PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

22 May 2001

(extract from Book 5)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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The Hon. P. R. HALL to 20 March 2001
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CONTENTS

TUESDAY, 22 MAY 2001

Tuesday, 22 May 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.04 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Constitution (Supreme Court) Act
Electricity Industry Acts (Further Amendment) Act
Food (Amendment) Act
Professional Boxing and Martial Arts (Amendment) Act
Racing and Betting Acts (Amendment) Act

JUDICIAL AND OTHER PENSIONS LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

JUDICIAL COLLEGE OF VICTORIA BILL

Introduction and first reading

Received from Assembly.

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

LIQUOR CONTROL REFORM (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

TOBACCO (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

QUESTIONS WITHOUT NOTICE

Industrial relations: AEU dispute

Hon. M. A. BIRRELL (East Yarra) — I ask the Minister for Industrial Relations if it is now government policy that whenever a union threatens strike action government ministers will refuse to meet with the leaders of that union?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member is referring to comments the Premier made the other day about the proposed industrial action by the Australian Education Union because of its concerns about the budget. The government has substantially increased funding for education. In 19 months it has put over 2000 teachers back into the system and increased funding for capital works in the education system for schools that were run down by the previous government. It has increased the funding in education — —

Hon. M. A. Birrell — On a point of order, Mr President, while we are fascinated by the minister's accounts of education policy or departmental discussions, she was not asked anything to do with that. I did not mention the education unions or the education department. I asked whether it is government policy that whenever a union threatens strike action government ministers will refuse to meet the leaders of that union; it was a question about the government's policy on meeting union leaders when they threaten strike action. I ask, Mr President, that through your ruling you expect of the minister that she will direct her answer at least in an apposite manner to the question.

The PRESIDENT — Order! I was clear in my own mind what the question was. I am also clear that the minister has not yet addressed that matter. However, she is entitled to set the scene in any way she thinks fit so long as she responds to and addresses the question.

Hon. M. M. GOULD — The government has increased funding substantially for education, so that it is no longer second from the bottom across the country but on top.

When dealing with the concerns raised by the union, the Premier said that while industrial action was planned for later next month neither the government nor ministers would meet with the unions but that officers of the respective departments would continue dialogue with them about their issues.

Industrial relations: building industry inquiry

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Industrial Relations explain to the house the response of the Bracks government to the federal Employment Advocate's recent report on the building industry?

Hon. M. M. GOULD (Minister for Industrial Relations) — Honourable members would be aware that the federal workplace relations minister, Tony Abbott, has raised the prospect of an inquiry into the building industry. In his deliberations he is considering a report from the Office of the Employment Advocate that is based on unsubstantiated and unsourced allegations. Mr Abbott previously suggested he would consider having a royal commission to examine these allegations. It is the view of the Victorian government, as well as of the governments of New South Wales, Queensland, Tasmania and Western Australia, that the Employment Advocate's report suggests that such an inquiry would be simply a political stunt by the federal minister. It would be Mr Abbott's personal attempt at union bashing, because he obviously wants to follow the lead of his predecessor, Peter Reith, in such an exercise.

Nevertheless, let us look at the Employment Advocate's qualifications for that task. The Employment Advocate, Jonathon Hamberger, used to be a private staffer of the previous minister, Peter Reith — surprise, surprise! As for the Office of the Employment Advocate, Justice Munro of the Australian Industrial Relations Commission recently raised serious concerns about the office. He said that the Employment Advocate's evidence to a hearing of the union's right-of-entry case had been prejudicial and partisan. And that is not all: in the Federal Court case of *Hamberger v. Williamson* — —

Honourable members interjecting.

The PRESIDENT — Order! The Minister for Industrial Relations is making some adverse comments about a federal official. The house should hear those comments if that is the approach the minister wishes to take, so we all know what the minister's statements are.

Hon. M. M. GOULD — I am quoting from comments made by Justice Munro and the Federal Court in that case, which were highly critical, once again, of the Employment Advocate. The Federal Court found that a union official had been set up by the Employment Advocate's office — —

Honourable members interjecting.

The PRESIDENT — Order! Both sides of the house will settle down and allow the minister to finish her answer. I am interested in hearing the answer, and Hansard must hear it.

Hon. M. M. GOULD — The Federal Court has found that union officials had been set up and that confrontation had been manufactured by him in an attempt to entrap them. With this sort of track record it would be totally irresponsible to give any weight to anything in the Employment Advocate's report on the building industry.

The federal government should try a positive attack for once and focus its energy on the HIH inquiry and on ending this union-bashing exercise.

Industrial relations: AEU dispute

Hon. N. B. LUCAS (Eumemmerring) — I draw the Minister for Industrial Relations back to a state issue. Having regard to the minister's answer to the Leader of the Opposition, is it a fact that, as a result of the government's decision on the threatened teachers strike, even though she is a full-time industrial relations minister she will personally be doing nothing to solve the union dispute?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member is once again referring to a decision by the Australian Education Union to take industrial action later next month. I have told the house that there will be ongoing discussions with the union about its claim that there has been insufficient funding in education. I have already outlined in my previous answer that the government — —

Hon. M. A. Birrell — On a point of order, Mr President, the minister has been asked what action she will personally be taking on the issue or whether it is a fact that, even though she is 100 per cent a full-time industrial relations minister, she will be doing nothing on the largest dispute currently before the Victorian government. The minister should be asked to address the question of what she will personally be doing about the dispute or whether she is doing nothing at all. She has not addressed the issue.

The PRESIDENT — Order! It is a specific question to which the house is entitled to have an answer.

Hon. M. M. GOULD — As I was saying, the Premier said yesterday and again today with respect to the AEU's decision to take industrial action next month that the government has made a decision that officers of

the various departments will be speaking with the union in an attempt to resolve the issue.

Hon. M. A. Birrell — On a point of order, Mr President, the minister is clearly flouting your ruling. The question asked was: what is the minister doing on this major dispute, or is she doing nothing at all? The minister has not addressed that question at all and we can therefore only assume that she is doing nothing. If she is doing something, she should at least address the question that has been asked in this chamber, given that she is a full-time industrial relations minister.

Honourable members interjecting.

The PRESIDENT — Order! The minister has not yet given a reply that is responsive to the question. The minister has a couple of alternatives: she can suggest she is bound by the direction of the Premier or that she has some other reason for responding in the way she has done. That is up to the minister. The question was: what is the minister doing in relation to this dispute, given that she is the Minister for Industrial Relations? I ask the minister to direct her answer to that question.

Hon. M. M. GOULD — I have already told the house twice in response to this question that officers of various departments, including officers — —

Honourable members interjecting.

The PRESIDENT — Order! I will not allow any honourable member to be shouted down in that way. I ask the house to settle down and allow the minister to finish her answer.

Hon. M. M. GOULD — Officers of various departments will be meeting with the unions to discuss issues concerning their proposed industrial action to be taken next month.

Retailer of the Year awards

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Small Business inform the house of her recent involvement in the Australian Retailers Association retail awards for Victoria?

Hon. M. R. THOMSON (Minister for Small Business) — Recently I had the pleasure of not only announcing the winners but also presenting the Australian Retailers Association's Victorian Retailer of the Year awards for 2001. For the first time customers actually nominated businesses for the awards through the *Herald Sun*, which proved a very worthwhile process. It is important that we recognise good practice in the retail sector. It employs almost 50 per cent of our 15 to 19-year-olds, so it is an important sector for young people getting their first jobs. It opens up career opportunities for our young people.

We are fortunate that the retail sector, despite having experienced difficult times with the introduction of the GST, has seen a growth since this time last year of 7.8 per cent. My office, Consumer and Business Affairs Victoria, was actively involved in the customer service excellence awards. We assisted with the mystery shopping — going out and having a look at the businesses, then helping in the judging of the finalists.

It is vitally important that we recognise best practice in all business sectors so as to encourage other businesses to lift their game and enter in competitions for the awards that may operate across their industries. It is important that we highlight the best we have to offer.

I am pleased to announce that the Victorian Retailer of the Year for 2001 was Crabtree and Evelyn at Melbourne Central. The customer service award winner, with which my department was associated, was Wendy Ford Hair and Beauty of Parkdale. Wendy Ford Hair and Beauty offers a unique service because not only does it offer the normal products that you would expect from such a business but also it has childcare available three days a week, it has half-price days on Wednesdays and it operates a seniors club and coffee shop — all ensuring that that business offers the best service it possibly can to its customers.

The government is also pleased that the awards recognise regional businesses. The winner of the small regional retailer award was Latrobe Valley Travel in Morwell, the winner of the medium-sized regional business category was Mitre 10 in Ballarat and the winner of the large regional retailer of the year award was Myer in Ballarat.

In metropolitan Melbourne the small business winner was Optical Illusion Fashion Eyewear in East Burwood, the medium-sized business winner was Crabtree and Evelyn in Melbourne Central and the large retailer of the year was David Jones.

Marine parks: establishment

Hon. P. R. HALL (Gippsland) — I refer to the Minister for Energy and Resources details in last week's budget indicating that $39 million will be spent on establishing marine parks and sanctuaries. How much, if any, of that $39 million will be spent compensating commercial fishermen and coastal communities for the economic loss they will invariably suffer with the establishment of these parks?

Hon. C. C. BROAD (Minister for Energy and Resources) — The house will, of course, have ample opportunity to debate these matters when the appropriate legislation comes before it, but the government in its response has indicated that the $39 million component of the marine national parks package is presented as a balanced outcome responding to the interests of the commercial fishing industry and local communities as well as meeting our environmental objectives.

The government's response clearly points out that it is proposing to adjust the boundaries of the recommendations from the Environment Conservation Council specifically to take into account the impact on local communities, most notably, the township of Mallacoota which the ECC clearly identified as an area that would be adversely affected because of the sizeable contribution from the fishing industry to the community. It is also the case that the government's response includes the phasing out of fishing in a number of recommended areas rather than the immediate cessation of fishing specifically to allow time for the fishing industries affected to adjust and to identify alternative fishing grounds.

In addition, the government's package also includes almost a doubling of its commitment to enforcement, and it is the government's expectation that by better protecting our fishery resources local communities, which depend on these resources for their local economies, will be much better placed in terms of the ongoing value of those industries.

I have already addressed the house at some length on the components of the package, in particular the rock lobster fishery, and the funds which the government is committing to assisting fishers in that industry. Members of the Liberal and National parties are well aware of the government's response to compensation in particular. I remind honourable members opposite that it was the Kennett government which set the precedent when it amended the Fisheries Act in 1996 and included a section 85 statement as part of its effort to remove scallop dredging from Port Phillip Bay. Honourable members will recall those actions were followed by significant litigation. The government has been very clear in its response, and the house will have every opportunity to debate the government's position on compensation.

This is not the first time that this has occurred, and the government stands by the reasons it set out in the response giving its position on compensation.

Hon. P. R. Hall — On a point of order, Mr President, I have not interjected once while waiting patiently for an answer to my specific question. Patience lasts only a certain amount of time. Specifically I asked: what amount of that $39 million will be directed to compensation to professional fishermen and the coastal communities as a result of this measure undertaken by the government? It is wrong for the minister to assume that I know the answer, as she has suggested in her response. I asked the question for a reason, and I would expect an answer to the question. I request, Mr President, that you rule that the minister specifically answer the question I have asked.

Hon. C. C. BROAD — On the point of order, Mr President, I believe I have outlined the various types of assistance that form part of the government's response to the Environment Conservation Council (ECC) recommendations as I have pointed to the government's response, which clearly sets out its position on matters of compensation. It includes a section 85 provision that is in line with the approach taken by the previous government.

The PRESIDENT — Order! I am interested in this issue for more than one reason, so I followed the question and the answer very carefully. The specific question was: of the $39 million provided in the budget for marine parks, how much is set aside for compensation to licence-holders? I do not believe the minister has directly addressed that.

It would appear that there are a couple of ways to go about it: one is to say nothing and the other is to say it is an amount yet to be assessed. There may be a third variation. I believe only an answer like that answers the question. I invite the minister, in the balance of her response, to address that specific issue.

Hon. C. C. BROAD — I am more than happy to spell it out again. I have indicated to the house what is contained in the government's $39 million package. I have also indicated that the government's response clearly sets out its position on compensation, which is that the bill that will come before the house includes a section 85 statement on compensation — which is a separate matter from the $39 million package I have set out and about which the honourable member is fully aware.

Since members of both the National and the Liberal parties have been commenting to the press criticising the government's position on compensation, it is nonsense to suggest that the honourable member is unaware of what the government's position is and that

it has nothing to do with the government's $39 million package. It is a completely separate matter, on which the government has clearly stated its position, and that is why the bill that will come before the house in regard to the matter of compensation includes a section 85 statement, which is in line with the approach taken by the previous government.

Cycling: training velodrome

Hon. R. F. SMITH (Chelsea) — On this my 53rd birthday I direct my question to the Minister for Sport and Recreation. In light of the recent state budget, will the Minister for Sport and Recreation outline to the house how cycling in Victoria will be supported in a manner that ensures the ongoing viability of the sport?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As honourable members are aware, the Commonwealth Games will be held in Melbourne in March 2006. As part of the government's commitment to hosting the games, it has agreed to develop a training velodrome to complement the Vodafone Arena, the new multi-events arena at Melbourne Park. The new training velodrome, to be developed in partnership with the City of Darebin, will be situated at the John Cain Reserve in Northcote. It is a joint project that will complement the State Lawn Bowls Centre that will be established there. It is envisaged that the development will create economies of scale — —

Honourable members interjecting.

Hon. J. M. MADDEN — Opposition members are again showing their ignorance. The dilettantes on the other side of the house — —

Honourable members interjecting.

The PRESIDENT — Order! I ask honourable members to settle down and allow the minister to finish his answer.

Hon. J. M. MADDEN — Honourable members opposite should appreciate, even though they do not, that the velodrome not only will be a tremendous venue for the Commonwealth Games but will also contribute to the community sporting infrastructure of this state. The project has been funded in a number of ways — from a $2.5 million saving in the Olympic soccer budget from last year, and up to $0.7 million from the compensation payout from the Melbourne City Link Authority to the Melbourne and Olympic Parks Trust. The trust is committing to financing the balance of the project with a $5 million contribution towards the construction of the training velodrome as part of the funding arrangements with the government for the Vodafone Arena.

This training facility will benefit athletes training for events ranging from local championships through to international events, and as such it will complement the lead-up to other Olympic Games. It also has the capacity to host smaller events that cannot be accommodated in the Vodafone Arena. That will be significant for cycling. It is expected that by building this world-class facility Melbourne will be able to attract international cyclists to train in Melbourne, thus enhancing and developing the cycling culture within Melbourne and Victoria.

The project is clearly great news for cycling in Victoria. I compliment the representatives of Cycling Victoria on the way they have lobbied heavily for the project in an intelligent and constructive manner.

Target Australia: Geelong closure

Hon. I. J. COVER (Geelong) — On this my mother's 80th birthday I address a question to the Minister for Industrial Relations. I presume the minister is aware of union and other community concerns about the possible closure of Target's head office in Geelong, a move that Geelong Trades Hall secretary John Kranz describes as catastrophic. What personal action will the minister take to ensure that another regional business and its jobs are not lost to Victoria?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member is referring to the decision by Target Australia to centralise its footwear and manchester areas across Victoria to enable the Target, Kmart and Myer stores to be centrally located in Bourke Street, Melbourne. From the company's point of view that will reduce costs, improve efficiencies and stem the recent downturn in sales, especially in Target. It is proposing to co-locate those areas in a combined back office function, and that will inevitably result in some job losses.

The government is committed to promoting a holistic approach, and it is also committed to encouraging investment in Victoria to increase job opportunities. As the Minister for Industrial Relations, I have undertaken a restructure of the departmental branch and have established a unit specifically associated with business development. Under my direction, its role will be to encourage investment and job opportunities in this state.

Hon. I. J. Cover — On a point of order, Mr President, more than 500 jobs in Geelong — this is a very serious matter — are under threat. There are

fears in the community about the future of Target. I ask the minister to say what she will do to assist these jobs to remain in regional Victoria.

Hon. M. M. GOULD — The honourable member's question initially was with respect to what the government was doing or what I was doing with respect to job opportunities — —

Honourable members interjecting.

Hon. M. M. GOULD — Job opportunities. He made some reference to 500 jobs lost, but in Target's own statement it referred to up to 100 jobs that would be moved — —

Honourable members interjecting.

The PRESIDENT — Order!

Hon. M. M. GOULD — As I indicated, my branch has undergone a review. There is a business development unit, and under my direction its job is to look at encouraging investment in and growing not one area but the whole state. Its job is to encourage investment and jobs within the state — and we will continue to do that, not only in Industrial Relations Victoria, but right across the government!

Gas: Portarlington, Indented Head and St Leonards supply

Hon. E. C. CARBINES (Geelong) — Will the Minister for Energy and Resources inform the house of the outcome of the government's actions to have the natural gas network extended to the Bellarine Peninsula townships of Portarlington, Indented Head and St Leonards?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am pleased to advise the house that as a result of the government's actions the natural gas network will now be extended to the towns of Portarlington, Indented Head and St Leonards, which is a great deal more than the previous government ever managed to achieve.

On 18 May the Minister for State and Regional Development announced the approval of $1.75 million from the Regional Infrastructure Development Fund to enable residents in this area to have access to natural gas. This announcement is on top of the investment in infrastructure spending for the Geelong region highlighted in the recent budget that delivers today and builds for tomorrow. This investment again demonstrates the Bracks government's commitment to the people of rural and regional Victoria.

Congratulations must go to the Bellarine North Natural Gas Committee for the key role it played in ensuring that the project became a reality, as has been noted, particularly by the honourable member for Geelong Province Mrs Carbines and the Bracks government is pleased to have delivered the outcome they have all worked hard for.

Work on the new infrastructure is expected to be completed by the local gas distribution company TXU within three years of commencement, with Portarlington likely to be connected before winter 2002. The remaining towns should be connected before winter 2003.

Importantly, residents in the region could save up to $1200 per annum on their energy bills, and large commercial users could save as much as $32 000 per annum. Once again the Bracks government's actions have delivered for rural and regional Victorians — in contrast to the performance of the previous government.

SRO: relocation

Hon. M. A. BIRRELL (East Yarra) — I direct my question to the Minister for Industrial Relations. Last week the full-time Minister for Industrial Relations told Parliament that State Revenue Office staff who refused to move from Melbourne to Ballarat would only be retrenched — to quote her — through voluntary departure packages. As the concept of voluntary retrenchment is both bizarre and impossible, will the minister now confirm that she misled the house, as the government is in fact planning compulsory retrenchment for some employees who do not want to move from Melbourne?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member is referring to the State Revenue Office (SRO) position. I have indicated to the house on a number of occasions — I think three — that a feasibility study had been undertaken to look at the transfer to Ballarat of some of the operations of SRO that are currently in the city, that that feasibility study was undertaken in consultation with the union, and that the government was committed to the position of the three Rs — namely, relocation, with assistance from the government, of any employees who chose to do so; redeployment within the public service; or retrenchment. That is the position.

Hon. M. A. Birrell interjected.

Hon. M. M. GOULD — That is the position I indicated — that there was to be relocation, redeployment or retrenchment.

Honourable members interjecting.

Hon. M. M. GOULD — That is what I indicated on a number of occasions.

Hon. M. A. Birrell — On a point of order, Mr President, I do not believe the minister has addressed what I asked, particularly as at page 2 of *Daily Hansard* on 15 May the minister is recorded as saying 'retrenchment through voluntary departure packages'. I am asking the minister whether she misled the house in that that statement was knowingly false, or whether it is a fact that the government is not going to have voluntary departure packages on retrenchment. The minister has not addressed that, unless by her statement she is now contradicting it. I want to know what is true. Is what is in *Daily Hansard* accurate — that is, 'retrenchment through voluntary departure packages' — or is there going to be compulsory retrenchment — that is, some of these people are going to be sacked?

Hon. M. M. GOULD — On the point of order, Mr President, my response last week was that there were three options. There would be redeployment, relocation or retrenchment. That is the position the government has put. That is what I put last week — that the position was redeployment, relocation or retrenchment.

Hon. Bill Forwood — On the point of order, Mr President, the *Daily Hansard* of last week is absolutely clear. It contains the words 'voluntary departure packages' — three words — and also the word 'retrenchment'. We want to know whether they are voluntary or not.

The PRESIDENT — Order! As I understand it, that was the original question that was put. It was my recollection that when this issue came up previously the minister certainly mentioned the three Rs on a couple of occasions. I am also assisted in my recollection by that quotation from *Daily Hansard*, which I presume is correct and which talks about a voluntary arrangement. Perhaps the minister can clarify that position.

Hon. M. M. GOULD — With respect, it is relocation, redeployment or retrenchment, Mr President, or through a voluntary departure package.

Honourable members interjecting.

Hon. M. M. GOULD — What do you think retrenchment is?

Honourable members interjecting.

Hon. M. M. GOULD — Mr President, I stand by the comments I made — redeployment, relocation, retrenchment — —

Honourable members interjecting.

Hon. M. A. Birrell — On a point of order, Mr President, can I therefore request that the minister reflect on her answer recorded at page 2 of the Legislative Council *Daily Hansard* of Tuesday, 15 May, and later today advise the house in response to that issue.

The PRESIDENT — Order! It is not actually a point of order, but I think the minister got the message.

International Year of Volunteers

Hon. T. C. THEOPHANOUS (Jika Jika) — Given that 2001 is the year of the volunteer, will the Minister for Sport and Recreation inform the house what activities are being undertaken to support volunteers and how he is providing continued support for volunteers in the sport and recreation sector?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — No doubt honourable members are well aware that 2001 is the International Year of Volunteers and appreciate that the management, recruitment and retention of volunteers in the sport and recreation industry is a cause for ongoing concern, as volunteers play an essential role in the development and growth of sport and recreation.

This year the government has a number of initiatives both to recognise the contribution of volunteers and to take a strategic approach in supporting volunteers in the future. I will name just a few of those initiatives. Through my portfolio there is the promotion and distribution of the clubs and associations management program and the volunteer management program developed by the Australian Sports Commission. We will be promoting and distributing these programs to volunteer organisations throughout Victoria. This will assist those groups with their governance and volunteer recruitment.

The government is also developing an ongoing strategy to support volunteer boards through training needs analysis and access to training resources, particularly professional development for those organisations.

As well my portfolio has developed a volunteer management plan workbook as a free resource for the industry. This complements the materials that I have already mentioned are being distributed with the assistance of the Australian Sports Commission. This

information is available online on the Sport and Recreation Victoria web site. Those honourable members who might be interested, particularly for their local community groups, can look at that on the web site. I will give that web site address, and I can see opposition members picking up their pens to write it down for their local communities: www.sport.vic.gov.au. This will hopefully assist those organisations, through that work, to retain their volunteers.

Sport and Recreation Victoria is also liaising with the centenary of Federation 100 hours program. This will assist sport and recreation organisations to develop projects that link with the professional expertise offered in this program. As well, this year's sport industry awards will also feature two volunteer awards under the community awards program category. The first is the Volunteer Involvement Award for the individual Volunteer of the Year, so that we can focus on their outstanding contribution.

The other award is the Volunteer Management Award, which recognises effective or innovative volunteer management and retention practices by sport and recreation organisations across the state.

Hon. R. M. Hallam interjected.

Hon. J. M. MADDEN — I understand why the opposition is not listening, because unless there is a dollar sign in front of it the opposition does not care!

In conjunction with the University of Ballarat, we are also exploring the impact and the perceived decline in rural volunteerism in the sport and recreation industry and the subsequent impact on public health and social cohesion in regional Victoria.

My portfolio is also cooperating with other arms of government to help achieve a whole-of-government approach to volunteering in Victoria. A calendar featuring and honouring the contribution of volunteers has been developed in conjunction with the Department of Human Services.

I again recognise and endorse the significant contribution made by volunteers across our entire community, but in particular in the sport and recreation sector. During this year, the International Year of Volunteers, my portfolio is extending its level of support and commitment to volunteers to ensure the future vitality and growth of the sport and recreation industry.

QUESTIONS ON NOTICE

Answers

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

> That so much of the standing orders as require answers to questions on notice to be delivered verbally in the house be suspended for the sitting of the Council this day and that the answers enumerated be incorporated in *Hansard*.

Motion agreed to.

Hon. M. M. GOULD — The question numbers are: 1441–3, 1450, 1460–1, 1635, 1639, 1643, 1702.

BUSINESS OF THE HOUSE

Sessional orders

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

> That so much of the sessional orders be suspended as would prevent new business being taken after 8.00 p.m. during the sitting of the Council this day.

Motion agreed to.

PETITIONS

Somerville secondary college

Hon. R. H. BOWDEN (South Eastern) presented a petition from certain citizens of Victoria requesting that the state government not proceed with the sale of the Crown land site at Blacks Camp Road, Somerville and that this land be kept for a Somerville secondary college (1595 signatures).

Laid on table.

Tobacco (Further Amendment) Bill

Hon. G. D. ROMANES (Melbourne) — I present a petition from certain citizens of Victoria requesting that the Tobacco (Further Amendment) Bill, including amendments in the form proposed by Susan Davies, the honourable member for Gippsland West in the other place, be supported by all members of the Legislative Council as a matter of urgency. I desire that the petition be read.

