest method and guarantees that anyone operating a powerboat should understand the 'rules of the road'. However, this is inconsistent with New South Wales, which has a requirement to obtain a licence if travelling greater than 10 knots.
>
> It is understood that there is substantial discussion regarding the operation of charter boats and a possible exemption being considered for operators of these vessels because they will travel at less than 10 knots. While the Boating Industry Association represents all the industry, including charter boats, the creation of an exemption for one section of the boating industry will create a precedent for other boat operators — for example, sailing boats with auxiliary motors — getting in and out of marinas. Then why not exempt little 'tinnies', fishing punts, et cetera that trawl at less than 5 knots et cetera.

Clearly there is a spread of views about the licensing laws that the government has implemented. Although I say that as a preamble, we are here to deal specifically with the effects of the proposals contained in the bill which are to change the basis upon which hire-and-drive boats are regulated from a boat operator licensing perspective. As I have already pointed out, the purpose of the bill is to establish an extension to the operation of the boat operator licensing scheme so that hire-and-drive vessels which have a capacity to travel at greater than 10 knots will be required to be licensed and there will be an exemption for vessels which travel at a lesser speed.

As I alluded to earlier, this position is widely supported by the hire-and-drive industry. The opposition has been in touch with quite a number of stakeholders in the industry who have reiterated their concern. I acknowledge that the government embarked on a consultation process and from my discussions with industry representatives I know there is a generally agreed consensus about how to manage this. I recognise that the government has tried to implement a mechanism which will have the least impact on the hire-and-drive industry. But in so doing it has created this extraordinary anomaly between those who own a boat and those who hire a boat. The government should be working to provide some consistency and should also recognise those other classes of exemptions, which I flagged earlier, if it is going to provide the exemption for this class of boating enthusiast. It is all very well to try to have a regime which is perceived to be fair, but in this case it is only being fair to a particular group.

There are always unintended consequences and a couple of groups specifically made remarks. Peter Horman is the operator of an Eildon boat hire business. He operates a fleet using 50 outboard motors — houseboats providing 200 beds on the water and 13 speedboats, which are capable of more than 10 knots. He believes the impact of boat operator licensing would be adverse to his business and was therefore supportive of there being an exemption for hire boats. Riviera Nautic, which operates out of Metung on the Gippsland Lakes, has consulted with other local hire-and-drive firms and reflected a general and consistent approach which was that the bill would probably have the least impact in implementing hire-and-drive regulations for boat operator licensing in this industry.

However, it is useful to reflect on the additional comment the firm made that the provisions relating to safety checks for hire-and-drive customers will give some additional accountability in regard to negligence matters. From a business perspective, it is probably an advantage to ensure that a protocol is clearly set out that satisfies any test of negligence on the part of boat operators. As I have said, there is a diverse range of opinion about how this will impact.

I refer to an example that was cited by the parliamentary leader of the Liberal Party, the honourable member for Portland in the other place. I am sure the minister will be surprised to hear about this. The honourable member for Portland took up the issue about the impact of this imposition on behalf of a local constituent, Mr Trevor Stephens, who operates boats on Lake Pertobe at Warrnambool, which is a man-made lake of a very shallow depth. He has operated a business, Warrnambool Hire Motor Fun Boats, for 24 years. I am advised this business operates all year — on weekends and public holidays throughout the year — and that more than 50 per cent of the clients of the business are people younger than 16 years of age. As honourable members will recall, I said earlier that because of the imposition of the new licensing arrangements there were no circumstances in which a person under 16 years of age would be able to operate a

mechanically powered boat without a licence. The honourable member for Portland made strong representations on behalf of his constituent, because his constituent determined that his business would not be financially viable in the event that that class of hirer were effectively excluded. I note the honourable member for Portland wrote to the minister and also to the marine board on this subject. I am sure that the minister will be able to confirm that under section 67 of the principal act there is a provision for exemption. It reads in part:

> The Board may, by notice in writing to any person affected, exempt any person or vessel or any class of person or vessel from any requirement of this Act if the Board decides …

The point is that representations have been made for an exemption, and I understand an exemption will be granted for this particular business. I am sure that is a very sensible outcome for this particular case, and I congratulate both the marine board and the minister on that exemption. However, it raises the question to the minister: having created this particular exemption, this precedent, where does that leave us? Is it reasonable for boat operators on the Gippsland Lakes, Lake Mallacoota, Lake Eildon or any of the lakes in Victoria to make representations based on the particular and unique circumstances that apply to their businesses? If that is the case, could we not see the minister acquiescing to pleas from individual constituents who make a strong case for special exemptions on the basis of need?

I can imagine a case being made for an aged pensioner whose only joy in life is taking his or her little 12-foot tinnie out on a sunny weekend, dropping a line in the water and enjoying that recreation that so many Victorians enjoy — fishing, although probably not catching a great deal.

Hon. B. W. Bishop interjected.

Hon. PHILIP DAVIS — If you are talking about me, Mr Bishop, it is absolutely true — I do not catch very much at all. Perhaps I have a softer heart than this minister, but if a case were put to me in those terms, on the basis of the exemption that has already been granted because of the economic viability of the business, my social conscience would get to me. Clearly one would have to consider strong representations made along those lines. As the minister has created this precedent, the question arises as to where this will end. How long before the whole boat operator licensing scheme in Victoria becomes a shambles because there are repeated representations pleading special cases for exemptions? I do not criticise the minister for providing an exemption — as I have said, I congratulate the marine board and the minister on making a sensible decision on what in reality is a nonsense. But that is what I mean, this whole business is a nonsense — either we have a regime of consistency or we do not. I will leave the matter at that as there is no point in pressing on with that case — it is clear the minister has a cold heart and is not prepared to exempt pensioners.

Hon. B. W. Bishop interjected.

Hon. PHILIP DAVIS — We could wait and see. I will be pleased to assist any pensioners who would like to make out a special case, because the minister has already created the precedent.

I understand that an issue was raised in the consideration of this bill in the other place and that I should not conclude my remarks without referring to it. I do not think I am allowed to anticipate debate in this chamber so perhaps I will reflect on the debate that occurred in the other place. The honourable member for Swan Hill in the other place — —

Hon. B. W. Bishop — Good man!

Hon. PHILIP DAVIS — Sometimes he is a very good man; sometimes he is misguided. The honourable member moved a reasoned amendment in relation to this bill along the lines that the bill should be withdrawn and rewritten to bring about consistency in relation to border anomalies with New South Wales concerning mechanically propelled powerboats. I will not quote the reasoned amendment because I do not think it is my role to do that.

I might say that I understand the concern raised by the honourable member for Swan Hill. However, it is but one more anomaly. I have made the case that there are a number of anomalous situations in boat operator licensing in Victoria, and I see this inconsistency between Victoria and New South Wales as but another element of that. I think the Liberal Party would say that clearly there is a great and significant need for a consistent regime. I flag that in the future the Liberal Party will support attempts by the government to introduce legislation to correct these anomalies.

However, in relation to the reasoned amendment moved by the honourable member for Swan Hill in the other place, I would like to indicate that just as my colleagues in the Liberal Party in the other place did not support that reasoned amendment I think it is most unlikely that the members of the Liberal Party in the upper house would be persuaded to support such a reasoned amendment were it to be moved in this place, although I will not anticipate the debate and presume that it will be moved.

I think it is useful for us to acknowledge that it is a point well made not just by the honourable member for Swan Hill but also by the honourable member for Benambra in his contribution to the debate in the other place. As the opening batsman for the opposition parties the honourable member for Benambra made a strong case. He spoke strongly for resolving border anomalies, as he would being a member representing a border electorate. However, the issue is that this is but one more anomaly and the Liberal Party takes the view that boating safety is an important and evolving matter that requires ongoing scrutiny and updating of regulations. The government has made a disappointing effort in sorting out these operator licensing arrangements.

I conclude by saying that for us to consider three amending bills to the Marine Act in one parliamentary sitting is a sad reflection on the way the government is managing its legislative program. It seems to me that the matters that have been dealt with in the three amending bills we have considered so far this spring could have been dealt with in one bill. It surprises me that the government does not have a better coordinated legislative program. Given that the government's policy agenda is devoid of legislative and policy reform one can only presume that this is a deliberate policy on the part of the government to create work for the Parliament.

Hon. B. W. BISHOP (North Western) — I am pleased to rise on behalf of the National Party and speak on the Marine (Hire and Drive Vessels) Bill. We in the National Party found this a particularly difficult bill, but not in the context of not supporting safety. I believe without question that the National Party could never be accused of not supporting boating safety. While the National Party is not really opposing some of the issues in the legislation, by the sheer weight of this bill we will end up with two classes of boat operator in Victoria. We will have one class who are owners and must be licensed by law and one class who are hirers and do not have to be licensed by law. We in the National Party think that that is an intolerable situation and something that must be addressed before it goes any further.

My colleague the Honourable Philip Davis said it was just one more anomaly, but we are sick of anomalies along the border and the National Party will give the government and this house the opportunity to do something about this one at this stage rather than let it go on and on like a stone gathering moss. This bill widens the gap in logic in our vessel licensing for operators and cements in place anomalies between New South Wales and Victoria that could easily be resolved. Therefore, the National Party believes it has no option but to move a reasoned amendment and I would like to do so now. I move:

> That all the words after 'That' be omitted with a view of inserting in place thereof 'this bill be withdrawn and redrafted to provide for a boat operators licence to only be required when operating a vessel propelled by mechanical power at a speed greater than 10 knots, except in the case of a personal watercraft where any person who drives a personal watercraft must have a boat operators licence with a personal watercraft endorsement.

Before I go on I urge honourable members to give serious consideration to the National Party's reasoned amendment and to give the government the opportunity to fix the increasing number of silly anomalies that apply across boat licensing regimes in Victoria and New South Wales.

Put quite simply, if the bill goes back to the drawing board and the drafting of it starts from square one, it could solve the border anomalies between Victoria and New South Wales. If this bill is passed as it is, several things will happen. Firstly, operators in Victoria of tinnies capable of travelling under 10 knots will be forced to be licensed whereas operators in New South Wales will not. The National Party has been advised that New South Wales will not move on those tinnies that do not exceed 10 knots. Secondly, Victoria will have two classes of tinnie operators. Owners and operators of motor-driven tinnies — whether they can attain speeds under or over 10 knots does not matter — will have to be licensed, whereas those who hire tinnies and stay under 10 knots will not need to be licensed, even though in all probability they would not be as experienced as the owners or operators of the tinnies.

Honourable members should keep in mind that the National Party is giving the government a chance to stop imposing licence fees on tinnie operators who are mainly the families and pensioners about whom the Honourable Philip Davis spoke. The National Party also understands that pensioners will receive no licence concessions whatsoever.

National Party members have consulted widely on this bill because once people got their minds around the subject there was a reasonable amount of interest in it. We have a very good relationship with the Boating Industry Association and have had a very good discussion with its chief executive officer, Lindsay Grenfell, who was mentioned by the Honourable Philip Davis.

The purpose of the bill is quite simple: it requires the operators of some hire-and-drive vessels to hold an operators licence and it provides for specific regulated

powers in the operation and use of hire-and-drive vessels. This has all come about because in 2000 legislation was passed that introduced a recreational vessel licensing regime to Victoria and hire-and-drive vessels — although they are largely used for recreational purposes — were classified as commercial vessels and therefore were not covered by the new licensing arrangement.

The bill extends the licensing regime established by the Marine Act to cover operators of hire-and-drive personal watercraft, or jet skis; operators of mechanically powered hire-and-drive vessels capable of travelling at 10 knots or more; operators of prescribed classes of hire-and-drive vessels; and young persons aged between 12 and 16 years who hire mechanically powered vessels. By way of example, a tourist or holiday-maker who wishes to hire a jet ski or a vessel capable of 10 knots or more will now be required to have a licence. The National Party has no problem with that.

The bill also seeks to build on existing regulations for the giving of instructions to operators of hire-and-drive vessels by requiring vessel owners to provide them with a more comprehensive pre-trip safety briefing and safety check list. The National Party strongly supports that initiative. It is an excellent idea and a practical and sensible way of increasing boating safety.

The biggest problem National Party members have with this bill is that it creates another class of boat user by exempting the operator using a hire-and-drive vessel from having to be licensed provided the motor-powered vessel does not exceed 10 knots. In November 2000, during the initial debate, the National Party wrote to the minister on this issue asking for the insertion in the original bill of provisions relating to recreational users. That request was subsequently rejected, much to our — —

Hon. R. M. Hallam — Chagrin!

Hon. B. W. BISHOP — Much to our chagrin. That is a very good word. Thank you, Mr Hallam, for your assistance.

National Party members are absolutely determined to continue to use everything in our power to remove the anomaly between Victoria and New South Wales and to provide some sensible and practical systems of improving boating safety that do not victimise our communities, in particular Victoria's families and pensioners, who I repeat will be given no concessions under this bill.

When the Marine Act was amended on the previous occasion, the National Party wrote to the minister about these issues. My colleague and friend the Honourable Peter Hall was of great assistance to me at that stage and we made a team effort. I will not go through the letter now, but we said to the minister, 'A fair amount of funds will be collected in licence fees, and we want that to go into a trust fund set aside and dedicated to boating facilities'.

That request was rejected as well. We thought that was a grand idea that would ensure that licence fees paid by anyone at all would go into the right bucket of money and be protected. We then found out that almost $16 million would be collected from those licence fees, which no doubt encouraged people such as the Boating Industry Association to support the imposition of those fees. As I said, we have had some good discussions with Lindsay Grenfell from the Boating Industry Association. He readily agrees that the BIA supported recreational boat operator licensing on the basis of the funds being returned to the recreational industry for the development of powerboat facilities.

That association's view is that there has been no indication from the State Boating Council or the government as to where the allocation of the $15.9 million appropriation will be spent. It was also said to us that boaters have long memories and that it is fair to say that the BIA is concerned that licence funds may not be used for the purpose intended. Honourable members will remember that in the late 1980s and the 1990s governments introduced a boating facilities and education fee on powerboat registrations which almost doubled the funds collected from registration fees from approximately $2.5 million to $5 million.

The money went into consolidated revenue with a statement that all moneys appropriated would be returned to recreational boating. However, if you look at the numbers you see that the appropriation appeared to never change from $1 million. The boating public still only receives $1 million for the upgrading of boating facilities. It has been reported to us that in 1999–2000 there were $16 million worth of applications for funding for boating access facilities, but that only $1 million was available for the purpose.

So I believe the questions brought up by the boating fraternity of how much of the $15.9 million allocated over the next five years under the scheme will be allocated to facilities, and what happens in year 6, are fair and reasonable, and have certainly been well represented by the Boating Industry Association.

In our letter to the minister at that time we also suggested that the registered owner of a tinnie that travels at under 10 knots would have a responsibility for anyone operating that boat, and that they could go through a program of quality assurance, safety recognition, and all those sorts of things. We thought that was a fairly innovative idea. That was rejected as well. We asked for the same rules as those that apply in New South Wales. Guess what? That was rejected as well.

In the debate the last time around, which I will not read out because I am not allowed to, the National Party strongly raised the impact the charges would have on families and pensioners, particularly when they may only use their boats from time to time. The example we gave was that it would cost a family of four people $100 a year to operate their boat.

Hon. Philip Davis — Outrageous!

Hon. B. W. BISHOP — Outrageous, Mr Davis; I agree. It might be a reasonably poor family who enjoys peaceful fishing on a river or waterway in some parts of Victoria. We went through all that, and that was rejected as well. In that debate we pressed quite hard on the anomalies with New South Wales. We in the National Party clearly understand those, representing stretches right along the river and state borders. We brought up the issues of New South Wales and of South Australia. We are quite concerned about the anomalies on this issue between the states.

Hon. R. M. Hallam — We were told that New South Wales was going to follow suit.

Hon. B. W. BISHOP — Indeed we were, Mr Hallam.

Hon. R. M. Hallam — We were misled.

Hon. B. W. BISHOP — Let us cut to the chase in the whole exercise. The National Party believes this legislation is inconsistent, and that there is inconsistent legislation right across the whole field. We moved the amendment to go back to square one to fix up the whole mess, to get some consistency back between the states, to remove the anomalies, and to get some compassion.

Mr Philip Davis spoke about compassion. He said he had a warm heart, and I think he even indicated that the minister might have a cold heart on this issue. He sought some compassion and commonsense for small boat users who are mainly families and pensioners.

Hon. R. M. Hallam — And others.

Hon. B. W. BISHOP — And others; they are bay fishermen and inland fisherman — in fact, I think probably 130 000 boat operators in Victoria are likely to be touched by the rules that are coming into place. The previous bill imposed these licence fees on them.

I refer again to the Boating Industry Association. As I said, Lindsay Grenfell has been really good and easy to talk to; he is extraordinarily well researched, and has a good understanding of the industry he represents. Under the heading 'Should all persons be licensed?' — and let me make this quite clear — he states:

> The BIA believes that everyone should obtain a licence —

that is its very clear policy —

> it is the fairest method and guarantees that anyone operating a powerboat should understand the 'rules of the road'. However, this is inconsistent with New South Wales, which has a requirement to obtain a licence if travelling greater than 10 knots.

