PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

17 May 2001

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

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Thursday, 17 May 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.38 a.m. and read the prayer.

PETITION

The Clerk — I have received the following petition for presentation to Parliament:

Eastmoor Primary School site

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth opposition to the establishment and inclusion of any alcohol and drug rehabilitation facility adjacent to the Bentleigh Secondary College and the soon to be relocated primary school for autistic children at the Eastmoor site in East Bentleigh.

Your petitioners therefore pray that the Victorian government will ensure that the site be used for older persons accommodation and not emergency or hostel housing for the homeless, including an alcohol and drug rehabilitation service.

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

By Mrs PEULICH (Bentleigh) (464 signatures)

Laid on table.

PAPERS

Laid on table by Clerk:

Statutory Rules under the following Acts:

City of Melbourne Act 2001 — SR No. 39

Electricity Safety Act 1998 — SR No. 38

Local Government Act 1989 — SR No. 39

Subordinate Legislation Act 1994 — Minister's exemption certificate in relation to Statutory Rule No. 39.

WHISTLEBLOWERS PROTECTION BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

JUDGE ROBERT KENT

Dr DEAN (Berwick) — I desire to move, by leave:

That so much of standing orders be suspended as to allow the motion in my name, being motion no. 50 on the notice paper, to be moved forthwith.

Leave refused.

BUSINESS OF THE HOUSE

Adjournment

Mr BRACKS (Premier) — I move:

That the house, at its rising, adjourn until Tuesday, 29 May.

Motion agreed to.

MEMBERS STATEMENTS

Women Shaping the Nation: celebration

Mrs PEULICH (Bentleigh) — I place on record my personal disappointment at aspects of the organisation of the Women Shaping the Nation event held as part of the centenary of Federation celebrations. What a shame that the Women Shaping the Nation — —

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order!

Mrs PEULICH — Feminist interests were sacrificed to the ego of the responsible minister, the Minister for Education, as well as partisan politics. The total exclusion of federal women members of Parliament and Victorian female Liberal and National party members of Parliament beyond the status of observer meant that the true bipartisanship that led to Federation has not been honoured. It is a stark contrast to the true spirit of bipartisanship exercised by the Prime Minister. Federation was based on bridging differences, including party political differences. This has obviously escaped the notice of the Victorian Labor Party.

I was also disappointed that there were no proper briefings for all members of Parliament, both female and male, regarding the honour roll. As a consequence male MPs, and particularly those on this side of the house — —

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order!

Mrs PEULICH — They were excluded, and I believe the women in their communities were dishonoured in the process. I was angered by the singing of a communist song when the attendees were invited to wave their hands during the chorus, which celebrated the bloodstained banners flying. Australian Federation was not based on the spilling of blood.

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

Stawell: lamington festival

Mr DELAHUNTY (Wimmera) — Many good community events are happening in the Wimmera. Honourable members may think I am about to talk about the Edenhope races, the Halls Gap gourmet weekend, the Harrow by Night, Sound and Light Show, or the play *Dimboola*, a review of which was in the *Age* a couple of weeks ago, but I will not. I want to inform Parliament and Victoria of Stawell's inaugural lamington festival this Saturday. The lamington baking competition will have four categories: professional, amateur, students under 18 years, and novelty, which will have a Stawell Gift theme. Many prizes donated by Stawell businesses will be up for grabs.

However, the highlight of the day will be the attempt to create the world's longest lamington. The plan is to have lamington layers stretched from the town hall through the mall to the ANZ bank corner and back to the Stawell Toy Kingdom — a total distance of 500 metres. Not many honourable members could run that far! At 11.00 a.m. the first layers will be put down with the help of the secondary college students. Once the cake is in place a lovely chocolate dip will be poured and coconut will be placed on it. It is expected that by 3.30 p.m. the longest lamington in the world will be created. That attempt and the great lamington challenge will create much interest. I hope to see all you great cooks at Stawell on Saturday. I support anything that is good for the Wimmera, and this will be a great event.

Women Shaping the Nation: celebration

Ms BEATTIE (Tullamarine) — I put on the record my thanks to the minister responsible for the centenary of Federation celebrations, the Minister for Women's Affairs, and the Deputy Speaker for a wonderful day in recognising the way women have shaped the nation.

At 8.00 a.m. on Monday, 7 May, there was a re-enactment of the presentation of the women's petition. A large number of boxes arrived on the steps of Parliament. Female tap dancers then escorted the boxes up the steps to the Premier, and after we entered the chamber the Deputy Speaker did a wonderful job of chairing the joyous occasion.

This chamber was filled with song, goodwill and great feeling. I was proud to sit in the chamber with the first female police commissioner, Christine Nixon, the great aviator, Nancy Bird Walton, and an array of other women to witness the names of 50 women being put on the honour roll. It was a truly wonderful occasion. I was pleased to join in with the singing and experience the great feeling of the occasion.

I say to the Deputy Speaker, the minister responsible for the centenary of Federation celebrations and the Minister for Women's Affairs, well done!

Multicultural affairs: funding

Mrs SHARDEY (Caulfield) — A drop of $1 million, nearly 20 per cent, in the multicultural affairs budget this year reveals the Bracks government's lack of commitment to multicultural communities in Victoria. The Premier is always happy to talk about his commitment to a diverse and multicultural society, but when the crunch comes his words are empty.

This year the multicultural affairs budget has been cut by 19.6 per cent despite an obvious need for funding in areas such as new migrant and refugee settlement, language services and culturally specific aged care. The money is there, yet the Premier, as the responsible minister, has cut nearly $1 million from the multicultural affairs budget compared to last year. The key omissions from last year's budget are no increase in multicultural community grants — $100 000 in unused grants from the 2000–01 budget has merely been rolled over to this year, equalling no net change in funding levels despite a definite need; no additional funds for the anti-racism education campaign to accompany the government's much-lauded racial vilification legislation; and no mention of the skilled business migration program.

This government is happy to spend $2.1 million of a small total budget allocation of $3.9 million to provide briefings to government MPs on multicultural communities. They must be the most expensive briefings in Australia. It is a disgrace.

Arnott's Biscuits: plant closure

Mr STENSHOLT (Burwood) — I support the Arnott's Biscuits workers whose factory is facing closure by the American owners, Campbell's.

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order. The Chair is unable to hear the honourable member for Burwood.

Mr STENSHOLT — I thank the parliamentary staff for banning further purchases of Arnott's products. As I have said before, and I say it again, it is outrageous! This very productive factory is the one with the best record yet it is being closed.

Honourable members interjecting.

The SPEAKER — Order! Stop the clock. I ask the opposition backbench to come to order. It is behaviour not becoming of members of Parliament.

Mr STENSHOLT — It is an absolute sell-out by Arnott's. It is a sell-out of Victorian workers!

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Burwood!

Mr STENSHOLT — I ask all Victorians to come to Dallas Brooks Hall at 2 o'clock on Sunday to support the workers and join the rally against the sell-out by Arnott's.

Honourable members interjecting.

The SPEAKER — Order! I have already indicated to the opposition backbenchers that that behaviour is unbecoming. I ask the honourable member for Burwood to desist from inflaming the opposition by the demonstration he is partaking in.

Mr STENSHOLT — I am proud to support the excellent workers in my electorate, with their excellent record in the best factory in Australia, which is being pulled out by the American Campbell's company. It is absolutely outrageous, and I urge all honourable members to be there on Sunday.

Electricity: Basslink

Ms DAVIES (Gippsland West) — The Mullungdung State Forest extends 28 kilometres from north to south between Woodside and Rosedale. It is registered with the national estate and is protected in part by the Australian Heritage Commission Act. This means the commonwealth government must be consulted if any destructive action is contemplated. The area will be severely impacted on by the proposed Basslink cable. It is a wild forest that provides the best available habitat, foraging home and breeding sites for a significant list of raptors, cockatoos, marsupials and lizards. Most of the original habitat in South Gippsland has been removed for agriculture and forestry.

The national grid's proposed 500-kilowatt cables and 45-metre towers would require clear felling of an easement 60 to 100 metres wide along most of the north-south line of the forest, fragmenting it into two segments for about 24 kilometres. The environment wood utilisation plan for 2001–04 of the Department of Natural Resources and Environment requires all timber harvesters to retain and protect hollow bearing trees along the old Rosedale Road and give the forest adjacent to and extending toward the east a special protection zone status for preservation of the powerful owl and barking owl.

I urge the state and federal governments to ensure that Basslink does what the people of Gippsland say it should do — go underground or go away.

Consumer affairs: roof cleaning

Mr ROBINSON (Mitcham) — I wish to comment on the issue of roof cleaning in the suburbs of Melbourne, which has developed into a small industry. It would appear that the exponents of the trade do not take the necessary steps in all cases to prevent debris from roofs being discharged onto neighbouring properties and vehicles parked thereon.

Recently a Nunawading constituent raised this with me. He has twice had the misfortune of having a large volume of roof refuse discharged onto his property and onto the car parked in his driveway. On the second occasion he called the council by-laws officer to attend and insist that some form of protective screening be erected.

In common law the behaviour of roof cleaners in this respect would be regarded as actionable under the tort of nuisance. I call on the roof cleaning industry to improve its performance, to take proper account of the rights of neighbouring property owners and to ensure that — —

An honourable member interjected.

Mr ROBINSON — To clean up their act — well said! I call on the industry to ensure that protective screening is provided in all cases.

Rail: St Albans crossing

Mr ASHLEY (Bayswater) — Some time ago I received a letter from afar. It was a plea from a distant suburb. The letter mentioned something about a strange

Monty Python-sounding event scheduled for the last week of April called Undergrounding Week. This conjured up images of sedition or of a plague of moles or wombats burrowing beneath shops and homes and roads.

As I read on I realised it was not about furry creatures weakening the foundations of society. It was actually an action group's call to drop a railway line below ground level in St Albans, and it was seeking support from parliamentarians.

My reaction was that there must be something I can do because three years ago I helped bring a tunnel into existence in the Bayswater electorate that got rid of the notorious Boronia crossing!

My advice to the St Albans action group is to make an urgent submission to the Victorian Electoral Commission requesting that the boundaries of three Legislative Assembly divisions and two Legislative Council provinces be brought together in the middle of the crossing at St Albans. After all, that is precisely what the VEC did in Boronia in 1991.

The Liberal Party should then be called on to preselect seven single-minded, beavering individuals to stand in those seats. That should be followed with a campaign to turf out all ALP candidates who contest the next state election. That is exactly what happened in the electorates of Bayswater, Monbulk and Knox and Silvan and Koonung provinces in 1992.

When that is done the action group will end up with a Premier, a Minister for Transport and seven tenacious members of Parliament who will respond to local needs and catch the local vision. Undergrounding of the railway line will then cease to be a pipedream or a tunnel dream and suddenly become not just possible but eminently achievable.

Giorgio Mangiamele

Mr CARLI (Coburg) — I wish to express my condolences to the family of Giorgio Mangiamele, who died on 13 May. Giorgio arrived in Australia in 1952 as a young photographer with a diploma in fine arts and a passion for film-making. He made several films in Australia, commencing in 1953 with *Il Contrato*, in 1958 *The Brothers*, in 1962 *Spag* and in 1965 *Clay*, which was shown at the 18th Cannes Film Festival and was the first Australian film to be represented at that festival.

His films were critically acclaimed but largely unknown to the general public, possibly because they portrayed difficult subject matters including migration, settlement and social isolation.

Giorgio was a great photographer. He ran a professional photography studio in Rathdowne Street, Carlton. He wished to continue film-making, and when I saw him last he had a film script based on characters in Papua New Guinea. He had earlier made a documentary on Papua New Guinea and had a passion for that country.

He was part of the renaissance in Australian films and is well recognised by historians of Australian films. Unfortunately, he did not achieve the wealth and esteem which came to later film directors.

The SPEAKER — Order! The honourable member's time has expired. The Leader of the Opposition has 30 seconds.

Arnott's Biscuits: plant closure

Dr NAPTHINE (Leader of the Opposition) — I express concern at the Minister for State and Regional Development's hypocrisy on the closure of the Arnott's Biscuits plant. His actions of too little, too late could not save the jobs of Arnott's workers. After asking Victorians to avoid buying Arnott's biscuits, as Treasurer he had the hide to serve its biscuits at the budget briefing. Talk about hypocrisy! He stands in the Parliament today — —

The SPEAKER — Order! The Leader of the Opposition's time has expired.

PETITION

Eastmoor Primary School site

Ordered that petition presented by honourable member for Bentleigh be considered next day on motion of Mrs PEULICH (Bentleigh).

Mr Leigh — On a point of order, Mr Speaker, I wish to raise with you a matter concerning the arrangements for the use of Queen's Hall and the effects on the building. Yesterday, in the removing of cases used for the celebration of the centenary of Federation, the lifts were blocked during the sitting of the house. Had a division been called honourable members on the third floor would have been unable to access the house.

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order!

Mr Leigh — I know that the blocking of the lifts was not intentional. However, there was a blatant disregard of the rule that during the sittings of the house the lifts are for the use of honourable members. I ask, Sir, that in the interests of the Parliament you investigate the matter.

The SPEAKER — Order! By way of advice to the house, during the ringing of the bells or at the commencement of proceedings of the house the lifts of the Parliament are strictly reserved for the exclusive use of members to get to the chambers. Appropriate instructions will be issued to all staff of the Parliament to ensure that those rules and regulations are adhered to.

Mrs Maddigan — On a point of order and by way of clarification for the benefit of the house, Honourable Speaker, on the day that Arnott's Biscuits announced that it was leaving Melbourne parliamentary staff were instructed not to purchase any more Arnott's biscuits. The biscuits that were left over had been purchased previously.

The SPEAKER — Order! That is clearly not a point of order. I suggest to all honourable members that if they wish to raise matters of a management nature of this Parliament that they do so with me in chambers.

Dr Napthine interjected.

The SPEAKER — Order! The Leader of the Opposition! That instruction applies to him equally.

JUDICIAL COLLEGE OF VICTORIA BILL

Second reading

Debate resumed from 3 May; motion of Mr HULLS (Attorney-General).

Honourable members interjecting.

The SPEAKER — Order! I remind honourable members that electronic devices that emit sound are not allowed into the chamber.

Dr DEAN (Berwick) — As and when necessary the opposition likes to cooperate with the government. If the government introduces legislation as a consequence of a separate working party of judges who have come to a certain conclusion, the opposition should support the legislation, albeit that it is not introduced exactly as the opposition would do it. The Liberal opposition will be supporting the Judicial College of Victoria Bill.

It is important to understand how difficult it is for the judiciary to deal with the implementation notion of continuing education and educational development. I do not think any doubt exists that the relationship between the judiciary, the legislature, the executive and the people of Victoria is constantly undergoing change. The reason is that our culture is constantly undergoing change, which is to be expected as we develop as a nation.

Our political system is a democracy. Honourable members on both sides of the house consider democracy to be the core of our existence as a community and accept that it develops over time. Part of the necessary element of democracy is that people understand their rights and their attainable level of freedom, which increases as time goes by because the levels of education in the community are constantly rising.

I notice that we are being observed today by a group in the public gallery who are here from part of that education system. It is important to acknowledge the good things that happen in our community. How good it is for us to have an increasing rate of participation in education, with children staying at school longer and educating themselves by going on to further education, including technical education and learning a trade.

It is not surprising that those who come after us generally are better educated than we were. It is not surprising that they demand more rights and that they break down false barriers that may have existed between certain sectors of the community and others.

So where does that leave the judiciary in what is for it a challenging and changing environment? It is an environment in which the media is much more aggressive than it ever was and the population is a lot less reverent towards certain groups within the community — whether they be doctors, judges, lawyers or whoever. They are rightly less reverent because as people in the community become better educated and more aware of their rights they find that groups that may have been regarded as mysterious and not to be challenged are not so mysterious and that they can make comments about those groups.

Where does that leave one of our most revered groups — that is, the judiciary? First of all, they are a group we all highly respect, and they are also a group that we know through the education process must at all times be kept independent from any interference by the general public or the legislature in the way they go about making their decisions. So, when it comes to a situation where the community suggests that maybe some members of the judiciary, because of a perceived isolated and cloistered type of existence, are not quite

as attuned to the cut and thrust of modern life as they might be, how does the community tell that to the judiciary? We have a difficult situation, because if the legislature were to get up and say, 'No, you, the judiciary, aren't thinking what we think you ought to be thinking on this issue', that would be a classic case of the legislature interfering with the discretion and independence of the judiciary.

On the other hand, given that the community is well educated, less reverent and wants to make sure that its institutions are current, it must be able to say something. Perhaps the compromise is this: yes, the community is allowed to say those things, and those things will therefore be heard by the judiciary, but the community and the legislature must not at any time force the judiciary into accepting their particular view of what is or is not current thinking. In other words, the message that should go through to the judiciary is, 'We think there is ground to be made up by one or two judges in relation to the modern cut and thrust. That is the perception that we have', and leave it at that.

If that is the message put forward to the judiciary — that is, 'We think there are some areas where some of your members are not up with the cut and thrust of modern life' — how do we go ahead and try to make sure that the members of the judiciary we believe may not be in tune with the modern cut and thrust of life actually learn about it? We cannot tell them to do it. We cannot say, 'You must go to this school and you must sit down and you must listen to that', because that would undoubtedly be a breach of their independence.

That is why the opposition is supporting this legislation. The Judicial College of Victoria will be set up under the auspices of the judiciary and the members of the board will be the members of the judiciary themselves with some lay members.

Let us first of all work out how it was that this judicial college that will assist in the continuing education of the judiciary was set up.

A working party was established consisting of the Honourable Mr Justice Kellam, the President of the Victorian Civil and Administrative Tribunal (VCAT); His Honour Judge Waldron, Chief Judge of the County Court; the then Chief Magistrate, Mr Adams; and of course, the Chief Justice of Victoria. They were assisted by Crown Counsel, by the acting deputy secretary of the Department of Justice, and by the director of court services in the Department of Justice.

The group was made up mainly of members of the judiciary, and its task was to determine how it should go about ensuring the continued development of the judiciary so that its members were aware of the cut and thrust of the modern community. That is a good start. The working party came up with a proposal that there ought to be a judicial college made up of the three chief judges of the major courts — that is, the chief judges of the Supreme Court, County Court and Magistrates Court — the president of VCAT and two members nominated by the Attorney-General who would generally come from the community.

That is the way to go because members of the judiciary agree that they must undertake further education. In order to do that it was decided that a college would be set up with a board to be controlled by the judiciary, but which would also include members of the community. The board will ensure programs are run to help members of the judiciary meet any community criticisms of them. A process has been achieved whereby the judiciary can ensure it is up with modern times without being told what it must do. It may be a compromise for some because there are some members of the community who would like to force the judiciary to sit down and go back to school.

Mr Helper interjected.

Dr DEAN — Obviously the government does have some detractors of its own bill. Some people would say that those matters should be left entirely to the judiciary. A good balance has been achieved with a board controlled by the judiciary but with two members from the general community who are nominated by the government.

What do we expect from this college? The members of the judiciary have not gone about this lightly. They have not set up such a structure so it can be ignored. They are not the sorts of people who set up structures and then ignore them. They are not the sorts of people who do not take seriously those objectives on which they embark.

It has been suggested that there may be some members of the judiciary who are not quite up to date with some of the modern cut and thrust of the community. I shall take the serious issue of the law concerning rape.

Mr Lenders interjected.

Dr DEAN — This is pretty serious, so honourable members should get their interjections over and done with so we can get on with it.

I acknowledge that the law on rape as it affects a woman is almost impossible to be completely understood by a man in the same way as it is

understood by a woman. Members of both sexes have to be alert to their shortcomings and strengths. Because rape is generally exercised on women — although not always — men, who generally will never undergo that same experience, will find it incredibly hard to fully understand.

It has to be acknowledged that while the number of women in the judiciary is increasing, it is a slow process because the increase in the number of women in the judiciary starts from the grassroots base and works up with the progression of women within the profession itself. It then moves into the higher echelons of that profession and into the judiciary.

One of the difficulties is that we cannot just appoint more women to the judiciary simply to make up the numbers. We have to ensure that women in the profession are getting an equal go at the higher positions within it — whether as partners or associates in firms or as senior counsel or senior barristers. All those things have to be promoted so there is a natural flow-on to achieving a fifty-fifty balance between men and women members of the judiciary. That will take a long time, but I am pleased to say that we are heading in the right direction.

If that is the case, there will be many situations where accusations of rape and questions about how rape victims should be treated in trials will come before men. Consequently, it is necessary for the male judges to do as much as they can to understand the process that occurs when an act of rape is perpetrated against a woman. Part of that is simply knowing, for example, the nuts and bolts of what happens after that horrific event.

If a woman is subjected to a terrible act such as rape — in my view it is probably one of the worst things that can happen to a human being — what happens after that? Who does she ring? Who does she speak to? What are the services available? What is the effect on her of going through the processes of the police, counselling, going to a solicitor or legal aid, going to the police and asking them to make a charge and then going to court and the support given when going through court?

If I were to ask members of this house what actually happens in those circumstances, very few of us would know. We would have some idea, and we would hope the whole process was handled objectively and in a way that tried to assist the woman in that case, always remembering that justice ensures that a defendant has the right to have the case proved against him, in this case, not just on the balance of probabilities but beyond a reasonable doubt. So the case has to be proved, and in a way we have a conflict. We have a woman who is in this position, but at the same time she must prove her case beyond a reasonable doubt, which is part of our law, and it is a tenet of our law that we must never give up.

What I am saying is that the judicial college may say, for example, 'We will have a series of seminars or we will have a series of investigative days where we, the judiciary, will go through and learn to understand for ourselves all the steps that occur in a situation when a woman has been raped. We will find out for ourselves whether those systems are actually working, so that when we are handling a trial and we have the victim in court and the accused — the accused who is innocent until proved guilty — we are aware as best we can be of all the things that may have happened in the process before the case comes on, just because we are normal humans and want to be well aware'.

Let me make one thing clear. There is a perception in the general public that judges ought not take into account their personal experiences of life when determining a case because that might make them subjective and might make them decide to act on a personal basis. That is wrong. The rule of law, which is very clear and is as old as the courts themselves, is that judges are human beings and are quite entitled — this has gone all the way to the High Court — to take into account their normal life experiences when deciding matters that come before them. It would be pretty crazy to say anything else, because we are not machines, we are human beings. It is silly to pretend that when judges make decisions in court they will not take into account their understanding and knowledge of life.

I hope the work of the judicial college will simply extend that process of the knowledge of life. I can understand some judges saying, 'Just because I am a judge, you should not presume I do not have a knowledge of life', and in virtually all cases that is probably correct. Most judges read the papers, and most judges get the *Herald Sun* and look at the back pages for the sport reports because they support Collingwood, Geelong or whoever.

I will take the President of the Court of Appeal as an example. I have no doubt that His Honour Justice Winneke — a former champion Hawthorn ruckman — would be well aware of how his team is going, and I have no doubt he would attend the footy. I also have no doubt that many judges with young children take them down to footy practice, attend the parents and friends meetings and do all the things that parents do.

I can tell honourable members that not even Supreme Court judges have chauffeur-driven cars, although they can travel to and from home on the train with special passes. Otherwise they have to use their cars to get to work. They have to put petrol into their cars, like everyone else does, and they have to make sure their cars are serviced. They have to make sure their households run well, and they do all the things with their wives and families that everyone does. I make it absolutely clear from the start that no-one — certainly not me — is saying that judges do not have a normal view of life just as the rest of us do.

Why am I supporting the bill? Because in a way judges need to have a broader knowledge of life to be able to deal with the range of things which come before them in court and which concern not only their particular areas of expertise. If you are a computer programmer and that is your life, all you have to worry about every day, apart from doing all the usual things as you go to and from work, is computer programming. That is not the case for judges. Judges have to know about many things, because a range of crimes may come before them. They need to have some life knowledge and an understanding of the things that affect the persons charged with particular crimes. Judges hear cases about insurance, car accidents and people falling off mountains as well as many high-tech subjects.

The other day I was involved in a case in the Victorian Civil and Administrative Tribunal — I want honourable members to know it was not for any fee, it was with one of my colleagues — where I learnt all about the Snowy River. I could tell you some things about the Snowy River that would raise your eyebrows, but I will not because that would be totally irrelevant.

The ACTING SPEAKER (Mr Lupton) — Order! I ask the honourable member to come back to the bill.

Dr DEAN — I will come right back to it, Mr Acting Speaker. A judge's knowledge of life has to be as broad as possible. Because of that need, the bill is good. That is the first reason I support the bill.

The second reason involves perception. I will not go into the present situation in the County Court, but at the moment we are getting caught up with a perception of the courts. One thing that makes our justice system so secure, independent and free to do what it needs to do is that the community has a perception of it that it trusts. As members of the community we submit ourselves to judgment before a judge, and when that judge tells us what we have to do, we say, 'Right. That is an order of the court and I know I must obey it. I have faith in that'. As a member of the community, if I enter into a contract with someone but we have a disagreement about it, I will go to a court and argue out my civil dispute on contract. When the judge says to me, 'You are right' or 'You are wrong', I will respect that judgment because it is made by a member of the judiciary whom I trust. To have all that, there must be a perception of trust. Perception is not just a superficial thing, it is a real thing that affects us every day of our lives. That is another reason why I think the Judicial College of Victoria is a good idea, because the community can see that the judges are concerned about their own education and about ensuring they have a broad knowledge. That perception, which is a matter of substance and not just of appearances, is important and it is another good reason for having the judicial college.

The third reason I support the bill — I do not want this to be taken the wrong way — is that any team, whether it be a football team or whatever, is only as strong as its weakest link.

It is no different with the judiciary. Most of them are absolutely the full bottle on life and have every capacity to make knowledgeable decisions on matters such as rape and so on, but there may be one or two judges who lead a very cloistered life and do not come across such issues on a regular basis and who do not rub shoulders with the general community very often. That is not their fault; nowhere is it written that before you become a judge you must prove that you rub shoulders with the community and are a good bloke or woman, and nor should it ever be.

The difficulty arises if a case comes up before the one or two in a judiciary of hundreds who do not have that broad knowledge and they get it wrong because of that lack of knowledge. Then the press and the public say, 'That is an example of the judiciary. That is what all the judiciary are like because this person made the judgment and because he or she is not fully aware of things that happen in life'. The team is only as strong as its weakest link and the entire judiciary is tarred in such a circumstance.

It is important to do something about it. However, 'weakest link' is really the wrong term because members of the judiciary are entitled to be who they are. They are entitled to live their lives as they choose. They are not blameworthy because they may lack experience in some areas but, for the sake of the rest of the judiciary, we need to ensure that anything that needs to be fixed is addressed.

If a judicial college is established, judges will be able to attend courses offered and then the one or two who

really need to know about some things will get that opportunity and there will be less chance of the entire judiciary being affected by an expected situation.

On the structure of the bill, I am not quite sure why the President of the Court of Appeal will not be a member of the board of directors of the college. It may be that he does not want to be, but one would have thought that he should be a member of the board. No-one could be more highly regarded for his knowledge of life than Mr Justice Winneke. He would be an asset to the board. As I said, it could be that he has decided not to be a member or it might be part of the process — and I will not go into that.

It is a shame that Victoria could not have led the whole of Australia in establishing a judicial college. There is already a move to establish a federal judicial college to provide judicial education for all lawyers right across Australia.

Mr Wynne — That has been going on for years, though!

Dr DEAN — It has been going on for years. The future of federation in this country must be cooperative federation and therefore this is an opportunity — which the previous government may have taken, but this government has not — to say, 'We will lead on this issue. We will go out and push this issue at COAG. We will push the Commonwealth and try to set up a template for judicial education right around Australia'.

In far too short a time for my liking the younger generation will be taking over and running this country. Within 10 years people who are 15 or 16 years old now will be deciding how this country functions — and some of us will be getting into our wheelchairs and going out to check on what is being done to ensure that we have a nice quiet life! Today's young people will decide where our federation goes and they will run it. I hope the current competitive federalism — in which the states fight each other, the commonwealth fights the states and everyone goes to COAG where it is all a big blow-up — will change.

I hope COAG operates not just at the will of the commonwealth government but meets regularly as a statutory body and has sufficient backup to assist it with its ideas. On certain issues I hope the Prime Minister and the premiers agree to work together on a non-political basis to ensure that we integrate. That is another reason why it would have been nice to see a judicial college, which starts in Victoria — I think New South Wales has one — grow throughout Australia so that it is embraced by the commonwealth and the other states.

Some members of the judiciary feel a little battered and bruised because they believe the legislature, the public, the radio talkback programs and both major Victorian newspapers are being extremely critical. We are now living in a world where criticism is okay, where criticism is the norm, and where people are entitled to voice their views. This is an excellent opportunity for the judiciary to relax in relation to matters such as this. They should understand that it is exciting to be living in a modern age where people for different political, moral or other reasons are taking on matters, voicing their opinions, being critical if necessary, having the opposite viewpoint and having matters aired publicly. It is incredibly exciting to see democracy leading us in this way. Yes, it is uncomfortable and awkward, but the development of modern democracies was always going to be like that. To the extent that it is uncomfortable, that will get worse. The media will become more critical. Through the use of modern technology communication is becoming instant in everybody's home. It is highly visual and extremely potent, and with the media growing in strength as it is, you can be absolutely assured that this direction will not just continue but continue exponentially.

I say to the judiciary that this is a great step to take. Public relations is now terribly important in every area of our life. It has always been with us and has always been important because public relations is the art of communication from one to another. Any barrister will tell you how you communicate, how you put something across, is almost as important as what you put. The only reason it has not been as important in the past is that we were relying almost entirely on the written word and perhaps the radio to a limited extent, where words were said and faces not seen. It is not surprising that now where the visual aspect is so important and where communication is instant and between the public, not just between one institution and the public, that public relations is even more important than it was, and the way you communicate is even more important.

It would be hypocritical of politicians to suggest that members of the judiciary ought not be concerned about the way they produce an image of themselves to the community when we spend hours making sure the way we present ourselves is okay for the public and will put us in the best light.

This is an issue facing members of the judiciary and I will give them every means of support I can to assist them to deal with it. The bill is a good step in the right direction, but there are other things it can do. Recently

with my policy committee, chaired by the honourable member for Kew, I was talking with members of the Victorian Bar Council, and I suggested to the chairman of the council and its members that the way in which people appear physically on television for the eye to see is no longer superficial but a matter of great substance. It is no different from the way Winston Churchill or John Curtin or any other great speaker used the inflection of their voices on radio to ensure that they spoke in a way that gave them maximum benefit.

The way someone appears on the screen is important in enabling them to convey their message to its maximum extent. The federal judges are moving down that line. Federal Court judges have changed the style of gown they wear and now wear a black gown with a red stripe down one side. Many may say that is a trivial change, but it is not. It is critical for members of Parliament to ensure that we have our ties straight when we present ourselves to the people. It is hypocritical to say that the judiciary and barristers should not be thinking of the same things.

Barristers now appear on television regularly representing their profession, and therefore the notion of the way they appear before the public is important. It is also a big issue for the judiciary, which is why the bill is a good first step. Although there is a long way to go, I hope the government will take this principle further. The opposition will be supportive in every way of the judiciary making that transition, as 2001 and 2002 come along, to ensure that they are always seen by the community in their proper light because they are people of great integrity who are worthy of enormous respect and whose judgments can be trusted. They are people who live by the principles of good faith at all times and who conduct their affairs in an exemplary manner. That is the way members of the judiciary are.

It is important that that message is put across, and the only way it can be put across properly in modern times is in a modern way. That is an important point. I am happy to support the bill.

Mr RYAN (Leader of the National Party) — The National Party supports the Judicial College of Victoria Bill, and does so for reasons I shall explore as I make my contribution. There are some elements of concern about the bill which I shall raise for the consideration of the government as I proceed. In essence, the principle underlying this constructive bill is a cause which we strongly support.

I regard the exercise of judicial function as one of the most extraordinarily difficult things that anybody in our community should undertake. It is a difficult task, even for those to whom the offer has been put by the government of the day, who have been approached by some means or other or have applied for the position, in some instances. Whatever might be the background of the ultimate appointment, the fact is that fulfilling that task is difficult.

Many people with whom I have worked while in practice who have gone on to be appointed to work in the jurisdiction have told me that the task of fulfilling a judicial function is far more difficult than they had anticipated. I say ‘difficult’ not in the sense that the mechanics, the interpretation of existing laws or of statute law giving effect to the common law or whatever it might be, are difficult.

Over the years I have found that the most difficult area that people who fulfil a judicial function have to grapple with is their involvement in the conduct of criminal law and, most particularly, in cases where they are faced with having to send someone to prison. In years gone by I have had the pleasure to speak to judges and magistrates at various levels of the courts, not only here in Victoria but in other parts of Australia, and again and again that point has been brought home to me.

The reality is that fulfilling a judicial function calls on people to make decisions, and to implement and give effect to them in a public manner. Because they are subject to intense scrutiny there is nowhere to hide or run; they are subject to appeal processes and the decisions they ultimately make can be challenged and overturned. At the end of the day the most compelling feature of the role is that the way it is carried out by those in judicial environments invariably has an impact on the way other people in our community live their lives. That happens in a vast array of ways in a variety of arenas.

I place on the record that I think the fulfilment of a judicial function is an extraordinarily difficult task. It is necessary to enable our community at large to function properly and I admire those who undertake it and dispense justice in various forms and jurisdictions on a daily basis.

The preservation of the separation of powers is sometimes thought of as a pompous concept, but it is important. The bill approaches the line of the separation of powers in a manner which is constructive and proper but which nevertheless has that line on the horizon. As we progress as a Parliament and a community, we need to keep under constant consideration the notion of the separation between executive government, the Parliament and the judiciary. This separation underpins

the way we function as a community and therefore we must always observe it and honour it. It is one of the great aspects of our society that historically we have been able to do that, and we must ensure we maintain it.

By the same token the concepts that underpin this legislation are imperatives in today's world. This bill takes a step towards a process that will unfold more with the passage of the years, although it will need to happen in a way that ensures we do not cross those lines or have a blurring of the functions that would detract from the judiciary.

Interestingly this piece of legislation excited a fair deal of comment when I reported it to the National Party room recently.

Ms McCall — In the National Party?

Mr RYAN — The query by interjection was, 'In the National Party'. For reasons I will touch on later, it did. That again reflects the fact that the notions underpinning this legislation are, in a public sense, a first step towards satisfying a concern in the general public domain. The essence of the issue is that, like it or not, there is a growing perception that the judicial function is too far removed from the reality of today's world.

Mr Maclellan — And that is promoted by the press.

Mr RYAN — As my colleague the former Minister for Planning indicates, that is a concept that is promoted by the press. That leads me to think I could go down the path of talking about that concept for some considerable time. But I will not, because if I do I will only get the Acting Speaker excited, and we do not want that to happen!

There is no doubt that this is perpetuated by the press. Nevertheless, the perception exists for whatever reason. I use the term 'perception' advisedly because for the main part it is just that. For the main part the people who occupy judicial functions are people of the world; they are familiar with the way the world functions and they participate in the world at large. Equally, however, I recognise that the very fact of being appointed to the bench at whatever level necessarily involves a degree of separation from those generalist functions. Most importantly in the context of this discussion, this issue of perception needs to be addressed as well as the reality of the relatively limited extent to which it exists. Again, I see the creation of this judicial college as potentially being able to deal with those concepts.

This legislation is based conceptually upon that which applies in the United Kingdom, New South Wales, Canada and New Zealand. Before speaking today I wanted to acquire with the best of intent the reports flowing from those areas which tell the parliaments how these equivalent facilities are operating in those jurisdictions. The reporting process is an aspect of this which will be important. I will return to that in examining the legislation itself.

The essential point for the moment is that we are not breaking new ground in this — we are building upon models which exist elsewhere. It is to the credit of this government that it has picked up the concept and undertaken this task. The basic point is that people have gone down this path elsewhere. It is a sensible concept and that is why, as I said at the outset, the National Party supports the bill.

I turn now to the structure of the legislation itself; I can introduce the points I want to make as I progress through the bill. I turn initially to the purpose of the legislation, which clause 1 says is:

> … to establish the Judicial College of Victoria.

Clause 1 also makes reference to:

> … the function of assisting the professional development of judicial officers and providing continuing education and training for judicial officers.

That neatly recites the intention of the bill. Clause 3 deals with the definitions of 'judicial officer' and refers to:

> (a) a Judge or Master of the Supreme Court; or
>
> (b) a Judge or Master of the Country Court; or
>
> (c) a magistrate of the Magistrates' Court or the Children's Court; or
>
> (d) a coroner within the meaning of the Coroners Act 1985; or
>
> (e) a member of the Victorian Civil and Administrative Tribunal.

I had a quick rack of the brains before coming in here to speak on this bill this morning and I could not identify any other individual, entity or organisation which would properly come within that definition; I think it is broadly encompassing.

The provisions of clause 4 deal with the establishment of the college. In essence it is being set up as a separate entity. It is a body corporate and it comes with all the trappings of an authority of this nature — that is, it has a seal, it can sue and be sued, and it has all the other bits and pieces which come within that general definition.

