PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

14 June 2001

(extract from Book 7)

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By authority of the Victorian Government Printer

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CONTENTS

THURSDAY, 14 JUNE 2001

QUESTIONS ON NOTICE

WEDNESDAY, 13 JUNE 2001

Thursday, 14 June 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.03 a.m. and read the prayer.

COUNCIL OF MAGISTRATES

Annual report

Hon. M. R. THOMSON (Minister for Small Business) presented, by command of the Governor, report for 1999–2000.

Laid on table.

VICTORIAN CHILD DEATH REVIEW COMMITTEE

Annual report

Hon. M. R. THOMSON (Minister for Small Business), by leave, presented report of inquiries into child deaths: protection and care 2001.

Laid on table.

CLASSIFICATION GUIDELINES

Films and videotapes

Hon. M. R. THOMSON (Minister for Small Business), by leave, presented National Classification Code (Amendment No. 2), and Guidelines for the Classification of Films and Videotapes (Amendment No. 3) August 2000.

Laid on table.

DRUGS AND CRIME PREVENTION COMMITTEE

Crime trends

Hon. B. C. BOARDMAN (Chelsea) presented second report, together with appendices.

Hon. B. C. BOARDMAN (Chelsea) (*By leave*) — I acknowledge the fine staff of the Drugs and Crime Prevention Committee — Sandy Cook, David Ballek, Michelle Heane and Peter Johnston.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Falls Creek Alpine Resort Management Board — Minister for Environment and Conservation's report of 12 June 2001 of failure to submit 1999–2000 report to her within the prescribed period and the reasons therefor.

Members of Parliament (Register of Interests) Act 1978 — Summary of Variations notified between 23 November 2000 and 13 June 2001.

Mount Baw Baw Alpine Resort Management Board — Minister for Environment and Conservation's report of 12 June 2001 of failure to submit 1999–2000 report to her within the prescribed period and the reasons therefor.

Statutory Rules under the following Acts of Parliament:

Health Services Act 1988 — No. 51.

Metropolitan Fire Brigades Act 1958 — No. 52.

Subordinate Legislation Act 1994 —

Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 52.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 51.

Youth Parole Board and Youth Residential Board — Report, 1999–2000.

PERSONAL EXPLANATION

Hon. BILL FORWOOD (Templestowe) — I desire to make a personal explanation. Yesterday in the Legislative Assembly the Minister for Health said, and I quote from page 37 of *Daily Hansard*:

> It is quite clear that the member for Templestowe Province in another place —

and another person he then refers to —

> are doing everything they can to undermine the tobacco reforms …

that have been brought to this Parliament by the government. In relation to me, the Minister for Health's statement yesterday is demonstrably untrue.

In my contribution on 6 June in this place I said in debate on the Tobacco (Further Amendment) Bill:

> At the outset I state that the Liberal Party supports the Tobacco (Further Amendment) Bill and that I also support it. Some honourable members are aware that for many years I served as a member of one of the committees of Vichealth and that I have had a longstanding interest in the area.
>
> I have a number of criticisms to make of the bill, so I state again that while I criticise the government strongly about

many aspects of how it has gone about preparing the bill, my criticism should not be mistaken for lack of support for the principle or for the bill itself. I want to be very clear on that because I do not want anybody to later say that I did not support the bill.

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! If Mr Theophanous has an objection he should stand up and make it appropriately. What has happened in this case is that the form of the statement, which I have approved, is that certain views were attributed to the Honourable Bill Forwood in the Legislative Assembly. What he is doing is reading what he said to this house in the last couple of weeks, and making it quite clear that his views are distinct from what was attributed to him.

It is quite appropriate for a personal explanation, but if Mr Theophanous objects, he may bring a point of order rather than sitting there and muttering.

Hon. T. C. Theophanous — On a point of order, Mr President, I have been in this place for many years, and during that time I have never seen someone make a personal explanation to this house on the basis that they did not agree with or in some way found objectionable statements made in another place about themselves.

Indeed, in previous times, when such statements were made when we were in opposition, we were never given the opportunity to make a personal explanation when a whole range of unsubstantiated and untrue claims were made about members in this place. The purpose of personal explanations is to explain to the house where something that has been said by the member himself was either incorrect or needed to be explained for the record.

Hon. C. A. Furletti — Are you asking or telling?

Hon. T. C. Theophanous — If Mr Furletti does not care about the forms of the house, that is up to him. The fact is that personal explanations are about explaining something of a personal nature — that is, something that you yourself, the member, said — and setting the record straight in relation to that. They are not about debating something that has been said by somebody else. I want you, Mr President, to make very clear to the house whether this is a change in the way personal explanations can be made, because if it is, you will receive a flood of personal explanations about things that have been said by members in the other place about people in this house. I want you, Mr President, to clarify whether you will allow such personal explanations to occur in future.

Hon. M. A. Birrell — On the point of order, I refer to standing order 120, which allows for explanations of matters of a personal nature. I also make the point that, as I am sure most members would be aware, personal explanations have always been heard in silence. For someone like Mr Theophanous to try to lecture us on the forms of the house — —

Hon. T. C. Theophanous — Are you saying that you cannot take a point of order?

Hon. M. A. Birrell — Mr Theophanous did not take a point of order. That is the whole point: he did not take a point of order.

Hon. T. C. Theophanous — It is an abuse of the house.

Hon. M. A. Birrell — Personal explanations are heard in silence and have always been heard in silence, including those of Mr Theophanous. We show tolerance of that and we would expect others to hear them in silence. Personal explanations in this house are usually heard as a matter of recognition that an individual wants to make a personal statement about himself that is important.

Hon. T. C. Theophanous — Exactly!

Hon. M. A. Birrell — That is what was just made, and we hear them in silence. We regard it as a strength that personal explanations are heard in silence rather than having someone constantly muttering over the explanation and having no concern for the forms of the house.

I think it is perfectly appropriate that the Honourable Bill Forwood should make a statement that is temperate and does not involve any attack on the person who made the comment against him, as that would be wrong. He has passed no judgment on the Minister for Health, who made the comment; it would be wrong for him to do so. He has not debated the minister's comments; it would be wrong for him to do so. He has simply made a personal statement about his deeply held views on the issue of tobacco, which goes to an ethical issue and the honourable member's ethics. It is not surprising that someone like the Honourable Bill Forwood would want to make a personal explanation on an issue regarding personal health that he holds dear. The honourable member has been involved with Vichealth and other bodies and it is not surprising that he would want to make a personal explanation that reflects his personal values and views.

Talking over him as Mr Theophanous did and should not have — —

Hon. T. C. Theophanous — Don't you try and tell me what to do in this house!

Hon. M. A. Birrell — And as Mr Theophanous does here is an indication of how he is not concerned about the forms of the house.

The PRESIDENT — Order! I thank Mr Birrell for that contribution. The Honourable Theo Theophanous may recall that over time personal explanations have been used in this house in a range of circumstances. They have been used in circumstances where a member has objected to comments made about him or her in a newspaper. They have certainly been used in these circumstances before. I invite the honourable member to refresh his memory. In the past 12 months the Honourable Ron Bowden has objected to a statement referring to him made by the honourable member for Springvale in the other place. That is a recent memory, not something fabricated. The house has a long history of personal explanations for different reasons.

In this case the Deputy Leader of the Opposition objects to views ascribed to him. I understand his statement; I have seen it, and he is quoting what he has already put to this house. That is perfectly appropriate for a personal explanation.

It is regrettable that the explanation has been interrupted because the longstanding tradition is that personal explanations are heard in silence and they may not be debated. I do not uphold the point of order. I am surprised it has been raised, given the recent example in this house that showed that such a point of order had no basis in fact. I ask the Honourable Bill Forwood to continue.

Hon. BILL FORWOOD — To finish my quote, I said:

> I want to be very clear on that because I do not want anybody to say later that I did not support the bill.

To which the Leader of the Government interjected:

> Now we've got that out of the way!

Later I said:

> Let me finish on a different note. The Liberal Party supports the legislation. I support the legislation. I want to see further development of this legislation. I would like to see it done in a tripartite way. That does not mean the government announces what it wants to do and then says, 'Now we demand you support us'. We want to be involved with you, with the industry, in the development of the next rounds.
>
> … If you want to keep moving in this area, for the good of Victorians, for the good of the health of Victorians, then we will be there too. But don't bring in legislation and demand that we support it. Involve us in the process, be genuine about it.
>
> With those few mild words, I conclude by saying that I support the proposed legislation.

I am proud of my longstanding efforts in the area. I thank the house for this opportunity to set the record straight.

DEPARTMENT OF HUMAN SERVICES

Annual report

Hon. J. W. G. ROSS (Higinbotham) — I move:

> That the Council take note of the report of the Department of Human Services for the year 1999–2000.

I am pleased to have an opportunity to take note of the annual report of the Department of Human Services for 1999–2000. The report is divided into eight program groups: acute health; aged, community and mental health; disability services; the Office of Housing; the public health division; community care; rural health; and Aboriginal Affairs Victoria. The Department of Human Services is far and away the largest department in terms of its operating budget from government. I propose to note one or two areas where the data contained in this report indicates that the policy objectives of the Labor government have fallen short of community expectations.

In its 1999 health policy the ALP made an unequivocal promise to reduce waiting times in public hospitals. However, at page 14 of the annual report it is reported that:

> During the first part of this reporting period —

I make the point that that would be the final months of the Kennett government —

> there was a period of stability in the total number of patients on the elective surgery waiting list. However, during the second part —

That would be the first six or so months of the Bracks government —

> numbers on the waiting list increased.

By cross-referencing this annual report with hospital services reports we find that in September 1999 the waiting list totalled 40 293 and by September 2000 it had risen by 3513 to 43 806. The annual report shows that as at 30 June 2000 there were 42 121 patients on the waiting list and that this was an increase of 4.9 per cent since 30 June 1999. If that percentage is translated

into actual numbers of patients rather than being masked by the more benign approach of quoting percentages, we see that more than 2000 extra patients were waiting in line for elective surgery in public hospitals.

I also refer to the additional heading of 'Emergency care' on page 14 of the report. It says that in 1999–2000 all urgent patients requiring emergency service care, which is in the triage category 1, received immediate treatment. It is a misleading statistic because any person who receives immediate medical treatment will be treated in triage category 1, and that implies triage category 1 patients will always be so classified simply as a matter of definition.

If a patient does not receive immediate medical treatment that patient will be placed in triage categories 2 or 3. It is far more important to concentrate on the activities of emergency care in the triage categories 2 and 3. The proportion of patients in triage category 2 deteriorated from the previous year, notwithstanding that patients in triage category 2 remained above the Australasian College of Emergency Medicine recommended target of patients seen within 10 minutes.

The proportion of triage category 3 patients also deteriorated and fell slightly below the ACEM recommended target of 75 per cent of patients seen within 30 minutes. By cross-referencing to hospital services reports it is possible to show that the number of patients waiting on trolleys for more than 12 hours continued to rise, increasing by more than 30 per cent from 4712 people in September 1999 to 6158 in September 2000

A number of factors have been suggested in the report to explain the blow-out in public hospitals waiting lists. However, the most obvious variable was the advent of the Labor government and the appointment of a part time Minister for Health to oversee the activities of the largest department in the government sector. The report and other data clearly show that the government has been unable to meet its election commitment made prior to the last election to reduce waiting times in public hospitals.

I now turn to those aspects of the report that refer to the winter demand strategy. At page 14 under the heading 'Emergency care' the report states:

> … the government announced the Winter Emergency Demand Strategy in March 2000 … As part of this strategy up to 360 extra beds were opened across the system.

However, the government failed to appreciate that the simple act of opening beds without the necessary nurses to service them is absolutely pointless. In fact, the working nurse force was effectively diminished by the generous improvements in conditions of employment and leave provided for further training that the government allowed to occur by refusing to negotiate directly on nursing awards and allowing the dispute to go to arbitration. That was an abrogation of the government's responsibility to protect its budget. By allocating additional money through the hospital demand strategy Labor has acknowledged its failure to address this issue.

I refer now to the activities of the public health division, which is reported in the annual report as being responsible for detecting and controlling the largest outbreak of legionnaire's disease ever reported in the country at the Melbourne Aquarium. At page 47 under the heading 'Legionnaire's disease' the report further states:

> The management of this outbreak was undertaken in a rapid and timely fashion thereby preventing any further cases of the disease. A telephone hotline was set up to provide information for the general public and persons at risk of infection. This was done with the support of departmental staff and was instrumental in allaying public fears of the disease by providing accurate information and general advice to concerned members of the public.

That incident created a situation where the government was required to respond to the disease. The report continues:

> A working party to review options for enforcement of best practice for maintenance of cooling towers was established in December 1999. A new policy framework was developed to reduce the health risk of legionnaire's disease.

Despite the establishment of an expert working group that put in place a variety of policies we are still confronted with the breakdown of the system in respect of the recent legionnaire's disease outbreak at the Alfred hospital. I refer to page 2 of the *Age* of 14 June which has a report about a strike threat to the hospital. It states:

> Unions at the Alfred hospital yesterday called on the Victorian Workcover Authority to prosecute the hospital for failing to notify workers of the risk of contracting Legionnaire's disease.

This is another example that emanates from the Department of Human Services report that clearly indicates that the government failed to meet its objectives in terms of the protection of public health and other aspects of the health system.

Hon. KAYE DARVENIZA (Melbourne West) — It gives me great pleasure to contribute to the debate on the 1999–2000 annual report of the Department of Human Services. The report was released in October 2000 last year but the opposition has waited until June this year to put it on the notice paper and debate it.

The government has a lot to say about the health system, particularly about the state it was left in when the government came to power. Of course, this report spans part of the period when the former coalition parties were in government and part of the period when the Labor Party was in government. The public health system, as everyone knows, was left in a dreadful state by the former coalition government. Opposition members in this chamber should hang their heads in shame when they talk about the health system that they left, which was on the verge of collapse.

Dr Ross referred to the problems of opening beds and the shortage of nurses. When the coalition parties were in government many hospital networks were technically bankrupt. They had to sell assets, close beds, reduce services and give nurses voluntary departure packages. It had nothing to do with industrial disputation. The shortage of nurses was caused because the coalition government gave hundreds of nurses and health professionals voluntary departure packages depriving the health system of people who could provide care to patients and depriving hospitals of the ability to open more beds and give adequate care to Victorians.

When the Labor Party came to government it immediately established the Duckett review chaired by Professor Duckett, who was the architect of the casemix review.

The review found that our entire hospital system was technically bankrupt but that fact had been hidden by the dodgy accountancy techniques the previous government had put in place. It found that the reported 1998–99 surplus was largely due to an injection of funds by the commonwealth that had been provided to deal with the Y2K replacement problems that might be encountered by hospital services during that period. The net assets fell from $76 million in 1992–93 to $12.5 million in 1999, a turnaround of $88.5 million.