Petition read pursuant to standing orders:

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

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that:

Victorian workers who are employed in hospitality venues are forced to work in environments which permit smoking. As a result they are exposed to a significant negative impact on their health.

By the end of a shift these workers suffer from itchy eyes, their noses run, they have headaches and difficulty breathing. Medical research has shown that exposure to passive smoke has a detrimental impact on health.

Victorian workers in the hospitality industry seek the same health and safety standards as apply in other workplaces — that is, that they be able to work in a smoke-free environment.

Your petitioners therefore request that the Tobacco (Further Amendment) Bill, including amendments in the form proposed by Susan Davies, MP, be supported by all members of the Legislative Council as a matter of urgency.

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

By Hon. G. D. ROMANES (Melbourne) (987 signatures)

Laid on table.

PAPERS

Laid on table by Clerk:

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

Alpine Planning Scheme — Amendment C3.

Brimbank Planning Scheme — Amendment C26.

Darebin Planning Scheme — Amendments C3 and C8.

Delatite Planning Scheme — Amendment C11.

East Gippsland Planning Scheme — Amendment C8.

Frankston Planning Scheme — Amendments C2 and C8.

Hepburn Planning Scheme — Amendment C3.

Melbourne Planning Scheme — Amendment C21.

Melton Planning Scheme — Amendments C12 and C13.

Moira Planning Scheme — Amendment C8.

Moorabool Planning Scheme — Amendment C10.

Port Phillip Planning Scheme — Amendments C27 and C31.

Wodonga Planning Scheme — Amendment C7.

Statutory Rules under the following Acts of Parliament:

City of Melbourne Act 2001 — Local Government Act 1989 — No. 39.

Electricity Safety Act 1998 — No. 38.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 39.

Wimmera Health Care Group — Report 1999–2000.

The following proclamation of His Excellency the Governor in Council fixing an operative date in respect of the following Act:

Snowy Hydro Corporatisation Act 1997 — Parts 2 and 3 (except sections 11 and 15 to 17), Part 4 and section 30 — 15 May 2001 (*Gazette S71, 15 May 2001*).

JUDICIAL AND OTHER PENSIONS LEGISLATION (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The Attorney-General and Solicitor-General Act 1972, the Constitution Act 1975, the County Court Act 1958, the Magistrates Court Act 1989, the Public Prosecutions Act 1994 and the Supreme Court Act 1986, provide for payment of pensions out of consolidated revenue, to the Governor, judges and masters of the Supreme and County court, the Solicitor-General, the Chief Magistrate, the Director of Public Prosecutions, the Chief Crown Prosecutor and senior crown prosecutors. The schemes also provide for payment of reduced pensions to their spouses or eligible children if the member dies.

These constitutionally protected pensions are a significant part of the package that the government relies on to attract suitably qualified persons to take up these important positions. It is well known that senior lawyers take a significant pay cut when they accept appointment as a judge. Whilst the government cannot match the moneys earned in the private sector, the entitlement to a pension after 10 years service is attractive to potential appointees.

Commonwealth legislation imposes a lump sum surcharge on these pension entitlements. This surcharge, which can be as much as $330 000, is payable within three months of receipt of a notice from the tax office.

The Supreme Court in its 1999 annual report said of this legislation:

> It will drastically affect the capacity to recruit suitable talent to the superior courts in this state.

The Victorian Bar Council chairman, Mark Derham, QC, went even further in the August 2000 edition of *In Brief* warning his members against accepting judicial appointments. Under the title of 'Watch out if you're offered a judicial post', he said:

> The operation of the commonwealth legislation subjecting members of constitutionally protected superannuation funds to the superannuation contributions tax carries many disturbing consequences. Most importantly, it will affect the ability of the state to recruit judicial officers and other public officers who are most suitably qualified. It will also affect the ability of the state to retain the services of judges and other public officers once their superannuation entitlements begin to reduce.

The Supreme Court has also raised the likely impact of the surcharge on the recruitment of women as judges. This government has worked hard to ensure that candidates reflect a diversity of legal backgrounds and bring a wide range of skills and experiences to the bench. The improvement in the number of women candidates being considered for appointment to the Magistrates Court is due to the advertising process undertaken last year, which attracted 40 per cent female applicants, compared with previous figures of 25 per cent.

The commonwealth's surcharge legislation could also mean that people without independent wealth, or those whose legal practice is in areas that are less well paid — such as criminal lawyers whose practice is primarily in legal aid matters — will be less willing to consider a position on the bench. We want the bench to be more representative of the wider community, not less so.

Under the commonwealth's surcharge legislation, members of constitutionally protected pension schemes are required to pay a lump sum superannuation contributions surcharge of up to 15 per cent when they retire.

Actuarial advice suggests that this lump sum liability could be as much as $330 000. The effect of the commonwealth legislation is that a person who retires will receive a surcharge notice requiring them to pay a significant amount of money within three months. This surcharge is a tax on that person's future pension entitlements. Honourable members will appreciate the problem this raises. The person will have to pay a lump sum tax to the commonwealth in respect of money they have not yet received. Indeed, because the surcharge assessment is based on actuarial calculations, the person may never receive sufficient pension to pay the surcharge. If a member dies a week after retiring, the pension ceases. There is no benefit that is transferred to the person's estate. Although a member's spouse and/or a dependent child are entitled to a reduced pension, there is no provision in the commonwealth legislation to reassess the surcharge or refund part of it.

The commonwealth legislation was designed to reduce certain taxation benefits available to employees and self-employed people who made contributions to a superannuation scheme. But as I have already mentioned these constitutionally protected pensions are paid out of consolidated revenue. The government and the members do not make contributions to a superannuation scheme. Members cannot convert their pensions into lump sums, and they do not receive any income tax benefits. When a pension is paid, it is fully assessable to tax as income of the member.

Quite simply, the commonwealth surcharge should not apply to these pension entitlements. Unfortunately, the commonwealth government has so far refused to reconsider this matter, and so this bill is necessary to provide some relief.

Parliament has already legislated to address the surcharge tax in respect of other public sector superannuation schemes, including the Parliamentary Contributory Superannuation Fund, under the Superannuation Acts (Amendment) Act 2000.

Other states, including South Australia, New South Wales and Queensland have moved to reduce the impact of the commonwealth's superannuation surcharge on judicial and other public office-holders. The Victorian bill builds and improves on that legislation.

This bill makes amendments to the relevant acts that govern pension entitlements to enable persons to commute part of their pensions to pay the lump sum superannuation surcharge liability. In broad terms, members will be able to elect to reduce their future pension entitlements, and authorise the government to pay the surcharge to the tax office on their behalf. A spouse or eligible child, who is entitled to a reduced pension, will also be able to make an election in respect of a member who has died.

Although a representative action challenging the commonwealth legislation may be commenced by the Judicial Conference of Australia, this government considers it appropriate to act to protect the interests of office-holders and the state as soon as possible.

Members will have two opportunities to make an election. Firstly, they will be able to elect within two months of receiving an assessment notice from the

commonwealth. The relevant minister will then arrange for an actuarial calculation of the amount by which the pension should be reduced. The bill will specify that in line with the commonwealth surcharge legislation, that reduction will not be more than 15 per cent of the member's entire pension entitlement. The member will have the protection of being able to rescind their election after receipt of the actuary's calculation. In making the election, the member will authorise the payment of the surcharge direct to the Australian Taxation Office, to avoid any possibility of a separate tax liability arising for the member. On payment of the surcharge liability, the pension will be reduced in line with the actuary's advice.

The bill also provides members with the opportunity to make an election to commute whilst in service. This avoids the inequitable situation that could arise if a member dies after retirement, but before making an election. In that case, the surcharge debt would still remain, but there would be no pension to commute. If a member makes an election whilst in service, the actuary will calculate a pension reduction to take effect on retirement. Any necessary adjustments will then be made after receipt of the formal tax office assessment.

This bill will provide equity to members of constitutionally protected schemes by allowing them to pay their surcharge liability through a reduction in their future pension entitlements. In addition, the proposed legislation will ensure the government can continue to attract the best possible candidates for these important roles.

I commend the bill to the house.

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

Debate adjourned until next day.

TOBACCO (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

I am proud to present this bill today as it represents a major public health initiative and demonstrates how far we have come, as a community, in recognising the significant health threat that smoking poses.

More than 4500 Victorians die each year of smoking-related illness and smoking costs Victoria in excess of $3.3 billion each year.

About 15 per cent of all deaths in Australia can be attributed to tobacco-related causes such as lung cancer, heart disease and emphysema. These deaths are avoidable.

Reducing smoking rates is the single most effective way to enhance the health status of Victorians, and to impact on rising health care costs.

Unfortunately, over the 1990s no progress was made in relation to teenage smoking rates.

Around 21 per cent of Victorian adults smoke. However, data from the 1999 Victorian secondary school students survey shows that 26 per cent of 16-year-old Victorian males, and 34 per cent of 16-year-old Victorian females, had smoked in the previous week.

Therefore, in May 2000, the Bracks government introduced significant tobacco reforms into the Parliament. The reforms were passed with bipartisan support.

These initiatives related to:

- smoke-free dining;
- the regulation of tobacco advertising and tobacco displays in tobacco retail outlets; and
- a requirement for retailers to display health warning or smoking cessation signs.

These reforms represented the most significant achievement in tobacco control since the Victorian Tobacco Act was introduced with bipartisan support, in 1987.

The reforms I am introducing today build on these reforms and will move the tobacco control agenda further forward.

In summary, the key tobacco reforms contained in the bill are that:

- all enclosed retail shopping centres in Victoria will be required to be smoke free;
- retailers will be required to display signs that state it is illegal to sell tobacco to minors;
- the sale of single cigarettes will be prohibited;

the advertising of 'cheap smokes' or 'discount cigarette' signs outside tobacco retail outlets will be prohibited;

loopholes in the provisions prohibiting the practice of providing gifts with tobacco products will be eliminated; and

mobile cigarette sellers will be banned.

In addition to these changes, government realises that the tobacco advertising changes introduced last year are significant. We understand the importance of providing tobacco retailers with sufficient time to plan ahead to accommodate the new tobacco advertising laws.

The government has conducted extensive consultations with the retail industry about the new legislation and regulations to be made under it.

The retail industry has indicated a concern about the time frame for implementation of the new laws. The government wants to ensure there is sufficient time for retailers to prepare for the new laws.

Therefore government has agreed to delay the introduction of the tobacco advertising reforms for an additional six months, until 1 January 2002.

As a further concession to tobacco retailers, we will also exempt cigars in humidors from the limits to the tobacco display area that retailers will be required to comply with.

This government has listened and responded to concerns raised by small business about the implementation of the reforms. These concessions have been made in response to issues raised by tobacco retailers.

I believe these measures will go a long way towards addressing the concerns small retailers have about the impact of these important health reforms.

The government has also provided a limited concession to three duty free operators at Melbourne Airport, which will enable the display of one product line of each cigarette carton.

The concession will apply to duty free stores past the customs barrier at Melbourne Airport. Turnover of tobacco products at these stores is significant. Further, these operators rely on a system whereby incoming and outgoing passengers self-select their cigarette cartons.

Self-selection is only practically possible if these stores are permitted to display the cigarette carton they have available for sale.

The concession also recognises that these stores are located in a passport controlled environment. They are not a typical public place to which the tobacco display limits will generally apply.

We know that preventing children's exposure to tobacco advertising is particularly important. Research suggests that tobacco advertising may play an even more important role than peer pressure in influencing teenagers to smoke.

Banning point-of-sale advertising and limiting tobacco displays are positive steps which will help reduce the number of young people who take up smoking and assist those trying to quit.

Ultimately, the needs of small business must be balanced against this government's responsibility to prevent the promotion of a product which we know to be the leading cause of death and disease in Australia.

The bill before you today also introduces a number of new tobacco reforms that address passive smoking, and continue our efforts to reduce youth smoking.

There may be some who criticise the tobacco reforms as merely further regulation by government, but tobacco kills 13 Victorians every day.

Over the past 20 years, research has increasingly revealed the harm of second-hand smoke, especially to children.

Ill effects from passive smoking include lung cancer, heart disease, underweight babies and respiratory problems in children.

Therefore I propose to introduce a law requiring all Victorian retail shopping centres to be smoke free. The community is ready for this reform.

Research undertaken by the Anti-Cancer Council of Victoria in 1998–99, showed that 81 per cent of Victorians surveyed supported prohibiting smoking in shopping centres.

We also know that the majority of shopping centres, around 68 per cent, are already smoke free.

Peak associations such as the Property Council of Australia, and the Shopping Centre Council of Australia, welcome this amendment.

A further pressing problem on our tobacco agenda relates to young people taking up a habit that may eventually kill them.

Victorian children spend about $25 million per year on cigarettes and 80 per cent of smokers start before turning 18 years of age. Smoking is essentially a childhood 'habit' that continues into adulthood.

On 1 November 2000, reforms including increased penalties for those retailers who sell cigarettes to young people less than 18 years old, were introduced.

The amendments contained in this bill will go further to address the problem of teenage smoking.

Currently, legislation does not require the display of signs at tobacco retail outlets that state it is illegal to sell tobacco to minors.

Requiring retailers to display these signs is an important component of our strategy to reduce cigarettes sales to children and adolescents.

The findings of Melbourne's western region tobacco project were that retailers who displayed cigarette-sales-to-minors signs were more likely to request identification from young people purchasing cigarettes, and more likely to refuse a sale to a young person.

The bill will also prohibit the sale of single cigarettes.

This amendment is a further crucial component of our strategy to reduce teenage smoking, as single cigarettes are cheap and young people's demand for tobacco is far more price sensitive than adults' demand for these products.

The legislative reforms will also prohibit the display of 'discount cigarettes' or 'cheap smokes' signs outside of tobacco retail outlets.

While this type of advertising is not directly related to specific tobacco products, research shows that price is a key driver of tobacco consumption.

In particular, international research has illustrated a clear relationship between young people smoking and the affordability of tobacco.

Moreover, recent research published by the National Bureau of Economic Research in Massachusetts also indicates that partial advertising bans are far less effective than complete bans in reducing people's exposure to tobacco advertising.

The legislation will also eliminate a loophole in the act where gifts or benefits may be offered with the purchase of tobacco products, as an inducement to purchase these products.

These gifts and benefits appear to be targeted at young people and act as an incentive to encourage them to purchase tobacco products. The gifts have included products such as make-up mirrors, CD cases and shot glasses.

This amendment will tighten the legislation to ensure that no non-tobacco products can be provided in connection with a tobacco product, or for the purposes of promoting the sale of a tobacco product. This is regardless of whether or not a cost is attached to that product.

The amendment is important as it will help ensure government reforms that were passed in May last year and which are aimed at reducing incentives for young people to purchase cigarettes, are not undermined.

Mobile cigarette sellers are a further form of promotional activity that tends to be targeted at young people. These activities typically target events with a strong youth culture.

Cigarettes sold by mobile sellers at such events are often heavily discounted.

The frequency of this type of advertising is likely to trend upwards as most other forms of tobacco advertising will soon be prohibited.

This amendment will help ensure that the incentives for young people to smoke are reduced, and will complement the package of tobacco display reforms to be introduced in January next year.

Local councils will continue their important role in enforcing tobacco legislation, including the new reforms I have outlined today.

The Bracks government is eager to maintain the productive working relationship we have forged with local government since coming to office.

We recognise the pivotal role local government will have in ensuring the success of the new tobacco reforms.

In conclusion, this bill will build on the tobacco reform package passed by the Parliament in May last year. It contains important measures to address both passive smoking, and active smoking, particularly in relation to young people.

Importantly, these amendments in relation to small business will not compromise the overall aim of our tobacco reforms but they will help reduce compliance

costs for small business and assist in the smooth implementation of the reforms.

The measures this bill introduces are extremely important. Recent economic modelling by the University of Melbourne shows that if our tobacco policies remain constant, tobacco consumption will rise again.

Therefore, if we do not continue our tobacco control reform efforts, research tells us the incidence as well as the economic and social cost of tobacco use will continue to rise.

I wish to make a statement pursuant to section 85 of the Constitution Act 1975 about the reasons for altering or varying that section by clause 16 of the Tobacco (Further Amendment) bill.

That clause inserts a new subsection (2) in section 42b of the Tobacco Act, which states that it is the intention of section 42, as it will have effect after the amendments come into force, to alter or vary section 85 of the Constitution Act 1975.

Section 42 of the Tobacco Act provides that an action does not lie against a person for the failure to do anything that would constitute an offence under the act. This was included in the act when it was first passed in 1987.

The bill creates a number of new offences. It is necessary that section 42 apply to those offences in the same way that it applies to existing offences.

It would frustrate the purpose of the act if people felt compelled to undertake activities that were prohibited by the bill, such as the mobile selling of tobacco products, out of fear of some legal action which may be brought against them if they fail or refuse to do so.

I commend the bill to the house.

Debate adjourned for Hon. M. T. LUCKINS (Waverley) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

JUDICIAL COLLEGE OF VICTORIA BILL

Second reading

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

That this bill be now read a second time.

In July 2000, the government convened a judicial education working party to advise on the best way to address the ongoing education needs of Victoria's judicial officers. This working party was chaired by the chief justice and included the heads of Victoria's courts and VCAT. The working party delivered its report in February 2001, with clear recommendations for the establishment of a formal judicial education structure in Victoria. The government thanks the chief justice and the other members of the working party for their participation and contribution.

In developing the most appropriate model for Victoria, the working party examined judicial education bodies in New South Wales, the United Kingdom, Canada and New Zealand. Each of these jurisdictions has long-established judicial education structures for the delivery of judicial education and training.

This bill implements the recommendations of the working party by establishing a Judicial College of Victoria to deliver planned, coordinated and integrated judicial education and professional development services to judicial officers.

The importance of continuing education is now recognised in many professions and areas of life. The increased emphasis on judicial education in recent years is a product of the changing nature of society, the law, and community expectations. At the same time, there is an ever-increasing range of demands being placed on the judiciary.

The government believes that effective judicial education enhances the independence, professionalism, stature and performance of the judiciary. In delivering judicial education and training programs to the judiciary in a number of diverse areas, the judicial college will engender greater community confidence in the justice system. Educational and professional development courses provided by the judicial college could include awareness of issues affecting the indigenous community, developments in technology and matters associated with sentencing.

The bill respects and promotes the principle of judicial independence in a number of ways. Firstly, the judicial college will be established as an independent statutory corporation. Secondly, the bill provides that each of the courts and VCAT must be represented on the governing body of the judicial college. This will ensure that the judiciary has significant input into the design and content of courses and programs provided by the judicial college. It will also enable the judicial college to respond to the education and training needs of each

court and VCAT. Finally, the bill reflects the government's intention that participation by judicial officers in the education programs provided by the judicial college should be voluntary. It is the government's hope that all judicial officers will participate in the activities of the judicial college, thereby availing themselves of the benefits of programs offered by the college.

Functions and powers of the judicial college

Part 2 of the bill sets out the functions and powers of the judicial college.

The principal functions of the judicial college are to:

assist in the professional development of judicial officers;

provide continuing education and training for judicial officers; and

produce relevant publications.

The bill gives the judicial college the power to do all things necessary to perform its functions. The judicial college will have the power to engage consultants with suitable qualifications and experience to assist it with the development of judicial education courses.

Structure of the judicial college

Part 3 of the bill deals with the structure and procedure of the judicial college.

The governing body of the judicial college will be a board consisting of six directors. The judicial directors of the board will be the Chief Justice, the president of VCAT, the Chief Judge and the Chief Magistrate, or their nominees. The Chief Justice, or his or her nominee, will chair the board of the judicial college.

The two remaining directors will be nominees of the Attorney-General, appointed by the Governor in Council for a period of up to five years. These directors will be eligible for reappointment. One nominee of the Attorney-General will have an academic background to assist in designing courses which are academically sound. The other will have broad experience in community issues affecting the courts.

This balanced membership will facilitate judicial, academic and community input into the activities of the judicial college. Importantly, the composition of the board will ensure that the programs developed by the judicial college are relevant to the educational needs of judicial officers.

The judicial college will have a chief executive officer and staff to enable the college to perform its functions.

Accountability

While it is critical that the judicial college be independent, like all modern statutory corporations it must also be subject to appropriate levels of accountability. Accordingly, the bill contains a number of mechanisms to ensure the accountability of the judicial college in relation to its operations and expenditure.

The government is committed to providing improved justice services to the Victorian community. The establishment of the Judicial College of Victoria is a significant and exciting step towards delivering this commitment.

I commend the bill to the house.

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

Debate adjourned until next day.

LIQUOR CONTROL REFORM (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The purpose of the bill is to amend the Liquor Control Reform Act 1998 (the act) to ensure the effectiveness of key aspects of Victoria's liquor licensing framework.

Its focus is on closing loopholes that potentially undermine the operation of section 23 of the act. This section, commonly referred to as the 8 per cent rule, prevents the grant or transfer of a packaged liquor licence to an applicant that holds more than 8 per cent of all such licences granted and in force.

By amending the act to prevent applicants from circumventing the 8 per cent rule, the bill delivers on a key commitment contained in the Bracks government's small business election policy statement, 'Taking care of small business'.

The bill also seeks amendments to the act to clarify that the prohibition on licensing a petrol station applies to all premises situated within its confines.

Before detailing the key provisions of the bill, I wish to briefly outline the broader context within which the amendments to the 8 per cent rule are being proposed.

The amendments arise from the government's response to a comprehensive review of the 8 per cent rule that was undertaken by the Department of State and Regional Development during 2000, with the assistance of an expert reference group.

Hon. Bill Forwood interjected.

Hon. M. R. THOMSON — You should have made a submission.

Hon. Bill Forwood — We should have, too.

Hon. M. R. THOMSON — The review was commissioned following concerns raised by the National Competition Council — you should have done it when you were in government.

Hon. Bill Forwood — We did do it when in government.

Hon. M. R. THOMSON — No, you did not. The review was commissioned following concerns raised by the National Competition Council that the ongoing retention of the 8 per cent rule is inconsistent with national competition policy principles.

A key finding of the review was that Victoria has the most progressive liquor licensing arrangements in Australia. Changes over the past two decades, most recently the removal of the needs test in 1999, have facilitated a market for packaged liquor that is intensely competitive while offering consumers a diverse range of outlets that cater to their differing preferences.

However, the growth in the number of outlets is diluting the long-term effectiveness of the 8 per cent rule as a mechanism that limits the presence of the major chains in the market. The review also identified loopholes that potentially enable the major chains to circumvent the 8 per cent rule.

The 8 per cent rule cannot be relied upon to ensure a role for small liquor stores in the industry. The agenda must move on to focus on developing new innovative strategies that enhance the capacity of small liquor retailers to compete in a changing environment, so that they remain to be a vibrant part of the industry in the future.

On 19 January 2001, the government announced its response to the review. The key elements are:

retaining the 8 per cent rule until the end of 2003, after which a gradual phase-out will commence;

amending the act to close loopholes that potentially enable the 8 per cent rule to be circumvented;

approaching the commonwealth government to seek its support to ensure that the packaged liquor industry can access the recently established national retail grocery industry code of conduct and ombudsman scheme; and

asking the Coordinating Council on the Control of Liquor Abuse, an expert advisory body, to examine whether recent changes in the market for packaged liquor may have had any impact on alcohol-related harm in the community.

The advance notice of a gradual phasing out of the 8 per cent rule is critical to a successful transition by small business to a changing environment. It provides them with the necessary time to reconsider their business strategies and also enables the government to continue its work with the industry in developing innovative long-term strategies that build on the strengths of small liquor retailers. Consumers will also benefit from this approach as they will continue to be served by a truly competitive industry comprised of a diverse group of retailers that satisfy their particular needs.

I now turn to the details of the bill.

An opportunity exists under the act for an applicant to circumvent the 8 per cent rule on packaged liquor licence holdings by obtaining a general licence (mostly held by hotels), as it also permits the sale of packaged liquor. While this loophole has not been widely exploited yet, the retention of the 8 per cent rule for the next three years may increase this likelihood.

Clause 8 of the bill amends the act to ensure that an application for a general licence where the predominant activity is the sale of packaged liquor is not used as a means of circumventing the 8 per cent rule.

In the case where an applicant's holdings are above the 8 per cent limit, the amendments require that the Director of Liquor Licensing not approve an application for the grant or transfer of a general licence if the predominant activity of the licensed premises would be the sale of packaged liquor.

The amendments will not prevent applicants whose holdings are above the 8 per cent limit from obtaining a general licence where the predominant activity is not the sale of packaged liquor. In such instances, clause 6

provides that it is a condition of the general licence that the predominant activity is not the sale of packaged liquor at any time that their holdings are above 8 per cent.

In the case where the applicant's holdings are below the 8 per cent limit, the director may approve an application for the grant or transfer of a general licence. However, if the applicant holds general licences where the predominant activity is the sale of packaged liquor, those licences are to be taken to be packaged liquor licences for the purposes of determining whether the application would breach the 8 per cent limit.