Clause 5 outlines the functions of the college, and I want to spend a little time talking about these because they represent the core of what this bill is about. Clause 5(1) sets out the functions of the college and states:

> (a) to assist in the professional development of judicial officers …

I pause to say that I have just read into *Hansard* the definition of those judicial officers, so the intention of paragraph (a) is that the function of the college is to give assistance in the professional development of those people. Paragraph (b) sets out a further function of providing continuing education and training for judicial officers. The subclause continues:

> (c) to produce relevant publications;
>
> (d) to provide (on a fee for service basis) professional development services, or continuing judicial education and training services, to persons who are not judicial officers within the meaning of this Act;
>
> (e) to liaise with persons and organisations in connection with the performance of any of its functions.

Subclause (2) lists the qualifications of the performance of those functions. Paragraph (a) provides that there is a necessity to consult with judicial officers; paragraph (b) sets out the requirement that in performing the functions there must be regard to the differing needs of different classes of judicial officers, with particular attention to the training of newly appointed judicial officers; and paragraph (c) provides that regard must be had to any other matters that appear to be relevant to the college. Subclause (3) states that the college may perform its functions and exercise its powers within or outside Victoria.

A number of issues arise out of those clauses. The honourable member for Berwick explored in an interesting way the first concept of professional development and further education and training, and the notion of trying to bridge the gap, in the eyes of the public, of the judiciary being too discrete from the way the world at large functions. The honourable member for Berwick gave the excellent example of the discussion that occurred in the community about a ruling in a rape trial and a comment contained in a judgment delivered by the court some years ago. I am sure that if the judge had his time over again he would put it in a different way. I must say in fairness that the comment was taken out of context.

The point is that commentary was made by the judge in a fashion that excited an enormous amount of public comment because of the basic principle that the judge was seen as being removed from the shocking trauma faced by a rape victim. Therefore, the basis of the first two subclauses of the functions provision relates to enabling members of the judiciary to have access, by a variety of means, to a process of training and development that would give them a better understanding of the trauma faced by people who have had this dreadful event visited upon them and have been subject to rape.

It also raises an issue that is pertinent about the provision of courses for those who are not part of the judiciary but who want to participate in training on a fee-for-service basis. A couple of issues arise, and these are the first two specifics about which I seek guidance from the government. The first issue that arose when I was reporting the matter to members of the National Party was the basic concept of why public moneys are funding this college in circumstances where there is no mandatory participation on the part of those who are in the courses, and in further circumstances where the only people, on the face of it, who have to pay are those who are not members of the judiciary as defined, and not those to whom in the first instance this whole concept is devoted. However, the people who want to come along and be part of this process, who are not within the definition, have to pay.

An honourable member interjected.

Mr RYAN — The question was put to me, in a rhetorical sense I am sure, across the chamber: how would you otherwise do it? You would otherwise do it by, at least to some degree, having those who participate in the activities of the college pay for the privilege. That is what you would do.

Comment will be made by the public, I am sure; for example, by those of us — and I am declaring my conflict of interest, or however it might be termed — who have children attending tertiary institutions and are faced with paying HECS fees.

Mr Wynne — It is a bit different from that.

Mr RYAN — I accept that it is a bit different from that, but it is not so entirely different that the persons to whom the whole structure is devoted on this issue of what I readily admit is public good should be able to participate without having to pay anything toward the operation of the facility. That is my first point.

My second point is the collateral point, which is: as a matter of logic why should people who are not members of the judiciary have to pay if they want to participate in the courses? It is sheer logic that if there is a public good component to all of this that is intended

to do all the things I have talked about, you cannot have your cake and eat it. The government should either make this a publicly funded enterprise that provides across the board a publicly funded facility that covers not only those in the judiciary but also those who might otherwise want to participate in the courses or, alternatively, make both sectors of the community contribute.

I am not suggesting that members of the judiciary, as defined, should have to pay the whole of the running costs, but I should have thought there would be more public acceptance if they contributed to some degree.

Mr Maclellan — If there is a paid public lecture, all should pay or none should pay.

Mr RYAN — The concept has been put that if there is a paid public lecture all should pay or none should pay. No, I do not put it in that fashion, although that may highlight the apparent contradiction in the construction of this legislation, and I am happy to adopt it as an example of the broader concept I float.

Mr Maclellan interjected.

Mr RYAN — Yes; another concept has been put about a visiting expert engaged by the college to make a contribution. Why should those attending the lectures or reading the publications produced by this eminent person not have to contribute something towards the cost of that? I do not see anything in this legislation to enable that to happen. I raise that issue for consideration by the government.

Mr Maclellan — Between here and another place.

Mr RYAN — Between here and another place. They are my first two points. The third point is that in the interests of public acceptance, some sort of certification should come out of the process. As I have said — and the honourable member for Berwick put it well — we are flirting with the notion of the role of the executive government on the one hand and the judiciary on the other. We are flirting with the concept of ensuring that the government of the day cannot impose upon the judiciary a course of events that might be seen as breaching the separation of powers concept.

I think there would be easier community acceptance if there were an acknowledgment that attendance at the courses is not mandatory and that people are not forced to be part of this system. By the same token, there should be some measure of outcome or certification — something to say that a particular course has been undertaken by a member of the judiciary and that that course has been completed successfully. Some sort of benchmark should be met to satisfy the people at large of the outcome.

An honourable member interjected.

Mr RYAN — There may be answers to this question. I am raising issues in what I like to think is a constructive fashion, because all of us in this chamber want this bill to pass. I am simply raising these concepts for what I think is constructive discussion.

I digress for a moment to talk about provisions in the bill to allow participation in the judicial college courses to be offered to people who are not judicial officers within the meaning of the act. When I was reporting those provisions to National Party members people became excited. One of the great things about the National Party is that its members are drawn from all walks of life.

Mr Hamilton interjected.

Mr RYAN — I will come back to that in a moment. I cannot resist noting the presence in the chamber of the Minister for Agriculture and his preparedness to become involved in the debate by interjecting. He is a man with a lot on his mind, being a Gippslander. He is worried about building things such as Basslink, which is now controlled by his government. I am delighted to see him here and thrilled we have amongst us a Gippslander who has said on the public record, ‘There will be no pylons’. Isn’t that a great thing, Mr Acting Speaker!

Mr Hamilton interjected.

The ACTING SPEAKER (Mr Lupton) — Order! It would be appreciated if the Leader of the National Party could come back to the bill and the Minister for Agriculture could be quiet and concentrate on the bill. The Leader of the National Party, without assistance.

Mr RYAN — I was forced into it. I will not come back to it unless the Minister for Agriculture interjects again. Otherwise, I will stay with the bill.

The issue that excited interest in the party room was the question of which non-members of the judiciary might wish to attend the courses conducted by the judicial college. We were provided with a definition of persons who are not judicial officers within the meaning of the act. A couple of honourable members talked about their activities prior to entering Parliament — the jobs they had done and the roles they had fulfilled in life. It emerged that everyone in the room had had, to a greater or lesser degree, union involvement of some sort over the years. I, for example, had legally represented the

Australian Timber Workers Union for about six or seven years. Some members of the National Party team had been heavily involved in various other forms of union activity including, in some cases, wool classing.

Wool classers, as all members of the Labor Party will know, are known in the shed as 'guessers'. The question was asked, 'Why could a guesser not become a member of the judiciary?' I had to resist a number of assertions made in the course of the ensuing discussion to the effect that being a member of the judiciary involved the skill of guessing. I had to take steps to put all that to rest!

The more general discussion revolved around the notion of getting people involved in the judiciary who are not from a legal background. I will be interested to see, as the courses undertaken by the college evolve, how courageous course administrators will be and how far they will diverge from what historically has been the basis for qualification.

Mr Helper interjected.

Mr RYAN — Yes, I reckon some wool classers would make good judges.

The ACTING SPEAKER (Mr Kilgour) — Order! The Leader of the National Party should ignore interjections, particularly if they are coming from members who are not in their correct seats.

Mr RYAN — You are quite right, Mr Acting Speaker. I have been tempted again, and I apologise. I wonder, however, where the honourable member for Swan Hill is at the moment. He was leading the charge on that point. I must say, just between friends, that he is a prospect as a late call for the judiciary.

An Honourable Member — That's a big call!

Mr RYAN — In time to come when he leaves this place I would urge the judicial college to give careful consideration to roping in the honourable member for Swan Hill. His former role was as a guesser, and if he became formally qualified we could get him up on the bench. He would do a terrific job!

An Honourable Member — He's a bush lawyer now.

Mr RYAN — He is a bush lawyer now, that is quite right.

The provision also pays particular attention to the training of newly appointed judicial officers. That is a very constructive proposal. It will be interesting to see how its application unfolds, because it must be balanced against the notion of on the one hand forcing members of the judiciary to participate and on the other hand providing the services of the judicial college for those who are newly appointed as judicial officers. The concept has much to recommend it. If the government has the material about the degree of uptake of these courses in other jurisdictions it would be interesting to see the way that has unfolded. From the excellent briefing I received I think the uptake has been good, but if some details were available it would add another constructive element to the debate.

I will now turn to the powers contained in clause 6. Broadly they are to do with the college having enough powers to permit it to fulfil its various functions. Clause 7 deals with the standard delegation provisions.

Clause 8 deals with the board of directors. The judicial college is to have six directors: the Chief Justice of Victoria, the President of the Victorian Civil and Administrative Tribunal, the Chief Judge of the County Court and the Chief Magistrate, the other two being appointed by the Governor in Council.

It is important to point out as a matter of fairness that although within clause 10 there is provision for payment, those payments only extend to appointed directors. It is to the great credit of the other four members of the judiciary that this will be yet another role that they will be undertaking in their already busy agenda to enable the college to function. Only the two appointed directors will be paid. One of the appointed directors will be a member of the academic staff of a tertiary or other educational institution. That is a good idea because it will bring some additional intellectual firepower to the board, although I emphasise that that element is already well accommodated by the other four board members. It is good to have someone from academia involved as a board member.

I wish to query the other appointment because it is described as being a person who, in the opinion of the Attorney-General, has broad experience in community issues affecting courts. That is a pretty broad description. For example, Chopper Reid comes within the definition of a person who has broad experience — —

An honourable member interjected.

Mr RYAN — He has got broad experience, although he hasn't got any ears! He has broad experience in community issues; he has had a big impact on the community and he has affected courts all over the land!

We need advice from the government about who is likely to fulfil that task. Obviously, I am being facetious in using Chopper Reid as an example, but I think we need more explanation from the government about who may be within those general categories to at least narrow it down and satisfy me that Chopper Reid is not one of them. The concept is drawn broadly.

Clause 9 of the bill deals with the terms and conditions of the office of directors. It is a standard provision, so there is nothing in particular about which I wish to comment. The following provisions through to clause 17 inclusive are also straightforward.

I seek clarification on clause 18. It deals with control on expenditure. I refer to this clause in the context of the point I made earlier. A judicial college will be established by the bill. Its function will be to enable members of the judiciary to participate in courses to give them broader experience in matters and assist them with the way they discharge their important tasks. The point I made is that members of the judiciary will contribute nothing towards the cost of running the college — the taxpayer will pay for the whole thing. The clause provides that money must only be spent by the college in defraying expenses incurred by it in performing its functions, including paying any remuneration, salaries or allowances payable to appointed directors, staff or consultants. I am concerned about that clause for the reasons I have already mentioned.

For the college to function properly it will have to be staffed properly. There is reference in the bill to the possibility of consultants being engaged. They may be necessary — I am not decrying that they will not play a legitimate part. However, using the example given earlier, if someone is engaged to contribute to the courses, the taxpayer will have to pay so why should the judiciary not have to contribute also, at least to some degree.

Clause 19 is interesting. It deals with the parliamentary requirement for information. Again I declare my ignorance by saying it may be a relatively standard provision, but it seems to sit at odds with the notion of a parliamentary report having to be tabled. If the provision stated that the college had to table an annual report I would understand it — it would seem to sit within the normal framework — but that is not what it states. The clause is headed 'Parliamentary requirement for information' and states in subclause (1):

> The College must comply with any information requirement lawfully made of it by a House of the Parliament or a Parliamentary Committee within the meaning of the Parliamentary Committees Act 1968.

I do not understand why that option is available to the college. If it is being funded from the public purse an annual report should be tabled. That point is highlighted by the definition of 'information requirement' in subclause (2). It refers to the performance by the college of its functions, the exercise of the college of its powers and the college's expenditure or proposed expenditure. As a matter of principle, why should Parliament have to make an inquiry to the college about those issues before information is passed on to this most public of arenas?

Would it not be better for the college to table an annual report as other authorities do so that all the areas defined within the information requirement can be accommodated? I make that suggestion for the government's consideration.

The final provision concerns regulatory capacity and is a normal provision that often applies.

In conclusion, it is good legislation conceptually. The National Party supports it and regards it as an important first step on an important path. No-one is exempt from the need to be able to communicate their place in the world, and that is increasingly so, when the media exerts such an extraordinary influence. Not only does the media report opinion — and I make this distinction because it is significant — but the reality is that in Australia today the media significantly shapes opinion.

If opinions are being shaped about concepts generally, let alone the one being talked of now, it is vital that that concept be communicated in today's world. During years of practice as a solicitor one of the discussions I had was about the reluctance of the bar council to get involved in promoting the magnificent work done by members of the bar — for example, in the pro bono schemes, where a great deal of work has been contributed voluntarily over many years. Historically there has been a reluctance on the part of the bar to promote itself. Going back in time the general notion was: keep your head down, stay out of the way, and it will all be okay. In this world that is not so anymore. It is not appropriate to keep your head down, particularly when something like the judiciary plays such an important role.

While exhorting others to grasp the concepts contained in the bill, I recognise the line to which I have devoted a fair deal of my commentary today: the line between the executive, the Parliament and the judiciary — that is, the separation of powers. I am heartened by the fact that the principles underpinning the bill, and indeed its structure, are the product of a working party that comprised eminent practitioners of the state judiciary

together with people involved at the senior levels of judicial bureaucracy. That should make the community confident that we are on the right track.

The purpose behind the bill is essentially to bridge the gap in the public perception about these issues by doing something constructive — that is, to have the judiciary say, with its head up, 'We are attacking these things because we believe that what we do is absolutely important for the communities we serve'.

Mr WYNNE (Richmond) — I support the Judicial College of Victoria Bill. I thank the honourable member for Berwick and the Leader of the National Party for their contributions. I will attempt to answer some of the queries of the Leader of the National Party, and if I miss any on the way I am sure the Attorney-General will in his summary pick up any outstanding issues.

The government's election commitment was to improve access to justice for all Victorians. Recognition of the need for a strongly independent court system and for professional development of judicial officers in delivering justice services in Victoria is a key plank of honouring that commitment.

At the outset, I emphasise that access to justice is fundamental to Victorians. It would be remiss of me not to indicate the significant difficulties the government has with the current federal government about legal aid funding, which is fundamental to questions of access to justice.

I place on the public record the work done by the Attorney-General to redress the extraordinary imbalance and address the intolerable situation of Victoria receiving less legal aid funding per capita than any other state in Australia. I am sure the Leader of the National Party and the honourable member for Kew, who had a career as a barrister and along with myself has only recently come to this place, would support the government in its endeavours and would agree that access to legal aid is a fundamental issue of justice.

Community legal centres in Victoria have been under absolute attack by the federal government. The Bracks government will continue to resist the notion of regionalising community legal centres and taking that fundamental base away from the community. The Attorney-General is on the public record as saying that no community legal centre will be forced to close or amalgamate with another. As honourable members know, in the current budget the government has committed $4 million to legal aid and community centres over the next four years.

You should not worry, Mr Acting Speaker, when there is a change at federal government level, which is inevitable by the end of the year. The Bracks government will continue the fruitful discussions already commenced with the shadow Attorney-General to ensure that Victoria receives a decent share of community — —

Mr Ryan — On a point of order, Mr Acting Speaker, I ask the honourable member for Richmond to clarify the jurisdiction in which he anticipates a change of government.

The ACTING SPEAKER (Mr Kilgour) — Order! There is no point of order.

Mr WYNNE — To clarify the point for the Leader of the National Party, it is inevitable that there will be a change of federal government before the end of the year. As I said, the Bracks government will continue to hold discussions with the federal shadow Attorney-General to ensure — —

Mr Wilson — Who is the shadow Attorney-General?

Mr WYNNE — Mr Robert McClelland is the federal shadow Attorney-General, and the government will continue to hold discussions with him to ensure that Victoria receives a fair share of legal aid funding and that the security of community legal centres is maintained.

Effective judicial education is important. It enhances the independence, professionalism, stature and overall competence and performance of judicial officers. As was indicated by the Leader of the National Party, public perception of that professionalism is important and is an integral feature of a properly operating modern and accountable judiciary. It is the way to go forward.

To meet demands that the profile of the judiciary better reflect that of the community as a whole, judicial officers are now drawn from a broader pool of candidates. It is incumbent on me to indicate that since the Bracks government came to power the gender imbalance that has been part of the judiciary has been significantly redressed.

Ms McCall interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Frankston will receive the call if she stands in her place at the conclusion of the contribution by the honourable member for Richmond.

Mr WYNNE — In the 19 months since it came to power the government has appointed six women as magistrates and three as County Court judges. I am sure that all those appointments would be applauded on a bipartisan basis as being of people of great competence. The judiciary should reflect — —

Mr Wilson interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Richmond should ignore interjections, particularly from members who are out of their places and disorderly.

An opposition member interjected.

Mr WYNNE — I will let that interjection go, Mr Acting Speaker. It was entirely inappropriate of the honourable member to make it, firstly, because he is out of his place, and secondly, because of the particularly serious nature of the matter being debated, which is unprecedented in this state. It behoves the honourable member to treat the matter with the seriousness with which the government is treating it and not use it as some sort of political football to be kicked around in the Parliament.

In July 2000 the Attorney-General established a judicial education working party chaired by the Chief Justice of Victoria to advise on the best way to address the ongoing educational needs of Victoria's judicial officers. As was previously indicated by the Leader of the National Party, the working party included Justice Kellam, the President of the Victorian Civil and Administrative Tribunal. He should be rightly acknowledged in this house for his excellent work at VCAT, which is a difficult jurisdiction. The working party also included a chief judge and a former chief magistrate. The working party delivered its report in February this year and recommended the establishment of a judicial college of Victoria to provide continuing education programs for judicial officers and to assist in their professional development.

In developing the most appropriate judicial education model for Victoria the working party examined judicial education bodies in New South Wales, United Kingdom, Canada and New Zealand. To pick up on a point made by the Leader of the National Party, the advice I have received from our officers, who have done an extraordinary amount of work in developing the bill, is that the judicial college in New South Wales has been established for about 15 years, and while we do not have the exact figures, I understand that the college has had an excellent take-up rate, is well established and has a good standing. I commit to the Leader of the National Party that the government will seek out the annual report of the college and provide him with accurate information as to its take-up rate.

Similarly, the Leader of the National Party, or it may have been the honourable member for Berwick, asked why the government was taking up the initiative to establish a Victorian judicial college when there has been a proposal on the books for a number of years for a national college.

Mr Ryan interjected.

Mr WYNNE — The Leader of the National Party informs by interjection that it was the honourable member for Berwick who asked that question. My understanding is that this matter has been on what is called the agenda of the Standing Committee of Attorneys-General for at least five years. While the matter has gone back and forth during that period it was certainly the Attorney-General's view that the proposed Victorian judicial college would in no way conflict with the establishment of a future national college.

Along with its colleagues in New South Wales, who established their college some time ago, the Bracks government has taken steps to get on with the process, supported by the Victorian judiciary. If a national college is set up at a later point, we do not see that there will be any conflict between the operation of both bodies.

The bill establishes a judicial college in Victoria. For the purposes of the legislation the term 'judicial officer' refers to a judge or master of the Supreme Court or the County Court, a magistrate of the Magistrates Court or Children's Court, a coroner or a member of VCAT. The government has a strong commitment to improving justice services and the establishment of a college is a significant step forward.

As has been indicated by the honourable member for Berwick and the Leader of the National Party, incredible demands are placed on the judiciary in our ever-changing world.

Continuing education is imperative for many professions. The government believes the most effective judicial process to assist judges and support them in this aim is the establishment of a college.

In that context, the Leader of the National Party in his contribution asked: why are public funds to be used for the college? It seems to us in the government that this is no different from providing in-service training in any professional organisation. It is not expected in any other professional organisation that the participants

themselves would be forced to make a personal contribution to it. Indeed, as was pointed out by one of my colleagues, we, as members of Parliament, have a modest budget of, I think, $2000, to assist us and our electorate staff in the development of IT training, which is sensible, so that members of Parliament and their staff can be kept up to date with emerging initiatives in information technology.

Why should it be different for members of the judiciary? This is simply an important in-service training facility that should be made available to the judiciary, no different from what we and members of other professional bodies receive.

The question was also raised: why should participation in the courses not be mandatory? As was the experience in New South Wales, the sorts of courses that will be developed over a period of time through the process will be developed in concert with the judiciary, and the courses will be relevant.

An opposition member interjected.

Mr WYNNE — We do not want to make them mandatory. The honourable member for Kew has asked whether I am suggesting they should be mandatory. The answer is no. In the debate the Leader of the National Party asked, 'Why is it not mandatory?'. It was something of a rhetorical question, but I believe we must develop courses that are going to be relevant to the needs of the judiciary. In that context I think there will be the same sort of take-up rate as in New South Wales, because the courses will be relevant to the day-to-day operations of the judiciary. So of course they should not be mandatory, but we are confident that the way we have structured this college will provide an interesting set of courses, possibly with some specialised ones for particular jurisdictions, and that there will be a significant take-up rate and support from the judiciary itself.

Part 2 of the bill provides the college with its powers to do all the things necessary to perform its functions, including a most important requirement — to consult with judicial officers in performing those functions. The college will be responsible, as I indicated to the honourable member for Kew, for designing professional development and continuing judicial courses. It is anticipated that the college will offer a range of programs to Victoria's judicial officers, including intensive training courses, seminars and workshops. Courses will be developed in consultation with education committees established in each of the courts and with VCAT. There will be an interesting interplay between the education committees that have been established and the judicial college to ensure that the material presented is relevant.

The board of the college will be an independent statutory corporation that manages the judicial education scheme and will determine the basis of participation of judicial officers. There are a number of other statutory tribunals exercising quasi-judicial functions, including the Legal Professional Tribunal, whose members may benefit from some of the courses provided by the college. For this reason the bill provides that the function of the college is to provide judicial education on a fee-for-service basis to persons who are not judicial officers within the meaning of the bill but who could benefit richly from the types of courses that will be developed.

Part 3 of the bill provides for the constitution of the college and outlines the representation on the board. It will be an independent statutory corporation governed by a board of six directors, four of whom will be the Chief Justice of Victoria, the President of the Victorian Civil and Administrative Tribunal, the Chief Judge of the County Court and the Chief Magistrate, or their nominees, by virtue of their office. The chief justice or nominee will chair the board of the college. Obviously, the chief justice is the most senior judicial officer and the representative of the Supreme Court.

The two remaining directors are appointed by the Governor in Council on the nomination of the Attorney-General for a period of up to five years. One nominee must have an academic background. As the Leader of the National Party said, it is important to bring the rigour and intellectual strength of a person of standing from academia onto the board of governance. The other nominee will have broad experience in community issues affecting the courts. Although the Leader of the National Party said during his contribution, perhaps whimsically, that you could have a Chopper Reid on the board, obviously that is an important nominee. Somebody with broad community experience and an understanding of the court process brings that community perspective to the structure of the board. The government supports the voice of the community in this governance structure.

Opposition members interjecting.

Mr WYNNE — I will ignore the rather frivolous interjections from the other side.

The ACTING SPEAKER (Mr Kilgour) — Order! Please do!

Mr WYNNE — The college is not only independent but is subject also to appropriate levels of

accountability and is required to provide specific reports to Parliament on an annual basis as do all other statutory authorities under the Financial Management Act 1994.

In answer to the question from the Leader of the National Party about why clause 19 headed 'Parliamentary requirement for information' has been included in the bill, I indicate that it is an extra requirement placed on the judicial college. On an annual basis it will have to report to the Parliament on its activities and its financial reporting with a further requirement under section 19 of the Parliamentary Committees Act 1968.

I have covered most of the concerns raised by honourable members to date. If I have missed any, the Attorney-General will pick them up in his summary.

It is important to support the Judicial College of Victoria Bill. It brings Victoria into line with initiatives, certainly in other states and internationally, to provide opportunities for the judiciary to seek further in-service training and support. It can only be good for the judiciary to provide them with that extra level of support and obviously will further enhance their capacity to do their job, which is an extremely onerous task.

The government is committed to two things: it is committed to support the judiciary and, most importantly, particularly in the context of recent occurrences in a public arena, it stands by the independence of the judiciary and the separation of powers, which this government holds dear. I commend the bill to the house and wish it a speedy passage.

Ms McCALL (Frankston) — It is always a pleasure to follow the de facto Attorney-General in the absence of the real one.

Honourable members interjecting.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Frankston, without assistance.

Ms McCALL — I enjoy the assistance and the support, Mr Acting Speaker. I refer the house to two issues. The purpose of the act is to establish a judicial college for the judiciary, and I will return to that shortly. The second issue is about professional development. I am by training a human resources practitioner but also an accredited trainer, occupations I pursued before being elected to these hallowed chambers. I am a great supporter of professional development.

Professional development is training. It is the modifying of skills and the accumulation of other skills. To put it in the vernacular, it is in some ways a form of re-education.

Professional development covers all walks of life. I remind honourable members that professional development is very much part of the life of a member of Parliament. I particularly recommend activities such as the Commonwealth Parliamentary Association tours that honourable members should undertake as part of their professional development as members of Parliament. Most of us discover that we are in need of an understanding of the community. By broadening our understanding, we can maintain open minds.

Professional development of the judiciary is no different. Whatever the college should achieve, it should first of all adopt an open-door policy and listen to issues that are important to members of the community. In that way the judiciary — whose job most of us would not like to do because of its implications and the impositions that go with that role — can maintain an open mind to changes within the community.

I stress the need to see a balance in the college to reflect where the community would like the judiciary to be in the future rather than re-establishing where it is now. There is great community concern about some of the misunderstandings that have come from judgments, judges and the judiciary. The general community perception is that judges are completely out of touch. I recollect some of the more controversial judgments and statements made by members of the judiciary, most of them being male, such as, 'No means yes' and 'Rape in marriage is probably acceptable' — a series of comments reflecting opinions that over the past few years the general public has come to discount.

There is clearly a misunderstanding of where the public perceives the judiciary to be. People expect the judiciary to make judgments based on precedent. They expect judges to be of high standing in the community. But at the same time they expect them to be mindful of community attitudes and how the community has changed.

The establishment of a judicial college similar to those set up elsewhere in the world is a good step forward. It is important that the nature of the training offered by the college be as broadly based as possible so that it becomes as acceptable as possible. I can think of nothing worse than one of the more crusty members of our judiciary being ordered off to a training course to teach him about political correctness. I suspect the

judge in question would resist at every available turn and be exceptionally politically incorrect in his attitude as a result!

It is therefore important that the board responsible for the college comprise people who understand training and the need to make training and professional development as acceptable as possible to as broad a base of the judiciary as possible. It is important that the courses be specifically constructed and that they not be held in some sort of closed environment, which would make the general public think of it as some sort of secret judges' business going on behind closed doors. The college needs to recognise both the role the judiciary plays and the role the community will play alongside it.

I am a member of the Law Reform Committee and am conscious of the public's perception that the judiciary and the legal profession in general, including the language used, are out of touch with the community. I can only stress to the government that whoever is appointed to the board of the college — quite rightly they may be members of the judiciary — should look closely within the ranks of the human resources institutes such as the Australian Institute of Management for the excellent accredited trainers and professionals who will understand the necessity to make the courses as acceptable and accepting as possible.

I have no difficulty in supporting the legislation. I look forward to seeing the courses offered by the judicial college, but believe me, I will be one of its fiercest critics if it goes wrong!

Ms DUNCAN (Gisborne) — It gives me great pleasure to speak on the Judicial College of Victoria Bill, which is a proactive step taken by this government. A number of previous speakers have referred to the status of judges in our community and said that people hold them generally in very high regard. This bill is about maintaining that perception and it is also about ensuring that the community can have ongoing confidence in the judiciary.

Having been involved in education in my previous life, I would never underestimate the power of education and the need that all of us have, regardless of our age or stage of life, for ongoing education. I am sure there are some visitors in the public gallery today who would agree that you can never have too much education.

Education should be a lifelong process, particularly for people in senior positions such as judges. Although judges are generally held in high regard, they are like politicians in that they are in a very different position from most other members of the public and are often held up for scrutiny and criticism. It is important therefore that we do not just accept that respect and expect it to be there always, because it needs to be maintained.

Many years ago I was teaching Australian studies. One of the things my students looked at was the way in which workers and the work they do are seen by society. They were given a table that listed virtually every job imaginable and put them in order, depending on who society saw as being at the top of the pile and who it saw at the bottom. I also got my students to compile their own lists of professions and to put at the top those positions they considered to have the highest status; inevitably judges were up there at no. 1 or no. 2.

A poll of the top 100 professions was conducted by the *Age* many years ago. The no. 1 job in status was a judge and the one at the bottom of the list was a prostitute. It amused me that Tandberg, in his usual style, had drawn up a little cartoon that showed a judge in his little wig lying in bed and a prostitute standing next to the bed saying, 'Well, how come you have the highest status and I have the lowest status, but you make an appointment to see me?'. That was an excellent twist.

The ACTING SPEAKER (Mr Kilgour) — Order! The level of conversation in the chamber is a little too high. The Minister for Local Government might be very happy and excited about telling the Government Whip about the Goulburn Valley football league defeating the Bendigo league by 10 goals on Saturday; however, I ask honourable members to keep the level of conversation down.

Ms DUNCAN — It is important that judges are held in very high esteem. However, in the past certain judgments have led to a lot of community debate and to people questioning their status. Previous speakers have commented on some of the more unfortunate statements that have been made in judgments. I recall one judgment in particular relating to a rape charge in which the judge stated that he thought it was appropriate for husbands to use rougher than usual treatment with their wives.

There have been other appalling judgments in which judges have stated that men have been justified in attacking or even killing women, the justification in each being that the woman had dared to leave the man.

There is an enormous gender imbalance in the make-up of the Victorian judiciary, and although that is changing it will be a slow process. There are also enormous

imbalances in the ethnic composition of our judges. Judges should truly reflect the make-up and views of our community if they are to sit in judgment of it, and the judicial college will go some way towards ensuring that that occurs.

It is true that more and more responsibilities are being put onto judges, which is also true of teachers. That is pertinent, because the purpose of the college is to ensure that judges stay in touch.

Increasingly we are seeing a much broader pool of candidates wanting to become judges, which can only assist in meeting the demands of the judiciary because quite often judges come from quite similar backgrounds and with similar experiences. Training will be available to help redress the imbalance where judges are hearing cases in jurisdictions with which they have had little experience.

The process through which this bill has gone is a hallmark of this government — that is, it has been consulted on widely and access to the best advice available has been sought. To that end a judicial education working party was established to investigate the issue and to look at other models that may be used. In establishing its preferred model, the working party examined models in New South Wales, New Zealand, Canada and the United Kingdom. It reported to the government in February. Processing the bill in this autumn session is timely, because that will allow the college to commence its work as envisaged.

The judicial college will be established as an independent statutory corporation, as is appropriate. All the courts, including the Victorian Civil and Administrative Tribunal, will be represented in the membership of the board, which will have six directors. The Attorney-General will appoint two board members, which is also appropriate, one of whom must have an academic background. That is logical in light of the purpose of the college being to provide ongoing education and training for judges. It is important that the courses be designed with academic rigour.

The other member to be appointed by the Attorney-General must have experience in broad community issues that affect the courts. That could be a person chosen from any number of people, but it is imperative that members of the board have practical experience. It is all very well to have people with academic backgrounds — as I said, that is critical — but it is also important to bring a variety and breadth of experience to the board, which will have an important role in running the college.

Judicial education is something about which the government feels very strongly. We should be enhancing the independence and professionalism and the overall structure of the judiciary. Society often makes judgments about judges and court decisions, and increasingly we hear cries for judges to be more harsh in their sentencing, with which we may or may not agree. It is interesting to note that studies have been done in this area. Members of the public have been asked to act as a judge in a pseudo-court. The studies have found that frequently when people are privy to all the facts of a case and hear all the arguments on both sides — which of course do not appear in the reports and reactions we read in local newspapers — their judgments are less harsh than those handed down by our judges.

That must be borne in mind when reacting to judgments. We must remember that we were not there — we have not sat on the jury nor been privy to all of the evidence. The whole purpose of a trial is to tease out all the facts to get an understanding of the charge, decide whether it is proved and then determine an appropriate penalty.

One of the criticisms of judges that may have been true in the past but is less so today is that frequently they are not representative of the community because of the nature of their education and the career path they have taken, which means they become isolated and out of touch with the rest of the community. It is a criticism that is also often made about politicians, although we think we stay in touch.

People who have been in industry, business or a profession for a long time can find themselves out of touch, and I suspect that when one is out of touch one is the last to know! I have met some magistrates and judges and found them not to be the crusty types we may think they are. Recently I was at a function and I was having a relaxed and comfortable conversation with several people. I was surprised — though I do not know why I should have been — to find that some of the people I was talking to were judges. They seemed so normal. Perhaps that reflects my experience. So I do not think it is right to say they are people who lack humour or life experience and are judgmental of human nature. I found the opposite to be true. They were understanding of human nature and human foibles. That is what we need in our judges — empathy with and sympathy for the community which they serve. The college will go a long way to ensuring they gain these experiences.

When I was briefed on the bill I asked, half jokingly, whether attendance at the college would be

compulsory. I was told it would not be compulsory. For this process to succeed it must be something that judges want to do. Making it compulsory is likely to stymie that aim. Studies and experience have shown that professionals generally want to undertake professional development. As more people undertake these courses there will be a greater desire among others in the profession also to undertake them.

If the chief judge or the chief magistrate believe one of the members of their court requires training he can direct the judge or magistrate to undertake a course of study. As I said earlier, it will not be compulsory, but we believe the judiciary will accept the philosophy. It has received widespread support among the judiciary.

Governments of all persuasions have for many years talked about establishing a judicial college of study, and I am proud the Bracks government is now introducing the bill to bring it about. The Bracks government is a reforming government with a reforming Attorney-General, and a parliamentary secretary who is enlightened in his thinking. The Bracks government is introducing a progressive social justice agenda.

The honourable member for Frankston spoke about her belief in professional development. She compared an overseas trip in Vanuatu to professional training. I assure the honourable member that the college and the bill have nothing to do with overseas trips or sending judges off to Vanuatu for a month. If that is the sort of professional training she has in mind, she will be disappointed with the bill.

Clause 7 provides that the college may delegate its functions or powers to a director of the college, a member of staff or to members of the committee established by the college. Clause 8 provides for the constitution of the college. As indicated previously, the board of the college will consist of six directors — the chief justice, the president of VCAT, the chief judge and the chief magistrate or their nominees by virtue of their judicial office. A director's nominee for the purposes of clause 8 must be a judicial officer from the same court or tribunal as the nominating director. The purpose is to ensure that the balance across the court remains.

Clause 9 sets out the terms and conditions of office of directors of the college. Clause 10 provides for the payment of appointed directors. Clause 11 sets out the circumstances in which an appointed director's office becomes vacant and so on. Clause 20 provides that the Governor in Council may make regulations to give effect to the act.

This small bill will bring great benefit to our judicial system. I commend the bill to the house and wish it a speedy passage.

Mr McINTOSH (Kew) — I support the Judicial College of Victoria Bill. I draw upon my experience at the bar, and certainly my experience with judges and other matters, to give the house my view of the way the Judicial College of Victoria will operate.

The judicial college is only an extension of the way the legal profession has been going for a number of years. In my view it is not a college that will be used as a re-education camp or to impose sentencing parameters and such matters. It will be truly a college that will improve the judiciary and the way judges operate in the state. It will be no more than what judges themselves and the profession have been doing informally in a variety of different ways. All the bill does is provide a framework for how the college could operate.

Despite the rhetoric, and what the press says and the community may feel, it is a cause of some concern that judges who have demonstrated a great capacity for independence, intellectual thought and community service are still held up to ridicule and quoted out of context. Certain judgments can fly around as indicative of one thing, but at the end of the day judges in this state have served the community extraordinarily well.

They are very much in touch with the way our community thinks — for example, the Statute Law Amendment (Relationships) Bill refers to the opportunity for same-sex couples to participate in property distribution in the way de factos and married couples do. It refers to administration, probate and so on. The bill is still to be debated in the other place.

In debate I referred to the way judges have recognised that de facto couples have rights at law. Before the bill was passed I spoke about how judges as a matter of fairness and equity had instituted things called constructive trusts where people could be perceived to be entering into a relationship on a common understanding for mutual support and benefit, both financial and emotional. They may go out and buy property, make contributions, bring up children and do the housework. There is a common understanding that can be implied by that relationship and the conduct of the parties. The judges themselves were able to look on this and impose a constructive trust, because to do otherwise would be inconsistent with the way people have behaved, and therefore it could be determined to be unconscionable to allow one party to take advantage of that relationship.

The notion of estoppel in our courts — it does not matter what the legislation may or may not be or what the common law may say — is such that if there is unfairness and unconscionable behaviour, the courts are flexible enough to determine the rights between parties on the basis of what is fair and equitable.

On administrative actions, the ability of individuals to challenge decisions of bureaucrats, and ultimately ministers of the Crown, had its genesis in the common law a long time before we passed administrative law acts. Ordinary citizens were able to go to a judge and say, 'I think the decision of a minister is incorrect for these reasons', and under the common law the judges themselves were able to determine that was the position.