In January 2000 all health care networks were in deficit, a situation the government inherited and a problem that had to be dealt with. The government committed itself to repairing the system, and did it in a number of ways: $36.4 million was injected into the system to boost hospital liquidity in June 2000; an additional $53 million was provided to increase hospital baseline budgets, which was included in last year's $176 million budget boost; and in this year's budget an additional $1.6 million will be provided for hospitals over the next four years. The Bracks government had been in office for only eight months of the period covered by the 1999–2000 report of the Department of Human Services and achieved a whole range of positive outcomes during that time.

Looking at the report and going to the overview, where you can see the achievements at a glance, I will run through some of those, which are set out under a number of areas. Under the heading 'Restoring democracy', the government looked at the disaggregation of the 7 health care networks and the formation of 12 metropolitan health services; the completion of the development of a model for the implementation of a statewide system for monitoring patient satisfaction in public hospitals — the government wanted to hear from patients and put in place a system where patients could tell the government what they thought about our hospital system and the care they received; the Drug Policy Expert Committee was established to review drug policy; the Disability Advisory Council was established; and ministerial advisory committees were established for HIV/AIDS and gay and lesbian health.

Under the heading 'Improving services to all Victorians' the report reveals that the government: successfully implemented cleaning standards for Victoria and infection control strategic management planning processes for all Victorian hospitals; successfully managed the Y2K issue and the transition to the year 2000, an enormous issue the government was confronted with at the time; established a school nursing service in 40 secondary schools, something that had been in place years ago and was disbanded; implemented a suicide prevention initiative; increased funding for community residential units; and commenced the redevelopment of Kew Cottages, which is continuing, with a recent announcement by the Minister for Community Services.

The government also undertook a range of initiatives in public housing, which had been significantly diminished under the previous government; some $232 million was spent on acquiring properties to expand the supply of social housing; $132 million was spent on physical improvements and redevelopments for public housing; tenure reviews for older Victorians in public housing were abolished; and the Victorian government's problem gambling strategy was developed, an important policy which the government came to office with and which it has implemented.

The government has consulted widely with the community and the industry about gambling and how to improve the situation. It has looked at regional areas and particular areas in metropolitan Melbourne to see where the problem areas are and how to address them. It has improved assistance support to problem gamblers. Significant changes have been made in the way gambling has been advertised and promoted, and changes have been made to the way the Community Support Fund is utilised to ensure that funds from that fund go back into those communities with the highest proportion of problem gambling. We all know those areas are some of the most disadvantaged in metropolitan Melbourne and in rural and regional Victoria.

Under the heading 'Growing the whole of Victoria', planning commenced for significant upgrades or redevelopments at the Frankston, Kyneton and Dandenong hospitals and the Austin and Repatriation Medical Centre. It was not just about hospitals going bankrupt, it was not just about the networks having to sell off their assets, it was not just about the hospitals being starved of funds, robbed of professional staff and being run down so that the standard and quality of care was so significantly diminished, there were real concerns about whether you could get treatment, and if you could, what the standard and quality of treatment would be. It was also that the infrastructure in which those services were being delivered was crumbling around us, about which the previous government did nothing. When I say 'previous government', I look to those honourable members sitting on the opposition benches, and Dr Ross was part of that government, that did nothing, yet they criticise the fact that there are insufficient nurses and health professionals in our hospital and health system. Shame on all those honourable members, because they are responsible for it!

The government has injected funds into the system and has moved on considerably since the report was written. Opposition members did not want to debate it when it was released but have decided to debate it today — we are talking only about this document. While planning was being undertaken then, the government has gone a lot further since the release of the annual report.

In conclusion, the government has made a significant number of changes which are dealt with in the report and which go to the issues of hospital networks, tobacco and the use of tobacco, health care, dental services, drugs and needle exchanges — all areas that have been priorities for the government. They were areas which were run down by the previous government but which have been taken up by this government and are outlined in their report.

Hon. R. A. BEST (North Western) — In making a contribution on behalf of the National Party on the annual report of the Department of Human Services, I will address my remarks to the issues of aged, community and mental health. At page 19 the report states:

> Respond to the needs of Victorians with a significant mental health illness or an enduring psycho social disability through funding a comprehensive public mental health service system.

That was identified by the previous government and has been identified by this government as a key issue, because people in our communities are suffering from mental health problems. I do not believe we focus sufficient attention on or provide sufficient funding to assist those unfortunate people who suffer from a mental illness.

As most honourable members will be aware, that issue is close to my heart as, unfortunately, a member of my family has suffered from an eating disorder: fortunately, she has recovered well and is now healthy. By coincidence, tonight she will be a guest speaker at a meeting of a support group for people suffering from eating disorders.

Through the former Minister for Health I was able to organise government funding of $30 000 to establish a consultancy to examine the provision of eating disorder clinics in a rural setting and determine whether such a clinic could be established in Bendigo. History shows that the Bendigo Health Care Group also believes a problem exists in the community for people suffering from eating disorders. The group engaged Kaitlin Fraser to do a six-month consultancy. All the agencies and health providers within and around the Bendigo community were involved in that study. Almost 12 months ago to the day the findings of that study were launched in Bendigo by the honourable member for Frankston East in the other place in his role as the parliamentary secretary to the Minister for Health.

That report identified the fact that about $250 000 was needed to provide a multidisciplinary approach to the provision of a service to support those suffering from eating disorders. The Bendigo Health Care Group was prepared to assist in the provision of that service.

The announcement that the government was examining the possibility of establishing an eating disorder clinic in Bendigo received enormous publicity at the time. I welcomed that announcement. However, it is disappointing that as of today the establishment of that

clinic has not proceeded. In Bendigo we are still trying to get the government to come to the party to assist with funding for the establishment of that clinic or service. The Minister for Health said the government would provide a statewide service.

There was been a lot of argy-bargy about the issue because the minister's department decided that the statewide service would be based in Melbourne. The plan was that the service would basically be an online information technology service. No provision was made for extra beds or funding to have the clinic established in a regional centre such as Bendigo.

In the short time I have left in the debate I urge the government to look at the issue seriously. It is a sleeper within the community and unfortunately, an enormous number of females and males suffer from eating disorders. The issue is extremely important in parts of the eastern suburbs; I know the Honourable Bruce Atkinson has had dealings with people from the Association for the Care and Treatment of Eating Disorders, which is operated by the parents and relatives of sufferers of eating disorders.

The government needs to do something quickly. Present services are inadequate and do not provide the safety net that many people afflicted with eating disorders need. The government should ensure that, particularly in a rural setting, safety nets in the form of support services are placed among Victorians, where they are most needed. It is disappointing that so many people who require that type of support and assistance need to travel to metropolitan areas for either day programs or treatment.

I urge the government to get on with the establishment of extra eating disorder services that are vital to communities not only in rural but also in metropolitan settings. The families of sufferers of eating disorders do not understand many issues associated with what are debilitating diseases. The types of eating disorders are complex and difficult to understand. A support group in Bendigo was set up by Judy Homa, a private psychologist, who practises in Bendigo. She is doing a fabulous job as a private practitioner in trying to help families understand the problems their children, siblings and sometimes partners are experiencing.

It is disappointing that the government is erring on the side of not funding such important services. I urge the minister to move urgently to provide an appropriate level of funding so that the services can be established in Bendigo.

Motion agreed to.

POST COMPULSORY EDUCATION ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 6 June; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. B. N. ATKINSON (Koonung) — The opposition will not oppose the bill. It has had the opportunity to be briefed on the bill and is supportive of its general thrust. The government has attempted to preserve the integrity of qualifications and university courses, and to achieve the Victorian component of agreed national frameworks for post-compulsory education, in particular tertiary education, provided by universities.

However, the opposition is concerned about certain matters that were addressed by the honourable member for Hawthorn in the other place, the spokesperson on tertiary education, when the bill was debated there. As a matter of record I, too, will detail certain concerns about how the provisions of the bill may be implemented by the government. Nevertheless, the philosophy behind the legislation is generally supported by the Liberal Party.

The Liberal Party believes it is valuable to have the legislation in place to preserve the integrity and standards of education quality in Victoria. The second-reading speech says that the government believes Victoria's educational standards in universities are high. It is true that the Liberal Party works on the premise that university education in Australia, particularly in Victoria, is of an international standard. Our universities have made significant achievements in their research work and have produced a considerable body of academic work that is highly regarded throughout the international community.

The entire post-secondary education system that has been developed by governments of both sides of the political fence in Australia has led to the development of a system of which we can be very proud and of which students can be confident in terms of the recognition of the qualifications that are achieved if they pursue their studies in these universities.

The Liberal Party welcomes the move towards a national framework that ensures universities throughout Australia are part of a process that will audit the ongoing standard of the courses they are providing and continue to ensure that the degrees and qualifications young people — in some cases not-so-young people — achieve through our universities and other

post-secondary education providers — but outside the vocational areas of training that are covered by separate acts — will be recognised wherever these people seek to use them to advance their careers and perhaps to advance their learning in other areas.

It is interesting to consider the international context of our universities because we are mindful of the fact that education is a significant export earner for Victoria. I understand from the second-reading speech — I take it the minister has given me the right information — that in 2000 almost 31 700 students from overseas were studying in our universities. That represented some 33.1 per cent of all students studying in those universities. It is a significant opportunity for Victoria, apart from anything else. It is certainly important in recognising the role Victoria plays as an education course provider and as a provider of learning for people from a wide range of countries, particularly from Asia and the Pacific islands, New Zealand, India and a range of other countries, but certainly those areas in particular, who look to our universities for the advancement of their learning opportunities and preparation for their careers and the roles they will play back in their own countries.

I am mindful of the importance of Victoria establishing a positive bond with those students. Education is not good for Victoria just because of the export dollars it earns by having those overseas students in our universities. It is also important in allowing those young people — in nearly all cases the overseas students are young people — to come to understand a little bit more about Australia and Victoria. When they return to their own countries, having obtained their qualifications in this country, they are in a sense ambassadors for Victoria. As they move through their careers in commerce, industry or government, and so forth, and sometimes back in their own education systems, they are people Victoria might rely on for associations in the future. Victoria might well look to develop further relationships and important and significant linkages into the future, which will be to the benefit of the countries that those students come from and certainly to our country.

Where universities are so significant an export, and obviously an export earner in terms of providing learning for overseas students as much as for our own students who are expecting that their university courses will not simply be gateways to careers here in Australia but will be gateways to careers increasingly in a competitive world market, it is important that the courses offered are of a standard that is recognised internationally as having merit and standing. Therefore the Liberal Party supports the fact that the legislation is designed to underpin the integrity of our system and ensure that young people coming from overseas to study in our universities, and certainly our local students who look at those universities as gateways to further careers, can be confident that the qualifications they receive from Victorian universities will be recognised internationally as courses, qualifications and degrees of value.

In an immediate sense the legislation does not affect students or indeed the teaching faculties of any of the universities directly, but in the longer term I believe it will. It will secure the quality of their education and ensure the recognition of their degrees and qualifications well into the future.

I note that at the meeting of the ministerial council in March this year it was proposed that the national framework should be in place by 1 July this year, which will be a fair task for the other states because at the moment Victoria is the first state to enact legislation to give effect to the decisions that have been made by the ministerial council. As the minister said in the second-reading speech, a considerable process of dialogue between all the states and the federal government has taken place on the procedures and framework needed in this area of university qualifications and the recognition of courses and providers, and also recognition of new methods of delivering courses. Increasingly — this legislation certainly picks this up — the Internet and to some extent distance education courses or correspondence courses are being used to provide opportunities for people to study and gain qualifications.

Obviously the national framework will not be in place by 1 July because Victoria is the only state that has moved to give effect to the legislation. However, we welcome the opportunity to support the government in making sure that Victoria's position on the legislation is at least clear and there is an opportunity for other states to consider what has been done by Victoria in implementing that national framework. It is hoped the other states will follow in a fairly short time.

In the second-reading speech the minister said that universities play an important role in providing educational pathways for Victorians. He noted that there are nine universities in Victoria, eight of which are publicly funded plus the National Australian Catholic University, which has two campuses. Approximately 147 000 students are enrolled in the universities studying almost 870 different undergraduate awards or degrees. In addition, there are more than 40 860 postgraduate students, some of whom will be involved in high-level research.

I mentioned at the beginning of my contribution that a significant number of the student population at our universities are students enrolled from overseas. As well as those publicly funded universities and the Catholic university there are some 23 providers of higher education, including Melbourne University Private, which has been established in recent times and has certainly gained its share of publicity in the past few months for the tribulations and difficulties of its initial journey in trying to provide a range of courses to young people in a private university setting.

Those private providers offer some 96 different degrees or qualifications, and obviously offer theological studies as well as business courses and a range of other courses. Because of the nature of those courses the providers also attract a range of overseas students. The Liberal Party therefore accepts in the context of this legislation that it is important to safeguard the integrity of courses offered by ensuring an audit process and a degree of transparency to assist those who are looking for access to learning opportunities in Victoria.

In her second-reading speech the minister noted that higher education is a joint responsibility of state and commonwealth ministers. However, because of that joint federal–state responsibility questions have been asked about the powers of state ministers to conduct investigations into higher education institutions to ensure that the required standards relating to qualifications, delivery of courses, setting of curriculum frameworks, and so forth have been met. This legislation clarifies that. To some extent that goes to the nub of the opposition's concern about the bill's implementation. The opposition seeks an assurance that the minister's involvement in those processes of review will be fair and equitable.

Assurance is also needed that when the minister requires authorised officers to conduct reviews or to pursue other investigations subsequent to those reviews those officers will act with a degree of integrity and will not abuse the powers of entry and investigation accorded to them by the legislation. The opposition notes that the vocational training legislation does not grant a similar power involving authorised officers. Nonetheless, opposition members accept that a review of courses, which is obviously implicit in the establishment of a national framework system, is warranted and worth while. We note that the review will take place every five years, and we would hope the universities will not find that unduly onerous. The opposition nevertheless supports the five-year review period, because it is important to maintain a continual oversight of the courses provided. It is in the best interests of students and has the effect of ensuring that courses are delivered with the consistently high standard we have come to enjoy.

The second-reading speech suggests that new providers will be given an opportunity to establish their facilities and the provision of courses, and to become established entities, before having to face a review. The opposition accepts that. The reality, as we found in the hospitals review process, is that the provider can take anything from 12 months to 2 years to prepare for a review anyway, so the 5-year period is practical. We would hope that the amount of organisation and administration associated with such reviews does not become overly onerous for the providers. Certainly some attempts have been made in the legislation to make those processes simpler, and I hope it is effective in doing that.

The opposition's two main concerns are with the powers of the authorised officers and the exercise of those powers. As my colleague the honourable member for Hawthorn did in another place, I will at a later stage read into *Hansard* comments contained in a letter from an adviser to the minister in another place concerning the powers of the authorised officers. The opposition sees those comments as an important adjunct to the second-reading speech. In the spirit of what opposition members have been told by the minister, which is not supported by clauses in the bill and which was not mentioned in the second-reading speech or given any effect by way of amendment, we will accept the assurances of the minister as provided in that letter.