The Boating Industry Association then says:

> It is understood there is substantial discussion regarding the operation of charter boats —

this was prior to this bill coming in —

> and a possible exemption being considered for operators of these vessels because they will travel at less than 10 knots. While the Boating Industry Association represents all the industry, including charter boats, the creation of an exemption for one section of the boating industry will create a precedent for other boat operators — for example, sailing boats with auxiliary motors — getting in and out of marinas. Then why not exempt little 'tinnies', fishing punts … that trawl at less than 5 knots —

or less than 10 knots? It says less than 5 knots. It then says:

> Further, residents from New South Wales who currently do not require a licence … who own a boat but travel less than 10 knots will be required to purchase a Victorian licence if boating in Victoria — another anomaly!

It concludes by saying:

> For ease of operation, administration and regularity throughout the industry and states, it is recommended that a powerboat licence only be required when operating a vessel at more than 10 knots. This would alleviate all the above problems — that is, charter boats, yachts with auxiliary motors, little tinnies and children operating their first small boat under close supervision.

Hon. P. R. Hall — This is the industry view?

Hon. B. W. BISHOP — This is the industry view. It started off with the view of saying that its stance is that everyone should obtain a licence. But due to the

inconsistencies that have been imposed on the industry across the wider field it now says:

> … it is recommended that a powerboat licence only be required when operating a vessel at more than 10 knots —

which is consistent with New South Wales. Late last year, when members of the National Party went through the process of addressing the previous bill, we were told very clearly by anyone who talked to us, briefed us or discussed matters with us that New South Wales was going to move down exactly the same path as Victoria. The honourable member for Coburg in the other place talked about it but it has changed a bit now. Mr Carli indicated that now Victoria is leading Australia and, although New South Wales was not necessarily going to move quickly, the pressure would be there and it was hoped that New South Wales would be forced into putting into place what Victoria was proposing.

However, given that we were advised that New South Wales will not do that, we believe we have been misled. That made us pretty cranky — and that is why we are taking our stand in this house today. We understand that New South Wales will do the same as Victoria is doing with hire-and-drive vessels but it will not touch the stuff that goes under 10 knots. I have spoken with the President and with Hansard and will have included the first pages of a document prepared by the Waterways Authority of New South Wales, headed, 'When is a Boating Licence Required?'. It is a great document — simple and straightforward. In part it states:

> It is important to know that it is neither the size of a vessel nor the power of an engine which determines whether a person needs to be licensed — it is the speed at which a boat is driven.

It is very simple stuff and I ask that it be included in *Hansard* so that the record shows what a great system New South Wales has — one that we ought to be eager to follow.

Leave granted; see page 1674.

Hon. B. W. BISHOP — Further to that, the National Party took the opportunity of writing to the minister. I thank her for her response and the cooperation we have received. I will not read the whole letter written on 22 November, but in part we stated:

> During debate on the Marine Amendment Act 2000, the National Party advocated strongly for uniformity between Victorian and New South Wales boating licences. In particular we were concerned that NSW legislation does not require the person in charge of a vessel to be licensed if that powered vessel is capable of travelling at a speed less than 10 knots …

We then outlined the advice we had and said to the minister:

> This advice appears to have now been wrong. There is no indication that NSW is about to change its boating laws relative to powered vessels under 10 knots. The only legislative changes they are considering are those to implement a regime for hire-and-drive vessels.

In the letter of 22 November we stated also:

> Consequently the National Party seeks an assurance from you that the Marine Act will be amended to bring boating licence conditions in line with those applying in NSW. We seek a further assurance that the current requirement for obtaining a licence will be immediately suspended for those wishing to operate a vessel at less than 10 knots.

Hon. P. R. Hall — That's a fair request!

Hon. B. W. BISHOP — A fair request, Mr Hall — straight out in the open, quite clear and unequivocal, using the good rules established in New South Wales. The minister's response to us was:

> The Victorian licensing scheme adopts the 'Principles for a Common National Standard for Recreational Boat Operator Licences' developed and published by the National Marine Safety Committee.

That is good stuff! She said also:

> Victoria is the first jurisdiction to fully adopt these principles.

So we are way out in front — and perhaps the others may never come with us. When we asked whether Queensland, South Australia and Tasmania have different schemes from New South Wales or Victoria the answer was — and I think it is fair to read just a few of the words we received in the minister's response:

> … it would be a reasonable expectation that they will progressively move towards consistency with Victoria.

Well, goodness me! That could be 20 years — it could be any time.

Hon. P. R. Hall — Twelve months ago they were!

Hon. B. W. BISHOP — Twelve months ago they were and now it is a 'reasonable expectation' — so the goal posts have shifted again. It is pretty hard to kick a goal under those sorts of circumstances. That is why the National Party is cranky about this whole matter and why we are raising it as strongly as we possibly can in this house this afternoon. The letter from the minister states also:

> There has been overwhelming support for operator licensing from the general public …

The minister should wait. When I talk to my Vicroads licensing people they say people are lining up outside going crook about it because they did not know it was coming! So that is the public and the boating community as well as the State Boating Council — we have not heard anything from that council, which represents all types of recreational boating in Victoria or Victoria Police. The Boating Industry Association, as I have said, has had discussion with us and has been excellent to work with.

Again, the Boating Industry Association of Victoria has been absolutely consistent. It has said that everyone should be licensed but when the rules changed and the anomalies in this bill were proposed which would result in two classes for people operating small boats in Victoria, it said, 'Well, let's go to the New South Wales rules'. That is fair enough. I repeat: I respect its position because it has been quite consistent. The association believes everyone should be licensed but when you get such a ridiculous situation it said what I read out earlier from its contribution about the environment statement that was requested by the government.

I will not proceed further along that line. We have raised issues with the minister through questions without notice about the process that has been used, which we believe is a sham. Only two weeks before the closing of the regulatory impact statements the pamphlet and booklet came out with the prices on it. Therefore one cannot expect that consultative process to carry much weight. We have also raised the issue on the adjournment and got much the same answer from the minister.

The National Party did not have a lot of support last year because people were not aware of the bill, and it was hard to drum up interest. We have had discussions with the major industry representatives, but when people have had time to assess what will happen in Victoria things will change, and the issue will be felt across the whole of the recreational boating area.

In my electorate office it has been raised considerably. The Vicroads people have raised it, but we believe the government ignored the regulatory impact statement process and did not even use a fair consultative process. It might not be much of an issue in some parts of metropolitan Melbourne, but I suspect that a large number of tinnie owners in the metropolitan area will be savage when they understand what this is all about.

When I mention the word 'savage' it reminds me of the Independent member for Mildura in the other place, who voted against the National Party's reasoned amendment in the other place. I do not know why he voted against it, but as a so-called Independent, representing a fair stretch of the Murray in his electorate — and soon to have Robinvale added to it — he and his Independent party mates ignored the border anomalies issue, and ignored the imposition of licensing fees across all owners of motor-powered boats that do not go more than 10 knots per hour. They voted against the National Party's quite innovative proposal.

It was a reasonable reasoned amendment, and I cannot provide a reason why the Independent member for Mildura would take this action, but he did. I am extremely disappointed with his stance of again going with the government on this one. As an Independent he could easily have crossed the floor and stood up for his people, but he did not even conduct a survey on this matter. He has conducted surveys in the past such as when we were debating the barley legislation, but I suppose there is not much point because in that survey he received 85 per cent support for what the National Party wanted to do and then he voted against that legislation. I am very disappointed in his performance on this issue of border anomalies and the imposition of licensed operator fees on tinnies, which we will soon have in Victoria.

We have a real mess on our hands here. I believe the minister is understanding. The National Party has given her an opportunity to work through these anomalies and unfair licensing provisions for small boats that go at less than 10 knots per hour. I ask the house to seriously consider the reasoned amendment the National Party has moved. I again put forward the reasons for the reasoned amendment. I urge honourable members to support it to give the government the opportunity to think about it. Surely the government will welcome it as a matter of fairness, to solve the border anomalies with New South Wales and to stop another anomaly being created within Victoria. If this bill goes through we will have two classes of tinnie operators — and we have talked about that before. Anyone who owns and operates a tinnie that is motor driven — whether it is under or over 10 knots — will have to be licensed. Whereas if you go and hire a boat — even if you have never driven one before — you do you not have to be licensed. It is ridiculous.

The National Party will give the government another chance to stop imposing licence fees on our tinnie operators — mostly families and pensioners with no concessions. As Mr Hallam has pointed out, many fishermen, shooters, bay fishermen, inland fishermen and a huge number of ordinary people enjoy the pleasures of boating throughout Victoria. I advise the house of the last absolute classic anomaly. In Mildura there is a weir just down from the main part of the city.

The water in the weir is held to a particular level for irrigation purposes. Part of the river then runs into Victoria and creates Lock Island, and Lock 11 is where the vessels go through.

It will be pretty interesting when New South Wales people travel along the river and get to the weir and want to go through the lock, because I will bet that is Victorian country then, and they will have to be registered as Victorians just to travel along their own river. If that is not an anomaly I do not know what is. The Independent member for Mildura should have recognised that at least.

Hon. R. F. Smith — I thought the river was in New South Wales!

Hon. B. W. BISHOP — It is, but in this instance, Mr Smith, I am happy to tell you about, or take you and show you, this situation because the diversion around the weir is in Victorian country. I have yet to be advised about this, but I suggest that the New South Wales people who use the river, if they want to go through that lock, will probably have to be registered as Victorians — and won't they be pleased! If that is not a good shot against tourism, I do not know what is!

The National Party is prepared to work with the minister to resolve this difficult and unfair situation in which we all find ourselves.

Hon. R. F. SMITH (Chelsea) — I support the Marine (Hire and Drive Vessels) Bill and oppose the reasoned amendment moved by the Honourable Barry Bishop.

I had the pleasure of speaking on the act in November last year, and during the course of my contribution I referred to not only the importance of boat safety but to researched statistics on boat accidents and boat safety. I do not intend to go over that again; suffice it to say that the bill finetunes and complements the Marine Act of 1988.

Some honourable members are waiting with bated breath for a contribution on my navy experience, particularly in the area of boats. One of the many skills I learned in the navy was that of seamanship instructor, where I taught young men the finer arts of not only driving boats but in the safe handling of and the safety aspects related to those boats. The bill allows for new licensing arrangements for the operators of registered recreational vehicles and for them to apply to other operators.

Hon. K. M. Smith — You are not reading that, Bob, are you?

Hon. R. F. SMITH — I am reading from notes, actually, like everyone else. Thank you for the contribution, Mr Smith.

The purpose of the bill is to improve marine and recreational boat safety. For honourable members in this place who may not understand, boats are vessels that are carried on ships. Many people make the mistake of talking about ships and referring to them as boats. I assure them that boats are not ships — boats are carried on ships. When talking about personal watercraft — waterskis, canoes or whatever — I assure the house they are not ships, they are boats, or in some cases fun boats, which I shall refer to later.

Records show that only 522 vessels make up the entire hire-and-drive fleet, excluding fun boats. There are 120 hire businesses in Victoria, of which only 16 offer personal watercraft for hire. Of those only 6 are boat hire businesses. The rest provide holiday accommodation and personal watercraft add-on attractions for holiday-makers. Of those 6 boat hire businesses, 2 claim that 100 per cent of their income is related to or comes from the hiring of personal watercraft and only 1 claims that 30 per cent of its income is dependent on personal watercraft hire. Only 2 businesses own more than 5 personal watercraft, and a total of 40 personal watercraft are owned by 16 businesses.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Hon. R. F. SMITH — As I said before the dinner break, a total of 40 personal watercraft are run by 16 businesses; a total of 10 hire vessels are designed to exceed the speed of 10 knots. For those who do not know, 10 knots is approximately 12 miles per hour or 18.5 kilometres per hour. The other difference in a nautical sense is that at sea a mile is 2000 yards as opposed to onshore where a mile is 1760 yards.

While we are talking about speed it needs to be understood that jet skis can travel at speeds of up to 60 miles per hour or 100 kilometres per hour, and that is frightening for a lot of people who enjoy the beach or waterways. I recall in the early days of this government the Minister for Ports coming to Chelsea Province, where the mouth of the Patterson River and the beach was regularly frequented by jet skiers, some of whom could only be described as hoons, who appeared to be threatening and intimidating to many people. Hence we were the first in this state to bring in restrictions to ban the use of jet skis in that area, which sent a clear warning to those who used the jet skis that their conduct would not be tolerated. We seem to have quietened them down significantly.

A great deal of consultation has taken place over this bill. I refer to May 2001 when the Marine Board of Victoria forwarded options papers to all 120 hire businesses in Victoria. Consultants then conducted by way of telephone some 80 interviews to solicit their views. You may ask what was the result. Let me tell you: contrary to the complaints earlier, particularly from the National Party, about the lack of consultation, there was a great deal of support from the industry. In fact the industry was saying that it does not support the blanket approach that currently exists. Generally speaking, industry supports licences for vessels capable of speeds in excess of 10 knots.

There was also good support for matters covered in this bill, including pre-trip briefings of intended operators, safety stickers on vessels, management plans for safety of vessels, et cetera. So I would argue that, typical of this government, a significant degree of consultation has taken place and hence the opposition supports this bill. The National Party is making attempts to amend it, but at the end of the day I am sure it will cop what will be a good bill.

The public and boat operators have shown strong support for the bill. Currently hire-and-drive vessels are regulated to the extent that they are classified as commercial vessels and therefore require a certificate of survey issued by the marine board on the initial registration or annual inspection.

The certificate confirms that the vessel meets approved standards, such as design and construction equipment standards, and loading capacity and also sets geographical limits — for example, hire-and-drive vessels cannot sail in coastal waters but are restricted to inland waters, bays, inlets and sheltered waters.

The Honourable Barry Bishop referred to inconsistencies between the New South Wales legislation and the bill. New South Wales, Queensland, Tasmania and South Australian legislation is consistent with what is proposed in Victoria — a nationally agreed system. The New South Wales government will conform to that system in due course. I do not understand the National Party's opposition. It is barking up the wrong tree again. In New South Wales, Queensland, Tasmania and South Australia operators of hired personal watercraft hold a licence, so Victoria is being absolutely consistent in applying that standard. Some argue it is leading the country in this regard.

Tourists will be able to hire vessels other than personal watercraft or high-speed vessels. It is a major issue for many businesses, particularly considering that some tourists do not have licences. Obviously the requirement for tourists to have licences would have an impact on some businesses, and the government has ensured that the bill does not impact on those businesses. Of the 522 hire vessels in Victoria, 90 per cent will be available for persons who do not hold a licence. The equivalent overseas or interstate licence held by tourists will be recognised in Victoria. I stress that the arrangements have been developed in accordance with national competition standards and for recreational boaters. That in itself is sufficient justification to support the bill.

Prior to the suspension of the sitting I indicated that I did have some knowledge about boat safety and had significant instructing experience. To ensure that I do not let down my colleagues, I refer to my experience on this matter. I had the great pleasure of being instructed by Bindi Burr, an experienced, three-badge leading seaman.

Hon. E. G. Stoney — An old salt!

Hon. R. F. SMITH — Indeed, an old salt, even an old tar. He was quite a character and given his obvious experience he must have been sailing for some time. I asked him about this and he said, 'Son, I started doing this when the Red Sea was pink and the Dead Sea was on the critical list. I was doing this in Baghdad before you were in Dad's bag'. I thought that was very humorous. It is going back some time, but I have never forgotten it.

The bill does not permit young persons aged 12 years or more but less than 16 years to drive a motorised vehicle unless they hold the appropriate licence. That comes into effect in 2002. The Leader of the Opposition in another place referred to concerns about the bill impacting on one of his constituents, Mr Trevor Stephens, who operates a hire boat business on a small area of private land. The boats operate at walking pace — less than 5 knots — around a short circuit in very shallow water. Access to the lake is restricted. The business operator can assist boat operators by walking amongst them. That being the case, it is clear that it is a unique business and the Marine Board of Victoria granted it an exemption. That was a sensible thing to do. The majority of businesses in the hire-and-drive industry do not hire vessels to anyone under the age of 18 years, which is commonsense. I am sure I would not hire a powered vessel to a youth under 18 years. Public liability insurance does not permit the hire of a powered vehicle to any person under 18 years. Imagine the insurance premium to cover those young people!

In summary, the bill amends the Marine Act 1988 to enable the new licensing arrangements for operators of

registered recreational vessels to also apply to operators of hire-and-drive personal watercraft, jet skis, mechanically powered hire-and-drive vessels capable of 10 knots or more, prescribed classes of hire-and-drive vessels, and young persons aged 12 years or more but less than 16 years who hire mechanically powered vessels. Given that all those amendments have been made and that they are designed to complement the Marine Act 1988, I commend the bill to the house.

Hon. R. H. BOWDEN (South Eastern) — I rise to contribute to the debate on the Marine (Hire and Drive Vessels) Bill. Having studied the bill and the second-reading speech and considered the issues involved, I am of the opinion that there is heavy emphasis on safety in the consideration and development of the bill — and that is a good thing.

The interests of small business are also taken care of in the bill, and I will comment on some aspects of small business and note specifically the operation of small businesses within Victoria that hire out boats and other vessels for recreational use. There is a considerable number of hirings each calendar year and the approach, information and coverage given in the bill will contribute towards safety and predictability in some aspects of the responsible hiring and use of boats.

Probably like other honourable members in this chamber, I enjoy boating. I have been associated with boats of between 14 and 20 feet in length for more than 30 years, and my principal recreation is operating a small powerboat for fishing and other purposes. With some modesty, I like to think that I know a little bit about small recreational vessels.