Most recently, and probably most famously in this country, we have been dealing with the issue of native title as part of the reconciliation process. Until the Mabo decision native title did not exist, was not legislatively enforceable and had not been passed by either this house or the commonwealth Parliament. Following a long appeal process from the Queensland Supreme Court, the High Court was able to say that in common law it was capable of recognising a system of title — an understanding or notion of title — that was different from the one we had inherited from British common law. I make the point that judges themselves are doing these things; they are capable of taking on board the social mores and determining what is right and what is wrong. The college is no more than an extension of this process.

I will give a couple of examples of where these things could have clear application. In about 1995, when I was a barrister, the federal Parliament passed a new federal Evidence Act. It had application in the federal jurisdictions — the Federal Court and the federal Administrative Appeals Tribunal — but had no application in our state's courts. This legislation followed a long and substantial review and report by the Australian Law Reform Commission, then headed up by Tim Smith, who is now a member of the Supreme Court of Victoria, about the way we could reform our Evidence Act in relation to the federal jurisdiction.

As a barrister the process and framework under which you operate in courts is based on the way evidence can be adduced in a court, and that federal Evidence Act became of grave concern to the profession. An advertisement was placed whereby the Victorian Bar Council sponsored a number of speakers, including Justice Smith, to give lectures about the new federal Evidence Act. The seminars ran over two or three weeks, for about 3 hours a night. There are some 1100 active barristers at the Victorian bar and in excess of 600 or 700 barristers turned up to talk about evidence, because the act went to the very nature of the way we conduct our practices.

When something like that happens judges themselves will be intrigued about the process of this new act that will structure their courts, and it was gratifying to see so many judges who were still members of the bar attending those seminars to learn about the Evidence Act. As has been mentioned by the honourable member for Richmond, matters such the constant updating of IT training and videoconferencing could also be covered.

Another area of great interest to judges that could be covered in a judicial college is case management. This has become a significant feature of the judicial process — that cases can be managed from the time of the issuing of proceedings until a court determination. The corporations list in the Supreme Court is an example of that par excellence, where barristers are constantly going before a judge to ensure that the case has been properly managed and supervised and that the directions of the court are being adhered to. These are the sorts of matters a judicial college would be looking at. It is not about re-educating or imposing a degree of political correctness. I do not believe judges or anyone in this place would tolerate that. The college is about enhancing the professional development of judges.

Another system that will perhaps come into operation so far as judges are concerned is that of diversion programs. Recently the Law Reform Committee was able to travel to South Australia to see how some of its diversion programs operate. We were all very pleased to be able to go to Port Adelaide to see the Noongar court, which is the Aboriginal local court. It is a credit to the capacity of the judges and magistrates that they created such a court, because that is where it started. The legislature is now beginning to catch up. It is a great testimony to the magistrates in South Australia, many of whom were able to spend some time with us on the afternoon of our trip to Adelaide. They talked to us about different diversion programs for youth offenders, intellectually disabled offenders and a variety of other offenders, including repeat offenders, and the way they operate those diversion programs. The magistrates looked to their legislature for support and they got it. They are very grateful for that from time to time.

One of the magistrates told me about the esteem in which they hold the former Chief Magistrate of Victoria, Michael Adams, because of his diversion programs. Whatever Michael Adams was or was not he

was a great thinker about the way we can do things better in our courts. He understood that a first offender in a non-violent property-related crime might have a better outcome to his case if he did not go through the judicial process but rather was diverted to some other appropriate remedy. We can involve a victim in the outcome and we can also involve the prosecution and the defence in these matters. What is the point of putting someone with a substantial intellectual disability which may be contributing to repeat offending through the judicial system time and again? That person does not have the capacity I may have, so what is the point of putting them through the process just to get an outcome?

Diversion is expensive and labour intensive, but it is something South Australia has adopted. It gives me a degree of pride to say that we have already started on that process here in Victoria through the auspices of people such as Michael Adams. I have no doubt that in the coming months we will see legislation in this house — which will no doubt receive bipartisan support — to provide these diversion programs with a structure and enable them to operate in practice. That legislation will provide the courts with alternative sentencing or judicial processes to enable them to implement programs such as the ones in the Magistrates Court as it exists following the departure of Michael Adams. There will be a real role for a judicial college when these programs are introduced. It will be needed to ensure that judges know how these programs operate, because many judges may not understand all the aspects of diversion.

As I said, I do not view this judicial college with any degree of trepidation; it is an extension of what the profession is doing. When I went to the bar back in 1985 I had the benefit of being taught by many fellow barristers from the chairman of the Victorian Bar Council down to people who had been out for only six months. I remember attending a lecture given at the bar readers course by the now member for Doncaster, who came back to the course to outline his experiences over six months.

The bar readers course was set up voluntarily by the bar, and it operates appropriately. It has probably enhanced judicial training. Marilyn Warren was a colleague of mine in that bar readers course, and she is now an adornment to the Supreme Court bench and doing a fantastic job. I am sure everyone would accept and agree with that statement.

The most important thing about this matter is that the Law Institute of Victoria is grappling with the issue of continuing legal education. The law changes very quickly, and from time to time there are substantial developments in it. The work of the judicial college will probably be an extension of what judges in the County Court do. As I understand it, judges who sit in criminal trials in the County Court have a book which has been developed over time and which could be said to have standard forms of directions to juries in criminal trials. That is something the judicial college will have an influence on. It will have an opportunity to develop and enhance that idea to ensure that directions books in relation to all sorts of offences appear on all sorts of benches.

The bill is timely, and I am sure the judges who participated in its development and members of the profession in general will welcome it. Accordingly I have no hesitation in supporting the bill.

Mr LIM (Clayton) — The Judicial College of Victoria Bill speaks volumes about the Labor government as the most socially progressive government in this state. The bill is in keeping with the Labor tradition of ‘Labor listens, Labor leads’. After consulting widely in the community during its years in opposition, the Bracks government convened a judicial education working party in July 2000, which in February this year made the firm recommendations leading to the introduction of the bill. It confirms the Labor government’s commitment to taking on the challenge of ensuring that an improved justice service that is second to none in Australia, if not in the world, caters to the needs of the Victorian community.

I am mindful that in coming up with the proposed model the government, through the working party, examined, explored and compared similar bodies in New South Wales, the United Kingdom, Canada and New Zealand. In his second-reading speech the Attorney-General says a lot about the rationale for the demonstrated need for such a judicial college, including the following:

> The increased emphasis on judicial education in recent years is a product of the changing nature of society, the law, and community expectations.

That is important, especially given that Victoria has the most culturally diverse community in Australia. The second-reading speech continues:

> 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 … 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.

Although I accept the government's contention that participation by judicial officers in the education programs provided by the college should be voluntary, I trust and I hope the judicial brotherhood considers it fit and proper and even feels obliged to make the most of what the college has to offer. That is important because we do not want to see a repeat of the recent sentencing in the Northern Territory. It pains me to direct the matter to the attention of the chamber.

In Darwin earlier this year a Cambodian-Australian refugee was run down by an Anglo woman driving her car under the influence of alcohol. The offender was fined a measly $100 — that is, for taking a life! So much for the Northern Territory's mandatory sentencing! The widow of the victim was not even advised of the hearing and, to add insult to injury, she was sent a cheque for $20 as compensation. The incident outraged the Asian community in the Northern Territory, which made representations about it. However, their screams and shouts were to no avail.

That can be contrasted with a sentence delivered last week here in Melbourne. Another refugee, a young Vietnamese Australian, who while driving a car under the influence killed two of the occupants of another car, got 10 years imprisonment and was disqualified from driving a car for 15 years. The college set up by the bill will have an important role to play in addressing such situations.

Sentences such as the one in the Northern Territory I mentioned raise questions about the judiciary's modus operandi and its place in the community. The bill will go a long way towards addressing such anomalies. I hope the courses and training programs to be developed and delivered by the college will be appropriately culturally sensitive to equip judicial officers for the task of judging and sentencing in a community that is increasingly more multicultural.

I have been approached by a few Asian lawyers. In discussion it transpired that for a long time Asian lawyers in Victoria have been restricted to practising conveyancing or handling other routine matters and their aspiration of being something more than that is very much a remote hope. I venture to say that it will be a long time before we see an Asian judge appointed in this state. I hope the judicial college set up by the bill will at least culturalise our judicial officers to meet the needs of the diverse Victorian community.

In conclusion, I commend the Attorney-General for his foresight and vision in introducing the bill. He was helped a great deal by his parliamentary secretary, who also deserves commendation. I wish the bill a speedy passage and hope it serves its purpose.

Mr WILSON (Bennettswood) — I am pleased to join the debate on the Judicial College of Victoria Bill. I commend the shadow Attorney-General and the honourable members for Frankston and Kew, who have made outstanding contributions to the debate thus far.

Clause 5 of the bill sets out the functions of the new judicial college, which include assisting in the professional development of judicial officers, providing continuing education and training for judicial officers, producing relevant publications, and providing professional development or continuing judicial education and training services to persons other than judicial officers as defined in the act.

Clause 8 covers the composition of the board of the new college. I note that it will include the Chief Justice of Victoria, the President of the Victorian Civil and Administrative Tribunal, the Chief Judge of the County Court and the Chief Magistrate, or their nominees. The remaining two directors will be appointed by the Attorney-General. This is where the opposition gets rather nervous. One of the appointees must be an academic — —

An honourable member interjected.

Mr WILSON — You are quite right. When it comes to the Attorney-General and his appointments and any other actions, we become rather nervous.

One of the appointees must be an academic and the other must have experience in community issues affecting courts. As I said, when it comes to the Attorney-General making appointments and serious decisions for Victoria, the opposition rightly becomes hesitant. With those two appointments the Attorney-General has the opportunity to show he is capable of making exemplary appointments. We do not want to see the usual parade of Labor favourites.

I remind the Attorney-General that the judiciary is independent and that all elements associated with the judiciary, including the new judicial college, must be and must be seen to be independent.

The main goal of the judicial college is to improve the professional development of judicial officers in Victoria. That can only be a positive move because members of the judiciary must always be willing to improve their professional skills and have an up-to-date understanding of contemporary thinking and the expectations of our changing community.

There is no need to explain to honourable members the vital role played by judges and judicial officers in our society. The government deserves support for introducing legislation to improve and update the skills of the judiciary. I therefore commend the bill to the house.

Mr STENSHOLT (Burwood) — The Judicial College of Victoria Bill is the sort of measure I came into Parliament to support.

Clause 5 sets out the college's functions, which are both comprehensive and specific. Continuing education is very important in all walks of life. For example, honourable members have funds in our budgets for IT training. In any walk of life there is continual change and flux, and the judiciary is no exception. We can all benefit from a regular updating of our skills and from the acquisition of new knowledge.

There are many different areas of the law and often it is difficult for a person to comprehend all or even many of the recent developments in just one specific area. Hence the need for continuous skilling and training if judicial jobs are to be performed efficiently.

The law interacts with many other disciplines, professions and areas of human endeavour. For example, these days a large and growing number of court cases involve people associated with drugs and drug dealing or accused people who have drug problems. Sometimes the circumstances surrounding a case have aspects of drug involvement. Another example of the interdisciplinary nature of the legal profession is the need for courts and their judgments to consider the victims of crimes.

The social dimensions of many cases are complex, so a judge or magistrate making judgments would surely benefit from having a wide understanding of the issues relating to drugs and from being exposed to a full range of expert views. Such support might come from peers, health professionals, civic leaders, service providers or academics.

In my previous life as a senior research fellow at Monash University my research and teaching on good governance led me to conclude that a well-trained, contemporary-thinking and independent judiciary is one of the pillars of a modern government because it provides secure rights for its citizens, an appropriate and stable environment for the conduct of business and commercial life, and — most importantly — a buffer against corruption. I was involved in the development of in-service training in international trade law and financial regulations. I also worked with the law faculty of Monash University to develop a program for judicial training in Indonesia. I am pleased to say the contract for that program was awarded to the university a few weeks ago. That is an example of recognised judicial training.

The bill also recognises and puts into a concrete structure much activity that has been ongoing for many years and that is now recognised not only in Victoria but also in the United Kingdom, Canada, New Zealand and New South Wales, and there is talk of setting up a national system of judicial training.

As an aside, I note that the bill provides that training can be available not only for Victoria's judicial officers but also for other people on a fee-for-service basis. Perhaps in the long run the college will be able to develop an international program and an international reputation for judicial training. That would be appropriate given the increasing internationalisation of legal matters and certain courts, particularly where multiple jurisdictions may be involved.

The bill implements the recommendation of the judicial education working party chaired by the chief justice. I am pleased that such consultation took place in the development of the bill. It also provides for an appropriate structure for the management of the college. I expect that the college will organise programs, including intensive courses, seminars and workshops, in such areas as induction, trial management, judgment writing, sentencing and bail practices and diversion programs as well as looking at contemporary social and community issues. I would also expect such training programs to make extensive use of peer input and experience, because learning from one's peers in whatever profession it may be is of utmost importance. The honourable member for Kew made that point quite succinctly.

Parts 2 and 3 deal with the establishment, functions and powers of the college and how the management will be effected. They are wise and extensive provisions that will ensure there is appropriate input into the management of the college. I note in particular that the board will be allowed to form committees. That is a useful way of extending access to expertise when framing courses and specialist programs, and I commend its inclusion in the bill. Part 4 contains a range of miscellaneous provisions that will allow parliamentary committees to get information from the college.

As a member of the Law Reform Committee I acknowledge the valuable support the committee received from the courts, including the chief justice and

the Magistrates Court, particularly in its current inquiries into legal services in regional and rural Victoria. It is clear that our courts and their officers are forward thinking and innovative. The legislation will assist the leadership of the Victorian judiciary, and I commend the bill to the house.

Mr LUPTON (Knox) — In supporting the bill I acknowledge some of the problems faced by the judiciary. Its members are in an extremely difficult position with their chosen profession. It does not matter what they do, they will be criticised by various members of the public. At the moment the media is probably the most intrusive it has ever been. It gets into every nook and cranny of every court case and gives its own opinions.

I served on the Drugs and Crime Prevention Committee that travelled overseas to study the sexual abuse of kids. Although the experience was interesting, it was not one of the most pleasant tasks I have ever had to undertake. I did not realise that human beings could do to other human beings the sorts of things that some people do to children, male or female. The committee visited Canada, which has a federal judicial education system through which members of the judiciary are taught about various aspects of case law in an attempt to get them into the real world so that they understand public expectations when they are to hand down sentences.

The honourable member for Berwick gave excellent examples about some of the most insidious cases one could ever hear about, particularly involving the rape of women. In such cases if a judge makes a statement that is less than sensitive it can be blown up — and I am not supporting the judge! In my opinion the penalties handed down in many cases of child sexual abuse are quite inappropriate.

One example the committee investigated at close hand involved a person having abused 20 or 30 kids — both males and females — in a way that you would not believe. It makes you sick. Yet some offenders go before the courts and get a smack on the wrist or are let out on bail without spending any time in jail. The way they are treated is totally inappropriate.

The committee was so concerned about the way those paedophiles — those perverts, those bits of scum — were being treated in our court system that in November 1996 it put forward recommendation 85, which states:

> The committee recommends that a more comprehensive judicial education program be developed which addresses issues relevant to child sexual assault.

That recommendation came as a direct result of the committee examining cases, including reading and listening to transcripts, some of which revealed that judges displayed a total lack of concern for the victims and that if anything the judgments came down on the side of the perpetrators of those insidious crimes. Any system that teaches such judges to become more aware of public expectations must be a step forward.

In the same report, the committee put forward recommendation 91, which states:

> The committee recommends that the serious sex offender legislation be reviewed by the Parliament after three years.

It had got to the stage where the committee was about to recommend that after serious sex offenders — which were to be defined — got three strikes they would be locked up indefinitely, because it is evident that they are not fit to walk the streets. They cannot be rehabilitated, and if honourable members check the prisons in Victoria they will find the longest serving criminals are paedophiles who have spent a lifetime abusing kids. The judges asked the committee not to put forward that recommendation, because they were about to review each situation and were happy to use legislation that made it possible for them to lock up offenders indefinitely. That has happened in a number of subsequent cases, thank heavens.

Time is short and I know other honourable members wish to speak in the debate. The approach taken in Canada, which is largely followed by this bill, will make the judges more aware of and will teach them about what the public expects.

The one concern I have with the bill is that the issue addressed by it should be the responsibility of the federal government. The federal government should have in place a judicial system that covers all judges of Australia. Although I appreciate each state has different laws, it is ridiculous to have one system in Victoria and New South Wales while the Northern Territory and Western Australia deal with matters in their own ad hoc way. The federal government should consider introducing one system that caters for different variations in state laws. The bill is magnificent, and I wish it a speedy passage through Parliament so judges can be brought back into line.

Ms GILLETT (Werribee) — It is my privilege to make a brief contribution to the debate on the Judicial College of Victoria Bill. It honours the Bracks Labor government's commitment to improve access to justice, including the development of a strong, independent court system and the professional development and education of judicial officers — not only judges —

because, after all, they are responsible for providing the framework for delivering justice to the people of Victoria.

For some time I have had a passionate and active interest in vocational education and training. For two years I was the chief executive officer of the national transport and distribution industry training advisory body. One of my jobs in that role was to produce for the first time a trade equivalent certificate for storemen and packers. Despite the fact that people who work in what used to be called semiskilled or non-skilled jobs may have been paid more than their tradesmen colleagues, they wanted a piece of paper that established them not as semiskilled or non-skilled but as valued and educated employees.

Having a piece of paper which demonstrates competence and value as an employee is worth as much as, if not more than, money. I see the bill in that context. It is a special privilege to be able to provide to judicial officers with such responsible positions an ongoing tangible commitment to their professional development. It has been made available to teachers in a real and meaningful way, and such an important role as judicial officer also merits the commitment the bill introduces to ongoing professional development.

It is important to note that the government is not only making a commitment to the people at the top of the judicial tree. The college is also being made available to a broad range of judicial officers. The bill comes from a healthy consultative process. In July 2000 when the Attorney-General established the judicial education working party he was honouring the commitment that the government makes almost every day — to include the people we are making decisions about in the decision-making process. The government performs an important and fundamental role as a decision maker.

The responsibility on us is to include and engage with those who will be affected by the decisions we make. The recommendations of the judicial education working party are embedded in this valuable legislation and my understanding is that the people who participated in the working party are pleased with the result.

It is also good to know that there is bipartisan support on the issue. Occasionally honourable members have cause to fundamentally disagree on issues but it is good to see that on this occasion both opposition parties and the government can sing in harmony on the need to strengthen one of the most important pillars we have in this community — justice. I commend the bill to the house.

Mr SMITH (Glen Waverley) — Like the opposition spokesman, the honourable member for Berwick, I am very excited by the prospect of this bill. An institution that has the professional development parameters as set out in this bill is an institution that is keeping up with the times.

The bill makes it voluntary for judges to take part in professional development. Some of the older ones may think it might be seen as a sign of weakness if they take part. However, as the honourable member for Kew said, if there is a new and complicated change to the law, such as the sentencing legislation of some years ago, the bar council would call meetings of the barristers and the best legal advice in the country would brief them on the new legislation. The judges would be briefed separately. It is not right and proper that they be briefed together, as judges have a special status in the community.

A college for judges gives formality to briefings or follow-up studies, if necessary, on particularly complicated forms of legislation, so the college fits the bill. I will be fascinated to know where the college will be located — whether as a school or part of the court system. The public will be interested in the way the work of the college is conducted, whether by seminars, discussion groups or whatever. Clause 19 provides that the college must report to the Parliament at least once a year, which will enable the public to know what is happening. Journalists will also be interested in how the system is running.

It is important that the public know which judges are taking part in the judicial courses. I am sure the judges also would like their names to appear so that people will know which judges are taking part in the various courses. The publishing of their names will be an incentive to those judges who resist change under any circumstances. That is a good suggestion for the chief executive officer, whoever it may be. The more open the process, the better.

As the honourable member for Berwick said, judges take part in normal community activities. Therefore, if meetings were held to examine particular aspects of criminal activity, probably the best example of which is rape — the honourable member for Berwick began by using it as an example and it has been referred to throughout — judges could attend and learn about the processes a victim must go through before coming to court, and Victorians would know that their judges were keeping up with the times.

I note also that, as the honourable member Berwick said, for whatever reason, the President of the Court of

Appeal is not one of the judicial college directors. I add my twopenneth worth when I say that it would have been interesting to have him participate in the scheme, because he has one of the best legal brains in the country and because of the variety of cases he has been involved in and the sort of individual he is. Most people in football circles who have met Jack Winneke know what an incredible person he is. If he has chosen not to participate in the college system that is fine, but if it is not his choice the public should be reassured on that issue. I have seen Jack Winneke in action in many areas and without doubt he is one of the most outstanding members of the Australian legal profession.

Speaking from personal experience, I can say that I know a few judges, but one man in particular, Charles Barton, QC, has one of the best legal brains in England and is one of the best QCs in the criminal world. I have often asked him why he does not allow his name to be put forward for selection as a judge. He is one of the highest paid silks in the country, which might be a consideration, but he has often said that all he knows about is criminal law. He spends his holidays on the circuit — the English equivalent of the County Court — a system in which eminent QCs take part.

It is incumbent on the Attorney-General to ensure that we have a similar system where, from time to time, those sorts of great legal brains can be used on the benches; even if it were only during a holiday period of a particular silk we could use up the silk's experience for the benefit of other judges in the court.

That might be a subject that could well be considered when they are working up the curriculum. I am sure the public would like to know what the curriculum is because people, particularly journalists, have a great interest and curiosity about these sorts of things. It would pay off in the long run because it will give the court a greater status, which I am sure participating judges would appreciate having.

Like other honourable members, I wish the bill a successful and speedy passage. I hope my points will be taken up by the parliamentary secretary, who I saw giving the nod before, and that they will be noted in the formulation of the regulations.

Mr SEITZ (Keilor) — In supporting the Judicial College of Victoria Bill I will make some observations. I refer the house to the Book of Judges in the Old Testament, where the people cried out for judges. Some say nothing has changed since the days when judges were appointed without any formal training or schooling. I welcome the bill, which reflects the fact that we have made big leaps forward from those days. I recommend that part of the Bible to honourable members who have not read it so they can gain an understanding of how judges came to be. The process that occurred then is still the one we have today.

This bill, however, will establish a judicial training college. It is anticipated that judicial officers will volunteer to participate in programs to enhance their professional development, education and in-service training just as it is an accepted practice in many other professions that require in-service training as a must for promotion, development and keeping abreast with modern-day society and its related complexities.

Legal practitioners are invariably appointed as judges, starting with magistrates or tribunal officers. Unfortunately, when they finish their university training they are left to their own environment. As we all know you can live in an isolated environment. Members of the legal profession particularly seem to hover around their own clubs and organisations — play golf with each other, attend the same churches — and do not mix with ordinary people. Some become aloof and forget that society has moved on.

I well recall many years back, in the early days when I arrived in Australia, the judgment of one judge in a murder case. The husband had come home and caught his wife in bed with her lover. He took out a shotgun and shot the man. The judge was very lenient in his judgment. Outcries of disappointment followed in the media and on radio programs. However, the judge realised and understood and accepted the argument that the accused man was of Sicilian background and honour meant everything. If the man had not taken that course of action his community would have regarded him as being less than a man. His livelihood and culture were all about honour.

Today, in our multicultural society, I hope the judicial college will take into consideration and develop judges' understanding of recent arrivals and people from different cultural backgrounds — not all from European backgrounds, as we had in the immigration intakes of years gone by — who reflect a society with different religions and social and moral values. Judges will need to not only understand them but also deal with the appropriate punishment in those cases.

Although the background of young people studying law has changed in recent years, a certain group of lawyers has dominated those who have been appointed as judges. It seems that most of the lawyers from other backgrounds — such as those from suburban practices involved in conveyancing and small matters and not big law cases — have not been appointed to the bench.

This government and the previous Cain–Kirner governments have brought about changes. The proposed college is long overdue — for refresher courses, for training and for bringing judges into the real world and giving them an understanding of where it is today.

In rape cases these days we often hear the expression, 'When does no mean no?'. Judges do not seem to understand what the word 'no' means.

I hope those important things will be emphasised and welcomed by legal practitioners — not only by people who are judges now but also the people who aspire to those positions — and that they participate in developing the courses and training provided.

The bill gives ample freedom in developing the course. It requires that the board provide a report to Parliament. The board will be an independent statutory body with perpetual succession, so there will be security of independence in developing the work of the college.

I welcome the proposed legislation. As I said, examples of similar organisational structures exist in Melbourne — in particular, in architecture. If one considers who held the chair of architecture at the university, one can see how the building structures around Melbourne evolved.

The same applies in the legal profession. People are creatures of their environment. One day a person can be a practising lawyer; tomorrow he or she might be appointed as a magistrate. That does not change the person. A college is needed so that judicial appointees can understand their changed role and function in life. Invariably legal people have been working and mixing with colleagues in their own little circle.

Generally people do not move outside their own circle. For example, often people do not want to come and live in the western suburbs because their circle of friends is not there. That problem exists in the medical field, with practitioners not wanting to move to the western suburbs. They want to have their peers in their local environment so that their wives can get together and play cards or generally socialise in the afternoon and their children can play together. The same applies to members of the legal profession.

I commend the bill to the house. The college has been a long time coming — practically since the days of the Old Testament!

Mr MACLELLAN (Pakenham) — I join in supporting the Judicial College of Victoria Bill and note that it has strong support from all sides of the house. I suspect some of the support might be to prevent other legislation being discussed later today.

I have great respect for the preceding speaker as a member of this place. I just hope that any judge or magistrate that I have the misfortune to appear before does not have the views referred to by him!

I hope that the judges that I might appear before continue to judge fairly and objectively. I hope that the magistrates continue to exemplify the good traditions that we have had in the past. I am not at all satisfied that there is something wrong with the judiciary in Victoria. I have heard it repeated, both by the honourable member for Seymour and now by the honourable member for Keilor, but for me there is not something wrong with our judges. There is not something wrong with our magistrates. There is not something in them that has to be corrected.

Honourable members are supporting legislation which provides a mechanism for a corporation that will enable them to take their internal training further as they see fit. I hope it will not provide an opportunity for the Parliament to lecture the judiciary on how it should lift its game, so to speak. I hope that it will be a bridge between the judiciary and the community rather than a means by which Parliament can lecture judges.

I would be a hopeless judge. I do not think I have the right balance to be able to listen to the evidence and come to a conclusion which would be regarded by the community as fair. If anybody can become remote or apart from the community, members of Parliament run that risk very easily, especially when we start making rather condescending comments about the judiciary. We hear from our constituents how dissatisfied they are as a result of reading a press report about a penalty or decision, but we have not heard the evidence. Anybody who has the temerity to discuss the merits or otherwise of a decision without having heard or studied the evidence is really right out on a limb as to their own credibility.

Debate interrupted pursuant to sessional orders.

Sitting suspended 1.00 p.m. until 2.03 p.m.

QUESTIONS WITHOUT NOTICE

Mr Hulls — Ten questions!

The SPEAKER — Order! The Attorney-General!

Industrial relations: employee entitlements

Dr NAPTHINE (Leader of the Opposition) — The Attorney-General would be better off dealing with Judge Kent than making comments to the Parliament. That was his own failed appointment. You did not ask the right questions then, did you?

Honourable members interjecting.

The SPEAKER — Order! The Treasurer! I ask all honourable members to come to order so that question time can begin.

Dr NAPTHINE — I refer the Premier to the fact that the 100-job Prom Meats plant and biggest employer in Foster will close tomorrow. I further refer to the unfortunate — —

Mr Brumby interjected.

The SPEAKER — Order! I ask the Treasurer to come to order.

Dr NAPTHINE — I further refer to the unfortunate situations of Bradmill Undare, Supreme 3 and Brushware Fabrics, companies which this year have all been placed in receivership. Why is the state Labor government still refusing to sign up to the federal coalition government's initiative and ACTU-endorsed employee entitlements support scheme, a scheme that will protect the employee entitlements of ordinary blue-collar workers affected by those situations?

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order!

Mr BRACKS (Premier) — I remind the Leader of the Opposition that not only has the Victorian government not signed up to the arrangement for employee entitlements proposed by the federal government, but the South Australian coalition government has not signed up, the Northern Territory government has not signed up, the Australian Capital Territory government has not signed up — in fact no state in Australia has signed up.

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order.

Dr Napthine — On a point of order, Mr Speaker, before the Premier misleads the house further, I indicate that the Northern Territory government has signed up and has protected workers in the Northern Territory.

Honourable members interjecting.

The SPEAKER — Order! The Leader of the House! There is no point of order.

Mr BRACKS — The primary reason is that we have a different policy position from the federal government. Our position is that there should be — —

Dr Napthine interjected.

The SPEAKER — Order! The Leader of the Opposition has asked his question.

Mr BRACKS — Our position, which is the universal position of the Labor governments and also the federal Labor Party, is that there should be a national vested insurance system which would therefore enable those entitlements to be preserved and protected. In fact, the issue of income security has always been a national issue; it is not a state issue. Whether you look at the commonwealth employment system, income security, or social security, they have all been national systems. One would think the Leader of the Opposition would know that they have been national systems in the past.

On the general question of the closure of those factories, I say that those closures are regretted but manufacturing is going through a change in this state. The important point is that the net position in Victoria has improved. Over the past 12 months some 60 per cent of the country's employment growth has been in Victoria. We have the second-lowest unemployment rate in the country — 6.3 per cent — compared with other states. The unemployment rate in Queensland is 9 per cent. As I said, Victoria has an unemployment rate of 6.3 per cent. Most of the job growth is here.

Manufacturing is changing, but the new manufacturing, the new growth, is coming to Victoria. This scheme, which was a failed scheme preferentially used by Mr Howard for his brother in New South Wales, is a primary commonwealth responsibility as are all income security matters.

Workcover: premiums

Mr RYAN (Leader of the National Party) — I refer the Minister for Workcover to the fact that certain workplaces, such as Roger Perry Bulk Haulage in Horsham, are being reclassified by Workcover and having amended premiums imposed on them going back five years. How can the minister justify this appalling retrospective impost on businesses that have acted in good faith?

Mr CAMERON (Minister for Workcover) — I thank the Leader of the National Party for his question and the interest he is showing in Workcover. No doubt that interest is very much as a result of the way the previous National Party minister and previous government handled Workcover.

The honourable member for Gippsland South has raised a particular matter and will no doubt send details of it to me. That is, of course, what occurs every year. It occurred for seven years under the Liberal–National government, and it occurred — —

Ms Asher interjected.

Mr CAMERON — Rarely! Victoria's Workcover system has stabilised and is improving. The government has to take the scheme seriously because it inherited $1 billion in Liberal liabilities. The government is bringing the scheme under control. As for the rules that are being applied, no doubt the honourable member will write about the particular matter he has referred to. I am more than happy to have Workcover brief him on the matter.

Budget: IT initiatives

Mr LIM (Clayton) — I ask the Minister for State and Regional Development to inform the house about government initiatives to prepare Victorians for the challenges of the information age.

Mr BRUMBY (Minister for State and Regional Development) — May I say at the outset that one of the major keys to Victoria's medium and long-term economic prosperity is how it positions as the innovation and information technology (IT) capital of Australia and how it positions globally.

The budget brought down by the government this week provided $268.6 million of new funds to information technology. That was committed to ensure that Victoria maintains and builds on its position as a high-tech centre of excellence and innovation. It is clear that under the Bracks government Victoria is leading the way in policy development for the information age. In the past year the government developed the state's first information and communications technologies (ICT) skills policy, the state's first e-commerce strategy and the state's first strategy for tackling the digital divide. In addition, it has passed the Electronic Transactions Act and the Information Privacy Act.

The budget contains an allocation of $268 million for new information technology initiatives — 10 new initiatives for IT! They include $45 million to provide TAFE institutes across Victoria with high-technology facilities; $40 million over two years for the renovation and modernisation of ICT facilities in Victoria's school system; $30 million over three years on an ICT strategy for the health care sector; $23 million for computers in schools and improved Internet access; $30 million on an electronic version of the land titles register that will enable electronic land title searches; $19 million over three years to upgrade ICT infrastructure in Victoria's TAFE system to ensure sufficient bandwidth and fault tolerance; $4 million for the redevelopment of the Victorian government's web site, www.vic.gov.au; $3.8 million for 370 new placements for ICT apprentices and trainees — and the list goes on. My list contains 10 separate initiatives to boost Victoria's position as the IT capital of Australia.

Despite the views of opposition members, who hate success in this area, this is what the IT industry says about the Bracks government's budget. John Gwyther, Australian Information Industry Association chairman, said:

> The state budget acknowledges the importance of ICT across the entire economy.

Brian Donovan, chief executive officer of IT & T Skills Exchange, said:

> The IT & T Skills Exchange supports the increased commitment to IT in schools.

Professor John Rosenberg, dean of the faculty of information technology at Monash University, stated:

> The $268.6 million in new spending on IT initiatives will help Victoria build on its school base.

Norman McCann, managing director of Hewlett-Packard Australia, which announced just months ago its new service centre in Victoria with hundreds of new jobs, said on behalf of that major international company:

> HP's decision to expand its consulting base in Victoria was very much based on the high level of skills available, the significant market opportunity offered and the commitment of the state government to develop the local industry. This week's state budget clearly reaffirms this commitment.

The list goes on and on. David Giles of Infogrames Melbourne House said:

> The $268.6 million commitment to IT skills in this week's budget is a clear sign that the Victorian government is switched on to the needs of the local industry …

Here we go! We have picked up and added momentum to this state's drive to position Victoria as the innovation and IT capital of Australia. The Bracks government has done that with $268 million worth of 10 new initiatives. What do industry, the universities and the industry associations say about it? They say this is a great budget that gets 10 out of 10!

Ballarat: patient transport

Mr DOYLE (Malvern) — I refer the Minister for Health to the government-funded bus service that takes cancer patients from Ballarat to Geelong Hospital for treatment because the Labor government has not delivered on the promised radiotherapy treatment unit in Ballarat, and I ask why the government has now scrapped this free bus service.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Keilor! The honourable member for Bendigo East!

Mr THWAITES (Minister for Health) — Part of the $1 billion boost for health is extra money for radiotherapy at Bendigo and Ballarat. We are doing what they could not do in seven years! The builders are on site. The government is delivering that proposal for people in regional Victoria.

Ms Asher interjected.

Mr THWAITES — The shadow Treasurer is interjecting asking when, when, when. That is the shadow Treasurer who has claimed that the budget spends too much! Where is the major expenditure? It is in health. I ask the shadow Treasurer to say which health expenditure she wants to cut. Does she want to cut the radiotherapy at Bendigo? Does she want to cut the radiotherapy at Ballarat? Does she want to cut the new hospital at Ararat? Would she cut — —

Mr Doyle — On a point of order, Mr Speaker, I have been listening to the minister for some time and I have not yet heard the word 'bus'. That is what the question was about.

Honourable members interjecting.

The SPEAKER — Order! I do not uphold the point of order. I ask the minister, however, to cease debating the question and to come back to answering it.

Mr THWAITES — The question concerned radiotherapy at Ballarat and what the government was doing about it. I am telling the house what the government is doing about it.

Dr Dean interjected.

The SPEAKER — Order! The honourable member for Berwick!

Mr THWAITES — If the honourable member wants to ask transport questions, let him ask them of the transport minister, but he is asking about health so I will tell him about health. We are giving the bush a bonanza — a bush bonanza — and part of that is extra cancer services for country Victorians.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order. The house is wasting its own time.

Marine parks: establishment

Ms LINDELL (Carrum) — I ask the Minister for Environment and Conservation to inform the house of the government's response to the Environment Conservation Council's final report titled *Marine Coastal and Estuarine Investigation*.

Ms GARBUTT (Minister for Environment and Conservation) — I was very pleased to have released the response of the Bracks government to the Environment Conservation Council's (ECC's) marine, coastal and estuarine investigation. It has covered the best part of a decade and spanned three governments.

Our government has responded in a way that has accepted the broad thrust of the ECC's recommendations. It lays the foundations for a world-class system of marine national parks and is a world first. However, our response has taken into consideration the views of all interest groups. We have listened and responded to the concerns of all interests — commercial fishers, recreational fishers and rural communities.

As a result the government is establishing 12 marine national parks and 10 marine sanctuaries, covering some 5.2 per cent of Victoria's coastline. They will offer high-level protection for an amazing array of marine species that inhabit those areas. We have responded to concerns and made some adjustments, and

one of those is boundary adjustments to both the Twelve Apostles park, which, the last time I looked, is at the wrong end of Victoria for the honourable member who has been interjecting.

Mr Cooper — On a point of order, Mr Speaker, I draw your attention to the standing order on anticipation. The matter that is being referred to by the minister is in a bill that has been introduced into Parliament, the second-reading speech for which will be made later today. The minister is now anticipating debate upon that bill, which she has herself introduced, and I ask you to rule her out of order.

The SPEAKER — Order! I remind the minister she must not anticipate debate on the bill that is listed on the notice paper and ask her to confine her remarks in answer to the question, which concerned the government's response.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Mornington shall now desist.

Ms GARBUTT — I will confine my comments to what was in the government's response that I released this morning. It said we would make some boundary changes in response to concerns of the commercial fishing industry, in particular to the Twelve Apostles and Corner Inlet marine national parks, where we have made boundary changes, and to the proposed Cape Howe marine national park, which we have ruled out — —

Opposition Members — Why?