Opposition members are also concerned that universities established under their own acts of Parliament, as opposed to other providers, should not be disadvantaged in a corporate governance sense or in the way they operate today. Obviously a broad-brush piece of legislation such as this seeks to examine a range of different providers of educational services — everything from theological colleges to, potentially, universities established in America that might offer courses in Victoria through the Internet, distance education or in partnership with an agency or franchise in Victoria. Such models of delivery of educational courses have about them the one size-fits-all approach. We hope that this legislation does not cause concerns to existing universities that enjoy good reputations and were established under acts of Parliament. I am not sure there will be a problem but it is an area about which we have had concerns.

The other key matter is the loss of appeal rights for people whose courses are denied by the minister through this legislation. The opposition notes that the legislation no longer allows appeals to the Victorian Civil and Administrative Tribunal. Parliament's

opportunity to disallow decisions or to overrule decisions made by the minister has also been lost. That loss of appeal rights imposes a significant responsibility on the minister to use the powers vested in her wisely and in the best interests of students. Opposition members would not want to see some of the ideological carry-on that has been associated with Melbourne University Private, at which federal members of Parliament in particular have been taking pot shots, more on an ideological or philosophical basis than anything else, notwithstanding the challenges that university faces at this time. We would not want to see those sorts of issues cloud the assessment of the value of a provider and of the courses offered.

In terms of the authorised officers, I refer to a letter forwarded to my colleague the honourable member for Hawthorn in another place, Ted Baillieu, in his capacity as the shadow minister for tertiary education and training. The letter was in response to a briefing conducted by the minister's staff with Liberal Party members during which some concerns and issues were raised and clarification sought on those authorised officers. The letter was forwarded by the senior policy adviser to the minister on 29 May and it is important in the context of the legislation and, as I said before, as an adjunct to the second-reading speech.

The adviser stated that the minister had undertaken to reply to our concerns regarding the powers of authorised officers under proposed section 11D of the Post Compulsory Education Acts (Amendment) Bill and its relationship to the minister's powers under proposed section 11A to undertake a review of the operations of a university or private provider. On behalf of the minister the adviser made the following points:

1. The powers of an authorised officer under section 11D are largely the same as those of an authorised officer under the former section 91D of the Vocational Education and Training Act 1990 introduced by Act 62 of 1994 by the former Liberal government.

It must be good. The adviser further states:

> The provisions of the former section 91D of the Vocational Education and Training Act 1990 are now found in section 30 of the Victorian Qualifications Authority Act 2000.

2. The proposed new section 11D(1)(i) states that the authorised officer will be able to make inquiries and examine and copy documents in universities where the university or private provider has not responded to a review commenced by the minister under the proposed new section 11A. This power is limited and requires the minister to first establish a review.

In other words, the assurance we have been given is that authorised officers are not able to go into a university or a private provider unless it is part of that review process. The opposition accepts that as an assurance and believes it is important in the context of the legislation. The third point made by the adviser on behalf of the minister was:

> The authorised officer also has the power to make inquiries in universities and private providers, and to inspect documents and make copies of documents relevant to the providers approved operations, without the minister having first established a review. As is the case under existing legislation, this power would only be used as a last resort or where urgent action was required, or in other special cases, for example where a provider has been asked and has refused to provide information.

The opposition believes this power ought not be used unnecessarily. It is a fairly significant power, particularly in the context of intrusion into courses that might be provided by private providers in a very much changed and more global learning environment.

The second point of the letter is a significant assurance to the opposition because it suggests that in the normal course of their responsibilities the authorised officers would act only where a review was proceeding. We take point three as a bob each way, which is what my colleague said in another place. The second point gives an assurance and then the third point says they can do it at another time. Opposition members have some concerns about that. We take it that the information that would be sought is information that would still be sought from the minister and that the authorised officers would not be exercising their powers of their own volition, that the minister would be directing that they conduct this sort of an investigation only where there was cause for concern about the quality of courses that were offered.

The Liberal Party accepts, for instance, that while there will be an overall review each five years, it is possible that somebody might be doing something that was not appropriate, particularly if a course was being offered to overseas students or local students and a fairly substantial cost was associated with tuition fees, and had given the minister cause for concern. There might be some complaint about the delivery of a course. It is accepted in those circumstances that you would not wait for the five-year review period but would move in to seek further information and seek to establish the veracity of the provider and the veracity of the course and the qualification that was being offered.

In the context of the third point contained in the letter, the opposition hopes that would happen only where the minister was initiating that process, as in the review situation, and that authorised officers would not act of their own volition.

I shall comment on two other miscellaneous amendments in the legislation that were mentioned in passing in the second-reading speech. As my colleague in another place said, the Liberal Party is supportive of both those miscellaneous provisions. The first is dealt with in clause 11 and amends section 5 of the Deakin University Act by removing the obligation of Deakin University to maintain a campus at Rusden near Monash University. The background to that provision is that Deakin University is consolidating its resources on the Burwood campus and other campuses and the Rusden campus has been earmarked for disposal. The move has the support of the Liberal Party and is consistent with what the university is trying to achieve. That is provided for in the legislation and is supported.

The second miscellaneous matter is in clause 12 and goes to section 23 of the Victorian Qualifications Authority Act. It clarifies the fee arrangements regarding approvals so that the authority can require a fee from providers of education not only for accreditation but also for awards. The opposition also supports that provision.

The opposition supports the process and notes the extensive consultation that has occurred not just in this state but at a national level, particularly as part of the Ministerial Council on Education, Employment Training and Youth Affairs. It notes that the legislation is the culmination of work that started back in 1997 to establish a national framework.

Members of the Liberal Party have also noted the protocols established at that ministerial council to ensure the continued high quality of education standards in Victoria and nationally. We believe it is in the interests of Victorian universities and other providers of post-secondary education that national standards are in place because clearly in an international context an assessment of any university in Victoria will be made on the basis of its being an Australian university, not just one of the Victorian universities. Nevertheless, by and large this country, as I said, has a very proud history in its academic development and the contribution it has made internationally to academic research and other bodies of academic work.

By supporting the legislation, the Liberal Party joins with the government in hoping our universities continue to flourish and to maintain and improve on the very high standards they have established over many years and continue to provide gateways for local students to global careers and other global opportunities in learning and personal development. We hope also that the framework put in place by the legislation to support that higher education process will ensure that Victoria continues to attract many students from overseas not only to provide them with education and qualifications but also to build bridges with many countries around the world through people who have been exposed to the Australian way of life and have gained their qualifications in Victoria. As I said, the Liberal Party supports the bill.

Hon. G. D. ROMANES (Melbourne) — I am pleased to make a contribution to the debate on the Post Compulsory Education Acts (Amendment) Bill, which amends three acts. Firstly, it amends the Tertiary Education Act 1993 to strengthen the provisions regulating universities and other providers of higher education to meet nationally agreed standards.

The second act that the bill amends is the Deakin University Act 1974, to remove the requirements for Deakin University to maintain a campus at Clayton. That will allow consolidation, as the Honourable Bruce Atkinson said, of the Burwood campus of Deakin University. Thirdly, the Victorian Qualifications Authority Act 2000 will be amended to empower the authority to charge prescribed fees, if required, for applications for the registration of persons and bodies authorised to issue recognised qualifications.

The bill is predominantly about putting in place national standards that have been the subject of discussion through the Ministerial Council on Education, Employment, Training and Youth Affairs at a national level since 1997. State and commonwealth ministers desire to put in place quality assurance measures in the higher education sector to ensure that we maintain the fine reputation that has been built in this country in the provision of post-compulsory education. We want to see in place quality assurance systems that support continuous improvement in the standards and delivery of higher education and to address the ever-changing nature of higher education in the changing technological age.

Higher education is important in building the skills and knowledge of our local students. It is also a significant export earner and provider of education for overseas students. Some 80 per cent of the students who come to this country are from the Asia region. This country and state export and deliver many courses as well as providing courses for the overseas students who come here to live and study.

The sector is growing. I refer to a paper by Professor Simon Marginson entitled ‘Trends in the funding of Australian higher education’ and published

in the *Australian Economic Review*. On page 215 the following point is made:

> OECD data show that in 1998 Australia had the second-highest rate of enrolment of international students in higher education (12.6 per cent), behind only Switzerland (15.9 per cent).

The high rate of enrolment of overseas students has been growing particularly over the past decade. On page 210 of the same paper, figures are provided in table 6 headed 'Growth in higher education student load compared to growth in income — international and domestic students Australia 1995–98,' which show a growth of international student load in Australia from 39 367 in 1995 to 68 109 in 1998, which is a growth in Australia of 73 per cent over that period. The figures in the second-reading speech suggest that the growth has continued to accelerate since that time.

It is important for individual students and for the education industry that we have growing in this country and state that we ensure that the standards are in place to retain confidence so that those who wish to study in our country — both local students and international students — are assured of the quality outcomes they are seeking. The attractiveness of our higher education system relies on available evidence attesting to the quality of the education services and to the skill level of the graduates of those courses. With increasing globalisation, knowledge has become an economic commodity and we are under pressure to compete in the international marketplace. It is important that governments, institutions and parents in our own country and other countries all maintain confidence in the system. There is also, of course, an important element of protection for overseas students. I will refer to that again later.

The bill is important as a first step, as the Honourable Bruce Atkinson said, in putting in place a national framework of standards in higher education, with Victoria being the first state to do so. State and territory governments are responsible for legislative arrangements that protect the integrity of Australian universities and higher education. The bill enables the government to monitor and regulate private providers, interstate and overseas universities and private universities operating in Victoria. There are 23 private providers of higher education, including Melbourne University Private and the Melbourne College of Divinity, operating in Victoria and offering 96 different awards.

Quality assurance measures for the providers operating in Victoria will offer an assurance equivalent to the accountability mechanisms that we have in place for our nine universities that are already accountable to the minister and the Parliament through their own acts of Parliament and through their reporting requirements and the quality assurance measures to be established by the new Australian universities quality agency that will be put in place.

The bill empowers the minister to suspend or cancel approvals for accreditation, which relates to equivalent standards for courses; authorisation, which relates to the conduct of such courses and the resources of an institution over a period; and endorsement of courses, which is a recognition of the capacity of a higher education body to meet the needs of overseas students and to support their learning.

The bill also provides for the minister to review the operations of private universities approved under section 10 of the act within five years of the first enrolment of students. Again, that is part of the national framework put forward through the ministerial council. The ministerial council has agreed on overall protocols that it wants to see in place as part of the quality assurance framework.

Clause 5 inserts a provision into section 9 to recognise the changing delivery of courses. Through technological improvements and other innovations we have the franchising of courses and licensing arrangements. Through changes in telecommunications virtual courses are delivered on the Internet as well as via satellite campuses.

Clauses 4 and 7 amend the criteria for each form of approval — that is, accreditation, authorisation to conduct, and endorsement of courses to make them consistent with the national agreement by the ministers in different states and territories. For example, the first criteria relates to the recognition of universities and the processes, definitions and criteria that will relate to which education providers can adopt the name of a university.

Under the protocols agreed to as part of the national framework, there is a very clear outline of what an Australian university would need to demonstrate in terms of features and operational standards. These include, firstly, authorisation by law to award higher education qualifications across a range of fields, and the setting of standards for those qualifications equivalent to Australian and international standards.

Secondly, they must demonstrate teaching and learning that engage with advanced knowledge and inquiry. Thirdly, there must be a culture of sustained scholarship extending from that which informs inquiry and basic

teaching and learning for the creation of new knowledge, through research and original creative endeavour. Apart from other criteria, finally, sufficient financial and other resources must be provided to enable the institutions program to be delivered and sustained into the future.

There are very clear, agreed criteria for what constitutes a university. It means education providers cannot decide on a whim to set up as a university without complying with the framework and standards set out through the five protocols and processes in the national protocols for higher education approval processes.

This is about protecting Victoria's overseas reputation and the large number of students who are enrolled in higher education. More than one-third of overseas students studying in Australian universities are studying in Victoria. Overall there are 147 000 students studying 870 undergraduate awards and 40 860 postgraduate students studying within the Victorian higher education system.

Therefore we need quality assurance measures across public universities and private providers, and the bill in particular makes criteria for endorsement relevant to the purpose of approval and increases the protection for overseas students.

This means again that institutions of higher education cannot decide to provide education for overseas students without that endorsement from the minister, because of the need for satisfying the criteria that relate to a whole range of features and, in particular, making sure that staff are sensitive to cultural differences and students are fully supported in their living and learning while they are in Australia. In that way they will obtain the best out of the experience.

I can attest to the importance of higher education bodies being aware of the need to provide extra services and support to overseas students who come to learn in our state. I was responsible some years back, when working for Community Aid Abroad, for overseeing the study period spent by six Kanak students who came from New Caledonia to study in higher education institutions in Victoria.

That was a very difficult process for them. They had to settle in and cope with the different cultural and language difficulties while working at their courses and achieving success academically. From that experience they took back new skills to their homeland. It is very important that the bill spells out clearly the criteria for endorsement for approval of courses open to overseas students.

Clause 8 inserts new section 11A, whereby the minister can review the operations of a higher education body when the interests of the students and public demand it. If necessary the minister may revoke, suspend or place conditions on continuing endorsement of such courses.

Clause 8 also inserts new sections 11B to 11D, which enable the minister to appoint, provide identification and powers of authorisation for an officer to enter premises where courses endorsed under section 6 are being offered and to inspect documents and make inquiries.

The Honourable Bruce Atkinson drew attention to a letter sent to the honourable member for Hawthorn in another place by the minister's senior policy adviser with regard to the delegation of powers of review under clauses 8 and 9 given to a member of a body established under section 4, or an executive officer of the public service, to undertake inquiries and investigate the bona fides of course providers and the standards of courses.

The Honourable Bruce Atkinson read into *Hansard* the content of that letter. I refer to the minister's review powers and the third paragraph of that letter. I reiterate and emphasise the contents of the second sentence which states:

> As is the case under existing legislation, this power would only be used as a last resort or where urgent action was required, or in other special cases, for example, where a provider has refused to provide information.

This provision dealing with the authorised officer mirrors the provisions introduced in the Vocational Education and Training Act in 1994 by the then Liberal government. Those provisions are now contained in section 30 of the Victorian Qualifications Authority Act 2000. The review powers are clarified here but they have existed previously.

It also should be noted that with respect to the main universities the authorised officer will be able to make inquiries only about courses endorsed as suitable for overseas students. In view of its limited application to the main universities and given that it mirrors existing provisions in similar legislation, the government considers that the provision is reasonable especially having regard for the sentence I quoted earlier. I note that while talking about some concerns relating to those review powers the Honourable Bruce Atkinson said that he thought the review powers were warranted and worth while. He said that oversight in the interests of students is very important in terms of the purpose of the bill which is to put in place the necessary safeguards to

maintain the reputation and standards of higher education in this state.

In regard to the rights of appeal mentioned by Mr Atkinson, I understand the bill provides rights of appeal to the Victorian Civil and Administrative Tribunal for orders under proposed section 10(7). While the rights of appeal for other decisions are not written into the bill I understand there would still be recourse to VCAT in those circumstances.