In the treatment of this bill there is an opportunity to address an anomaly. Certainly in the province I have the privilege to represent, which contains Western Port and abuts a large part of the southern part of Port Phillip Bay, there is a considerable number of yachts and a great deal of recreational boating. Whilst I do not have a fundamental problem with licensing and the considered reasons for it, I suggest to the government that it is worth while addressing the anomaly that arises because yachts need to have a small outboard or inboard motors to drive or manoeuvre safely amongst other vessels, particularly in marinas where nearby vessels could be extremely expensive, difficult to maintain and so forth.

The manoeuvring of yachts in and out of marinas is a safety issue, but it could be said it can be done safely whether you have a licence or not. I think in the case of yacht owners, who may only need their motors for literally a couple of minutes to safely get their vessels out of their berths and under weigh and again at the end of their journeys to transit back to the mooring berth, it is doubtful that a licence is necessary for that legitimate safety manoeuvring situation and propulsion system. In my opinion licensing is not warranted if yachts are privately owned and there is a very low-powered motor purely for manoeuvring safely into confined areas. I suggest constructively to the government that this could be productively reconsidered.

However, there are many occasions when yachts are hired and an anomaly exists when the operator of a yacht which is hired and which has a small motor does not need a licence but the operator of an identical vessel that is privately owned for recreational purposes — the same use and the same conditions — does need a licence. It would be appreciated in the yachting and boating fraternity if it were changed, and the government should consider doing so.

Having studied the bill, I also note that a licence is required in situations where a vessel is capable of attaining speeds of 10 knots or more. I have no quarrel with that because, as the Honourable Bob Smith has correctly said, it is about 12 miles an hour. It may not sound like a high speed, but distances are often deceptive on water, so 12 miles an hour can be pretty quick and a lot of damage can be done at what is considered to be a relatively low speed.

In recognition of the impact of licensing on small business, I understand that a licence will not be needed under this legislation if a vessel is operated at speeds of less than 10 knots and if the vessel is not capable of being operated at more than 10 knots. That would assist many people who depend on their incomes as small business operators and have made considerable investments. That part of the bill is understandable, and is a constructive recognition of the dilemma many small businesses have faced prior to the arrival of the bill.

From time to time over the last few years I have listened when personal watercraft or jet skis have been mentioned in several bills. I do not entirely subscribe to the view that people who operate their own jet skis are irresponsible.

Some people act irresponsibly, but not everyone does so. I know several people who own personal watercraft who in no way, shape or form use their craft or jet skis irresponsibly. It is the visible minority that the public sees and is concerned about.

For the record I want to say that not everyone who owns a personal watercraft or jet ski is automatically irresponsible in the way they use it. On several occasions I have rented and used personal watercraft and jet skis and, with modesty, I would not describe myself as irresponsible in the way I used them. I have a New South Wales licence that I have had for many years. I think it is a good idea that if people between the ages of 12 and 16 are to be allowed to hire a vessel, they must have undergone the training required to obtain a licence. That is sensible and supportable.

The bill requires adequate safety briefings to be provided. I have hired boats in Queensland and New South Wales on many occasions over many years, and usually the owners of vessels will provide an adequate briefing on the characteristics and driveability of that vessel, and they have pointed out where the safety equipment is kept. It is not unknown by practice in other states, and I am certain the same thing happens here. I am sure the bill formalises what is in the main a practice of long standing in Victoria, although I have no personal knowledge of that situation because I have never hired a vessel in Victoria. In other states the situation is handled well, and it is good that the situation in Victoria will now be formalised.

The bill provides for check lists and instructions as to both usage areas and geographical limitations of the boat, and there are also safety notations as to loading levels and so on. They are good regulations and it is an excellent idea that the information is recorded not only in the business that is operating the hire boat but also recorded on the vessel for the operator to see; that is wise and sensible.

It is important to make certain that when a vessel leaves a dock the operator has had a quality briefing. I have the honour and privilege of being the patron for the Australian Volunteer Coast Guard Association in Victoria, and I believe contributions to safety will be made by the proper and regular use of these requirements. Many people in the coastguard go out and help people for whom a better understanding of the operation of the vessel and safety considerations would have been a big help, and a lot of effort by a lot of people would have been spared.

I am very supportive of aspects of the bill, and I believe it is interesting legislation. However, I suggest that the New South Wales regulation, where a licence is not needed unless the vessel is capable of more than 10 knots, is a good idea. The situation in Victoria is different and I would like to see more consideration given to the New South Wales situation. In Victoria operators of small aluminium boats with small motors, commonly referred to as tinnies, are required to have a licence. Usually the overwhelming number of those vessels are small, perhaps 3 to 3.5 metres in length, and they are used in sheltered waters, rivers, creeks or small lakes. They do not have rough water capability. Usually the craft has a small outboard and a small mechanical engine, and is not capable of speeds of 10 knots or more.

In New South Wales a system was set up many years ago — and it is still current — where a licence is not needed for a vessel of that type. I think that situation should be looked at in Victoria. The Victorian approach is, we are told, based on considerations of safety. Therefore everyone who operates a boat with mechanical propulsion should be trained, should have a licence and should understand their responsibilities. There is a strong argument in favour of that, but there are classifications of vessels that do not require that regulation because of their low power and their long-established safe operating record.

I am satisfied with and supportive of the emphasis on safety in the bill. I would like to see the anomaly addressed where a vessel may need a licence if it is for recreational purposes, but exactly the same vessel does not need a licence in a hire situation — and I am not advocating a licence for the hire situation. I suggest it is timely to review the situation where yachts, for reasons of safe manoeuvring, have a small motor fitted. The situation could constructively be reconsidered with a view to removing the need to have a licence for craft that require small motors to manoeuvre them in and out of a marina berthing pen.

The 2002–03 boating season is one that as a community we will have to approach with a great deal of care and attention because the licensing regime will have become quite advanced by that date and some of the earlier requirements under the legislation previously passed by the Parliament will start to become effective as of this summer.

I think licensing is good and the emphasis on safety is certainly supported. We can never have too much respect for the water and the sea. The concerns I have mentioned are to do with a yacht's low power.

Another aspect of the bill is the information that people who hire boats are required to understand. I am told the boating industry in Victoria is so large that it contributes more than $1 billion of activity to the Victorian economy and many people are involved in it. I am one of the hundreds of thousands who enjoy the waterways and their recreation. The vast majority are responsible and are concerned for their welfare and that

of others. There are exceptions and sadly things do happen, but when one considers the large number of people and vessels involved, the huge pleasure that is given to many families and the economic activity, one concludes that Victoria has a very positive story and an important boating community. This bill will further enhance the safety aspects of boating, and for that reason I am pleased to support it.

Hon. P. R. HALL (Gippsland) — I welcome the opportunity to speak in favour of and to try to urge other honourable members to support the reasoned amendment moved by my colleague the Honourable Barry Bishop, because I believe it has a lot of logic. Having listened to the contributions of some of the other speakers in this debate, I think they agree at least in part, if not entirely, with the reasoned amendment moved by the Honourable Barry Bishop.

Let us go back to just over 12 months ago in November 2000 when this house debated the Marine (Amendment) Bill. At that time the National Party argued strongly that Victoria and New South Wales should have uniform boating laws. Why? Because it makes sense that we have uniformity between two contiguous states, particularly given the fact that New South Wales and Victoria share some common waterways. The mighty Murray River, for example, is largely the shared border between Victoria and New South Wales. The actual border between Victoria and New South Wales could theoretically be in the middle of the Murray River, so both New South Wales and Victorian boating operators share that expanse of water.

We also have contiguous oceans between New South Wales and Victoria just off the far East Gippsland coast. Victorian and New South Wales boating operators share that contiguous expanse of water. One would think, therefore, that it makes good commonsense to have uniformity between Victorian and New South Wales boating laws.

The National Party was most uncomfortable with the proposal put forward in the Marine (Amendment) Bill in November last year that Victorian boat operators would require a licence on all occasions when not all New South Wales-based boat operators require one. As explained by my colleague the Honourable Barry Bishop many times this evening and also in the previous debate 12 months ago, if you live in New South Wales and you have a boat that is only capable of travelling at less than 10 knots you are not required to have a boat operators licence.

That is not the case in Victoria. As of November last year all boat operators, regardless of the speed at which their boats are capable of travelling, require a licence. Therefore, we have inconsistency between Victorian and New South Wales boat operators. At the end of the day the National Party reluctantly did not oppose the Marine (Amendment) Bill in November last year because it was assured that New South Wales was moving in the same direction as that proposed for Victoria. We were told that New South Wales was going to follow suit. So, because of the need to have some uniformity and consistency across state borders, the National Party reluctantly agreed to the passage of the Marine (Amendment) Bill last year. But 12 months on we are now starting to realise the folly of this Parliament supporting legislation in exactly that form.

Recently the house debated one problem caused by the difference between those licence conditions. I refer to the debate on the Marine Safety Legislation (Lakes Hume and Mulwala) Bill that was passed recently in this house. Why did we need special legislation for boating on Lake Hume and Lake Mulwala? The special legislation was necessary because it was agreed by all honourable members in this house that Lake Hume and Lake Mulwala were virtually shared between Victorian and New South Wales boat operators, so it made sense that we should have uniform laws — that is, that we should not have one law for Victorian-based operators and a separate law for New South Wales-based operators. It was agreed that we should have a common law for all boat operators who use those expanses of water. What did we do? We accepted the New South Wales model, which meant that boat operators on those two expanses of water follow the New South Wales rules — that is, if they are driving on either of those two waterways a vessel that is capable of travelling at less than 10 knots they do not require to have a boat operators licence.

It is stupid that we had to come back to this Parliament and pass special legislation just because of an inconsistency between Victorian and New South Wales boating laws. Consistency in boating laws between Victoria and New South Wales is exactly what the National Party argued strenuously for in November last year . We had to pass special legislation in this house just weeks ago because of that difference. Had the government accepted the National Party's views 12 months ago, the house would not have been required to pass legislation governing boat operators on the two lakes some weeks ago. That was an anomaly. The National Party warned this house and this Parliament that that would happen because of the inconsistency between state laws.

Now we have another inconsistency, but this time it is between two categories of Victorian boat operators. We

now have one rule for boat owners and another rule for boat hirers. If you own a boat in Victoria that is only capable of travelling at 10 knots per hour or less, you still have to have a licence, but if you hire a boat that is only capable of doing less than 10 knots you do not have to have a licence. How stupid is that!

Hon. N. B. Lucas — That's ridiculous!

Hon. P. R. HALL — One would think that boat owners, who use their boats consistently throughout the year, would be far more experienced in the operation of boats than boat hirers. Why is there one rule for boat owners and another for boat hirers? National Party members say that once again, because of the government's decision not to adopt uniformity with New South Wales, we are left with a situation which actively discriminates against boat owners in this state. We have moved the reasoned amendment to eliminate that discrimination against boat owners.

National Party members are left in an invidious position because we believe that the Marine (Hire and Drive Vessels) Bill that is being debated tonight is not a bad piece of legislation and we will not be voting against the legislation itself. We believe it is probably a reasonable position for hire-and-drive vessels, but we would argue strenuously that we must remove the discrimination against boat owners in the state before we proceed with people who use boats on a hire-and-drive basis, and that is why we have moved the reasoned amendment.

The government has discriminated against owners of vessels that are not capable of travelling at more than 10 knots an hour. They include all the people who own little tinnies and who might use them to go duck shooting, as the Honourable Barry Bishop clearly enunciated in his contribution. The government has actively discriminated against the people the Honourable Ron Bowden spoke about: the yacht owners who have motors to manoeuvre their yachts in and out of various moorings. None of those is capable of travelling at more than 10 knots. The government has actively discriminated against people in the yachting fraternity and owners of boats with motors that are not capable of travelling at 10 knots per hour. The government has actively discriminated against those people, and the National Party says it is time that the issue was addressed. The National Party gives the government and the house the opportunity to vote for the reasoned amendment moved by the Honourable Barry Bishop and so address the anomaly that exists between the classes of boat operators in this state.

While I am on my feet I want to raise one point made by a constituent of mine just yesterday when he contacted me in my office. He is a pensioner from Port Albert, and he raised the matter of there being no pensioner concession for the boating licence. It means — and it was a telling point for me, Mr President — that it is cheaper for him to obtain a motor vehicle drivers licence than it is to obtain a boat licence. He would probably use his motor vehicle every day of the week, which is far more use than he would make of a boat licence, but it is dearer to obtain a boat licence with no pensioner concession. He made a good point, and I hope the government will consider it.

Hon. C. C. Broad — You are talking about a boat registration!

Hon. P. R. HALL — The minister frowns. I understand that you get a drivers licence for a period of 10 years at a cost much less than having a boat licence for a period of two years.

Hon. C. C. Broad — That's not right.

Hon. P. R. HALL — Check the figures out and see if I am wrong. If I am wrong, refute my argument. He claims it is cheaper to obtain a motor vehicle licence than it is to obtain a boat licence, and I am sure he is correct.

Hon. C. C. Broad interjected.

Hon. P. R. HALL — I welcome the minister's contribution in rebuttal of that argument. You get a car licence for a period of 10 years, and while I do not know the exact cost, it is cheaper than obtaining the boat licences that have emanated from the process the government has gone through with the regulatory impact statement to come up with a figure for boat licences.

Hon. B. W. Bishop — It's a sham!

Hon. P. R. HALL — It is a sham, as the Honourable Barry Bishop has clearly enunciated. Nevertheless, my central point and the reason I am on my feet tonight is to urge the house to support the reasoned amendment moved by the Honourable Barry Bishop on behalf of the National Party. It is absolutely ludicrous that we have a situation in Victoria where if you own a boat that is capable of travelling at 10 knots or less, you are required to obtain a boat operators licence, while if you go down and hire one — and you might do it once a year or once every two or three years — you are not required to have a licence. I do not believe any good government or any good legislation should mean that there is one rule for one group of

people and a different rule for another. That is why the National Party has moved the reasoned amendment.

I urge all honourable members, both government and opposition members, to stand behind the National Party to support the owners of tinnies and yachts with motor-driven components to assist in mooring to stop discriminating against those groups of people by supporting the reasoned amendment and taking the first step towards consistency between New South Wales and Victorian boating laws.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to speak on the Marine (Hire and Drive Vessels) Bill and to indicate that the opposition will not be opposing it. I acknowledge the reasoned amendment put by the Honourable Barry Bishop and so passionately supported by the Honourable Peter Hall, and I foreshadow that the Liberal Party will not be supporting that reasoned amendment.

However, it should not be taken that the opposition does not have considerable sympathy for the arguments that have been advanced by the National Party, and this will become clear as I proceed with my contribution. There are many anomalies in the Marine Act, and the opposition believes this bill will add to them. Opposition members believe if the National Party has its way the legislation will need to be pulled and extensively redrafted. That is not in the best interests of boating safety at this late stage. On balance we take the view that not delaying the passage of the legislation for another year would be in the public interest and in the longer term interest of boating safety.

On this fourth day of summer the opposition believes it is constructive to pass the bill but urges the government to address the problems that have been raised by the National and Liberal parties, and to address those inconsistencies in time for the next boating season and to bring further amendments to the Marine Act before this Parliament next year.

The object of the bill is to amend the Marine Act by extending the current boating licensing requirements to operators of hire-and-drive vessels that are capable of attaining a speed of 10 knots or more, and of personal watercraft. This bill is one of three introduced by the government during its time in office that have had a very significant impact on yachting, recreational boating, boat hire industries and other activities, especially in my electorate. I make the point that the opposition has consistently supported the government in its endeavours to improve boating safety, but the community has been frustrated by the ad hoc way the reforms have been introduced. We also have a number of concerns about many innocuous boating activities being caught up in the government's net, and that is clearly the nub of the argument advanced by the National Party.

The truth of the matter is that this government has never had a practical and comprehensive policy on improving boating safety. The successive amendments to the Marine Act have merely confirmed the view that the government has not had a policy that covers totally the issue of boating safety and its impact on small businesses and the community generally. It has not been able to address the issues with the community to get it right once and for all.

Last year the opposition supported the government in introducing a recreational vessel licensing system in Victoria, but that regime did not require recreational hire-and-drive vessels to be registered. That is because they are considered to be commercial vessels and are subject to regular inspections by the Marine Board of Victoria. In other words, hire-and-drive vessels did not come within the scope of the new recreational boat operator licensing system. It was, of course, a major inconsistency that registered boat owners had to abide by one set of requirements while less experienced operators who might occasionally rent a vessel were not covered at all. This bill reveals yet another inconsistency in the government's boating policy that needs to be fixed by another amendment. As I have already said, we on this side of the house would welcome further amendments in a future sitting of Parliament hopefully in time for the next boating season.

The opposition has been disappointed by the assurances given in this house and the reports of a comprehensive and meaningful national strategy. That has proved to be misleading. The house was given a clear understanding by the government that it was beholden to Victoria to ensure that it would not be the one jurisdiction out of step with the rest of Australia. The truth of the matter is that this has not proved to be the case. Victoria has in fact moved significantly in advance of other jurisdictions in the country, particularly New South Wales, where boating licences are not required for vehicles incapable of exceeding 10 knots.