Ms GARBUTT — Because the ECC's final report — —

Honourable members interjecting.

The SPEAKER — Order! The house will come to order. The honourable member for Doncaster!

Ms GARBUTT — The house would be aware that the ECC's final report identified that Mallacoota was the only town on the Victorian coast likely to be impacted upon.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order. The Chair is having difficulty hearing the minister, and I am sure no other honourable member is hearing her either.

Ms GARBUTT — That change was made in response to findings in the ECC's final report. I will mention changes that followed our conversations with recreational fishers, in particular the ones in the seat of Portland, where we have made changes to the Discovery Bay Marine National Park, and in the seat of Warrnambool, where we have made changes to the boundaries of the Twelve Apostles Marine National Park.

In addition, we are proposing to implement the marine national parks straight away, but to phase out fishing in four areas — Twelve Apostles, Corner Inlet and Discovery Bay marine national parks and Point Cooke Marine Sanctuary.

Of course, the 2001–02 budget announced last Tuesday provided a package of funding for these measures. Central to that package was the provision of $14 million over four years for enforcement effort. That is a massive increase of 75 per cent in recurrent funding to increase the enforcement effort and to provide for extra fisheries officers.

Mr Cooper — On a point of order, Mr Speaker, despite your previous warning to the minister she is clearly anticipating debate on the bill that she has introduced. I ask you to either instruct the minister to make her answer relevant to the question and not anticipate debate or tell her to sit down.

Honourable members interjecting.

The SPEAKER — Order! I will not hear anything further on the point of order. Honourable members are aware that the rules provide that there must not be anticipation of debate on bills that are currently on the notice paper and are likely to be debated shortly. However, in raising the point of order, the honourable member for Mornington asks the Chair to rule the minister out of order on the rule of anticipation. At this point the Chair is not in a position to know exactly what is contained within the bill and can only warn the minister that she must not anticipate debate. The Chair has already done that.

Mr Cooper — On a further point of order, Mr Speaker, I refer to your ruling and ask you to consider the fact that the bill has already been brought before this house, so the house is in a position to know what is contained in the bill. Therefore, Sir, your future rulings regarding whatever the minister may be saying have to be made in the context of your knowledge and that of all honourable members of what is contained in the bill.

I suggest, Sir, that the minister has been anticipating debate on what we all know is in the bill, and when she contravenes the rules again you should rule her out of order and make her sit down.

Mr Robinson — On the point of order, Mr Speaker, I understand that the minister is responding to the interim report of the Environment Conservation Council, which made a series of recommendations in a widely circulated report last year. Notwithstanding the fact that legislation may be required to implement the government's decision, the minister should be at liberty to respond in detail to that report.

Mr Ryan — On the point of order, Mr Speaker, the matter can be resolved simply. I respectfully suggest that all you need do is obtain an undertaking from the minister that the matters she is now putting to the house are not contained within the bill now on the notice paper. It can be simply dealt with.

The SPEAKER — Order! The point of order raised by the honourable member for Mornington is similar to the earlier point of order he raised. The Chair has already cautioned the minister on this matter. It has asked her not to anticipate debate on the bill and to confine her remarks in such a way as to avoid speaking about matters contained in the bill.

Ms GARBUTT — The development of marine national parks, all of which will be in regional Victoria, will have significant spin-offs for employment, through enforcement officers and rangers, and increased tourism.

Mr Ryan interjected.

Ms GARBUTT — Rubbish, absolute rubbish!

The government's response is a recognition of concerns, but provides a balanced outcome — a high level of protection for Victoria's marine environment — and addresses the concerns of the fishing community. I hope opposition members will embrace and support the government's push for a world-class marine national park system.

GST: charitable organisations

Mr SAVAGE (Mildura) — I direct my question to the Minister for Finance.

Mr McIntosh interjected.

The SPEAKER — Order! The honourable member for Kew!

Mr SAVAGE — One effect of the abolition of sales tax — —

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order to allow question time to proceed in an orderly fashion. I ask the Deputy Leader of the Opposition to desist interjecting.

Mr SAVAGE — One effect of the abolition of sales tax for charitable organisations and its replacement by the GST is that it is costing welfare agencies such as Mallee Family Care $5000 per vehicle annually to replace motor vehicles — which is added to its budget of $100 000.

Will the Minister for Finance advise the house what she is able to do to assist agencies such as Mallee Family Care that will have to reduce their services or the quality of their services to meet this shortfall?

Ms KOSKY (Minister for Finance) — The honourable member for Mildura raises an important matter. We are starting to see the full impact of the introduction of the GST on community organisations and the general public.

In last year's budget the Bracks government moved to protect welfare and community organisations by providing concessions worth around $12 million, which put into effect not having to extract the embedded tax savings from grants to charitable organisations. We absorbed the costs in that instance.

Equally the GST has had a negative impact on welfare and community groups in relation to motor vehicles they purchase and sell at a later stage. The impact of the GST has had a great effect on the sale value of motor vehicles through the slashing of car values in the resale market as a side effect of the abolition of wholesale sales tax. New cars are cheaper and resale values have been slashed. Resale prices have dropped from 92 per cent of new car prices in 1997–98 to around 70 per cent currently. That is good for people who want to buy new cars but it has had a dramatic effect on resale values and what that means for community agencies.

Last Tuesday's budget indicated it has had a dramatic effect on the government car fleet. Some $90 million has been written off in the budget for the government car fleet. That must be multiplied throughout Australia because of the dramatic effect of the impact of the GST on resale values, particularly for community organisations. The federal government would have been well aware of that impact of the introduction of

the GST, but it was not prepared to provide compensation to community organisations.

The government has moved to attempt to soften the blow of the GST on community organisations, but the resale of cars is a federal government responsibility. The federal government will present its budget next week. It has the opportunity to rectify this situation immediately to ensure that community organisations are not further disadvantaged by the GST.

Victoria will not get any windfall gains from the GST until 2007–08, and the government is in no position to provide support for community organisations for a fault caused by the commonwealth government. The GST story is starting to unravel right around Australia, and this is further evidence of it. If Howard had any compassion he would move in the federal budget to rectify the situation.

Marine parks: establishment

Mr PERTON (Doncaster) — I refer the Minister for Environment and Conservation to her previous answer, and in particular to the government's decision not to accept key recommendations of the Environment Conservation Council report on marine parks. Is it now government policy that ECC reports and future reports of the Victorian Environment Assessment Council can be amended or rejected by the government if, as in the creation of at least one marine park, the recommendation is seen as being against the government's interest?

Mr Robinson — On a point of order, Mr Speaker, bearing in mind your earlier rulings on the wisdom of the honourable member for Mornington, I am wondering whether the honourable member for Doncaster is inviting the minister to anticipate debate.

Honourable members interjecting.

The SPEAKER — Order! The Leader of the House!

I do not uphold the point of order raised by the honourable member for Mitcham. The question asked by the honourable member for Doncaster sought from the minister the government's policy on this issue.

Mr Cooper interjected.

The SPEAKER — Order! I ask the honourable member for Mornington to desist.

Ms GARBUTT (Minister for Environment and Conservation) — I thank the honourable member for his indication of opposition support for the ECC recommendations, and the government looks forward to its support for the bill. The government's response is a balanced and fair one. We have outlined — —

Honourable members interjecting.

Ms GARBUTT — You're hopeless, absolutely hopeless!

Mr Smith interjected.

The SPEAKER — Order! The honourable member for Glen Waverley.

Ms GARBUTT — The government received the ECC final report in about October and made it available, and it has since undertaken a series of consultations. I know the opposition does not understand — —

Mr Perton interjected.

The SPEAKER — Order! I ask the honourable member for Doncaster to cease interjecting so he can hear the answer to his question. Similarly, I ask the honourable member for Mordialloc to also cease interjecting.

Ms GARBUTT — What is clear to all Victorians is that the opposition does not understand the meaning of consultation. However, the government will continue to consult and respond to the concerns that it has heard. The government has talked to recreational fishers, has made responses to their concerns and has also talked to people in commercial industry and made a whole series of responses to their concerns. I can assure the opposition that we will continue to consult, listen and respond.

Schools: class sizes

Ms BEATTIE (Tullamarine) — Will the Minister for Education inform the house of the impact of the Bracks government's policies on class sizes on secondary school English classes?

Ms DELAHUNTY (Minister for Education) — I thank the honourable member for Tullamarine for her question and her continued interest in the welfare of students in our secondary schools. In secondary schools it is the same story right across education — more money, more teachers, more programs and better student results. The government's more than $2 billion investment in education is already starting to pay handsome dividends for our students and their parents. In primary schools we have seen class sizes plummet

and reading levels rising. The class sizes are still coming down in years 3 to 6. We have hit the bullseye with prep classes with 21 on average right across the state — two years ahead of target!

I am very pleased to inform the house today that we have some encouraging class size data from our secondary schools. The average English class size in our secondary schools across the state is starting to trend down. It has been reduced from 22.7 to 22.5 in just 19 months. The Bracks government is reversing the trend of the dark days of education when the former government closed schools and sacked teachers.

Honourable members interjecting.

The SPEAKER — Order! The Leader of the Opposition!

Ms DELAHUNTY — When Labor came to government, nearly half the English classes in secondary schools had more than 25 students. This government is reversing the trend on class sizes in secondary schools. It is stopping the rot in secondary schools. Average class sizes are trending down. Of course, that trend should continue. I say that because this year the government has put extra teachers straight into the secondary schools. An extra 225 teachers have been provided right across the state for the middle years program.

At Gladstone Park, in the member for Tullamarine's electorate, the middle years program received an extra $84 000; that will buy maybe two teachers for Gladstone Park. Bayside Secondary College received $99 000 for the middle years program. The honourable member for Melton is always advocating for Copperfield College and it has received $104 000 for the middle years program: two, three, more teachers going in our secondary colleges. The size of English classes in secondary schools is coming down because the government is providing more money, more teachers, more programs and better results.

Corrections: home detention

Mr WELLS (Wantirna) — In support of his government's home detention program the Minister for Corrections recently stated that interstate and overseas experience showed that fewer than 5 per cent of offenders placed on home detention breached their conditions. Will the minister explain how he reconciles that statement with the fact that the New South Wales Department of Corrective Services annual report for 1999–2000 showed that 38 per cent of people on home detention breached their orders and 27 per cent of home detainees breached their orders so seriously that those orders were revoked?

Mr HAERMEYER (Minister for Corrections) — I think the honourable member for Wantirna has difficulty hearing. The comment that was made was that interstate and international experience shows that approximately 5 per cent of people undergoing home detention reoffend. It is a good program in terms of minimising reoffending. The program is targeted at — —

Dr Napthine interjected.

The SPEAKER — Order! The Leader of the Opposition!

Mr HAERMEYER — They need a blood-drooling Rottweiler and they have a chihuahua!

Honourable members interjecting.

The SPEAKER — Order! The Minister for Agriculture! The Treasurer! The honourable member for Warrandyte!

Mr HAERMEYER — The home detention program is in place in every state in Australia. It was introduced in Western Australia and South Australia by conservative governments and provides low-risk offenders with a step between community service orders and prison. For the duration of the Kennett government a program was in place — although poorly administered — called community-based corrections, and it is an initiative that the Bracks government is boosting. That program had even lower levels of supervision than are entailed with home detention. The Bracks program will have a higher level of security, but it is targeted at fairly low-risk offenders, predominantly property offenders and people who have breached community-based orders. The government does not want to send shoplifters into the prison system and have them come out with a PhD in armed robbery!

Trams: W-class

Mr CARLI (Coburg) — Will the Minister for Transport inform the house of progress on the return of the historic W-class trams to Victoria's transport network?

Mr BATCHELOR (Minister for Transport) — I am pleased to inform the house that the first of Melbourne's much-loved and historic W-class trams will return to the regular service on the City Circle route on Monday, 28 May. It is great news and it will be a terrific — —

Dr Napthine interjected.

Mr BATCHELOR — The Leader of the Opposition suggests that there will be one tram brought back. He is getting confused with his own popularity rating — put a zero on the end and that is what you get!

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Mornington has been warned a number of times.

Mr BATCHELOR — Two of the W-class trams have been put through a rigorous testing program because the braking system left in them at the time of privatisation was unsatisfactory and unsafe. During that time the shadow Minister for Transport was demanding that the W-class trams be returned to the system when they were unsafe. The Bracks government refused to do that. It has given the W-class trams a new lease of life and placed within these historic and lovely trams a modern, specially designed and fitted back-up braking system, which was tested in the workshops and on a test track. Later this week people might see the trams out on the network as drivers undergo driver education. The trams will be coming back!

The cost of this whole project — the installation of the new spring-fitted electromagnetic braking systems, the same state-of-the-art braking systems that are on the A and B-class trams, to the new route service W-class trams and the fitting of the data-logging equipment to all the W-class trams — will be approximately $4 million. Arrangements are being worked out with the private sector to share the cost. This project will be supported and welcomed by the travelling public. The only people opposed to it are opposition members. The opposition continues to attack what is a great public transport system.

The government and the tram companies have been conducting a campaign to name some of Melbourne's new trams after famous Victorians. One has already been named after Ron Barassi, and we are seeking advice from the community about what names could be brought forward. We have not yet thought of a name for the no. 10 tram route and are wondering if anyone would be able to help with that. In the meantime, the two City Circle trams will return to service on Monday, 28 May, and the balance of the City Circle trams will return at a rate of one per week from the end of June. All Victorians, with the exception of the Liberal opposition, will truly welcome this.

The SPEAKER — Order! The time set down for questions without notice has expired and a minimum number of questions have been dealt with.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Malvern!

JUDICIAL COLLEGE OF VICTORIA BILL

Second reading

Debate resumed.

Mr MACLELLAN (Pakenham) — Earlier I was referring to the views of honourable members about the judiciary. Some honourable members have suggested that members of the judiciary are out of touch or need reprogramming. I suggest that is not correct. My experience of members of the judiciary has always been that they are compassionate and well informed and base their decisions on the facts before them.

I believe the government needs to contemplate strengthening the reporting provisions in the legislation. In the absence of the Attorney-General, who it appears has delegated monitoring of the debate to the honourable member for Richmond, I suggest that perhaps a member of the board of the judicial college ought to report to the Law Reform Committee of the Parliament as well as the college producing a written annual report.

Honourable members would probably concede that written annual reports from statutory bodies tend to get into a format where the reports, once adopted, are updated each year with new statistical information but rarely with new insights into the work of the statutory authorities. They tend to be laudatory rather than informative. If the Parliament is to benefit from the experience and work of the judicial college it would be useful if the annual written report provided for by the Financial Management Act were augmented by an annual visit by a representative of the judicial college to meet with members of the Law Reform Committee and give a briefing on the work and future direction of the college so that Parliament will have no excuse not to be well informed about the work of the judicial college and in that sense could act as defenders of it in the public arena.

I endorse the suggestion of the honourable member for Frankston that getting the gender balance right will be all important, and more importantly, as well as getting the gender balance as we would wish it to be in the law, we must ensure an open-door policy is adopted. As much as is possible, given the security issues, the judicial college should have its doors open to observers and members of the public to answer the concern raised

by some honourable members that lawyers in general and judicial office-bearers in particular are remote from the everyday life of Australians. I do not think that is true. Honourable members, above all others, should be the first to say it is not true.

If I ever have the misfortune to have to appear before any state judicial office-bearers I hope they continue to have the sorts of attitudes I have seen them exemplify in the past — namely, making decisions on the basis of the facts before them, being compassionate, understanding and realistic, and keeping very much in touch with the community.

I welcome the bill and the work of the judicial college. I hope the Attorney-General is alert enough to understand he is dealing with a potentially sensitive area. Along with my opposition colleagues I was tempted to comment that the program of the Judicial College of Victoria should be a mixture of both judicial and practical subjects and to cheerfully volunteer that one of the practical courses they may first introduce for some members of the judiciary would be how to prepare an income tax return.

That, of course, is a commentary on current matters, delicately given, but I must say that, bearing in mind that the government has been making nominations to judicial positions, now it is being entrusted to nominate two persons for appointment to the board of the judicial college and we expect it to make better nominations than it has made in its most recent experience. The government needs to check the backgrounds of people fully and go beyond taking things at face value. It should revert to the traditional system by which people were checked out to make sure they were suitable for nomination to higher office, and in particular to higher judicial office.

The government needs to look beyond mates, factions and left-of-centre attitudes — which have perhaps been guiding principles for the government but which have let it down so badly — and to ensure that any representation through nominations by the government on the judicial college is stylishly centre, stylishly professional, stylishly independent and, given that it may be necessary to have some regard to gender balance and to representation of broader than judicial attitudes, stylishly middle of the road, rather than lurching towards a left-of-centre view as exemplified by the Attorney-General.

I hope the honourable member for Richmond is influential in making sure that, despite the fact that he is a member of the Socialist Left faction of the government party, he can see beyond that to the broader issues. The judicial college, in the hands of the Socialist Left, could be seen as a means of engineering judicial opinion, and that would be the wrong basis on which the legislation might proceed.

Mr LANGUILLER (Sunshine) — I proudly support the Judicial College of Victoria Bill. Firstly, I will articulate the purpose of the bill, which is to establish a Judicial College of Victoria with the function of assisting the professional development of judicial officers and providing continuing education and training for them.

It is also important to set out what the powers of the college are. Clause 6(1) states:

> Subject to sub–sections (2) and (3), the College has power to do all things necessary or convenient to be done for, or in connection with, performing its functions.

Clause 6(2) states:

> The college does not have the power to acquire, hold or dispose of real property.

The other important matter is the composition of the board of directors. Clause 8(1) states:

> There shall be a board of directors of the College consisting of 6 directors of whom —

One is the Chief Justice of Victoria, one is the President of the Victorian Civil and Administrative Tribunal, one is the Chief Judge of the County Court, one is the Chief Magistrate, and the others are persons appointed by the Governor in Council on the nomination of the Attorney-General.

I welcome the appointment to the board of a member of the academic staff of a tertiary or other educational institution. The other board member must be a person who in the opinion of the Attorney-General has broad experience in community issues affecting courts. The board composition has been recommended by the Attorney-General and his team following broad consultation. It will be welcomed by the community.

I wish to refer particularly to the latter member of the board of directors. The judicial system needs to take into account, as it presently does, matters that have regard for class, gender, environmental and ethnic considerations in our society. I welcome the increasing number of appointments to the judiciary of women, ethnic minorities and emerging minorities from non-English-speaking backgrounds.

I turn now to the education of the judiciary. Its members receive an extraordinary level of education on an ongoing basis. I am confident that both the

community and the judiciary will welcome the provision of structured education on a voluntary basis. These are good ingredients for the establishment of the judicial college. Ongoing education of the judiciary is welcome. One could respectfully suggest that it is a knowledge-nation concept that our entire society is currently embracing, which applies as much to the judiciary as it does to the legislature, the executive and the broader community.

I recollect the significant contributions made by Professor Peter Sheehan, the director, and Alexis Esposto, a researcher, from the Centre for Strategic Economic Studies at the Victoria University of Technology, who have referred time and again to the importance of embracing the knowledge-nation concept, which in this case means ongoing education.

I also refer to the way the process will be established. I welcome the fact that judges will have the opportunity to undertake further or more structured education on a voluntary basis. However, it is important that the legislature does not necessarily tell judges how to interpret the law or how to study. The process of managing the exercise from now on will be as important as the outcome of establishing the judicial college.

In my modest judgment the legislature could recommend subjects of interest for judges. For example, it is important for the judiciary to be professionally and scientifically acquainted with such things as DNA, bioethics, property law, information technology and human rights, but I do not believe it is the role of the legislature to tell the judiciary how to interpret the facts.

In my opinion, having had limited experience with judges — although it is not so limited with lawyers — judges interpret the law using practical mechanisms and by analysing and researching with vigour, which is their role and not ours. To some extent that point goes to the separation of powers, to which I will refer briefly.

Our society is based on the separation of powers. That doctrine goes to the heart of our democracy, and we should be proud of it. We follow the British tradition in relation to the separation of powers and not so much the American tradition, where the executive and the legislature are not as separate. Under our system they are totally separate, and I think ours is the better tradition.

With respect to the separation of powers I will refer briefly to a point made by the honourable member for Springvale, who unfortunately will not have the opportunity to raise it during the debate. I will quote from a journal article by Haig Patapan that appears in the *Australian Journal of Political Science*, Volume 34, No. 3. At page 398 it states:

> … the importance of the Boilermakers case lies in the valuable insights it provides into the court's formulation and theoretical justification of separation of powers.

In that case the majority rejected the strict separation of powers doctrine. It goes on:

> The fact that responsible government is the central feature of the Australian constitutional system makes it correct enough to say that we have not adopted the American theory of separation of powers.

Patapan writes:

> The character of the division of power is 'determined according to traditional British conceptions'.

That point is important. Patapan goes on to say:

> But it does require a strict separation of judicial powers. The reasons for this can be found in the federal character of the constitution.

He makes another point that goes to the heart of the issue when he says:

> The whole system relies on the understanding of the court as the guardian of the federal constitution. Thus, the aim of the object of separation of powers is to preserve the 'essential feature' of the court as an 'impartial tribunal'.

I am happy to have spoken on the bill. I am confident the community and the judiciary will welcome the establishment of the college. I commend the government, particularly the Attorney-General, on again delivering on a pre-election promise. I congratulate the Attorney-General on his reformist agenda and the honourable member for Richmond, who has also undertaken an enormous amount of work. I wish the bill a speedy passage.

Mr THOMPSON (Sandringham) — The Chief Justice of Australia notes in a 1999 *Law Institute Journal* article that:

> The most important measure of the performance of the court system is the extent to which the public have confidence in its independence, integrity and impartiality.

That notion was expressed again when he said that the system of justice should be just, quick and cheap. For the benefit of Hansard I suggest there is some importance about where the comma is put in that phrase.

In the same 1999 *Law Institute Journal* article Chief Justice Gleeson notes that over the past 10 years there

was a tendency towards an increasing acceptance of the importance of training and continuing education for judges and magistrates. The article states:

> It is no longer sufficient to assume that most persons appointed to judicial office are professional advocates whose background has provided them with such information and experience as is necessary for the competent performance of judicial duties.

Chief Justice Gleeson also notes that in recent years the Australian Institute of Judicial Administration has conducted annual orientation programs for the benefit of the judiciary, and as at two years ago 144 judges had attended them.

The participants came from most Australian jurisdictions and from Papua New Guinea, the Solomon Islands, Indonesia and Hong Kong. The program covered a wide range of topics, including trial management, decision making, judgment writing and the use of information technology. In addition, issues such as cultural awareness, cultural diversity and gender awareness were also addressed. There is also an annual orientation program conducted for magistrates.

It was noted at the time that there is no national judicial college in Australia of the kind that exists in England, Canada and New Zealand, although a lot of work has been done through the Australian Institute of Judicial Administration on the merits of a system for the education of judges.

Other elements involved in the determination of court cases are independence of the parties — and there is a long history of the separation of powers between the judiciary, the legislature and the executive. Accountability and independence are not always easy to reconcile.

In another article taken from a February 1998 edition of the *Criminal Law Journal*, Justice Gleeson noted that it was necessary for efficiency to be considered. It states:

> The public are entitled to expect that courts, as institutions, and judges, as individuals, will conduct their business with reasonable efficiency. Courts, within the limits of budgetary and other constraints, should be effectively administered. Judges should handle cases before them, so far as it is within their power to do, in such a manner as to promote economy and efficiency.

There is also the matter of the public perception of the role of judges. Recently I had an example drawn to my attention where the parents of the person who received a custodial sentence had raised a number of issues regarding the expertise and professional skill of the presiding officer. It is important that the public have confidence in the judicial system.

Last year at an Australian Institute of Judicial Administration conference in Darwin, an Irish litigation solicitor, Michael O'Mahoney, presented a paper on legal knowledge and the role of judges. He categorised judges into nine areas: the gentle judge — who while lacking in experience is full of enthusiasm; the quiet judge; the pragmatic judge; the witty judge — where litigants were often concerned at the preposterous spectacle of their high-paid counsel engaging in courtroom hilarity; the lawyer judge; the intrusive judge; the impatient judge; the authoritarian judge; and the intellectually challenged judge — without deep talents or judicial learning. At the conference another person presented a paper and stated that he had never met a bad judge — not one — but he had met a number in which there was considerable room for improvement.

It may be through this bill that judges will have good opportunities to gain an understanding of areas of their immediate work — principally at the bar but some judges are appointed from other arenas — and they might have the opportunities to broaden and strengthen their skills base.

It was noted by a New Zealand contributor at the time that:

> It is about the judges saying yes we are accountable to the community we serve, we can be accountable by ensuring the quality of work we do is of the highest standard possible…

I turn to the bill which sets out the functions of the college. The explanatory memorandum for clause 5 provides that the functions are to:

> assist in the professional development of judicial officers;
>
> provide continuing education training to judicial officers;
>
> produce relevant publications;
>
> provide (on a fee for service basis) professional development or continuing judicial education and training services to persons other than judicial officers as defined in the Act; and
>
> liase with persons and organisations in connection with the performance of any of its functions.

The bill provides for appointees to the board of directors who will have the governance of the college. Clause 8 delineates and outlines their skill base. The board will include the Chief Justice of Victoria or nominee; the President of the Victorian Civil and Administrative Tribunal or nominee; the Chief Judge of the County Court or nominee; and the Chief Magistrate or nominee. Two persons will be appointed by the Governor in Council on the nomination of the Attorney-General, one of whom must have experience as a member of the academic staff of a tertiary or other

educational institution, and the other must be a person who in the opinion of the Attorney-General has broad experience in community issues affecting courts.

Much academic research on the merits and benefits of judicial education has been conducted by the Australian Institute of Judicial Administration and people such as Chris Roper, who has a role in judicial education in Queensland. The lead speaker at the conference in Darwin last year was Catherine Branson, who is a judge from Ireland. In quoting an Ontario female judge she said, 'What are we seeking to do in calculating the cost of justice when we have absolutely no idea of the cost of injustice?'.

A contrast might be drawn between the Victorian judicial system and that of Timor. Several Timorese judges appeared. They advised the conference that they had neither pens nor chairs and but for the assistance of several Australian courts would have had nowhere to go in their important work on human rights and war crimes and in the re-establishment of a system of justice in Timor. Much work can be undertaken between Australia and its near neighbour, Timor, as it seeks to develop a new legal system. Only time will tell whether Timor adopts the traditional system that reflects the Indonesian–European approach or the British common-law system.

The Victorian system is estimated to cost some $2.7 million over four years, which is a sizeable sum. Members of the parliamentary Law Reform Committee have travelled throughout country Victoria — to Mildura, Robinvale, Swan Hill, Echuca, Warrnambool and Morwell — and have taken submissions from many communities. One of the major difficulties confronting Victoria is the disproportionate participation of members of the Koori community in the Victorian justice system. According to public submissions that is marked by a number of factors, including leaving school early — as young as 8 or 10 — and unemployment levels. In Echuca the unemployment level of 16 to 24-year-olds among the Koori community is 85 per cent. In Horsham a few years ago when people were unable to gain employment through the local cooperative the unemployment rate was close to 100 per cent among the whole Koori community.

In calculating the cost of justice and the cost of injustice, Victoria must balance the money spent at one end of the legal system while ensuring that people at the other end of the system have the right to actively participate in Victorian and Australian society. In economic terms that is a challenge for us as legislators.

Mr HULLS (Attorney-General) — I thank honourable members who have contributed to this important debate. The legislation will put Victoria at the forefront of judicial education and training in Australia.

A substantial amount of interest in the proposed legislation has been expressed from other states and in particular from the federal government. Indeed, some time ago a request about the working party's report on this matter came from the office of the federal Attorney-General. Issue has been raised as to whether the legislation should proceed in light of a proposal by the federal Attorney-General to involve other states in a national college.

In my capacity as Attorney-General in this state for the past 18 months and having attended a number of meetings of the Standing Committee of Attorneys-General (SCAG), which are attended on a regular basis by Attorneys-General from around Australia, I consider it important to press on with the legislation. If and when a national college got up and was running, the Victorian college could work hand in hand with that national college. That was the view also expressed by the working party which was headed by the Chief Justice of Victoria and advised on the matter.

I am not convinced that a national college would be up and running in my lifetime. Given the way SCAG works and that some states have already expressed disinterest in a national college the proposal to establish our state judicial college is certainly the way to go. I believe that other states will take a leaf out of Victoria's book on this enlightened piece of legislation.

The policy basis of the legislation is clear: judicial education will enhance the independence, professionalism, stature and overall competence and performance of judicial officers. Just as importantly, it will enhance the public perceptions of that professionalism. It will stand as an integral feature of a properly operating modern and accountable judiciary. Judicial education is also necessary to meet the changing demands placed on the judiciary.

Having travelled overseas in June of last year and looked at the judicial education systems in America — on both the west and east coasts — and in various European countries, I am somewhat dismayed to say that Victoria has been slow to act to establish a formalised judicial education and training system.

Although an ad hoc system has operated for a while, the proposed college will formalise that important training. If we want the best and the brightest individuals to serve as members of our judiciary and tribunals we

must also equip them with the appropriate tools to enable them to perform their jobs at the highest level. Indeed, that is what the legislation will do. As Attorney-General I will continue to ensure that the best and brightest are chosen to sit on the bench in our courts and tribunals. However, it is absolutely essential to enhance existing skills by way of judicial education and training.

As a number of speakers have said, the college will be responsible for designing professional development and continuing judicial education courses. It is anticipated that the college will offer a range of programs to Victoria's judicial officers including intensive courses, seminars and workshops. Courses will be developed in consultation with education committees established in each of the courts and the Victorian Civil and Administrative Tribunal. They could include professional development courses in areas such as judicial conduct, courtroom management, trial management, judgment writing, sentencing and bail, judicial orientation programs for new appointees and continuing judicial education programs addressing current social and community issues.

The proposed training is absolutely crucial because, although some are chosen from the solicitor side, in the main our judicial officers are chosen from the barrister side of the legal profession. It is very difficult to go from being a practising barrister one day to a judge the next without appropriate and ongoing education and training.

While barristers have substantial skills which they pick up in the course of their life as barristers, it is a totally different kettle of fish — a totally different job, if you like — to being a judge. That is why it is important that we give the best and brightest all the tools available to ensure they perform the job of a judge or tribunal member at the best possible level.

I welcome the support of members of the house for this important piece of legislation. I am very excited about the establishment of the college. I am excited to be the Attorney-General who has introduced this landmark legislation. I am pleased interest about the proposal has been expressed by a number of other states and the commonwealth. Yet again, under the Bracks Labor government Victoria will be seen to be leading the pack in judicial education and training and, just as importantly, in access to justice. When you are talking about access to justice, you are talking about access to high quality justice. That is what this piece of legislation will deliver.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

JUDICIAL AND OTHER PENSIONS LEGISLATION (AMENDMENT) BILL

Second reading

Debate resumed from 3 May; motion of Mr HULLS (Attorney-General).

The ACTING SPEAKER (Mr Richardson) — Order! Before calling the Attorney-General, I advise the house that I am of the opinion that this bill needs to be passed by an absolute majority of the whole of the members of the Legislative Assembly.

Mr Hulls — I am more than happy to hand over to the shadow Attorney-General at this stage!

The ACTING SPEAKER (Mr Richardson) — Order! I am sorry. Just work it out amongst yourselves.

Dr DEAN (Berwick) — You will have to do so permanently in 18 months time!

We will start on a nice supportive note on this bill. Mr Acting Speaker, I once went to a lecture on the importance of life delivered by a Dr Tickell. He said the four most important things in life are fish, sex, laughter and vegetables. He said that it is most important, however, not to try them all at once because it gets a bit messy.

Mr Hulls interjected.

Dr DEAN — He said he was rung by Ita Buttrose who said she was not interested in sex. He said she could try rice instead of sex! But I would say the most important things in life are five: fish, sex, laughter, vegetables and superannuation, because I can tell you, Mr Acting Speaker, that whenever you mention the word 'superannuation' it is amazing how everybody's eyes light up and all of a sudden people take great note of the conversation. Why shouldn't that be so — —

An honourable member interjected.

Dr DEAN — Certainly when you get past the 40-year-old mark, your eyes light up a little bit more. Why shouldn't that be so? Superannuation is basically

about your future and perhaps how the twilight years of your life will run and how you will cope with them.

The bill covers the Governor, judges and masters of the Supreme Court and County Court, the Solicitor-General, the Chief Magistrate, the Director of Public Prosecutions, the Chief Crown Prosecutor, and senior Crown Prosecutors. All of those judicial officers are members of a constitutionally protected superannuation scheme.

On becoming a judge or the Governor there is often a big change to the life that the person experienced prior to becoming a judge or the Governor. Often the difference is that before taking on that office the person was involved in some form of private enterprise and usually, certainly in the case of judges, their income was three or four times that of a judge. Therefore, it is not unfair to say that some notice is taken by the judiciary of the superannuation scheme that attaches to that wage.

In his second-reading speech the Attorney-General made quite a deal of the fact that as a consequence of downgrading the superannuation scheme, people of lesser quality will put themselves up to become judges of the Supreme Court or the Court of Appeal. In theory that sounds fine, but in practice I do not think it is right. In almost every case when a person decides to become a judge, they do it not for the money but because they want to take on that obligation as a public service. Again, in almost every case they are taking a huge cut in salary, so whether the salary is this or that amount is not the primary consideration.

I know the Attorney-General said in his second-reading speech that we might not attract the best people, but the best people who become judges are those who do so not for the money but because they want to do it as a community service. The very best people will still be attracted to the judiciary because the reasons for their becoming judges have not changed. Nevertheless, that is no excuse for downgrading their superannuation as a consequence of the introduction of the superannuation surcharge.

Another point the Attorney-General made in his second-reading speech was that it would have been better if the superannuation surcharge did not apply to judges' superannuation entitlements. I disagree with that because if a scheme is introduced for the rest of Australians under which all Australians who earn above a certain amount have to pay the surcharge, to then isolate a group in the community and say that they do not have to pay would be a disastrous public relations exercise. Quite rightly, the rest of the community would see those groups who do not have to pay the surcharge as favoured groups. It is appropriate that all groups pay the surcharge. However, that is not an excuse for not making adjustments with respect to the wages and salaries and superannuation of people in those positions so that they are not unfairly or unduly penalised as a consequence of the surcharge.

In private industry the impact of the surcharge on a contributory scheme is determined by the marketplace. If suddenly superannuation benefits are affected because of the introduction of a tax, the market — that is, the private employer — determines what adjustments will have to be made by the private employer to ensure that it does not lose the talent that it wants. Those adjustments are made in the marketplace to offset taxes on salaries over a certain amount and to ensure that people are not unduly discounted or affected by them. Therefore, it is only appropriate that people who are in public positions, such as judges, governors and the like, also have some adjustments made to ensure that they, too, are not overly affected by the situation.

Because judges are on a non-contributory scheme, as are in part parliamentarians, they do not have the opportunity to pay as they go — they could of course save as they go into a special account — in a way that would ensure that when they retire at the end of their period in office and the superannuation cuts in they are not met with a massive superannuation bill. That is because in their case, as non-contributory members, the surcharge accumulates and continues to grow for the period that they are working and will be calculated at the end of that period as a lump sum which they will have to pay to the Australian Tax Office.

The difficulty is that if you are on a scheme that enables you to have a pension and you elect to have that pension at the end of your period in office, you may well have to pay the lump sum surcharge at that time. However, because you are getting a pension and not a lump sum payment, you cannot possibly pay that lump sum surcharge, which could be as high as $330 000, from a pension. Your pension gives you so much per month but you are required to pay your surcharge immediately you retire, which puts you in a very difficult position. It certainly puts a family in an impossible position when the family member who is to receive the pension dies and therefore becomes liable for the surcharge, because the wife and children have to pay that surcharge. They may get a reduced pension as a result of the death but they are in the same position as the judge would have been for the payment of the surcharge, and that is most unfair.

The bill introduces a simple solution — one which already operates for parliamentarians — that allows a person to use the services of an actuary to determine by how much future pension payments would have to reduce to finance a lump sum payment of the surcharge tax. It means that if a person has taken that election option and retires, an actuary will provide an estimate of the pension reductions needed to finance that lump sum surcharge — and the minister must within 10 days ensure that the actuary is given that task.

The choice is yours. You can remove the election option and just pay the sum that finally comes to you from the tax office. But if you prefer, you can elect for the government to automatically pay that sum to the tax office on your behalf so you do not suddenly get stuck with further tax because you have received more income, and you can then enjoy your slightly reduced but nevertheless secure pension for the rest of your life.

It does not replace the surcharge in the judge's salary. I know judges and the other people affected would like to see a superannuation scheme whereby they do not have to suffer a reduced pension to pay the surcharge — in other words, the government picks up the tab for the surcharge. I understand that, and while I would like to see that, this is certainly a step in the right direction because it enables judges to go on to their pension and pay the surcharge without any discomfort.

Mr RYAN (Leader of the National Party) — The National Party supports the Judicial and Other Pensions Legislation (Amendment) Bill. For the reasons that have been very capably explored by the honourable member for Berwick it believes the proposed legislation should pass.