This is a major step forward. As Mr Atkinson said, Victoria is the first Parliament to put in place legislation regarding quality assurance and standards for higher education in line with the protocols and standards agreed to by the ministerial council last year. Since 1993 more than 20 private providers have been accredited or authorised to conduct more than 90 courses. This bill will provide the means to ensure that quality can be maintained among the growing number of private providers as well as the public universities. The new criteria reflects experience and changes in the higher education sector. This legislation is leading the way in Australia and we hope other states will soon follow with their legislation so bit by bit the national framework is put in place. This will strengthen the higher education sector throughout the nation and its capacity for continuous improvement.

Victoria has been at the forefront of those discussions over the past four years and it is very fitting that we deal with this matter in the Victorian Parliament as a first and also that this state continues to be at the forefront of future discussion and action in the higher education sector in this country. I commend the bill to the house.

Hon. P. R. HALL (Gippsland) — I welcome the opportunity to make a few brief comments on the Post Compulsory Education Acts (Amendment) Bill. In so doing, I indicate that the National Party will not oppose this legislation.

The bill is predominantly a set of measures designed to improve the quality of higher education in Victoria. These measures perform their functions relatively effectively and efficiently and any measures designed to improve the quality of higher education in Victoria are welcome. The measures evolved from a set of protocols developed by the Ministerial Council on Education, Employment, Training and Youth Affairs in March 2000. I understand the ministerial council has put years of work into the development of those protocols and essentially the legislation before us puts those protocols into effect.

The protocols cover a number of areas and I will quickly run through the areas covered by these amendments. Amendments are made to the Tertiary Education Act. The major clauses in the bill are clauses 4, 5, 6, 7 and 8. Clause 4 amends the Tertiary Education Act to allow the minister to endorse as suitable for overseas students a course of study offered by a university with approval or deemed approval to operate as a university. The clause sets out the criteria on which that endorsement will be assessed. The criteria covers things like ensuring that there are systems and structures in place to support overseas students with their study and living while they are in Australia. The clause contains a sensible range of amendments.

Clause 5 amends the definition of higher education courses to include awards of diploma and advanced diploma where those awards come from appropriate higher education providers. It also extends the definition of higher education courses to include courses delivered by telecommunication devices. We are talking here predominantly about the Internet. That is a welcome innovation, particularly for members of the National Party who represent students living in country areas. It is still a great impost for parents of tertiary students to accommodate their needs if they are required to live in the capital city of Victoria to undertake tertiary study. While many of the universities now offer campuses in regional areas and Ballarat University is based in a regional area, many students in country Victoria still find it difficult to access tertiary education. The ability to deliver courses via the Internet is an excellent innovation that will help students living in remote and rural areas of Victoria.

Clause 6 contains some amendments requiring the minister's approval for universities to operate in Victoria. Clause 6 is supplemented by clause 8, which inserts into the principal act a procedure enabling universities operating in Victoria or deliverers of registered higher education courses to be reviewed from time to time. The review procedures have been outlined by previous speakers so it is suffice for me to say that the National Party endorses the comments made by previous speakers in respect to clauses 6 and 8.

Clause 7 contains some amendments to the provision for granting accreditation of courses in higher education and for granting authorisation to conduct such courses. As has also been mentioned by previous speakers, we have a great number of providers of higher education courses in Victoria. Not only do we have the nine universities that are based and operating in Victoria but we also have some 26 private providers delivering higher education courses in the state. In addition,

interstate and international universities now have the ability to deliver higher education courses in this state in one form or another.

I have mentioned clause 8. The only other point I wanted to mention about the bill itself is a couple of what are called miscellaneous amendments even though they are very important in their own right. Clause 11 amends the Deakin University Act 1974 to remove the requirement for the university to have a campus at Clayton. It was termed the Rusden campus of Deakin University. I understand the university is consolidating its functions that were formerly performed at Rusden at the Burwood campus. It is an anomaly that it is required to maintain a campus at Clayton, so the National Party will support this measure.

Clause 12 amends the Victorian Qualifications Authority Act 2000 in the manner outlined by previous speakers, and suffice it to say the National Party endorses the amendment.

The National Party has consulted with each of Victoria's nine universities and has received supportive comments for the legislation from each of them. The comments are typified by the response of the Australian Catholic University in a letter dated 14 May, which states in part:

> In relation to the content of the bill, Australian Catholic University welcomes initiatives, which will ensure and enhance the quality of higher education. From our perspective the consistency with national protocols is strongly endorsed. Extending the bill to cover delivery of higher education by telecommunications is appropriate, as is the inclusion of reference to a course of study offered in or from Victoria.

That is the sort of sentiment expressed by each of the institutions consulted by the National Party. The Australian Catholic University also states that the second-reading speech said the university had only one campus in Victoria, but in fact it has two: the Aquinas campus in Ballarat and St Patrick's campus in Fitzroy.

As was mentioned by other speakers, higher education plays an important role in both the social structure and economy of Victoria. The statistics in the second-reading speech give some indication of its importance to Australia and Victoria. The nine universities based in Victoria have some 147 000 students enrolled in approximately 870 different courses. In addition about 41 000 students are undertaking postgraduate studies. The documentation provided by the government indicates that 26 private providers are offering about 100 different higher education courses.

Higher education is now an important export income earner for Australia. Enrolments in Victoria's universities alone represent almost one-third of all overseas students studying in Australian universities. Victoria has the lion's share of overseas students studying in its universities, and that is probably why it is important that the integrity and quality of higher education in Victoria is maintained and enhanced. That is the intent of the bill. It is an admirable intent and the National Party supports it.

Hon. S. M. NGUYEN (Melbourne West) — I support the Post Compulsory Education Acts (Amendment) Bill. It is an important bill that demonstrates how the Bracks government is restructuring higher education in Victoria. The government recognises the importance of students coming from overseas, especially from the Asia–Pacific region. The amendments will improve the quality of higher education in Victoria consistent with the nationally agreed framework for quality assurance in higher education.

The bill will allow interstate and overseas universities to establish campuses in Victoria. The minister and her department will be given the power to ensure that our higher education system meets national standards for the benefit of our students.

Victoria's higher education system is one of the best in the world, and certainly the best in Australia. The government wants to enhance that standard and demonstrate to neighbouring countries that our education system is the best in the world.

Australia and Victoria have many different types of universities, including the Australian Catholic University campus in Fitzroy. Many young people will take advantage of our universities and the different courses offered to ensure that Australia will be great in the future. A strong economy relies on a good education system. In 1999 the Labor Party made a commitment to put more resources into higher education to ensure that Victoria has the best education system in Australia.

The nine universities in Victoria have about 147 000 students enrolled in a variety of courses, including off-campus studies and courses undertaken through the Internet. People living in country Victoria, those who work full time who have difficulty attending lectures, and many migrant parents who want to study but are too busy looking after their children, can learn over the Internet. It is a new way to learn. It is not that courses over the Internet can provide everything, but they help universities to cope with the mix of students

who want to study. The Internet also helps people of all ages and students from different communities, whether they are living in the city or in country Victoria.

Many universities are now opening regional campuses in country Victoria, which shows the government's commitment to providing education services to all Victorians. It is important that all Victorians are now being recognised.

I now refer to the importance of overseas students attending our universities. The living standards of the Asia–Pacific region — our neighbours — are improving and parents living in those countries want to send their children overseas to study so they can obtain the best education available. Victoria has to be strong and competitive in marketing its education system to Asian countries. Many people come to my office asking me for assistance so their relatives living in China, Vietnam, Cambodia or other countries can come to Melbourne to study.

Because of that the immigration office requires students coming to Australia to meet certain criteria. Parents wishing to send their children to Australia to study must provide details of salary, credit cards and the like, but many Asian countries are far behind Australia and do not have a good banking or taxation system, or the financial capabilities, and therefore parents cannot provide the details to send their children overseas to study.

Many children know that to obtain a good job English is the first language, and many Asian countries allow students to study in English-speaking countries. They have changed their policies to enable them to integrate into the world economy, and English is vital for their prosperity; they know they will be isolated if they do not do so. Many children who want to study English come to Australia because it is in the region. Some 20 years ago countries such as Taiwan, Hong Kong and Malaysia sent students to England or America, and now countries like Cambodia, Vietnam and Laos are sending students overseas to study English. Last year I was in Vietnam and went to the Royal Melbourne Institute of Technology turning-of-the-sod ceremony for a new university campus in Saigon; and later a campus will be opened in Hanoi. Many parents will now be able to afford to send the their children to university for the first two or three years, and then to Melbourne for two years to complete their degrees.

There is a perception of high international education standards, and because the Australian dollar is low the cost of an education here is about half that in America or Canada, and many Asian parents can therefore afford to send their children to Australia.

Hon. P. R. Hall — Twice as good for half the cost.

Hon. S. M. NGUYEN — It is very good, Mr Hall. Living in Australia is cheaper. Students are closer to home here compared with other countries, and many parents can afford to visit their sons or daughters. There is also more choice in Australia. However, the service providers must ensure that students are not left on their own and that they have contacts. Because parents pay good money for their children's education they expect that their children will be looked after by the service providers. If there is a problem, to whom do students go? The education service providers must give students the best information on issues such as being picked up at the airport, accommodation and what schools they will be attending. Students should not have to find their own way. Parents who feel comfortable that their child is being looked after properly may send their other children to Melbourne for their education.

I have heard of many cases where agents get money from students but do not provide a service. It must be ensured that those who are marketing our education system overseas are respected and operate in a reputable fashion. Employers must be well informed by the government and the best courses must be provided for students. I know of a private provider who expanded his business but was unlucky some five years ago when the Asian meltdown meant many Asian students did not come to Australia because Asia needed the cash during the financial crisis. Now many parents are sending their children to study in Australia because the Asian economies are recovering.

The presence of Australian embassies or consular offices overseas is important. They employ education officers who look after overseas students. Now that agents provide services for Asians wishing to study overseas it must be ensured they are doing the job properly and are not taking money yet not delivering the service, because to do so would harm Australia's reputation.

Many people have asked me about coming to Australia to study at the high school level, not only year 12 but the years leading up to the Victorian certificate of education years. That is a new market. Parents realise that if their children study here at an early age they usually cope better when they attend university, and sometimes they leave their countries without their parents and come here to study. High school is a new market and the students need to be looked after when they arrive. I ask the minister to see how that service

can be assured so that when young students arrive in Australia without guardians they are properly looked after. Some high schools in Australia have campuses in Asia and some Australian schools have sister schools in Asia.

Australian universities can market Internet access not only in regional areas but overseas. The government must ensure that Internet facilities are available on campus and off campus. That service must be of a high standard. It should be monitored and looked after by the government. The people providing the service must know they are doing the job — they may be making money but they are obliged to maintain Australia's reputation.

In conclusion, the government has tidied up the intent of the legislation. Through changing communications there are many opportunities to market Australian education, particularly Victorian universities, overseas. The minister is committed to making available the best education for Victorians. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank the Honourables Bruce Atkinson, Glenyys Romanes, Peter Hall and Sang Nguyen for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HEALTH (AMENDMENT) BILL

Second reading

Debate resumed from 6 June; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. M. T. LUCKINS (Waverley) — This technical bill will eliminate duplication and overlays that have come to light in certain legislation. The bill changes certain acts, including the Health Act, to ensure their drafting is modern and easily understood.

The Health Act 1958 has wide powers over a diverse list of health issues. It covers, for example, municipal and public health plans, including inspection powers, and such matters as body piercing, tattooing and councils monitoring and evaluating the health safety of such practices in municipalities. The act also deals with nuisances that constitute dangers or are offensive to public health. It also refers to refuse, noise, buildings and animals. It has a wide reach.

The Health Act deals with offensive waterways and the protection of water supplies, as well as radiation safety, the management and control of infectious diseases, and immunisation insofar as certificates are to be provided to schools on the enrolment of children to ensure they are inoculated against diseases as scheduled under the regulations. Its provisions also deal with notifications of births, drugs and substances, packaging and labelling of foods and drugs, and the supervision of the handling and sale of meat.

The bill makes changes to provisions governing pest control operators and other consequential amendments to existing acts such as the Chinese Medicine Registration Act, the Drugs, Poisons Controlled Substances Act, the Agricultural and Veterinary Chemicals Act, the Food Act, the Fair Trading Act and consumer protection legislation.

The main purpose of the bill is to eliminate duplication, to simplify the provisions remaining in the Health Act and to move certain provisions into acts where they are best placed.

Many of the provisions of the Health Act I mentioned in my earlier remarks could easily be accommodated in other acts. For example, I mentioned the packaging and labelling of food or drugs that could easily go into the Fair Trading Act. The meat supervision aspects could easily be passed into the Meat Industry Act, and there are some small changes in those areas taking place today. Some of the provisions for pest control will also remain within the Health Act and others will move to the Agricultural and Veterinary Chemicals (Control of Use) Act 1992.

In the past in this Parliament, certainly during my time since 1996, it has been the practice for amendments such as these to be dealt with in an omnibus bill so that many technical changes could be made without our having to debate fairly limited, inconsequential legislation. I do not know whether it is a change in drafting practice or a change in the policy of the

government, but it would certainly make much more sense to have changes such as those we are dealing with in this bill made together in an omnibus bill rather than having each change and consequential amendment made through individual bills.

The bill had its genesis in a review under national competition policy in 1998 while the Kennett government was still in power. The government tells us in the second-reading speech that there has been considerable input from industry, local government and the community, and many submissions have been received following the review into the Health Act.

I put on the record that the Liberal Party supports a more constructive review of the Health Act in its entirety. As I mentioned earlier, the bill has a wide reach and it may be that an act of this size would be better separated to make it is easily accessible to members of the public and to provide the government with an opportunity through parliamentary counsel to ensure that it remains modern, relevant and up to date. It is a cumbersome act to deal with.

Some of the changes in the bill deal with environmental health officers (EHOs), who are primarily employed by councils. They undertake a great deal of on-the-ground work to ensure that government regulations in many acts, including the Tobacco Act and the Food Act, are implemented and at a local level monitor compliance with regulations and acts. The bill makes it no longer necessary for EHOs to be members of a particular organisation and will require them to have qualifications nominated by the Secretary of the Department of Human Services. It also makes provision for current EHOs who are employed on that basis to have their qualifications deemed as acceptable, which is like a grandfather clause.

The bill also removes unnecessary restrictions relating to pest management activities and makes some changes to the Agricultural and Veterinary Chemicals (Control of Use) Act 1992. There has been a change in the licensing system so that it will no longer be a requirement for pest control businesses to be registered as well as licensed. Some aspects of pest management activities will remain in the Health Act, and they are activities to do with individuals in the course of carrying on a business applying pesticides against rodents and other vermin in and around buildings used for domestic or commercial purposes, who will still be required to have a licence under the Health Act. The bill also changes the regulation of businesses that control weeds and vermin, so that that will now be the responsibility of the Department of Natural Resources and Environment rather than, as is currently the case, its coming under the Health Act.