The opposition has considerable sympathy for the views put forward by the National Party. I acknowledge the inconsistencies that occur in far-eastern Victoria, which were raised by the Honourable Peter Hall, and also the anomalies along the Murray River, which were so clearly illustrated by the Honourable Barry Bishop. Nevertheless, I will not pursue any in-depth discussion of that, because so far as my constituents are concerned

that inconvenience, although confusing, occurs only on a fairly occasional basis, and the arguments have been well put by the National Party. Nevertheless, it has been a very frustrating experience for me to try to justify the succession of amendments in legislation on boating safety to individual boat owners, members of yacht clubs, motorboat clubs and boat hire operators in my electorate.

I will turn briefly to the provisions of the bill. This bill extends the current licensing provisions for recreational boat owners to operators of hire-and-drive personal watercraft, operators of powered hire-and-drive vessels that are capable of 10 knots or more, operators of certain other prescribed classes of vessels, and young persons aged between 12 and 16 years who hire a powered vessel. In a sense I welcome the consistency of those requirements being introduced into the boating industry but, as I have already indicated, it is another example of a piecemeal approach that has done nothing but generate confusion in the minds of people in the boating community.

The bill will also tighten up requirements for boat hire operators to more effectively screen persons who intend hiring a boat and to provide specific information relating to boating safety. There will be an increase in the documentation required and new forms of documentation will be prepared to meet that objective. There are also a number of new requirements for information to be given to powerboat hirers. All in all, we on this side of the house welcome the tightening up of requirements for hirers of powerboats and we acknowledge the practicality of the exemption for slower moving vessels.

While I am on my feet I would like to pick up on an issue I have raised in previous debates — that is, pensioner concessions. I agree with the National Party that it would have been propitious to provide pensioner discounts to individuals for both fishing and boat licences. I have pursued that argument on previous occasions. Nevertheless, this area of pensioner concessions is one where the government has maintained its intransigence and refused to recognise the special circumstances of pensioners and holders of Senior Cards. I feel bound to put those arguments because my electorate has a larger proportion of people over 65 years of age than most other areas of the state. Many of them are asset rich and income poor and the simple pleasures of boating and fishing should be facilitated for people in their retirement.

The other point I would like to make is again one that has been brought to my attention as a result of practical consequences — that is, the prospect of hypothecation of fees and ploughing them back into the industry itself. I know that treasurers in general tend not to warm to the suggestion of hypothecated fees — they like to maintain the flexibility of licensing and registration fees being paid into consolidated revenue. However, it is high time more of an effort was made to give a transparent allocation of these fees for the benefit of the boating community. It has only been a matter of weeks since I advocated for a regular dredging program in the Mordialloc Creek by the Department of Natural Resources and Environment. I have been consistently rebuffed with the argument that it is a fairly expensive operation and one that can only be undertaken with what local boat owners believe to be insufficient frequency.

Only last week the Kingston City Council indicated that mooring fees for boats accommodated in the Mordialloc Creek will be raised. Mordialloc Creek is a very important focus of boating activities in my electorate. There are a number of boat hire-and-drive companies, the most famous of which is Pompei's of Mordialloc. It is also the home of the Mordialloc motor yacht squadron. On this question of fees and charges I urge the government to take account of the need of boat owners to have their financial burden eased rather than vice versa. In particular I say it is time that the government got fair dinkum and returned some benefits to the boating community in my electorate and elsewhere in the state.

Another recurring theme — and I believe the government will need to address this at a future date — is the provision of an exemption for yachts under sail. One of the real problems with this bill is that the government is creating yet another class of boat user with its exemption for hire-and-drive operators provided the vessel cannot exceed 10 knots. I understand and agree with the practicality of that provision and it is in the interests of the boat hiring industry which is very significant in my electorate, especially along the Mordialloc Creek. My problem is that my electorate is also the home of a number of very significant yacht clubs and lifesaving clubs which make an enormous contribution to the economy of the state in recreational boating and water safety around the bay. In particular, large numbers of young people who participate in junior yacht races and lifesaving drills depend for their safe operation on small rubber duckies that have no real capacity to travel at speeds likely to cause a public hazard. I certainly believe it is absurd to require a volunteer operator of a small rubber duckie of the type used as a tender boat for junior yachting events to be required to have a licence when operating at official club activities. These small vessels are involved

in activities such as laying race boundary markers and providing safety backup in the event of capsizes.

The introduction of this bill would have provided an ideal opportunity for the government to address some of these anomalies and it is a matter of regret that it has failed to do so. In particular, I emphasise the disincentive for volunteers to get involved in supporting junior yachties and lifesaving club nippers. I urge the government to give further consideration to existing anomalies.

Given that it is inevitable that the issue of boating licences will be revisited, I again raise the point that these motorboat licensing requirements should not apply to yachts under sail and small emergency and tender vessels. As I have said, these vessels and their volunteer operators provide support to our young seaside community in particular and should not be subjected to the rules and regulations that are more appropriately directed towards high-powered and potentially dangerous vessels.

The main point I emphasise is that if you own and operate a motor-powered vessel in this state you need a licence irrespective of the purpose of the vessel or the speed at which it operates, with the exception that if you hire a vessel that travels at less than 10 knots you do not need a licence. That is one of the major anomalies with which I take issue, and I urge the government to have another look at that problem.

It is true that this bill at least acknowledges part of the inconsistency of the 10-knot limit and has made suitable provision for it for hire-and-drive vessels. My major concern is obviously related to the need for a similar approach to non-hire-and-drive vessels, and accordingly I call on the government to acknowledge the need for some consistency of approach. However, my concern does not extend to pulling the bill and supporting the reasoned amendment put by Mr Bishop. As I have already said, I believe that course of action would be counterproductive to the short and medium-term boating safety of the community, but that is not to suggest that the issue should not be addressed in the longer term.

To require supplementary legislation and to delay a boating safety initiative on the fourth day of summer would simply add to public confusion, detract from safety and certainly not reflect well on this place. Therefore, the Liberal Party will maintain its support of the government in pursuit of improved motorboat safety, and for that reason it will not oppose the government's bill. Although the Liberal Party has sympathy for the arguments advanced by Mr Bishop and agrees that the government's program is flawed, it will not be supporting the National Party's reasoned amendment. Accordingly, I wish the bill a speedy passage through the house.

Hon. C. C. BROAD (Minister for Energy and Resources) — I rise to oppose the National Party's reasoned amendment. It has been indicated to the house that the reason for the reasoned amendment is to ensure that legislation for recreational boat operator licensing in Victoria is consistent with the requirements in New South Wales. I remind the house that this bill does not introduce anomalies with New South Wales, and nor did the earlier legislation that passed through this place to establish boat operator licensing in Victoria in the interests of increasing marine safety in Victoria.

Those anomalies exist now because Victorians who go boating on the Murray River, for example, and who are travelling at speeds over 10 knots are required to have a New South Wales boat operators licence. It is also the case that there are anomalies between a number of other states because in this country we do not have a uniform approach to boat operator licensing. Indeed, in this state there has been no requirement for boat operator licensing whatsoever.

That is why the government, in passing earlier legislation through this Parliament, opted to adopt national standards which have been agreed to and supported by all jurisdictions. The government indicated at the time that it is reasonable to expect, given that the other jurisdictions — —

Hon. R. M. Hallam — That is not what you said, Minister. You said they would come with us!

Hon. C. C. BROAD — Mr Hallam, can I point out to you that you have had a pretty damn good go in this place, and I would appreciate it if you would give me a go!

The PRESIDENT — Order! The minister has a reasonable point. The minister is making her response, and any member who has not spoken on the reasoned amendment subsequent to its being moved can speak on it. However, this is the first opportunity the minister has had and I invite her to continue.

Hon. C. C. BROAD — Thank you very much, Mr President; I appreciate your intervention.

As I was saying, the government indicated when it brought legislation before this Parliament on an earlier occasion — legislation which was supported by the Labor Party and the National Party in this house — that it was adopting national standards which have been

supported and adopted by all jurisdictions through the Australian transport ministerial council, including Victoria.

Hon. R. M. Hallam — You should be embarrassed — that is not true!

Hon. C. C. BROAD — You are the one who is embarrassing yourself, Mr Hallam, through your behaviour!

The PRESIDENT — Order! Ignore the interjections.

Hon. C. C. BROAD — At that time the government said it not only endorsed the national standards which it put forward in that legislation, but also that it believed they were appropriate because the government has a great deal of evidence that unfortunately boating accidents and fatalities are not confined to high-powered vessels travelling at high speeds. I said at the time — and I have stated in correspondence to the National Party — that over 50 per cent of recreational boating fatalities have occurred on inland waters, many of them on relatively small lakes and rivers and involving low-powered vessels. Recently the government received a report from the coroner on a tragic incident involving a number of fatalities in a very small and very low-powered vessel, which is an indication to everyone of why the national standards which were adopted in the government's earlier legislation should be supported.

In national forums I will certainly be calling for other jurisdictions to similarly adopt the national standards which Victoria has in its earlier legislation.

The fact is that this legislation is in place. On Monday I was very pleased when attending at a Vicroads office for the commencement of testing under the legislation, which proceeded very smoothly, to again see widespread public support for this very important measure to improve boating safety in this state.

On the specific matter of the bill before the house in relation to hire-and-drive vessels the government has again clearly outlined in correspondence to the National Party why it does not believe that such vessels should be equated with privately owned recreational vessels. There are very important differences with hire-and-drive vessels, which I have outlined in that correspondence and which go to matters like the fact that because they are treated as commercial vessels they are required to be under survey on an annual basis, and that that ensures among other things that they have the appropriate safety equipment. There is a whole range of measures which put hire-and-drive vessels into a different category to privately operated vessels, which do not need to meet those requirements and which can be taken into areas outside of those to which hire vessels are confined. The level of safety which can therefore be ensured is much less with privately operated recreational vessels.

Those matters were all clearly set out in the government's response to the National Party prior to the reasoned amendment being moved today. I believe that response comprehensively sets out the reasons for the government's position. For the reasons that have been stated in the second-reading debate and in that correspondence the government continues to be committed to the introduction of this important and long overdue safety initiative. This area was left outside the earlier legislation to meet a commitment to closely consult with the hire-and-drive industry. The government has done that, and I was pleased to note that the opposition at least has acknowledged the very extensive efforts the government has made to come up with an arrangement which meets the government's safety objectives as well as the needs and the sustainability of the hire-and-drive boating industry in this state.

The government's view is that there is no basis for supporting this reasoned amendment, and it calls on members opposite to support the bill before the house.

House divided on omission (members in favour vote no):

Ayes, 36

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

Noes, 6

Baxter, Mr	Hall, Mr
Best, Mr (*Teller*)	Hallam, Mr
Bishop, Mr	Powell, Mrs (*Teller*)

Amendment negatived.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

In doing so, I thank all honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

FAIR TRADING (UNCONSCIONABLE CONDUCT) BILL

Second reading

Debate resumed from 29 November; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to contribute to debate on the Fair Trading (Unconscionable Conduct) Bill on behalf of the Liberal opposition. At the outset I indicate that the Liberal Party will support the bill, which substantially replicates a significant section of the Trade Practices Act 1974 — namely, section 51AC — which relates to unconscionable conduct in trade and commerce.

The bill is an application of the unconscionable conduct provisions of the commonwealth Trade Practices Act as state law under the Fair Trading Act, and it amends the Fair Trading Act principally by the insertion of proposed sections 8A and 8B to which I intend to refer in some greater detail.

Debate interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I interrupt the debate to acknowledge a former Premier, the Honourable Joan Kirner, and welcome her on behalf of honourable members.

Debate resumed.

Hon. C. A. FURLETTI (Templestowe) — As I was saying, the second-reading speech strenuously promotes this bill as a fillip for small business, but the reality is that the bill applies across the board to any transactions — and I need to detail this — and is different in nature to the Trade Practices Act, which relates only to dealings by corporations. The Fair Trading Act applies across the board to any transactions in trade and commerce, whether between business and business, corporation and corporation, individual and individual, corporation and individual or individual and corporation, provided that the transaction engaged in in the course of trade and commerce for the supply of goods and services is of the value of $3 million or less. That is the telling factor, because the vast majority of small businesses would not have a turnover of $3 million let alone be involved in single transactions of that magnitude. So while we appreciate that, yes, small business will benefit from the amendment to the Fair Trading Act it is certainly not something which should be strenuously promoted as a small business issue.

The commonwealth Trade Practices Act 1974 contains a number of provisions that address unconscionable conduct, many of which have already been replicated in the Fair Trading Act. Indeed section 51AA of the commonwealth Trade Practices Act, which encompasses effectively the common-law or general law definition of the term ‘unconscionable conduct’, is the provision from which section 7 of the principal act was derived, and section 51AC of the Trade Practices Act is now replicated in proposed section 8A, which is inserted by clause 4 of the bill.

Currently conduct can be attested to be unconscionable in a number of ways. There is the common-law or general or equitable basis of unconscionability, which has been around for probably four or five decades and which has been incorporated in statute — that is, the equitable base for unconscionable conduct in section 7 of the Fair Trading Act, to which I referred earlier, and section 51AA of the commonwealth Trade Practices Act. Therefore we have the common law and the common law recognised in statute as bases upon which citizens can rely. However, that provision is relatively tight, and is one to which only those who have a special disability or other incapacitating condition which is taken advantage of by a person in a superior position can rely. Therefore today with the introduction and passage of the bill we have a substantial extension of those equitable principles or bases for people seeking relief from alleged unconscionable conduct.

Section 51AB of the Trade Practices Act should be referred to in that it contains possibly the first instance of consumer protection for all Australians, but it relates specifically to domestic transactions and includes

traders involved in and transactions involving the resale of goods and services.

I refer to section 51AC because proposed section 8A of the principal act is replicated almost word for word from it. The proposed provision extends to encompass all transactions, which include business-to-business transactions whether the businesses be corporations or individuals, and that is a feature of the Fair Trading Act. Whilst the Trade Practices Act relates to corporations in Victoria the Fair Trading Act applies to corporations and individuals and affords a great deal of protection to individuals who happen to consider themselves as having been taken advantage of, whether by larger corporations or anybody who is in a superior position of bargaining. There is a fine line between a superior position of bargaining and using that position unconscionably, and I will detail some of the positions shortly.

The other major amendment to the Fair Trading Act is the introduction as an alternative jurisdiction of the Victorian Civil and Administrative Tribunal. It is introduced as an additional avenue for resolution, and on some views it is appropriate that that be the case because there may be many instances where alleged unconscionable conduct is relatively clear and can be relatively easily resolved either through definition and identification or through mediation, which is one of the great aspects of making an application to VCAT.

People accept that the Victorian Civil and Administrative Tribunal is an appropriate jurisdiction in most circumstances. The opposition understands the government's intentions and objectives in seeking to use VCAT to limit the cost of these sorts of proceedings, to facilitate mediation opportunities and to expedite the resolution of these types of matters in terms of time. However, it is not without concern that the opposition accepts the government's proposition. Our concern is that VCAT already has an enormous workload. There are already enormous delays in various areas and there is a shortage of members and a shortage of funding. We cannot afford the extension of its jurisdiction, as this bill intends, to be in effect the straw that broke the camel's back. We hope the government has taken all this into account in its consideration of this understandable and supportable proposition — one that needs to be adequately budgeted for to ensure that it works.

As an aside it is worth putting on record that last year VCAT handled more than 92 000 matters and the vast majority of them were resolved. It is interesting to note that more than 70 000 of those matters were residential tenancy matters, so it handled an enormous workload. Retail tenancy disputes is an increasing area of work for VCAT, and the opposition is concerned about that.

The opposition is also concerned because of the ongoing definitional problems of what constitutes unconscionable conduct. There is no definition of it in the Trade Practices Act and the Fair Trading Act, nor has there been any effort to define it — although, as I will refer to subsequently, some indicators are provided. These areas are often technical and complex and therefore it would be inappropriate to have people go to VCAT on very difficult or possibly complex and legally fine determinations unless the personnel at VCAT are able to adequately, appropriately and correctly make the determinations that people deserve.

I will refer to one of the submissions the opposition received which indicates that it should be a matter of horses for courses and there should be appropriately qualified members of VCAT to deal with these types of problems. The most obvious examples that have arisen in terms of unconscionable conduct — and, as I said, there is no formal definition — have been in retail tenancies and franchising, but they are by no means limited to those areas. An early High Court decision which probably set the pace for this type of issue was the case of Amadio, which was a finance case in which some elderly parents who could not speak English guaranteed a loan for their son. It was held that the bank had acted unconscionably by accepting, by not properly explaining and by using its superior position.

Accordingly the remedy sought — namely, that the Amadios were not liable was sustained. This type of defence is increasingly being used in the areas of finance and securities, often in the presentation of loan documents by one spouse to another with the 'sign here' demand and without proper and adequate explanation. Those decisions have revolutionised the way banks now do business, and anybody involved in that area would be aware that all types of certificates are now required from third parties assuring and certifying that the borrowers and the guarantors are aware of what the documents contain, the legal obligations they accept and the rest of it.

That whole area is developing reasonably rapidly in finance, retail tenancies and franchising. Since the passage of the unconscionable conduct legislation at the commonwealth level in 1998, there have been four prosecutions by the Australian Competition and Consumer Commission. The two matters in franchising and retail tenancies were settled, and two were fully litigated, with the ACCC successfully having prosecuted the matter administratively on behalf of

corporations and individuals who had pleaded unconscionability.