The effect of the bill is confined to a defined series of persons who are in receipt of particular styles of pensions that are paid out of consolidated revenue, generally termed constitutionally protected pensions. The bill applies only to the Governor, judges and masters of the Supreme Court and County Court, the Solicitor-General, the Chief Magistrate, the Director of Public Prosecutions, the chief Crown prosecutor and senior Crown prosecutors.

In essence, the import of the proposed legislation is that it will remedy a circumstance which, as has been explained by the honourable member for Berwick, is unfair. The bill is a countermeasure aimed at ensuring that people of the appropriate standard will apply for and be appointed to the respective positions.

The system as it currently operates would have to be an impediment to the people in the categories I have mentioned who rely on the financial support of their positions. That situation is addressed by the bill and it is therefore supported by the National Party.

Mr WYNNE (Richmond) — I support the Judicial and Other Pensions Legislation (Amendment) Bill. As the honourable member for Berwick and the Leader of the National Party said, the purpose of the bill is to enable members of constitutionally protected pension schemes to elect to have part of their pensions commuted to pay the commonwealth superannuation surcharge.

As all honourable members know, the surcharge legislation requires members of a pension scheme to pay a lump sum of 15 per cent of entitlements on retirement. In some cases that lump sum liability may amount to significant amounts, in the tens of thousands if not hundreds of thousands of dollars. The surcharge is a tax on a scheme member's future pension entitlements and therefore must be paid on money not yet received.

It is also a matter of concern that a spouse of a scheme member who has died could face a large surcharge liability calculated on the member's expected life span and yet receive only a reduced pension.

Members of the judiciary who do not have independent wealth but are relying on their pensions for retirement income may be deterred from judicial appointment by that up-front surcharge. As the Attorney-General said about the bill previously before the house, the government is particularly interested in attracting the brightest and the best to serve in the high office of a member of the judiciary. If that taxation problem were not addressed, it may have deterred people from seeking to take judicial office.

Other states, including Queensland, South Australia and New South Wales, have moved to provide similar rights, although Victoria's provisions will be the most flexible in Australia.

The commonwealth superannuation surcharge legislation does not allow scheme members to convert their pensions into a lump sum. The surcharge should not apply to those pension entitlements, and the complete failure of the commonwealth to reconsider the issue has left the states to deal with the problem through their own legislative processes. The process is unnecessarily complex and burdensome; however, with this bill Victoria is streamlining for the judiciary the way the impost is dealt with.

The proposed legislation will provide surety to eminent people currently practising in the law who may at a

future date be attracted to the calling of higher office but may otherwise have been deterred from seeking that judicial office. People who are very successful at the bar obviously receive significant and well-deserved remuneration for their work, and choosing to take judicial office, often at a significant financial cost to themselves, is a difficult decision to make. The government should remove as much of that cost as it can. The surcharge is a difficult cost for people to cope with, and the bill assists in the government's endeavour to attract the brightest and best to judicial office. I welcome the legislation and wish it a speedy passage.

Mr MACLELLAN (Pakenham) — I shall be quick, but I wish to speak in support of the bill. When talking about the sacrifices made by people in taking up judicial office we need to have in our minds the background that Australian professional cricketers are threatening to have salaries in excess of $1 million a year, with perhaps an equal amount from endorsements.

Many people who take judicial office do not find themselves in financial comfort zones, as opposed to the incomes they previously had. They do it at tremendous sacrifice, and the honourable member for Richmond was correct in pointing out that many people who take judicial office do it at enormous sacrifice to their incomes and their family's prospects. They do it out of a commitment to service and the community.

If this legislation can achieve a fairer result for those who hold these statutory offices it deserves the support of the house, the Parliament and the people of Victoria. The motives are right. They are not about giving special deals or concessions to any one group, but rather about taking into account the new rules that have come in on a national basis — including a surcharge on supposedly higher superannuation payments — and making the necessary adjustments to allow for that to be reflected in the way in which it is either deferred or accounted for over a period of office.

The name of the bill is perhaps an uncomfortable title in that I am not sure the Governor is a judicial office, but never mind. Perhaps it would have been better if it had been called 'An official office-bearer's legislation', but the effect is the same: people are remunerated according to the definition, and that makes it perfectly clear to the group to whom it applies.

Earlier in the day I explained that I do not expect ever to hold any judicial office, and I am quite frank about saying I have no ambition to occupy the big white house on the hill, either. I imagine that it is not only draughty but in many aspects uncomfortable, both because of the people one is forced to entertain and the circumstances in which one is forced to entertain them. But those who have occupied the office of Governor in this state have done an excellent job and have been tolerant, understanding and welcoming not only to members of Parliament but to a far wider group of people, and have honoured the role in every way.

The bill is welcome, and the options given to those who hold judicial office as defined in the bill are welcome additions and are simply a recognition of the fact that the commonwealth changed the rules and that we must make complementary changes to allow the legislation to be worked through for those who have taken judicial office as defined in this state.

Ms ALLEN (Benalla) — It is a pleasure to speak on the bill because it is most important to make jobs for lawyers more worthwhile outside private practice, since we all know that lawyers can earn much more in private practice.

We also need to encourage more women into the judiciary. Recently when we advertised for magistrates 40 per cent of the applications were from women, and one of the things I would like to see is the appointment of far more women judges in this state and throughout this country.

The public perception out there is that some judges are not considered passionate or strong enough and not harsh enough when sentencing. We have to attract the most competent and compassionate of people to the judiciary.

We also need judges who are more representative of society: those who have been working in legal aid, who have represented the unemployed, the Aboriginal community, or the ethnic community. They are the lawyers working at the coalface. They know and understand the needs of society, and they are the sorts of people also that we need to attract into the judiciary.

We must have sound, attractive salaries to attract the most competent and compassionate. The surcharge, which I understand is in the vicinity of $330 000, has to be paid within three months of retirement and is a tax on the person's future earnings. They have to pay a lump sum tax in respect of money they have not yet received.

The person may never receive sufficient pension to enable them even to pay back the surcharge. Who designed this legislation? Of course — it was the same people who gave us the GST. We should have known. Although the members, spouses and independent children are entitled to a reduced pension, there is no

provision in the commonwealth legislation to even reassess this surcharge or refund any part of it.

I know a lot of lawyers will always be attracted to the judiciary. Their sense of community drives them to it. I know two very competent lawyers, one of whom is in the country. He would love to be a magistrate serving in the country because he believes he has the expert skills to deal with the issues that affect country people, having worked with country people for a number of years. However, there needs to be in place a sound and suitable salary package to attract the most competent, compassionate and best judges to the judiciary. The public deserves nothing less.

The commonwealth surcharge, estimated to be around $330 000, is soul destroying to someone who has paid his or her dues to the industry and has worked hard to get where they are. I commend the bill to the house.

Mr McINTOSH (Kew) — I likewise join the opposition in supporting the bill. Most speakers have identified that one of the most important aspects of the bill is that it protects the one thing that judges do to ensure they get a benefit in performing a wonderful public service — their pensions. There is no mystery, double handling, raising of the bar or increasing salaries. All the bill does is recognise that if judges convert their lump-sum entitlements to pensions the state will enable them to use an actuarial calculation to reduce their pensions over the period of their lifetime to take into account the effect of the commonwealth government's superannuation surcharge.

As every speaker has said, judges perform a wonderful public service. This is not about gender balance or getting the colours right on the bench. The most important issue is to ensure we have the best possible people to perform such an important function. If I were suffering from a debilitating brain disease I would want the most competent and best person to perform surgery. Likewise, if I were charged with murder, I would want to ensure that the person presiding over my trial, my principal protection as a citizen, the person standing between me and incarceration, had the necessary expertise and practical experience in the court.

I referred to Marilyn Warren earlier today. I went through the readers course with her. She has recently been appointed to the Supreme Court and is an adornment to that court. I want to ensure that we get it right through experience, competency, personality and the right background. I support the bill and commend it to the house.

Mr LENDERS (Dandenong North) — I also support the speedy passage of the bill through this chamber. In his second-reading speech the Attorney-General covered the technical detail of the bill, as have other honourable members, so my contribution will illustrate a critical part of superannuation legislation.

As we know in this chamber and in the community — certainly my constituents in Dandenong North are puzzled by superannuation issues — when there is change in superannuation legislation there are many consequences. Clearly the legislation is a measured and responsible response from the state government that is not that dissimilar from the situation that applies to another benefit scheme honourable members have a considerable interest in, the parliamentary superannuation scheme.

The 1996 commonwealth superannuation surcharge and defined benefits schemes do not mesh together well. A lot of grief and difficulties have been caused by their being put together. This is sound legislation that will deal with that issue. It is fair legislation, because it treats judges like other members of defined benefit schemes. I wish the bill a speedy passage, as I know the Attorney-General will want to conclude the debate in the time available.

Mr HULLS (Attorney-General) — I thank all honourable members who have contributed to the debate. It is important legislation. It has been put in place because it is fair and appropriate, but also because it will assist the government in attracting the best and the brightest to the bench. It is crucial that we have a judiciary that consists of people who are there for the right reasons, as the shadow Attorney-General said, and that those people are the best and brightest available to sit in judgment on our fellow Victorians.

Despite some of the comments made by the shadow Attorney-General, until the legislation was mooted a number of potential judicial appointees were reluctant to consider a position on the bench without the knowledge and expectation that the legislation was on the horizon. As the shadow Attorney-General also said, in the main those who sit on the bench take a huge pay reduction to take on that onerous and responsible position. However, they would have been far worse off had the legislation not been introduced, because they are members of constitutionally protected pension schemes and this legislation will enable them to elect to commute part of their pension to pay the commonwealth superannuation surcharge tax.

The policy consideration that has been given as the reason for introducing the legislation is that the lump sum surcharge liability, which could be as much as $300 000, is incurred on a pension that is payable over a number of years. In essence that tax under the commonwealth scheme is payable in advance. The judiciary and the legal profession have criticised the commonwealth legislation, and concern has been expressed that the way the tax is applied could affect the state's ability to attract suitably qualified candidates for public office. I do not want that ability to be affected in any way; I want suitably qualified candidates available to take up the important position of judicial office. Concern was also expressed that a spouse of a member who had died could face a large surcharge liability calculated on the member's expected lifespan but receive only a reduced pension.

Substantial consultation has taken place with members of the judiciary who will be affected by the legislation. To be frank, this legislation puts those members of the constitutionally protected pension schemes who will be affected in line with members of Parliament. It would be grossly hypocritical if the government were not introducing this legislation and not granting the same types of benefits to those who are protected by constitutionally protected schemes as protect us as members of Parliament.

I thank all honourable members for supporting the legislation, and I, too, wish it a speedy passage.

The ACTING SPEAKER (Ms Davies) — Order! I am of the opinion that the second reading requires to be passed by an absolute majority. As there are fewer than 45 members present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read second time.

Debate interrupted pursuant to sessional orders.

The SPEAKER — Order! The time allocated for consideration of the government business program has expired.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

LIQUOR CONTROL REFORM (AMENDMENT) BILL

Second reading

Debate resumed from 1 March; motion of Mr HAERMEYER (Minister for Police and Emergency Services)

Motion agreed to.

Read second time.

Circulated amendment

Circulated government amendment as follows agreed to:

Insert the following new clauses to follow clause 8 —

'AA. ***New Division 3A inserted in Part 2***

After Division 3 of Part 2 of the Principal Act **insert** —

'Division 3A — Controlling Interests

26A. ***Definitions and*** **interpretation**

(1) In this Division —

"associate" has the meaning, in relation to a person, it would have under the Corporations Law if, in Division 2 of Part 1.2 of the Corporations Law —

(a) for paragraphs (b) and (c) of section 12(1) of that Law, there were substituted —

"or

(b) the primary person's voting power in a body corporate or whether the primary person is in a position to exercise certain powers in relation to a body corporate;"; and

(b) sections 13, 14, 16(2) and 17 of that Law were repealed;

"commencement day" means the day on which section 9 of the **Liquor Control Reform (Amendment) Act 2001** came into operation;

"officer", of a body corporate, has the same meaning as in section 82A off the Corporations Law;

"packaged liquor licence" includes a general licence under which, in the opinion of the Director, the predominant activity carried on in the area set aside as the licensed premises is the

sale by retail of liquor for consumption off the licensed premises.

(2) In this Division, a reference to a licence includes a reference to a licence that is renewed in accordance with Division 8.

(3) In determining for the purposes of this Division the number of packaged liquor licences held by a person, account is not to be taken of any general licence that was —

(a) in force on 23 January 2001; and

(b) held by the person on that day.

26B. ***Relevant interest in a share***

For the purposes of this Division, a person has a relevant interest in a share if, and only if, the person would be taken to have a relevant interest in the share because of sections 608 and 609 of the Corporations Law but a person does not have a relevant interest in a share in a body corporate only because the person has a right of pre-emption in relation to that share if the body corporate —

(a) was formed by two or more persons for the purpose of enabling those persons to carry on an activity jointly by means of their joint control of, or by means of their ownership of shares in, that body corporate; and

(b) those persons, or persons who have acquired some or all of the shares in that body corporate, continue to carry on that activity jointly by either of those means.

26C. ***Voting power***

For the purposes of this Division, the voting power a person has in a body corporate is the person's voting power determined in accordance with section 610 of the Corporations Law as if a reference in that section of that Law to a relevant interest were a reference to a relevant interest to which section 26B applies.

26D. ***References to Corporations Law***

A reference in this Division to the Corporations Law is a reference to that Law as it would apply if references in that Law to a body corporate, corporation or company included references to —

(a) a body corporate of any kind wherever formed or incorporated and whether formed or incorporated under that Law or any other law; and

(b) any unincorporated body, being a society, association, company of proprietors or other body, wherever formed, that, under the law of its place of formation, may sue or be sued, or may hold property in the name of the secretary or some other officer of the society, association or body, or in the name of any trustee or trustees; and

(c) any unincorporated body, being a society, association, company of proprietors or other body or undertaking to which is applied, under the laws of the place of its formation, with or without exceptions, a law in force in that place relating to companies or corporations as if it were a company or corporation within the meaning of that law.

26E. ***Controlling interest in a body corporate***

For the purposes of this Division, a person has a controlling interest in a body corporate if —

(a) the person's voting power in the body corporate is more than 50%; or

(b) the person and the person's associates have relevant interests in shares in the body corporate that confer or, if a dividend were declared or a distribution of profits were made by the body corporate, would confer a right to receive the benefit of more than 50% of' the dividend or distribution; or

(c) the person and the person's associates have relevant interests in shares in the body corporate that confer or, in the event of any other distribution of property or rights by the body corporate, whether on dissolution or otherwise, would confer a right to receive the benefit of more than 50% of the property and rights; or

(d) the person is able, whether alone or in concert with another, and whether by any act or omission or otherwise, to dominate or control —

(i) the body corporate; or

(ii) the financial and operating policies or management of the body corporate; or

(iii) the activities of the body corporate as a licensee.

26F. ***Notification of existing controlling interest***

(1) If, as a result of the acquisition of an interest on or after 18 April 2001 but before the commencement day, a person has a controlling interest on the commencement day in a body corporate —

(a) that holds a packaged liquor licence or general licence; or

(b) a related entity of which holds a packaged liquor licence or general licence —

the person must give written notice to the Director in accordance with this section.

(2) The notice must be given within 28 days after the commencement day.

(3) The notice must contain —

(a) the date the interest giving rise to the controlling interest was acquired; and

(b) the name of the person who has the controlling interest; and

(c) the name of the body corporate in which the controlling interest is held.

26G. ***Notification of acquisition of controlling interest***

(1) If, on or after the commencement day, a person acquires an interest that results in the person having a controlling interest in a body corporate —

(a) that holds a packaged liquor licence or general licence; or

(b) a related entity of which holds a packaged liquor licence or general licence —

the person must give written notice to the Director in accordance with this section.

(2) The notice must be given within 7 days after the day on which the person acquires the interest giving rise to the controlling interest.

(3) The notice must contain —

(a) the date the interest giving rise to the controlling interest was acquired; and

(b) the name of the person who has the controlling interest; and

(c) the name of the body corporate in which the controlling interest is held.

26H. ***Director to notify body corporate over 8% limit***

(1) If the Director becomes aware that —

(a) a body corporate (whether or not a licensee) has acquired an interest (whether before, on or after the commencement day) giving the body corporate a controlling interest in a licensee or in a related entity of a licensee; and

(b) because of that controlling interest the sum of the number of packaged liquor licences held by the body corporate and by any of its related entities is more than 8% of all packaged liquor licences granted and in force under this Act —

the Director must give written notice to the body corporate in accordance with this section.

Note: see extended definition of "packaged liquor licence" in section 26A.

(2) The notice must inform the body corporate —

(a) that the body corporate and its related entities hold more than 8% of all packaged liquor licences granted and in force under this Act; and

(b) that none of the packaged liquor licences held by the body corporate or any of its related entities can be relocated while the body corporate and its related entities hold more than 8% of all packaged liquor licences granted and in force under this Act; and

(c) the number of packaged liquor licences by which the body corporate and its related entities exceed the 8% limit; and

(d) the day by which the body corporate and its related entities must cease to hold more than 8% of all packaged liquor licences granted and in force under this Act.

26I. ***Certain licences cease to be in force***

(1) If —

(a) a body corporate (whether or not a licensee) has a controlling interest in a licensee or in a related entity of a licensee (whether the interest giving rise to that controlling interest was acquired before, on or after the commencement day); and

(b) immediately after the interest giving rise to that controlling interest was acquired the sum of the number of packaged liquor licences held by the body corporate and by any of its related entities is or was more than 8% of all packaged liquor licences granted and in force under this Act; and

(c) on the relevant day the sum of the number of packaged liquor licences held by the body corporate and by any of its related entities is more than 8% of all packaged liquor licences granted and in force under this Act —

certain of the packaged liquor licences held by the body corporate or by any of its related entities cease to be in force, in accordance with and by force of this section, at the end of the expiry day.

Note: see extended definition of "packaged liquor licence" in section 26A.

(2) The number of licences that cease to be in force is the number of licences by which the sum of the number of packaged liquor licences held by the body corporate and by any of its related entities on the expiry day exceeds 8% of all packaged liquor licences granted and in force under this Act.

(3) The licences that cease to be in force are determined in reverse order to the order in which they were acquired by the body corporate.

(4) For the purpose of sub-section (3) —

(a) a licence held by a related entity of the body corporate is taken to have been acquired by the body corporate when the related entity became a related entity of the body corporate;

(b) if some but not all of the licences referred to in paragraph (a) cease to be in force, the licences that cease to be in force are determined in reverse order to the order in which they were originally granted or transferred to the related entity (whether or not the related entity was a related entity at the time of the grant or transfer).

(5) If —

(a) any packaged liquor licences were originally granted or transferred to an entity at the same time; and

(b) it is necessary for the purposes of this section to determine which of those licences cease to be in force —

the Director must determine, at his or her discretion, which of those licences cease to be in force.

(6) Within 14 days after the relevant day, the Director must give written notice of each licence that ceases to be in force by virtue of this section to the holder of the licence.

(7) The Director, by giving written notice to the body corporate before the day that would otherwise be the relevant day, may extend the relevant day once for a period not exceeding 90 days, if the Director is satisfied that —

(a) special circumstances exist; and

(b) the body corporate has demonstrated that it has made all reasonable efforts to ensure that the body corporate and any of its related entities do not hold more than 8% of all packaged liquor licences granted and in force under this Act; and

(c) compliance by the body corporate and its related entities with the 8% limit is imminent.

(8) In this section —

"expiry day" means the day on which the Director gives notice to a body corporate under sub-section (6);

"relevant day" means —

(a) if the interest that gave rise to the controlling interest referred to in sub-section (1)(a) was acquired on or before 18 April 2001 — 18 April 2002; or

(b) if the interest that gave rise to the controlling interest referred to in sub-section (1)(a) was acquired after 18 April 2001 — the first anniversary of the day on which the interest was acquired; or

(c) if the Director grants an extension under sub-section (7) — the day specified by the Director in the notice of extension.

26J. ***Restriction on relocation of licences***

Despite anything to the contrary in Division 6, if —

(a) a body corporate (whether or not a licensee) has a controlling interest in a licensee or in a related entity of a licensee (whether the interest giving rise to that controlling interest was acquired before, on or after the commencement day); and

(b) immediately after the interest giving rise to that controlling interest was acquired the sum of the number of packaged liquor licences held by the body corporate and by any of its related entities is or was more than 8% of all packaged liquor licences granted and in force under this Act —

an application for relocation of a packaged liquor licence cannot be granted to the body corporate or any of its related entities if, at the time of the determination of the application, the sum of the number of packaged liquor licences held by the body corporate and by any of its related entities is more than 8% of all packaged liquor licences granted and in force under this Act.

Note: see extended definition of "packaged liquor licence" in section 26A.

26K. ***No compensation***

(1) 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 this Division.

(2) Without limiting the generality of sub-section (1), no compensation is payable as a result of —

(a) anything done by the Director under this Division; or

(b) a licence ceasing to be in force by operation of this Division; or

(c) the operation of section 26J.'.'.

BB. ***Grounds for inquiry***

In section 90(1) of the Principal Act, after paragraph (f) **insert** —

"(fa) has failed to give notice to the Director as required by section 26F or 26G; or".

CC. ***New section 179A inserted***

After section 179 of the Principal Act **insert** —

"179A. ***Supreme Court — limitation of jurisdiction***

It is the intention of section 26K to alter or vary section 85 of the **Constitution Act 1975.".'.**

Resubmission of question

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975 and as a consequence of the amendments having been agreed to by the house, I am of the opinion that the second reading of this bill requires to be passed by an absolute majority and that the second-reading motion should be resubmitted.

Second reading

The SPEAKER — Order! The question is:

That this bill be now read a second time.

Resubmitted motion agreed to by absolute majority.

Read second time.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

TOBACCO (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 15 May; motion of Mr THWAITES (Minister for Health).

Motion agreed to by absolute majority.

Read second time.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

RACIAL AND RELIGIOUS TOLERANCE BILL

Second reading

Mr BRACKS (Premier) — I move:

That this bill be now read a second time.

The purpose of this bill is to enact laws to make racial and religious vilification unlawful.

Honourable members will be aware that Victoria is the most culturally diverse state in Australia.

The people of Victoria come from many different ethnic backgrounds and indigenous cultures and observe many different religious faiths.

Victorians take considerable pride in the fact that people from these diverse backgrounds live together harmoniously in our community.

This diversity has enriched Victoria.

This bill intends to ensure that we continue to reap the benefits of our multicultural society. It is surprising that Victoria is the only state which does not already have legislation of this type.

The main purpose of this bill is to enact racial and religious vilification laws. Before outlining the key elements of the bill however, it is important to put the legislation into context.

While the rule of law can influence behaviour, I want to emphasise that the government sees legislation as only

one plank of the strategy in dealing with racial and religious vilification.

Most importantly we will focus on a range of non-legislative measures designed to promote tolerance and mutual respect, and to deal with conduct that vilifies.

The major means by which we will combat prejudice will be through education.

My government recognises the significant role that education plays in promoting tolerance and respect and we will put in place a range of measures designed to combat prejudice through the implementation of a comprehensive and long-term education campaign.

My government is committed to encouraging participation in the political process and creating a partnership between the people and their government.

In keeping with this commitment we consulted extensively, giving all Victorians the opportunity to have input into what form the bill should take. We held public and specific meetings throughout regional and metropolitan Victoria and carefully considered all submissions put to us.

The government has taken particular care in this bill about the implications for free speech. It is not intended to target trivial comment, impolite remarks or legitimate discussion.

The government recognises that freedom of expression is crucial to our democratic society and to the operation of democratic values such as the equal participation of every citizen in our society.

This bill is closely modelled on the equivalent New South Wales legislation and its impact on freedom of expression is extremely limited.

It is confined to prohibit only the most noxious form of conduct which incites hatred or contempt for a person or group on the basis of their race or religion.

Regrettably, there have been instances of abuse and harassment of this serious nature against ethnic or religious groups in Victoria.

The effect of this abuse is substantial. Victims feel the loss of reputation and a sense of not belonging to the broader community.

Society, as a whole, is the loser from their reduced participation.

The bill

I now turn to the substance of the bill.

A preamble stating the background and rationale has been included together with an objects clause to aid in the interpretation of the bill.

The bill provides for both civil remedies and an offence for racial and religious vilification.

The civil provisions apply only to conduct that, objectively, promotes the strong emotions of hate, revulsion or contempt against a person or group on the basis of their race or religion.

As conciliation will be the preferred approach in dealing with these matters, it is expected that all potential complainants will approach the Equal Opportunity Commission in the first instance.

The role of the Equal Opportunity Commission will be to determine whether, in fact, there is a prima facie case to answer.

The Equal Opportunity Commission will advise complainants of all the options available to them. Where a matter cannot be resolved by conciliation it may ultimately be referred to the Victorian Civil and Administrative Tribunal for hearing and decision.

In suitable cases the Equal Opportunity Commission will advise complainants of the existence of the criminal offence and the option to pursue that avenue.

A protocol will be developed between the Equal Opportunity Commission and Victoria Police on this matter.

Any person who suffers an impairment or who is reluctant to make a complaint on their own behalf can do so through another person or representative body authorised to act for them.

Exceptions are provided for conduct or discussion which is engaged in reasonably and in good faith in relation to an artistic performance or exhibition, as part of any statement or discussion for an academic, artistic, religious or scientific purpose or any other purpose in the public interest.

This exception clause is based on exceptions already existing in equivalent legislation in New South Wales and other jurisdictions.

These exceptions are not a shield for unrestrained abuse.

The case law demonstrates that the requirement that the conduct be done 'reasonably and in good faith' prevents immoderate or inflammatory conduct from being protected.

It should also be emphasised that these exceptions apply to discussion by any citizen, not only commentary by artists, academics or the media.

An exception also exists for private conversations or behaviour, which occurs in circumstances that indicate, objectively, that the parties did not intend to be seen or heard by anyone else.

For example, a private conversation in a private home will be taken not to have been intended to be heard by anyone else and will escape liability. The erection of an offensive sign in the front yard of a private home, which can clearly be viewed by any person passing by, however, is a different matter.

The bill provides for an offence where a person engages in conduct which intentionally incites hatred against a person or group or threatens harm to them or their property by reason of their race or religion.

This offence will be prosecuted by the police before the Magistrates Court with a maximum penalty of a $6000 fine or six months imprisonment.

Consistent with the operation of the Equal Opportunity Act 1995, the bill also prohibits the victimisation of persons who have made a complaint or the assisting of another person to contravene this bill.

Employers will also be vicariously liable for vilification in the workplace which they have not taken steps to prevent.

The bill strikes an appropriate balance with freedom of expression by imposing liability only upon the most repugnant behaviour which actively urges and promotes hate.

Freedom of expression has never been an untrammelled freedom of any person to do or say what they please.

This is evidenced by the present limitations on freedom of expression recognised in our law such as defamation, blackmail and sedition laws.

It is important that the Parliament state that extreme behaviour which has no regard for the rights of others to participate in society is unacceptable.

A clear message to the victims of vilification that the community at large rejects that behaviour is equally important.

I trust that all members will support the bill as appropriate legislation to combat racial and religious vilification.

I commend this bill to the house.

Debate adjourned on motion of Mrs SHARDEY (Caulfield).

Debate adjourned until Thursday, 31 May.

NATIONAL PARKS (MARINE NATIONAL PARKS AND MARINE SANCTUARIES) BILL

Second reading

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That this bill be now read a second time.

I am delighted to introduce the National Parks (Marine National Parks and Marine Sanctuaries) Bill to establish a comprehensive, adequate and representative system of highly protected marine national parks and marine sanctuaries. This will implement one of the government's key election commitments for the environment. It will be a major achievement for Victoria and will place the state at the forefront of marine conservation in the world.

Ecologically sustainable use of our marine environment

Victoria's coastal waters are one of the state's natural treasures, valued by everyone for their beauty and their recreational value but less well known for the magnificence of the natural environment under the water. As custodians of this priceless asset for our children and our children's children, it is our responsibility as a community to ensure that it is protected, particularly those parts which have outstanding natural values. That is the focus of this bill.

Establishing a system of marine national parks and marine sanctuaries is also part of the government's broader commitment to ecologically sustainable use of the whole marine environment. The government's response to the Environment Conservation Council's *Marine, Coastal and Estuarine Investigation Final Report* emphasises the importance of that goal and the need for a comprehensive suite of measures to achieve it. They include:

improving habitat protection, particularly in bays and inlets, through measures such as

revising the state environment protection policy for the waters of Victoria to ensure that there is a clear framework for the protection and, where necessary, rehabilitation of Victoria's aquatic environments for the next 10 years;

increasing the focus on managing the impacts on coastal waters from activities in the catchments;

implementing a stormwater action program to minimise the impact of stormwater discharges on aquatic environments;

implementing a strategy that aims to prevent the introduction of marine pests, including improving the management of ship ballast water and ensuring a rapid and effective response in the event that an introduction does occur;

ensuring fisheries are managed on an ecologically sustainable basis, including shifting the rock lobster industry to a quota management system and developing management plans for the major fisheries; and

developing a new Victorian coastal strategy, a draft of which has recently been released for public comment, which will include a range of initiatives relating to coastal, marine and estuarine environments.

Establishing a truly representative parks and reserves system for Victoria

It is within this broader context that the bill will establish 12 marine national parks and 10 marine sanctuaries under the National Parks Act 1975 covering some 52 500 hectares, or 5.2 per cent, of Victoria's marine waters. This will rectify a major deficiency in Victoria's parks and reserves system — currently less than 0.05 per cent of the state's coastal waters is included in reserves where all marine life is fully protected.

The new parks and sanctuaries will be located along the Victorian coast from Discovery Bay to East Gippsland, and many of the marine national parks will adjoin and complement existing national or other parks. The Twelve Apostles, Port Phillip Heads and Wilsons Promontory marine national parks, to name a few, will become permanent features of our much-loved parks system.

The marine national parks and sanctuaries will protect representative examples of the major habitats and their biological communities within Victoria's five marine biophysical regions. They will include a diverse array of natural features. Rocky reefs and sandy beaches, spectacular limestone canyons and plunging granite slopes, intertidal mudflats and tidal channels, waters exposed to the full force of the Southern Ocean and the more sheltered waters of bays and inlets will all be represented. An equally impressive array of marine life will also be protected, including towering kelp forests and seagrass meadows, mangroves and saltmarsh, colourful corals and sponges, an extraordinary variety of fish and other animals of many colours and shapes, from tiny organisms to large sea mammals such as visiting whales, dolphins and seals.

While marine national parks and sanctuaries will primarily conserve marine habitats and their associated plants and animals, visitors will be encouraged to enjoy, appreciate and learn about their magnificent natural heritage, whether it be from the shore, on a boat or through snorkelling or diving.

A long-term commitment to a world-class parks and reserves system

It is worthwhile placing the creation of these marine national parks and sanctuaries in a broader historical context. Since the 1970s in particular, successive Victorian governments have pursued, mostly in a bipartisan manner, the goal of establishing a world-class system of parks and reserves representative of the state's terrestrial natural environments. The terrestrial system that we now have is an outstanding achievement and one of which all Victorians can be proud. It has not been established without controversy but over time the benefits of this splendid legacy have come to be appreciated by the community at large.

Over the last decade, international and national strategies relating to biodiversity conservation have reinforced Victoria's approach to pursuing a representative system of parks and reserves. Internationally, the Convention on Biological Diversity, which was ratified by Australia in 1993, requests nations to establish a system of protected areas to conserve biodiversity. Nationally, the 1992 national strategy for ecologically sustainable development and the 1996 national strategy for the conservation of Australia's biological diversity commit governments (including Victoria's) to the objective of establishing a comprehensive system of protected areas representative of Australia's biological diversity. At the state level, the previous government's biodiversity strategy and Victorian coastal strategy both included a similar objective, and this government is also strongly committed to that goal.

Although implementation at the national and state levels has focused mainly on terrestrial ecosystems, increasing attention is now being given to the marine environment through the promotion of a national representative system of marine protected areas.

This bill is therefore timely. The establishment of the marine national parks and sanctuaries will not only fill a major gap in Victoria's parks and reserves system but also place Victoria at the forefront nationally and internationally of efforts to establish representative systems of highly protected marine environments.

A comprehensive consultative process

It is indicative of the degree of community interest and debate and the divergent views surrounding marine parks that the bill is the culmination of 10 years of investigation spanning three successive governments of both political persuasions. The process has been long, comprehensive and exhaustive, and I would like to thank all those organisations and individuals who have participated in it. The government values their contributions.

The investigation which led to this bill started a decade ago, in 1991, when the former Land Conservation Council was requested to carry out a special investigation into Victoria's marine, coastal and estuarine areas. In 1997, when the Environment Conservation Council replaced the LCC, the previous government requested the new council to continue an investigation into those areas, with one of its priorities being to make recommendations on a preferred approach and priorities for the progressive establishment of a representative system of marine parks.

The ECC developed its recommendations following a detailed assessment of values, uses and socioeconomic impacts. Its recommendations were informed by the extensive and lengthy public consultation that both the LCC and the ECC itself had undertaken. This included no less than six formal consultation periods resulting in more than 4500 submissions and numerous meetings and discussions with a wide range of interest groups, both at a local level and with peak industry and community groups. Both the LCC and the ECC modified their various sets of draft recommendations after considering the results of the consultation process and the socioeconomic impacts of the proposed recommendations and the best available scientific information.

Since the ECC's final report was released last year, and reflecting the government's commitment to consultation, government ministers have met with many stakeholders representing diverse interests. These have included the following organisations:

Mr Perton interjected.

Ms GARBUTT — Just listen and you will hear them! Australian Marine Sciences Association, Australian Recreational Fishing Alliance, Dive Industry Victoria Association — —

Mr Perton interjected.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Doncaster!

Ms GARBUTT — Fisheries Co-management Council, Marine and Coastal Community Network — —

Mr Perton interjected.

Ms GARBUTT — I have met with every one of the groups named here. The list continues with Mirimbiak Aboriginal Nations Corporation, Rex Hunt Futurefish Foundation — —

Mr Perton interjected.

Ms GARBUTT — Rex Hunt? Yes, I remember that name; I have met with him many times. Seafood Industry Victoria, Victorian Aquaculture Council — —

Mr Perton — He speaks highly of you!

Ms GARBUTT — He doesn't speak highly of you!

The list continues with Victorian Fishing Charter Association, Victorian National Parks Association and VRFish. In addition, ministers have met with local representatives from Portland, Geelong, San Remo, Wonthaggi, Corner Inlet, Lakes Entrance and Mallacoota — —

Mr Perton interjected.

The ACTING SPEAKER (Ms Davies) — Order! I remind the shadow Minister for Environment and Conservation that he will get his turn later, and ask him to hold his peace while the second-reading speech is completed.

Ms GARBUTT — The speech continues: in the course of visits to regional Victoria, and much correspondence expressing a range of views on the matter has been received — and answered.

The purpose of this consultation was to enable the main stakeholder groups representing a wide range of community and industry interests to convey their views about the ECC's recommendations to the government before it made its decisions and responded to the ECC's final report.

The government's decisions

After considering the ECC's final report and the views of the community and industry, the government has decided to implement its commitment to establishing a comprehensive, adequate and representative system of marine national parks as follows:

All of the marine national parks and marine sanctuaries recommended by the ECC except for Cape Howe and Ricketts Point will be established under the National Parks Act 1975 on 16 November 2001.

Areas have been excluded from the recommended Discovery Bay, Twelve Apostles and Corner Inlet marine national parks to reduce impacts on the commercial and recreational fishing sectors. There are also minor adjustments to the boundaries of the Point Nepean section of Port Phillip Heads Marine National Park and Beware Reef marine sanctuary to increase management efficiencies.

Commercial and recreational fishing in the Discovery Bay, Twelve Apostles and Corner Inlet marine national parks and Point Cooke marine sanctuary will be permitted to continue at sustainable levels until 1 July 2003.

These decisions will reduce the impacts on the commercial and recreational fishing sectors while achieving the broad objective of establishing a highly protected marine national parks system. They will also bring to a conclusion a lengthy process and end ten years of uncertainty for the fishing sector.

Government assistance to the fishing industry

The government appreciates that, in establishing the marine national parks and sanctuaries in the long-term interests of this and future generations, there will be an impact, at least in the short term, on the fishing sector in particular, notably the abalone and rock lobster industries.

Consequently, the government has committed funds in this year's state budget to measures to assist the industry to adjust. These measures are in addition to the benefits to commercial and recreational fishers from not proceeding with, or excluding certain areas from, particular parks and sanctuaries recommended by the ECC, and from delaying the cessation of fishing in particular parks and sanctuaries until 1 July 2003.

The assistance measures that will be funded include:

enhancing compliance significantly by —

appointing 21 new regional field-based fisheries officers to achieve an enhanced level of compliance, particularly in relation to abalone theft — an increased enforcement presence on the water will be crucial to protecting the new parks and sanctuaries from illegal activities as well as to reducing the amount of abalone theft statewide so that this resource can become available to legal commercial fishers, including those directly affected by the parks;

appointing three strategically located regional investigations officers to plan coordinated major, intelligence-based, joint-agency enforcement operations;

expanding the special investigations group to include additional intelligence analysis and investigators to concentrate on the illegal abalone industry;

providing a permanent fisheries presence between Geelong and Warrnambool; and

purchasing a new fisheries patrol vessel to provide additional at-sea compliance capacity on the Gippsland coast;

providing the abalone industry with scientific and technical support to help identify and survey areas of currently underutilised resource that can help to replace the existing fishing grounds within the parks and sanctuaries — this will involve working closely with individual licensees; and

making ex gratia payments to those rock lobster and fin fish licensees who, as a result of a redirection of fishing effort away from the marine national parks and sanctuaries, are able to demonstrate a loss of income directly related to reduced catch — this measure will operate over a transitionary period as new fishing areas are investigated, and will be complemented by the adjustment package accompanying the shift of the rock lobster industry to quota management.