The bill also moves some of the provisions from the Health Act into the Meat Industry Act. It repeals part XIV of the Health Act, which covers some provisions that will now be transferred to the Therapeutic Goods Act 1994, the Agricultural and Veterinary Chemicals (Control of Use) Act 1992, the Drugs, Poisons and Controlled Substances Act 1981 and the Fair Trading Act. It also makes amendments to the Chinese Medicine Registration Act 2000, and the Pharmacists Act 1994 because of the repeal of part XIV of the Health Act.

There are a couple of minor changes to names referred to in the Health Act. For example, the provisions that deal with the Consultative Council on Obstetric and Paediatric Mortality and Morbidity, which is established under section 162 of the Health Act, refer to the Audit Act 1958. That provision will be updated to reflect the fact that it is now the Audit Act 1994. Similarly clause 23 will modernise section 228(1) of the Health Act in line with modern drafting practices of parliamentary counsel. It is important that legislation be easily understood and accessible to people in the wider community, and I applaud parliamentary counsel for continuing to make these changes to ensure that legislation is not in legalese but is in everyday language.

Clause 24 amends references in the Health Act to the Subordinate Legislation Act 1962, which was repealed by the Subordinate Legislation Act 1994. Those provisions deal with the disallowance by Parliament of regulations made under the Health Act. As a member of the Scrutiny of Acts and Regulations Committee and its Regulation Review Subcommittee, which was formerly known as the subordinate legislation subcommittee, I see many health regulations during the course of the committee's scrutiny of subordinate legislation made in Victoria. Members of the committee have always been very impressed by the high standard of the regulations they see from the Department of Human Services, and I commend the department for that.

In closing my brief comments on what is a basic and technical bill, I reiterate that in future it would be much better to have technical aspects of legislation, such as we are dealing with today, dealt with in an omnibus bill rather that in separate amendments to ensure that Parliament's time is not wasted on what are routine and technical drafting amendments. I commend the bill to the house.

Hon. R. A. BEST (North Western) — I advise the house that the National Party will not be opposing the bill. The purpose of the bill is to amend the Health Act 1958, the Chinese Medicine Registration Act 2000, the Drugs, Poisons and Controlled Substances Act 1981 and the Pharmacists Act 1974.

As we have just heard from the Honourable Maree Luckins, the Health Act is a wide-ranging act that covers a raft of different issues relating to public health, and it is continually before the house for review. The bill is the product of national competition principles, and even during this sessional period a great deal of legislation has needed revision following the application of those national competition principles.

This is an another example of national competition principles improving the effectiveness and efficiency of the Health Act. The bill sets out the licensing requirements for people who use pesticides. By 1 January 2002 a person operating a pest control business that was previously registered under the Health Act 1958 will be required to obtain a commercial operator licence under the Agricultural and Veterinary Chemicals (Control of Use) Act 1992. However, a person operating a pest control business will be permitted to operate that business without a licence if that person ensures that the pesticides are applied by a person who holds a licence to do so under the Health Act.

During the briefing I received from the department and the minister's office I raised a query as to how that would apply, particularly in rural centres. I thank the departmental officers for their briefing and for the follow-up on the issue I raised. In his letter of response of 22 May the Minister for Health states:

> You sought clarification on the implications of proposed amendments for pest control operators working in rural areas who may wish to conduct a wide range of pest control activities. Given the somewhat complex relationship between the pest control licensing systems established under the Health Act 1958 and the Agricultural and Veterinary Chemicals (Control of Use) Act 1992, I thought that it would be appropriate to provide that clarification in writing.

The letter then sets out the current system for registration and licensing of commercial pest control activities, the proposed changes to the registration and licensing of commercial pest control activities and the potential impact on pest control businesses in rural areas. I will again quote from the letter:

> I am aware that many pest control businesses in rural areas are often owned and operated by a single pest controller. Because these businesses may be the only ones in their area, they often use a wide range of pesticides against a number of different pests, including, for example, rodents, vermin, insects and weeds.
>
> In this situation, pest controllers will be required to be licensed under the Health Act 1958 in order to use pesticides in the course of their business. That licence will be endorsed so as to allow them to use all of the pesticides which they may need to apply. The fact that they hold such a licence will exempt them from the requirements to obtain a commercial operator licence under the Agricultural and Chemicals (Control of Use) Act 1992. Only one licence, that is the one issued under the Health Act, will be required.

I again put on the record my appreciation to the minister and his officers for clearing up that matter. It was a concern, particularly in small rural settings where pest controllers undertake a wide range of activities.

Clauses 15 and 16 of the bill provide that environmental health officers are no longer required to be members of the Australian Institute of Environmental Health. In the past local councils could appoint only persons who were eligible to be members of that organisation. Now, once they have completed a form of qualification deemed appropriate by the Secretary of the Department of Human Services, environmental health officers will be able to belong to any association. That again is in line with national competition principles.

As I said, during this sessional period we have debated changes to the Food Act. Clause 17 repeals the section of the Health Act that relates to the slaughter and seizure of animals. That is more appropriate to be covered in the Meat Industry Act, which is under the control of the Minister for Agriculture, and the Food Act, which is under the control of the Minister for Health. All of us would be aware of the problems being experienced in the United Kingdom with foot-and-mouth disease and mad cow disease. What has been achieved in Victoria in particular is a level of protection for not only our industry but also for public health — the very important issue of ensuring the most appropriate forms of regulation and legislation are in place to minimise outbreaks of food poisoning due to the inappropriate handling of food.

Clause 18 repeals part XIV of the Health Act. A number of issues covered in that part are better dealt with in the Therapeutic Goods (Victoria) Act, the Agricultural and Veterinary Chemicals Act, the Drugs, Poisons and Controlled Substances Act, the Fair Trading Act 1985 and the commonwealth fair trading act.

As has been said, a range of small pieces of legislation have come before us for debate. I endorse the suggestion of the Honourable Marie Luckins that some of these issues may be better covered in an omnibus

bill. The various bills we have debated enact minor and technical changes and an omnibus bill gives the government of the day an opportunity to bring together a range of technical and administrative changes and have them debated as one bill. With those few comments, I advise the house that the National Party will not oppose this piece of legislation.

Hon. S. M. NGUYEN (Melbourne West) — I support the Health (Amendment) Bill. The bill amends the Health Act 1958, the Chinese Medicine Registration Act 2000, the Drugs, Poisons and Controlled Substances Act 1981 and the Pharmacists Act 1974. It is the result of the commitment of the Minister for Health to tidy up existing legislation, to which the government has made many changes to improve the health of the Victorian community.

Recently we were talking about changes to legislation on food handling, which was a great achievement. Now we are talking about pest control, which does not strictly come under health regulations but becomes a major problem if the operator of a food business does not control pests.

In the past we relied on local councils to ensure that local business communities complied with health standards, but now the state government has that responsibility.

When I was a councillor I saw the council health inspectors going out to make sure restaurants and food stores were complying with food standards, but sometimes we do not get what we the community asks for and we have to do more than that.

We have to do more than that to control public health and to make sure the standards are met. Inspectors need to go out more and more to keep an eye on all those things. Some customers of food premises complain that they see rats running around on the floor and they think that is wrong and unhealthy and that the business is not being run properly. People complain when they see that things are not being run the right way.

Pest control plays an important role in health. People who run pest control businesses will no longer have to be registered as well as being licensed. I remember many years ago when something went wrong in a restaurant they would complain to the council and ask for it to be fixed. A pest control business would be found by looking up the phone book. Because the pest controller did not do a proper job, complaints from customers would be received so the council would fine the restaurant because it did not comply with the council's rules. However, the restaurant owners would tell the council that they had been in contact with a pest controller who came to fix the problem, but that it was still there.

In the past pest controllers did not have to have a licence to run a business. We should insist that pest controllers be licensed to make sure they provide good service to customers. They have to be trained to use the many chemicals involved and everything has to comply with the rules. The licensing of pest controllers will help the local community and people who want to use their services. The bill clearly sets out the things they need to do to comply with Victorian health standards.

The bill also amends the Chinese Medicine Registration Act. Not long ago in this Parliament we debated and supported the Chinese Medicine Registration Bill for people with appropriate qualifications and experience in Chinese medicine. Now we want to tidy it up and make it more relevant to the Health Act and to people using Chinese herbs.

The bill also amends the Drugs, Poisons and Controlled Substances Act 1981 and the Pharmacists Act 1974. We want to protect the health of the Victorian community.

In conclusion, the health department is committed to working with local councils to ensure businesses comply with the standards and to working with the community to improve the standards for the benefit of consumers. I support the bill.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to speak on the Health (Amendment) Bill. The Liberal opposition will support the bill.

The bill had its genesis in a national competition policy review that identified a number of inconsistencies and duplications of various activities previously contained in the Health Act and other acts of the Victorian Parliament.

The Health Act was last consolidated in 1958. It is a voluminous act, and honourable members would be aware that it covers an extraordinary range of government responsibilities, including building standards, prohibition of the slaughtering of certain animals for human consumption, a raft of controls over medical, agricultural and veterinary chemicals, and controls on proprietary medicines and general health standards that are by and large enforced through environmental health officers in local government.

Since 1958, and probably before, many practical day-to-day responsibilities contained in the Health Act have devolved on or been transferred to other

government departments, local government, or non-government agencies. The bill is primarily a housekeeping bill and concerned with dealing with some of those anomalies.

The first anomaly is the recognition of the qualifications of environmental health officers. The bill replaces a requirement in the Health Act that to be eligible for appointment as an environmental health officer with a local council a person must be a member of the Australian Institute of Environmental Health. In place of that requirement, the bill requires the Secretary to the Department of Human Services to approve the qualifications needed for such an appointment. The present arrangements are relatively restrictive and not really in line with the extent to which the work and professional ambit of environmental health officers has expanded over the years.

Honourable members may be aware that I commenced my entry into the health industry as an environmental health officer. To gain appointment to the position of a public health inspector, as it was then known, one had to attend a course of lectures of one evening a week for about a year and undertake 100 hours of practical training with a practising health inspector employed by a local council. As I reflect on that early stage of my life, I am pleased to put on the record my appreciation of the practical training given to me at the City of Moorabbin by Norm Davies; at Camberwell by Harold Stevens; and at Caulfield by Reg Pritchard, all of whom were doyens in the field at the time and — —

Hon. A. P. Olexander — How long did that take?

Hon. J. W. G. ROSS — It was 100 hours of practical training, which took about six weeks or so. For the onerous responsibilities that devolved on a public health inspector, there was limited training. Inevitably, the complexity of the profession and the broad ambit to which health inspectors' skills needed to be applied led to the further development of the profession.

They changed the title from public health inspectors to health surveyors and subsequently to environmental health officers. I commenced my practical work with the former Health Department as an industrial hygiene officer and spent a great deal of time in commerce and industry looking at occupational health issues. These range from things like metal fume fever in the foundry industry to the use of cyanide in electroplating and to various hazards associated with plastics manufacture. In due course I went on to become a university graduate and worked for a number of years as an industrial toxicologist. But the point is the basic qualifications that were required for the fulfilment of those broad range of responsibilities were, by any account, inadequate.

Swinburne University was very quick to pick up the opportunity to train this new and emerging profession, and in due course it became a full-time university course with the attainment of formal tertiary qualifications. In amending the Health Act today we are witnessing a catch-up of the legislation with the practicalities of real life.

It is simply no longer appropriate that the only method of entry into that profession should be membership of an individual society. I recall the changes that have been made in respect of food quality assurance and other issues in this place over the past couple of years — including the advent of private sector food auditors — which show that people come from a broad range of backgrounds and disciplines and it is very much appropriate for the Secretary of the Department of Human Services to be able to determine appropriate levels of training for local government environmental health officers. These people can be sourced from universities from all over the world and from interstate because the restrictive styles of training that hitherto were the case are no longer appropriate.

For that reason the opposition is very happy to accept that there has been a great deal of evolution in the profession and to support that situation.

The next area that has evolved out of Victoria and on to the national stage is in respect of proprietary medicines. Part XIV of the Health Act, which relates to drug substances and articles, is being repealed. That section mainly relates to medicines and therapeutic devices. Its history goes back probably into the 19th century where any person who produced a patent medicine or a therapeutic device that claimed to alleviate some human condition or treat a disease needed to defend those claims with the health department. That registration process was largely underpinned by the Health Act.

Victoria was the first jurisdiction to have complete and comprehensive control over the registration of proprietary medicines, and many other states referred to the requirement to be registered in Victoria as being necessary for the sale of patent proprietary medicines and therapeutic devices in other jurisdictions. So Victoria very much led the way.

However, that was never going to last and other jurisdictions gradually started to coalesce around the leadership of the commonwealth government to produce a set of national standards to operate on the

basis of national registration. That is the logical outcome of a national competition review.

Pharmaceutical and medicine manufacture is a complex business. It is incompatible with the efficient running of the industry for every state jurisdiction to have different standards of labelling, packaging, assessment of efficacy and matters related to methods of analysis of the active ingredients in substances for the purposes of ensuring that what is offered for sale is in fact what is contained in the bottle or package.

The fact that the national competition review has identified that issue has meant that many of these claims are now registered under the commonwealth Therapeutic Goods Act as well as the Therapeutic Goods (Victoria) Act. Therefore, it is perfectly appropriate that those responsibilities on medicines and substances are moved out of the Health Act and properly located in other pieces of legislation, both state and federal.

The bill also, to the extent that it is a housekeeping bill and deals with a range of inconsistencies, makes provision for prescribed consultative councils, allows for the minister to establish such consultative councils in the health field, and lays the ground rules on issues such as confidentiality of the deliberations.

One particular consultative council mentioned in the bill is the Consultative Council on Obstetric and Paediatric Mortality and Morbidity. Much of the deliberations of that council needs to go on in camera, and confidentiality needs to be ensured. Nevertheless there is a need to maintain financial accountability, and to that end the bill makes provision for such consultative councils to be subject to the supervision of the Auditor-General.

A whole range of agricultural and veterinary provisions in the Health Act are also redundant. The one I mentioned by way of introduction was the slaughter of certain animals, such as donkeys, for human consumption. It is very sensible that those provisions are removed from the Health Act, placed within the purview of the Minister for Agriculture and controlled under the Meat Industry Act in particular.

Prior to the development of the skills base within agencies such as the Department of Agriculture, the Health Act provided for registration of many activities associated with the use of pesticides. Many of those elements are being shifted across to the Department of Natural Resources and Environment. Nevertheless, individual pest control operators will still be required to be registered with the health department.

As was the case with proprietary medicines, there has been a movement towards national registration of agricultural and veterinary chemicals. Where the federal Agricultural and Veterinary Chemicals Act has rendered many of the provisions of the Victorian Health Act redundant, it is sensible to have those repealed.

As is the case for proprietary medicines, it is clear that most agricultural and veterinary chemicals, for all the reasons I have mentioned in respect of proprietary medicines, are best managed under a national system of registration.