In each instance some fairly heavy words were used in the judgments to give an indication of what unconscionability consists of. I went to the *Macquarie Dictionary* on the table and found three meanings attributed to the definition of 'unconscionable'. The first is 'unreasonably excessive'; the second, with respect to unconscionable behaviour is 'not in accordance with what is just or reasonable'; and a third, which is also indicative of what we are dealing with, is 'not guided by conscience', and the word 'unscrupulous' is used.

As I said, in the judgments handed down in the federal court words such as 'unreasonable', 'harsh', 'unfair', 'oppressive', and 'not conducted in good faith' were used. 'Good faith' is becoming a major element in determining whether conduct is unconscionable. Other words such as 'bullying' and 'thuggish' were used — and we all know what 'thuggish' means. When a person takes advantage of his or her position in a given set of circumstances to damage or otherwise diminish the position of another person with whom the relationship exists unconscionable conduct can be found.

Clearly large companies with strength and buying power, which comes from their size or economies of scale, can destroy competition in many circumstances, including, for example, with predatory pricing. Some companies that act as suppliers can adversely affect their purchasers and the bottom line of their purchasers. Landlords of prime space can go beyond demanding top rentals and conditions and can impose unfair demands on prospective or existing tenants in certain circumstances. It is in those areas where things become excessive or end up being detrimental to one of the parties involved in the transaction that some form of relief is appropriate, and it is for that reason that we support the bill.

I will briefly address the terms of the bill before quickly commenting on the second-reading speech and on a couple of press releases of the minister. The bill is not lengthy. In the first instance it clarifies that those cases of unconscionable conduct which fall within proposed section 8A will not be deemed to be equitable cases where equity demands relief under section 7 of the act. For the record and just to clarify the difference between the two, section 7 of the Fair Trading Act provides that:

> A person must not, in trade or commerce, engage in conduct which is unconscionable, within the meaning of the unwritten law, from time to time.

As I said, the unwritten or common or general law — call it what you will — is that which has been developed over the past 40 or 50 years. Section 7(2) provides that the unwritten law section:

> … does not apply to conduct that is prohibited by section 8.

Section 8 of the Fair Trading Act is a replica of the reciprocal section in the Trade Practices Act, which relates to unconscionable conduct in trade or commerce relating to domestic products, so that is to cover the ultimate consumer. We now have a situation where to maintain that conformity of application there is a provision in clause 3 of the bill which states that section 7 does not apply to conduct caught by proposed section 8A, which is inserted by clause 4.

Proposed section 8A, as I indicated earlier, extends the unconscionable conduct from that relating to domestic and consumer situations to business to business situations. I will not go through all the provisions; suffice it to say that the new section relates to the supply or the possible supply of goods and services and that the acquisition or possible acquisition of goods and services between two parties in the course of trade or commerce applies to all corporations other than those listed as public companies, and it applies to those goods and services which have a value of $3 million or less. I referred to that earlier in my contribution and indicated that that is hardly restricted to small business.

The significant subsections are (3) and (4) where some 12 — depending on how they are counted — indicators are given for the purposes of assisting a court or tribunal in considering whether the conduct which has been engaged in is unconscionable. Without going through each of those, I will identify some indicators in proposed section 8A(3):

> (a) the relative strengths of the bargaining positions of the supplier and the business consumer;
>
> …
>
> (c) whether the business consumer was able to understand documents …

As I said, that was one of the early instances of resolution that conduct was unconscionable. The proposed new section also provides that instances of undue influence or pressure or unfair tactics are to be taken into account.

In proposed section 8A(3)(d) that conduct on the part of the supplier is deemed to be unconscionable even if the supplier was not aware that an employee or a person acting on his or her behalf or its behalf in relation to that supply of goods and services was acting

inappropriately, so it is a strict liability pursuant to the provisions of the bill.

Although proposed section 8A(3) refers to a supplier and a business consumer, meaning the business-to-business nexus, proposed section 8A(4) relates to an acquirer and a small business supplier. There is a change of definition, which I am told is for the purpose of identifying the goodie and the baddie, and also relates to business-to-business and business-to-individual situations, assuming the acquirer is an individual. Proposed subsection (7) limits the price of the goods to $3 million, pursuant to which the protection under the act applies, which is the same as the level set out in the Trade Practices Act.

Proposed section 8B is a lengthy provision which outlines in considerable detail how the price for the supplier acquisition is to be calculated if it is not obvious. As I said, it is important to do that from the perspective of a complainant, because it could be relatively easy to load the price of an acquisition so that it falls outside the limit. The provision is intended to be clear on what is and what is not to be included. Proposed section 8B(5) includes, for example, the capital value of any loan or loan facility as part of the pricing determining what the total amount is for the purpose of the bill.

It is a complex piece of legislation, notwithstanding that it has been in existence at the federal level for a couple of years. It is appropriate for me to direct the attention of the house to the fact that the government is in the course of conducting its retail rent review, and a number of issue papers, option papers and discussion papers have been prepared. The government is pondering submissions to a discussion paper that has been released. A number of recommendations in the discussion paper related specifically to this area of unconscionability between the landlord and the tenant. Indeed, the New South Wales and Queensland retail tenancies legislation enacted in July and August of this year introduced the unconscionability provisions as part of the retail tenancies legislation.

I received submissions from people involved in the retail tenancy sector, and I am sure the minister has received the same submissions, which indicate that retail tenancies have specific problems and that the unconscionability provisions should have been included in the retail tenancies legislation. I am sure the minister is aware that people in the retail tenancy sector were surprised by this bill to the extent that the Property Council of Australia issued a media release saying that it was caught off guard by this surprising piece of legislation because it had put in a very lengthy submission on this whole area as a result of the government's call for submissions under the retail tenancies review.

There seems to be some element of confusion within the government as to how this is working. In his contribution in the other place the Parliamentary Secretary for Justice indicated that the commonwealth legislation was now mirrored in Victoria, New South Wales and Queensland. I see the minister is shaking her head. She may be aware of how it works, but obviously the honourable member for Richmond is not. I am sure the minister knows that the commonwealth legislation in this area is now reflected in Victoria, but not in Queensland and New South Wales. In Queensland and New South Wales these provisions are contained in the retail tenancies legislation, and the minister would also be aware that the position on unconscionability applying to all contracts in New South Wales is in its Contracts Review Act 1980, where section 9 contains similar provisions for the purposes of determining whether a contract is unjust.

I hope the minister takes on board the recommendations that have been made. It would be somewhat confusing and possibly difficult to administer if we ended up having unconscionability provisions in the Fair Trading Act as well as in the Retail Tenancies Act. I do not know if the minister would care to comment in her third-reading contribution on whether there is any intention to add unconscionability provisions to the proposed new legislation, which is expected to be introduced in the next sittings, but I would be grateful for some indication if that is the case.

I very much acknowledge, and it has been brought home to me, that retail tenancies have their own peculiar problems. There are areas where landlords need as much protection as tenants. I am happy to put on record the comments I received from the executive director of the Shopping Centre Council of Australia, Milton Cockburn. I hope the minister has received this letter, because it was sent to her on 22 November. It says, in part:

> … the draw-down must be accompanied by appropriate legal safeguards.

The Shopping Centre Council of Australia considered appropriate legal safeguards, and the letter says:

> The legislative regime for unconscionable conduct matters should:
>
> > be dealt with only by a judge of Federal or Supreme Court status and not by members of lower level bodies with less expertise. VCAT has the capacity to satisfy this standard of judicial administration.

What it is saying is that the president of the Victorian Civil and Administrative Tribunal — the Supreme Court judge — should be the appropriate arbiter and tribunal to hear matters of this nature and complexity.

In the second dot point Mr Cockburn says that the legislative regime for unconscionable conduct matters should be subject to appeal in the Supreme Court by right on matters of law and by leave of the court on matters of fact. He points out that Queensland allows a right of appeal on matters of fact in cases involving more than $50 000. The minister would be more than aware of some of the complexities occurring at the moment with regard to the Victorian Civil and Administrative Tribunal with the difficulties of appeal to the Supreme Court and the associated costs. It is an area I hope the government will investigate.

The third dot point states that legal representation should be permitted by both parties. At the fourth dot point he suggests that remedies be limited to monetary compensation. A further dot point refers to filing fees being increased to deter frivolous or vexatious claims and to enable them to be dismissed with costs awarded. Finally, as is generally accepted in legal cases, such a legislative regime should provide for costs to follow the event. Mr Cockburn goes on to say, and this is significant:

> These safeguards are covered in the New South Wales and Queensland retail lease legislation.

I should also put on the record that the view of the shopping centre council is that the great majority of tenancy disputes will be successfully resolved through mediation and the proposed low-level grievance settling body. It is an encouraging statement from the council, and I hope the minister and the government will pay heed to what I believe is very good advice.

I consulted widely, and the honourable member for Bentleigh in the other place has listed all the groups with which the opposition consulted. The general consensus was that this would be good and sustainable legislation. The Law Institute of Victoria was very favourable and considered that it will be very important because currently tenants are loath to take on disputes with landlords because they need to have their leases renewed some time down the track.

We support the government in this initiative and look forward to seeing how the bill is implemented. However, I conclude by drawing attention to the minister's media release of 1 November, where the legislation that is before the house was announced. In the media release the minister states:

> The changes will result in less legal red tape and costs for Victoria's small business.

It is a fairly bland statement that has no support anywhere. I take issue with it because I am not sure that it will reduce red tape and reduce costs. Nevertheless, the statement was made. The release continues:

> This change will mean small business owners in Victoria, including retail tenants, could take their grievances to the Victorian Civil and Administrative Tribunal …

The minister is aware that retail tenants are already there, and it will allow other people who feel aggrieved on unconscionability to go to VCAT. I am not sure who is writing the minister's press releases. It further states:

> Importantly, the changes … will go further than the provisions of the Trade Practices Act … so that they now apply fully to unincorporated traders as well as incorporated traders.

As the minister is aware, there is a distinct difference between the state and federal legislation. However, the point I want and am obliged to make for the record is that the minister in typical style uses the press release as a chance to have a whack at the opposition. It states:

> The Bracks government has been pushing for this protection for small business for two years, but has been held back by a tardy federal government who delayed introducing amendments to the Trade Practices Act which would have enabled the states to utilise this provision.

The statement was released on 1 November just before the federal election. The reality is, as the minister is well aware, that that legislation was passed by the federal government in June.

The states of New South Wales and Queensland had their retail tenancies legislation ready to go and introduced it in July. We are now in November. If it was so important why was the minister not ready like New South Wales and Queensland? I commend the bill to the house.

Hon. R. A. BEST (North Western) — I congratulate the Honourable Carlo Furletti on his contribution. He was very succinct in his explanation and coverage of the bill and all its sections, therefore I will not be canvassing the bill as widely as my colleague did or repeating many of the points he made. However, I will be providing some examples that are important to put on the record.

The bill before us is the Fair Trading (Unconscionable Conduct) Bill. The explanatory memorandum states that the purposes of the bill are:

> … to amend the Fair Trading Act 1999 to prohibit persons from engaging in unconscionable conduct in business

> transactions, and therefore to enable persons to litigate disputes of this nature in the Victorian Civil and Administrative Tribunal under that Tribunal's fair trading dispute jurisdiction under the Fair Trading Act 1999.

As I said, I do not intend to make a long contribution. The National Party has considered this bill and we certainly will not be opposing it because we are also of the opinion that trading circumstances for small business are very difficult. The expenses and overheads incurred by small business often mean that a very small profit is made, and the outlays and the cost of doing business are expensive. We appreciate that it is sometimes very difficult to take on legal disputes because of the potential costs involved. Instead of pursuing an issue based on principle, many small businesses take the pragmatic view and say, 'Well, what's the use? I don't have the power to take on one of the big companies or the big franchise outlets', and invariably they do not continue through with the action.

Having operated a number of small businesses in the past, I believe that anything put before Parliament which assists the operation of small business and provides access to fair play and a level playing field is an important measure to support. As I said, the National Party will not be opposing this bill. We believe that stimulation of the small business sector is one of the most important decisions and one of the important initiatives that governments of any persuasion must pursue.

The reason we have supported this bill is that it is an acknowledgment that the Labor government went to the previous election with a policy that said it would introduce unfair and unconscionable trading clauses in the state Fair Trading Act of 1999. This bill effectively replicates section 51AC of the federal Trade Practices Act 1974, which prohibits unconscionable conduct in business transactions of less than $3 million.

Under the proposed changes, small traders, including the retail tenants Mr Furletti has referred to, will be able to take their disputes to the Victorian Civil and Administrative Tribunal (VCAT). That will hopefully mean that many of those small businesses will not be confronted by the very daunting costs associated with representation in legal disputes. Anybody who has ever undertaken a case to seek retribution within the legal system knows that while the principles may be absolutely appropriate the costs unfortunately can be quite prohibitive. Any opportunity to reduce the costs of small business being able to achieve a fair outcome needs to be supported. Small business operators need to have access to a cheaper and more affordable course of action. I include franchises when I refer to big business.

Unfortunately if there is a dispute people who are franchisees can be unfairly affected and their profitability reduced. As Mr Furletti said, the federal government passed its legislation in July this year. Mr Hockey, the Minister for Financial Services and Regulation, in the debate in the federal Parliament said:

> We are putting through this bill with one particular issue in mind — that is, to provide protection against unconscionable conduct, as well as the range of other sanctions in place. This bill will allow the states to draw down section 51AC of the Trade Practices Act dealing with unconscionable conduct. It will possibly overcome a constitutional inconsistency which invalidates state legislation. It will provide greater access to remedies for small business under state retail tenancy legislation. The limit on damages with regard to unconscionable conduct and business transactions will also be increased to $3 million, providing greater compensation for small businesses that have experienced such conduct.

Like the Liberal Party, the National Party consulted widely and in particular with the Victorian Employers Chamber of Commerce and Industry. In its response to me VECCI states:

> Thank you for your letter of 1 November 2001 concerning the new provisions introduced into the Victorian Parliament relating to unconscionable conduct …

It goes on to say:

> VECCI welcomes these provisions on the basis that they should increase protection for a broader range of small businesses and lower costs for business in the event of a dispute.

That summarises many of the things that I want to say. I am pleased with the briefing we had from the department and I would particularly like to acknowledge the briefing provided by Patrick L'Estrange. The supporting information he provided assisted the National Party, not so much in reaching the position that it has reached but in providing information that outlined the cases of unconscionable conduct where the Australian Competition and Consumer Commission has taken to court franchisors and other people who have been litigated against.

I thank the department for its help and assistance in providing that information. I do not need to read it into *Hansard* but it was an opportunity to clarify some of the practices that occur between franchisees and franchisors, landlords and retail tenants. It was an opportunity to highlight some of the practices that unfortunately occur throughout the business community.

I have seen in my business pursuits in the past the opportunities for purchasing either through semitrailer loads or bulk buying — the opportunities that are afforded to people who can purchase in quantity — as

well as the disadvantage that is sometimes associated with being a smaller player and not having the critical mass that enables all business to compete on a level playing field.

The last thing I would like to put on the record is a quote from an article in the *Herald Sun* of 5 November which is the basis of the minister's press release. It is by Matthew Charles and states:

> Small business reform advanced last week with new laws aimed at stopping big business treating small business poorly.
>
> …
>
> Similar moves have already been made in Queensland and New South Wales.
>
> …
>
> As part of the change aggrieved small business, including retail tenants who have long pressured for such laws, will take their grievances to the Victorian Civil and Administrative Tribunal.
>
> In the past it was a matter for federal and state courts.
>
> 'This is a much better option,' Ms Thomson said.

The article states that the executive director of the Australian Retailers Association Victoria, Timothy Piper, also welcomed the bill. So the major players in small business in Victoria — the Victorian Employers Chamber of Commerce and Industry and the retail traders — are welcoming this bill.

The only thing I would like to address relates to the circumstance that is arising in Victoria of everything being referred to the Victorian Civil and Administrative Tribunal for resolution. I accept the point made by Mr Furletti that holders of retail tenancies have already had the opportunity of gaining access to VCAT, but again we find that another form of dispute will be resolved by application to that tribunal. I want a commitment from the government that appropriate and adequate resources will be provided to VCAT so that the intention of this bill to allow for a cheaper alternative to the legal process for resolving disputes will ensure that people can get through the system.

I am looking for assurances from the minister that VCAT will be properly resourced and that there will be reasonable access to the dispute resolution process. I cannot say I want an assurance of reasonable results because that would be pre-emptive. It is getting to the stage where everything is being lumped on VCAT for it to be the arbiter. That requires resources, and the government needs to provide a commitment that VCAT will have the appropriate expertise to handle all these issues.

The National Party will not be opposing this bill, because it will be of assistance to small business operators. With those few words I wish the bill a speedy passage through the Legislative Council.

Hon. S. M. NGUYEN (Melbourne West) — I would like to make a contribution on the Fair Trading (Unconscionable Conduct) Bill. The government welcomes the support of this bill by the National and Liberal parties. The reason the bill is before the house is to honour the 1999 election promise given by the Bracks government to take care of small business. The government wants to provide protection to the community through fair trading. More needs to be done to provide good service while at the same time protecting businesses. The government plays an important role in enacting legislation to provide a safety net to safeguard against predatory trading practices.

People want to do business smoothly and efficiently, otherwise they will get into trouble. That happens every day when people take the wrong action, do bad things when doing business with others, end up fighting and sometimes go to court. But that is not always the answer because at the end of the day they have to pay more money in legal fees than they make in business.