Overall, in establishing a system of highly protected marine national parks and sanctuaries, the government has endeavoured to ensure that the impacts on the

commercial and recreational fishing sectors and the associated local communities have been properly taken into account.

Statements under section 85(5) of the Constitution Act 1975

Clause 19

I now make the following statement under section 85(5) of the Constitution Act 1975 in relation to an alteration or variation of the jurisdiction of the Supreme Court proposed by the bill.

Clause 19 provides that it is the intention of section 48B(1) of the National Parks Act 1975 to alter or vary section 85 of the Constitution Act 1975 so that the Supreme Court is prevented from awarding compensation to any person for any loss or damage as a result of any alteration to the force or effect of or to any rights conferred or otherwise arising under a licence, permit or other authority (however described) or an order in council, order, notice, direction or plan (however described) under the Fisheries Act 1995 or regulations made under that act, or as a result of the creation of a marine national park or a marine sanctuary under the National Parks Act 1975 as amended by the National Parks (Marine National Parks and Marine Sanctuaries) Act 2001, or as a result of the existence of such a marine national park or marine sanctuary.

The reason for the amendment is as follows. The government intends to legislate to establish marine national parks and marine sanctuaries in which fishing and various other activities will not be permitted in order to enhance significantly the state's parks and reserves system. It has considered the impacts of this proposal and has announced measures to assist those in various sectors of the fishing industry who may be affected by the new parks and sanctuaries. Taking into account the package of assistance measures, the government considers that it is not necessary for the state to be exposed to the possibility of paying additional funds in compensation.

Clause 26

I now make a further statement under section 85(5) of the Constitution Act 1975 in relation to an alteration or variation of the jurisdiction of the Supreme Court proposed by the bill.

Clause 26 provides that it is the intention of section 144A(1) of the Fisheries Act 1995 to alter or vary section 85 of the Constitution Act 1975 so that the Supreme Court is prevented — —

Opposition members interjecting.

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable members for Doncaster and Monbulk to show a degree of respect for the Chair, whoever the Chair is. I ask them to hold their peace and wait until it is their turn to debate the bill in two weeks, or whatever date the opposition moves to have the debate adjourned until, and to listen to the second-reading speech without making the impolite interjections I have just heard.

Mr McArthur — On the point of order, Madam Acting Speaker — —

The ACTING SPEAKER (Ms Davies) — Order! There was no point of order.

Mr McArthur — On a point of order, Madam Acting Speaker, I was — —

The ACTING SPEAKER (Ms Davies) — Order! Would the honourable member like to wait until I call the point of order?

Mr McArthur — Yes.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Monbulk on a point of order — politely!

Mr McArthur — As the Chair pointed out, the honourable member for Doncaster and I were conducting a conversation, but none of that conversation reflected on the Chair, Madam Acting Speaker. I would like to make it clear to the Chair that we were discussing the behaviour of an individual member.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order.

Ms GARBUTT — Clause 26 provides that it is the intention of section 144A(1) of the Fisheries Act 1995 to alter or vary section 85 of the Constitution Act 1975 so that the Supreme Court is prevented from awarding compensation to any person for any loss or damage as a result of any alteration to the force or effect of or to any rights conferred or otherwise arising under a licence, permit or other authority (however described) or an order in council, order, notice, direction or plan (however described) under the Fisheries Act 1995 or regulations made under that act, or as a result of the creation of a marine national park or a marine sanctuary under the National Parks Act 1975 as amended by the National Parks (Marine National Parks and Marine

Sanctuaries) Act 2001, or as a result of the existence of such a marine national park or marine sanctuary.

The reason for the amendment is as follows. The government intends to legislate to establish marine national parks and marine sanctuaries in which fishing and various other activities will not be permitted in order to enhance significantly the state's parks and reserves system. It has considered the impacts of this proposal and has announced measures to assist those in various sectors of the fishing industry who may be affected by the new parks and sanctuaries. Taking into account the package of assistance measures, the government considers that it is not necessary for the state to be exposed to the possibility of paying additional funds in compensation.

The bill

I turn now to some other aspects of the bill.

In relation to the establishment and general management of marine national parks and sanctuaries:

clauses 2, 6 and 24 provide for the creation of 12 marine national parks and 10 marine sanctuaries under two new schedules to the National Parks Act 1975 on 16 November 2001;

clause 4 provides that the objects of the National Parks Act for national and state parks also apply to marine national parks and marine sanctuaries;

clause 6 requires the secretary to ensure that the parks and sanctuaries are protected and to provide for visitor use and enjoyment subject to that protection; and

clause 18 ensures that regulations under the National Parks Act can be made in relation to marine national parks and sanctuaries.

Most of the marine national parks will incorporate parts of several national or other parks already established under the National Parks Act. Clause 20 technically excises areas from the existing parks to the extent that there is overlap with the new marine national parks. Clauses 21, 22 and 23 make the necessary amendments to the descriptions of the existing parks.

In terms of the government's commitment to dealing with any proposed excisions from parks in a transparent manner, these particular excisions are fully justified because the land is merely being transferred from one park to another under the National Parks Act, and the protection being afforded to the areas is not being diminished. The National Parks Advisory Council has advised that in this instance it does not oppose the transfer of land from one category of park to another.

With respect to the name of corner inlet marine national park, which includes only part of Corner Inlet, the government will consult with the community to find an alternative name that does not confuse the park with Corner Inlet as a whole or the existing Corner Inlet Marine and Coastal Park. The new name will then be put to the Parliament.

An important aspect of the bill is to ensure that fish, as well as other fauna, in marine national parks and sanctuaries are fully protected. Clause 16 inserts new sections into the National Parks Act to ensure that there are appropriate offences and penalties to deal with illegal fishing activity and encourage a high level of compliance, and to ensure that there are sufficient enforcement and evidentiary powers to deal with illegal fisheries activities, particularly those in connection with the high-value commercial species abalone and rock lobster that require a high level of enforcement to prevent their illegal take.

Section 45A contains offences to prevent the take or attempted take of fish or fishing bait and the carrying out of aquaculture activities. Because of the inherent difficulties in detecting fisheries offences committed underwater, there is also an offence to possess priority species (notably abalone and rock lobster) on a boat in a marine national park or sanctuary. However, it will be a defence to be travelling through the park or sanctuary by the shortest practicable route. These offences are in addition to various offences under the Fisheries Act 1995 that might also apply in marine national parks and sanctuaries.

Section 45A(6) and (7) explicitly state that a licence, permit or other authority issued under the Fisheries Act 1995 or an order in council, order, notice, direction or plan under that act does not authorise the holder or any person to act in a manner which is prohibited under section 45A.

Section 45A(8) enables fishing to continue in Corner Inlet, Discovery Bay and Twelve Apostles marine national parks and Point Cooke marine sanctuary until 1 July 2003. The new offence provisions will not apply to those four areas until then.

Section 45B ensures that there are adequate enforcement and evidentiary powers to deal with the new fisheries offences by applying particular provisions of the Fisheries Act to the new fisheries offences under the National Parks Act. The strong provisions in the Fisheries Act were developed in response to the range

of difficult circumstances encountered when enforcing and prosecuting fisheries offences generally and, as applicable, are equally appropriate for dealing with fisheries offences committed under the National Parks Act in marine national parks and sanctuaries. This approach also ensures that there is a common enforcement regime applying to fisheries offences, whether they are committed under the Fisheries Act or the National Parks Act.

Section 45C extends liability to the holders of particular categories of fishery licences so that they are accountable for the activities carried out by any employee or boat operator while engaging in conduct on behalf of the licence-holder.

Section 45D, which enables proceedings to be commenced for the major offence of taking or attempting to take fish for sale in a marine national park or sanctuary, is similar to section 127(a) of the Fisheries Act 1995. This recognises that detailed investigations over a long period may be necessary to obtain the necessary evidence to prove the offence.

Marine national parks will extend to a depth of 200 metres below the surface of the seabed or other land, in accordance with the ECC's recommendations. There is no such reservation limit for marine sanctuaries. With respect to earth resources, pipelines and sea-floor cables in those areas, and in accordance with the government's decisions on the ECC's final report:

clauses 11, 25 and 27 prohibit petroleum extraction, mineral exploration and mining, and the searching for and extraction of stone;

clauses 11 and 12 prohibit petroleum exploration except when it can be carried out from an aircraft or vessel in a manner that does not detrimentally affect the park or sanctuary and only with the consent of the minister responsible for the National Parks Act; and

clause 12 also prohibits new pipelines and sea-floor cables in marine sanctuaries, and prohibits them in marine national parks except with the consent of the minister after environmental assessment and being satisfied that there is no practicable alternative outside the park.

Conclusion

The creation of this magnificent system of marine national parks and marine sanctuaries will be an outstanding achievement by any benchmark, international or national. For the first time, a jurisdiction will have established a comprehensive system of highly protected marine protected areas — in this case a system that represents the diversity of Victoria's magnificent marine environment.

The marine national parks and marine sanctuaries will, in this centennial year of our nation, be a splendid legacy to pass on to future generations and one in which all Victorians can take pride. The marine national parks and sanctuaries will also be a further testimony to this state's commitment to the conservation of its natural heritage and to establishing a truly representative parks and reserves system to protect it.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That the debate be adjourned for two weeks.

Mr PERTON (Doncaster) — On the question of time, I ask that the Minister for Environment and Conservation give an undertaking to the house that if additional time for consideration of the bill is needed by either the Liberal Party, the National Party or yourself, Madam Acting Speaker, that time should be made available.

As one can imagine, most people would have expected the recommendations of the Environment Conservation Council to be delivered in whole with minor variation. When one considers the most cynical and grubby exercise the government could undertake with respect to this bill one could have imagined that the Cape Howe park might have been modified substantially.

However, one would not have believed that the government would have totally removed the Cape Howe marine national park in the East Gippsland electorate of abalone licence-holder Craig Ingram.

The ACTING SPEAKER (Ms Davies) — Order! I ask that the debate remain on the question of time.

Mr PERTON — Absolutely, Madam Acting Speaker. Because the problem for you, the problem for me and the problem for the National Party is that the decision of the government has utterly thrown out nine years of independent scientific study. It has thrown out 4200 submissions. It has thrown out the work you have done, Madam Acting Speaker. It has meant that the fishermen in your electorate and the fishermen in every other electorate along the coast will ask why they did

not get the favoured treatment that the fishermen in Craig — —

The ACTING SPEAKER (Ms Davies) — Order! I remind the honourable member for Doncaster of standing order 101, which states that the honourable member is entitled to speak at a later stage provided he has not spoken during the motion for adjournment. I remind the honourable member that he should hold closely to the question of time and not debate the motion in any way.

Mr PERTON — The other reason we need a commitment for time is that you will recall, Madam Acting Speaker, that in the last term of the Kennett government an amendment to section 85 of the constitution was a matter of great controversy. The government made a commitment that it would always allow adequate compensation.

The reason we will need more time to consult is that I do not think anyone in this Parliament or anyone out in the public would have believed this government would move an amendment to the Victorian constitution to deprive fishermen — —

Mr Pandazopoulos — You are debating again.

Mr PERTON — No I am not. It is on the question of time and the need for consultation, because this has come like a bolt out of the blue.

Madam Acting Speaker, a fisherman from your electorate rang me last week to give me the rumour that this would be in there — —

The ACTING SPEAKER (Ms Davies) — Order! If the honourable member for Doncaster chooses to keep going down this path I will cease to hear him. I would like to hear specific comments on the question of time. The minister may have the opportunity to respond and other members may have the opportunity to talk on the question of time, but this is the second time I have asked the honourable member to stay very closely to the question of time.

Mr PERTON — I am sorry, Madam Acting Speaker, but this is a matter that raises anger quite easily. We need more time to consult. We need undertakings about briefings, because one of the things that is not contained in the second-reading speech and on which we have not been briefed is the manner of compensation. We not only need undertakings for briefings on the manner in which compensation will be assessed, but we need time to consult with the communities that will be deprived of the income of the people whose livelihoods will be affected.

I did not mean to stray beyond the question of time, but there will be many angry people along the coast who will want to have their say not just to me and to the National Party but to you, Madam Acting Speaker, to the honourable member for Gippsland East and the honourable member for Mildura. It may be a very time-consuming process.

I put to the house and to the minister the point that this ought not be a rushed debate. The government took nine months to bring its response to the ECC report to the house in the form of a bill. The Liberal Party is surprised by a number of the provisions, and so will the community be. You, Madam Acting Speaker, I and many honourable members will need time to consult with the community.

The ACTING SPEAKER (Ms Davies) — Order! The Leader of the National Party, on the question of time.

Mr RYAN (Leader of the National Party) — I rise to support the shadow minister for conservation and environment in what he has said. The very nature of this process demands that there be additional time beyond that which has been sought before the debate takes place. For the very reasons, or at least some of them, that were exhibited in the second-reading speech when the minister referred to the number of groups with whom she says she has met, who are but a small proportion of the many people upon whom what is proposed in this heinous piece of legislation will have an impact.

The people who are affected by the bill will need the opportunity to consider it, and they need to be able to consider it in a couple of contexts. The first of those — and I endorse the point made by the shadow minister — is that the opposition will need briefings from the department to deal with the layout or geographic location of what is now said to be finally determined in the legislation. We do not have maps, as such. What we have are points of reference that are referred to in schedules. There is nothing in the pages of the bill that we can look at to find out through lines on a map exactly what the expressions mean.

I need to know that information so that I can properly represent the interests of the many people who have come to me about this issue. Even more particularly, the many groups in my electorate and others along the Victorian coast to whom I have spoken about the legislation need to know the specific areas we are talking about, as opposed to a set of numbers appearing in a schedule.

The National Party needs more time, firstly, to enable the briefings to occur in the first instance, so we can all be apprised of what those numbers translated onto the page actually mean. Secondly, we need time to enable that information to be given to those who deservedly should have it so they can assess how the legislation impacts upon them. That is the first point on which my argument for more time is based.

The second is that the bill contains provisions that deal with the all-important question of compensation — and even more particularly, no compensation. People will need to be able to assess what the provisions mean over time and how they will impact upon their businesses.

As it happens, the honourable member for Gippsland East has entered the chamber. If the enterprise with which he is associated was likely to be affected by the legislation, as was originally contemplated, he would have needed to make those calculations. Now that he is no longer affected by it, he does not have to do that. But that does not mean those principles do not apply to the many other people in the fishing industry who will be impacted upon by the legislation. They will need to be able to make appropriate assessments as to how the bill will impact upon their rights and remedies insofar as the conduct of their businesses is concerned.

Thirdly, the adjournment of the debate goes beyond the interests of the immediate group that will bear the brunt of the legislation — that is, the many groups in the community and small coastal towns, those associated with tourism industries and those associated with small businesses of all kinds that are dependent to a greater or lesser degree upon either recreational or commercial fishing. People are entitled to know about the contents of the bill and to have the opportunity to assess the likely impact of the legislation upon them, because as everybody knows the impact will be considerable.

For those reasons, the motion moved by the shadow minister should be carried. I endorse what he has said about the need for further and appropriate time during which the bill can be considered.

The ACTING SPEAKER (Ms Davies) — Order! The Leader of the Opposition, on the question of time.

Dr NAPTHINE (Leader of the Opposition) — This issue is of significance in my electorate of Portland. The national park proposed to be established in my area is the Discovery Bay Marine National Park.

The ACTING SPEAKER (Ms Davies) — Order! I ask that the Leader of the Opposition discuss the question of time rather than debate the legislation.

Dr NAPTHINE — I am coming exactly to that point. The bill is of great importance in my area, and I need time to consult with my local community about the proposal for the marine national park. We need time because we have had an Environment Conservation Council process and, before that, a Land Conservation Council process that lasted for nine years. The ECC made a particular recommendation.

The legislation before the house today contains substantial changes to the recommendations that were made by the Environment Conservation Council, and they require further consultation. It took nine years to get to a certain point and in two weeks the minister is proposing that the situation be completely changed.

The proposed recommendation of the ECC for the Discovery Bay Marine National Park was for more than 4000 hectares of national park; the new proposal is for 3050 hectares. From the preliminary maps I have seen I understand that the boundaries have changed in just about every direction. There is a note stating that White's Beach is now excluded. I cannot get from the minister an accurate map of the proposal. How can I consult with my community until I get an accurate map of what is proposed?

Mr Seitz interjected.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Keilor!

Dr NAPTHINE — We need to get some accurate maps and some briefings, and we need time to talk to the fishing industry. Madam Acting Speaker, as you would be aware, those involved in the fishing industry often go out for a couple of days fishing, and it is not always convenient to call meetings at short notice. Next week the Legislative Assembly is not sitting, but it is the second week, so we have only a few days to consult within our electorates. When the house is sitting a rural member of Parliament is required to be here, so that over the next two weeks it will be difficult to have adequate consultation with the fishermen and communities directly affected by such significant legislation.

That is why I am asking, together with the honourable member for Doncaster and the Leader of the National Party, for an assurance from the minister that adequate time will be given for us to undertake that fair and reasonable consultation, given the significant changes that have been made from the original recommendations.

I also take the opportunity through you, Madam Acting Speaker, to ask the minister to give an assurance that

she will be able to send by either email or fax to my electorate office, and perhaps to the electorate offices of other honourable members, a detailed map and description of the new proposed national parks. As I understand it, normally the maps are either included in the legislation or the latitudes and longitudes are included so people can determine the exact area of the park. The schedule has only a description rather than accurate maps. I seek an assurance from the minister that accurate maps will be provided to our electorate offices as soon as possible.

Mr DELAHUNTY (Wimmera) — Quickly on the matter of time, honourable members are well aware that I strongly represent the seat of Wimmera. The reason I am contributing to this debate is that I am also a member of the all-party Environment and Natural Resources Committee, which is inquiring into fisheries management. I know I am not to refer to that inquiry, but in discussions the committee has had across Victoria this has been one of the biggest topics discussed.

It is important that we allow further time for consultation following the second-reading speech today. The minister has not discussed the impact of the bill on rural communities. I will touch on a few of those. Whether it be Portland, Port Fairy, Mallacoota or — —

The ACTING SPEAKER (Ms Davies) — Order! The honourable member will speak closely on the issue of time and not debate the issue.

Mr DELAHUNTY — I am not debating the issue; I am just saying there are a lot of communities with which to discuss this proposed legislation.

The impact of compensation is another matter that needs to be discussed. This has been raised with us many times. The legislation needs to be adequately discussed with the people on whom it will severely impact and not the people in Melbourne who get the benefit out of it.

There are major dramatic changes to the Environment Conservation Council report, so it is important that as many people as possible speak about it and that there are maps to help us understand where it will happen. The bill will have an impact not only on fishermen but also on charter boat operators and the tourist industry. It is important that there be more time to have discussions with all those groups.

We should also remember that our upper house colleagues will be sitting in Parliament next week, which gives my colleagues Roger Hallam and Peter Hall limited time in which they can consult. We should also remember that there is a public holiday next month, which might also limit things — not that it will stop parliamentarians!

I hope the minister takes on board what I am about to say. It has taken 10 years to get to this stage — 10 years to see this legislation hit the table. Surely we can allow more than two weeks to discuss the bill's implications.

Mr JASPER (Murray Valley) — There are very few marine parks in the electorate of Murray Valley!

Honourable members interjecting.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Murray Valley, without assistance.

Mr JASPER — But as a parliamentary representative in the Legislative Assembly I have a deep interest in whatever happens in this Parliament. I join with previous speakers in expressing concern about the time allowed to consult on this piece of legislation. There is no doubt in my mind because of the expansive nature — —

Ms Lindell interjected.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Carrum!

Mr JASPER — There is no doubt that because of the expansive nature of the legislation, the number of important investigations that have taken place over many years, the number of reports still to be presented by many members of Parliament whose electorates are directly affected, the number of people interested in marine parks who still need to be consulted, and based on my past experience, more than two weeks will be needed to get appropriate responses to legislation which is so important to the state of Victoria.

In her second-reading speech the minister highlighted the great importance of the legislation. She described it as a world first and said that the legislation would make changes in implementing marine parks that would make Victoria a world leader. If that is the case, I join honourable members in seeking an extension of time. To that effect I move an amendment:

> That the words 'for two weeks' be omitted with the view of inserting in place thereof the expression 'until 30 June 2001'.

Mr VOGELS (Warrnambool) — I represent the fishing village of Port Campbell, which has a fleet upon which this whole marine park issue will have the biggest impact. I do not believe the minister has been to

Port Campbell to discuss any of these issues with the fishing industry. As their representative, I indicate that I will be very strong on this issue. Unless we get proper hearings and whatever else needs to take place — there is no point in my repeating what others have said — —

An Honourable Member — We just want more time!

Mr VOGELS — We want more time; otherwise I am sure we will not be discussing it further in either this house or the upper house.

Mr PANDAZOPOULOS (Minister for Gaming) — In opposing the amendment moved by the honourable member for Murray Valley, I point out that consultation on this matter has been taking place for 10 years. There have been 4500 submissions — —

The ACTING SPEAKER (Ms Davies) — Order! I remind the minister to stay on the amendment.

Mr PANDAZOPOULOS — We know what everyone's position is, so why do we need four weeks? The National Party has already made up its mind that it will oppose the bill. Its members just want to delay the inevitable. We do not need four weeks. The tradition in this house is to have a two week adjournment.

There is ample opportunity for discussion. By the time the bill is debated in Parliament there will be even more time, about two and a half weeks. The bill will then be debated in the upper house. The upper house can consider it at a later date in June. Upper house members can amend it and send it back to this house. There are so many opportunities for debate and more and more information — information that has been out there for so long. This is simply a tactical position adopted by members of the National Party because they want to delay the bill and run a winter campaign against it. They are its tactics.

After 10 years the Liberal Party still cannot make up its mind about the issue, so it says, 'Let's do something procedural'.

An opposition member interjected.

Mr PANDAZOPOULOS — You have? You have made up your mind. After 10 years of delaying you want more delays. The opposition just wants to use a procedural issue to delay the inevitable.

How long do we have to debate these issues? How much longer do the people who have been making their submissions have to wait? They have put forward their points of view, but time and again they are asked for their opinions and things are further delayed. The public want decisions on this issue. They do not want opposition members simply deferring it for the sake of deferral. They are saying, 'The time has come. Bring it into Parliament. Let's debate it'. The opposition parties — —

Mr Perton interjected.

Mr PANDAZOPOULOS — Excuse me! Don't swear in this chamber, thank you.

The DEPUTY SPEAKER — Order! I understand honourable members' enthusiasm for the matter at hand, but I ask them to behave in a manner that allows the debate to continue in an orderly fashion.

Mr PANDAZOPOULOS — The honourable member should not be impolite to everyone in this chamber.

The DEPUTY SPEAKER — Order! The minister will continue on the subject of time.

Mr McArthur interjected.

The DEPUTY SPEAKER — Order! The honourable member for Monbulk!

Mr PANDAZOPOULOS — It is quite simple. It is clear that the coalition parties — they say they are not in coalition, but it is interesting to see how they operate together in the house on a regular basis — have a real opportunity to simply decide in just over two weeks whether to support the bill, oppose the bill or amend the bill. It does not take much time. They can make that decision in two weeks. If they have followed the debate over the past 10 years — that is, since it started — they could make a decision quite easily in two weeks.

The amendment is all about delaying the inevitable. The Liberal Party just cannot make up its mind whether it is for the environment or against it.

Mr McARTHUR (Monbulk) — On the matter of time, I seek to support the amendment moved by the honourable member for Murray Valley to the motion of the honourable member for Doncaster. It is important in considering their position on the amendment that honourable members think about the potential impact of this legislation on some of the people who live in the communities along the coast of Victoria.

I do not want to go into the details of that, because this is after all a debate on the matter of time. However, let me make just two points. Firstly, the Minister for Gaming said that in raising this issue members of the

Liberal and National parties simply wanted to delay the inevitable. I ask honourable members to reflect on that comment, which is really a contempt of Parliament. The minister is assuming the outcome of the debate before it has even started. He is assuming that the legislation is inevitable, regardless of the views of Parliament. I caution the minister to have a little more respect than that for the forms and decisions of this house.

The second point is more important. There are communities all along the coast of Victoria that have grown and developed over the decades around access to the sea. Members of those communities have built livelihoods and businesses based on their access to the fisheries off the coast of Victoria. The bill has the potential to severely impact on those livelihoods. The families of some of those people have been in those communities for over 100 years. Some have businesses built up over many generations that depend for their value and their future on licences that provide access to fisheries.

The bill, as the minister has clearly said, denies some of those people that long-term access, but even more importantly, in denying them that access it specifically denies them access to the Supreme Court to argue for compensation. This contemptuous minister says two weeks is plenty of time for honourable members to make up their minds about this.

Firstly, how can members of a fishing family with three or four generations of use of the ocean find out where they are limited to and restricted from? There are no maps. Secondly, how can those people assess within two weeks what the new areas will mean to their livelihoods, the future and value of their licences, the value of their fishing equipment and the value of their processing plants and cool storages?

Thirdly, how will they get legal advice on their recourse within those two weeks from people who are competent enough to give advice on such a serious issue? We are not talking about Collins Street law firms; we are talking about folk in country towns whose livelihoods depend on fishing and who do not have easy access to this information. They cannot get a map because the minister has not included it in the bill. They have some dot points marked on the ocean, but that might be just a little difficult to assess in that time.

How can this government in all conscience say to those communities, 'We will take your livelihood away from you. We will deny you access to a fishery. We will take away your licence but we will also deny you access to the Supreme Court. You have two weeks to make up your mind, and if you cannot make up your mind and get the advice in two weeks, then you are too late.'?

It is then inevitable, is it, Minister, that you can steal these people's livelihoods?

Mr Maxfield interjected.

The DEPUTY SPEAKER — Order! The honourable member for Narracan will not stand there yelling across the chamber. He knows he should speak only when in his seat and at an appropriate time. I ask the honourable member for Monbulk to restrict his comments to the question of time.

Mr McARTHUR — Absolutely, Madam Deputy Speaker, and it is in relation to the rapidity of this theft of livelihood that I am confining my remarks. Government members are determined to take away from those fishing families their access to a fishery.

Mr Pandazopoulos — On a point of order, Deputy Speaker, the honourable member is clearly debating the bill — he is assuming people's rights are being denied — and that can be left for two weeks. He needs to debate simply the question of time.

The DEPUTY SPEAKER — Order! I ask the member for Monbulk to restrict his comments to the matter of time.

Mr McARTHUR — It is entirely to the question of the two weeks, or the date moved by the honourable member for Murray Valley — 30 June — that I direct my remarks. Two weeks is a very short time to get this advice, particularly if you have had three or four generations tied up in your fishing business. Perhaps it would be more reasonable, sensible, sensitive, open and accountable if this government were to allow fishing families until 30 June to get that advice and then to come back to their local members — the honourable members for Gippsland East, Gippsland West, Gippsland South and Portland — and say, 'This is how it will affect us. This is what we want you to take into account when you make your decision on this legislation'.

It is unreasonable to expect those families to get that information within two weeks when the minister cannot even provide us with a map. She says it has been nine years and that the issues have been long discussed and consulted on. The issues have been long discussed but the bill has appeared today — and the bill has some surprises in it that were not discussed, canvassed or generally known. It is therefore reasonable to allow these new bits of information to be digested by those people on whom it will most impact. If the government

seeks to take people's livelihood away it should give them time to assess the consequences and should not deny them access to the court.

The government put great store on restoring the common-law rights of injured workers, yet it is the same government that is going to deny fishermen their common-law rights.

Mr Pandazopoulos — On a point of order, Honourable Deputy Speaker — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask honourable members to be silent so I can hear the point of order.

Mr Pandazopoulos — The honourable member is using debating points rather than speaking on the question of time. I ask you to bring him back to order.

The DEPUTY SPEAKER — Order! The honourable member for Monbulk was making a passing reference to other issues but he will continue his remarks on the question of time.

Mr McARTHUR — Thank you for your wisdom, Madam Deputy Speaker.

I simply reiterate the point that the Labor government has put great store about providing access for injured workers to achieve their common-law rights. It should put equal store on ensuring the fishing community retain their common-law rights and equal access to the courts. It should not take their rights away in such an absurd rush because a two-week adjournment is indecent haste.

Mr BATCHELOR (Minister for Transport) — During this passionate and animated debate that has been taking place on the question of time I have had the opportunity to have discussions with the Leaders of the other parties to ascertain the objectives of honourable members engaging in the debate. Without going through those in detail, I put on the record that there is agreement across the chamber to resolve the matter today. In effect, the bill will be adjourned for the standard two-week period, but the government will organise its business program so that this matter will come on for debate on Tuesday, 12 June, of the last sitting week. In those circumstances the house will agree, unless it decides otherwise, that the bill will be adjourned for two weeks now but the government will organise the business program for the debate to occur in the last week.

An honourable member interjected.

Mr BATCHELOR — Yes, cross my heart and hope to die. The expectation is that time will be available for debate on the Tuesday and Wednesday of that week and it will be dealt with in that time frame to allow the bill to be transmitted to the other place on the Wednesday.

Mr RYAN (Leader of the National Party) (*By leave*) — I accept the position as outlined by the Leader of the House. To achieve that agreement I understand the honourable member who has moved an amendment to the adjournment motion will have to withdraw that amendment, and I am pleased to say that he is present in the chamber and is able to do that.

Mr JASPER (Murray Valley) (*By leave*) — I withdraw my amendment. I have listened to the debate and I will honour the comments made by the Leader of the National Party. I understand that, in effect, the debate will be adjourned for four weeks.

Amendment withdrawn by leave.

Motion agreed to and debate adjourned until Thursday, 31 May.

CONSTITUTION (PARLIAMENTARY PRIVILEGE) BILL

Second reading

Mr PANDAZOPOULOS (Minister for Gaming) — I move:

That this bill be now read a second time.

As honourable members will be aware the practice with previous royal commissions has been for the reports of those commissions to be tabled in each house at the command of the Governor and be ordered to be printed. Such a process causes these reports to attract parliamentary privilege pursuant to sections 73 and 74 of the Constitution Act 1975.

However, should Parliament not be sitting at the time the remaining volume or volumes of the report of the Metropolitan Ambulance Service Royal Commission are delivered and as the report is of great public interest, an alternative means of publication of this and other reports is required.

Unlike the Longford Royal Commission (Report) Act 1999, this bill will also provide for the publication of reports of royal commissions and boards of inquiry and other reports that may be made to Parliament.

Such reports include parliamentary committee reports and reports of the Ombudsman, Auditor-General and other statutory office-holders.

Accordingly, the bill provides for a process whereby these reports may be published and attract parliamentary privilege and that sections 73 and 74 of the Constitution Act apply to these reports.

I am sure that all honourable members will support this bill as it will ensure prompt public access and scrutiny of these reports and ensure that the published reports will attract absolute privilege.

I commend this bill to the house.

Debate adjourned on motion of Dr NAPTHINE (Leader of the Opposition).

Debate adjourned until Thursday, 31 May.

AGRICULTURAL AND VETERINARY CHEMICALS (VICTORIA) (AMENDMENT) BILL

Second reading

Mr HAMILTON (Minister for Agriculture) — I move:

That this bill be now read a second time.

This bill will secure the constitutional basis and the conferral of functions and powers upon which the National Registration Scheme for Agriculture and Veterinary Chemicals is dependent following a recent decision of the High Court.

I shall provide some background on the bill and then deal briefly with its major purposes.

When the Agricultural and Veterinary Chemicals (Victoria) Act was passed it 1994 it enabled the National Registration Scheme for Agricultural and Veterinary Chemicals (which I will now refer to as the NRS) to operate in Victoria. The NRS provides a uniform national assessment and approval system for agricultural and veterinary chemicals. The NRS replaced separate state schemes for evaluating and registering chemicals that existed prior to 1994.

The Agricultural and Veterinary Chemicals (Victoria) Act 1994 adopts the NRS by applying as a law of Victoria, the Agvet code, as set out in the Agricultural and Veterinary Chemicals Code Act 1994 of the commonwealth. The Agvet code was similarly adopted by the other states and territories at the same time.

The Agvet code provides a uniform regulatory system for agricultural and veterinary chemicals including clearance, registration, standards, permits and enforcement procedures. The legislative package provides for the National Registration Authority for Agricultural and Veterinary Chemicals (which I will refer to as the National Registration Authority) to control agricultural and veterinary chemicals up to and including the point of sale.

To help ensure that the Agvet code operates on a uniform basis throughout Australia, the adopting legislation of the states provide that certain commonwealth administrative laws and prosecution arrangements will apply to the NRS in the respective state.

The High Court case of *The Queen v. Hughes*, which is known as the Hughes case, involved a challenge to the power of the commonwealth Director of Public Prosecutions to prosecute breaches of state Corporations Law. The High Court held that the conferral of a power on a commonwealth agency or officer by a state law, coupled with a duty to exercise the power, must be linked to a commonwealth head of power. The case also highlighted the need for the commonwealth Parliament to authorise the conferral of duties, powers or functions by the state on commonwealth authorities and officers. This decision has cast doubt on the ability of commonwealth authorities and officers to lawfully exercise powers and to perform functions under state laws in relation to intergovernmental legislative schemes.

The decision in the Hughes case impacts on the NRS. The decision casts doubts over the exercise of powers in relation to the NRS by the national registration authority, the commonwealth Director of Prosecutions, the commonwealth Administrative Appeals Tribunal and commonwealth inspectors and analysts.

The bill will underpin the foundations upon which the NRS is based following the Hughes case.

The bill re-confers powers on commonwealth authorities and officers, where the conferral was not specifically authorised by the commonwealth Parliament. These provisions apply to the national registration authority, the commonwealth Director of Public Prosecutions and the commonwealth Administrative Appeals Tribunal. The bill also confers powers on and validates past actions of inspectors and analysts that were done without proper conferral of power. The bill will be proclaimed to commence after the commencement of the commonwealth Agricultural and Veterinary Chemicals Legislation Amendment Bill

2001 that will authorise the conferral of these state powers. This commonwealth bill was introduced into the Senate on 3 April this year.

In addition, I wish to make a statement under section 85 of the Constitution Act 1975 of the reason for altering or varying that section by the bill.

The proposed section 28B, being inserted by clause 6 of the bill, is intended to alter or vary section 85 of the Constitution Act 1975. The alteration or variation is to the extent necessary to prevent the bringing before the Supreme Court of any action, suit or proceeding in relation to anything done or omitted to be done by a commonwealth inspector or analyst before the commencement of the proposed clause 6. Before the enactment of clause 6 duties functions and powers had not been properly conferred on these inspectors and analysts.

The reason for preventing the bringing of these proceedings is to protect the state from potential liabilities arising out of past actions or omissions by commonwealth inspectors and analysts.

The bill complements the proposed Cooperative Schemes (Administrative Actions) Bill 2001, which is also before the Parliament, proposed by the Attorney-General. This other bill will validate past acts of commonwealth authorities and officers that were not linked to a commonwealth head of power under the constitution. It will also place the NRS on a more secure constitutional footing by ensuring that no duty, function or power is conferred on a Commonwealth authority or officer which is beyond the legislative power of the state.

The Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill is vital to prevent the real threat of legal challenge to actions and decisions by commonwealth authorities and officers, which is integral to the NRS. The bill is also vital to the government's continued commitment to have an effective uniform national registration system for agricultural and veterinary chemicals.

I commend the bill to the house.

Debate adjourned on motion of Mr McARTHUR (Monbulk).

Debate adjourned until Thursday, 31 May

Dr Napthine — On a point of order, Madam Deputy Speaker, I raise for your attention the fact that the papers office is now out of copies of the Racial and Religious Tolerance Bill and the National Parks (Marine National Parks and Marine Sanctuaries) Bill. We have just had a debate on the issue of time on the National Parks (Marine National Parks and Marine Sanctuaries) Bill and you would be aware of the importance of our being able to get information out to our electorates for consultation on this issue. It is therefore frustrating and disappointing to find there are no copies available for honourable members to circulate in their electorates of those two controversial pieces of legislation that require considerable consultation and consideration by the broader community.

I am advised by the papers office that it will take about a week for copies of a circulation print to be available. I ask you, Madam Deputy Speaker, to take up with the Speaker whether there is an opportunity for the process to be speeded up. More copies of those two bills need to be made available within 24 or 48 hours so that honourable members will have the opportunity to circulate them broadly in their communities.

The DEPUTY SPEAKER — I will take it up with the Speaker. However, I am advised by the Clerk that there will be further copies in the papers office in the morning, unless there is trouble with the printing machine. The bills will also be available electronically.

The honourable member for Ivanhoe, on a point of order.

Mr Langdon — It is more a point of clarification, Deputy Speaker: the bills will be on the web site at 9 o'clock tomorrow morning.

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

As members will be aware having recently debated and passed the Corporations (Commonwealth Powers) Bill 2001, recent legal challenges and decisions of the High Court of Australia have cast doubt on the constitutional framework which supports the Corporations Law. These decisions, particularly the decision in *The Queen v. Hughes*, have also cast doubt on the constitutional framework supporting other cooperative schemes.