Section 23 of the act currently provides that a packaged liquor licence must not be granted if, at the time of application, an applicant holds more than 8 per cent of the total number of such licences. There has been some legal uncertainty regarding the interpretation of the phrase 'at the time of application'. Clause 8(2) of the bill will remove any legal uncertainty by amending section 23 to make it clear that the 8 per cent rule applies at the time of the determination of the application by the Director of Liquor Licensing. As the director considers and determines each application individually, this amendment will ensure that the director could only grant a licence up to the point where the 8 per cent limit has been reached.

The amendments outlined above apply prospectively to the grant or transfer of a licence on an application made on or after 23 January 2001. This was the date on which the public would have received advice from the government detailing its intentions to close these loopholes immediately. The public was informed through a media release and a letter to all liquor stores, licensed supermarkets and hotels. This transitional provision is necessary to prevent a potential rush of applications prior to the passage of the amending legislation. The amendments will not apply to applications lodged prior to this date.

The concept of 'predominant activity' is already applied by the act in relation to packaged liquor licence applications and infers that at least half of the business's turnover is to be derived from packaged liquor sales. Clause 5 proposes a minor amendment to clarify that this condition applies throughout the life of a packaged liquor licence.

Until recently it was generally understood that section 23 limited a company's holding of packaged liquor licences to the 8 per cent level. This was the clear intention of the legislation. However, it is apparent from Woolworths' acquisition of Liberty Liquor that this is not the case, as section 23 does not capture licences that are acquired but not transferred between corporate entities.

On 18 April 2001, the government announced that it would introduce amendments to ensure that an 8 per cent limit on holdings applies to all packaged liquor licences that a company controls. Effective from that date, a company that increases its holdings above the 8 per cent limit will be required to return to that level within 12 months. If the company does not adjust its holdings accordingly, those licences above the 8 per cent limit will cease to be in force. In exceptional circumstances, the Director of Liquor Licensing may grant a one-off extension of up to 90 days.

The bill also provides that a company is not permitted to relocate any of its licences while its holdings are above the 8 per cent limit. This will encourage licensees to return to the 8 per cent level as soon as practical.

Section 85 statement

I wish to make a statement of the reasons why it is the intention of the bill to alter or vary section 85 of the Constitution Act 1975.

New section 179A states that it is the intention of section 26K to alter or vary section 85 of the Constitution Act 1975. New section 26K provides that no compensation is payable by the state or the director to any person for any loss or damage as a result of the enactment of the proposed division 3A.

The government has a clear policy commitment to an effective 8 per cent limit. It is a stated objective of the Liquor Control Reform (Amendment) Bill. The public has been well informed of this position. The only bodies corporate affected by this division are those that, notwithstanding the government's policy commitment and the intent of the legislation, seek to increase their holdings of packaged liquor licences above the 8 per cent limit. The proposed amendments ensure compliance with the 8 per cent limit without exposing the state or director to the risk of compensation claims.

Finally, section 22 of the act provides that the director must not grant a licence to a premises used primarily as a petrol station. However, a recent Victorian Civil and Administrative Tribunal (VCAT) decision resulted in the licensing of a business that is located within the confines of a petrol station on the basis that it is a separately managed and operated business. This has created some legal uncertainty regarding the implementation of the act's prohibition on licensing petrol stations.

In light of the VCAT decision and the recent trend of businesses co-locating with petrol stations, legislative action is required to uphold the prohibition. The bill requires the director to have regard to certain factors when determining whether a proposed licensed premises is used primarily as a petrol station. These factors are the physical location of the area set aside as the proposed licensed premises, the primary means of entering and exiting that premises and whether a reasonable person would consider that premises to be part of the petrol station.

In conclusion, the proposed amendments contained in the bill will ensure that key aspects of Victoria's liquor licensing framework continue to operate effectively. They form the legislative component of a broader set of initiatives that reaffirm the government's commitment to ensuring that small business continues to be a vibrant element in a diverse market for packaged liquor.

I commend the bill to the house.

Debate adjourned on motion of Hon. BILL FORWOOD (Templestowe).

Debate adjourned until next day.

WATER (AMENDMENT) BILL

Second reading

Debate resumed from 1 May; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — The bill amends the Water Act to enable two catchment management authorities (CMAs), Wimmera and Mallee, which do not have waterway and flood plain management functions, to be given those functions. Further, the bill proposes to allow the minister to exempt an authority from having to notify every person who may be affected by a proposal to set up a new waterway management district and to correct an oversight in the order that established the Lower Murray Region Water Authority.

Liberal opposition members support the bill and will not delay its passage through the house. However, there are some important issues that I would like to draw to the attention of the house. Clearly providing waterway and flood plain management functions to those authorities is important, given that there are seven other authorities in the state that now have a proud history of nearly five years of effectively discharging those obligations.

Waterway management generally has a proud history in Victoria. For nearly 50 years eastern Victoria — particularly Gippsland and north-eastern Victoria — has benefited from the development of effective river management functions that are now redescribed as waterway management. One of the problems that occurred with the change of government in 1999 was that during the election campaign the Bracks opposition made a feast of catchment management tariffs. The pity of it was that in implementing that election policy the government has to some degree reduced the relationship, because by paying a tariff community stakeholders had a strong and powerful interest in the management of their catchments. Indeed, to some degree schools are still involved in water watch programs but, more importantly, private land-holders, particularly farmers, were involved with local catchment authorities undertaking works within the catchment to develop a strong and viable turnaround in the approach to environmental management across regional Victoria. Now that the waterway tariff has been abolished, communities have a much lower degree of ownership or stake in the activities of the catchment management authorities. That is clearly detrimental to the long-term future of our catchments.

There must be an effort on the part of government to change the way these matters are regarded and to reinvest a sense of ownership and purpose within the communities that now feel somewhat disenfranchised because they do not have that strong relationship in terms of a contribution to the work of the authorities.

It is interesting to note that contrary to the promise made when these reforms were introduced in the West Gippsland Catchment Management Authority there has been a reduction of funding. The substitute funding provided by the government to CMAs has not been maintained at the same level as that contributed previously. Indeed, the estimate is that in net terms $600 000 per annum less is being provided by government in lieu of CMA tariffs than would otherwise have been collected. That has had a detrimental impact this year on work in the West Gippsland CMA waterways. Further, the flood plain management function, which had previously been funded and was part of the Department of Natural Resources and Environment activities transferred across to the CMA and initially funded by government, is no longer funded. The cost of undertaking flood plain management is now carried by the authority with no reimbursement of funds, and consequently there has been a depreciation of the opportunities that exist for other important catchment works. Consequently, it appears that as a result of changed funding arrangements, the West Gippsland CMA is the poorer

by more than $700 000. I highlight that in the context of the bill.

Although the opposition does not oppose but supports the bill because it is important that waterway and flood plain management functions be given to the Wimmera and Mallee CMAs, it is concerned that the functions will be unfunded.

We have heard nothing from the government about its funding responsibilities. After the budget was handed down last week I studied the budget papers to see whether they include any reference to increased funding for this area of state government responsibility, but I could find no allocation of funds for the important extension of responsibility for waterway and flood plain management to two additional CMAs. Therefore, I can only suppose that the funding currently provided statewide will be smeared across a wider area, thereby further reducing the funding available to the West Gippsland and all other catchment management authorities. That is a real concern.

It is a reflection on the government that it introduces a bill into this house but does not provide the consequential funding. It is becoming increasingly evident that it has no commitment to catchment management. Protestations to the contrary from the responsible minister in the other place, the Minister for Environment and Conservation, are now falling on deaf ears because rural communities, which increasingly see clear neglect by the government, are becoming very sceptical. For example, Victoria's most significant inland waterway is the Gippsland Lakes. They produce a very high economic return and their natural geography makes them an icon. The Gippsland Lakes comprise some 400 square kilometres of waterway and 4000 square kilometres of wetlands. The lakes catchment area comprises some 10 per cent of Victoria, but it is a degraded waterway that requires a significant investment to improve it.

The government has had no qualms about doing a political deal and putting $150 million into the $375-million Snowy River package. But what has it done for the Gippsland Lakes? Not much at all. The so-called Gippsland Lakes rescue package amounts to about $2 million. That is a pathetic effort and is a reflection of how the government responds to the needs of our water catchments. We need to be cognisant of what is not in the budget but what is referred to in this bill, the implications of which are significant.

Recently I sighted correspondence from Cr Bill Henebery of the Shire of Wellington specifically about the West Gippsland CMA proposal to impose a drainage levy. Cr Henebery alludes to the fact that were it properly funded there would be no need for the authority to impose a drainage levy because the functions of the CMA would have been properly supported by its activities generally. Therefore the government has an obligation to continue to fund catchment management authorities properly.

I raise these issues in the context of West Gippsland, but they are also of concern throughout the state. I support the bill insofar as it proposes to extend the responsibility for waterway and flood plain management to two additional catchment management authorities. However, I raise the concern that as a consequence of the diminution in funding available to them, the catchment management functions of all CMAs throughout the state will be diminished.

Hon. B. W. BISHOP (North Western) — I welcome the opportunity to speak on the Water (Amendment) Bill chiefly because water is so valuable in this dry continent of ours. Water is one of our most precious commodities, which these days is recognised more and more by rural communities — and, I suspect, by people living in metropolitan areas. As more water is used in the future it will prove to be the gold of this millennium. Therefore, it is essential that water is regarded as a very important resource.

I will briefly go through the purposes of the bill. Parts of the bill allow the Wimmera and Mallee catchment management authorities (CMAs) to assume waterway and flood plain management functions. It is an unusual situation. In 1994 the Wimmera and Mallee CMAs did not have waterway and flood plain management functions because they were not linked with that part of the Water Act. They simply picked up the process as it unfolded. It is important that that aspect of water and land management be tidied up and that the Water Act be amended to allow the Wimmera and Mallee CMAs to take on the appropriate powers and functions.

The bill also contains a practical amendment that allows the minister to exempt an authority that submits a proposal to set up a new waterway management district from having to notify every person who may be affected. If the government wants to set up a new waterway management district, it needs to notify all the people who may be affected. In some cases that may involve 45 000 people. This bill will insert an amendment that will exempt an authority from having a mandatory task of doing that and it will be able to do it in another way.

The final part of the bill corrects an order that was formed some time ago. As I understand it, it is the order

that created the Lower Murray Region Water Authority. The oversight at that time omitted the names of some of the districts that were managed by the Sunraysia Water Board, which was gathered up into the Lower Murray Regional Water Authority.

I will make some brief comments on catchment management authorities. Catchment management authorities evolved out of the catchment and land protection organisations that existed prior to the CMAs. There were 10 of those, and 1 still remains — the Port Phillip Catchment and Land Protection Board. So nine CMAs are now recognised. There has always been a lot of debate, particularly in rural areas and areas where people are interested in the management of land and water. The debate has centred on whether catchment management authorities should have teeth or simply be advisory bodies. The debate is interesting. But whatever the final result, the catchment management authority structure and concept is a great one, because it is community driven through the membership of the various organisations.

The advisory body supporters say, 'We just want the CMAs to advise. We do not want to set up another government department. We do not want to have that overhanging the whole process'. But the supporters of authorities with more teeth say — and I believe quite rightly — that you cannot get people to sit on those boards unless they have the capacity to drive the programs, to encourage them to be able to make decisions in their own community areas and see those decisions through.

So that is where the two issues lie. Certainly when we try to get people to put themselves forward for these organisations, I can assure you — and every member of this house who has shown interest in it would know — that it is not the money they go for; it is an absolute pittance. It does not matter which government is in power, it is an absolute pittance, particularly for the chairs of the organisations. I have observed in the past — I expect I am now somewhat out of the loop — the enormous contribution that chairs of catchment management authorities put in. It is a very heavy workload and certainly they are not well rewarded in a monetary sense.

Hon. W. R. Baxter — I recall that Mr English and Mr Leach did an enormous job in your area.

Hon. B. W. BISHOP — They both did, Mr Baxter, and I will be mentioning both of them a little later in my contribution. So it is not an issue of money. The monetary remuneration is not the reason why they become members of those organisations. Those people have a strong desire to ensure that their communities are well represented and that the resulting programs are community driven.

My view is that it is far better that CMAs have teeth. It would allow people who want to drive the projects through the opportunity of making worthwhile contributions to their areas. But we must constantly guard against having an overloaded bureaucracy. We do not want two organisations doing the same job, particularly members of CMAs and officers of the Department of Natural Resources and Environment.

Although I was not going to mention this in my contribution, I note that the Honourable Philip Davis raised the issue of levies. I accept that in the process of putting these organisations into place the former government, for a number of reasons, was not able to promote as successfully as it would have liked the advantages of having levies in those CMA areas. One of the issues was ownership. I believe many Victorians have absolutely no understanding of the management of land and water in a water catchment process. I also believe had levies stayed in place it would have driven an ownership process which would have been most important, not only because of the funds raised, but in persuading people to recognise and understand the real contribution that CMAs can make.

The second point raised by the Honourable Philip Davis was that the levy also created some financial resources. I urge the Bracks government to ensure that catchment management authorities have adequate resources to fulfil their important roles.

As I said, I believe the concept is great. It is community driven and we need practical people to drive the projects. We need people with experience. Mr McQuilten and honourable members representing the Bendigo area would appreciate that from a catchment perspective a lot of the waste water that comes out of the Ballarat or Bendigo regions ends up in the Swan Hill region. Therefore we need a broad assessment of how we manage land and water relative to that area. The catchment process is an excellent way to do it.

I refer the house to a practical example in Murrayville on the South Australian border. Honourable members might ask who would want to manage water in Murrayville. It is a very isolated, arid area. However, they have put in place what they call the Murrayville ground water supply protection area. Honourable members might ask why, because in Murrayville they have underground water — very valuable underground water.

That is in the Dutto aquifer, which stretches from South Australia to a long way over the Victorian border and needs careful and practical management. A couple of years ago in a particularly dry year the extent of the draw-downs from the aquifer were such that the bore levels were reduced by at least 10 metres, causing substantial concern to the people who relied on it, particularly for stock and domestic use. The draw-downs took place because of the irrigation needed to grow potatoes, lucerne and other crops, which are all good for the area. When the levels of the bores dropped such a long way there was what might be called an uprising in the area, so it needed some assessing.

Of course the locals did most of the work, and I commend them all but particularly Glenys McKee and Kevin Chaplin from the Murrayville area. They also received — this is the beauty of the catchment approach — tremendous support from the Mallee Catchment Management Authority; assistance from South Australia, because obviously residents of South Australia were using the water; and good support from the Victorian government and the Wimmera-Mallee Rural Water Authority. The Mildura City Council also joined in; the mayor of the day, Howard Crothers, had excellent experience in that area. Strong scientific support was given, as well as support from the Murray Darling Basin.

The catchment management authority was able to draw all those people together to make it work and to satisfy the local community. The outcome of those discussions is that they are now managing that aquifer very well and sustaining the level of water in it; and it is creating employment in Murrayville and the surrounding towns, which is beneficial to the area.

I refer the house to my point about it being a community-driven process, about the dependence on the membership of the boards to ensure that community thrust and that those programs are driven through. I will speak particularly about the Mallee and Wimmera catchment management authorities. I cannot resist raising the cavalier manner in which the present government went about the appointments to not only those boards but also to others. However, I can speak with more experience on those particular organisations.

Lance Netherway, the former chair of the Wimmera Catchment Management Authority, has gone without a trace, and the Mallee chairman, Gerard Leach, who was mentioned a short while ago by the Honourable Bill Baxter, has gone without a trace as well. They both spent a lifetime in land and water management and their removal is particularly disturbing. There have been others; many people are involved. I refer to Stan Pickering, who spent a lifetime in land and water management and has also has gone without a trace.

Hon. Philip Davis — Stan was pretty keen on trains, too.

Hon. B. W. BISHOP — He was keen on trains and did a great job on the former state transport authority. If the memories of honourable members are prodded enough they will remember that he was known as the member for railways. Mr Pickering's skills were recognised by the Murrayville people and those involved in ground water supply protection. He has been seconded to assist that process to fruition, so he stays on.

If my mathematics are right, of the 90 or so members across the state 15 are left. I am not being difficult about this, but I hope the government has learned from the experience and I urge it not to take such strong moves in the future.

Today I can talk about the Lower Murray Region Water Authority board appointments. Three board members were left on that board but Patrick Hunt was tipped off. Patrick lives in Red Cliffs and was on the board for as long as I can remember, probably since the beginning. In fact, he was vice-chairman. It is hard for me to understand why people with his capacity could not be recognised and kept on as part of those organisations.

Hon. E. J. Powell — Sounds like the local experience has gone.

Hon. B. W. BISHOP — That is right and it is sad. I have only touched on four people and could mention many others. The government should take its foot off the accelerator over such issues. Other board appointments are coming up in rural water authorities and it will be a real test of the government, the communities and those authorities to ensure that the government shows some restraint and recognises the value that is there, which has been built up over a number of years.

It is accepted that the government will change some people, but no-one wants the decimation seen in the past. I accept that governments can put whoever they like on their boards, and that happens, but let the government show some restraint and recognise the intellectual capacity and corporate memory in those organisations. If there needs to be change it should be done in a measured fashion rather than the full-scale decimation seen in the past.

I attended an excellent presentation of the Mallee Catchment Management Authority, and although I have

not yet received it I know an invitation is coming to talk through some of the local issues. I have met the new chief executive officer, Gavin Hanlon, whom I wish well in his new role.

Lately I also met with the North Central Catchment Management Authority in Castlemaine. I congratulate Drew English as one of a rare species who have been able to retain their chair. Known as a strong leader in land and water management, Drew is well across all the issues in that area and has his new board working well. Barry Steggall, the honourable member for Swan Hill in another place, and I met with the authority, as did Geoff Howard, the honourable member for Ballarat East, and Joe Helper, the honourable member for Ripon. We had a great discussion about farm forestry, weeds on public and private land, different land uses, mining and the future vision for the area. It was a good meeting and I look forward to again meeting with authorities, which will be enhanced by the capacity the bill provides for them in water and floodway management. It is good to see community involvement and awareness coming through in those areas.

I have no criticism of past or newly appointed board members in those organisations. However, I say strongly to the government, 'Take care of the corporate memory that is in those organisations, of the intellectual capacity that is there, and of the experience that has been built up over many years by people who feel strongly about that particular role'. If the government adopts that approach and uses a little less speed in attack in that area, we will all come out considerably better off in the future.

The National Party therefore has no difficulty with this bill, which simply tidies up a number of issues to do with land and water management. It supports the bill and wishes it a speedy passage.

Hon. J. M. McQUILTEN (Ballarat) — I thank the opposition for its support of the bill. It is a good bill overall, which is what the last two speakers have said.

I will take a slightly different tack on the issue and talk about the water boards that have already started in country Victoria and around Australia. It is worrying to me, and I would hope to all in this house, that we are beginning to see individual companies fighting with one another over water and water supplies. Individual grape growers in my area have been to court over water and waterways. Townsfolk in my area are in conflict with country farmers and potato growers. Conflict is beginning to show its face everywhere on this continent, and most of it relates to water and salinity and their management.

Water is a very scarce resource in this country, as everybody knows. Governments in Australia have to work harder together as opposed to working as individual governments. One of the problems with water is that it does not know boundaries: a local government boundary, a catchment management boundary or a state border boundary. To have one state, one catchment management authority or one community — say, Ballarat — doing only what it can do is folly. We have to look at the whole picture across the nation — across all levels of government and all parts of the community. The farmer in Swan Hill is now affected by what may or may not be done to the aquifers in the Ballarat region. The people of Adelaide are in dire straits with their water quality, which is affected by what is done all the way up to Queensland. As a nation we must put this as our no. 1 priority.

I was in Perth during the Christmas holiday period and was amazed as I drove non-stop for 6 hours across south-east Western Australia that all I could see was salt damage. I have been to 58 countries and I have never seen anything as horrifying as that damage. It relates to water and clearing and has been going on for the past 50 or 100 years. When I spoke to two politicians — one a conservative and one who is now in the government — and asked them what they believed were the issues for the West Australian election, they went through all the issues but not once did they mention salt or water. That is horrifying and scary.

The government is now making every effort to provide money and a coordinated approach, but what is needed most in this country is leadership — leadership from this house, from the other house, from business, from the national government and from the community. It is not good enough to hope that the two grape growers in my area will work it out in court. It is not good enough to hope that the action of the local water authority will convince the town and the farmers that it will be okay in the end. We really need to change our view of the importance of water.

Another area I find interesting in my new role as a member of Parliament is regional forest agreements — the importance of water in the ecosystems of trees and how that can have an impact on Swan Hill and what we do with the Wombat Forest. I do not see our national leaders putting enough effort into a bipartisan, long-term approach — and it has to be bipartisan because this is too important and too many hard decisions have to be made.

If we start to bicker at a political level, it will not happen. We must have this bipartisan approach to water. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank all honourable members for their contribution to the debate and their support for the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

PROSTITUTION CONTROL (PROSCRIBED BROTHELS) BILL

Second reading

Debate resumed from 1 May; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. E. J. POWELL (North Eastern) — I am pleased to contribute to the debate on behalf of the National Party and to put on the record that the National Party will not be opposing the bill.

Although this small bill makes a very small amendment, it has a huge impact on and makes a large contribution to the principal act. The main purpose of the bill is to amend the Prostitution Control Act 1994 in respect of the procedure for declaring premises to be a proscribed brothel. 'Proscribe' is not a word we use every day, and I had to look up its meaning in the dictionary to make sure I had it right. I found that the word means 'unlawful, illegal, condemn'. The *World Book Dictionary* has a good interpretation of what 'proscribe' means, which is 'to prohibit as wrong or dangerous; to put outside of the protection of the law; to forbid to come into a certain place — banish'.

I say by way of a comment to the government — not an amendment — that it would be helpful to insert in the definitions section of the principal act the word 'proscribe' or the words 'proscribed brothels' so that those reading the bill would know exactly what they mean. The bill does not use the words 'illegal' or 'unlawful' — it uses the word 'proscribed' — and therefore it might be helpful to add to the definitions of words used through the act a definition of the words 'proscribed brothel'.

The bill was introduced because of the broad interpretation of section 80 of the principal act by a magistrate in September 2000. An application was made to the magistrate for a declaration of a proscribed brothel under section 80. The magistrate ruled there was not enough evidence to support the claim that a proscribed or unlawful brothel was being carried out on the premises in question at the time of application.

The part of section 80 of the Prostitution Control Act that was in dispute was:

> The Magistrates' Court may declare premises to be a proscribed brothel if it is satisfied on the balance of probabilities —
>
> (a) on the application of an authorised member of the police force, that —
>
> (i) a business of a kind referred to in the definition of 'brothel' in section 3 is being carried on at those premises.

A number of other issues relate to that section, but the main issue is that the operations of the brothel are being carried on at the time an application is made. The magistrate ruled there was not enough evidence to support such a claim.

The bill will amend section 80 to allow evidence of a proscribed brothel being carried on at premises up to 14 days before the application is made. That amendment would help not only police ensure the presence of a proscribed or unlawful brothel at the time of making an application, by allowing them to gather evidence and to talk to some of the people using the unlawful premises in the 14 days preceding the application, but also authorised officers of a responsible authority designated under section 13 of the Planning and Environment Act of 1987 as follows:

> The person who is the responsible authority for the administration or enforcement of a planning scheme or a provision of a planning scheme under this Act is —
>
> (a) the municipal council if the planning scheme applies to land which is wholly or partly in its municipal district unless the planning scheme specifies any other person as a responsible authority; or
>
> (b) the Minister, if the planning scheme applies only to land outside a municipal district, unless the planning scheme specifies any other person as the responsible authority; or
>
> (c) any person whom the planning scheme specifies as a responsible authority for that purpose.

A number of people are authorised to go into brothels to check out whether they are lawful or unlawful, and the act specifies who those people are. The National Party will not oppose any legislation that helps tighten up laws to stamp out or prosecute illegal or unlicensed brothels in Victoria.

As the first speaker on the bill I am not sure whether other speakers will allude to the research they did on the bill, but I put on record that I did not seek any opinions from owners of brothels or from clients of brothels. I did not visit any brothels, and I have never inspected any brothels.

I should correct that statement — I mean not practising brothels. There was a wonderful brothel used in the 1880s at the port of Echuca precinct, and as a commissioner of the Shire of Campaspe I did inspect it for the purpose of trying to obtain funds to enable it to be historically recreated, but that is the only brothel I have been into.

Hon. W. R. Baxter — But not as a working brothel.

Hon. E. J. POWELL — That's right, it was not, and I am just putting that on record, because a number of the speakers following me might have inspected working brothels or spoken to clients, but I have not done so. Mrs Coote, who is to speak on the bill, will probably identify the brothels she has been into for purposes of research only. I put on the record that I did not research that end of it because this bill is about licensing rather than the running of the brothels, which is why the responsible minister is the Minister for Consumer Affairs and not the Attorney-General.

On that point I thank Damian MacDonald from the minister's department for the briefing on the bill. It is only a small bill, but Mr MacDonald was able to explain that it was brought in because of the interpretation of section 80 of the Prostitution Control Act. The aim is to overcome the anomaly concerning the prohibited brothel being in use at the time of the application. When such cases go to court there must be proof that the premises were being used as a brothel at the time of application. The provision also clarifies the intent of the bill.