The bill amends the Fair Trading Act 1999 by inserting proposed sections 8A and 8B. They are based on section 51AC of the commonwealth Trade Practices Act 1974, which prohibits unconscionable conduct in business transactions where the price of the goods or services is $3 million or less. Section 51AC is broader than the general law. It is more useful for traders than the general law of unconscionable conduct because it takes into account the capacity of the weaker party and the conduct of the stronger party. The weaker party has more say and their fight with a stronger party is fairer.

Two benefits are achieved by drawing down section 51AC into the Fair Trading Act. Firstly, it will extend protection to unconscionable conduct committed by an unincorporated trader against another unincorporated trader. There are people in the community who do business but they are not incorporated traders. Section 51AC does not extend to that conduct because the commonwealth can only regulate conduct involving an incorporated trader.

Secondly and more importantly, the draw-down will give all traders, including retail tenants, access to the Victorian Civil and Administrative Tribunal with its less formal procedures, cheaper application fees and strong emphasis on mediation. Under the current system small traders can only access section 51AC through the Federal Court of Australia and the state

courts because the Trade Practices Act does not confer jurisdiction on tribunals such as VCAT.

Protection of small business from unconscionable conduct in the Trade Practices Act was originally recommended in 1990 by the House of Representatives Standing Committee on Industry, Science and Technology report entitled *Small Business in Australia: Challenges, Problems and Opportunities*. The Keating government drafted legislation for this in 1995.

There have been several cases under section 51AC, and some significant victories for small traders. Two cases have been settled before trial and the Federal Court has entered consent orders. The first was against a Cheap As Chips franchisor who terminated or suspended dissenting franchisees' franchise agreements rather than negotiate their disputes about the money owed to them. The other case involved a food court landlord who attempted to destroy the business of a tenant by authorising other stallholders to sell food of the same kind as that exclusively reserved to the tenant and at prices lower than their leases permitted while insisting that the tenant adhere to the lease prices. The government wants to prevent that sort of thing happening again.

Other honourable members have mentioned that the bill will create more work for the Victorian Civil and Administrative Tribunal. That is true, because the government would prefer parties involved in fair trading disputes to go to VCAT to get things sorted out. It is an easier way of resolving such disputes than going to a formal court, which costs a lot of money, takes a lot of time and ends in neither side winning. The Victorian Civil and Administrative Tribunal is more flexible and informal than a court and the application fees are lower.

I am sure the minister will take the responsibility to ensure that VCAT can satisfy the needs of the community and in particular the people to whom this legislation applies. I would not be surprised if people with fair trading disputes use VCAT more than they did before, because that is the only way for them to resolve their problems.

Other honourable members have mentioned that people from non-English-speaking backgrounds who have to sign leases as tenants of shops are sometimes disadvantaged by their lack of English and their lack of understanding about what has to be done. Also, when disputes arise it is harder for them to discuss them with other people. I am sure the Victorian Civil and Administrative Tribunal will take into account the difficulties experienced by people with non-English-speaking backgrounds or disabilities and ensure that they are not misled by other people and do not lose their fight because the opposing party is stronger. The fair trading legislation will make sure that both parties play a fair game on a level playing field. The VCAT system will ensure that a disadvantaged party will have a fair say in a dispute.

The government is making a commitment to the Victorian community to take care of small business, which is a very important part of our community. Small business helps many families in the community by providing jobs, and the bill will help ensure that people in small business will not face hardship or bankruptcy because they have misunderstood or been used by other parties. The government is committed to working with and listening to the small business community, because it creates jobs for the community.

I very much enjoy the relationship I have with small business in my electorate. Sometimes business people tell me how hard they are working from day to day while at the same time raising their families.

The government is working out schemes so that everyone has a better and fairer system. I support the bill before the house.

Hon. G. B. ASHMAN (Koonung) — I rise to make a contribution to the Fair Trading (Unconscionable Conduct) Bill, noting there is no opposition to these amendments. Indeed, they are welcomed by all parties.

The broad purpose of the legislation is to prohibit persons or corporations from engaging in unconscionable conduct. It is an issue that has been on the agenda for many years. I can recall from my time with the State Chamber of Commerce and Industry and as the executive director of the Small Business Association of Victoria that this was an issue probably as early as 1983. It is an issue that has progressively been dealt with by governments. What we are seeing with this bill is the culmination of the coverage right across the small business sector. To date business has been protected through the federal Trade Practices Act and to some extent through the Fair Trading Act. This bill extends that to all those people who are unincorporated, who are in partnerships, or who are sole traders. That is most welcome.

The legislation replicates the provisions of the Trade Practices Act in almost all areas. It allows for matters to the value of $3 million per transaction to be dealt with under the new jurisdiction, with a reference to the Victorian Civil and Administrative Tribunal (VCAT). That action simplifies the process for small business and, most importantly, reduces the costs of taking

action by small business. It provides an opportunity for small business to be on an equal footing with the major corporations.

The opposition has been advised through our briefings that the actions taken through VCAT are intended to be relatively low cost, although both parties will have legal representation if they so desire. One of the key features that I find attractive is the mediation process that is envisaged. Many disputes arise because there has been a breakdown of communication between the trading parties, quite often at an early stage. Once it starts to break down, it is almost impossible to recover the situation and get the parties to talk.

I can comment from my experience with the chamber of commerce that on more than a number of occasions the tribunal would bring parties together to negotiate disputes. Frequently a dispute involved a small retailer trying to negotiate their tenancy agreement with a landlord who was a significant property holder and obviously in a dominant position, and the bargaining positions were quite uneven. Invariably the negotiation occurred near the end of a lease when a tenant was conscious of the need to get a new lease to continue a business and the tenant had run out of time to trade out of the business if the lease was not renewed.

In many cases we were successful in bringing the parties together and negotiating, so I understand the real value of a mediation process. The legislation picks up the trader-to-trader disputes, the franchisee-to-franchisor disputes and other trading disputes that arise from time to time. It is important that the legislation picks up the franchising sectors because it is one of those sectors that over the years has presented some difficulties. Quite clearly there are numerous occasions when a franchisee has been significantly disadvantaged and is in a position of not being able to negotiate with the franchisor. It invariably happens when the franchisor not only owns the site on which the franchisee operates but is also the supplier of the goods and services to that business. In those circumstances the franchisee is not in a strong position to negotiate and it is obvious that the franchisor holds all the aces.

The definition of unconscionable conduct, however, is still quite unclear and case law will determine what is seen to be unconscionable conduct. If we were to ask all honourable members to define it we would have 44 different definitions of what constitutes unconscionable conduct. There is already some case law in place, and that has been developed through actions that have taken place in the Federal Court, but as honourable members understand, using the Federal Court is an extraordinarily expensive way to settle a dispute.

If I have some concern here it is that Victorian Civil and Administrative Tribunal will now start to develop this case law, and I question whether it has the skills to carry out this function adequately. I urge the minister to look long and hard at the resources available within VCAT that can be directed towards developing this definition of unconscionable conduct, because it is one that will evolve rather than be presented to us. We know there are about 12 areas which are reasonably clearly defined, and they relate to the strength of the supplier–purchaser positions where one party is in a dominant position. We are aware that under the act action can be taken in all circumstances where unconscionable conduct is suggested to occur, but that is somewhat vague.

In a number of notable cases unreasonable conditions have been imposed by suppliers, particularly in the retail sector and to a lesser extent in the manufacturing sector, and they are matters that will come within the ambit of the legislation. The conditions imposed can vary. It can be a requirement to take three months stock as opposed to what might be required for the next couple of weeks, a requirement to take out excessive advertising, a requirement to participate in other promotional activities or a requirement to take part in discount programs.

Of course, if you are running a small business your costs are known, your margins frequently are tight, and the imposition of additional conditions can destroy your profitability for that month or for the year.

Another provision addresses whether the purchaser could have found a better deal than from the original supplier. This is open for interpretation and, as we know, with most suppliers volume discounts come into play and prices will vary dependent on the volume. That is a difficult area to adjudicate on, but it nevertheless ought be dealt with and can be dealt with under this provision.

As I said at the outset, franchisee and franchisor disputes are common. I allude to a couple of sectors where we know there are significant problems. One that comes out of the automotive sector is the franchise agreements of some of the new car dealers. Over the past 18 months we have noted a move by some of the manufacturers or the importer/distributor groups to look at master dealerships. In the process of moving to these master dealerships they have sought to terminate the franchise agreements of some of the smaller franchisees, and these are people who in many

instances have been selling that product for 20 to 30 years.

Hon. K. M. Smith — Loyal dealers.

Hon. G. B. ASHMAN — Very loyal dealers who have built up a good clientele but are not achieving the mass volumes that some importers believe they should be. Nevertheless, they are serving a local community and doing it well. Subaru is establishing a master dealership program and in the process removing some of the people who have been very loyal to it, which is a bit rough on its part.

Hon. K. M. Smith — That is unconscionable conduct.

Hon. G. B. ASHMAN — I would deem it to be unconscionable conduct, and under this legislation there may be an opportunity for some of those dealers to take action because their franchise agreement would fall below the $3 million threshold. While their turnover would not, I think their goodwill would be well below that figure. In a number of instances franchisees of some of the major convenience store groups have had similar problems when renewing their franchise agreements, and goodwill payments have been sought. It is questionable whether the goodwill is owned by the franchisor or the franchisee.

Another hotly contested area is that of the service station sector, where oil companies have argued that the goodwill generated from a particular site is owned by the brand and has not been generated by the retailer. Once again, people go to some of those sites because they get good service: they like the appearance of the attached shop and the service they get from the staff. In my view that constitutes a significant component of goodwill and ought to be protected.

The legislation has support from all business groups, certainly the Victorian Automobile Chamber of Commerce; the Australian Retailers Association; the Master Builders Association of Victoria; the Victorian Employers Chamber of Commerce and Industry, the successor to my old firm; and the Property Council of Australia.

The legislation provides a number of options for small business to resolve disputes and makes it possible for those unincorporated businesses, partnerships and individuals to take action to redress the inequities that occur from time to time. The legislation is a step forward, and we welcome it.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That this bill be now read a third time.

In so doing, I thank the Honourables Carlo Furletti, Ron Best, Sang Nguyen and Gerald Ashman for their contributions. The Honourable Carlo Furletti raised two issues on which he sought a response, one in relation to unconscionable conduct specifically relating to the retail tenancy legislation and the review that is currently being undertaken. We have not finalised whether there is any requirement for it to be repeated in the retail tenancy legislation. Discussions have been entered into with the parties, and at this point it has not been finalised.

The Honourable Ron Best referred to the resourcing of the Victorian Civil and Administrative Tribunal. The government will be keeping a close monitoring eye on VCAT's capacity to deal with unconscionable conduct. VCAT was consulted on the bill and its ability to meet cases that may come before it. From advice received from VCAT we believe that that will be the case. I reiterate the importance of mediation in the process, because one of the strengths is that the unconscionable conduct provisions in the Trade Practices Act are replicated in Victoria in the Fair Trading Act.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

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

That the house do now adjourn.

Knox hospital

Hon. W. I. SMITH (Silvan) — The matter I raise with the Minister for Industrial Relations for the attention of the Minister for Health in another place regards the outer east health service planning review that was held last year to look at a range of hospital services available to people. The local council made a submission to that review process because it is concerned that there is no comprehensive, accessible

and equitable health service available to Knox residents in the form of a tertiary health service.

The impact of the Bracks government turning its back on the outer east and not building a tertiary hospital in Knox means the residents have to travel long distances for health care and have reduced health care services locally. The submission made by the council expressed disappointment that the government will not build the tertiary hospital at Knox. It has written to the government asking why it is not building the hospital and whether it will provide a clear explanation for the reasons the proposed Knox hospital is not proceeding. I call on the Minister for Health to review his decision not to build a Knox tertiary hospital and ask why the Bracks government continues to ignore the outer east. I ask that the Labor government build the much-needed tertiary hospital for the people of the outer east.

Police: Bethanga station

Hon. W. R. BAXTER (North Eastern) — I desire to raise with the Minister for Sport and Recreation for referral to his colleague the Minister for Police and Emergency Services in the other place the issue of a replacement for the one-man police station at Bethanga in north-eastern Victoria in the Shire of Towong. About three or four months ago the resident police officer at Bethanga was transferred to Jamieson, to Jamieson's good luck and Bethanga's sorrow. Nevertheless the community was prepared to accept that transfer in the full expectation that a replacement would soon be taking up residence in the police house.

Disappointment is beginning to set in because no replacement has as yet appeared on the scene. The house, garden and police station yard are now overgrown with grass and the place is beginning to detract from the ambience of the village. With the summer coming on and the influx of tourists that Lake Hume attracts it is essential that a police officer be appointed and take up the position at Bethanga as early as possible. I invite the minister to give the matter his attention.

Walking: depression strategy

Hon. G. D. ROMANES (Melbourne) — I raise a matter with the Minister for Sport and Recreation. Last week I was at a celebration of volunteers who work with the Kensington Community Centre and the Doutta Galla Community Health Service. The volunteers undertake tasks such as working in a homework centre, driving a community bus and administering community organisations, but a couple of groups have established walking against depression or WAD groups. The WAD volunteers team up with a person suffering from depression to provide companionship and to encourage people who are often withdrawn and isolated out of their homes to do some physical exercise.

The minister was involved in a government forum a couple of weeks ago to develop a walking strategy with a whole-of-government approach, and on various occasions the minister has talked about walking school buses, walk and talk programs and the importance of the metropolitan strategy that is being developed to influence planning decisions and to encourage walking in our community.

Given the minister's comments and actions which emphasise the importance of walking, I ask him to consider a role for programs such as the walking against depression program within the development of the government's walking strategy.

Casey: maternal and child health funding

Hon. N. B. LUCAS (Eumemmerring) — I direct my request to the Minister for Small Business, representing the Minister for Community Services in the other place. The City of Casey has a population of 186 000 and after Brisbane and the Gold Coast is the third fastest growing municipality in Australia. In the past 13 weeks it has approved an average of 80 house permits per week.

The City of Casey has the highest birth statistics in Victoria, but funding for maternal and child health, which is the issue I raise tonight, is unfortunately based on retrospective figures — that is, figures for births in the past. Over the past three years the number of clients in Casey has risen from 17 820 to 18 081 and 18 145. From 1998–99 to the current year the contribution by council has risen from $1.671 million to $1.79 million. Casey council is now meeting 64 per cent of the maternal and child health costs. The calendar year birth notices have risen from 2996 in 1998–99 to an estimated 3200 for the current year.

The funding basis adopted by the government states there is no anticipation for growth, no recompense for coordination or management, no capital funding for new centres and no funding for information technology communications. The council made a request to the minister for a meeting on 2 October. On 8 October the minister issued a press release saying there was sufficient funding for the Casey council. On 25 October the minister indicated she was too busy to meet with the council, so it made a submission to her requesting $35 000 for the shortfall in funding and $30 000 to undertake a service review. Then yesterday, 3 December, the council received an email from the

minister's office saying, 'Sorry for the delay but a formal response will be received next week by the council'.

That is not good enough. I ask the minister to give serious consideration to the concerns documented in the City of Casey's submission with a view to providing sufficient funding for the current inadequate maternal and child health services in that city. The government should examine its funding program, particularly in light of the significant growth of that municipality.

Workcover: premiums

Hon. B. W. BISHOP (North Western) — I direct to the attention of the Minister for Industrial Relations, as the representative in this place of the Minister for Workcover, Workcover costs for the Mallee Track Health and Community Service, which have increased 59 per cent in 12 months. I understand the government claims that its Workcover changes have increased premium rates by an average of 15 per cent, but this is clearly not the case for the Mallee Track Health and Community Service. The *Sunraysia Daily* has reported on this issue.

All rural health services work to strict budgets and cannot afford to be forking out more money due to the enormous increases in Workcover premiums. This is not the fault of the community service or country health service providers. This is the responsibility of the Labor government, which changed the rules for Workcover with the full knowledge that this sort of cost increase would occur. I ask the minister what he plans to do to alleviate the unexpected increase in costs for an expenditure that cannot be avoided by our well-run and hardworking health providers in country Victoria.

Marine and Freshwater Resources Institute: relocation

Hon. E. C. CARBINES (Geelong) — I raise a matter for the attention of the Minister for Energy and Resources. The Geelong Province which I represent contains the Marine and Freshwater Resources Institute, a national and international institute of renown. MAFRI is located in the Borough of Queenscliffe on the harbour and is a very dilapidated facility. It shares its site with the Marine Discovery Centre, the educational arm of MAFRI.

Having visited MAFRI and the Marine Discovery Centre many times, I can attest to the inadequate nature of the facility, which basically consists of a collection of portable buildings. Nevertheless, the people of Queenscliff and Point Lonsdale are very proud to have MAFRI located in their municipality. Indeed, MAFRI, its scientists and their work are overwhelmingly supported by the Borough of Queenscliffe and its ratepayers.

The Bracks government has decided to provide a state-of-the-art facility for MAFRI and plans to build this facility at the Narrows on the shore of Swan Bay. I would appreciate the minister's advice regarding any progress being made on the relocation of MAFRI to the Narrows in Queenscliff.