In the Hughes case, the High Court held that conferral of a power coupled with a duty on a commonwealth officer or authority by a state law must be referrable to a commonwealth head of power. The decision in

Hughes has cast doubt on the ability of commonwealth officers or authorities to exercise some functions under various cooperative schemes entered into between Victoria and the commonwealth.

The purpose of the Co-operative Schemes (Administrative Actions) Bill 2001 is to validate past actions undertaken by commonwealth officers or authorities under certain state laws relating to various cooperative schemes, to the extent necessary to give their actions the same effect as they would have had if they had been taken by duly authorised state officers or authorities. The bill will also ensure that the rights of all persons are as though administrative actions taken by commonwealth officers or authorities had been taken by duly authorised state officers or authorities.

The bill initially validates actions undertaken by commonwealth officers operating under the national registration scheme for agricultural and veterinary chemicals (NRS). The NRS, which provides a uniform national assessment and approval system for agricultural and veterinary chemicals, is adopted in Victoria under the Agricultural and Veterinary Chemicals (Victoria) Act 1994, by applying as a law of Victoria, the Agvet code as set out in the Agricultural and Veterinary Chemicals Code Act 1994 of the commonwealth. The Agvet code provides a uniform regulatory system for agricultural and veterinary chemicals including clearance, registration, standards, permits and enforcement procedures.

The bill also provides for other cooperative schemes that may be affected by the Hughes case to be included under the bill by proclamation of the Governor in Council, as the schemes are identified.

This bill complements the proposed Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill 2001, which is being put forward by the Minister for Agriculture. Indeed he has done that. That bill seeks to put the future of the NRS on a more secure constitutional footing.

I wish to make a statement under section 85 of the Constitution Act 1975 of the reason for altering or varying that section.

Proposed clause 13 of the bill is intended to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the bringing before the Supreme Court of any proceedings against the state of Victoria in respect of an administrative action validated by this bill. The reason for preventing the bringing of any proceedings is to protect the state from potential liabilities arising out of past administrative actions undertaken by commonwealth officers or authorities under state cooperative scheme laws.

The government considers the Co-operative Schemes (Administrative Actions) Bill 2001 as being vital to restore certainty to the effective operation of various cooperative schemes to which Victoria is a party.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 31 May.

The DEPUTY SPEAKER — Order! I would like to advise the house that the Clerk has advised me that copies of the two bills we are short of — the Racial and Religious Tolerance Bill and the National Parks (Marine National Parks and Marine Sanctuaries) Bill — will be available in the papers office tomorrow.

CORPORATIONS (ANCILLARY PROVISIONS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill is part of a package of corporations bills complementing the Corporations (Administrative Actions) Bill, the Corporations (Consequential Amendments) Bill and the Corporations (Commonwealth Powers) Act 2001.

Members will appreciate that a number of consequential and transitional amendments to our state legislation are required before the new national corporations scheme can commence.

The effect of this bill is twofold.

Firstly, the bill updates references in Victorian legislation from the old Corporations Law regime to the new commonwealth Corporations Act.

Secondly, the new Corporations Act states that is not intended to cover the field in the area of corporations.

This means that any indirect inconsistencies between the commonwealth act and any Victorian act do not necessarily result in the invalidity of the Victorian provisions.

However, as a result of the referral of corporations power, any direct inconsistencies between Victorian legislation and the commonwealth act will result in

invalidity due to the operation of section 109 of the commonwealth constitution, which provides that the commonwealth provision is to prevail.

In order to protect these Victorian provisions, some legislation needs to be amended to insert declarations that the Corporations Act is not to apply.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 31 May.

PUBLIC NOTARIES BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Honourable members may be surprised to hear that a Victorian who wants to be appointed as a public notary must apply to the Archbishop of Canterbury in England. The role of the Archbishop in appointing notaries dates back to the 1530s when King Henry VIII broke away from Rome. Unfortunately, only Victoria and Queensland still continue this archaic procedure under which the appointment of Australians, for the purpose of notarial acts in Australia, is made by a foreign authority. Victorian notaries should be appointed under Victorian legislation, by a Victorian authority.

What is a public notary and what role do they play? The office of public notary can be traced back to Roman times. Honourable members who have an interest in history should refer to the notaries' bible, Brooke's Notary. This English textbook goes into some detail about the origin and development of notaries. However, notaries play an important role in the modern context and it is for that reason that this government has introduced this long overdue Victorian legislation.

Typical services a notary would perform today include attesting declarations or affidavits, attesting execution of documents and preparation of ships' protests — a declaration by a ship captain as to incidents on the journey that might have damaged the ship or cargo. The most important characteristic of a notarial 'act' is that it is destined for use in a foreign jurisdiction and not in the notary's own country. In many countries, properly executed notarial acts are accepted by foreign courts as conclusive of the facts witnessed. With the continuing emphasis on international trade, it is expected that the role of notaries in a commercial context will grow in importance for Victoria.

Notwithstanding this importance, our notaries are still appointed by the Archbishop of Canterbury in England. There is no governing legislation in Victoria or England. The Society of Notaries of Victoria plays a key role in supporting or opposing people who apply to the Archbishop of Canterbury to be notaries. The submissions of the society are regarded as highly persuasive.

The society has developed criteria for appointment as a notary. In brief they are:

> there must be a demonstrated need for the appointment of a public notary in the geographic region in which the applicant practises as a lawyer; and
>
> the applicant must have practised as a principal solicitor for a period of at least 10 years.

The Scrutiny of Acts and Regulations Committee (SARC) was asked to review the role and appointment of public notaries in 1996. SARC's report recommended the enactment of Victorian legislation dealing with the appointment of notaries.

In summary SARC recommended that:

> only qualified lawyers should be eligible for appointment as notaries;
>
> applicants should have at least five years legal experience;
>
> the numbers of notaries should not be limited by reference to geography or population;
>
> appointments should be made by the Supreme Court; and
>
> applicants should be required to undergo an approved course of training.

All other states and territories, with the exception of Queensland, have their own system for appointing public notaries involving the Supreme Court. Following consultation, the bill provides that applications will be made to the chief justice. The Supreme Court already has the infrastructure in place to process applications by lawyers for admission and the bill follows that model. The Council of Legal Education currently approves the course of study that lawyers must complete and the Board of Examiners considers applications for admission and issues certificates of eligibility. The Society of Notaries favours this approach.

Notaries are required to certify as to the legal effect of documents for international purposes — frequently for use in foreign courts. The essential function of notarial acts is to provide an international guarantee of the authenticity and legality of those documents. The work of public notaries ranges from determining and applying evidentiary procedures in order to notarise a document to preparing documents of legal force. The society's submission to SARC was that no Victorian notarial act has been disputed by another country, whereas the acts of notaries from other countries, where legal qualifications are not a prerequisite for appointment, are required to be re-authenticated.

Accordingly, the bill provides that applicants demonstrate an objective measure of practical legal experience. Currently the society requires an applicant to have 10 years experience as a principal. In line with the SARC recommendation, and following consultation with the chief justice and the society, the bill provides that an applicant must have five years practical experience.

Applicants will also be required to complete a course of study approved by the Council of Legal Education. The Society of Notaries has already had preliminary discussions with the Leo Cussen Institute about developing an appropriate course.

Rather than create a new bureaucratic body to regulate notaries, the existing structures in place for regulating legal practitioners will be relied on. If a notary ceases to hold a practising certificate authorising them to practise as a principal, they will not be entitled to practise as a notary. Similarly, the bill provides that if a person is removed from the roll of legal practitioners, they will also be removed from the roll of notaries.

Finally, the bill deems existing notaries to be appointed for a period of six months from the commencement date. Within that period, a notary can sign the roll of notaries without needing to make an application to the chief justice.

This legislation is long overdue. It provides for an administratively simple system for appointment of Victorian public notaries. Together with the removal of existing anticompetitive criteria, this new system of appointment should ensure that Victorians have greater access to notarial services. The involvement of the chief justice in the appointment process will ensure that Victorian notaries continue to be held in high regard internationally.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 31 May.

CORPORATIONS (CONSEQUENTIAL AMENDMENTS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Corporations (Consequential Amendments) Bill forms part of the package of corporations bills that are necessary to support the new arrangements for a national corporations law.

The new arrangements rely:

firstly, on the reference of corporations matters to the Parliament of the commonwealth by the parliaments of the states. Victoria has made its reference under the recently enacted Corporations (Commonwealth Powers) Act 2001;

secondly, on the enactment by the commonwealth Parliament of a new Corporations Act and Australian Securities and Investments Commission Act;

thirdly, on the enactment by all the states of supporting legislation to make provision for:

(a) consequential amendments (the subject of this bill);

(b) transitional arrangements (contained in the Corporations (Ancillary Provisions) Bill; and

(c) the validation, following the doubts raised in *The Queen v. Hughes*, of certain actions taken by ASIC and its officers, or by other commonwealth authorities or officers, under the Corporations Law (dealt with by the Corporations (Administrative Actions) Bill).

The Corporations (Consequential Amendments) Bill amends over 120 acts that contain references to the Corporations Law, or to a previous corporations law scheme, or that otherwise need amendment because of the change from a state-based to a commonwealth-based system of corporations law.

This wide-ranging amendment of the statute book is being made so that the new arrangements for a national Corporations Law are more readily understood as they apply to the text of state acts. The alternative, and less satisfactory, approach would have been to rely on

interpretation provisions of a general nature without direct amendment of individual acts.

The schedule makes amendments that fall into distinct categories:

(a) amendment of provisions referring to the Corporations Law, or any part of it, so that they refer in future to the Corporations Act of the commonwealth, or the relevant part of it;

(b) correction of references to particular provisions of the Corporations Law so that they are read in future as references to the correct provisions of the Corporations Act (this includes amendments consequential on the Corporate Law Economic Reform Program Act 1999 (CLERP));

(c) similar amendment and correction in relation to existing references to the Companies (Victoria) Code and other code acts;

(d) in accordance with part 1.1A of the proposed Corporations Act of the commonwealth (dealing with the interaction between commonwealth legislation and state provisions), provisions to continue certain existing exemptions, exceptions and exclusions from the operation of the Corporations Law that apply under state law;

(e) the re-enactment of provisions in acts that apply particular provisions of the Corporations Law as if they were part of those acts, so that the provisions continue to apply as state law;

(f) other miscellaneous adjustments necessary for the new corporations scheme.

The schedule does not amend every reference in the statute book to the Corporations Law or its predecessors. The Corporations (Ancillary Provisions) Bill contains a safety net translation for references that are not directly amended. This means that unamended references to the Corporations Law will be read as including a reference to the new Corporations Act, unless the context otherwise requires. However, there are some references to the Corporations Law that have been identified as continuing to be correct as they currently read, whether because they are historically correct or for any other reason, and these will be preserved by regulations made under the Corporations (Ancillary Provisions) Bill.

I now wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by items 53.19 and 97.17 of the schedule to the bill.

Item 53.19 inserts a new section 141(2) into the Gaming and Betting Act 1994. That new section states that it is the intention of section 62 of that act, as it applies to part 4 of that act as amended by the bill, to alter or vary section 85 of the Constitution Act 1975.

Section 62 of the Gaming and Betting Act 1994 provides that no liability attaches to the minister, the Victorian Casino and Gaming Authority, the licensee under that act or any officer or auditor of the licensee for any act or omission in good faith in the exercise or discharge or purported exercise or discharge of a power or duty under part 4 of that act. Part 4 deals with the regulation of shareholdings. As part 4 is being amended by the bill, section 62 will have a new application following the amendments.

The reason for altering or varying the jurisdiction of the Supreme Court so that it cannot entertain actions against a person specified in section 62 is to ensure that the maximum levels of shareholdings stipulated in part 4 can be enforced by a relatively simple procedure and without prejudice to the interest of other shareholders.

Item 97.17 of the schedule to the bill inserts a new section 105(2) into the Rail Corporations Act 1996. That new section states that it is the intention of section 100(5), as it applies to a determination of the Office of the Regulator-General (ORG) under part 5 of that act as amended by the bill, to alter or vary section 85 of the Constitution Act 1975.

Section 100(5) provides that a determination of ORG under part 5 cannot be challenged or called into question. As part 5 is being amended by the bill, that section will have a new application following the amendments.

The reason for altering or varying the jurisdiction of the Supreme Court to prevent it from entertaining challenges to a determination of ORG under part 5 is to ensure that access to the rail and tram infrastructure cannot be delayed or jeopardised through the inherent time delays involved in judicial review. This is necessary to ensure that the introduction of new transport services is not delayed or threatened. Removing the ability to review the regulator's determination also removes the potential for operators to constantly seek review of access terms and

conditions in the hope of obtaining more favourable determinations.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 31 May.

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill together with the Corporations (Ancillary Provisions) Bill and the Corporations (Consequential Amendments) Bill forms part of a package of corporation bills, complementing the Corporations (Commonwealth Powers) Act 2001 which has now passed Parliament. This package of reforms follows historic negotiations between the commonwealth and states to place the national scheme for corporate regulation on a secure constitutional foundation.

The package of bills together with the Corporations (Commonwealth Powers) Act 2001 reflects the commitment of the Victorian government to achieve an effective uniform system of corporate regulation across Australia.

The object of this bill is to give validity to certain potentially invalid administrative actions taken before the commencement of the proposed commonwealth Corporations Act 2001 by commonwealth authorities or officers acting under powers or functions conferred on them by laws of the state relating to corporations.

Section 51(XX) of the commonwealth constitution gives the commonwealth Parliament limited powers to regulate corporations. That provision empowers the commonwealth Parliament to legislate with respect to foreign corporations, and trading or financial corporations formed within the limits of the commonwealth. The commonwealth Parliament also has other legislative powers under the commonwealth constitution that assist it to regulate corporate activities, such as the interstate trade and commerce power (section 51(i)), and the postal, telegraphic, telephonic, and other like services power (section 51(v)).

However, the High Court has held that the commonwealth's constitutional powers do not extend to regulating aspects of a number of important commercial areas such as the incorporation of companies, certain activities of non-financial and non-trading corporations, and certain activities of unincorporated bodies that engage in commerce.

By contrast, the states have broad powers to regulate corporations and corporate activities, subject to the commonwealth constitution.

As a result of the restrictions on the powers of the commonwealth Parliament, a national scheme of corporate regulation requires cooperation among the commonwealth and the states and territories. Several different schemes of cooperation have been implemented at different times since 1961.

The current scheme commenced on 1 January 1991. Under that scheme, the substantive law of corporate regulation (known as the Corporations Law) is contained in an act of the commonwealth enacted for the Australian Capital Territory and the Jervois Bay Territory (the capital territory). Laws of each state and the Northern Territory apply the Corporations Law of the capital territory (as in force for the time being) as a law of the state or Northern Territory. The effect of this arrangement is that, although the Corporations Law operates as a single national law, it actually applies in each state and the Northern Territory as a law of that state or territory, not as a law of the commonwealth.

The Corporations Law is administered by a commonwealth body, the Australian Securities and Investments Commission (ASIC) established by the Australian Securities and Investments Commission Act 1989 of the commonwealth (the ASIC act). Each state and the Northern Territory has passed legislation applying relevant provisions of the ASIC act as a law of that jurisdiction, known as the ASC or ASIC law.

Legislation of each state and the Northern Territory confers functions relating to the administration and enforcement of the Corporations Law on ASIC, the commonwealth Director of Public Prosecutions and the Australian Federal Police. These bodies are responsible for the investigation and prosecution of offences under the Corporations Law.

In *The Queen v. Hughes* (2000) 171 ALR 155, the High Court indicated that, where a state gave a commonwealth authority or officer a power to undertake a function under state law together with a duty to exercise the function, there must be a clear nexus between the exercise of the function and one or more of the legislative powers of the commonwealth set out in the commonwealth constitution.

If this view prevails, the commonwealth would not be able to authorise its authorities or officers to undertake a function under state law involving the performance of a duty (particularly a function having potential to adversely affect the rights of individuals) unless the function could be supported by a head of commonwealth legislative power.

Although the court found that the particular exercise of the prosecution function by the commonwealth Director of Public Prosecutions in question in Hughes was valid, it made no finding about the validity of the conferral of the prosecution function generally, or of other functions under the Corporations Law scheme.

The decision in Hughes may have implications for the validity of a range of administrative actions taken by commonwealth authorities and officers under the Corporations Law scheme and the previous cooperative scheme. A number of commonwealth authorities have functions and powers under the current scheme, including ASIC and the commonwealth Director of Public Prosecutions. Commonwealth authorities, most notably the National Companies and Securities Commission (the NCSC), had functions and powers under the previous scheme. Much of the work of the NCSC was carried out by state and territory authorities as delegates of the NCSC, and the bill applies to actions of those delegates on the basis that the actions of a delegate are treated as actions of the principal. Since the commencement of the Corporations Law, commonwealth authorities have continued to carry out functions under the previous scheme, including ASIC and the commonwealth Director of Public Prosecutions.

Many or all actions by these commonwealth authorities are likely to be valid, because they could be supported by the commonwealth's legislative powers. However, the validity of each action can only be determined on a case-by-case basis, having regard to the particular circumstances of each action.

The bill provides that every invalid administrative action taken under the current or previous scheme has (and is deemed always to have had) the same force and effect as it would have had if it had been taken at the relevant time by a duly authorised state authority or officer of the state.

I now wish to make a statement under section 85 of the Constitution Act 1975 as to the reason for altering or varying that section.

Dr Dean interjected.

Mr HULLS — Do you know what section 85 is?

Proposed clause 10 of the bill is intended to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent bringing before the Supreme Court any proceedings against the state of Victoria in respect of an administrative action validated by this bill. The reason for preventing the bringing of any proceedings is to protect the state from potential liabilities arising out of past administrative actions undertaken by commonwealth officers or authorities.

The bill applies to administrative actions taken before the commencement of the proposed corporations legislation. The validity of future actions by commonwealth authorities and officers will be assured by the reference of matters to the commonwealth Parliament by the Corporations (Commonwealth Powers) Act 2001, which each state is proposing to enact and by transitional amendments to the current scheme being included in the Corporations (Consequential Amendments) Bill.

This package of reforms to the Corporations Law will ensure that our national system of corporate regulations is placed on a sound constitutional footing and reinforces Australia's reputation as a dynamic commercial centre in the Asia–Pacific region.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 31 May.

DUTIES (AMENDMENT) BILL

Second reading

Mr BRUMBY (Treasurer) — I move:

That this bill be now read a second time.

The Duties Act 2000 will commence on 1 July of this year. This legislation was developed under the stamp duties rewrite project, undertaken by NSW, Victoria, South Australia, Tasmania and the ACT. Queensland has subsequently developed draft legislation and WA has also amended a number of its stamps provisions to fall into line with what has become national template legislation.

At the time of the introduction of the legislation, honourable members were informed that there would be further consultations on the act prior to its formal commencement. It was also announced that it was the government's intention to prepare and introduce an amendment bill during the autumn sittings to make any necessary adjustments to this complex legislation. This

was designed to ensure that business and the community more generally has the best possible framework by the commencement of this significant reform of our taxation laws. The Duties (Amendment) Bill contains those amendments, which are mostly of a minor technical character, and their passage will ensure that the Duties Act is robust in operation, clear in meaning and intention and effects a significant reduction in business compliance costs.

Policy changes proposed in the bill are minimal and are consistent with that of the Duties Act as a whole. They are aimed at ensuring that Victorian policy is consistent with that in other jurisdictions and meets business needs.

A new exemption from duty across all areas of liability is proposed for trade unions and employer associations which transfer dutiable property pursuant to amalgamations under the Workplace Relations Act 1996 (Cth). This exemption applies in most other jurisdictions. New South Wales, for example, exempts transfers of land and shares, but not motor vehicles. It is proposed that Victoria would exempt all transfers of dutiable property. The revenue impact of this proposal is likely to be minimal.

A further minor policy change is proposed following the approval of the Bendigo Stock Exchange (BSX) to commence trading in securities. It is proposed that the BSX be a recognised stock exchange under the act, consistent with the treatment of the Australian Stock Exchange and the Newcastle Stock Exchange.

The new definition of 'recognised stock exchange' reflects the preferred approach of most jurisdictions to recognise all existing exchanges trading in dutiable marketable securities and provide a mechanism to prescribe other appropriate markets as they emerge.

The BSX is expected to commence trading in marketable securities late in the first quarter of 2001. Other jurisdictions have either legislated the BSX as a recognised stock exchange or are expected to legislate at the earliest opportunity. This is a most welcome development in the continuing revitalisation of regional Victoria.

I am advised that duty stamps are now rarely used as a means of paying court fees. In fact, the lodgment of court documents and payment of fees is increasingly effected by electronic means. It is proposed to abolish the use of duty stamps as a means of paying court fees, which will instead be payable by cash, cheque, EFTPOS or by other electronic means. These are currently the preferred methods of payment; in contrast, duty stamps are antiquated and expensive to administer. Part 4 of chapter 12 of the act contains provisions that empower the Governor in Council to determine the method of payment of government fees and charges, including court fees. The rationale behind the provisions would appear to be that the commissioner should have control over the use of duty stamps. The provisions mirror those contained in the Stamps Act. As the power is used only in respect of the payment of court fees by duty stamps, it is proposed to repeal part 4 of chapter 12.

This bill also makes some changes to the aggregation provisions in the act. Like section 68 of the Stamps Act 1958, section 24 of the Duties Act provides that duty is payable on the aggregate or the total value of dutiable property transferred where two or more instruments of conveyance of real property arise from a single agreement or form substantially one transaction or series of transactions. During the extensive consultations on the Duties Act, however, concern has been expressed that had the aggregation provisions in the Duties Act not been amended, there was a possibility that a higher rate of duty may have applied to certain transfers of primary production land.

Keen to respond to community concern, and consistent with its commitment to regional Victoria, this government proposes to ensure that land continuously used for primary production purposes will be exempt from the operation of the aggregation provisions. This is also consistent with the longstanding exemption from stamp duty for transfers of family farms. This exemption is also retained in the Duties Act.

A range of minor technical amendments is proposed to various provisions in the act to clarify the operation of existing policy or correct minor drafting errors.

The bill proposes a range of amendments to the mortgages provisions, contained in chapter 7 of the act. A number of the proposed changes address industry concerns by providing clarification as to the scope or meaning of various provisions. Some minor drafting deficiencies are also addressed. The mortgage provisions are designed to apply in all jurisdictions and have been drafted on the basis of interjurisdictional consultations. Other proposed changes reflect further consultations with the revenue offices of Western Australia, South Australia, Tasmania and Queensland. These amendments are necessary to maintain drafting consistency across all participating jurisdictions. A technical amendment to section 152 will also ensure that the provision does not act to extend the tax base and will preserve the longstanding exemption for securitised equity borrowings.

Minor omissions from the act are also corrected. Following legal advice, it is proposed to insert in part 2 of chapter 12 of the act certain provisions contained in the Stamps Act but omitted from the act on the basis that equivalent sections in the TAA applied. The relevant provisions empower the commissioner to authorise persons to stamp instruments on his behalf. The Stamps Act enables the commissioner to impose conditions upon authorised persons and to penalise persons who breach or act outside the scope of those authorisations. As there is some doubt that the similar TAA provisions would apply in this context, it is proposed to insert into the Duties Act equivalent provisions to those in the Stamps Act.

The operation of the transitional provisions is also clarified to ensure that there is a smooth handover of Stamps Act matters following the repeal of that Act and the commencement of the Duties Act.

The bill also makes a minor, but significant, amendment to the Land Tax Act 1958.

On 2 April 2001, the Valuer-General advised the commissioner of state revenue that the equalisation factor for the City of Melbourne was incorrect. The equalisation factor provided was 1.14, when, in fact, it should have been 1.06.

Prior to receiving the Valuer-General's advice, the commissioner had issued approximately 8000 land tax assessments in relation to City of Melbourne land. The assessments, calculated correctly in accordance with the law, are nonetheless based upon the incorrect equalisation factor and thus overvalue City of Melbourne land by approximately 8 per cent than if the correct factor had been used.

The bill will correct this error. Taxpayers will not be inconvenienced because the commissioner will adjust their final instalment notice or refund payments where appropriate.

I commend the bill to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until Thursday, 31 May.

STATE TAXATION ACTS (TAXATION REFORM IMPLEMENTATION) BILL

Second reading

Mr BRUMBY (Treasurer) — I move:

That this bill be now read a second time.

This bill contains the government's Better Business Taxes package of tax reform measures. The measures in the package will provide tax cuts of $774.3 million over the next four years. These cuts entail $100 million in 2001–02, $111.5 million in 2002–03, $211.7 million in 2003–04 and $351.1 million in 2004–05 respectively.

This package will deliver a more competitive business environment with lower, fewer and simpler taxes. It supports the development of new businesses and the growth of existing ones by reducing the financial and administrative burden of taxation for Victorian businesses.

The bill is the product of an extensive consultative process that commenced a year ago when, as part of the 2000–01 budget, the government announced tax cuts totalling $400 million over three years. To advise the government on how best to allocate these tax cuts, an independent committee was established to review the state's business tax system. The committee conducted an enormous amount of research and consultation prior to reporting. Demonstrating this government's commitment to openness and accountability, the committee's report was released for public comment and stimulated robust and open debate.

In formulating the Better Business Taxes package, the government has considered all views raised throughout the process. These contributions have ultimately provided the government with the means to develop a more competitive business environment with lower, fewer, simpler taxes. I would like to put on record the government's thanks to the Victorian community for participating in the process.

Better Business Taxes is financially responsible and sustainable, taking into account the external influences which impact on Victorian business. It assists small and medium-sized enterprises that have been subjected to extensive changes made by the commonwealth government to its tax system. It also recognises that any revenue benefits from the GST are not expected to flow to Victoria until 2007–08, limiting the financial support the Victorian government can provide to business.

I now turn to the major features of the bill. The bill contains a number of important changes to the Pay-roll Tax Act 1971 that will stimulate employment in Victoria and encourage business investment. To achieve this, the overall payroll tax burden on Victorian business will be reduced by a mixture of tax cuts and revenue realised as a result of removal of three payroll tax concessions.

Effective on 1 July 2001, the rate of payroll tax will be lowered to 5.45 per cent. The rate will be further reduced to 5.35 per cent and the tax-free threshold will be increased from $515 000 to $550 000, effective on 1 July 2003. These measures will produce tax cuts for business of $127.3 million in 2001–02, $147.9 million in 2002–03, $239.0 million in 2003–04 and $257.8 million in 2004–05.

The bill contains a series of measures, effective on 1 July 2001, that are designed to increase equity for all taxable employers by removing certain concessions the benefits of which are distributed unevenly across those employers who pay this tax. Additional revenue realised from the removal of these concessions will be used solely to reduce the payroll tax burden on Victorian businesses. In each case, Victoria will align the basis for levying payroll tax with that employed in the relevant commonwealth legislation. This will assist taxpayers to assess their liability and reduce compliance costs.

First, payroll tax will be payable on the grossed up amount of fringe benefits, as per the commonwealth fringe benefits legislation. To ensure sporting clubs are not unfairly disadvantaged because of the way remuneration packages are structured in the sports industry, the bill provides for those clubs which pay more than 50 per cent of their annual taxable wages to employees engaged in sporting competition for the employer to be prescribed as exempt from this increase. Eligible sporting clubs will continue to pay tax on the taxable value of fringe benefits provided without grossing-up these amounts. This concession will not be available to sporting administrative bodies which themselves do not pay a significant proportion of their taxable wages to employee competitors. Taken together, these two measures will raise $46.8 million in the first year.

Second, payroll tax will apply to those employer payments relating to the cessation of employment that are defined as eligible termination payments under the commonwealth Income Tax Assessment Act. This measure will raise $18.3 million in its first year.

Those payments that are currently subject to the commonwealth income tax regime, either when paid on termination or deferred by rollover, will attract payroll tax. For example, only 5 per cent of a pre-July 1983 concessional payment would be included as wages for payroll tax purposes. Payments from sources other than an employer, such as a superannuation fund or approved deposit fund, will not be taxed. This measure will not impose an onerous additional administrative burden on employers, as they are already required to identify the amounts for income tax purposes.

Third, payroll tax will apply to payments made for sick leave, long service leave and annual leave that was accrued prior to 1 January 1996 and paid in consequence of the retirement or termination of an employee. Although these payments are liable to income tax in the hands of employees, they are currently exempt from payroll tax. This measure will remove the anomalous treatment of these payments and simplify the calculations that employers will be required to make to establish their liability. It will raise $8.3 million in 2001–02.

The bill provides for a single change only to the current land tax arrangements. There will be an increase in the tax threshold of the Land Tax Act 1958 from $85 000 to $125 000, impacting on the 2002 calendar year (the 2001–02 financial year). This measure will especially benefit small businesses, investors and self-funded retirees by reducing the number of taxpayers by 46 000 and cost $5 million in 2001–02. There is no change to the tax rates and thresholds for taxpayers with property holdings of $125 000 or more.

The bill provides for the progressive abolition of three stamp duties. First, stamp duty on non-residential leases is to be abolished, effective on the date of the government's announcement of this measure on 26 April 2001. This will cost $41.1 million in 2001–02.

To ensure that taxpayers terminating their non-residential leases for genuine business purposes are not disadvantaged, the right to a refund of duty paid in respect of the unused portion of a surrendered lease will be preserved for three years. To prevent taxpayers profiting by opportunistically surrendering a non-residential lease, the bill provides that a refund of duty in respect of the unused portion of a lease cannot be granted where the lessee or an associate of the lessee continues to lease the same or substantially the same premises.

The bill also removes the need for periodic reviews for taxpayers with non-residential leases where an estimate of the duty payable has been paid. This will eliminate these taxpayers' ongoing compliance costs without overly impacting on the state's revenue.

The bill also provides for the abolition of additional stamp duties in the future. Amendments to the Duties Act 2000 provide for the abolition of stamp duty on unquoted marketable securities from 30 June 2003, at a cost of $10.5 million in 2003–04, and on mortgages

from 30 June 2004, at a cost of $122.0 million in 2004–05.

The bill provides for a final measure to increase the levy under the Casino Control Act 1991 and Gaming Machine Control Act 1991 from $333.33 per machine to $1533.33 for each machine. This increase strikes an appropriate and fair balance between the interests of investors, business and the broader community.

This measure will raise around $35 million each year for public hospitals for the next 10 years. To emphasise that these funds are hypothecated for this purpose, the gaming machine levy has been renamed as the health benefit levy. The bill also alters the basis for imposing liability for the levy to minimise opportunities for avoidance.

The Better Business Taxes package is based on broad community consultation and adherence to the belief that all Victorian businesses should receive a fair deal from tax reform. It consolidates Victoria's position as a good place to do business, with all businesses benefiting from an environment of lower, fewer and simpler taxes. The package represents the most significant state tax reform in Victoria for nearly two decades and will promote economic growth, protect Victoria's financial position into the future and provide a good basis for the delivery of improved social services.

I wish to thank the State Tax Review Committee, chaired by John Harvey, and I commend the bill to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until Thursday, 31 May.

The DEPUTY SPEAKER — Order! I advise the Leader of the Opposition, who is now in the house, in relation to the matter he raised earlier, that copies of the bills in question will be in the papers office tomorrow.

Remaining business postponed on motion of Mr BRUMBY (Minister for State and Regional Development).

ADJOURNMENT

Mr BRUMBY (Minister for State and Regional Development) — I move:

That the house do now adjourn.

Auspoll consultancy

Ms ASHER (Brighton) — I ask the Premier to investigate a serious case of mismanagement of public money and report back to this Parliament on that issue. Documents obtained by the opposition under freedom of information have revealed that a $20 000 consultancy has been approved by the Minister for Small Business in the other place. The consultancy was to investigate the small business implications of Labor's industrial relations task force by conducting six focus groups. The consultancy was granted on 12 October 2000 without tender. The start date was 16 October and an invoice was sent by the consultant on 24 October 2000.

Who is this consultant who was paid $20 000 for eight days work conducting six focus groups? Who is this consultant who is worth $2500 a day? The company's name is Auspoll, and a company search reveals that the directors are John Armitage and Sue Loukomitis. Who is John Armitage, you might ask? John Armitage was the ALP candidate for Flinders in the 1998 federal election. But he will not be the candidate at the next federal election because of a factional deal within the ALP that will see the Maritime Union of Australia contest the seat of Flinders.

Everyone in Frankston knows that John Armitage, in order to buy his silence and to keep him quiet, has been promised by the ALP that he will be looked after financially. The problem now, though, is that the taxpayer is looking after him — this grubby, factional $20 000 pay-off has been funded by the taxpayer and signed off by the Minister for Small Business.

But there is more to this grubby deal. Questions need to be asked about the role of the founding director of Auspoll, a director who resigned as recently as 24 August 1999 — oddly enough, the day the writs were issued for the 1999 state election. The founding director of Auspoll is the current director of a consulting company with very close relationships to Auspoll. Indeed, he sold Auspoll to John Armitage. Both companies are registered at the same address, both have interchangeable stock exchange automated trading system addresses, both are listed at the same address in the telephone directory, and they share a letter box in Hartnett Drive, Seaford.

I call on the Premier to investigate the Auspoll consultancy. I call on the Premier to release the report written by John Armitage. I want the Premier to explain why John Armitage is worth $2500 a day; and most importantly, I want the Premier to report on what guarantees this particular director, this former director

of Auspoll, gave of government work flowing to John Armitage.

This is a sleazy deal. The director is the honourable member for Frankston East. The consultancy firm with the link is Viney Consulting. This is a smelly, shabby deal, and it is a Labor — —

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member's time has expired.

Drugs: Geelong detox beds

Mr TREZISE (Geelong) — I ask the Minister for Health to investigate and advise when the adult detoxification beds earmarked for Geelong will be available. As this house is painfully aware, the use of illegal hard drugs is a scourge of our community. I assure the house that the electorate of Geelong is not quarantined from the illegal use of heroin. A major and practical step in fighting this community cancer is the provision of detoxification beds.

Until a month ago Geelong had no detoxification beds. The government has now opened six youth detox beds in the Geelong area and another four adult beds will be opened in the near future.

Mr Spry interjected.

Mr TREZISE — They are in the seat of Bellarine. The youth detox beds were opened only two weeks ago and are now operating under the auspices of the Barwon Association of Youth Support and Accommodation. I understand they are now close to fully operational.

In 1994 Geelong had 10 detoxification beds which were closed seven years ago by the former Kennett government. That was the contribution the Kennett government made to the use of illegal drugs on Geelong's streets!

As I said, Geelong has not been quarantined from the scourge of drugs. The issue in Geelong has been the subject of a comprehensive report earlier this year or late last year by Mr Peter Miller of Deakin University. In conducting his study, Mr Miller interviewed 60 heroin users and some professionals who work in the field. Mr Miller's findings are disturbing reading for the Geelong community. He found that over the past five years 28 people have died on Geelong streets from heroin overdoses and that during the past 18 months ambulances have attended something like 180 non-fatal overdoses. Disturbingly, Mr Miller quoted a heroin drug user in Geelong as saying, 'Getting heroin in Geelong is just like dialling for a pizza'.

As I said, the youth detox beds in Geelong are now operational. It is now essential that adult detox beds are put in place in Geelong to provide that vital service in the region. The provision of detoxification beds for adults is a major and important step forward and I look forward to the minister's actions.

Bridges: Cobram–Barooga

Mr JASPER (Murray Valley) — I raise an issue for the attention of the Minister for Transport. I remind the house that the minister visited Cobram in my electorate of Murray Valley on 4 May — that is, two weeks ago. When we were standing under the Cobram–Barooga bridge across the Murray River the minister confirmed that $11 million would be provided for the replacement of the bridge. He indicated that plans would be drawn up immediately, work on the bridge would start early in 2002 and would be completed in two years, and the funding would be provided by the New South Wales and Victorian governments.

Honourable members know that in early 1999, more than two years ago, the federal government approved $44 million for new bridges across the Murray River at Corowa, Echuca and Robinvale. What is astounding is that when the budget papers were released early this week we found that for the next financial year $700 000 has been provided by the Victorian government for the bridge replacement program!

As recorded in the *Herald Sun* yesterday, the facts indicate that $44 million has been provided for the bridge replacement program. In fact, I understand that the federal government is providing the money for those three bridges. When the minister attended the meeting on 4 May at Cobram he indicated that more than $50 million needed to be provided by the New South Wales and Victorian governments to top up the funding for the three bridges, which had been provided with federal government funding.

I want to know from the minister when money will be provided for the bridge replacement program. The Treasurer is sitting at the table and frowning, but he knows as well as everybody else that funds were provided for the replacement of the three bridges by the federal government under the Federation funding program.

Mr Brumby interjected.

Mr JASPER — It is true, as the minister indicates, that the fourth being built at Howlong is being funded by the two state governments and is almost completed. However, although $44 million has been allocated by

the federal government for three bridges, at this stage there has been no money from the state government.

We see in the budget papers projected funding for the next four years. That is worse because there is no information about the provision of forward funding for the three bridges I have referred to, nor is there any information on the fourth bridge at Cobram, which the minister has indicated will receive $11 million from the two state governments over the next two years.

I want to know from the minister — probably the Treasurer can answer as well as the minister — when the additional funding will be provided for the bridges to be replaced. It is an outrageous situation and a betrayal of the people of — —

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member's time has expired.

Schools: innovation programs

Ms DUNCAN (Gisborne) — I ask Minister for Education to take action to ensure that innovation in schools is shared right across the state — in my electorate and in regional Victoria generally.