Local government has an important role to play. Earlier I mentioned the planning authority, and as the local council is the planning authority it deals with applications for brothels. The local council is the first port of call for an application for a legal brothel in its municipality.

The definition of 'brothel' under the principal act is:

> … any premises made available for the purpose of prostitution by a person carrying on the business of providing prostitution services at the business's premises.

When a local council receives an application to establish a brothel in its municipality it must advertise the application. It seeks comment and advertises in the newspaper, and may send letters to the adjoining land-holders to let them know it has received an application for a brothel.

Those comments must be in by a certain time, and usually there are a number of objections to the application. The council can then approve or reject the application for a brothel or decide to send the application to the Victorian Civil and Administrative Tribunal (VCAT), which can make the recommendation to council.

If council approves the application it can apply permit conditions, and this is why there are a number of illegal brothels: the council is unaware of them and cannot put conditions on them, and before it can close them down it has to be made aware of them by someone approaching the council and dobbing in premises, stating that there is an illegal premises within its municipality.

But if a council approves an application it can grant a permit, which contains a number of conditions. These might include the hours of operation; parking regulations; the design of the building and building and fire regulations so it can comply with occupational health and safety provisions and so on. Sometimes a number of members of the community feel very unhappy about permits for brothels being approved, but if the proposed brothel is in the appropriate planning area the council can put terms and conditions on the licence and the person who submitted that application must comply with those conditions.

The council can also include in the conditions any other issues raised by the objectors, so if the objectors have a particular reason for objecting because of the use to be made of the premises, the council can impose a permit condition on the application that the operator of the premises must comply with. The conditions might involve windows facing to a certain area, the design of the building or the front door opening onto the street. There can be a number of ways the council can limit the disadvantage to the community.

Council must make the decision on planning grounds such as proximity to schools, churches, private residences or areas where young people congregate. The decision council makes cannot be made on moral grounds. A number of objections that come before

councils usually are on the ground that people do not want brothels in their area, but the council cannot make a decision based on the fact that the building is going to be a practising brothel; it must be decided on the basis of the type of business that is moving into the area. Councils therefore have a fairly strong right of regulation of where brothels can be established.

Other conditions can be imposed on legal brothels by other authorities. Issues such as health and safety become involved to ensure that criminal elements or drugs are not involved in the running of the brothels and that there is control of disease.

Legal brothels therefore are fairly well regulated, which is why we need to stamp out illegal or proscribed brothels, as they are called in this bill, and ensure that, while many of us wish there was not a need for brothels at all, those brothels that do exist comply with all the rules and regulations and work in with the community.

A number of communities do not want brothels in their areas, and I will read from an article of 12 May this year in the *Border Mail*, which is the local newspaper in the area that the Honourable Bill Baxter and I represent. The proposed brothel is in Albury-Wodonga. The heading of the article is 'Brothel seeks city approval'. It states:

> A brothel has been proposed in an industrial area at Ramsden Drive, North Albury.
>
> Saxons on Ramsden would have five private bedrooms, all without windows, although the building would have false windows built on the outside walls.
>
> Albury City Council has today advertised the development application, which will be considered by the council next month along with any objections.

The article goes on to say:

> Last year churches and individuals protested against a proposed brothel near the intersection of North and Drome streets.
>
> But the council approved the North Street brothel although little has been done to further that development.
>
> …
>
> Church and other protesters are against brothels on moral grounds but the council recognises that state government policy is to allow them on safety grounds, believing that legally approved facilities can be better controlled.
>
> Planning conditions generally insist on tough hygiene standards.

That is the point. Governments can regulate brothels, but if they go underground there is a risk to the community, sex workers and the clients who use them. We need to ensure that the owners of brothels comply with the licensing regulations and that the workers comply with health and safety requirements and are protected. Although many people do not see a need for brothels or say there should not be a need for them, it is important that those in the field are protected. Clients should be able to use the service with confidence and treat workers with respect, because they are buying a service. The Prostitution Control Act states:

> The objects of this Act are —
>
> (a) to seek to protect children from sexual exploitation and coercion;
>
> (b) to lessen the impact on the community and community amenities of the carrying on of prostitution-related activities;
>
> (c) to seek to ensure that criminals are not involved in the prostitution industry;
>
> (d) to seek to ensure that brothels are not located in residential areas or in areas frequented by children;
>
> (da) to seek to ensure that no one person has at any one time an interest in more than one brothel licence or permit;
>
> (e) to maximise the protection of prostitutes and their clients from health risks;
>
> (f) to maximise the protection of prostitutes from violence and exploitation;
>
> (g) to ensure that brothels are accessible to law enforcement officers, health workers and other social service providers;
>
> (h) to promote the welfare and occupational health and safety of prostitutes.

The objectives of the act are clear and fairly broad. Prostitution in brothels has been legalised for a number of years, but in South Australia prostitution is still not legal. An article in the *Shepparton News* national section of 18 May entitled 'Prostitution bill defeated' states:

> A bill to legalise prostitution in South Australia was defeated yesterday.
>
> The bill, which had already passed through the South Australian lower house, was defeated 12 votes to seven at the third-reading stage in the state's upper house.
>
> The proposed legislation would have made it legal for an adult not convicted of an offence to operate or participate in a prostitution business.
>
> But significant restrictions would have applied to the location and operation of brothels.

> Australian Democrats Deputy Leader, Sandra Kanck, said the bill's failure made a mockery of South Australia's reputation as a progressive state.
>
> 'We are now back at the hypocritical situation where the long arm of the law will fall on the prostitute, while the client walks free,' she said.

Although brothels are controlled and regulated, street prostitution is not. Honourable members see many documents and press releases — I will not go through them — referring to violence to street prostitutes, both boys and girls. Violence is commonplace against street sex workers, although prostitutes may not report bashings or rapes. They believe evidence or information will not be followed up and often people do not believe them. If they report incidents of violence and rape there is often a lack of evidence and, they believe, a lack of support from the police in taking their cases to the courts.

Many people are prejudiced against street sex workers and their illegal status in Australia. Prostitutes believe many people feel they deserve what they get; that they are asking for it and that decent boys or girls do not become prostitutes. Street prostitution is a big issue. Although brothels are legalised and the bill is about illegal brothels, street prostitution is an issue that requires more work. I refer honourable members to the February issue of *The Big Issue*, which puts on the record the amount of violence against street workers. The article states:

> A study of 200 street sex workers in San Francisco found that 70 per cent had been raped by clients (on average 31 times), 78 per cent had been forced to perform sexual acts against their will (average 16 times), 65 per cent had been assaulted (average four times) and half had been robbed (average three times).
>
> Men who bash or rape sex workers are more likely to get away with it — and offend again. 'Often they'll come back the same night and assault another girl,' says Wark. The longer it goes unaddressed the more confident they feel and the violence of their behaviour escalates.
>
> Chrissie is a sex worker with 20 years experience on the streets of Melbourne and Sydney. 'Every girl and every boy gets attacked at some stage,' she says. 'There's not one long-term worker on the streets in St Kilda — or Sydney, or Adelaide, or Perth — that hasn't been robbed, ripped or raped.'
>
> …
>
> Even judges are not immune to prejudice. A 1992 study quotes Justice Starke's summing up of a Victorian sexual assault case: 'The crime when committed against prostitutes … is not as heinous as when committed against, say, a happily married woman.'

That is the prejudice prostitutes are talking about when they say they expect to be paid for a service they give, but not robbed, ripped or raped. The attitude is that they deserve it and they dress like they deserve it.

I am pleased the Attorney-General has set up a reference group on street prostitution to look at this complex issue. The Honourable Bill Baxter is the National Party representative on the committee. He was a member of this place when the principal act was debated and passed so he has many years experience and a broad knowledge of the principles and objectives of the act.

The bill does not deal with street prostitution but goes some way towards stamping out or preventing the establishment of unlicensed brothels. The National Party wishes the bill a speedy passage.

Hon. C. A. FURLETTI (Templestowe) — I am pleased to support the Prostitution Control (Proscribed Brothels) Bill on behalf of the Liberal Party. It is becoming a rarity that the opposition supports bills, but this is one to which we are happy to offer our support. The bill comprises four clauses, only one of which is substantive.

Clause 1 discloses that the purpose of the bill is to:

> … amend the Prostitution Control Act 1994 in respect of the procedure for declaring premises to be a proscribed brothel.

Clause 2 sets out the commencement date, and clause 3 defines the principal act that the bill is amending as the Prostitution Control Act. Clause 4, the substantive clause, contains three subclauses and sets out the evidentiary requirements for the declaration of premises as proscribed or illegal brothels. Section 3 of the principal act defines 'brothel' as:

> … any premises made available for the purpose of prostitution by a person carrying on the business of providing prostitution services at the business's premises.

The purpose of the bill is to amend section 80 of part 5 of the Prostitution Control Act in respect of the procedure for declaring premises to be a proscribed brothel. Its follows a recent decision of the Magistrates Court in interpreting section 80(1)(a).

The word 'proscribe' has a number of definitions, the first of the relevant ones being:

> … to denounce or condemn (a thing) as dangerous —

honourable members would agree that there is a possibility that a proscribed brothel could be dangerous —

> or to prohibit …

However, in this instance the operative definition — it is the second of the relevant definitions I referred to — is:

> … to put outside the protection of the law; to outlaw.

That is what part 5 of the Prostitution Control Act is all about.

Honourable members will be aware that the former Attorney-General, Jan Wade, was passionate in her efforts to resolve the serious problems that existed in the sex industry in the early 1990s, when the Kennett government came to power. The Prostitution Control Act is a monument to her ability and to her good work in this area in legalising prostitution by allowing premises to open as legalised brothels, as was so adequately explained by the Honourable Jeanette Powell in referring to the town planning requirements and the planning and environment preconditions.

When any illegal activity is legalised certain steps have to be taken to ensure that those who continue to operate outside the law do so at their peril. As prescribed in the Prostitution Control Act, the penalties for operating proscribed — that is, illegal or outlawed — brothels are serious indeed.

I will briefly take honourable members through the provisions of part 5 of the act. If a member of the police force or an authorised officer as defined under the planning and environment laws is granted an application declaring a premises to be a proscribed brothel, there are severe restrictions on a person using, entering or leaving those premises. Section 80(1) of the act provides for the publication of a declaration that has been granted by a magistrate; and thereafter, under section 82(1):

> A person must not be found in or entering or leaving premises in respect of which there is in force a declaration declaring those premises to be a proscribed brothel, notice of the making of which was published in accordance with section 81(1)(a).

The maximum penalty applying to somebody found in, entering or leaving the brothel is a fine of $6000 or imprisonment for 12 months. If that is not enough, section 82(4) provides that if the premises continue to be used as a brothel, the owner of the premises — in most cases, the registered proprietor — is subject to a maximum penalty of $12 000 or imprisonment for 12 months, even if he has perhaps rented out the premises not knowing what is going on. That is obviously regarded as serious.

Section 83 states that if a premises has been declared a proscribed brothel an authorised member of the police force can, without warrant, arrest and take before a bail justice or a Magistrates Court any person who is found in or entering or leaving the premises. Once a premises has been proscribed there is a blanket search warrant. Subsection (2) authorises a member of the police force to at any time:

> (a) enter any premises to which sub-section (1) applies; or
>
> (b) pass through or over any other land or building in order to enter those premises —
>
> and for that purpose may break open doors, windows or partitions on those premises or do any other acts on those premises that may be necessary.

That provision is obviously intended to allow a member of the police force to pursue the termination of the activity that is being carried on. The proscription provisions of part 5 are therefore very serious.

I return to the need for the bill. Section 80(1) states:

> (a) on the application of an authorised member of the police force, that —
>
> (i) a business of a kind referred to in the definition of 'brothel' in section 3 is being carried on at those premises; and …

It goes on to refer to there being no licence or planning permits in force.

The magistrate who heard the application for a declaration of the type I have referred to held that the words 'is being carried on' meant literally 'is being carried on at that moment' — that is, that contemporaneously with the application, at the time the police officer or the prosecutor was there seeking that declaration, prostitution services were being provided at the premises.

That conjures up some interesting mental pictures, given the technology available today. It certainly puts a new perspective on audio and video surveillance technology that would enable what was happening at the premises in respect of which the application for a declaration was being made to be made apparent to the magistrate at the time the application was being made.

It may well be that that was not what the law intended. Clearly the phrase 'is being carried on' in section 80(1)(a) would have been something along the lines of a general statement that that is the purpose for which the premises was being used. If, for example, a branch office of a firm of solicitors was in a premises that was open only one day a week, I do not suppose anyone would think that the premises was not being used for the purposes of conducting a legal practice. However, in this instance the magistrate was convinced

that it meant that the activity was required to have been carried on contemporaneously with the application, and it was so held.

Again, it is a healthy reminder for honourable members of the importance of accurate and specific legislation, because it is not a matter of saying, 'Well, here it is. It is before Parliament, and we are amending it'. The thought that occurred to me when I was researching my contribution was, if the magistrate had been so blatantly wrong, the appropriate means for correcting it would have been to appeal the decision on a question of law before the Supreme Court. However, the prosecution saw it as appropriate not to do that. From my experience as a legal practitioner I can say that it was a reasonable and logical conclusion for the magistrate to have reached. In fact, it is a flaw in the legislation that we as legislators need to amend. That is why the bill is before the house.

We all have a responsibility for ensuring that the illegal sex industry is stamped out. The reason for the introduction of the Prostitution Control Act in 1994 was to regulate an industry that was out of control and about which many people harboured grave concerns regarding health issues, the exploitation — as has been mentioned by the Honourable Jeanette Powell — of workers of both genders and the abuse of minors, as well as the serious criminality that arose in the unregulated industry because of its illegality. The fact is that criminality often feeds on itself. Concerns were also held about the use of drugs and about drugs being a serious cause of people becoming involved in this somewhat seedy scenario.

The legalisation of the industry resulted in a very serious clean-up where operators are screened, the location and standard of premises are vetted, and workers in the industry are screened and need to be of a particular reputation and without criminality. The legality of the industry clearly eliminates the exploitation and extortion that was taking place pre-1994. The Prostitution Control Act also addressed planning and community interests to ensure that the industry is cleaned up.

For some reason — perhaps because the policy of the previous government is working well — a number of these premises are again raising their heads. I am a firm believer in the principle of supply and demand. One can only assume that illegal brothels are appearing because there is a demand for them — just as street prostitution is beginning to take hold again in some parts of Melbourne. I will not harbour that point — I am sure my colleague the Honourable Andrea Coote will have something to say as it affects her constituents — but will say only that it is important that the government remains extremely vigilant in ensuring that these issues are monitored and controlled significantly.

I repeat that the only objective of the bill is to facilitate the manner in which evidence in support of a declaration that a premises be a proscribed brothel can be tendered to a magistrate. The opposition supports that intention. The purpose of the bill is to allow for evidence that has been gathered over the 14 days preceding the date of the application to be used in support of any such application. When one examines other parts of the bill one sees that the magistrate has the ability and flexibility to take all those matters into account.

It is a matter of some concern that the houses and residences of some persons are seriously affected and that their enjoyment of their homes and streets are put at great risk — to the extent that some residents of the Port Phillip City Council are calling for the establishment of a red-light district to get sex industry workers off their streets. That makes one wonder what the government is doing about enforcing the law. We need to support those residents from the risks and dangers which they perceive restricts their enjoyment.

In conclusion, I congratulate the government on its initiative in setting up the joint advisory committee to review street prostitution, to which the Honourables Andrea Coote and Bill Baxter have been appointed. The opposition supports the bill and wishes it a speedy passage.

Hon. D. G. HADDEN (Ballarat) — I support the Prostitution Control (Proscribed Brothels) Bill. The purpose of this short bill of some four clauses is to amend the principal act, the Prostitution Control Act 1994, in respect of the procedure for declaring premises to be a proscribed brothel and for other purposes. As we have heard from previous speakers, a proscribed brothel means an illegal brothel.

Clause 4 of the bill amends section 80 of the principal act so that the police may make an application to the Magistrates Court for a premises to be declared a proscribed brothel where the business of a brothel has been carried on at the premises in question at any time during the 14-day period up to the date of the filing of the application. The clause amends section 80(1)(a)(i) of the principal act to that effect.

Secondly, the clause provides that an authorised officer of a responsible authority under the Planning and Environment Act 1987 may make an application of this nature seeking a declaration in respect of such premises

at any time during the 14-day period up to the date of the filing of the application. The clause amends section 80(2) of the principal act to that effect.

The amendment provides for the inclusion after the word 'premises' of the additional words 'or has been carried on at those premises at any time during the period of 14 days immediately before the date of the filing of the application' and similar words after the word 'brothel'.

The amendment will apply to applications brought before the court by both police and authorised officers of the responsible authority under the Planning and Environment Act. Those authorised officers are officers authorised by local councils and by the Minister for Planning and any person whom a planning scheme specifies as a responsible authority.

The need for this amendment arose from a decision in a case heard on 11 April 2000 by Mr Noel Purcell, a magistrate in the Magistrates Court at Melbourne.

That application, brought by a police officer of the organised crime squad, was for a declaration that certain premises in Glenhuntly Road, Caulfield, were being conducted as a proscribed brothel. That application was refused and the respondent's costs were ordered to be agreed or fixed by the court. As I said, the application was refused on the basis of the restricted definition in section 80 of the Prostitution Control Act — namely, that:

> The Magistrates' Court may declare premises to be a proscribed brothel if it is satisfied on the balance of probabilities —
>
> (a) on the application of an authorised member of the police force, that —
>
> (i) a business of a kind referred to in the definition of 'brothel' in section 3 is being carried on at those premises …

That provision was treated literally by the magistrate, and the words 'are being used for the purposes of the operation of a brothel' were held to be in the present tense.

I understand from my discussions with registrars of the Magistrates Court at Melbourne that they are pleased that the legislation is to be amended. Many applications are made to the court under section 80 seeking declarations that premises are being conducted as illegal brothels, and I understand many such applications are brought before the Ringwood Magistrates Court. The police in that district will have a lot of work on their hands because the evidence that can be gathered now will ensure that declarations can be made that premises are being conducted as illegal brothels.

I might add that the decision of Mr Purcell, a magistrate of the Melbourne Magistrates Court, made on 11 April 2000 could have been appealed within 28 days under section 92 of the Magistrates' Court Act, which provides for an appeal on a point of law to the Supreme Court. The decision was not appealed, probably for many reasons. We, as a Parliament, are the ones to make legislation, not a court. The courts are there to interpret the legislation, and such an interpretation has resulted in this bill to amend section 80.

In summary, Mr Deputy President, the government is responding to the strict interpretation by the Magistrates Court of the meaning of section 80 of the Prostitution Control Act. This bill will go some way towards preventing unlicensed and illegal proscribed brothels being conducted in our suburbs and will strengthen the principal act. I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I have much pleasure in speaking on this bill. I thank my colleagues who have spoken about it in depth, particularly the Honourable Carlo Furletti, who spoke on its legal implications and ramifications, and the Honourable Jeanette Powell, who spoke on some of the local government issues.

The purpose of the bill is to make amendments to overcome the decision of a magistrate that has held that 'carrying on the activities of a brothel' meant that such activity had to be contemporaneous with the application to declare a premises a brothel for the purpose of prostitution. The bill will allow evidence obtained 14 days prior to the application for a declaration to be used in that application. The legalities of that have already been well dealt with during the debate.

As most honourable members are aware, at present the electorate that the Honourable Peter Katsambanis and I represent has a considerable problem with street sex workers. I am happy to support the bill because it gives a number of additional powers to the police, who need assistance in what is becoming a difficult issue. St Kilda has a huge problem through an increase in the number of illegal brothels and street sex workers.

I place on record what is happening in St Kilda and elsewhere in the City of Port Phillip and in other parts of my electorate. I have visited several St Kilda brothels and have been to Kings Cross in Sydney. At the outset I would like to put on the record my appreciation for Rhed, formerly the Prostitutes Collective of Victoria. Karen Sait, who runs Rhed, has been extremely helpful,

and I thank her enormously for the assistance she has given me since I have come into Parliament in learning to understand the issue of brothels, prostitution and street sex work. Over that time I have discovered the various levels of prostitution. I believe the Honourable Carlo Furletti said that when the principal act was first introduced in 1994 the expectation was that street prostitution would be cleaned up and would become invisible. That has not happened.

I want to talk about the levels of prostitution. I will start with the legal brothels. Recently I took the honourable member for Caulfield in another place on an interesting visit to the Daily Planet in our electorate. For the benefit of those who do not know about it, I will explain its operation. You pay a house fee as you go in, and then you go into an area like a sitting room. There are several working ladies there, and the clients can come in and mix with them. I might add that there is no alcohol or drugs on the premises.

They then negotiate with one of the ladies and go to one of the rooms. I had a look at the rooms. I will not go into detail here, but I am happy at any time to talk to my colleagues about what I discovered.

Hon. C. A. Furletti — You were not compromised at all, were you?

Hon. ANDREA COOTE — No, I was not compromised. However, I learnt a lot! Several honourable members have spoken about the controls and the regulations. I inform the house that the rooms were absolutely spotless and were well run.

I took the shadow Attorney-General, Robert Dean, the honourable member for Berwick in the other place, to another brothel in my electorate called the Boardroom. I remind honourable members that the Daily Planet has 18 rooms because it was in place before the legislation was introduced in 1994. The Boardroom, which is in Market Street, South Melbourne, is new and has been purpose built with six rooms. It was exceedingly impressive. Again, no alcohol or drugs are allowed. The girls who work there are not allowed to take drugs; they have a self-regulatory program where if someone recognises that someone else is on drugs they soon tell the establishment and action is taken. The girls who were working 10-hour shifts would not be able to take drugs. It is interesting that the establishment is self-regulated. The proprietor showed us around and the rooms were scrupulously clean.

The workers demonstrated a great deal of camaraderie. Many of them work in the brothels and do escort work as well. There is a sense of safety and understanding that they are protected and are working in an industry that is legal, unlike the girls who are working on the streets. Those working on the streets represent another component of prostitution work. The problem in St Kilda is that the street sex workers are becoming far more visible. The gentrification of St Kilda has meant that a lot of old hotels that were run with single rooms where girls would take their clients have been pulled down and high-rise, up-market apartments have been put up in their place. The girls do not have anywhere to take their clients, which is creating a problem on the streets of St Kilda.

The Port Phillip Action Group has become active — and I commend Jeanette Davidson and Ann Peterson for their excellent work on behalf of the residents. I commend Craig Bird from the Greeves Street Residents Association and the street traders who are also concerned. This is not a moral issue; it is a management issue. Street prostitution has been in St Kilda for a considerable time and no doubt will continue. I was interested to learn that one of the busiest times of the day is 6.00 a.m. when trades people are going to work.

Street sex workers fall into different categories. There are street sex workers who are transsexuals and who tend to be in street work business because they cannot get jobs elsewhere. Male street workers are also in it for the money. Some 90 per cent of female street sex workers have a drug problem. They are supporting their habits and their boyfriends' habits. I have been out on the inner south network health bus handing out the condoms and lubricants to these girls. As I have said in this chamber before, it is poignant and sad to see.

However, a number of street sex workers are women who like the flexibility of working the streets. They do not want to work in a brothel and they like to keep all the money they make for themselves. I have come to know some of those women well and they have been honest and open with the information they have shared with me. One woman, who has been on the streets for more than 20 years, picks up her clients in Mitchell Street and services them in the St Kilda Botanical Gardens or in their cars. I emphasise that street sex work will never disappear. It will not matter whether there are many more legal brothels. It will not disappear because there is a continuing demand. It is vital that we manage the locations where the girls are servicing their clients because at the moment they are servicing them in cars or in the garbage collection areas of apartments.

Residents from areas such as those covered by the Port Phillip Action Group are concerned for their children and their neighbourhoods because street sex workers are working all day and it is unpleasant to come home

and find a street sex worker and a client in your front garden. Although the activities of street sex workers are illegal the police are in something of a bind. Police officers have told me that the 500 prosecutions taken to court last year were not only against the street sex workers but also the clients. They said that most of the girls were over 18 years, so the current perception that very young girls are working the streets is wrong. From all accounts, both from the street sex workers and the police, under-age street workers are certainly not on the streets of St Kilda.

We have to help street sex workers. As the Honourable Jeanette Powell said, because it is an illegal activity they are raped, mugged, and are frequently not paid. Each week Rhed puts out an A4 flier on the streets called the 'Ugly Mug'. The 'Ugly Mug' identifies clients who are likely to be violent and not pay. It is a warning system for the street girls.

The Attorney-General's committee, of which I am pleased to be a member — as is the Honourable Bill Baxter — is made up of local people who are concerned about the management of street sex workers. Many suggestions have been made, including a safe-house brothel. I was not aware of what a safe-house brothel was so I visited Kings Cross in Sydney. I found myself in a fairly dismal room in a terrace house with several sex workers. The room left a lot to be desired in comparison with the Daily Planet, the Boardroom and indeed the Top of the Town, which is the other brothel I visited.