One of the problems that has bedevilled the industry of proprietary medicines and agricultural and veterinary chemicals has been the differing standards from jurisdiction to jurisdiction. The fact that these requirements have evolved in a fairly rational way on to the national agenda indicates that the time has come where individual provisions within the Health Act are appropriately repealed.

The bill does not deliver a vast number of practical consequences; it is essentially a housekeeping exercise. However, that is not to say it is not a logical response to a number of anomalies identified in the national competition review. I wish the bill a speedy passage through the house.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank all honourable members of all parties for supporting the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 1.01 p.m. until 2.07 p.m.

QUESTIONS WITHOUT NOTICE

Parliament: tabling of reports

Hon. PHILIP DAVIS (Gippsland) — I refer to the fact that the Minister for Energy and Resources has engaged in the unprecedented action of tabling in Parliament no less than three incorrect annual reports of government agencies then withdrawing them. Why has the minister allowed such incompetent actions to occur?

Hon. C. C. BROAD (Minister for Energy and Resources) — Clearly I have not allowed such actions to occur. When I arranged for the tabling in this place of those reports I believed they were completely accurate. I took the necessary steps to correct the reports as soon as I was made aware of any inaccuracies in them and as soon as I was in a position to do so. In at least one instance it took considerable effort by the department concerned to ensure that that was the case. I have taken all the necessary steps to ensure that reports presented to this house meet all the requirements of the Parliament.

Fuel: temperature correction

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Consumer Affairs inform the house of the Bracks government's progress in obtaining a national response to fuel temperature issues?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Honourable members will be aware that when the Petroleum Products (Terminal Gate Pricing) Act was passed last year I made mention of temperature correction. I said that the government would make every endeavour to address this issue at a national level. I am pleased to be able to update honourable members on the progress of these discussions.

As a reminder to honourable members, temperature correction is needed to address a problem being experienced by retailers and distributors. They are delivered hot fuel and after the fuel shrinks they have less fuel to sell and they are out of pocket. It is a big issue in some areas.

I am pleased to inform the house that Victoria has taken a lead role in discussions and consultations with all jurisdictions and near-unanimous support has been gained to take action on temperature correction. I will be taking to the Ministerial Council on Consumer Affairs meeting in July proposals to amend the model uniform trade measurement legislation to require the sale at terminal of petrol and diesel fuel to be corrected to a standard temperature of 15 degrees. The uniform trade measurement legislation requires the unanimous support of all jurisdictions and until the meeting in July I will continue to seek the support of all my ministerial colleagues to establish temperature control measures under the trade measurement legislation. However, if the ministerial council is unable to resolve this issue unanimously I intend to work with the jurisdictions that support Victoria on this issue and look at ways we can bring in measures to ensure that temperature correction occurs. I am confident that Victoria's efforts will result in the issue of temperature correction being successfully resolved.

Parliament: tabling of reports

Hon. PHILIP DAVIS (Gippsland) — I refer to my earlier question to the Minister for Energy and Resources on annual reports tabled in Parliament. On three occasions annual reports tabled by the minister were inaccurate and misleading. Why were the corrected reports not provided until almost 12 months from the reporting period? Why the delay?

Hon. C. C. BROAD (Minister for Energy and Resources) — To expand on my answer to the previous question, the honourable member is wrong. If he checks the record, he will see that one of those reports, the Department of Infrastructure annual report, was corrected very soon after it was tabled.

Hon. Philip Davis interjected.

Hon. C. C. BROAD — Not 12 months later. That is completely wrong! In relation to the other two reports — —

Honourable members interjecting.

The PRESIDENT — Order! The house is entitled to hear the minister. I ask the house to settle down and allow the minister to respond.

Hon. C. C. BROAD — In relation to the other two reports from the Melbourne Port Corporation and the Department of Natural Resources and Environment, in both cases as soon as I was advised the department was able to table them I took the action that I was required to take in this place. The only significant problem with the Department of Natural Resources and Environment report was that it disclosed a great deal more information than it was required to disclose. The department disclosed three pages of consultancies and contracts where in fact it was required to disclose what amounted to only two lines in the annual report. The honourable member is drawing a very long bow in asserting that there has been some sort of cover-up when at least one of the reports disclosed a huge

amount of information over and above what it was required to do.

Local government: energy efficiency

Hon. R. F. SMITH (Chelsea) — Will the Minister for Energy and Resources inform the house what action the Bracks government has taken to assist local government to improve energy efficiency and reduce greenhouse gas emissions?

Hon. C. C. BROAD (Minister for Energy and Resources) — As part of the Sustainable Energy Authority's local government program, the Bracks government has awarded a number of grants to assist local government to improve its energy efficiency. The grants were awarded to councils for work on their own facilities and operations, based on a set of criteria that included energy savings and/or greenhouse gas emission savings potential; being part of an ongoing energy management program; originality and suitability for case study; and applicability to other local government operations and buildings.

I am pleased to inform the house that grants have been awarded to the City of Darebin and the City of Monash and to a number of regional councils, including the Bass Coast shire, the Wodonga Rural City Council, the Moyne shire and the City of Warrnambool.

The grants will be used for a variety of applications, from the development of an energy education centre in Port Fairy to updating the lighting at the council offices in Wonthaggi with energy-efficient lighting, with considerable savings resulting from the upgrade. Case studies will be developed on all grant sites so that other local councils and the communities can learn from these examples of effective energy and greenhouse gas management.

In addition, through the Sustainable Energy Authority the government has also developed the municipal energy management support program to assist local government to improve its energy efficiency. As part of this program, local government officers are trained in both technical and strategic elements of energy efficiency and management, focusing on local government facilities.

Each council that completes the training will be assisted in developing its own municipal energy management program, which outlines priority actions councils can take to reduce energy consumption in the facilities and operations by up to 30 per cent.

Last year 21 councils completed the program, while a further 30 councils will commence the program in July. All Victorian local councils will have had the opportunity to participate in the program by the end of the 2001–02 financial year.

The programs are evidence of the Bracks government's commitment to environmental responsibility by improving energy efficiency across the whole of Victoria and reducing greenhouse gas emissions.

Sport: competitive neutrality policy

Hon. R. M. HALLAM (Western) — Will the Minister for Sport and Recreation inform the house what measures he is taking to ensure that municipalities receiving capital grants for sporting facilities comply with the government's competitive neutrality policy, specifically insofar as the effect on existing private sector enterprises is concerned?

Honourable members interjecting.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I hope the opposition pays attention to the answer because it should be of particular interest to those members representing rural communities.

Recently I was advised of a complaint lodged with the competitive neutrality complaints unit (CNCU) of the Department of Treasury and Finance regarding the redevelopment of an aquatic centre in the City of Warrnambool. The complaint originated from a neighbouring, privately owned centre. I am also advised that a series of similar complaints has been lodged with the unit.

All local government authorities are required to ensure that any facility developed for recreation, sport, even child care or other uses complies with the relevant legislative and regulatory controls. This includes guidelines articulated in the competitive neutrality guidelines that Sport and Recreation Victoria gives to local government. Local government is and should be conscious of the competitive neutrality principles.

I am further advised that the complaint regarding the planned Warrnambool aquatic centre is being investigated by the competitive neutrality complaints unit, and as part of the undertaking by the unit draft reports will be provided to the complainant and to the subject of the complaint for comment.

Recently one of the complainants, in clarifying these issues, sought a meeting with me to discuss their concerns, including a range of alleged breaches of the Trade Practices Act. Issues relating to potential breaches of the Trade Practices Act are subject to commonwealth jurisdiction and need to be referred to

the Australian Competition and Consumer Commission. The Competitive Policy Reform (Victoria) Act 1995 clarifies that authorities and officers of the Victorian public sector, while having a legal responsibility to comply with the Trade Practices Act, have no jurisdiction to investigate trade practice issues.

I was accordingly advised that it was inappropriate at present to meet with the complainant. The complaints process under competition policy is independent. I emphasise that. The involvement of ministers in a complaint under review is not appropriate as it may complicate both the perceptions and expectations of the competitive neutrality complaints process.

I understand that the CNCU's final report on the Warrnambool facility complaint will be made public one month after it is sent to the relevant parties.

Sport: funding

Hon. E. C. CARBINES (Geelong) — My question is directed to the Minister for Sport and Recreation. Last week the minister informed the Public Accounts and Estimates Committee that the federal government had broken an agreement with Sport and Recreation Victoria to provide funds to regional sports assemblies, older adults recreation networks and development officers employed by state sporting associations. Will the minister inform the house how this cut is impacting in the south-west of the state?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Honourable members may be aware that last week I informed the Public Accounts and Estimates Committee that the Howard government had cut $1.5 million in promised funding to Victorian sporting bodies.

Honourable members interjecting.

Hon. J. M. MADDEN — This ill-considered decision will hurt many sporting bodies and individuals that have in good faith supported the delivery of commonwealth outcomes through the sport and recreation development grants program.

The Australian Sports Commission has reneged on a three-year agreement and turned its back on years of cooperation with the state government in developing sport in Victoria. I am particularly concerned that the commission has abandoned partners such as regional sports assemblies, the older adults recreation networks providers, state sporting associations and community clubs.

The commission's ham-fisted actions leave no scope for properly managing the transition while it clarifies its program details for the coming year. It is not sure where it is going; the only thing it is sure of is that it will cut funding.

I have contacted the federal sports minister, Jackie Kelly, expressing my concerns. I have also requested a reasonable transition period of at least six months to allow us to negotiate on how to make the transition and deliver these programs in Victoria.

What has disappointed me is that the decision from the federal sports minister apparently is a decision made because she probably did not believe she was getting enough publicity from the funds that were allocated at a state level. I have had feedback from the south-west regional sports assembly that its funds will drop by 34 per cent if the cuts go ahead. The cuts will have a direct impact on programs, such as educating volunteers, and particularly those volunteers who have to deal with issues like the GST. There is also the possibility of staff cuts.

I reinforce to the house that as the geographic area covered by the south-west regional sports assembly includes the community of Portland, I request that the opposition make approaches to the Leader of the Opposition in the other place, Dr Napthine, to seek his support, and that through making contact with his federal counterpart he request that the Australian Sports Commission review its decision.

Marine parks: establishment

Hon. M. A. BIRRELL (East Yarra) — I direct my question to the Minister for Energy and Resources. Given that the government has now withdrawn the marine parks legislation, is it a fact that the government's promised 75 per cent increase in effort for increased fisheries enforcement and compliance will now not occur?

Hon. C. C. BROAD (Minister for Energy and Resources) — The government is obviously very disappointed that the opposition did not see fit to support what the government believed was an excellent package for the introduction of marine national parks in Victoria as an Australian and world first. That package included a number of very important features for the commercial fishing industry, including adjustments to boundaries recommended by the Environment Conservation Council (ECC), a staged introduction to alleviate the impact of the declaration of marine national parks, and financial assistance to those in the commercial fishing industry who were able to

demonstrate an impact from the introduction of marine national parks. All of those have been thrown away by the position the opposition has taken by its refusal to negotiate and the requirement that the government open itself up to unlimited litigation.

Five years after the scallops case, which was presided over by the opposition when it was last in government, there are still legal costs, and litigation is continuing as a result of the way that was managed — and the opposition was inviting the government to make the same mistake. The government has indicated very clearly at all points, and I have indicated on a number of occasions in this house, that the government's package, including all of the elements I have referred to and the budget measures that were provided as part of the appropriation bill for increased enforcement, was dependent on the opposition supporting the package.

As a result of the vandalism on the part of the opposition in throwing away — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down and allow the minister to finish her answer.

Hon. C. C. BROAD — As a result of the opposition not supporting the government's package in its haste to line up with the National Party on these issues — as we saw again the other night on the Victorian Environmental Assessment Council Bill — the government will now, as it has indicated publicly, take away its package and review what its options are for the future in the best interests of our fishing industry, recreational fishers and environmental responsibility.

Industrial relations: *IR Update*

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Industrial Relations inform the house on what the Bracks government is doing to provide the public with regular updates about industrial relations issues?

Hon. M. M. GOULD (Minister for Industrial Relations) — Honourable members may be familiar with the publication known as *IR Update*. In March of last year I informed the house that the publication had been made available on the Internet. *IR Update* is produced by Industrial Relations Victoria and is an important source of information for employers, unions, students and other government departments and agencies.

My department has received overwhelming positive feedback from readers about the service *IR Update* provides. This year significant changes to the format of the publication have taken place. After surveying readership of that resource we have moved away from just reporting on individual cases. The journal now will also include broader human resource material and research designed to help organisations adopt best practice on industrial relations issues.

IR Update is available through the Industrial Relations Victoria web site, and readers can also access back issues. The Bracks government is committed to promoting good industrial relations practices. It is providing reliable information to industrial relations practitioners, and it is important to achieve that through the *IR Update* process. The publication is available to a number of employers. Small employer associations access it, as do industrial relations practitioners such as lawyers and individual employers. They say that it is a resource for them. It is appropriate for the government to show how good industrial relations practice can promote and improve productivity and efficiency in workplaces.

Parliament: tabling of reports

Hon. D. McL. DAVIS (East Yarra) — Will the Minister for Energy and Resources advise the house whether any of the incorrect 1999–2000 annual reports tabled in this house were pulped?

Hon. C. C. BROAD (Minister for Energy and Resources) — Certainly I am not in a position to respond on what has happened to parliamentary copies, but in relation to the various reports that have been presented, in the case of the Department of Infrastructure report, only a small number of photocopies were able to be replaced within a very short space of time. In terms of the corrected version, the printed copies were the correct copies, as tabled in this house. The Melbourne Port Corporation and the Department of Natural Resources and Environment have produced the number of copies required to be tabled in this place and are seeking to provide corrections to printed copies to minimise any unnecessary cost. That procedure was not acceptable in terms of parliamentary procedures, otherwise that approach would have also been adopted in relation to the parliamentary corrections.

That is the reason revised copies have been printed — to meet the Parliament's requirements.

Play it Safe by the Water campaign

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Sport and Recreation inform the

house of the outcome of last year's Play it Safe by the Water campaign and of its commitment to safer and improved aquatic recreation?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Last year's Play it Safe by the Water campaign has, by and large, been very successful. Although any death from drowning is a community and family tragedy, a recent report from my department indicates a definite downward trend in the incidence of drowning in Victoria. In 1999–2000 Victoria had 55 drownings, mainly due to the increase in the number of toddler drownings to 17.

In response to that alarming figure, in January 2000 the government set up a swimming pool and spa working party to begin to address issues relating to toddlers' drownings, particularly in backyard pools. In 2000–01 there has been a slight increase in the number of ocean drownings — they were in areas not patrolled by lifesavers during the summer — although the number of surf rescues significantly increased, reflecting the fact that more people sought to escape the unusually hot weather; another reason was the variation in ocean conditions last summer.

By contrast, the number of toddler drownings dropped to six, with none occurring in backyard pools. Honourable members from rural areas would be conscious of the incidence of toddlers drowning in dams and creeks. As of last April drownings across all areas of water aquatic activity totalled 40.