Honourable members know the previous government's education record. It saw the closure of 176 country schools and the sacking of some 8000 teachers across the state. That government also tried to impose on schools the self-governing school experiment, which was basically privatisation by stealth.

From my background of working in education I can say that there is a need not just to provide students with the basics but also to encourage them by providing them with an innovative curriculum that will maintain their interest in school. There is also a need to target those students who may be at risk of dropping out of school. Honourable members know that with students who drop out of school the rot starts to set in during the middle years. Once they reach the stage where they have lost interest and are experiencing a sense of disenfranchisement from their school, it is very difficult for them to recapture any enthusiasm.

Programs have to be targeted directly at those middle year levels to make sure that students' interest in school is maintained. That is not just about having desks, whiteboards and a teacher standing at the front; it is about providing the sorts of curriculums that will not only interest them but will also provide them with career opportunities in the future.

This government has shown a determination to spread any benefits not just across metropolitan Melbourne but across the state — and we have seen some terrific programs in our schools. I would ask the minister what action she is taking to make sure that that sense of innovation and excitement is spread right across the state, particularly in regional Victoria, where education suffered so dreadfully under the previous government.

Marine parks: Cape Howe

Mr THOMPSON (Sandringham) — I raise for the attention of the Minister for Environment and Conservation a matter concerning the exclusion of Cape Howe from the system of marine parks. It should be renamed today Cape Why. Why has the government thrown conservation principles overboard? Why has it taken the near unprecedented step of failing to follow the recommendations of the independent successor to the Land Conservation Council? I discern political malodours in Mallacoota and the fishy stench of rotten political opportunism.

Mr Helper — On a point of order, Mr Acting Speaker, I raise the rule of anticipation. The bill relating to marine parks was second read only this afternoon. This is obviously a direct reference to the matter.

Dr Napthine — On the point of order, Mr Acting Speaker, the honourable member for Sandringham has made it clear that Cape Howe is not included in the bill; therefore, he cannot be breaching the rule of anticipation.

The ACTING SPEAKER (Mr Seitz) — Order! There is no point of order.

Mr THOMPSON — I urge the minister to table in the parliamentary library all records, correspondence and documents on the Cape Howe exclusion. The government has abandoned abalone and rock lobster fishermen at Portland, Warrnambool, Port Campbell, Point Addis, Marengo, Barwon Heads and all along the eastern coast of Victoria. It has launched the Labor members for Geelong in barbed wire canoes.

I ask why and to what extent the decision about Cape Howe in East Gippsland was influenced by the direct and indirect political and personal interests of both the local Independent member in East Gippsland and the ALP. I note in the pecuniary interests register that the honourable member for Gippsland East has rightly declared his one-third interest in a family abalone fishing licence. Was the decision announced today open and was it accountable, or has the ALP again gutted its conservation values with a political fish knife?

Sunbury Downs Secondary College

Ms BEATTIE (Tullamarine) — I ask the Minister for Education what action she will take in regard to literacy and truancy issues at Sunbury Downs Secondary College. I make it clear to the house that I consider the young people at Sunbury Downs Secondary College to be no different from students anywhere else in this state. They have the same issues, both at school and at home, as other young people.

Labor has clearly focused on education since gaining government in this state. The Bracks government began the repair work to the education system as soon as it was elected and formed government in November 1999, after the seven long, dark years of the Kennett regime when over 300 schools were closed, 8000 teachers were sacked — that was 8000! — and the state plunged to the bottom of the ladder of expenditure on our most precious assets — our young people.

The repair work is now well under way, with 2000 teachers back in the system, an innovations commission, exciting programs and the funding to support special programs. I congratulate those principals, teachers and parents whose dedication to the education of our young people never wavered in those long dark years. We all know how, when Labor was in opposition — you have yet to get used to opposition — teachers were scared to even speak to us. Their jobs were under threat, they had received letters from the department, and we all know what they experienced; but they stood up to the onslaught and are to be congratulated. However, many young people were left behind in those cruel Kennett years.

That is why I ask the minister what action she can take on literacy and truancy issues at Sunbury Downs Secondary College. This Bracks government will keep the focus on education, will keep forging ahead and will repair all the damage done. We are well on our way but we will stay focused and will not let the young people of Victoria down again.

VOMA: opposition access

Mrs SHARDEY (Caulfield) — I ask the Minister for Multicultural Affairs to investigate the following situation, which I view as absolutely deplorable. I have written to him and the parliamentary secretary for multicultural affairs, and one of the honourable members for Templestowe Province in another place, Carlo Furletti, has written to the Minister assisting the Premier on Multicultural Affairs to ask for a meeting and a briefing with the newly appointed Director of the Victorian Office of Multicultural Affairs.

We asked that I attend that briefing, along with the parliamentary secretary for multicultural affairs and the honourable member for Bulleen, who is the chair of the opposition's multicultural affairs committee.

Mr Hulls — Anyone else? Your brother? Your uncle?

Mrs SHARDEY — No, no-one else. The response we received is that only I am welcome to attend the meeting, which we consider most important. We were going to be asking the new director to explain the operation and policy areas of the Victorian Office of Multicultural Affairs. She was also going to be asked to explain how a bill about racial vilification — if it were passed — will be implemented by the Victorian Office of Multicultural Affairs.

We consider all the issues we were going to raise with that newly appointed executive as most important, and I ask the Premier to investigate and then reverse the decision. If only in the name of open, accountable and transparent government, he should offer an opportunity for those interested in the area to attend what I consider to be an important meeting. I ask him to investigate the issue and come back to me with a different answer.

Aged care: funding

Mr HELPER (Ripon) — I raise an issue for the attention of the Minister for Aged Care — and a very good minister she is. I ask her to take action to assure the constituents of my electorate and indeed across the whole of Victoria of the benefits of the Bracks government's capital funding for residential aged care.

I have in my electorate the Avoca campus of the Maryborough and District Health Service — a magnificent hospital and aged care facility. Less than a big stone's throw across my electorate border is the Dunolly campus of the Maryborough and District Health Service, and it is a similarly excellent facility.

I praise members of the community for the incredible effort they have put into raising funds for aged care on both those campuses. They have fought hard to get together their contribution to capital upgrading at both Dunolly and Avoca. I do not know whether they actually conducted a chook raffle, but it takes an awful lot of chook raffles in small country towns to raise the dollars they have raised, and they deserve to be congratulated by all members here today.

I also congratulate both communities on their historic and heroic efforts in fighting to retain their hospitals under the onslaught of the previous government — the very dark years under the black hand of the Kennett government. They did not get the black hand to the Dunolly Hospital or the Avoca Hospital; those communities stood up to the previous government and prevented their closure and loss from their communities.

Mrs Shardey interjected.

Mr HELPER — I asked for my action earlier; I will not repeat it — check *Hansard*. The issue of aged care is one that weighs heavily on all our communities, particularly regional communities, because of the sense of isolation and the justified desire for people to see aged people cared for in their community so that they can have that nurturing sense that only their community can provide for them. Older Victorians deserve nothing less than a caring government that provides the appropriate infrastructure and meets their needs in their retiring years.

For the benefit of the honourable member for Caulfield I will repeat the action I seek from the minister. I ask the minister to take action to assure my constituents — —

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member's time has expired.

Peninsula Support Services

Mr COOPER (Mornington) — I ask the Minister for Health to take urgent action to assist Peninsula Support Services, which has a client base of 250 people residing on the Mornington Peninsula but extending as far north as Chelsea who suffer from mental illnesses. The client numbers of the service have doubled over the past three years and, unfortunately, there is a well-held expectation that further growth in the client base will continue over the next few years.

The service has now outgrown its present location in Queen Street, Mornington, where it occupies premises owned by the Mornington Peninsula Shire Council. I am advised the council wants the building back by the end of this year, and therefore the service will have to move. The reason for its need to move is twofold: firstly, because the council wants the building; and secondly, because it has outgrown the premises it is in.

The service has investigated the availability of suitable new premises in Mornington and has found there are suitable places available. It has, however, had discussions with a developer who is prepared to build custom-designed premises on a rental basis, which I understand from the service is acceptable to the minister's department. The sticking point, however, is that the developer requires a guarantee of occupancy for five years and the department has refused to provide that guarantee. The service is trying to find $350 000 as security for the five-year lease or to ask each volunteer member of the committee of management to provide the guarantee. That option would be grossly unfair on the volunteers who give so much of their time to the running of this vital service.

This is not a question of asking for money, it is a question of asking for a guarantee to the developer to ensure the service can move into premises by the end of this year. The department's refusal to give that guarantee is ridiculous, because it is clear that the support service will be in business for a lot longer than five years, as it is providing an essential service within my electorate and the electorates of Dromana, Frankston and Carrum.

I ask the minister to take urgent action, otherwise that essential service will find itself literally out on the street and its 250 clients will have no support whatsoever.

Back to Back Theatre

Mr LONEY (Geelong North) — I direct to the attention of the Minister for Community Services the Back to Back Theatre company in Geelong, and I ask her to take action to ensure the company can meet the needs of its ensemble and staff for a range of programs and special requirements that it currently has, particularly the need for funding for sexuality and relationship workshops, the upgrading of computer facilities and transport to enable the ensemble to get to its performances — an eight-seater bus. The theatre has had difficulty in responding to all the performances and training opportunities.

Back to Back is a professional theatre company in Geelong comprising people with intellectual disabilities. It carries out a dual role as a supported employment service for people with learning disabilities. It is known for its original and innovative work, and it has built a local, national and international audience base for the work it has carried out for some years.

It receives operational and project funding from Arts Victoria, but the funding it currently seeks for the personal needs of the ensemble and staff does not fit into any Arts Victoria funding category. It therefore seeks funding to be made available through the Department of Human Services. It is important that its

needs be met. The theatre company is performing a service to the arts community and is providing opportunities for people with intellectual disabilities to participate widely in our community and to be given worthwhile employment opportunities.

I ask the minister to respond positively to this request from the Back to Back Theatre company because it would be a pity if it were unable to meet those personal needs of both its ensemble and staff in a way that would allow them to continue to contribute to our community and the wider community in the creative way they have been doing over the past few years.

Water: private rights

Mr PLOWMAN (Benambra) — I raise a matter for the attention of the Minister for Environment and Conservation. A little over three weeks ago I was contacted by Mr Lindsay Rapsey, who lives on the River Murray immediately below Lake Hume. There are five diverters in the area who over the past six months have not had water to enable them to irrigate.

I contacted people from Goulburn Murray Water about the issue on 7 May and advised Mr Rapsey about this. He said that they had come out to have a look at the situation and said it was not their responsibility. The farmers now have been without water for six weeks. They have a licence to divert water for irrigation during the autumn. They have a legal entitlement to the water and this problem occurs every time we have a dry autumn such as this one.

Will the minister review the situation and advise me how these farmers can gain access to the water to which they have a legal entitlement? I also ask the minister to advise whose responsibility it is, given that Goulburn Murray Water said it is not its responsibility.

All members would recognise that in a dry autumn such as this farmers require the water to which they are entitled. These people are having trouble feeding their cattle. I believe there is a degree of urgency about this matter and therefore I ask the minister to respond with that degree of urgency.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Bentleigh has 45 seconds.

Housing: Moorabbin refuge

Mrs PEULICH (Bentleigh) — I raise a matter for the attention of the Minister for Housing about concerns in the Moorabbin area regarding the Department of Human Services building project on the corner of Wickham Road and the Nepean Highway. I have tabled a petition of nearly 1000 people. There has been an information day, and the minister did not turn up; there has been a public meeting, and the minister did not turn up, and I have called for a delegation and she as yet has not agreed to it.

Will the minister arrange a convenient time for a delegation of these concerned residents?

Responses

Ms DELAHUNTY (Minister for Education) — The honourable member for Gisborne raised the matter of spreading information in schools right across the state and not containing the goodies just within metropolitan Melbourne. We are certainly serious about that, and $100 million from this budget is going into innovative projects in every school in the state.

We are setting up an innovations commission led by one of postwar Australia's most innovative thinkers, Barry Jones. The deputy chair will be Alaistair Maitland, one of our leading businessmen, and a second deputy chair will be Ellen Koshland, who heads up the private philanthropic foundation, the Education Foundation.

There are two iconic innovative regional projects in which the honourable member for Gisborne may be interested. We have already announced the Maryborough precinct, which is the integrated educational precinct, which in the beginning will bring together four schools, and could include even lifelong learning from cradle to grave.

The honourable member will be delighted to hear that in her own electorate the government will be establishing the Bacchus Marsh science and technology centre at the Bacchus Marsh Secondary College. It is a $4 million dollar investment in an innovative partnership that will ignite a love of learning in many students who, particularly in the middle years, are starting to lose interest, finding the curriculum fairly dreary and perhaps finding school not terribly relevant to the sorts of interests they would like to pursue.

I am happy to join the honourable member for Gisborne when she visits the Bacchus Marsh Secondary College tomorrow. We will talk about how this new centre will take science into uncharted territories. It will generate a whole range of education focus in the local community and provide specialist facilities. There is also the possibility of developing a special curriculum, not only for this secondary college but for schools right across the state, particularly in the areas of aquaculture, horticulture and viticulture. That slips off the tongue, doesn't it? — aquaculture, horticulture and viticulture!

Importantly the centre will be a venue for the college's science program under the Middle Years of Schooling program and will assist in expanding the school's hospitality program under the VET in Schools program. It is a terrific partnership and will be significant not only for the students of Bacchus Marsh Secondary College but also for students throughout the state, who will have access to an innovative curriculum in their schools.

By way of a nice little segue, Madam Deputy Speaker, the honourable member for Tullamarine raised the matter of how the government is supporting young students, particularly in the early years of secondary school, who are finding it troublesome staying at school and being involved in what school has to offer.

One of the most innovative programs funded by the government's $67.4 million dollar investment in the Middle Years of Schooling program is a stunning program at the Sunbury Downs Secondary College. The honourable member for Tullamarine is a great advocate for the schools in her electorate and their teachers. She knows they have survived the long, dark years of the Kennett government, and it is fair to say that some of the many students who spent some of those seven long, dark years in primary school missed out on the basics.

We are now responding to the alarm bells that are ringing for students in the early secondary school years, where there are high rates of truancy and disengagement and where young people are deciding they do not have the skills to stay in education and training. The government is going to stop the rot and provide the money, the teachers and the ideas the teachers need to keep their students interested in school.

The Sunbury Downs Secondary College has one of the most innovative programs. For example, with the extra money that it has been given in this budget it has employed a middle years coordinator to tackle literacy and truancy head on, and that teacher will go out and work with parents. The college has also set up an intensive corrective reading program.

One of the most innovative parts of this middle years plan is the way the teachers have encouraged students in years 7, 8 and 9 to work in small action teams. These students not only deal with their own difficulties but also provide peer support for others in the same boat. Tomorrow the honourable member for Tullamarine and I look forward to visiting Sunbury Downs Secondary College and seeing at first hand the real innovation in our schools that will make a real difference for our students.

Ms CAMPBELL (Minister for Community Services) — I thank the honourable member for Geelong North for his interest in the Back to Back Theatre, which is an absolutely fabulous theatre company that was developed and established in 1987. The theatre is renowned for its work throughout Victoria and nationally, and I hear that it has recently received international acclaim. It continues to provide very professional, original and innovative work for a broad base of local, national and international audiences. The honourable members for Geelong North and Geelong are both extremely proud of the theatre. I notice that the honourable member for Geelong has come into the house to hear about this important matter.

As I said, the Back to Back Theatre company is renowned for its work. While it is based in Geelong it is close enough to Melbourne to collaborate with many of the arts companies and individuals around the city. In addition, it is highly sought after in regional Victoria because it is regionally located. Short films, documentaries, theatrical productions and tours are produced through the Back to Back Theatre's training program. They act as very high profile events for the participants. Those works play a great advocacy role for many people with disabilities.

I am told that while the company is based in Geelong it is able to pick up some very good funding. It is well supported by the Geelong community, and the City of Greater Geelong community arts program has provided $5000 for the company to run a community theatre workshop program for people in the Barwon–South West region who have disabilities. I am advised by the honourable members for Geelong and Geelong North that the City of Greater Geelong awarded the theatre another $5000 from its community arts program for the production of a new show.

Bearing that in mind, it is important that the government get behind this wonderful production company. I am pleased to inform the honourable members for Geelong and Geelong North that the state government will be happy to provide $1500 for the theatre's sexuality and relationship workshops. The government will also provide $6000 to upgrade the theatre's currently inadequate and outdated computer facilities.

I am advised that the theatre needs to be able to take its production company around Victoria and Australia and that having a bus would be of great assistance to it. I am happy to inform the honourable member for Geelong North that the disability services division of the Department of Human Services will be providing $30 000 for an eight-seater bus for the Back to Back

Theatre company to enable it to take its productions far and wide.

I encourage honourable members to grasp the opportunity to attend the Back to Back Theatre when it puts on a production in their areas or elsewhere; they will see a great production if they do. The government will be investing $37 500 in this wonderful theatre company. I congratulate everybody involved in it.

Ms PIKE (Minister for Housing) — The honourable member for Ripon has raised with me the issue of capital funding and asked me what action the government will take to address the condition of residential aged care facilities in his electorate.

I am pleased to advise the honourable member that in the budget the government has made a significant contribution of $4.2 million to the redevelopment of facilities in both Dunolly and Avoca. That is part of an overall additional contribution of $25 million to upgrade and redevelop aged care facilities across Victoria, and particularly in the rural communities. Of course, that is in addition to the $47.5 million announced in the last budget. Avoca currently provides 14 high-care nursing home beds and 5 hospital beds and will open an extra 6 high-care beds as part of this redevelopment.

The funding is important because it is part of an ongoing commitment of the government to ensure that public sector nursing home facilities and hostels, particularly in rural Victoria, stay in public hands. It represents a significant injection of capital. The government is faced with a huge task in redeveloping those facilities. I am confident that the honourable member knows that the budget announcement is significant for the people of Avoca and Dunolly. It is a real contribution not just to the care of elderly people in the area but to the strength of the overall communities there.

The honourable member for Bentleigh again raised the matter of a proposed housing development on the Nepean Highway in her electorate. I have received a request from the honourable member on behalf of members of her community for a delegation, and I am currently seeking advice on the nature and timing of it. I will advise her when that becomes available.

Mrs Peulich — On a point of order on the question of relevance, Mr Acting Speaker, I asked the minister to personally receive a delegation of residents led by me and the honourable member for Mordialloc rather than the mayor of Kingston, Elizabeth Larkin, who has failed to represent her community and has refused to do so. I understand from an informal exchange that the Minister for Housing is preparing the delegation to be received by members of her department. They have already met with members of her department and they now request the minister to intervene because there is such a high level of concern that the city of Moorabbin is becoming the place to flee rather than the place to be. We need the minister to discuss this important issue, which is of enormous concern to the community.

The ACTING SPEAKER (Mr Seitz) — Order! There is no point of order.

Ms GARBUTT (Minister for Environment and Conservation) — The honourable member for Sandringham asked me the reason for the exclusion of the proposed Cape Howe marine national park. I am pleased to provide him with very sound reasons. I mentioned them at question time today; obviously he was not listening.

Firstly, it would be exceptionally difficult to enforce no-take provisions. It is a remote location and there are jurisdictional issues with New South Wales — clearly one cannot chase poachers into New South Wales. The Victorian fishers who fish there often provide information to the fisheries service and act as a deterrent for poachers from New South Wales.

Secondly, there is no land access, so there would be limited opportunities for tourism, recreation or those other things provided for in marine national parks. As well, the Environment Conservation Council report identified Mallacoota as the only town to have an identifiable impact from the proposal. The report states:

> Adverse social and economic impacts are likely if the town loses fishing and processing jobs, as this is a large part of the local economy.

Claims of some sort of deal with the local member of Parliament are just a fabrication by the opposition. I am interested to know whether the honourable member for Sandringham is prepared to say that we rejected the Ricketts Point proposal because of some sort of deal. Has the government done a deal with the Leader of the Opposition over Discovery Bay, where the boundaries were changed? Has the government done a deal with the honourable member for Warrnambool, where boundaries were changed?

Mr Perton — On a point of order, Mr Acting Speaker, the honourable member for Sandringham asked the minister to take action and to table the documents relating to this matter. Conversations with the local member make it quite clear that he was involved in negotiations with the minister.

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Doncaster is entitled to express his point of order.

Mr Perton — Mr Acting Speaker, I urge you to ask this minister to be very careful lest she mislead the house in respect of the discussions that took place between her and the Premier and the honourable member for Gippsland East on the proposed Cape Howe marine park.

The ACTING SPEAKER (Mr Seitz) — Order! I do not uphold the point of order. I am sure the minister knows the rules on responses under the standing orders of the house.

Ms GARBUTT — I believe that is another example of the absolute fabrication the shadow minister is carrying on with.

The honourable member for Benambra raised the lack of irrigation water for farmers in his electorate. I will need more details about who and where, but I will discuss that with the honourable member and follow up the issue with Goulburn Murray Water.

Mr HULLS (Attorney-General) — I will deal firstly with the matter raised by the honourable member for Murray Valley — —

Mr Plowman — On a point of order, Mr Acting Speaker, I do not think the minister addressed the question I put to her.

Honourable members interjecting.

Mr Plowman — I certainly was listening, and I suggest the response she has given was totally inadequate. I ask — —

An honourable member interjected.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member is allowed to express his point of order.

Mr Plowman — I ask her to readdress that question.

The ACTING SPEAKER (Mr Seitz) — Order! The standing orders do not allow for that. The minister has responded, and you might follow that up by other means.

Mr HULLS — The honourable member for Murray Valley raised an issue for the attention of the Minister for Transport about a bridge. He is either unaware of or has been unable to read the budget, but I think four bridges have been budgeted for in this budget. Nonetheless, I will refer the matter specifically to the Minister for Transport.

The honourable member for Caulfield raised an issue for the attention of the Minister for Multicultural Affairs. She is seeking a briefing with the Office of Multicultural Affairs. It appears she wants to bring about 20 people with her, including her uncle, auntie, nephew and niece. In any event, I will refer the matter to the Minister for Multicultural Affairs.

The honourable member for Mornington raised for the attention of the Minister for Health the very important issue faced by Peninsula Support Services and sought urgent action. The mental health service has client numbers of 250 and has grown too big for its premises. I am sure the Minister for Health will be keen to look closely at the issue.

The honourable member for Brighton raised for the attention of the Premier an issue concerning a consultancy company by the name of Auspoll. I understand that is a small business. I thought she was on the side of and in the business of promoting small businesses rather than slagging them in Parliament. In any event, she seemed to be making a reference to that company and the honourable member for Frankston East. If she actually took the time to read it she would see that in his inaugural speech the honourable member for Frankston East made it clear that he sold any interests he had in that business on 24 August 1999.

The honourable member also mentioned that Auspoll conducted focus groups, polling and the like. I say to her simply that it would not matter if it was Auspoll, Newspoll, the North Pole or an icy pole! The fact is that the poll makes it quite clear that the opposition is rating at 31 per cent!

Honourable members interjecting.

Mr HULLS — It does not matter what poll she looks at! The Leader of the Opposition is rating at 10 per cent! That is what the polls are saying. Perhaps she ought to spend her own money on getting a decent poll from Auspoll to find out how she is rating, because at the moment she is under enormous pressure as Deputy Leader of the Opposition — and the knives are being sharpened!

Ms Asher — On a point of order, Mr Acting Speaker, I did not ask for a rampant display of testosterone to be demonstrated in the chamber. I asked for an inquiry by the Premier and would be delighted if the Attorney-General could direct his spleen to that.

The ACTING SPEAKER (Mr Seitz) — Order! There is no point of order.

Mr HULLS — I am more than happy to table these results of the poll published in the *Australian* today as a reminder of the pressure the Deputy Leader of the Opposition is under to be raising such a ridiculous issue for the Premier. Indeed, the matter has already been addressed by the honourable member for Frankston, and yet she has the audacity to talk about dirty deals. What about the casino tender process? What about the Guandong share affair? What about the credit card abuse that went on on a daily basis by this mob in the opposition when in government? What about the dirty, rotten deals the government is now uncovering?

The fact is that it is gross hypocrisy for the Deputy Leader of the Opposition to talk about dirty deals. I suggest she contact Auspoll — —

Mr Thompson — On a point of order, pursuant to standing orders, Mr Acting Speaker, I am not aware that Bob Katter impersonations are allowed in the Parliament.

The ACTING SPEAKER (Mr Seitz) — Order! There is no point of order.

Mr HULLS — Can I conclude, because I know people want to go home. The implication is that Bob Katter beat me, but you were defeated by the Victorian public! That is why you are sitting on that side. We are in government: get used to it. Whether it is Auspoll, the poll in the *Australian* or any other poll, they all make it quite clear that the Labor Party is in government and is going very well, thank you very much.

The issue the honourable member for Brighton raises is a joke. It is because she is under pressure. Every poll says she is under pressure. I think she is not a bad deputy leader. She has my support, as does the Leader of the Opposition. I just hope they are still here in another 12 months time, and then we will see whether Auspoll can help them.

Motion agreed to.

House adjourned 7.12 p.m. until Tuesday, 29 May.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Assembly.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Tuesday, 15 May 2001

Treasurer: DTF transactions

279(a). MR WILSON — To ask the Honourable the Treasurer —

Further to the statement on page 47 of the Department of Treasury and Finance's 1999–2000 Annual Report —

1. How many transactions of $1 million or more, including freehold purchase or sale of buildings, building improvements, fit-outs, grounds development, heritage building restoration or the charging of depreciation took place during 1999–2000 that ultimately led to the Department's assets falling from $778.1 million to $673.4 million during the 1999–2000 year.

2. What was the amount of each transaction.

3. What was the reason for each transaction.

4. To what asset did each transaction relate

5. Will more complete information be provided in the 2000–2001 annual report about this aspect of the Department's operations.

ANSWER:

I am informed that:

Points 1 to 4

Total Departmental Assets decreased from $778.1 million to $673.4 million during the financial year. This decrease was brought about mainly by the following transactions and events —

Depreciation and Amortisation of Non-current Assets for the year. **($29 million)**

Disposal of Properties and other Non-current Assets (e.g. Pentridge Prison). **($37 million)**

A reduction in the Leased Motor Vehicle fleet. **($15 million)**

A reduction in balances with the State Administration Unit. **($38 million)**

Net of —

Capital additions undertaken during the year. **($18 million)**

Point 5

The extent of detail currently provided in the Department's Annual Report (including the Financial Statements contained therein) readily satisfies the requirements of the Financial Management Act 1994 and Australian Accounting Standards.

The level of information to be provided, however, is continually subject to review, taking into account matters such as the perceived value to readers and other users of the Annual Report.

Multicultural Affairs: Macedonian Teachers Association of Victoria

284. MR KOTSIRAS — To ask the Honourable the Minister for Multicultural Affairs — (a) whether the Victorian Government, or people acting on its behalf, entered into discussions with the Macedonian Teachers Association of Victoria to withdraw the term 'Macedonian (Slavonic)' issuing an apology and contributing to costs; and (b) on what dates these discussions took place.

ANSWER:

I am informed that:

When this Government took Office, a legal action by the Macedonian Teachers' Association against the State of Victoria was unresolved. The Government undertook to have the matter resolved via the legal process and as part of this process various suggestions were made about how the issue might be resolved. On 8 September 2000, the Human Rights and Equal Opportunity Commission (HREOC) determined that the language directive was indeed unlawful. This decision resulted in the subsequent withdrawal of the language directive.

Local Government: employment data

289(e). MR WILSON — To ask the Honourable the Minister for Local Government with reference to the annual report of the Commissioner for Public Employment 1999–2000, as at 31 December 2000 —

1. What was the median base salary across the Minister's Department/s for each of the Victorian Public Service (VPS) broadbands of — (a) VPS 1; (b) VPS 2; (c) VPS 3; (d) VPS 4; and (e) VPS 5 by categories of — (i) gender; and (ii) all employees.

2. How many equivalent full time staff were employed in categories of — (a) gender; and (b) all employees, and what proportion of total equivalent full time staff were employed in the bands — (i) VPS 1; (ii) VPS 2; (iii) VPS 3; (iv) VPS 4; and (v) VPS 5.

3. What was the median length of service in the bands — (a) VPS 1; (b) VPS 2; (c) VPS 3; (d) VPS 4; and (e) VPS 5 for — (i) men; and (ii) women.

4. How many executives were employed who received a total annual remuneration package of — (a) less than $90,000; (b) $90,000–$100,000; (c) $100,000–$110,000; (d) $110,000–$120,000; (e) $120,000–$130,000; (f) $130,00–$140,000; (g) $140,000–$150,000; (h) $150,000–$160,000; (i) $160,000–$170,000; (j) $170,000–$180,000; (k) $180,000–$190,000; (l) $190,000–$200,000; (m) $200,000–$210,000; (n) $210,000–$220,000; (o) $220,000–$230,000; (p) $230,000–$240,000; (q) $240,000–$250,000; (r) $250,000–$260,000; (s) $260,000–$270,000; (t) $270,000–$280,000; (u) $280,000–$290,000; (v) $290,000–$300,000; and (w) $300,001 and above, and how does this compare to figures at 30 June 2000.

ANSWER:

The information requested would require an inordinate amount of time and resources which are not available.

Comprehensive information on the composition of public service employment in Victoria will be contained in the 2000/2001 annual report of the Commissioner of the Public Employment, scheduled to be tabled in the Spring 2001 Parliamentary Session.

Environment and Conservation: water quality tests

334. MR THOMPSON — To ask the Honourable the Minister for Environment and Conservation — what are the — (a) dates; (b) locations; and (c) results or water quality tests, since January 1999, from rivers, creeks, canals and drains which flow into Port Phillip Bay.

ANSWER:

I am informed that:

The monthly waterway monitoring data for the Port Phillip catchment since January 1999 is available. However, the data exceeds 200 pages in length. I therefore invite the Member to arrange with the Environment Protection Authority to view the data.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Assembly.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Wednesday, 16 May 2001

Environment and Conservation: Bayside bike path

306. MR THOMPSON — To ask the Honourable the Minister for Environment and Conservation with reference to the coastal bike path nearing completion within the City of Bayside — (a) what risk assessment has been undertaken by the Government for pedestrian safety, noting that many of the multiple access and egress points along Beach Park onto the bike path have no cautionary signage; and (b) what insurance cover is provided by the Government or the Local Authority to cover the cost of medical treatment in the event of anyone being injured through being struck by a passing cyclist or rollerblader.

ANSWER:

I am informed that:

(a) The shared pathway along Beach Park in the City of Bayside was designed and constructed by the Bayside City Council which is the Committee of Management for Coastal Crown land in this municipality. A thorough risk assessment was completed during the design and construction phases of the pathway, wherein risk issues affecting pedestrians as well as cyclists and other users of the path were identified. These risks were minimised by design including improved delineation of paths for pedestrians, vehicles and cyclists and installation of appropriate signage.

Since construction, some minor safety issues along the pathway have been identified and addressed by Bayside City Council. Given the small number of instances and issues that have arisen, it has not appeared necessary to undertake a comprehensive post construction risk assessment.

(b) Public liability cover is provided by the government and local authority. This insurance covers injury caused through negligence to a person using a shared path.

Environment and Conservation: Port Phillip Bay foxes

307. MR THOMPSON — To ask the Honourable the Minister for Environment and Conservation with reference to the prevalence of foxes in some of the coastal parks and reserves around Port Phillip Bay — (a) what studies have been undertaken by the Department of Natural Resources and Environment in relation to the impact of foxes on native flora and fauna; (b) what estimates are there as to the number of foxes; (c) what Government strategies and programs have been developed to control fox populations; and (d) what strategies have been developed by local governments responsible for the management of Crown land and coastal parks and reserves along the coastline of Port Phillip Bay in relation to the control of fox populations.

ANSWER:

I am informed that:

(a) A significant study on urban foxes including the coastal areas of Port Phillip Bay in the 1990s established the fox is widely distributed across metropolitan Melbourne. Foxes are opportunistic feeders and in conservation areas prey on a variety of native animals.

(b) Estimation of the numbers of foxes in coastal parks and reserves cannot be readily done due to the large distances these animals travel and fluctuations in population according to season. The 1990s' study found that in some areas within the metropolitan area the fox population maybe as high as 14 foxes per square kilometre. This compares with approximately 7 foxes per square kilometre in urban-rural fringe. Densities in rural areas are lower again.

(c) In Victoria, predation by foxes is listed as a key threatening process under the *Flora & Fauna Guarantee Act 1988*. The key conservation objective of fox management is to protect and promote viable populations of endangered and threatened fauna on both public and private lands. For example, there is a strong focus on fox control on Phillip Island where the predation of penguins by foxes can result in significant mortality. In 1999/2000 Phillip Island Nature Park's fox control activities accounted for eradication of 69 foxes. Parks Victoria has an active fox control program to protect the Hooded Plover at Point Nepean within the Mornington Peninsula National Park.

The Catchment Management Authorities, including the local Port Phillip Catchment and Land Protection Board are currently developing regional Fox Action Plans. Port Phillip also has an extension program focusing on providing information, *Coping with foxes in Urban Areas*, to urban and urban-rural fringe landowners on how to deal with foxes in their local neighbourhood.

(d) The highly populated and visited public land strip along the coast of Port Phillip Bay poses a particularly difficult management task in terms of feral animal control, in particular for foxes, due to the limited range of methods of control that can be applied. Some Councils have trained staff who are able to carry out humane fumigation of dens. Councils and land managers around Port Phillip Bay are aware of the need to work together in the development and implementation of appropriate control methods.

Environment and Conservation: Black Rock seawall

310. MR THOMPSON — To ask The Honourable the Minister for Environment and Conservation with reference to the funding commitment by the Government to reinstate the seawall opposite 325 Beach Road, Black Rock and works being undertaken — (a) what was the financial contribution of the Government to the total cost of the works; (b) what was the reason for the collapse of the wall in early December following the works undertaken; (c) who was the contractor responsible; (d) what is the revised cost for the completion of the project; and (e) which entity bears the cost for the further reinstatement of the wall.

ANSWER:

I am informed that:

(a) The Department of Natural Resources and Environment (NRE) bore the total cost of $25,570 for repairing the 15 metre section of damaged seawall at Black Rock.

(b) Adverse weather conditions that occurred while the seawall was being repaired in December caused some minor damage whilst the repair work was being undertaken. The damage was repaired immediately and did not add to the cost of the works.

(c) The contractor responsible for the works was Natural Stone Constructions Pty Ltd.

(d) The cost for the repair of the damaged section was $25,570. The Government has allocated a further $125,000 for maintenance works which includes the replacement of capping and bluestone blocks and tuckpointing to prevent water penetrating behind the wall. These works are aimed at preventing further risk management issues arising in relation to the Black Rock Seawall.

(e) Responsibility for the unprogrammed repair of coastal assets damaged as a result of natural coastal processes (including storm events) is negotiated on a case by case basis between NRE and respective coastal managers.

Environment and Conservation: northern Pacific seastar

311. MR THOMPSON — To ask The Honourable the Minister for Environment and Conservation with reference to estimates that the Northern Pacific Sea Star in Port Phillip Bay has increased in number from a handful in 1995 to now over 100 million — what strategies has the Government developed to minimise the impact of the Sea Star upon the food sources for the existing commercial and recreational fisheries in the Bay in the current financial year.

ANSWER:

I am informed that:

Victoria has taken a practical and targeted approach and focused its science efforts on improving the control of vectors, eg ships, that lead to the introduction of pests in the first place.

In February 2001 the Victorian Government announced a national trial on ballast water management arrangements. The trial, costing $900,000 will be based in the Port of Hastings. It involves Australian Quarantine Inspection Service, CSIRO–Centre for Research on Introduced Marine Pests and Victorian agencies led by the EPA. The trial has the full support and active involvement of Australia's port and shipping sectors.

When completed it will significantly reduce the risk that the Northern Pacific Seastar will spread to other areas.

With regard to specific work on the Northern Pacific Seastar, the Marine and Freshwater Resources Institute (MAFRI) is conducting a research program based on a July 2000 review by leading scientists from Melbourne, Monash and Tasmanian universities and the CSIRO–Centre for Research on Introduced Marine Pests.

Corrections: full-time correctional services staff

330. MR WELLS — To ask the Honourable the Minister for Corrections — what was the level of effective full time employees within the Office of the Commissioner for Corrections at — (a) 20 October 1999; and (b) 31 March 2001.

ANSWER:

(a) 63

(b) 78

Environment and Conservation: marine pests

332. MR THOMPSON — To ask the Honourable the Minister for Environment and Conservation with reference to the proliferation of marine pests in the waters of Port Phillip Bay resulting, in part, from the discharge of ballast water — (a) what is the current budget allocation for the control, management and minimisation of marine pests; and (b) how much has been spent in the financial year to date.

ANSWER:

I am informed that:

(a) Responsibility for action on the control, management and minimisation of marine pests is shared between industry, the community and Government. To ensure cost effectiveness, Victorian efforts are coordinated with work elsewhere in Australia and overseas.

In December 1999 the Bracks Government released a package of measures to help ensure the threats posed by marine pests are effectively managed. Within this context, the overall commitment to Victorian projects, including actions relevant to Port Phillip Bay, by the Commonwealth, industry and Victorian Government is around $2.6 million (excluding the cost of staff input) over a 4 year period,

(b) Expenditure on marine pests during the current financial year will be in the order of $0.7 million.