In safe-house brothels the clients do not have to be tested for sexually transmitted diseases whereas in normal brothels they are tested. Indeed, in legal brothels they have to conform to health regulations and have showers before they begin the process, whereas prostitutes in safe-house brothels are literally just renting out the room. Although it was dismal I would have to say it was a great deal better than servicing a client in the car would be — it was safer and there was someone there who could keep an eye on the girls. I was very hesitant about safe-house brothels, not knowing what their impact would be, but having looked at one in Kings Cross I have to say I was very impressed.

I would like to look further into the matter. Although it will not resolve the issue — it certainly will not take all of the sex workers off the street — it will take off the streets a number of people who at the moment are servicing their clients in public, which is unacceptable.

In Sydney brothels are legal, as they are here, but there street prostitution in designated areas is also legal and works extremely effectively. There is a push from various sectors of the community in St Kilda and the City of Port Phillip to talk about a designated area where street sex workers may operate legally. It is a debate all of us need to have and to think about. It is fine to say, 'Yes, I think it is a good idea and we will have it in St Kilda', but nobody wants it in their backyard.

One of the proposed designated areas is the strip of St Kilda Road between Inkerman and Carlisle streets, but that raises a health issue for the street workers. Some of the clients who pick up girls are not safe: when girls get into their cars they can go roaring up St Kilda Road and the girls cannot get out, causing a problem for them. In smaller streets such as Greeves and Mitchell streets cars have to go a little slower and girls can analyse what the clients are like before being picked up. So it is not just a matter of residents not having them in their backyards but also of looking after the safety of the girls and giving the police the powers to ensure they are safe.

In comparing the street sex workers in Kings Cross with those in Victoria it was interesting to see that their self-esteem was much higher than that of the girls on the streets here. I have to say I was dealing mainly with transsexual and female street workers in Sydney and Melbourne rather than males. Because street work is an illegal activity in Victoria the girls feel reticent about approaching the police and discussing issues of concern, such as the fact that they have been raped or that they have been the targets of violence, but in Sydney it is legal and at Kings Cross police station there is an excellent policewoman called Sharon Northham, who is the police street worker sexual liaison officer.

I acknowledge the excellent job Sharon does at Kings Cross. I would like to see a similar position in this state because just to have that relationship is very important. Sharon counsels both the street sex workers and her fellow police at Kings Cross. It is an excellent initiative and she is to be commended for her excellent work.

The police in Victoria do a marvellous job, even in St Kilda, which is such a difficult area to have to keep an eye on because of the many issues that arise there. In particular I would like to mention John Haeur and Ron Gallagher from the St Kilda police station, who do an excellent job.

I am pleased to support this legislation because I think it gives police an opportunity to look at illegal activities. I have spoken about prostitution in brothels and I have spoken about the street sex workers. I want

to stress that brothel owners in Victoria have told me that they are sticking by the rules — and they are very highly regulated. It is very strict — there is no alcohol and no drugs. The problem is that illegal brothels are now sprouting up all over the place, using under-age sex workers, drugs, alcohol and illegal immigrants. That must be looked at closely. I see the Minister for Consumer Affairs nodding. It needs great scrutiny because it is not fair to the brothel owners who are doing the right thing. If we want to have a clean and safe industry we have to address the issue of the illegal brothels that are becoming prolific and make certain we maintain existing standards.

I have learnt much about the practices followed in brothels. I was going to mention some of the things that happen there, but perhaps I will not. It is an industry I knew nothing at all about and I have had a very steep learning curve! I have a huge amount of compassion for the people who work in the industry and feel it is incumbent on us as legislators to make certain that their jobs are safe. I acknowledge that prostitution will never disappear and is something we have to manage. In this job we are in a position to legislate appropriately. That is why I support this bill. I am pleased to see that it gives the police a better opportunity to carry out their work.

Hon. R. F. SMITH (Chelsea) — I support the Prostitution Control (Proscribed Brothels) Bill, and am impressed with the level of maturity in the debate so far, particularly in the contributions made by the three women members — the Honourables Dianne Hadden, Jeanette Powell and Andrea Coote.

As I listened to them I thought, 'Imagine this debate taking place three decades ago and the contributions being so open and honest, particularly those of the women members of the house'. I do not think it would have happened!

Hon. W. R. Baxter — There wouldn't have been any women!

Hon. R. F. SMITH — Obviously I am right; there would not have been any. That is certainly an indication of how far we have come.

Prostitution has often been referred to as the oldest profession known to man. Taking that into account, honourable members would have to agree that no matter what we think, say, do or legislate for, we will never wipe out prostitution; therefore we should take a pragmatic view and do what we can to regulate the profession and make it as safe, clean and healthy as possible. The bill continues the work done by the previous government to do the best it possibly can for the industry.

There has been a general misconception among members of the public that prostitution is part of a dirty and smutty industry; however, it is obvious that the industry is no longer like that. Parts of it may still be dirty, smutty and unacceptable — for instance, the unsavoury and unpalatable habits of some people with regard to young children, which would certainly not be supported by any member of this house — but the industry has changed and become very diverse.

The industry now has high-priced up-market prostitutes, male and female, and a clientele that is serviced by them. There is big money at the top end of the industry. The middle ground of the industry is now very variable, and no longer predominantly comprises male clients looking for female providers. Women who are making their way in the new world, moving up-market and choosing not to marry are now more comfortable going out and paying for whatever they need. The gay community also has sex workers. Prostitution is a diverse industry today and is no longer the dirty and smutty industry that people referred to in times gone by.

The bill amends a very small part of the act — that is, section 80 — to allow magistrates, police and local government in particular to better interpret that part of the act that has caused some concern to magistrates in the past in the interpretation of what is a brothel. The good bipartisan work done by a group of members of the government, the Liberal Party and the National Party, two of whom — the Honourable Bill Baxter and the Honourable Andrea Coote — are with us today, has resulted in an appropriate solution to clarify the situation, and those honourable members ought to be recognised for their good work.

The bill adds to the government's attempts to assist the industry and to provide the community with a safer and healthier industry, and safer and healthier brothels in particular.

The house heard the Honourable Andrea Coote's insightful comments about her experiences in brothels far and wide. In the interests of furthering the debate I will talk about an experience of my own that occurred a very long time ago during my first visit to the Far East as a 17-year-old. As I approached a street I was propositioned by a small boy who must have been no more than eight or nine years of age, who asked if I would be interested in his sister. I was a bit stunned, being a 17-year-old, so he said that perhaps I would be

interested in his mother — sight unseen, I might add — which I found very distasteful.

However, it struck home to me how unfortunate some people are and how dependent they are on the sex industry. I could think of nothing worse than having to prostitute oneself to make a living. I had better quit while I am ahead, rather than going into some other experiences.

We have gone a long way in Victoria towards cleaning up the industry and making prostitution a much more acceptable activity — perhaps I should not say 'activity', but the reality is that it is an activity and it always will be — and the bill continues to do that.

The bill will provide the police and local government authorities with the ability to better address the issue of brothels by making the provisions in relation to them crystal clear for magistrates and others in a position to make rulings on them. For that reason, and for all the other reasons mentioned by previous speakers, I commend the bill to the house.

Hon. P. A. KATSAMBANIS (Monash) — The opposition supports this small bill which consists of only four clauses. The bill attempts to correct a loophole in the Prostitution Control Act, whereby, because of the wording of section 80 of the act, there is a possibility that premises being used for the purposes of a brothel, without a permit, may be able to operate. This bill corrects that anomaly.

As Mr Furletti said in his contribution, the bill arises as a result of a Magistrates Court decision in an application by police. The fact that the government is introducing an amendment to the principal act tends to indicate that the magistrate's decision was probably correct on the wording of the law, although I think we are all pretty clear on the intent of the law, which is that if a premises is suspected of operating as a brothel, without the necessary permits, it should be shut down.

If it is found by a magistrate that the legislation does not stack up, the best advice the government has is that upon appeal there is no great certainty that the decision will be overturned. Therefore we have no option but to ensure that the wording and the intent of the legislation match up. That is why the bill is before the house today, and I do not think anyone in the community would dispute the fact that insofar as it goes the Prostitution Control Act operates fairly well. It controls the operation of licensed brothels, ensures that they are operated in a way that adheres to health regulations and also to planning regulations. That is very important because, as we have found out, the operation of the illegal sex trade — as opposed to the legal sex trade regulated under the principal act — takes no account of health regulations, planning regulations or the community around which that trade takes place.

This bill gives us the opportunity to put on the record the fact that through the operation of the Prostitution Control Act we have not achieved universal regulation of sex work in Victoria. Despite the fact that the small area of legal brothels operates quite well, there is a proliferation at the moment of illegal brothels, and there is a growing concern, particularly in the area that Mrs Coote and I represent — and Mrs Coote outlined the concerns fully in her excellent contribution — that street sex work is getting out of hand and needs to be properly regulated and controlled.

This state, like all other jurisdictions in Australia, has effectively gone full circle in prosecution. Colloquially prostitution is known as the oldest profession, and the prohibition model that had operated for many years clearly is not the model that addresses the issues relating to prostitution and sex work. The prohibition model has never worked and never will. We have gone a step along the way by introducing the Prostitution Control Act, but if you travel down to St Kilda — the area I represent — on any given day or night, 24 hours around the clock you will see the operation of an under-regulated, illegal sex work market in residential streets. I daresay if you go into many suburbs of Melbourne you will find the operation of illegal brothels — homes, office buildings and other businesses that are being operated as illegal brothels without proper health checks and without the planning controls that ensure that legal brothels are not within proximity of homes, schools, places of worship and other important cultural buildings.

It is not enough to say, 'We will fix up the loophole in this legislation and the problem will go away.' The problem will not go away for residents of St Kilda who have to put up with the difficult circumstances of what is to this day an illegal trade happening in their front yard, their streets, and their back lanes. The residents of St Kilda who get propositioned regularly by some passers-by as they are on their way to do their shopping, get to work or go to restaurant for meals, do not think the problem will go away. In fact they know it will not go away with the passage of the bill, and it is we as legislators who must consider the fact that our legislation is failing large groups of people in the community.

The legislation is failing residents and sex workers because they are left unprotected. In their contributions Mrs Powell and Mrs Coote made it clear that because

they are plying a currently illegal trade, many women get assaulted and abused and are not prepared to report that violence and abuse. There are no health checks and no safe place for these people to go. They are operating on the fringes and margins of our society.

The street workers in St Kilda present problems on the doorsteps of residents. Other problems are presented for residents of Melbourne's suburbs or country towns who have the misfortune of having illegal brothels operating in proximity to their homes, their children's schools, churches or other places of worship.

We need to understand that the Prostitution Control Act addresses only a small part of an industry that has been with us for a very long time. It is an industry that we have never been able to curb, even with prohibition, but surely it is time that as legislators we look apolitically at long-term solutions that recognise, as much as we do not like the fact that sex work is a reality, that adequate protection be given not only for the workers in that industry but also for the residents, businesses and other people who unfortunately cannot seek redress because of the lack of legislation and regulation in this area.

It is clear from talking to St Kilda residents that very few of them are angry at sex workers; they do not have an issue with them as such. They understand the circumstances and life facts that have led those people down that path, either temporarily or permanently. They are fed up with legislators of all persuasions turning a blind eye to legitimate problems facing residents, businesses and the street workers. I know it is not an easy issue and will not be solved overnight, but I hope in the next few years we can address the broad problems. In the interim I offer my support for the bill because it will address a loophole in the principal act and provide our police and municipal officers with the powers to ensure that where an illegal brothel is set up outside the regulations of the principal act, it will be quickly and easily shut down for the protection of our community.

Hon. B. N. ATKINSON (Koonung) — Like my colleagues, I believe the proposed legislation is a worthwhile step in tackling a planning problem. Municipalities have told me they consistently have had problems with transient brothels masquerading as massage premises with one or two workers — very often young Asian women — who are providing a range of services from massages to something described in many advertisements in local media and in Sunday newspapers as stress relief, and in many cases extending to full sexual services.

Municipal representatives have said to me on a number of occasions that they have real difficulties shutting down those places, finding who is responsible for them, involved in them, supporting the young women who are working in them, recruiting the young women working in them and what controls there may be on them. I note from my own observations, from information given to me by vigilant residents as well as from discussions with councils, that very often premises are rented, so there is no investment in premises by people carrying out those businesses. They set up, advertise in the newspapers and start the business, and when authorities close them down — in some cases they have been using the loopholes in the law addressed by the bill — they shut up shop and open up somewhere else.

Apart from anything else, the legislation will assist residents to have a say on the siting of brothels. I support brothels. Even as a councillor I consistently supported the establishment of brothels in appropriate areas; and I consistently supported legislation that existed in Victoria at the time. Queensland, South Australia and Western Australia are grappling with prostitution control, but Victoria's regime provides considerable advances over the control measures which, to this point, have been used in those states.

The Honourables Andrea Coote and Peter Katsambanis referred to the safety of sex workers, the amenity of residents and business proprietors in areas where brothels have been established or where street prostitution occurs, and the health and safety of those people using the services of brothels. The Victorian legislation is among the best legislation in Australia. It recognises that there ought to be an opportunity to have some say in the amenity impact the premises will have on certain locations.

The principal act is specific about the areas in which premises that may be used for prostitution can be established. The operators who are addressed by this amending legislation have not been through any process of community dialogue. There has obviously been no application for a planning permit to allow for advertising locally or for people to comment on the appropriateness of a particular premises being used for the purposes of prostitution or related services that may be defined as prostitution, which might be quite different. Nevertheless, that is for the police or planning officers to establish. The legislation ensures that they will be able to do that more easily.

I am concerned about some aspects of the legislation overall. According to the second-reading speech, once the legislation is enacted section 82 will make it an offence for somebody to:

> … be found in, or entering or leaving premises except for some lawful purpose or in ignorance of the making of the declaration. The effect of making a declaration therefore is to close down the business.

It addresses workers in those premises, but I am concerned about some of the clients who are using the services. While I do not necessarily have any truck with those clients, the way the current situation exists those clients could be unaware of what are legal and illegal brothels. The government should address that question. There may need to be an advertising campaign, which would be bizarre, but I would not want to see people prosecuted for visiting one of these places if they are ignorant about whether they are legal or illegal premises. In many cases they would be unable to establish that until they entered the premises and, being carried away by the enthusiasm of the moment, may not wish to establish their legality.

Nonetheless, there is an issue and concern about how the act will operate. The government, or the bureaucracy in looking at the issues, may give some consideration to that.

I was interested to hear the comments of the Honourables Andrea Coote and Peter Katsambanis whose electorates cover the St Kilda area. Recently when driving along St Kilda Road from where my wife's parents live to the city I was shocked and surprised to see a number of prostitutes. Historically they have been found in the streets in and around St Kilda, but never to my knowledge on St Kilda Road until about three months ago during the summer period. I am not sure why that is happening. It may have something to do with the campaign by residents to achieve greater control over prostitution, to address the problem of street prostitution or simply because it was summer.

Hon. W. R. Baxter — Was it during the day or night?

Hon. B. N. ATKINSON — It was at night.

Hon. Andrea Coote interjected.

Hon. B. N. ATKINSON — I am prompted by interjection that they are there by day as well, but certainly this was at night. Perhaps there are more young women involved in prostitution, and because each person has their own piece of territory there has been a need to expand the overall allocation of territory. It was a matter of some concern to me to observe that.

I am concerned — this aspect was addressed by my colleagues — that many of the people providing the so-called services are young Asian women. Other ethnic communities are also represented, but I have noticed a lot of young Asian women. That is the nature of much of the advertising that appears in the local press and in the *Herald Sun*, which publishes a column section, rather oddly, about health and relationships. My concern is about exit programs and other programs that may be developed to support young women who are obviously drawn to prostitution because of issues such as drugs, gambling, abuse and so on, and particularly uncontrolled prostitution, such as street workers or unlicensed brothels and unlicensed premises.

Some women are interested in earning money to support young families. Some are single mothers or women who want to earn more money to put themselves through university. They are more likely to be safety conscious and go to the licensed premises and those covered by the Prostitution Control Act. Other women are drawn to prostitution for different reasons. We as a community and therefore the government must look at programs that will support and assist these young women and provide them with an alternative to prostitution.

I am concerned about the Prostitutes Collective of Victoria becoming part of the Southern Health Care Network, because although that seems to be an effective auspicing of the organisation in some respects I am concerned that it places a greater focus on the problem in St Kilda. Prostitution in unlicensed premises runs across a number of areas, and if I am reading the newspaper reports of problems correctly, it includes street prostitution in areas like Springvale and Footscray, and particularly the linked problem of drugs and prostitution.

As the legislation proceeds and as the government works on the area of prostitution control, I want an assurance from the government that we have not lost the resources of the prostitutes collective or had them focused on just one area rather than the overall problem and the need to provide resources to young women in a number of areas.

The services that need to be looked at carefully for these women include exit programs and other programs that will address the issues that cause them to turn to prostitution. Many of the facilities set up around suburban areas are described as massage centres, and that term has obviously had an adverse impact on people who are involved in legitimate massage and natural therapy practices. I believe such practitioners will welcome the bill.

I know the Eros Foundation is supportive of the legislation because it recognises that it is important to support the regulatory scheme that is in place to stamp out illegal prostitution and its associated unsafe sex practices, lack of health checks and lack of safety for both the workers and the clients, as well as its all-too-frequent links with drugs and gambling and sometimes even illegal immigration.

The bill is critical to the integrity of the overall regulatory regime in place for prostitution control in Victoria. Although the system is not perfect, it certainly appears to be well ahead of those in other states, given the deliberations that have been held in the past 12 months, particularly in Western Australia, South Australia and Queensland.

I support the bill because I believe it is a positive step. As I said, it is more of a planning amendment than anything else, and I hope government members turn their minds to some of the other programs that might support young women and divert them from prostitution by providing them with alternatives. I hope the bill will address the confusion about the legality of brothels.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank the Honourables Dianne Hadden, Jeanette Powell, Carlo Furletti, Andrea Coote, Bob Smith, Peter Katsambanis and Bruce Atkinson for their contributions.

The Honourable Jeanette Powell raised the question of a proscribed brothel. To clarify it I state that the meaning is to put the brothel outside the law. It is a brothel without a licence and/or a building or planning permit. To clarify the issue for the purposes of the debate, that is the definition of a proscribed brothel. I thank all honourable members for their constructive contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ROAD SAFETY (ALCOHOL AND DRUGS ENFORCEMENT MEASURES) BILL

Second reading

Debate resumed from 15 May; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. ANDREW BRIDESON (Waverley) — I indicate from the outset that the opposition supports the bill. I also foreshadow that the Honourable Chris Strong will take the bill into the committee stage to clarify clause 9.

The main purpose of the bill is to address five matters that have been identified as either inconsistencies or deficiencies in the alcohol and drug provisions of the Road Safety Act. The bill amends not only the Road Safety Act but also the Marine Act and other acts related to both alcohol and drug enforcement.

This Parliament has seen a long tradition of bipartisan support for the sorts of measures set out in the bill, which will enhance the safety of Victoria's road users. It is important to again place on record that the opposition supports the bill. The initial legislation on drugs and driving emanated from the 1996 report of the parliamentary Road Safety Committee. It was one of the recommendations made by the committee, and this bill aims to refine the legislation passed last year.

It is important to understand that in 1993 the cost attributed to road crashes where drugs alone or drugs mixed with alcohol were present was estimated at $143 million. In 2001, we can safely assume that that figure would be well over the $150 million mark, or one-eighth of the state's road toll cost. In 1993 the average cost in Australia of a road fatality was $752 000; a hospital injury was $113 000; a medical injury was around $12 000; and property damage was estimated at around $5000. Again, we could safely assume some five years later in 2001 that those costs to society will have blown out by at least 10 per cent.

Those figures do not show the pain and suffering caused to individuals and the families and friends of those involved in road accidents. Road trauma is a serious issue for our society and it is important that Parliament address it.

Before I briefly go through the bill, it is important that I place on record some of the contemporary thinking around the world. A couple of weeks ago I received in the mail a report from a group known as the International Council on Alcohol, Drugs and Traffic Safety. It is interesting to note in passing that in 1997, following the publication of the Road Safety

Committee's report on drugs and driving, Mr John Richardson, the honourable member for Forest Hill in the other place, addressed the 14th International Conference on Alcohol, Drugs and Traffic Safety held in the town of Annecy in France. In his address John Richardson challenged the international council to create a new working group to examine the growing concerns about illicit drugs and alcohol from an international perspective. I will speak about the recommendations that emanated from that report shortly. In a climate of politicians being criticised in recent days by the media for taking overseas trips it is important to note that this was one trip taken by a member of Parliament where the member took the findings of the Victorian parliamentary Road Safety Committee onto the international stage. As a result of that some very important and progressive work on international drugs and driving legislation has come to the fore.

The bill essentially covers five important issues. It provides that a person instructing a learner driver must have a blood alcohol content (BAC) below .05 per cent. This is a change to the current law, which does not stipulate a blood alcohol content level for non-professional driving instructors. It will have no effect on the zero blood alcohol level required for professional driving instructors. The prescribed penalty for that offence is a fine of $500, with no mandatory licence cancellation provision.

The bill also establishes that in their first year of riding, motorcyclists must have a zero blood alcohol level. This is in line with one of the recommendations of the report of the Road Safety Committee chaired by the honourable member for Forest Hill in the other place, Mr John Richardson. It applies specifically to riders who have a full Victorian drivers licence and who obtain a motorbike endorsement. At the committee stage Mr Strong will clarify some issues on that part of the bill.

The bill provides for breath testing for alcohol to be administered in suspected drug-driving cases. The ability to conduct a breath test of a suspected drug-driver will enable police in the first instance to eliminate alcohol as a factor where drivers are suspected of driving while under the influence of other drugs.

The bill includes a section 85 statement. The opposition does not oppose the use of a section 85 provision in this bill because it exempts medical practitioners and other health workers who will be taking blood or other body samples during the drug-testing process.

The bill also outlines changes to the .05 offence from exceeding a blood alcohol content of .05 per cent to having a BAC of .05 per cent or greater. I will go into that in a little more detail later. That brings Victoria into line with the other states and it is a necessary amendment as a result of a Supreme Court challenge to the existing definitions.

The bill also allows the results of blood tests to be admissible in court where blood has been taken more than 3 hours after driving. At present evidence of BAC is admissible only if the tests given by a specialist were undertaken less than 3 hours after driving. The relevance of these changes is that they allow certificate evidence of tests taken 3 hours after driving, and these changes apply only for certificate evidence that is not challenged by either party.

Clause 10 amends section 55 of the Road Safety Act to enable breath analysis tests to be administered to a person who is undergoing an assessment for drug impairment. The breath analysis under this section differs from a preliminary breath test because the result of that test is evidence of a blood alcohol content and because failing such a breath analysis within 3 hours of driving is an actual offence. Conducting the breath analysis of a person undergoing a drug assessment will enable alcohol to be ruled out as a contributing factor to the person's impairment. It may also assist in enabling assessment of the extent to which factors other than alcohol are contributing to the impairment. This is relevant in establishing the degree of impairment by drugs for the purpose of proceedings under the drug impairment provisions.

I do not wish to go into a lot of the detail in the bill. Everything has been more than adequately stated in the second-reading speech, and the bill is extremely well explained in the explanatory memorandum. It is there for everyone to see.

As I outlined earlier, I will touch on some of the contemporary thinking from the International Council on Alcohol, Drugs and Traffic Safety. It may well be a direction that Victoria and other Australian states proceed in over the next few years. It would certainly be a direction that not only I but I guess many other members of this Parliament would welcome. As a result of the findings of this international group — and representatives from the United States, Belgium, Norway, France, Scotland, Germany, Australia and the Netherlands were involved — and after the presentation and study of many papers and surveys from many countries, some good recommendations were made.

One recommendation is what is called per se laws. A per se law means, for example, that there is zero tolerance of drivers who take illegal drugs. In other words, if drivers take illegal drugs they should not be driving. If they are found with drugs present in their bodies, the law comes down on them very harshly and they are not allowed to drive. They are fined or imprisoned depending on the degree of severity of their impairment. They are certainly not allowed to drive and may well be put into rehabilitation programs. That is something the government should think about. Perhaps it could be referred to the current Road Safety Committee for further exploration.

The group also recommended that fines and penalties could be increased, specifically where alcohol and drugs are found to be in a person's body in combination and their driving impaired, which is probably another fairly important and new way of looking at the problem.

A third recommendation deals with increased behavioural impairment when both alcohol and illicit drugs are found to be present in the body and to impair driving, and suggests that licence revocation and regranting should be looked at.

Some other recommendations are not really relevant to this bill but certainly make very interesting reading. I will ensure that the minister receives a copy of this report entitled *Illegal Drugs and Driving*. It has some very good ideas.

While reading the transcript of the debate in the lower house, I noted that an honourable member had experienced great pain and suffering through losing a niece on Christmas Eve last year as a result of an accident between a semitrailer and a sedan in the main street of Colac. It was found at the inquest that the driver of the semitrailer was driving while impaired, being under the influence of tablets he had taken to keep him awake as he tried to get home to Adelaide prior to Christmas Day. I could not help thinking when reading this report that had we had per se legislation our colleague's niece may still be alive today. As I said earlier, it is something I hope the government will look at.