Chernobyl fundraising event

Hon. C. A. FURLETTI (Templestowe) — I refer to the Minister for Industrial Relations, as the representative in this place of the Premier and Minister for Multicultural Affairs, a recent fundraising event organised under the auspices of the Australian Federation of Ukrainian Organisations by its chairman, Mr Stefan Romaniw, who honourable members will recall is the immediate past chairman of the Victorian Multicultural Commission.

The charity cocktail party conducted last Monday evening, 3 December, was the major fundraising event of the public campaign to raise funds and medical equipment to assist the thousands of adults and children, many very young, who are still suffering from the dreadful aftermath of the Chernobyl nuclear disaster, which occurred more than 15 years ago.

In partnership with the Herald and Weekly Times, and the commitment of Lauda Air to deliver the in-kind donations, a well-attended and successful function was held. I am informed by the shadow parliamentary secretary for multicultural affairs that considerable funds were raised. The campaign represents another example of the great generosity and sense of responsibility which Victoria's culturally and linguistically diverse community continues to display to those less fortunate in other parts of the world.

I acknowledge the time constraints to which all members of Parliament are subject, in particular the difficulty that the Premier and the Minister assisting the Premier on Multicultural Affairs and the Parliamentary Secretary to the Premier have with attending those functions. Nevertheless, I seek an assurance from the Premier that meritorious initiatives such as that shown last Monday be afforded appropriate recognition by ensuring that the government is represented at those types of functions by at least one of its 58 members.

I also congratulate all those who were involved with the campaign for this very worthy cause.

Bendigo: Queen Elizabeth Oval

Hon. R. A. BEST (North Western) — I raise an issue for the attention of the Minister for Sport and Recreation that relates to the Queen Elizabeth Oval in Bendigo and the 1999 election promise made by the Labor government to provide $150 000 for lighting. I am pleased to say that an agreement has been reached between the City of Greater Bendigo and the government for some $400 000 worth of works to occur at the QEO. However, in the last couple of years it has been identified that if money were to be provided then a complete upgrade of the facility will need to be undertaken.

There is a very old heritage grandstand, which is a fantastic building, but there are inadequate facilities in the changing rooms. I have raised this matter on a number of occasions with the minister and at a local level.

I have had the pleasure of playing football at the QEO for 20 years. It is a fantastic facility, but now that Bendigo has two teams, one in the Victorian Football League and another, the Pioneers, represented in the Australian Football League, it is embarrassing when competing teams from other areas of the state are faced with the very cramped and inadequate changing facilities and spectator areas.

Over the last 12 months, the City of Greater Bendigo has undertaken a review and has identified that a project of $1.6 million to $2 million is required for an adequate upgrade at the Queen Elizabeth Oval.

Will the minister give an assurance that money will be allocated in the 2002–03 budget to ensure that the urgent upgrade of the QEO will proceed immediately?

Sandringham and District Memorial Hospital

Hon. J. W. G. ROSS (Higinbotham) — I direct a matter to the Minister for Energy and Resources representing the Minister for Environment and Conservation in the other place. I refer to an agreement for a portion of land on the Sandringham hospital reserve that is intended to be used to extend the capacity of the Fairway Hostel for the delivery of aged care services.

Apparently an agreement was reached between the board of Sandringham and District Memorial Hospital, the Sandringham Aged Care Association and the council of the former City of Sandringham. However, the process appears to have become hopelessly bogged down in getting the necessary departmental and ministerial approvals to lease or otherwise excise the required land from the hospital reserve.

On behalf of the Fairway Hostel I have had representations from Mrs Lesley Falloon, who has become frustrated at the process that needs to be gone through to obtain this land so that extensions can be made to the hostel.

I understand the Minister for Environment and Conservation needs to consent to the proposed use of the hospital reserve and the hostel also needs the approval of the Department of Human Services to do the work proposed.

Obviously, someone in government has to accept personal responsibility to get all the stakeholders together and ratify a decision that has apparently been agreed to in principle. Accordingly, I ask if the Minister for Environment and Conservation could take the initiative and inquire into the matter and if necessary consult with her colleague the Minister for Health with a view to obtaining a speedy resolution of the issue.

State Revenue Office: Shepparton agent

Hon. E. J. POWELL (North Eastern) — I raise an issue with the Minister for Energy and Resources as the representative in this place of the Minister for State and Regional Development. I have just received a letter from Mr Peter Johnson, who is a partner of Camerons Lawyers in Shepparton. The firm has a major concern about a termination of one of its appointments. Since 1 November 1996 it has had an appointment as an authorised person pursuant to the Stamp Duties Act and the Duties Act for the purposes of assessing and endorsing various documents for stamp duty. This has enabled the firm to undertake the stamping of documents as an agent for the State Revenue Office and also to offer that service to other legal firms and members of the public.

The firm has received a letter from the State Revenue Office which states:

> The State Revenue Office … is currently undertaking a review of the document return system regime under which 'authorised persons' are appointed by the Commissioner of State Revenue …

The letter continues:

> An examination of SRO records containing information received from the firm reveals that, during the period 1 July 2000–30 June 2001, it only endorsed stamp duty to a total of $747 027.00 on 429 instruments in its capacity as an 'authorised person'.

The State Revenue Office further states:

> Accordingly, it does not appear to the commissioner that the firm's status as an 'authorised person' is appropriate.
>
> Please note that the firm's status as an 'authorised person' will be terminated unless it shows cause, in writing … why the firm should retain its status as an 'authorised person'.

Mr Johnson telephoned and wrote to the SRO and expressed his disappointment at being told the status could be terminated.

The issue is that in all the years since 1996 the firm has never been told that it was under-represented, and it has never had any complaints or comments from the SRO. It is the only agency for the stamping of documents in the Shepparton region, and it believes the opportunity to offer a service within a regional area is really important for the SRO. I support its comments.

The PRESIDENT — Order! Will the honourable member now put her question.

Hon. E. J. POWELL — I ask the minister to step in and overturn any moves to terminate this firm's status as an authorised person on the basis that Camerons Lawyers was never informed that it had to reach a certain criterion or expectation of throughput, otherwise it would have marketed its service more proactively and perhaps increase the numbers. It is also important for the Shepparton region to retain the service.

Delatite: boundary review

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the attention of the Minister for Energy and Resources as the representative in this place of the Minister for Local Government. Last Thursday night I attended a public meeting in Mansfield that was attended by an estimated 700 people. The issue was the devolution of the Shire of Delatite and the lack of a firm decision by the minister to allow this to happen. The meeting was convened by the Mansfield Ratepayers Association, and the 700 ratepayers who attended were presented with some very compelling figures that showed it was financially possible, even desirable, for the shire to split. As one can imagine, the meeting was deadly serious, and the community called for an immediate decision to be made by the minister. It was disappointing that the honourable member for Benalla in the other place chose not to attend.

Hon. M. M. Gould — Parliament was sitting last Thursday evening at that time, you goose!

Hon. E. G. STONEY — The upper house was also sitting, but I managed to get to the meeting — and I even observed the Wipe Off 5 function! If the honourable member for Benalla had attended she would have seen some interesting figures that I believe were very compelling, and she would have seen how a quietly determined Mansfield goes about standing up for its beliefs.

I congratulate the Mansfield community, and I ask the minister to make a decision. It is important that a decision is made so the townships of Benalla and Mansfield can get on with their lives.

Wurruk Primary School

Hon. P. R. HALL (Gippsland) — I wish to raise a matter with the Minister for Sport and Recreation, representing the Minister for Education in the other place. It concerns Wurruk Primary School, particularly the physical facilities at that school.

Wurruk is a small community on the outskirts of Sale. Wurruk Primary School is a wonderful school that takes an active interest in the affairs of the state. Recently grade 5 and 6 students from that primary school visited Parliament House. As Parliament was not sitting, I could not show them around. I visited the school and spoke to the students and indeed can verify that they are a very knowledgeable group of students who take a keen interest in their educational opportunities.

The issue with Wurruk Primary School is that recently people at the school have been alerted by the regional office of the Department of Employment, Education and Training to the possibility of losing one of their three portable classrooms due to the current decline in their enrolments. That would have a devastating impact on the education program run by the school and the community in general.

The three portable classrooms are currently in use. One is a state-of-the-art information technology classroom, running all sorts of programs, including the access@schools community computer technology program that has had 105 participants this year. Another one is used for an art/craft classroom and recently was fitted with updated furniture. The third one is a library resource centre housing a large collection of student and staff resources and is fitted out with extensive shelving built and paid for by local fundraising.

The people at the school are concerned that if they lose one of those portable classrooms the education programs at the school will suffer and the community also will suffer as a result of that.

I seek an assurance from the minister that, whatever decisions are made about those portable classrooms,

there will be no need for a reduction in the education programs at the school. I urge the minister to make a decision to keep those classrooms for the excellent use that is currently being made of them, both by the school and the local Wurruk community.

Alpine parks: grazing licences

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Energy and Resources to refer to the Minister for Environment and Conservation. It relates to the transfer of an alpine park grazing licence in the name of Spaull to the Friends of Wongungarra Trust. The Friends of Wongungarra Trust consists of 10 families who formed the trust to purchase the freehold along the Wongungarra River owned by Mr Graeme Spaull. The trust was then issued with a bush grazing licence in the name of Spaull and sought to transfer the remaining section of land, which was a grazing licence within the Alpine National Park.

Andrew Kee, who is the spokesman for the trust, is a member of the Mountain Cattlemen's Association of Victoria. In October 1999, with the assistance of the association, the trust applied to the minister to transfer the licence from Spaull to the trust. Now, almost 12 months since the alpine advisory committee meeting at which it was recommended that the transfer go ahead, the trust is still awaiting the minister's decision.

The Friends of Wongungarra Trust has just been approved by the Department of Natural Resources and Environment for funding under the Natural Heritage Trust of a grant of $12 000 for river stabilisation works on the Wongungarra River. Clearly the trust is serious in its dedication to conservation and the environment and would have to qualify as approved under the agreement on the provision of grazing licences in the Alpine National Park. I therefore ask: will the minister expedite the transfer of this licence and, if not, will she advise why not?

Snowy River

Hon. R. M. HALLAM (Western) — I wish to raise an issue with the Minister for Energy and Resources in her capacity as minister responsible for the Snowy River. Against the background of the Bracks government's reliance on the return of environmental flows to the Snowy River to establish its green credentials and all the rhetoric and platitudes we hear about this government's openness and accountability, I ask the minister will she tonight give the house a commitment that henceforth from this date each financial report and mid-year report as required under sections 24 and 25 respectively of the Financial Management Act shall contain an updated report on the Snowy River project, specifically including: firstly, the progressive environmental flow increases and how those have been determined and measured; secondly, all Victorian budgetary costs incurred and investments made, detailing the particular programs and amounts involved; thirdly, any off-budget or secondary costs incurred which impact upon the ultimate bottom line; and, fourthly, an assessment of whether the New South Wales and commonwealth governments have met their matching commitments.

National Theatre Ballet School

Hon. ANDREA COOTE (Monash) — My question is to the Minister for Sport and Recreation for the Minister for Post Compulsory Education, Training and Employment in another place. Last Friday night I attended with great pleasure the final ceremony of the year for the National Theatre Ballet School students. The students, aged between 4 and 18 years, gave an excellent performance, and I encourage other people to go and see it.

Hon. I. J. Cover interjected.

Hon. ANDREA COOTE — No-one from the government was there, Mr Cover. But it has come to my attention that the State Revenue Office is forcing the Australian Memorial Theatre Ltd, the National Theatre, into a Supreme Court hearing to settle basic education principles. The State Revenue Office has not discussed this with the education department but apparently it has defined classical ballet as mechanical art to be taught in technical schools. I ask the minister: what is her definition of technical education and can she confirm that the National Theatre is not a technical school under state legislation?

Ecorecycle Victoria: appointment

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Energy and Resources, for the Minister for Environment and Conservation in the other place. It relates to the appointment of the Honourable Rob Jolly to the board of Ecorecycle Victoria under section 49D of the Environment Protection Act.

Mr Jolly's interest in matters environmental is well known. However his record in public administration is also very well known. Mr Jolly was the Treasurer of Victoria who presided over a massive blow-out in state debt, an explosion in the budget deficit and the collapse of Victoria's credit rating. Mr Jolly was the Treasurer during the period when the Victorian Economic

Development Corporation and Tricontinental scandals started to develop. He was the Treasurer who gave the guarantee on the Pyramid Building Society which cost the Victorian people so much. It was Mr Jolly's stewardship of the Victorian economy and the Victorian budget sector that lead to the fire sale of the State Bank of Victoria.

I seek from the Minister for Environment and Conservation an explanation as to the consideration she gave to Mr Jolly's dubious record in public administration when she appointed him to a paid position on the board of a statutory authority.

Roads: speed limits

Hon. K. M. SMITH (South Eastern) — I address my question to the Minister for Energy and Resources, who represents the Minister for Transport in another place. I would like to raise with the minister my concerns regarding speed limits near schools, particularly schools that are on main roads.

Hon. T. C. Theophanous interjected.

Hon. K. M. SMITH — Why don't you shut up, Theo!

A number of schools in my electorate have roads with speed limits ranging from 60 to 100 kilometres an hour adjacent to them, which is of great concern to me. A lot of schools in my electorate have this problem, including Tyabb Primary School, Flinders College at Tyabb and schools at Drouin, Drouin West, Drouin South, Somerville, Lang Lang, Bass Valley, Cowes, Rosebud, Baxter, Pearcedale, Mount Eliza — and I could go on and on with the number of schools — —

Honourable members interjecting.

Hon. K. M. SMITH — You want me to go on and on?

An honourable member interjected.

Hon. K. M. SMITH — Mount Eliza will soon be in my electorate!

This really is a serious problem for all members of Parliament and has been raised with the minister before. It is not fair that school kids or parents who are dropping their kids off at schools should be put in a position when they are on a major road where cars are sometimes going past at speeds of 100 kilometres an hour. I suggest to the minister that speed limits near schools be dropped to 50 kilometres an hour, as they are in residential streets. It should be done both during school hours and for an hour before and after school. It is an important issue. I raise it on behalf of not only schools in my electorate but all schools across Victoria, because the last thing any of us would like to see — including the minister, I am sure — is kids killed or parents involved in serious accidents as a result of cars being driven at high speed. I am asking the minister to address the problem.

Natural Resources and Environment: call centre

Hon. I. J. COVER (Geelong) — I raise a matter with the Minister for Energy and Resources for referral to the Minister for Environment and Conservation concerning direct phone access for members of the public to Department of Natural Resources and Environment (DNRE) offices. This matter has been brought to my attention by the chairman of the Bellarine Landcare Group in my electorate of Geelong — —

Honourable members interjecting.

Hon. I. J. COVER — I take the opportunity to claim it back if I can at this point, Mr President. The Bellarine Landcare Group is part of the larger Geelong Landcare Network representing all 25 Landcare groups and 8 friends groups in the Geelong area which, of course, is in my electorate. Members of the Bellarine Landcare Group are becoming increasingly frustrated by the DNRE call centre in that they feel it is inefficient and does not meet customers' needs. I understand other Landcare groups and land-holders at Colac and Ballarat are also expressing frustration with the call centre. The current system cannot connect the general public to DNRE offices directly, and in a letter to me the Bellarine Landcare Group's chairman, Bernie Malone, says:

> It is farcical that we have to ring one number to get another number and then often the call centre staff have no idea of the role or training of the DNRE staff.
>
> … The system is ineffective and generates poor public relations and public perception of the role of DNRE.

I should point out that DNRE in Geelong is an excellent service with staff whose knowledge goes far beyond their normal roles and duties. It is important that local people have the opportunity to gain direct access to those staff members for that outstanding service and knowledge. It is understood by the Bellarine Landcare Group that the call centre is under trial, and there are hopes, therefore, that the government will reconsider its decision and ask for community input. The community simply wants and needs direct access to the DNRE

office reception desk rather than having to go through the call centre.

Frankston: volunteer coastguard

Hon. B. C. BOARDMAN (Chelsea) — I refer the Minister for Ports to a press release she issued on 8 November 2000 relating to the boating safety grants program, which she established primarily to fund boat replacements for volunteer organisations, particularly the Australian Volunteer Coast Guard Association over five years. Although I consider this to be a positive program and one that should be encouraged, I understand the first allocation of funds, being an investment of up to $40 000 for the purchase of two former police boats for Lake Hume and Lake Eppalock, has been committed. The boat at Lake Hume is in operation and the second vessel is currently being refurbished to meet coastguard specifications.

I have had a query posed to me by members of the volunteer coastguard, particularly the one at Frankston in my electorate, which is quite admirably represented by enthusiastic, committed and dedicated volunteers. They understand that as part of this program they were identified by the Victorian coastguard hierarchy as the next in line to get a boat under the boats program. They have informed me that there has been no such allocation of the funds to ensure that a boat would be delivered in time for this summer season, which is obviously the peak season for the volunteer coastguard. As such, they are concerned that the allocation of funds might not be forthcoming.

In raising this query I give the minister the benefit of the doubt. I ask her to advise me and reassure the Frankston volunteer coastguard that funds will be provided to enable an upgrade of the facilities so it can provide that valuable and dedicated community service, as it has done in the past and should continue to do so.