The government has committed $2.2 million in 2001–02 from the Community Support Fund for the Play it Safe by the Water campaign. A six-point plan has been developed for improved aquatic recreation. The six points are: a public awareness campaign; education and training programs; an extension to the lifesaving season; identification and development of family friendly beaches; improved water safety zones in some of the areas identified earlier; and a toddler drowning initiative that the government will continue to reinforce particularly in areas where the incidence of drownings has increased.

That comprehensive plan will assist families and particularly the very young in the high-risk category to enjoy improved aquatic recreational safety across Victoria throughout the year but particularly in the forthcoming summer season.

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

Second reading

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

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 Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until next day.

CORPORATIONS (ANCILLARY PROVISIONS) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — 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 Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until next day.

CORPORATIONS (CONSEQUENTIAL AMENDMENTS) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — 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 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 Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until next day.

AGRICULTURAL AND VETERINARY CHEMICALS (VICTORIA) (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

This bill 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 in 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 inter-governmental 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 Public 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 the 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 8B, being inserted by clause 6 of the bill, is intended to alter or vary section 5 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 Co-operative 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 Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until next day.

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — 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. 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 Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until next day.

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL, CORPORATIONS (ANCILLARY PROVISIONS) BILL, CORPORATIONS (CONSEQUENTIAL AMENDMENTS) BILL, AGRICULTURAL AND VETERINARY CHEMICALS (VICTORIA) (AMENDMENT) BILL and CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Concurrent debate

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

That this house authorises and requires the Honourable the President to permit the second-reading debate on the Corporations (Administrative Actions) Bill, the Corporations (Ancillary Provisions) Bill, the Corporations (Consequential Amendments) Bill, the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill and the Cooperative Schemes (Administrative Actions) Bill to be taken concurrently.

Motion agreed to.

APPROPRIATION (PARLIAMENT 2001/2002) BILL

Second reading

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

That this bill be now read a second time.

The bill provides appropriation authority for payments from the consolidated fund to the Parliament in respect of the 2001–02 financial year including ongoing liabilities incurred by the Parliament such as employee entitlements that may be realised in the future.

Honourable members will be aware that other funds are appropriated for parliamentary purposes by way of special appropriations contained in other legislation. In addition, unapplied appropriations under the Appropriation (Parliament 2000/2001) Act 2000 have been estimated and included in the budget papers. Prior to 30 June actual unapplied appropriation will be finalised and the 2001–02 appropriations adjusted by the approved carryover amounts pursuant to the provisions of section 32 of the Financial Management Act 1994.

In line with the wishes of the Presiding Officers, appropriations in the bill are made to the departments of the Parliament.

The total appropriation authority sought in this bill is $71 million (clause 3 of the bill) for Parliament in respect of the 2001–02 financial year.

I commend the bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. C. A. Furletti.

Debate adjourned until next day.

CONSTITUTION (METROPOLITAN AMBULANCE SERVICE ROYAL COMMISSION REPORT) BILL

Second reading

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

That this bill be now read a second time.

As 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, as the report is of great public interest, an alternative means of publication of this report is required.

The bill, which is substantially based upon the Longford Royal Commission (Report) Act 1999, provides for a process whereby this report may be published and attract parliamentary privilege and that sections 73 and 74 of the Constitution Act apply to this report, to provide certain immunities from legal action for publishers of the report.

It should be noted that, as this bill is specific to the report of the metropolitan ambulance royal commission, it will sunset on the first sitting day of the house of Assembly after the report is delivered to the Governor. This sunset provision was incorporated at the request of the opposition.

I am sure that all members will support this bill as it will ensure prompt public access and scrutiny of this important report and ensure that the published report will attract absolute privilege.

I commend this bill to the house.

Debate adjourned for Hon. BILL FORWOOD (Templestowe) on motion of Hon. C. A. Furletti.

Debate adjourned until next day.

RACIAL AND RELIGIOUS TOLERANCE BILL

Second reading

Debate resumed from 13 June; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. S. M. NGUYEN (Melbourne West) — I am pleased to speak on the Racial and Religious Tolerance Bill, which is one of the most important bills introduced in this parliamentary session. We have debated a number of good bills. It is now time to debate the Racial and Religious Tolerance Bill. The issue has been debated for a long time and it is time to introduce the bill into Parliament.

All honourable members know the reasons for the bill. Last year the bill was drafted and presented to the public for discussion. The bill has clear objectives and aims. Its aim is to prevent racial and religious vilification damaging the cohesion and harmony of Victoria's culturally diverse community. The bill has become controversial in our community. Some people strongly support the bill and many are against it.

The minister placed advertisements in the newspaper inviting public comment on the bill. I went to two meetings, one in Footscray and one in Springvale. I did not go to the other meetings in country Victoria but went to the metropolitan meetings held in areas with large Asian communities. The meetings were open meetings. People were invited to come along.

The Footscray meeting was totally different from the Springvale meeting. More than 100 people attended the Footscray public meeting: representatives of ethnic community organisations, councillors, the mayor, and local members of Parliament turned up to listen to the people in the community. In Footscray all the people strongly endorsed the government's draft report.

Hon. C. A. Furletti — That's not what I heard.

Hon. S. M. NGUYEN — Yes, in Footscray they did.

The meeting in Springvale was different. Some people were against it and others were for it. But whether or not people supported it, there is no doubt that the bill is not a first — in other forms it has existed in other Australian states for some time. But we in Victoria are just debating it now, and it is about time we did so.

When Nick Greiner was the Premier of New South Wales he was the pioneer, the one who strongly supported the introduction of such a bill in that state. He

knew how important it was to protect the cohesion and the total community of New South Wales. But 10 years later, now in Victoria, we are just beginning to debate it.

The bill is not about pitting one community against another, as has been argued by people who are against the bill. They claim that it is an attempt to protect the ethnic communities or the Aboriginal communities, but it is not right to say that. The bill is not aimed at pitting one community against another. Rather, it is about protecting the interests of all Victorians.

Some people argue about the freedom of speech issue. That is a very clear right in our society. This country has always had freedom of speech, and it can be seen in our political forum here with its open debate.

Australia is not like many other countries around Asia or the Third World. We are an informed, multicultural society that respects the will and the expression of the people. However, sometimes people use our freedom of speech to attack other people or a group of people because they are different. They may look different in race or colour, or they may be of a different religious background.

Living in modern society we do not believe that should happen. These things can happen in other countries — killing each other because people are of different racial or religious backgrounds — but we do not want that to happen in Australia because Australia is a peaceful country and we do not want to create hatred in our society.

People come here from different countries and bring their own backgrounds with them. We have to respect each other. We live in one society that we believe is one of tolerance, forgiveness and where we can share our will and our feelings for the benefit of the whole nation.

I do not think the bill will stop people from making a fair judgment or from having freedom of speech. The bill will be part of our Australian culture. It is a rich and diverse culture. It is a culture whereby we can enjoy ourselves. I can go to a festival in Lonsdale Street or an Italian festival in Lygon Street or I can go to Chinatown for the Lunar festival. I can go to the Melbourne Cup to enjoy the Spring Racing Carnival or to the Royal Melbourne Show to enjoy Australian culture.

It is important that multiculturalism continue and that there continue to be no hatred because of the different backgrounds or cultures. We want to live in a society where we can all enjoy and share the value of these rich cultures. Not many countries around the world have been as fortunate as we are. Some do not have the multicultural spirit that we have in Australia.

Australia was built by immigrants. Many people came to Australia from around the world and I am sure many honourable members sitting in this place have parents, grandparents or great grandparents from other countries. We have many ethnic backgrounds and religious beliefs and different languages in Victoria. We have about 151 languages around Victoria, and people from 208 different countries settled here in Victoria.

Approximately 25 per cent of Victorians were born overseas. Many of them settled here only in the past 50 years after the Second World War when they came from eastern Europe and later from many other parts of the world, including Asia.

More than 1.5 million immigrants have come to Victoria, some of whom are refugees who settled here in Victoria. In the first few years many of those people feel isolated. They tend to stick together in small communities. They speak different languages and come from different backgrounds, so it is difficult for them to integrate into the society in their first few years here. After a while they pick up the language, learn their way around, go to work, and want to get out of their isolation and move to other places around Melbourne or Victoria. They want to be part of the Australian community; they do not want to live in isolation and ignore the rest of the community. We always welcome them because they look after themselves. We also give them the opportunity to live a better life in this nation.

The government has many programs, including resettlement programs. We have a multicultural policy to help new members of our community to adapt to life in Australia. Sometimes it is not as easy as they wish. Some members of the community have negative attitudes to people because they look different and do not speak the same language as the majority. That has slowed the momentum of the integration of people who are newly arrived in Australia. The bill is about helping people to integrate better and faster. It is not a bill that seeks to recognise or defend one group of people. It is a bill for the future, for the nation that we hope to build together so that Australia is a stronger country with a stronger community.

In an earlier debate on another bill I mentioned the contribution of overseas students to our community. Every year thousands of students come from overseas to Australia to study. They have brought a lot of money here and have skills to offer Australia after they have completed their studies. Some of them are a great credit to Australian society, having been educated and grown

up here. I can recount many experiences of immigrants who have had difficulties in the first few years of settling in Australia but who after a while feel better and confident, and can make a contribution to our society.

The bill is about helping Australia to build a better nation. Racial or religious hatred will not help Australia in general or our Victorian community in particular. I mention briefly the Equal Opportunity Commission. Its annual report for 1999–2000 refers to its roles, objectives and performance. Page 27 of the report includes a table of complaints, including those based on racial and religious discrimination. Last year 485 complaints were about racial discrimination and 151 were about religious discrimination. In the previous year, 1998–99, there were 326 complaints about racial discrimination and only 69 about religious discrimination. People do complain about racial and religious discrimination, which continues.

The role of the Equal Opportunity Commission will be very important for the process of the bill and to help to reconcile the differences and deal with complaints about people who break the law. There are some problems in our society that need to be fixed.

As I must be brief, I will sum up my argument. In conclusion, the government has taken a positive step in introducing the bill to protect the whole Victorian community and to ensure that Victoria has a cohesive society whose members show mutual tolerance. I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I have much pleasure in speaking on the Racial and Religious Tolerance Bill and in supporting it. Some members of this chamber have been subject to vilification and others have not. I have been very fortunate in not having been subject to racial or religious vilification. I do not have the temerity to begin to understand how that would affect people. However, listening to the speeches in this chamber and reading those made in another place, I have been very moved by the courage many members of Parliament have shown in the courageous way they have spoken about the vilification addressed to them and to members of their families. It says a lot about the Victorian government and Parliament, and all of us, that we can share such thoughts and speak about them in such a public place.

However, for those who are vilified there is something we should all understand. In its submission on the bill, the Australia Israel and Jewish Affairs Council put it very concisely:

> Incidents of racially motivated hatred and violence humiliate, denigrate and destroy the quality of life for those Australians who are its victims.

That is a very salutary point to understand and something that all honourable members should consider in debating the bill, and indeed when we go out into the wider community.

The Liberal Party has approached the bill with dignity and an enormous amount of understanding. The shadow minister in the other place, Helen Shardey, has done an excellent job in consulting around the state and, with the Honourable Carlo Furletti and the honourable member for Bulleen in the other place, Nick Kotsiras, has listened to a number of multicultural groups and others who had grave concerns about the proposed legislation, particularly the model bill which was first presented for public discussion and which caused a great deal of angst and concern amongst members of both the multicultural and wider communities.

I am proud to be a Liberal. Liberal values are enshrined in freedom of speech, the freedom to make up one's own mind and to have a look at a number of issues. I believe the debate we had in our party room was healthy and constructive and underlined the very fundamentals of what the Liberal Party stands for. This was reflected in the very amenable way in which our leader, Dr Denis Napthine, allowed Liberal members to have a free vote on this issue, which encapsulates Liberal philosophies.

The bill and its clauses have been dealt with in great detail by my colleague, the Honourable Carlo Furletti. I commend him on his presentation because it was very thorough and set a high standard for the rest of the debate. I want to mention four clauses, as I am particularly pleased with the Liberal Party's approach to these provisions.

Clauses 7 and 8 now provide that vilification, both racial and religious, is unlawful but not criminal. This conduct will be dealt with through the civil process. I remind the house that clauses 24 and 25 make it a criminal offence to commit serious racial and religious vilification. That aspect will be dealt with by the courts and will attract criminal sanctions. I commend the Honourable Carlo Furletti and the honourable member for Caulfield in the other place on their approach to those clauses. I will not go into the detail of the bill clause by clause because I believe that has already been dealt with.

I would like to speak about freedom of speech. It is a fundamental right in our community. Many members have spoken about the need for freedom of speech and

how well regarded Australia, and Victoria in particular, are throughout the world for this most treasured of opportunities.

I would like also to quote from a submission that all members probably received from Liberty Victoria. It is a letter dated 23 May and signed by Chris Maxwell, the president of Liberty Victoria. He says:

> First, there are competing rights and freedoms to be considered. As the bill now acknowledges, the right to freedom from discrimination and personal attack must be balanced against the right of free expression.
>
> Freedom of expression is a precious freedom. It must be jealously guarded. Of course freedom of expression is not absolute, but it is vital to the health of our democratic society and must not be curtailed except where absolutely necessary.

I think everybody in this chamber would believe in those fundamentals, and I agree totally with what Liberty Victoria had to say.

Parliamentarians in this chamber and the other place have been flooded with emails, faxes, phone calls and letters about this bill, and not all of them have been positive. Although I do not want to give credibility to a number of the letters members have received, I want to quote from a couple because I feel that it will give balance to what this debate is about. This shows the sort of pressures members were subjected to. I have one email dated 9 June. I am not sure where this person comes from because members have had many requests and have been lobbied by people from as far as way as Toowoomba as well as places in Western Australia and Tasmania. These people say they will be interested to see how we vote on this bill because it will affect their vote. I have many constituents in Monash Province, but I do not think any of them live in Toowoomba. The email is addressed to 'Senators' which I thought was quite interesting. This is indicative of some of the mail members have received. It says:

> Imagine if this bill goes through and you or a member of your family or friends were accused under this act, would you be able to look yourself in the eye each morning in your bathroom mirror?

I have a lot of difficulty doing that anyway so I do not think I will worry about what he has to say.

I have another letter that is a more disturbing. I will read it into the record; it comes from the Citizens Electoral Council of Australia, and states:

> There is not an Australian in the lot of you to let this fascism get passed. Don't you know your history of how Hitler was put in power just 69 years ago? To vote for that legislation you would be traitors to Australia and to Australians.

I find that fairly heavy, and it is important to include it in *Hansard* so we understand what some people in our community are thinking.

Hon. Andrew Brideson — It is offensive.

Hon. C. A. Furletti — Despicable.

Hon. ANDREA COOTE — It is very offensive and very despicable and I am most concerned about it.