As is stated in the second-reading speech, this legislation:

> … is an active step towards achieving the state's goal of reducing the road toll by 20 per cent within the next five years.

It is an admirable goal, which the opposition certainly supports. However, one of the real messages that as politicians we need to get to the courts is that Parliament unequivocally does not condone motorists who drive under the influence of drugs and alcohol, particularly in combination, that it expects the courts to punish them appropriately and that those found guilty of such offences will be dealt with. These days we read in the media and hear on the television news too often that courts are lenient on drug-drivers. As a member of Parliament I would like to send a very strong message to the courts that the community expects magistrates and judges — the judiciary in general — to deal very severely with recalcitrant drivers.

I thank the departmental officers for their briefing. They cleared up much of the apprehension we had. I wish the proposed legislation well.

Hon. B. W. BISHOP (North Western) — On behalf of the National Party I am pleased to contribute to the debate on the Road Safety (Alcohol and Drugs Enforcement Measures) Bill. As did the Honourable Andrew Brideson, I particularly thank the officers of the department. They were exceptionally good at allaying any fears, but more than that they had an absolute and complete knowledge of the particular issues and were ever ready to help. They extended that help in the week or so after the briefing session.

The National Party consulted widely on the bill because regulations involving drink-driving or driving while impaired by drugs is always emotive and difficult. We were pleased with the responses from the many organisations and people consulted. Our position is certainly not to oppose the bill.

The bill's provisions cover five major sectors. The first involves changing the .05 law and making it an offence to drive at or above .05. As we went through the consultation process we found that legislation, particularly in technical areas, can often be understood differently from what was intended by the Parliament. This is a case in point. The original intent would certainly have been to cover .05 and above, but the legal interpretation of it, which was driven by the 1997 *Blanksby v. Barnes* case, led to the need to make this amendment. It will now be clear that persons on or above .05 will be covered.

Providing for the blood alcohol concentration level of on or over .05 will bring Victoria into line with other states. During court cases the third decimal point became an issue, resulting in prosecutions not being able to be made until .06 was reached. The bill clears that up. During the briefings we discovered that Tasmania is the only other state that has not amended this particular anomaly. The amendment to both the

Road Safety Act and the Marine Act will mean that any reading at or above .06 will lead to a mandatory loss of licence, but, as before, the court has discretion in the sentencing.

Zero blood alcohol content is also covered by the bill. The words will now be, 'any concentration of alcohol present in the blood'. During the brief we raised the issue of someone taking medication containing alcohol, for whatever reason. There is no doubt that this was seriously considered when the original legislation was drafted and it has always been up to the discretion of the judge in sentencing.

A .05 limit for licence-holders accompanying learner drivers has been introduced. That means a person who is instructing or accompanying a learner driver must have a blood alcohol concentration below .05. It is defined as an accompanying driver's offence with a penalty of up to $500 with no mandatory licence cancellation. New South Wales and South Australia have similar provisions. The rest of the states and territories do not appear to have anything. It was interesting to note also that accompanying driver legislation in New South Wales is much tougher than it is here. The same rules apply for the accompanying driver as for the driver. The penalties are strong.

During our discussions through the consultative process and also in the briefing session it was clear that it is far better to have a learner driver in the driver's seat if the accompanying driver is over the limit than having the over-the-limit driver driving the vehicle. In the scale of things I believe we can safely say that is a reasonable view.

The third issue provides for the limiting of all licensed motorcycle riders to a zero blood alcohol concentration in their first year of driving. When we first looked at that provision we thought it may have been a bit tough. It simply means that regardless of how long a person has held a full car licence, when they obtain a motorcycle licence they will need to adhere to zero blood alcohol content for one year.

After further research we found that was recommended by a former parliamentary Road Safety Committee. I believe it was John Richardson, the honourable member for Forest Hill in another place, who was chair of the committee at that time. Although Mr Richardson is now not the chair, the committee has an able chairman in the Honourable Andrew Brideson. In support of Mr Brideson, the findings of that committee and other parliamentary committees have been of great help to the legislative procedures in this house and as a guide to government in providing a bipartisan approach to particular issues.

As was Mr Brideson, I am disturbed to see the publicity-seeking comments about honourable members travelling overseas to broaden their views so that they can make better contributions in this house and other houses on legislative procedures to be imposed on communities in the future.

The fourth purpose was to allow police to administer evidential breath tests in all suspected drug-driving cases to rule out the use of alcohol.

We found that particularly interesting. As we went through this process we found that the preliminary breath test cannot be used as evidence in court. Therefore, an evidential breath test needs to be taken, but at present the police can take an evidential breath test only if the preliminary test shows an amount of alcohol. The police may have a view that the driver is impaired by things other than alcohol so there is a need to proceed to that next test, and for that reason the bill widens the powers of the police to perform the evidential breath test. That is at police discretion in the case of a suspected drug-driving case, and it is done to rule out the possibility of the presence of alcohol.

It is important to note that the bill also excludes the opportunity of taking two blood samples in the process — that is, if a sample is taken as an evidential test. That might be done because the breathalyser might break down or someone may not be able to blow hard enough into the breathalyser to give a reading. Only one blood test will be taken, and that will also be used for the drug impairment assessment.

When we went through that some people, including members of our party, raised concerns that a vexatious process could be put into place where a police officer could repeatedly cause an evidential breath test to be taken. We looked at that possibility, and it is important that we put on the record what we were advised. The protocols relating to police discretionary powers in suspected drug-driving cases are:

At present — that is, right now — a driver may be pulled over and given a preliminary breath test. The police can do that at any time, but preliminary breath test results cannot be used as evidence in court. Whether or not alcohol is present, the police officer has full discretion in relation to drug impairment. If the officer has reasonable belief that the motorist is impaired, the motorist is taken to a police station and given a standard 45-minute drug assessment.

All protocols regarding the drug impairment process were introduced and debated during the debate on the Road Safety (Amendment) Bill, which was passed in the 2000 autumn session. If the motorist is assessed as impaired, a blood sample is taken for drugs testing. Positive drug tests will result in the motorist being charged with driving while impaired by drugs.

New arrangements will ensure that a driver may be pulled over and given a preliminary breath test. If no alcohol is present but the police officer has a reasonable belief that the motorist is impaired, the motorist will undergo an evidential breath test to exclude alcohol, and this breath test result can be used as evidence in court. The rest of the process remains exactly as it is.

The major issue in this amending bill is that the preliminary breath test reading is not admissible as evidence in court; however the evidential breath test result is. I believe that would be helpful in clearing up some of the concerns that were raised about this issue.

As the Honourable Andrew Brideson said, we have noted that the bill contains a section 85 statement. The second-reading speech goes into some detail about the background to the proposed variation, which includes the fact that the immunity conferred by section 55(9E) is effective into the future.

The fifth point I wish to bring forward tonight concerns the allowing of certificate evidence regarding blood alcohol concentration readings where blood is taken more than 3 hours after driving. I, for one, read the bill incorrectly, for a start, and I am sure many others did so, too. I know some of the people the National Party contacted in the consultative process read it incorrectly. We thought it changed the times of testing and other issues so we raised the point quite vigorously. I would like to walk the house through that because I think it is important.

At present any certificate evidence from a doctor that is taken within 3 hours of driving does not require the doctor or the analyst to appear in court. The doctor or analyst can be called; however there is a need to show due cause.

Any certificate evidence taken after 3 hours of driving requires the doctor or the analyst to appear in court. As we understand it, the amendments do not alter the testing process but rather how to get the evidence to court. It will not be mandatory for the doctor to appear in court if the test was taken after 3 hours. In this case the doctor can still be called to court as of right rather than having to show due cause.

To tidy up that point the minister was kind enough, through the department, to write me a letter. I have spoken to the President and the proper procedure is to read out the letter. It is from the Minister for Transport to me and headed ‘Road Safety (Alcohol and Drug Enforcement Measures) Bill’. It states:

> I am writing in response to your request for further explanation about the effects of this bill in relation to the use of certificate evidence in relation to the results of blood and urine tests.
>
> The bill will allow certificate evidence about blood and urine samples in all undisputed cases instead of having to call the doctor or analyst as a witness in cases where the sample was taken more than 3 hours after driving.
>
> The legislation contains a number of provisions which refer to a period of 3 hours after driving. The main purpose of the 3-hour reference is to ensure there is a limit on how long people can be detained for the purpose of alcohol and drug testing.
>
> Beyond the 3-hour period a person does not commit an offence if they refuse to provide a sample or to remain in police custody for that purpose. However people can choose to give a sample outside the 3-hour limit and evidence of its analysis can be used in court.
>
> There are provisions in the act which allow evidence about the sample to be given by the certificate of a doctor or analyst, thus avoiding the need for the doctor or analyst to attend court to give evidence personally unless the defence obtains a court order for their attendance. However there is an unnecessary restriction which means that certificate evidence cannot be used if the sample was taken outside the 3-hour period. This means the doctor or analyst must be called to give evidence in such cases even if the defendant does not dispute the analysis.
>
> The bill will overcome this problem.
>
> Clauses 13 and 14 of the bill will amend sections 57 and 57A of the Road Safety Act 1986 respectively in the following ways:
>
> > First, the limitation that an analyst’s certificate may only be used in evidence if the sample was taken within 3 hours is removed. This amendment deals only with how the results of the analysis may be presented as evidence to the court. It does not enable samples to be obtained in any additional cases.
> >
> > This amendment does not make anything an offence that is not currently an offence. It merely rectifies an obvious anomaly. Presently, the results of an analysis may be put in evidence by certificate if a sample is taken within 3 hours of driving but the analyst must always give evidence personally if the sample is taken outside that period.
> >
> > Secondly, the amendments provide that a defendant may require the analyst to attend court to give evidence in relation to the matters in the certificate if there is a reasonable possibility that the blood or urine sample was not taken within 3 hours of driving. As indicated in the explanatory memorandum to the bill, this ensures that

> defendants will not be disadvantaged where the time at which the sample is taken is an issue in proceedings.
>
> The practical effect of the amendments will be that test results may be produced to a court by means of a certificate and that the analyst need not attend court unless required by either party.

The National Party does not oppose the bill. It thanks the minister for this explanatory letter, which certainly helped National Party members and will help others as well. We commend the officers of the department who assisted by walking us through this fairly complex issue and accommodating us during the briefing process. We do not oppose the bill.

Sitting suspended 6.32 p.m. until 8.07 p.m.

Hon. G. D. ROMANES (Melbourne) — The bill further strengthens the alcohol and drug enforcement provisions of the principal act, the Road Safety Act, and also makes miscellaneous amendments to the Marine Act and other acts related to alcohol and drug enforcement. It addresses the government's key objective to reduce the road toll by 20 per cent over the next five years.

It is important to make further improvements to and increase the effectiveness of Victoria's road safety enforcement provisions, because although the number of drink-driving fatalities is nowhere near what it was in the 1970s when it represented 50 per cent of all road fatalities, the incidence of fatalities and serious accidents due to drink-driving and driving under the influence of drugs is still a danger to the safety of the community.

Alcohol was responsible for 24 per cent of the road toll in Victoria in the period 1990 to 1997. That percentage of alcohol-related road deaths across the various categories of road users is disturbing. On average over that period 53 drink-drivers were killed each year; 15 drunk adult pedestrians died each year; 1 drunk cyclist died each year; and 1 sober cyclist was killed by a drink-driver each year. Being cyclists, they are statistics about which the Minister for Sport and Recreation and I should take note. Also during that period an average of 35 victims of alcohol-related road accidents were killed each year, including passengers, other drivers, pedestrians, cyclists, motorcyclists and pillion passengers.

Added to community concern about the use of alcohol by drivers of vehicles is the growing incidence of drug-impaired drivers on the roads and the resulting casualties. The data that the Victorian Institute of Forensic Medicine put together showing the incidence of drugs and alcohol in Victorian driver fatalities paints a very disturbing picture. Of the hundreds of Victorian driver fatalities investigated in 1990–93, 22 per cent of fatally injured drivers had drugs detected in their blood; in 1997–98 that figure rose to 32 per cent. By comparison, the percentage of fatally injured drivers detected with .05 blood alcohol readings dropped from 30 per cent in 1990–93 to 26 per cent in 1997–98. The data shows an increasing incidence of drugs detected in fatally injured Victorian drivers over the period 1990 to 1998.

More recently, figures for the Victoria Police traffic alcohol section booze bus activities from 1999 to 31 March of this year show that the strike rate for detecting offending drivers in screening tests has risen. In 1999 the strike rate was 1 in 406 people tested. In 2000 the ratio was 1 to 306 drivers tested, and the rising figure projected for the first quarter of this year for involvement in offences relating to alcohol and drugs is 1 to 282.

As if those figures were not alarming enough, let us add to the picture some of the other factors outlined in the transport minister's discussion paper, 'Road Safety Strategy for Victoria — 2000–05'. It presents a picture of two other disturbing elements that are part of the scenario in Victoria. One is the high incidence of young drivers in the age group of 21 to 25. Although they comprise only 9.4 per cent of the driving population they constitute 28 per cent of the fatal crash statistics. The other is the intractable group of repeat offenders whose behaviour is difficult to shift. Even though these people have already been involved in traffic accidents, the figures, which have remained fairly constant over the past decade, show that around 30 per cent are repeat offenders.

There is great cause to increase our vigilance, to tighten legislation and close loopholes, and the loopholes in the current act will be addressed by the amendments before the house today. Blood alcohol concentration is expressed in the act by a figure to two decimal places. In the important 1998 Supreme Court case of *Blanksby v. Barnes* the court held that readings to the third decimal place should be disregarded, and this has had significant and widespread consequences because it means a person with a reading of between .051 and .059 is not over the blood alcohol limit in this state. That is the precedent set by that case.

Clause 5 of the bill addresses that issue by amending section 49 of the principal act to ensure that the definition is clear and that a motorist will have committed a drink-driving offence if the blood alcohol concentration is at or above the prescribed

concentration, and in this case the basic drink-driving offence is a blood alcohol concentration of .05.

Another important issue addressed by the bill relates to adults who accompany learner drivers. Clause 6 amends section 49 of the Road Safety Act to fix a penalty for drink and drug-driving offences by unpaid driving instructors. This brings Victoria into line with New South Wales and South Australia, and it provides consistency because commercial instructors already have to be at zero blood alcohol concentration.

Unpaid instructors — such as the Leader of the Government when she is taking her daughter on a driving lesson — are deemed to be in charge of a vehicle, so that all the provisions of section 5 of the act apply, including the requirement for a blood alcohol concentration of below .05 per cent. The penalty for any accompanying driver committing such an offence is $500, which is lower than the usual penalties, as it is considered that that situation does not pose such a serious threat to safety as do other situations. Clause 8 amends section 50 so that no mandatory loss of licence for an accompanying driver who commits such an offence is required, although of course it is always open to a court to suspend a licence if the situation warrants it.

Another important provision in the bill will require all motorcyclists in their first year of motorcycle riding to have a zero blood alcohol concentration. This amendment to section 52 of the Road Safety Act puts into effect recommendation 17 of the report of the parliamentary Road Safety Committee, *Inquiry into Motorcycle Safety in Victoria*, which was tabled in February 1998.

This addresses another loophole, because 85 per cent of first-year motorcycle licence-holders also hold a full car licence, which means they are subject only to the .05 blood alcohol concentration limit rather than the zero blood alcohol concentration limit that applies to first-year motorcycle riders who do not have car licences. The 1998 recommendation of the parliamentary committee in attempting to address this anomaly is worth consideration. The recommendation states:

> That the anomaly identified by government in 1993, where novice motorcycle riders with a full car licence can avoid zero BAC restrictions for the first 12 months of riding, be immediately corrected.

That was a very clear recommendation from the Parliament's Road Safety Committee back in February 1998. So what was the former government's response six months later, in October 1998?

I quote from the response tabled in Parliament by the then Minister for Roads and Ports, the Honourable Geoff Craige:

> Recommendation 17 regarding removal of the current situation whereby novice motorcycle riders with a full car licence are not subject to zero BAC restrictions for the first 12 months of riding is not supported. The zero limit has been imposed for novice drivers/riders who are inexperienced in coping with traffic, and this is not the case for a person who has already held a car licence for three years and subsequently obtains a motorcycle licence.

That was the response of the Kennett government that was signed by the then Minister for Roads and Ports, Mr Craige, who missed the point that the Road Safety Committee was trying to make to him. The combination of riding a motorcycle, having taken alcohol or drugs, and being a novice rider is a dangerous and deadly mix.

The point the Road Safety Committee was making to Mr Craige was that different skills are required of a motorcycle rider than of a person who gets into and drives a motor vehicle. A person riding a motorcycle has to get used to the balance, but that is not so important in the capsule of a car. The risk of accidents for motorcycle riders in urban areas is 17 times higher than it is for people who drive cars. It is estimated that currently 38 serious casualties take place per annum where the motorcycle licence-holder has been riding for less than 12 months. There is also an average of one fatality per annum in this group.

The group of drivers with under 12 months experience is overrepresented in the statistics, which alerts us to the fact that the previous government ignored the recommendation of the Road Safety Committee and failed to act. The bill picks up the issue neglected by the previous government and inserts a zero limit for motorcycle riders with less than 12 months experience.

One of the beneficial effects expected to flow from the bill is a greater capacity to change the behaviour of motorcycle riders and to help people, as soon as they become motorcycle riders, to implement appropriate behaviour patterns from the time they first start to ride. An important aspect of the bill is the expected flow-on effect to others in the peer group.

Clause 10 relates to evidentiary breath alcohol tests that may be administered in suspected drug-driving cases. Currently a police officer may require a breath analysis only if alcohol consumption is suspected, but if someone is being tested for suspected drug impairment there is a need to exclude alcohol as a possible factor. Clause 10 enables that to happen. The section 85 provision provides immunity for doctors and nurses

who conduct evidentiary breath alcohol tests in the case of suspected drug-drivers.

Clauses 12 and 13 allow certificate evidence of alcohol concentration readings to be presented in court in undisputed cases where blood has been taken more than 3 hours after driving. The 3-hour provision relates, as other honourable members have said, to how long a person should be kept in custody, but inadvertently the act requires that a doctor has to appear in court to give evidence where blood tests or alcohol readings are taken more than 3 hours after the person has driven. The bill means that the mandatory appearance in court by a doctor is no longer necessary, even though the legislation will still provide that either party can argue for medical personnel to be present and give evidence in court.

Further clauses relate to the marine amendments and address similar concerns relating to tightening up definitions and making sure persons accompanying restricted operators of boats are subject to blood alcohol requirements. One of the speakers in the lower house debate waxed lyrical about boats, the sea, drinking alcohol and how often they all go together. It needs be made clear to people who are in charge of such craft that they should be responsible, control their intake of alcohol and be drug-free when operating boats and other craft that could endanger the lives of others.

Overall, this is an important bill that addresses issues of great concern. It tightens the act and addresses inconsistencies and deficiencies in it. It goes some way towards addressing a number of the outstanding issues that relate and contribute to the unsatisfactory level of fatalities and serious injuries on our roads and waterways. I commend the bill to the house.

Hon. C. A. STRONG (Higinbotham) — The Road Safety (Alcohol and Drugs Enforcement Measures) Bill deals with extremely important issues. As we all know, and has been backed by statistics over many years, the impairment of people by alcohol and drugs plays an important part in road accidents, which often result in the death and unfortunate injuring of individuals that go with the road accident toll and the carnage on our roads.

Over many years we in Victoria have been effective in enforcing abstinence from alcohol by drivers. Although it is one of the key factors in our steadily reducing road toll it often tends to be overlooked in driver education and so on, including some of the Transport Accident Commission programs, which do sufficiently educate people about the risk of driving under the influence of alcohol so they know they are endangering themselves and other people on the road. There has to be some trigger to change behaviour, because in many cases the knowledge of a situation does not result in a change. Enforcement of a blood alcohol limit is the essential element that has over many years effectively changed the behaviour of Victorian drivers.

The distinction between your having an understanding and knowledge of the issue and that knowledge changing your behaviour is a critical matter that is often missed in many of our public health campaigns. One has only to look at the cigarette campaigns that have been running for many years about the dangers of smoking. Few people would not understand the dangers of smoking yet people continue to smoke — and unfortunately more and more people take up the smoking habit. The knowledge that something is dangerous and is bad for your health is one thing, but to effect a great change of behaviour requires some sanction. The bill and the acts that have gone before it link the awareness of dangerous activities with the knowledge that there are real penalties that can be and are imposed. The bill is an important piece of legislation that builds on many years of good work in this area.

The key points of the bill have been described by other honourable members, and one of the key issues is the accompanying driver offence. That provides a further closing of a loophole essentially to deal with a situation where a learner driver who has not been drinking is available to drive home somebody who has been drinking, where theoretically the driver is not over the limit but the person who is de facto in charge of the vehicle is. Amendments to the existing act will mean that a person who is over the limit and directly supervising a learner driver will be committing an offence.

The bill also deals with the definition of various levels of blood alcohol content. The ruling in the 1998 case of *Blanskey v. Barnes* was that the expression of blood alcohol limits as .05 was a two-decimal-place definition.

One often wonders how the courts make the decisions they do, but somehow the courts ruled that if a driver records a reading of, for instance, .059, their blood alcohol level is not actually .06, although most normal people would think it was, because a blood alcohol content was still being expressed in two decimal places; the driver was still .05 when all logic would say they were closer to .06. Quite obviously that decision allowed higher blood alcohol contents than had traditionally been accepted — namely, .05.

The bill clarifies that situation by saying it is an offence to be in excess of the figure rather than quoting the figure to make it quite clear that .05 means .05; it is not .0585, which would allow a person to skate through, although when we talk in terms of the .05 level that makes good sense. When that is projected down to the .00 blood alcohol limit — in other words, zero blood alcohol — there are significant problems, which I will pursue with the minister in the committee stage.

Other procedures deal with the time issue concerning blood tests, which is obviously important because any hard and fast time rule of itself creates inequity when it is hovering around the boundary of 3 hours versus 3 hours 1 minute and so on. The inequities and procedural difficulties of that clearly defined cut-off point have been dealt with, and the amendments to the act in the bill make the provision smoother and easier to deal with.

As has been mentioned previously, most of the provisions now apply also to persons who are in charge of boats, and many of these amendments that tidy up the blood alcohol definition and other issues are taken across into the Marine Act. I believe the bill continues the extremely good work that has been done in Victoria on road safety and in introducing the stern sanctions that are in place for anybody who exceeds those blood alcohol limits.

There are some interesting quirks that I will explore in the committee stage. However, with those few comments I conclude my contribution.

Hon. D. G. HADDEN (Ballarat) — I support the bill. It is a technical bill, and I will attempt to make some sense of it in my remarks. Firstly, its purpose is to make miscellaneous amendments to the Road Safety Act, the Marine Act and other acts related to alcohol and drug law enforcement.

Clause 3 provides that a person instructing a learner driver must have a blood alcohol concentration below .05. The clause inserts a new definition of 'accompanying driver offence'. The amendments in the bill include a penalty provision of up to 5 penalty units or $500 for an accompanying driver offence that relates to traffic infringements — for example, failing to produce a driver's licence or failing to submit to testing, rather than a more stringent provision of mandatory loss of licence that is applied to drink-driving infringements.

Also, in the first year of riding motorcyclists must have a zero blood alcohol concentration. Breath tests may be administered in suspected drug-driving cases. Clause 10 proposes amendments to section 55 and inserts proposed section 55 (2AA), which requires a sample of breath for analysis by a breath-analysing instrument. A police officer may for that purpose require the person to remain at the place where they have been required to remain until either the person has furnished the sample of breath and been given the subsection (4) certificate and the drug assessment has been carried out or 3 hours after the driving, whichever is the sooner.

A section 85 statement provided for in clause 15 gives doctors, nurses and health professionals immunity from prosecution. Proposed section 94A(3) states:

> It is the intention of section 55(9E), to the extent that that section applies in respect of anything done under section 55(9A) as amended by section 10 of the Road Safety (Alcohol and Drugs Enforcement Measures) Act 2001, to alter or vary section 85 of the Constitution Act 1975.

Clause 5 amends the Road Safety Act to return the blood alcohol concentration level to .05, and amends section 49(1)(b) of the Road Safety Act.

Those amendments have arisen as a result of a Supreme Court decision by Justice Hampel in *Blanksby v. Barnes* (1998) 2 VR 164 on an appeal against a sentence of the Magistrates Court disqualifying the appellant from holding a driver's licence for 10 months and fining him $200 for having a blood alcohol concentration in excess of .10 per cent pursuant to section 50 of the Road Safety Act. In his decision Justice Hampel said:

> This appeal from a decision of a magistrate raises a deceptively simple question whether, in the context of the Road Safety Act 1986, the measurement of blood alcohol concentration of .101 is necessarily more than .10.

After referring to the legislation, particularly section 50 and its subsections, His Honour states:

> The Road Safety Act describes all blood alcohol readings by reference to two decimal places. This evidences an intention so to limit the measurement of blood alcohol levels by breath testing.

His Honour further states:

> Therefore, in considering whether one reading is necessarily more or less than another (for the purposes of penalty) the two decimal place measurement should be applied. It is, therefore, not appropriate to compare a three decimal place reading of .101 with the two decimal place reading of .10 because, if those two measurements are to be compared at the same decimal place then .10 could, in fact, be .102.