Taxis: multipurpose

Hon. C. A. STRONG (Higinbotham) — The issue I would like to raise this evening is for the Minister for Energy and Resources, representing the Minister for Transport in the other place. It concerns a letter I received from several constituents of mine and of my honourable colleague Dr Ross who use the multipurpose taxi program. In their letter they say:

> Since the inception of this program in 1984, many Victorians with disabilities have benefited from this worthwhile scheme, which offers subsidised taxi travel at a rate of 50 per cent, up to a limit of $25.

Unfortunately several factors have contributed to a decrease in the value of this subsidy in real terms. They include that the subsidy limit has remained static since 1986 despite many fare increases over that period.

In essence these people are asking that a review of the maximum amount take place urgently and perhaps the ceiling of $25 be lifted to $100. They would also like some mechanism to increase the cap on a regular basis in line with inflation or taxi fares or something like that so that the value remains constant.

Adult Multicultural Education Services: brochure

Hon. P. A. KATSAMBANIS (Monash) — I would like to raise an issue with the Minister for Industrial Relations, representing the Premier in his capacity as Minister for Multicultural Affairs. I recently received a letter from Adult Multicultural Education Services that reads, in part:

> At the suggestion of the office of Mr John Pandazopoulos, MP, minister assisting Premier Bracks on multicultural affairs, please find enclosed 20 brochures entitled 'Understanding Islam and Muslim Australians'.

In this difficult time in which we live anything that promotes tolerance and harmony within our multicultural state and nation is a good thing, so I read this brochure with great interest, hoping that it would do that. I came to the subheading 'What is jihad?'. Under this subheading it said:

> Jihad is an Arabic word meaning 'struggle' on the path to goodness. It can be struggle with one's lower self to submit to God or struggle against injustice. It does not mean 'holy war' and it does not mean harming innocent people.

That was interesting. It sounded well and good, but it is not the general understanding of jihad among the public at large. I did a bit of research, and I first looked at the Webster's dictionary, which defined jihad as 'a religious war against infidels or Mohammedan heretics'.

I then thought that rather than sticking just to Western culture I would go to Islamic culture. I found an interesting book written by Ayatullah Morteza Mutahhari in Iran titled *Jihad — The Holy War of Islam and its Legitimacy in the Quran*. I looked at the words of the scholars at Egypt's Al-Azhar University; they are very learned in the Islamic world. Dr Abd Al-Sabour Shahin wrote in part that:

> Jihad is a general term that includes jihad by means of words, jihad by means of leadership, and jihad by means of war.

I then got closer to Australia and a magazine titled *Nida'ul — The Call of Islam*, which is produced by the Islamic Youth Movement of Australia. In an article entitled 'Greater and lesser jihad' in its April–May 1999 issue the movement wrote:

> A man asked the Prophet —

the Prophet being Mohammed —

> What is jihad? He … replied: 'To fight against the disbelievers when you meet them (on the battlefield)'. The man asked: 'What kind of jihad is the highest?'. He … replied: 'The person who is killed whilst spilling the last of his blood'.

The PRESIDENT — Order! Ask your question, please.

Hon. P. A. KATSAMBANIS — That does not equate to what is in this pamphlet. I ask the Premier in his capacity as Minister for Multicultural Affairs to, firstly, indicate what government funding has gone into the production of this brochure which was put out effectively in his name; and, secondly, whether he stands by the statement about and description of jihad in this pamphlet.

Skate parks: Maroondah

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of and a commitment from the Minister for Youth Affairs in relation to an issue which is a long way from jihad and which goes back to recreational facilities for young people in the outer eastern suburbs of Melbourne. The Maroondah City Council is investigating plans, which the minister may be aware of, to build skating facilities in Ringwood, Bayswater North and the Croydon Hills. It is also reviewing replacement options for the damaged half-pipe ramp at Croydon skate park in Norton Road. The council's community and organisational development director, Nick Foa, is reported in the *Maroondah Journal* of Tuesday, 20 November, as saying there was a need for skating facilities effectively right across the City of Maroondah. He states:

> We are looking at everyone's needs. It is important to look at the bigger picture and ensure the needs of all the youth in our community are met …

Mr Foa is also reported in that article as saying the needed funds would come internally from the council and from community fundraising but that there would also be a need for external funds.

Given the growing perception in the outer east that that region as a whole has become a black spot or a blind spot for funding by the Bracks government, in particular among young people, will the minister prove that perception wrong by offering the Maroondah council a dollar-for-dollar funding formula for all the funds raised for these three skate parks by the council and the community?

Roads: speed cameras

Hon. G. B. ASHMAN (Koonung) — I refer to the Minister for Energy and Resources, representing the Minister for Transport in the other place, a matter that might also require the attention of the Minister for Police and Emergency Services in the other place. I note that the government and in particular Commander Ray Shuey have introduced a policy of no tolerance as part of a crackdown on speeding motorists. My concern is not that there is a crackdown on speeding motorists, because we all have concerns about speeding, but that the crackdown with no tolerance is not a practical or commonsense approach to the problem.

I point out that speed cameras and radar, as I understand it, have a known error factor of about 2 kilometres per hour and also that speedometers that are fitted to new cars have an Australian design rules accuracy tolerance of 10 per cent. Modern speedometers would certainly be more accurate than 90 per cent, but speedometers fitted to older vehicles would have a 10 per cent tolerance.

Another factor that comes into play in determining the speed of a vehicle is wear on its tyres. Obviously a speedometer would be accurate with new tyres, but as they wear down the speed that is registered on the speedometer will vary.

I seek from the minister a commonsense approach in which motorists will not be pursued for slight misdemeanours in relation to speed limits. I also ask that those in charge of enforcement take into account the fact that the Australian design rules standard allows for a 10 per cent accuracy variation; that not all vehicles registered in Victoria comply with that Australian design rules standard; and also that there is an error factor for the detection equipment. I ask that the minister pursue those issues and that the police take action bearing those factors in mind.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Wendy Smith raised a matter for the Minister for Health in the other place. I will raise that with him and ask him to respond in the usual manner.

The Honourable Barry Bishop raised a matter for the Minister for Workcover in the other place about the Mallee Track Health and Community Service, and I will ask the minister to respond to the honourable member in the usual manner.

The Honourable Carlo Furletti raised a matter for the Premier, and I will ask him to respond.

The Honourable Peter Katsambanis referred a matter to the Minister for Multicultural Affairs, and I will pass that on to him.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the Honourable Elaine Carbines and her request for progress on the construction of the Marine and Freshwater Resources Institute development, I am very pleased to advise the honourable member that at a meeting this morning the Environment Protection Authority (EPA) issued the works approval and the pollution abatement notice for the MAFRI project. As a result of the authority's issuing of those documents the Department of Natural Resources and Environment is provided with the necessary permissions to now commence construction on the site at the Narrows.

At all stages of this project the government has worked constructively with all the stakeholders to progress this redevelopment. That has involved by necessity extensive community consultation, extensive environmental assessments — including an environmental audit statement, a baseline monitoring program with a commitment to ongoing monitoring, and a review of the monitoring programs by an EPA-convened expert panel. This result is a terrific win-win for everyone who has been involved in this long-running process, including not only the state government but the Borough of Queenscliffe and the local community.

The Honourable John Ross requested the Minister for Environment and Conservation to intervene to obtain a speedy resolution on a matter concerning the Fairway Hostel in Sandringham. I will refer that request to the minister.

The Honourable Jeanette Powell requested the Treasurer and Minister for State and Regional Development to intervene to overturn an action by the State Revenue Office relating to the definition of the status of a firm as an authorised person. I will refer that request to the minister.

The Honourable Graeme Stoney requested that the Minister for Local Government determine the local government jurisdiction for the towns of Benalla and Mansfield. I will refer that request to the minister.

The Honourable Philip Davis requested that the Minister for Environment and Conservation expedite the transfer of grazing licences, as requested by Friends of Wongungarra Trust. I will refer that request to the minister.

In relation to the request by the Honourable Roger Hallam, I indicate that this government has demonstrated its commitment to open and transparent reporting, and that this will apply to all actions in relation to the government's implementation of its policy of restoring environmental flows to the Snowy River.

The Honourable Gordon Rich-Phillips requested that the Minister for Environment and Conservation examine appointments to the board of Ecorecycle. I will refer that request to the minister.

The Honourable Ken Smith requested that the Minister for Transport reduce speed limits near schools. I will refer that request to the minister.

The Honourable Ian Cover requested that the Minister for Environment and Conservation examine concerns of the Bellarine Landcare Group about the operation of a call centre and its preference for direct access to the department. I will refer that request to the minister.

The Honourable Cameron Boardman raised the matter of funding for the volunteer coastguard at Frankston. He referred to the support this government has provided to the coastguard in increasing funding for the boating safety search and rescue grants program, which has been increased from $100 000 to $250 000 for the purchase of rescue boats in 2000–01. As part of that reorganisation of the ongoing funding assistance the Marine Board of Victoria has now put in place a process for assessing the needs of search and rescue groups across the state in order to prioritise those requests. I will seek the information the honourable member has requested on Frankston specifically and respond to him directly. I do not have those details to hand.

The Honourable Chris Strong requested that the Minister for Transport take action to maintain the value of the multipurpose taxi program. I will refer that request to the minister.

The Honourable Gerald Ashman requested that the Minister for Transport and the Minister for Police and Emergency Services examine the application of

Australian design rule standards in relation to speedometers. I will refer that request to the ministers.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Neil Lucas raised the matter of a submission by the City of Casey to the Minister for Community Services in regard to funding for maternal and child health services. I will pass that on to the minister for her direct response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the question by the Honourable Bill Baxter regarding the one-man police station at Bethanga and the transfer of that policeman to Jamieson, I will refer that issue to the Minister for Police and Emergency Services in the other place.

In relation to the question by the Honourable Glenyys Romanes regarding the walk against depression groups, the significance of physical activity and the benefits it brings to the community are appreciated — and they are not only the physical benefits but the emotional health and wellbeing benefits. Honourable members, especially those who have served on the Vichealth board, will appreciate those benefits. I look forward to the walking strategy that will be developed by the government to combine the benefits of initiatives like the walking against depression program.

In relation to the question by the Honourable Ron Best on the application for funding for an upgrade of the Queen Elizabeth Oval facilities, I recently visited the oval and participated in a meeting with the city council. The meeting was facilitated by the local member of Parliament in the other place, Jacinta Allan, the honourable member for Bendigo East. I viewed schematic drawings and discussed with the council the issue of the upgrade and the nature of the support it was looking for from government.

I appreciate that the site was used by a legendary full-forward who kicked goals on the oval and was a dynamic spearhead who was not likely to give a handball in range of the goals, but unfortunately his name eludes me this evening. During that recent visit I met with representatives of the Diggers and was made aware of the significance of the facility, its scale and the strategic nature of future plans. I am very supportive of the project, but I am also conscious of the need to address the statutory planning issues in the context of the historic surrounds and the neighbouring swimming facility. I look forward to the resolution of these issues as part of the application for funding.

In relation to the question by the Honourable Peter Hall regarding the Wurruk Primary School and the portable classroom allocation, I will refer this to the Minister for Education.

In relation to the question by the Honourable Andrea Coote regarding the National Theatre ballet school and the definition of the terms ‘technical school’ and ‘a technical school subject’, I will refer this to the Minister for Post Compulsory Education, Training and Employment in the other place.

In relation to the question by the Honourable Andrew Olexander regarding recreational facilities for young people in the outer east and applications for skating facilities in the City of Maroondah, as I have mentioned on a number of occasions in this house, I am very supportive of funding skate parks wherever the opportunity arises, and I have mentioned the number of facilities funded across the state through the community facilities funding program.

I encourage local government to develop a strategic plan addressing the often difficult planning issues and look forward to the application for respective funding under the sport and recreation community facilities program.

Motion agreed to.

House adjourned 11.41 p.m.

Minister for Transport

80 Collins Street
Melbourne Victoria 3000
GPO Box 2797Y
Melbourne Victoria 3001
Telephone (03) 9655 8683
Facsimile (03) 9655 8617
www.vic.gov.au
DX 21041 0

The Hon. Barry Bishop MP
PO Box 84
MILDURA VIC 3500
Facsimile: 03 50 212 978

Dear Mr Bishop,

TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL 2001

In response to your queries regarding the Transport (Alcohol and Drug Controls) Bill 2001, 1 am pleased to provide the following information.

Authorised officers

You asked about the use of authorised officers to conduct drug tests. First, let me state that it is intended to rely primarily on authorised persons employed by the rail operators to conduct any necessary drug tests. This is consistent with current arrangements whereby the prime day to day responsibility for implementation of drug and alcohol controls rests with rail operators. The Bill provides for the authorisation of officers employed by the Department of Infrastructure to conduct tests. It is anticipated that Departmental officers would only be conducting tests in exceptional circumstances.

You raise an important point about the potential for a number of authorised officers to attend an accident location, and the need to minimise any potential clash of roles. That issue will be borne in mind when the drug testing procedures are designed. The procedures are determined by the Secretary and gazetted under the new section 96A(7) and will be developed in the period prior to the Act coming into force on the 1 July 2002. Consultation will take place with all the relevant parties including unions represented in the industry, accredited operators, Victoria Police, Vic Roads and health professionals when preparing the testing procedures.

Rail operators to take reasonable steps to ensure compliance with drug & alcohol systems The chief aim of this Bill is the prevention of accidents — not the prosecution of workers or rail operators. It would only be in extreme circumstances that a rail operators would face prosecution.

The Bill imposes a statutory duty on rail operators to take reasonable steps to ensure that their safety workers comply with the drug and alcohol provisions of the Transport Act. This is to ensure that responsibility for compliance with drug and alcohol controls is shared between safety workers and rail operators and reflects the public safety importance of these provisions.

You correctly point out that under the existing conditions of safety accreditation, rail operators must provide a safety system which controls use of alcohol and illegal drugs. However, the Bill extends these requirements to cover over the counter drugs and prescription drugs. Prosecutions would only become relevant where a rail operator had not taken reasonable steps to enforce its accredited system for drug and alcohol management.

Section 118 of the Transport Act already makes it an offence to fail to comply with a condition of accreditation and imposes a maximum penalty of $20,000. The new offence has a substantially higher maximum penalty of $200,000, which is commensurate with the bonus/penalty regime for on-time running under which public transport train and tram services are provided.

Use of evidence regarding successful prosecution of safety worker in prosecution of rail operator

The Bill allows evidence that a safety worker has been found guilty of a drug or alcohol offence to be provided to a court hearing a charge against a rail operator. This is an evidentiary provision designed to avoid obstacles normally associated with bringing evidence of another's conviction before a court. It will save court time by allowing a prosecutor to present evidence of a worker's conviction without the need to argue whether or not the evidence is admissible in every case. This provision will not alter the usual onus of proof and will not prevent the defendant from calling evidence as to its policy and usual practices to show that it has taken steps that a reasonable rail operator would take in all the particular circumstances.

Yours sincerely,

Peter Batchelor MP
Minister for Transport

New South Wales
Boat Driver Licensing

WHEN IS A BOATING LICENCE REQUIRED?

It is important to know that it is neither the size of a vessel nor the power of an engine which determines whether a person needs to be licensed — it is the speed at which a boat is driven.

Except in the case of a PWC any person who drives a mechanically propelled vessel on NSW waters at 10 knots or more must have a boat drivers licence.

Note: 10 knots is the speed at which an accelerating boat will start to plane — that is rise up and skim along on top of the water instead of ploughing through it.

Anyone who drives a PWC at ANY speed (even below 10 knots) must have a PWC license.

TYPES OF LICENSE

a. GENERAL LICENCE

A licence for people aged 16 years and over to drive any vessel except a PWC at 10 knots or more.

b. GENERAL YOUNG ADULT LICENCE

This is a restricted licence for those aged from 12 to under 16 years. A Young Adult Licensee must:

- be accompanied by the holder of a General Licence when travelling at 10 knots or more;
- never exceed 20 knots;
- never travel at 10 knots or more after sunset and before sunrise;
- never travel at 10 knots or more when towing an aquaplaner;
- never tow a water skier;
- not drive in any race, display, regatta or exhibition without prior consent from the Waterways Authority; and
- never operate a PWC unless the holder of a Young Adult PWC Licence.

c. PERSONAL WATER CRAFT (PWC) LICENCE

A special licence is required to ride a PWC regardless of what speed it is driven. To obtain a PWC licence, the test for a General Licence must be passed first. Additional test questions must then be passed to upgrade to a PWC licence. Persons who hold a general licence can upgrade to a PWC licence at any time by passing these additional questions.

Click here for essential information on PWC operations.

d. YOUNG ADULT PWC LICENCE

For those aged from 12 to under 16 years who wish to drive a PWC. The same conditions which apply to the General Young Adult licence apply for this licence.

e. COMMERCIAL QUALIFICATIONS

Special certificates of competency are required to take charge of vessels used for commercial purposes. To obtain these qualifications you will need to have good records of your boating experience, complete approved training courses and meet minimum medical and eyesight standards. Further details can be obtained by contacting the Waterways marine certification section on (02) 9563 8767.

Drivers of commercial vessels operating at 10 knots or more must have their certificate of competency endorsed with either a General or PWC Licence.

f. RESCUE ORGANISATIONS

Persons who are members of approved rescue organisations trained to drive vessels belonging to that organisation may be exempted from holding a boating licence while on official duties. Examples are the NSW SES Flood Rescue Boat Operators Qualification, and the SLSNSW Inflatable Rescue Boat Drivers Certificates.

Source: http://www.waterways.nsw.gov.au/licence.htm