His Honour went on to say:

> There is no evidence of any intention to extend the range of readings available to the court for the purpose of penalty to readings of more than two decimal places.

That was an interpretation of section 50 and the schedules under the act. His Honour then states:

> The purpose of the schedule is to restate the prescribed limits for sentencing purposes; the prescribed limits are defined in the body of the act, to two decimal places.
>
> The magistrate, in my opinion, erred in holding, as he did, that he was constrained in sentencing to reading of more than 0.10. He was therefore obliged to consider the penalty by reference to a reading of not more than 0.10 which means that he was obliged to consider whether or not to record a conviction, and whether or not to cancel the appellant's licence.

The appeal was allowed and the matter was remitted on the question of sentence to the Magistrates Court.

Over time some interesting articles have appeared in the *Law Institute Journal*. I will refer to a couple. The first article, published in the December 2000 issue and headed 'Drink driving in the year 2000', was written by a practising barrister of the Victorian bar, Mr Warwick Walsh-Buckley. In the article the author refers to the history of drink-driving cases, the various defences that have been run before the courts and the fact that the higher courts are still busy with appeals by both the prosecution and the defence of unfavourable decisions of the lower courts. The article talks about a change in judicial approach since the Court of Appeal decision in *DPP v. Foster and Bajram* (1999) 2 VR 643, and notes that there may have been a change of approach by many members of the magistracy and judiciary in their receptiveness to legal arguments mounted by the defence to charges laid under section 49(1) of the Road Safety Act — which is what practitioners probably call the drink-driving section — and that it may have become harder to mount a successful defence and use traditional defences.

The article then refers to the comments of the President of the Court of Appeal in Foster, where he said:

> Of course the investiture of increased police power has, as its necessary corollary, an increased incursion into civil liberties. However, whilst any invasion of personal liberty is bound to promote disquiet, the courts cannot afford to lose sight of the fact that the undisputed aim of part 5 of the act is to combat and reduce a recognised social evil in a manner which can only be achieved by empowering the police, in the overriding community interest, to intrude upon personal liberties …

The author later referred to the Court of Appeal case of *Furze v. Nixon* (2000) VSCA 149, which was determined on 21 August last year. It was a case from the County Court on questions of law and dealt with an appellant's conviction on a charge under section 49(1)(f) of exceeding the prescribed concentration of alcohol within 3 hours of driving. The author states that the observations made by the Court of Appeal on sections 55(4) and 58(2D), both of which are admissibility provisions for the certificate of analysis produced by the breathalyser, are worth noting, and that in Furze the Court of Appeal observed that the effect of section 58(2D) is not to extend the evidentiary effect of the certificate beyond its contents. The author later states that in the case of Furze the court noted that sections 49, 55, and 58 are very complicated legislation.

Mr Walsh-Buckley concluded that the various cases before the courts over the past 12 or 18 months demonstrate not only the complexity of the legislation but also a changing judicial approach since the Court of Appeal decision in Foster in 1999. At the same time the appeals and decisions demonstrate the resourcefulness and innovation employed by lawyers instructed by clients who have been charged with drink-driving offences and who wish to mount a defence, certainly at some cost. It may well be worth their while if it means the difference between being off the road for 6, 10 or 12 months, but I hope those appellants do not receive legal aid.

A second article appeared in the *Law Institute Journal* of March 2001. The authors are Mr Walsh-Buckley and Mr John Marquis, both members of the Victorian bar who specialise in Road Safety Act law and criminal law. In the article headed 'Drug-driving. The new offences', the authors discuss the Road Safety (Amendment) Act, which came into operation on 1 December last year. That amending act created the new offence of driving while impaired by a drug, or drug-driving as it is known among the legal profession. The article concludes that in a vast number of Supreme Court and Court of Appeal decisions over the past four decades arguments have arisen about the interpretation of certain provisions in legislation. They go on to say:

> This type of penal legislation —

that is, legislation that imposes a pretty heavy penalty —

> contains many privative provisions and two principles compete in its interpretation — the strict construction of penal legislation in favour of an accused where there is ambiguity versus a purposive approach to interpreting the Road Safety Act in the community interest at the accused's expense. They are likely to be at the centre of many legal arguments at all levels in the hierarchy.

So long as there are clever lawyers around, so long as there are drink-drivers and so long as we have legislation that tries to impose penalties and a limit on drink-driving and drug-driving, it will always be possible to run a persuasive argument before a court to in effect have the matter brought back to Parliament for it to legislate to prevent such incursions on our roads.

In conclusion, I support the legislation. Its purpose is to achieve the state's goal of reducing the road toll by 20 per cent within the next five years, to bring Victoria's drink-driving laws into line with other states vis-a-vis the prescribed blood alcohol concentration and to improve safety for road users, including learner drivers and accompanying driving instructors. Its aim also is to reduce motor vehicle accidents involving alcohol and drugs. I commend the bill to the house.

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

Bells rung.

Members having assembled in chamber:

The ACTING PRESIDENT (Hon. Jenny Mikakos) — Order! So that I may be satisfied that an absolute majority exists, I ask those honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 to 8 agreed to.

Clause 9

Hon. C. A. STRONG (Higinbotham) — I wish to pursue with the minister two issues in clause 9. By way of preamble, it is important that such legislation — and all honourable members have acknowledged that it is important legislation — is seen by the community to be fair and reasonable. There has been a level of acceptance of the blood alcohol limit when driving although, as the Honourable Dianne Hadden said, in many cases that acceptance has been the result of hard enforcement. That level of acceptance in the community is based on the fact that over the years the legislation has been seen to be fair and reasonable given what it has tried to achieve.

I refer to clause 9(1), which I am not sure the community will see as fair and reasonable. I seek some explanation because the clause inserts proposed section 52(1E), which states:

> … during the period of 1 year from the first issue of a driver licence which authorises the holder to drive a motorcycle, while the holder is driving or in charge of a motorcycle —

and this is the important bit —

> whether or not the holder also holds a driver licence which authorises him or her to drive another kind of vehicle …

It provides they must have a zero blood alcohol content. In other words, someone who has been driving for 10 or 15 years generally according to the law and well and truly understands the requirements the act imposes of not driving with a blood alcohol content over .05 is faced with a totally different regime if they then get on to a motorcycle, be it only for 5 minutes.

For the first 12 months that person holds a motorcycle licence he or she must have a blood alcohol level of zero when driving a motorcycle, albeit that when driving another vehicle they can have a blood alcohol reading of .05. When a person drives vehicle X they are allowed to have a blood alcohol level of .05, but when the same person with the same level of responsibility in the way they manage themselves or their own affairs and with the same level of accountability drives vehicle Y, they must have a blood alcohol content of zero. That seems illogical to many people and is therefore a provision they will be reticent to treat seriously. We can all accept the fact that riding motorcycles is a more dangerous pursuit than driving motor cars — certainly that is what the statistics clearly show — but it seems illogical for the same person to have a different blood alcohol limit depending on what vehicle they are driving.

I seek from the minister an explanation of the rationale behind how a person suddenly changes in some way when they move from a motor car to a motorcycle and why their blood alcohol content therefore needs to be different.

Hon. C. C. BROAD (Minister for Energy and Resources) — It is important to point out to the committee that the parliamentary Road Safety Committee considered this matter in its 1998 inquiry into the review of motorcycle safety in Victoria. I believe the Honourables Graeme Stoney and Ron Best were members of that committee. The committee considered it anomalous that riders who obtained their motorcycle licences after already holding full car licences were not subject to the zero blood alcohol content requirement of a probationary licence-holder. That committee recommended that a zero blood alcohol content (BAC) requirement be introduced for such riders for the first year of their motorcycle licences.

By way of explanation — I am sure the committee in making its recommendations considered this carefully — riding a motorcycle requires different skills from driving a car, and motorcycle riders are at a higher risk of accident by comparison. While someone who has a licence to drive a motor vehicle may have acquired skills to do with reading traffic and so forth, riding a motorcycle is a physical skill that is different in its nature to the skills required to drive a motor vehicle. Alcohol and inexperience both significantly increase the risk. Moreover, the risk from a specific BAC is higher for a motorcycle rider than the risk for a car driver who has the same BAC.

It is also important to point out to the committee that the incidence of motorcycle accidents is a growing problem. For example, in 2000, 85 per cent of new motorcycle licence-holders already held full car licences and were therefore not subject to the zero blood alcohol content requirement, despite the fact that they may have never ridden a motorcycle before obtaining their licences.

It is estimated that annually 38 serious motorcycle casualty accidents occur where the motorcycle rider has held a motorcycle licence for less than 12 months and has a positive BAC reading. Tragically, on average one such case results in a fatality. That is why it is proposed that all newly licensed motorcycle riders be subjected to a BAC requirement for the first 12 months, whether they have a full car licence or not.

Hon. C. A. STRONG (Higinbotham) — I point out, with due respect to the Road Safety Committee, that not all recommendations of committees are adopted, so one does not necessarily rest on that as a key plank in the argument, notwithstanding the great skill that was exercised by that committee — and who knows to what extent that was a split judgment?

I made the point that clearly, as the minister reiterated, it is much more dangerous to ride a motorcycle than it is to drive a motor car, but as I understand the situation the setting of the .05 blood alcohol limit is all about setting in place a limit that does not impair the person's capability and competence to be in charge of a vehicle, whatever that vehicle may be. In that regard, although I understand the arguments of the minister, I still feel this provision may make the public think that perhaps this is not fair. My concern is to ensure that the public continue to think that the legislation is fair and just and will therefore be very much more inclined to be law abiding than if they considered it to be a little strange. I therefore appreciate the minister's comments and thank her very much.

I also have an issue with subclause (2) of the same clause. For those in the committee who are not aware of it, I have some experience with drink-driving, having unfortunately some 18 months or so ago had an incident where I went through the process. I guess there are two things that allow me to be something of an expert: I have personally experienced the process, and as part of that process was put through all sorts of wonderful education programs that told me all about the evils of drink, what it does to you and how you get alcohol in your bloodstream and so on. I became very knowledgeable on all those issues, and that background brings me to this particular subsection.

Hon. D. G. Hadden interjected.

Hon. C. A. STRONG — No, I did not, and I must say I found the Honourable Dianne Hadden's contribution extremely interesting in that regard. No, I judged from my position that the most appropriate thing to do was to keep my head down!

I turn to subsection (2), which amends the current act and deals with the so-called zero blood alcohol content. It amends the requirement that is currently expressed in the act as a concentration of alcohol present in the blood of a person of '0.00 grams per 100 millilitres of blood' to 'any' concentration of alcohol present in the blood.

As has been pointed out by other speakers, the case of *Blanksby v. Barnes* created a situation where zero was not really zero but could be up to almost .01, so that there was, as it were, an element of flexibility in what 'zero' meant. The new wording leaves absolutely no doubt at all what zero means — it means no concentration of alcohol present in the blood of that person. Why is that important? It is important because there are some substances that people use that result in very low levels of blood alcohol.

For instance, if you had a sore throat and were sucking a Strepsil or any sort of lozenge — I see the minister smiling, because the last time we were here she had a very sore throat — you would register a very low level of blood alcohol. You might gargle with a mouthwash for 10, 15 or 20 minutes before you get into the car to go out, and because mouthwash has a great deal of alcohol in it you would inevitably register a very low level of blood alcohol. Ladies who spray on a bit of perfume would receive a very low level of alcohol.

Hon. G. W. Jennings interjected.

Hon. C. A. STRONG — And all of that as well.

The CHAIRMAN — Order! Mr Strong, without assistance.

Hon. C. A. STRONG — The reaction of the committee demonstrates that there are many ways in which very low levels of alcohol can get into the blood; that is a fact.

I am not suggesting in any way that the provision relating to zero blood alcohol, as it was interpreted, is not appropriate, because in certain instances it is absolutely appropriate and should be kept. However, the provision needs to be workable, and a zero concentration of alcohol present in the blood is a test that a great many people will inadvertently fail.

If that wording is to stay in the clause, there needs to be some recognition by the police, the courts or whoever that if a person had, for instance, a .002 blood alcohol content or some other very low concentration, that would need to be seen as the equivalent of a zero concentration. I repeat my point that zero concentration is a test a great many people will inadvertently fail.

Hon. C. C. BROAD (Minister for Energy and Resources) — I appreciate the honesty with which Mr Strong has approached this issue. My advice on the matter is that, firstly, experience with existing drink-driving provisions in the act has not resulted in motorists being treated unfairly. I am also advised that small amounts of alcohol, such as would be consumed through exposure to the examples given by Mr Strong — you could add to that list of potential products liqueur chocolates, vanilla ice-cream, wine trifle and, in general, a number of other foods in which alcohol is used — would not return a positive blood alcohol reading in the terms in which proposed subsection (2) of section 52 is expressed. I am advised that such small amounts of alcohol are metabolised before being accumulated in the blood. The only way in which those products could return a positive result is by a breath test, which detects alcohol residue in the mouth rather than in the blood.

Those sorts of products will result in a small amount of alcohol in the mouth for a few minutes after consumption. It is therefore possible that after using such a product a preliminary breath test would result in a positive result for alcohol. However, as is set out clearly in the act, a preliminary breath test does not provide evidence that may be used in the prosecution of a motorist or a motorcycle rider.

If a motorist returns a positive result to a preliminary test, a police officer may then require the motorist to provide an evidential breath test, and the results of that second evidential test only can be used as the basis for prosecution.

Regulation 202(a) of the Road Safety (General) Regulations 1999 requires the person operating the breath analysis instrument to be satisfied that the motorist has not consumed alcohol in the preceding 15 minutes. I am advised that the procedure used by police involves waiting for approximately 20 minutes after the preliminary breath test before administering an evidential breath test. I am advised that any mouth alcohol would certainly have dissipated by the time an evidential test would be taken.

I am also advised that the evidential breath analysis instruments now in use can distinguish mouth alcohol and will not return a BAC reading for mouth alcohol.

Hon. C. A. STRONG (Higinbotham) — This becomes a little difficult, as the minister has received advice that says one thing, while I — as I highlighted by way of preamble — have been lectured at great length by a medical professional on the issue, as have many others who have attended mandatory lessons under government legislation, and received information that says something significantly different — that is, that alcohol in the mouth will register in a blood test and will subside over time.

However, that mouth alcohol — as opposed to blood alcohol — or alcohol put on the skin in any other way goes into the bloodstream. Once there it takes some time to metabolise, and of course it depends on the accuracy of the particular machine.

It is possible that one may eat a couple of lovely chocolates with alcoholic syrup in them and then be breathalysed and produce a clear result. However, if one then had the more accurate test 10, 15 or 20 minutes later the alcohol would have gone from the mouth but some of it would have metabolised into the bloodstream, because substances are absorbed very quickly from the mouth and lips.

Therefore on the advice I have it is not correct to say that alcohol in the mouth taken with, for example, a liqueur chocolate will simply evaporate from the mouth. A significant proportion of it will go into the bloodstream, and a question arises about the accuracy of the measuring device. In other words it is not as simple as the minister's advice leads us to believe.

I simply lay this information in front of the minister for further consideration by the responsible government officers. It is important, because we could potentially say the same about a glass of wine — it just disappears! Whatever is in your body goes into the bloodstream; it

is not correct to say it somehow disappears. I realise there is probably no solution to this issue this evening but I urge the minister to pursue it because this new provision is very black and white. I repeat: I am not advocating against zero blood alcohol; I am advocating that the provision needs to be examined.

Clause agreed to; clauses 10 to 25 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their contributions to the debate.

The PRESIDENT — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority of the members of the Legislative Council. Accordingly I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! I ask honourable members supporting the passage of the legislation 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.

ADJOURNMENT

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

That the house do now adjourn.

Planning: Mount Martha land

Hon. R. H. BOWDEN (South Eastern) — I raise with the Minister for Sport and Recreation, as the representative in this place of the Minister for Planning, a matter that I consider to be quite serious. It relates to a constituent, Francesco Donato, of lot 2, 90 Craigie Road, Mount Martha. Mr Donato has brought this matter to my attention and I bring it to the attention of honourable members and seek the minister's assistance.

Mr Donato and his family have occupied the property known as 90 Craigie Road for a considerable time. Indeed, it became the property of Mr Donato in 1989. Mr Donato has a degree in agricultural science. For many years he has operated a successful enterprise involving the production of hydroponic tomatoes and is a well-respected and well-recognised producer of herbs and other agricultural products in considerable quantities. As far back as the early 1980s the Donato family has produced agricultural products on the property.

For several years changes have occurred to the zoning of the property and currently it is zoned low density residential 2, which means that while members of the Donato family can produce quantities of herbs and other highly valuable agricultural products, they are prohibited from selling those products at the front gate. Mr Donato, through his enterprise and quality of product, has been successful in winning large contracts with major national food retail chains.

The difficulty is that the Mornington Peninsula Shire Council took the matter to the Victorian Civil and Administrative Tribunal. The fact that Mr Donato is no longer able to sell his produce for retail could have a major effect on other properties in the Mornington Peninsula shire. There are many producers in the electorate who are in similar circumstances. I ask the minister to fully investigate the background to this matter and I urgently seek his assistance in rectifying the issue, if possible.

Solectron Technology Pty Ltd

Hon. W. R. BAXTER (North Eastern) — I raise for the attention of the Minister for Energy and Resources, as the representative in this place of the Minister for State and Regional Development, the issue of the dismal news yesterday that the Solectron Technology Pty Ltd manufacturing plant in Wangaratta will close with a loss of 225 jobs. Honourable members with long memories will recall that the factory was established by IBM to manufacture the golf ball typewriter. At the time the golf ball typewriter was considered to be the epitome of technology. How little time it lasted before we moved on!

I ask the minister to urge her colleague in the other place to have his department give every possible assistance to employees who lose positions and to the

Rural City of Wangaratta to find a successor manufacturing enterprise that might utilise the building and provide jobs to replace those that are now disappearing.

On a wider front, the minister should take note that the two most recent job losses in the state, from Arnott's Biscuits and Solectron Technology, are losses not because the businesses were going out of business but because the businesses are relocating to other parts of Australia. That should send a serious message to the government that industry is losing faith in Victoria as a manufacturing base, and it should be taken into account by the government in its policy decisions.

Racial and religious tolerance: racist statements

Hon. T. C. THEOPHANOUS (Jika Jika) — I raise a matter for the attention of the Leader of the House who is the representative in this place of the Minister assisting the Premier on Multicultural Affairs. I am concerned that a number of people are whipping up ethnic tensions in the community with racist remarks designed to inflame racial tensions. I refer in particular to Mr Alan Salter, a former councillor of the City of Moorabbin and the One Nation candidate for the electoral seat of Hotham in the 1998 federal election.

Mr Salter is apparently organising opposition to the Racial and Religious Tolerance Bill and is using this opportunity to whip up anti-Semitic and anti-ethnic feelings in the community. He has a long history of such comments. Mr Salter's comments are quoted in the *Australian Jewish News* of February 2000 when he says that Jews are immature and accuses them of hounding Konrads Kalejs.

The B'nai B'rith anti-defamation commission director of research, Benseon Apple, described Mr Salter's comments as anti-Semitic and grossly insulting to the Jewish community. Mr Salter has also opposed a Chabab childminding centre in Moorabbin on the basis that residents should not have to put up with 'alien rituals' and an Australian neighbourhood should not be subjected to 'Jewish goings-on'. He also accuses Jews of orchestrating publicity around the Holocaust to create a feeling that the world owes them something. 'We owe them nothing', he is quoted as saying. He also complained that the sight of orthodox Jewish women on the way to and from a ritual bathing facility would have a bad influence on students — —

Hon. B. N. Atkinson — On a point of order, Mr President, very serious accusations are being levelled against an individual. What is the source of the document or documents from which the member is quoting? This is information which should be sourced, given the serious nature of it.

Hon. T. C. THEOPHANOUS — As I said, these comments are based on documents from the *Australian Jewish News* of 25 February 2000. As I was saying, he also complained that the sight of Orthodox Jewish women on their way to and from a ritual bathing facility would have a bad effect on the students and that they should not have to put up with this un-Australian sight.

Mr Salter led a demonstration of five One Nation protesters against the bill on the steps of Parliament House earlier this year and was also recently in attendance during the second-reading debate.

I am concerned about the activities of this man, which run counter to the principles of a multicultural society, and I am doubly concerned that in his latest trip to Parliament Mr Salter, with the dangerous racist views that he tried to push, was the guest of Inga Peulich, who by her close association to him — —

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

Mount Waverley Preschool Centre

Hon. M. T. LUCKINS (Waverley) — I raise a matter with the Minister for Small Business for the attention of the Minister for Community Services in the other place about the failure of the Bracks government to provide adequate funding for capital works projects in preschools. I cite the example of the Mount Waverley Preschool Centre in my electorate, which since 1999 has been seeking funds to build additional areas to benefit the quality of care and education of the children and to provide room for parents who carry out administrative tasks required to run the facility.

The estimated cost of the project is about $23 000, excluding labour costs. The committee of management has raised $12 000 towards the project, which represents a huge amount of hard work and fundraising. An innovative program with the Holmesglen Institute of TAFE would source labour from students at the TAFE college.

The council has been asked to provide $11 000 towards the project. The request has been rejected again, and the preschool has been told the matter will not be revisited until 2002–03. The committee of management is concerned that if the project does not commence soon it will lose the assistance of Holmesglen TAFE, which will result in the project requiring more taxpayers' money from either the council or the state government.

While I commend the commitment and the innovation of the committee of management at the Mount Waverley preschool, I ask the minister to make the necessary funds available for the project so it can proceed as soon as possible.

Western suburbs: job growth

Hon. S. M. NGUYEN (Melbourne West) — I raise a matter for the attention of the Minister for Energy and Resources, who is the representative of the Minister for State and Regional Development in the other place. As the minister is aware, Melbourne's western suburbs suffer higher rates of unemployment than other areas of the state. There has been an increase in funding for Melbourne's west for services, particularly in education and health. With Victoria leading the nation in jobs growth and with an unemployment rate lower than national levels, what has the department done to assist Melbourne's western suburbs to achieve job growth?

Ambulance services: Latrobe Valley

Hon. P. R. HALL (Gippsland) — I raise a matter with the Minister for Industrial Relations representing the Minister for Health in another place about the establishment of a mobile intensive care ambulance (MICA) branch in the Latrobe Valley. Over the past 10 months a MICA unit has operated on a trial basis from a site on the Princes Highway adjacent to the Latrobe Regional Hospital to serve the people of the Latrobe Valley. It has justified its existence with a total of 1474 cases in the 10-month period, 64 per cent which were in the nearby towns of Morwell and Traralgon.

The unit is currently located at a site on the Princes Highway close to the Latrobe Regional Hospital, which enables it to respond quickly to calls from the towns within its service area. Currently a proposal is being considered by Rural Ambulance Victoria to relocate the service to the current ambulance station in Morwell. That site is well off the highway, and if relocation takes place it would increase response times for the vast majority of the cases of the MICA unit.

My understanding is that the relocation to Morwell is driven by budgetary constraints. I call on the minister to put service and quality ahead of relatively minor budgetary considerations and locate the service in the position that best meets the needs of people who live in central Gippsland by establishing a MICA branch in the current location close to the Latrobe Regional Hospital.

Kew Cottages

Hon. ANDREW BRIDESON (Waverley) — I raise for the attention of the Minister for Small Business, in her capacity as the representative of the Minister for Community Services in the other place, a matter about the closure of Kew Cottages. Last week I received a deputation from a parent who has a son residing at Kew Cottages. I was advised by my constituent that last year Minister Campbell at a picnic with residents of Kew Cottages and their parents stated that she would not allow residents to be moved because of the outstanding care and the sense of community that was experienced by the residents.

Now with the announcement of the sale of Kew Cottages, the apparent about-face from Minister Campbell and the overruling of her announced decision by the Premier, it appears that some 350 of the 460 residents will be moved into community housing and that about 100 will be accommodated in housing to be built around the current Kew estate.

A sense of panic has emerged among many of the parents, some of whom are aged 75 to 85 years and their children 40 to 50 years. Parents are concerned about the future of their children.

A constituent who came to see me expressed concern that she may not live for another four years or more to see her son eventually housed elsewhere. She is in her late 70s and is extremely concerned about the future of her son, who is 42 and has lived at Kew Cottages for more than 30 years. He requires constant care because he is diabetic, epileptic, paralysed and intellectually disabled.

At Kew Cottages the residents receive good hospital care. They have access to a dental clinic, a swimming pool for recreation, a kiosk, a physiotherapist and a dietitian, and my constituent is most concerned that if these residents are moved out into the community they will not receive the same standard of care.

Hon. Kaye Darveniza interjected.

Hon. ANDREW BRIDESON — I call on the Minister for Community Services to review her decision to move the residents and thus break up their community. I request that she personally meet with the concerned parents of residents at Kew Cottages to listen empathically to their concerns. I emphasise that the minister should meet with the parents personally rather than handballing the task to bureaucrats who will probably speak with small groups of parents on a unit-by-unit basis.

Hon. Kaye Darveniza interjected.

The PRESIDENT — Order! Ms Darveniza — for heaven's sake, draw breath and keep quiet!

Hon. Kaye Darveniza — Very provocative, Mr President.

An Honourable Member — I've got a better idea: don't draw breath!

The PRESIDENT — Order! You won't stop talking!

Hospitals: infection control

Hon. E. J. POWELL (North Eastern) — I raise an issue with the Minister for Industrial Relations as the representative in this place of the Minister for Health with regard to the infection methicillin resistant *Staphylococcus aureus* (MRSA) better known as golden staph. Last week a constituent from Numurkah in my electorate came to my office. Her brother-in-law died of MRSA after an operation on a broken hip at the Goulburn Valley base hospital in Shepparton on 3 November 2000.

The patient had seemed to recover successfully. He was rehabilitated at the Numurkah hospital, and things seemed to be going well. He was then discharged and district nurses visited the patient to wash and dress him and check his wounds. They noted that the wound was healing in a clean and healthy way. On 5 December 2000 the patient was readmitted to Numurkah hospital with complications. Swabs of the wound were taken, and it was found that he had contracted golden staph. He was transferred to Goulburn Valley Health Services in Shepparton and the wound was washed out. After a painful fight against the disease, the patient died on 13 January this year.

Members of the patient's family are very angry and distressed. They have written to Goulburn Valley Health Services and to the Minister for Health requesting answers. The response from Goulburn Valley Health Services was fairly detailed and included a patient information form about MRSA that goes out to all hospitals. The form states:

> We are aware of an increase of this germ in hospitals. Therefore to ensure that you receive the best treatment while you are in hospital we are endeavouring to identify and restrict the spread of this germ.

A response from Dr Chris Brook, director of acute health of the Department of Human Services, states:

> The Victorian government has identified infection control in public hospitals as a priority issue and has allocated funding over the next three years to provide a coordinated approach to infection control in our public hospitals.

The letter further states:

> … in 2001 the Department of Human Services will be undertaking a resurvey of all public hospitals to obtain information on compliance with infection control and sterilisation protocols.

The letter concludes:

> I hope that these comments assure you of the government's determination to improve infection control through a range of systems and initiatives.

Given that detailed response from the department, I ask the minister whether there is any new treatment or practice to eliminate MRSA in hospitals. If there is, when will the relevant education and training commence in hospitals?

Consumer affairs: vehicle repair industry

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I direct a matter to the attention of the Minister for Consumer Affairs. I have received a letter from a constituent who is the director of a motor vehicle repair company in Dandenong. In the letter the constituent refers to what he describes as the unfair and discriminatory tactics used by many insurance companies in their dealings with motor vehicle repair companies. My constituent indicates that many of the small motor vehicle repair firms that employ fewer than six employees and have low turnovers and low capital bases take the bulk of their business from motor vehicle insurance companies. By contrast my constituent indicates that 80 per cent of the motor vehicle insurance market is held by only four insurance companies, so there is a disproportionate balance of power between the insurance companies and the motor vehicle repairers with whom they contract.

As a consequence my constituent says there have been practices of insurance companies forcing motor vehicle repairers to accept labour rates that are below their costs and repairers experiencing long delays between invoicing insurance companies and being paid according to the terms of the agreement. Situations have also arisen where repairers who have made complaints against insurance companies are simply not given any further business from that insurance company. Because repairers are so dependent on business from insurance companies, they are put at a significant disadvantage.

The constituent has asked me to raise the matter with the minister and ask her to investigate it. I ask the minister to look into these practices as they apply to

motor vehicle insurance businesses and their relationship with repairers and to investigate whether the insurance companies may be in breach of part 2, in particular sections 7 and 8, of the Fair Trading Act dealing with unconscionable conduct.

Road safety: caravans

Hon. B. W. BISHOP (North Western) — I raise a matter for the attention of the Minister for Energy and Resources, representing the Minister for Transport in the other place. A number of my constituents are concerned about road safety and the causes of accidents that lead to injury and death on the roads. At this time of year many Victorians head north for the winter to warmer places — and I hasten to add Mildura is a very good place to go! Most of them drive, and many of them take caravans. A number of people travel together in groups or in convoy.

No doubt travelling in a group is a good way to go. If there are any problems, the safety of numbers helps to ensure that they can be fixed. It is also pleasant travelling with friends to share experiences. However, as my constituents have pointed out, it can cause difficulties and dangers, such as cars and caravans travelling too close together — in fact four or five vans may travel in a convoy. They are very difficult and dangerous to pass, even though they may travel at only 80 kilometres an hour, which seems a popular speed.

My constituents have looked at the road rules and know that vehicles of a particular length — I think it is 7.5 metres or more — must travel with a gap of 60 metres between them. My constituents have asked whether caravaners know the rules and whether they should have special licence tests for towing a van.

Although I do not wish for more regulations to be applied, the issue needs to be addressed. Given the movement north in winter and during the school holidays at the end of June and early July, the timing is right. Will the minister implement an awareness program for caravaners to ensure that road safety is maximised, particularly during times when a large number of vans are on the roads?

Sidney Myer Music Bowl

Hon. ANDREA COOTE (Monash) — I refer my question to the Minister for Industrial Relations in her capacity as the representative of the Minister for the Arts in another place. I have spoken about the Sidney Myer Music Bowl before, and I remind the house that the total cost of the project is estimated to be $18.5 million. The project could not be completed without the generous donation of the Myer family, who are great philanthropists to this state, of approximately $3 million. I ask the minister how this excellent contribution will be recognised by the government.

Local government: waste management group review

Hon. R. M. HALLAM (Western) — The issue I raise for the attention of the Minister for Energy and Resources, who represents the Minister for Local Government in the other place, concerns the review of regional waste management groups commissioned by Minister Garbutt and, more particularly, the direction of the draft final report that was recently released by the review panel.

As you know, Mr President, the draft report has raised the hackles of local government, particularly across country Victoria, in that it appears — and I put it no more strongly than that — to have overlooked the critical role councils have played in the development of regional cooperatives thus far, and worse, appears to have ignored the reality that continued support, particularly financial support, from councils is even more critical to the future direction and operational success of those regional facilities.

All honourable members would be well aware that waste management has long been a primary responsibility of local government. My point is that if the Bracks government has again planned to change that, it would be better to put its game plan out on the table and let us have the inevitable blue. But if that is not the government's game plan, it makes even less sense to have the councils offside.

The plea I ask the minister to convey to the Minister for Local Government is that he get involved in the issue, which is unfolding right now, to ensure that local government is not, once again, treated as little more than a handy wicket-keeper.

Natural Resources and Environment: annual report

Hon. D. McL. DAVIS (East Yarra) — My question for the attention of the Minister for Energy and Resources concerns the annual report of the Department of Natural Resources and Environment. The *Weekly Times* of 10 January reported the chief finance officer of the Department of Natural Resources and Environment, Mr Alan Young, as admitting to a series of financial errors in relation to consultants and contractors being published in the 1999–2000 DNRE annual report.

On 11 January I wrote to the secretary of the department, Chloe Munro, concerning the annual report and requesting information on what action the government would take to correct the errors, to which I have received a reply. I note that the Minister for Energy and Resources also has responsibilities to the Department of Infrastructure. The house will recall a retabling late last year of an annual report in which there were errors.

In the reply I received from the Secretary of the Department of Natural Resources and Environment she admitted — as her financial officer had — that there were errors concerning consultancies and contractors. Pursuant to the Financial Management Act 1994 what action will the minister, as one of the responsible ministers in the Department of Natural Resources and Environment, take to ensure that the presentation of this information to the house is correct and accurate in every detail and that the house can rely on the information on contractors and consultants employed?

VOMA: opposition access

Hon. C. A. FURLETTI (Templestowe) — I raise a matter for the attention of the Minister for Industrial Relations, who represents the Minister assisting the Premier on Multicultural Affairs in another place. On 10 April, in my capacity as parliamentary secretary to the shadow minister for multicultural affairs, I wrote to the Minister assisting — —

Hon. T. C. Theophanous — Shadow parliamentary secretary.

Hon. D. McL. Davis — New parliamentary secretary.

Honourable members interjecting.

Hon. C. A. FURLETTI — I wrote to the Minister assisting the Premier on Multicultural Affairs seeking that the newly appointed director of the Victorian Office of Multicultural Affairs, Ms Elizabeth Jensen, brief the shadow minister, the convenor of the opposition's multicultural affairs policy committee, and me on her new role and the direction of the office.

Hon. T. C. Theophanous — Did you write as the parliamentary secretary?

Hon. C. A. FURLETTI — Open your ears and you will hear.

The PRESIDENT — Order!

Hon. C. A. FURLETTI — On 15 May I received a response, which indicated that the Minister assisting the Premier on Multicultural Affairs was pleased to advise that the courtesy of a briefing with Ms Jensen is extended to Mrs Helen Shardey, with Ms Valentina Moisiadis, multicultural affairs adviser, also to be present.

That was an express rebuff to me, the shadow minister and the honourable member for Bulleen in the other place, and it is contrary to the protocol used by the previous government. When the matter was raised by the honourable member for Caulfield in the other place asking the Minister for Multicultural Affairs to investigate the response and reverse the decision of the minister assisting him, the Attorney-General, who was representing the Premier in the other place, said — I paraphrase — that it appeared she wanted to bring about 20 people with her, including her uncle, her auntie and her nephew and niece. I put on the record that two government members in the back are giggling and carrying on like parrots.

Honourable members interjecting.

Hon. C. A. FURLETTI — This is a very important issue.

The PRESIDENT — Order!

Hon. C. A. FURLETTI — I therefore ask the Premier, in his capacity as Minister for Multicultural Affairs, to appropriately rebuke the Attorney-General for his totally unacceptable behaviour as a minister of the Crown.

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

Local government: parking ticket machines

Hon. B. N. ATKINSON (Koonung) — I raise a matter with the Minister for Consumer Affairs. The minister will recall that on a previous occasion I raised the issue of municipal parking machines. She was good enough to investigate that for me. I have a copy of a letter she forwarded to me on 10 April in which she indicated that Trade Measurement Victoria (TMV) has advised her that no legal requirements are placed on municipal parking machines, including the accuracy of their timing or the information municipalities or machine manufacturers provide to consumers on their operation. It was also her advice that there was no Australian standard for parking machines.

The minister was good enough to ask TMV to gauge the level of concern about parking machines in other

states and territories and to have a survey undertaken to establish whether there is a significant problem associated with the machines. I thank the minister for the work she has done on that so far, and I appreciate the quick response to the issue I raised.

I ask whether the minister would be prepared as one of the steps forward in this issue — I believe there is a consumer issue there potentially — to consider working with the Minister for Local Government on a code of practice for municipal parking regimes.

Roads: speed signage

Hon. BILL FORWOOD (Templestowe) — I raise an issue with the Minister for Energy and Resources representing the Minister for Transport in the other place. I have correspondence from a constituent — and I am happy to make this correspondence available to the minister — which says:

> I was most surprised and concerned to receive this notice indicating that I was travelling at 58 kilometres an hour in a 50-kilometre-an-hour zone …

She was driving around the Yarra Boulevard at Richmond. The letter further states:

> This road does not seem to me to meet the criteria for a secondary or neighbourhood road and I can see no issues of safety or road condition that would have indicated the need for the reduced speed limit. If a 50-kilometre-an-hour limit is thought to be necessary, then it is essential that appropriate signage be placed so that responsible drivers such as myself are not inadvertently in default of the law.

She goes on to make the point that she then drives up Grange Road, which is a residential street and which is signposted at 60 kilometres an hour, so there is some inconsistency.

In a further copy letter to me, she states:

> It seems to me that there are no genuine reasons for restrictions on this stretch of road. If a 50-kilometre-an-hour limit is thought to be necessary, then it is essential that appropriate signage be placed so that responsible drivers such as myself are not inadvertently in default of the law.

I think this is one of those cases where the grey area of the new 50-kilometre-an-hour limit has not been made clear enough, and my constituent has been, to use her words, inadvertently caught in a situation that is distressing, to say the least. I know she has contacted Civil Compliance Victoria. I think she has also written to the minister. I wonder if the minister could ask the minister in the other place to take up this issue on behalf of my constituent.

Local government: differential rating

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Energy and Resources representing the Minister for Local Government in the other place. The minister will be aware that Knox City Council is one of very few councils in Victoria that still operate under the site value rating system, although part of its corporate rate plan for 2001–02 is to review that method of rating. Having said that, in the past both the council and the residents of Knox have been very strong in their support for the site value system, and the review to be undertaken will obviously seek residents' opinions. The council does not expect that those opinions will cause a change in the rating system.

One of the difficulties with site value rating is that the Local Government Act does not allow councils that use it to strike a differential rate. Currently differential rates can be struck only by councils using the capital improved value method. This issue is of great concern in Knox and other municipalities because there are regularly categories of ratepayers who have enormous difficulty in meeting their rates commitments, and differential rating in that context would seem to be a sensible alternative.

Knox City Council is seeking a review of section 161 of the Local Government Act to provide for greater flexibility in the choice of rating systems, and specifically to enable differential rating to be undertaken in conjunction with site value systems. I note that recently the government introduced legislation in this place that allows the City of Melbourne to raise general rates by applying the differential rate, even if it does not use the capital improved value. I guess the Knox council is asking at this time for an extension of that principle to all councils in Victoria.

I ask whether the minister will grant the request of the Knox council and review section 161 of the Local Government Act to extend to councils currently using site value rating systems the ability to strike a differential rate.

Target Australia: Geelong closure

Hon. I. J. COVER (Geelong) — During question time today I referred the Minister for Industrial Relations to concerns about Target's head office remaining in Geelong. In her response the minister failed to indicate what personal action she would take to ensure that another business would not be lost to regional Victoria.

In that light I direct the minister's attention to tonight's Channel 7 news, which reported on the Target situation and included the reporter's observation that a vow had been made by local politicians to never say die about Target's position in Geelong and the jobs that go with it. Despite the fact that they did not label him or declare who he was by voice-over, I recognised the declaration of the honourable member for Geelong in another place, Mr Ian Trezise that:

> We will be sticking together to ensure that those jobs are retained in Geelong.

I ask the minister to explain whether she supports that position. If so, what will she do personally in her role as Minister for Industrial Relations to keep Target's many staff in Geelong?

Cardinia: road funding

Hon. N. B. LUCAS (Eumemmerring) — I refer the Minister for Energy and Resources, who represents the Minister for Local Government in the other place, to the suggestion I raised previously about the establishment of a metropolitan interface fund. The Shire of Cardinia has more than 1000 kilometres of unsealed roads, which represents 80 per cent of its total road network. Many of those roads are now used by in excess of 400 vehicles a day, which is four times the recognised road design capacity. There is a great level of dissatisfaction among the Cardinia community about the number of unsealed roads in that shire. The cost of constructing those roads is of the order of $245 million.

As the house knows, the Shire of Cardinia is one of Melbourne's growth councils and expects its population to grow in the immediate future to more than 50 000. The federal government's program has been well received by the shire, but that is not sufficient. I ask the Minister for Local Government to take up with the Treasurer support for the idea of establishing a metropolitan interface fund with a view to providing specific funds for growth councils on the fringe of the metropolitan area, and in particular with a view to providing additional funding to the Shire of Cardinia to assist it with the construction of more than 1000 kilometres of unsealed roads.

SRO: relocation

Hon. B. C. BOARDMAN (Chelsea) — I refer the Minister for Industrial Relations to questions without notice regarding the proposed relocation of a number of positions in the State Revenue Office (SRO). Particularly I draw the minister's attention to a question I asked on 15 May. In her answer the minister stated that:

> … staff will be offered assistance with relocation to Ballarat, redeployment elsewhere in the public service or retrenchment through voluntary departure packages.

As the Leader of the Opposition, Mr Birrell, stated today in question time, retrenchment through voluntary departure packages is an impractical concept.

Bearing that in mind I refer to a constituent, Mr Eric Johnston, who is a senior customer services officer in the customer relations division of the SRO. He wrote to me on 6 May. I admire Mr Johnston's courage and also thank him for allowing me to mention his personal details in relation to this matter. In his letter Mr Johnston states:

> If the relocation proceeds, as I expect it will, my family and I will be faced with the prospect of either:
>
> 1. leaving Frankston, family, friends and local community networks et cetera;
>
> 2. redeployment within the VPS, although the prospect of this occurring is remote given agency downsizing that is happening; or
>
> 3. involuntary retrenchment.

That concept seems to contradict the minister's notion of retrenchment through voluntary departure packages. Mr Johnston is 50 years old and has lived his whole life in Frankston. If his position with the SRO goes to Ballarat he will be faced with the difficulty of travelling 2½ hours each way each day to get to work. He will also lose the important links he has built up in the community with his family and friends. Will the minister guarantee that Mr Johnston will not be disadvantaged and will remain as an employee of the State Revenue Office considering that this is a pork-barrelling exercise by the government to create employment opportunities in Ballarat?

Olivers Road–Midland Highway intersection: safety

Hon. E. G. STONEY (Central Highlands) — I refer the Minister for Energy and Resources, as the representative of the Minister for Transport in another place, to a dangerous intersection at Olivers Road and the Midland Highway near Mansfield. The locals report six near misses in the past six months and they fear a fatality will occur very soon at this intersection. The highway at that point carries a high degree of tourist traffic into Mansfield and many drivers are not familiar with the road. The tourist traffic mixes with slow-moving local traffic, which includes tractors, headers and semitrailers servicing seed farms in Olivers Road and surrounding areas. A local seed farmer, Mr Brad Parks, has contacted Vicroads about the

intersection and highlighted the blind crest and the deceptive turn from Olivers Road onto the highway. I am told by other people that several times in the past few months white posts have been knocked out by drivers avoiding collisions at that intersection. I ask the minister to consider black spot funding for this particularly bad intersection before a fatality occurs.

Consumer affairs: home relocations

Hon. K. M. SMITH (South Eastern) — I refer the Minister for Consumer Affairs to a question I put to her last Wednesday night regarding 1st Central Home Relocations and Mr Piechatschek. I gave the minister and the house a brief explanation of the problems this builder caused for a young couple working for me. I was pleased when I received a response from the minister's office within a couple of days, which I thought was absolutely amazing. The letter is from Jennifer Chamberlin. In part it states:

> The minister has asked me to let you know that a reply is being prepared and will be provided as soon as possible.

I thought this was pretty marvellous stuff, because after I had spoken on the matter the other night I went to the minister and said, 'I will supply all the details to your departmental officers so they will have all the information before them and can get a reply ready'. Nobody has bothered to contact me. Can the minister tell me when they might contact me?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Theo Theophanous raised for the Minister assisting the Premier on Multicultural Affairs a matter concerning Mr Salter and One Nation. I will refer that matter to the minister.

The Honourable Peter Hall raised a matter for the Minister for Health regarding a potential mobile intensive care ambulance, or MICA, relocation. I will raise that with the minister for his response in the usual manner.

The Honourable Jeanette Powell raised a matter for referral to the Minister for Health regarding MRSA, or golden staph as it commonly known, and concerns about a constituent who contracted that disease. She asked whether there was any new treatment or method to control golden staph. I will ask the minister to respond.

The Honourable Andrea Coote raised with me for referral to the Minister for the Arts a matter about the Sidney Myer Music Bowl and acknowledgment of the Myer family's contribution of $3 million. I will ask the minister to respond to her on that issue.

The Honourable Carlo Furletti raised with me a matter for the Minister assisting the Premier on Multicultural Affairs, and I will refer that on.

The Honourable Ian Cover raised a matter regarding Target's head office in Geelong. I refer again to my response earlier today that Target has made a commitment to retain its presence in Geelong, that it sees itself as having a significant continuing work force in the North Geelong building and that the proposed changes being introduced will result in fewer than 10 footwear people — —

An Opposition Member — Not the 18 like they were saying on television tonight!

Hon. M. M. GOULD — This is what the Target statement is saying. I am making it perfectly clear that there has been speculation it might get up to 100 jobs. Target has made it perfectly clear that it is committed to remaining in Geelong. The Victorian government, including my office, as I indicated earlier today, is committed to continuing to encourage investment in the whole of the state — in regional and rural Victoria as well as in the central business district.

The Honourable Cameron Boardman raised a matter about a constituent of his who works at the State Revenue Office. As I have said on a number of occasions, staff at the SRO will have three options available to them — relocation to Ballarat, redeployment within the public service or redundancy. Honourable members would be aware that redundancy is another term for retrenchment. The redundancy or retrenchment is voluntary, based on the employee's choice, as I have indicated on numerous occasions, of relocation, redeployment or retrenchment. I stand by the comments I have made. One of Mr Boardman's constituents will have the same options as other members of SRO and that is the three Rs — relocation to Ballarat, redeployment or retrenchment.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Bill Baxter requested the Minister for State and Regional Development to give every possible assistance to Solectron Technology employees in Wangaratta following yesterday's announcement. I will convey that question to the minister.

The Honourable Sang Nguyen requested the Minister for State and Regional Development to consider what actions are possible to address certain needs of residents

of the western suburbs. I will pass that request on to the minister.

The Honourable Barry Bishop requested the Minister for Transport to implement an awareness program for caravaners to improve road safety, particularly in the lead-up to the winter months, and I will refer that matter to the minister.

The Honourable Roger Hallam requested the Minister for Local Government to take action to ensure that the interests of local government are represented in a review of regional waste management, and I will convey that to the minister.

I can assure the Honourable David Davis that this government is committed to reducing consultancies and other waste, which was rampant under the former Kennett government, and that every effort is made, in accordance with the requirements of the Financial Management Act, to ensure the accuracy of annual reports. Where inaccuracies are discovered this house will be informed at the earliest possible opportunity, as occurred with the Department of Natural Resources and Environment annual report to which he referred.

The Honourable Bill Forwood requested the Minister for Transport to take up a matter on behalf of a constituent about signage on the Yarra Boulevard in Richmond. I will refer that matter to the minister.

The Honourable Andrew Olexander requested the Minister for Local Government to review the Local Government Act to extend to councils currently using the site value ratings system, including the City of Knox, the ability to strike a differential rate. I can assure the honourable member that following the very successful community cabinet meeting in Knox on Monday of this week the minister is well aware of this issue, because the council had the opportunity to make a presentation on it to the cabinet. However, I will pass on the request in support of that direct presentation to cabinet.

The Honourable Neil Lucas asked the Minister for Local Government to request the Treasurer to consider establishing a new fund to assist metropolitan fringe councils, including the Shire of Cardinia, with the costs of their road networks. I will pass that request to the minister.

The Honourable Graeme Stoney requested the Minister for Transport to consider applying black spot funding to the Olivers Road intersection with the highway in Mansfield. I will pass that request to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Maree Luckins raised with the Minister for Community Services capital works at Mount Waverley preschool, in particular a $23 000 project, excluding labour. The committee has raised $12 000 and has an arrangement with the local technical and further education institute to support the project. It requests the minister to see whether funds are available to complete the project.

The Honourable Andrew Brideson raised with the Minister for Community Services a matter relating to Kew Cottages and requested the minister to meet with concerned parents at Kew Cottages.

The Honourable Gordon Rich-Phillips raised with me crash repairers and their treatment by insurance companies. I am aware of the issues surrounding that matter. The Office of Regulation Reform has met with insurance companies, representatives of the crash repairers and the Victorian Automobile Chamber of Commerce about establishing a voluntary code of conduct to cover the way they deal with each other in the hope that it will also lead to a more open and honest relationship that would be of benefit to consumers.

I am also aware that one crash repairer has taken the matter to the Australian Competition and Consumer Commission. The government supports that move and has written asking the ACCC to investigate the matter under the federal Trade Practices Act. The government is looking to apply to Victorian law section 51AC of the Trade Practices Act, which deals with unconscionable conduct, to give traders who have such complaints against other traders access to a cheaper court mechanism. That will come in with the review of the Fair Trading Act later this year.

The Honourable Bruce Atkinson raised the question of municipal parking machines. I am pleased he was happy to get such a good response. The government is taking the matter seriously. I believe I referred the matter on to the Minister for Local Government in the other place. I will check that to make sure. The government will be following that through at the national level to see where it leads and to find out how widespread the problem may be.

The Honourable Ken Smith raised a matter that concerns people who I understand are working for him. I do not know if it is appropriate to use the adjournment debate for that purpose. I believe he said these people worked for him.

Hon. K. M. Smith — No.

Hon. M. R. THOMSON — They do not? You did say that.

Honourable members interjecting.

Hon. M. R. THOMSON — You said that these people work for you.

Honourable members interjecting.

Hon. M. R. THOMSON — The government will look at genuine consumer concerns and investigate them seriously. I object to gratuitous remarks about the way this case will be dealt with. It will be dealt with with the seriousness it deserves. If the complaints are genuine — —

Honourable members interjecting.

Hon. M. R. THOMSON — As I recall, the facts were quite detailed, and I assume that Consumer and Business Affairs Victoria is following it up diligently and will pursue the matter and see it through to its conclusion.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the matter raised by the Honourable Ron Bowden regarding a constituent, Mr Donato, and the land zoning issues he considers unfair, I will refer those issues to the Minister for Planning in the other place.

Motion agreed to.

House adjourned 10.25 p.m.