My electorate is an interesting one. It contains a number of multicultural groups, but by far the majority of my province is in the lower house electorate of Caulfield, where we have probably the largest Jewish community in Australia and certainly the largest number of Holocaust survivors outside Israel. I am very proud to be speaking on their behalf. They have lobbied me significantly and I have a lot of understanding and sympathy for the feelings they have expressed. Many people have spoken about this bill as a Jewish bill. I take umbrage at that because I believe it is a multicultural bill. It is not just about the Jewish community, although it is seriously concerned about this issue. As other members have said, it is a multicultural bill that affects the many people who constitute the population of Victoria. I know my Jewish constituents best, so I will concentrate on some of the issues of concern to them. I would like to reinforce that this is not a Jewish bill. I will quote from a letter from the presbytery of Benalla dated 20 February. It says:

> There is no public demand for such legislation. It seems only the Jewish B'nai B'rith movement wants it, as they do around the world.

I apologise to the house because the author of this next piece does not seem to have signed the letter, but it is headed 'Jewish community leaders in US, UK and Israel rebel against ADC'. It goes on to say:

> Its Australian branch, the … (ADC), has helped to destroy the trade union movement. Today not the unions but ADC runs the Australian Labor Party, the working man's party no more.

I am sure the Labor Party would be very interested to hear that. The letter continues:

> ADC is the sponsor of a spate of un-Australian legislation erasing freedom of speech and Australia's identity. Democracy is easily manipulated by secret societies through control of education, media and party backrooms. Why do liberalism and humanism eventually turn into terror and totalitarianism? Because he who does not stand up for something will fall for anything!

This is the calibre of information we have been flooded with. Some of the correspondence I have just read out is among the milder examples.

As I said before, I dispute the assertion that this is just a Jewish bill: it is a multicultural bill. However, as I suggested, I know the Jewish community best of all. In looking into this bill and the reasons we need it I have been quite horrified to realise the depth of some of the vilification that is happening within my electorate. These are not things that happened 10 years ago, five years ago or even two years ago — they are things happening within my electorate right now.

While I do not want to give credence and credibility to the vile and hateful sorts of letters people receive, I want to put them on the record because I think it is important to balance this debate and understand some of these issues. I will quote from the Australia/Israel and Jewish Affairs Council's submission on the Racial and Religious Tolerance Bill dated 25 May. I want also to mention a letter; I will not read it all because, quite frankly, it is too disturbing to read. The letter begins, 'Dear Thea,' and is written in someone's personal handwriting. This letter is being sent to people who have had a bereavement and put a death notice in the *Jewish News*. If my husband were to die and I placed a bereavement notice I would get one of these letters. In this instance it says 'Dear Thea'; in my instance it would say 'Dear Andrea'. It is written in a handwriting that looks as if it may be familiar. I will use Thea because it is easier. The letter starts:

> Dear Thea, I don't know if you remember me. It is a couple of years ago since we briefly met. More about that later.
>
> …
>
> I am terribly sorry to hear about your bereavement …

It then goes on to say in the vilest, most ghastly and racist language that they are not sorry that Thea had a bereavement, they are sorry that Hitler did not wipe out the Jews completely. It is an appalling letter. I have to say that it was sent very recently. As I said, this is not something that happened 10, 5 or 2 years ago — it is happening in my electorate now.

I believe the bill will help address these issues. A pamphlet from the Hitler–Australia Alliance Group was handed out to synagogues in my electorate — a flyer handed out to people as they were going to their place of worship. It is appalling that this is happening now in Victoria and Australia, which have a truly multicultural community. Again I indicate that I am referring to these documents not because I believe in them but to provide balance to the debate and to put into the record some of the views of different groups, so that we can understand what is happening in the community, a community that is just 15 kilometres from here. The flyer states:

> Hitler was right
>
> It is about time that we as proud Australians put a stop once and for all to the influx of outsiders into our society. We've had enough of our country being overrun by ring-ins, the large numbers of chinks wogs and Jews are of great concern to us.

That is the tenor of the information in the flyer.

I have a number of examples of such incidents that have occurred in my electorate, and I will read one or two of those examples. There were three incidents in October last year when Jewish people returning from a synagogue were pelted with eggs. That is unacceptable behaviour in our community, yet it happened in East Kilda and Caulfield. We should all be ashamed. Glass panes on the front door of a Jewish community organisation were smashed by a person or persons unknown using a brick or a rock. There are many similar examples. These things did not happen 10 or 15 years ago, but just six month ago. I hope people will have more security when going to the synagogue, going about their daily lives, and living a peaceful and respectful life, as do the rest of us in the community.

An article in the *Herald Sun* of 12 June demonstrates what has been happening in my electorate in recent months. The article by Michael Harvey states:

> A far-right group accused of anti-Semitism has made Melbourne's Jewish community the target of a new propaganda blitz.
>
> The Citizens Electoral Council has provoked outrage by dropping its newsletter to thousands of homes in Caulfield, Elsternwick and St Kilda.
>
> A resident yesterday described the campaign as 'grotesque'.
>
> …
>
> Elsternwick resident, Andrew Hockley, who received the newsletter, said he wasn't Jewish but had been offended by 'virulently anti-semitic' CEC material before.

This is totally unacceptable. If we are to stop this and live in a community that never has to evoke a bill such as the one being debated today, it is incumbent on all of us to ensure future generations are taught to be tolerant, understanding and supportive of all of those who are different.

If I am critical of the bill it is because it does not go far enough to ensure there is a proper place for education, understanding, adequate funding and a proper strategy that will ensure we have tolerance in the future. I was pleased to read from a *Herald Sun* article dated 28 February that the Premier has promised a $850 000 grassroots campaign to promote community harmony. That is a start, but significantly more funds should be allocated, and it should be more formalised rather than just a grant. I call on the government to

promote and develop a strategy for the education and promotion of tolerance within Victoria.

In summary, I refer to a number of articles that sum up what I believe. I refer to an article in the *Age* of 9 March written by the Reverend David Powy, an Anglican minister, which states:

> Victorians have many reasons to be wary of broad laws prohibiting religious vilification. People should be protected from discrimination and vilification regarding race and other fixed attributes. And they should certainly be protected from discrimination and vilification regarding religion, and other matters over which they have no choice.

David Powy then goes on to state something that I believe:

> The trick is to build that protection without removing the capacity for the freedom of choice.

It is a salient lesson for all of us to take out of the debate today. I refer also to an article in the *Herald Sun* of 28 February, which refers to a submission by the Jewish B'nai B'rith anti-defamation commission. I place on the record my admiration for B'nai B'rith, whom I have worked closely with, and for Kerry Kleinberg and Danny Ben Moshe. The article states:

> … anti-defamation commission said in its submission that Victorian needed protection from several racist groups active here.
>
> 'We do not expect racism to cease with the passing of such legislation', it said. 'But we believe that it would … be a hindrance to those who sow division and hatred.

Finally I quote from a speech many of us heard when we attended the memorable commemorative meeting of the Parliament of Australia at the Royal Exhibition Building. It was the speech that many of us believed touched us most, and it was from a young Asian girl, Hayley Eves, who stated, in part:

> I'm proud to be part of a multicultural Australia. I was born in South Korea and am part of a very multicultural family. I'm happy that many of them could be here with me today.
>
> Whether you are born here or overseas it does not take long for you to become part of Australia, to feel that you belong. I know this hasn't always been the case and I know we have to keep working on tolerance and understanding between us all.
>
> …
>
> In representing the voice of the future I hope to leave you with a sense of how we, young Australia, view our nation, of how we view our future.
>
> …
>
> I am young. I am a woman and I am an Asian Australian. That I am standing here in front of you demonstrates clearly that we have changed.

I believe we have a long, happy future to look forward to and in the words of Hayley Eves, 'We have a country to be proud of'. I have much pleasure in supporting the bill.

Hon. JENNY MIKAKOS (Jika Jika) — Other honourable members have already detailed at some length the various provisions of the Racial and Religious Tolerance Bill, so I will speak generally about why I am extending my strong support to it, why I regard it as measured and balanced in its approach and why I believe it is needed in this community.

I abhor prejudice of all kinds and see the legislation building on the government's elimination of all forms of discrimination and vilification. Honourable members will be aware of the longstanding policy of the Labor Party to introduce such legislation, and I am pleased to be a member of this place given that the legislation has been introduced during this sessional period.

Victoria is the only state or territory in Australia, other than the Northern Territory, that does not have such legislation. New South Wales has had similar legislation in place since 1989, and the sky has not fallen in. The legislation has not placed unnecessary restrictions on freedom of speech, and neither the commonwealth experience or the experience in other states indicates such legislation would have dire consequences.

I am honoured to be a parliamentary representative of an electorate as diverse as Jika Jika Province. The 1996 census indicated that 30.8 per cent of persons in the province were born overseas and 26.4 per cent were born in non-English-speaking countries. It has a significant indigenous community and is home to many different religious organisations. I am pleased it is a wonderfully diverse and generally harmonious community, as is the population of Victoria as a whole.

It is in this context of the diverse Victorian community that I believe the Victorian people will support the promotion of legislation that seeks to enhance a tolerant society.

The bill is about promoting a tolerant society. I see this bill as being about creating rights and not taking away rights. There has been a lot said during the debate about the freedom of speech. Australia does not currently have a bill of rights, although I believe we should have one. We do not currently have unqualified rights to freedom of speech — for example, we do not have the right to defame people, to harass or to intervene. There are already laws in place, as the Honourable Carlo Furletti indicated in his contribution, that deal with such

instances. However, I agree with him that such laws do not cover many situations of verbal abuse.

Although we are not signatories to a bill of rights, we are signatories to a number of international treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights. These documents not only endorse freedom of speech but also acknowledge that this right is tempered by the rights of others.

Article 29 of the Universal Declaration of Human Rights states:

> (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
>
> (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Australia is a founding member of the General Assembly of the United Nations, and is a signatory to the Universal Declaration of Human Rights. Article 29 conveniently sets out the need for a balance between rights in our society, and I see this bill as not tempering any of our existing rights.

We do not have an unlimited right to free speech in this country. Given that we live in a community we should have regard to the rights of others, which is what the bill seeks to do. It is important to refer specifically to paragraph 3 of the preamble of the bill, which says, in part:

> However, some Victorians are vilified on the ground of their race or their religious belief or activity. Vilifying conduct is contrary to democratic values because of its effect on people of diverse ethnic, indigenous and religious backgrounds. It diminishes the dignity, sense of self-worth and belonging to the community. It also reduces their ability to contribute to, or fully participate in, all social, political, economic and cultural aspects of society as equals, thus reducing the benefit that diversity brings to the community.

That paragraph of the preamble basically sums up why I strongly support the bill. The bill is about empowering those members of our community who are the subject of attack, humiliation or hatred.

It is important to read briefly from the document prepared by the Uniting Church of Australia entitled ‘Through the eyes of the vilified’. The introduction states:

> What must be recognised are the adverse effects that racial vilification has on those at whom it is aimed. It is intimidating, degrading and hurtful. It disempowers people. It silences them. It hurts them deeply. Overall, it is the cause of significant emotional harm to entire groups, as well as individuals. This is why like other socially unacceptable behaviour, such as sexual discrimination, it must be made illegal.

The bill creates offences for serious cases of vilification and also provides for a complaints and conciliation mechanism for less serious forms of vilification. I have been fortunate not to have been personally the subject of vilification. I guess I have been very lucky, and probably very forthright in my own views about my abhorrence of such discrimination. However, I know that many others have not been as fortunate, including many who live in my electorate.

We all like to think that as we are becoming a more diverse society, a more educated society, that incidents of vilification have decreased over time. However, I know for a fact that we have not entirely eradicated intolerance or bigotry. The economic dislocation felt by many in our society as a result of the globalisation and economic rationalist policies adopted by governments has meant that some have embraced scapegoat politics and political organisations that promote such politics. I know that many incidents of vilification have occurred since the proliferation of extremist organisations such as One Nation.

The rise of One Nation has given rise to the political legitimacy of even more extremist organisations that feel that the support One Nation has enjoyed in the past few years indicates their own level of acceptance. It has meant that polite political correctness has been thrown off revealing an underbelly of ignorance, resentment and bigotry. I do not see this bill as being about entrenching the cloak of political correctness but about changing of attitudes.

The bill should not be seen in isolation. The government believes there is a need for a two-pronged approach to changing community attitudes. A two-pronged approach involves both this legislation and an education campaign. In last year’s budget the government set aside over $700 000 for such a campaign, and I look forward to advertisements that will explain the scope and impact of this legislation in the community and will also be specifically targeted at young people through our school system to teach them about the need for tolerance.

I note that in his contribution to the debate the Honourable Peter Hall sought to indicate that young people should be expected to call each other names in a schoolyard and that those types of examples of

vilification would not be serious in nature. However, I have a view that children tend to say what they are taught at home, and if they are making such statements in the schoolyard then not only the children but the parents need to change their attitudes. I certainly hope that the bill and the education campaign that will accompany it will seek to change such attitudes.

I congratulate the Premier, in his capacity as the Minister for Multicultural Affairs, on having the fortitude and courage to implement this legislation in the face of what has been an extremely organised opposition from right-wing extremist organisations. I thank the Honourable John Pandazopoulos, in his capacity as Minister assisting the Minister for Multicultural Affairs, and also the Honourable Kaye Darveniza, in her capacity as Parliamentary Secretary to the Premier including Multicultural Affairs, for ensuring that the government maximised its consultation throughout the process of the model bill.

Honourable members would be aware that the model bill was released in December of last year to ensure that the community had an informed debate about this legislation. Thousands of copies of the model bill were circulated to members of the community and many thousands of such members of the community made submissions to the government.

In addition, public forums held in metropolitan and regional Victoria were attended by many thousands of participants. Many ethnic and religious organisations were individually consulted by the government. The model bill was published in draft form so as to maximise input. Implicit in that was the anticipation by the government that amendments would be made. It was unfortunate that the model bill was used as an opportunity by members of the opposition to muddy the waters and provide fuel to some extremist organisations which we must all find reprehensible.

The government has made a number of changes to address the community's concerns. Government members have already said what the changes are. I place on record that I am pleased that some members of the Liberal Party have said they will support the bill.

Hon. C. A. Furletti — The vast majority, if you don't mind.

Hon. JENNY MIKAKOS — I had hoped we could have achieved a tripartisan position on the bill in the same way as a bipartisan position was adopted on multicultural matters under the leadership of the former Premier, Jeff Kennett.

It is unfortunate that under the leadership of the present Leader of the Opposition in the other place, the honourable member for Portland, we have an absurd situation where the Liberal Party claims it needs to exercise a conscience vote on a matter that should have bipartisan support. I am not sure of the message the Liberal Party is sending to the community, but I am sure the Victorian community would have liked to see Parliament support the bill across all political parties.

In that respect I note that the position adopted by the Liberal Party on the bill has given ammunition to extremist organisations. By way of example I refer to an email I received from the Citizens Electoral Council of Australia under the heading 'Liberal MP: race law being pushed by the top end of town'. The email states, in part:

> A Victorian Liberal Party MP has confirmed that Steve Bracks' Racial and Religious Tolerance Bill isn't about combating racism, but is 'entirely political, and it is being pushed by the top end of town'.
>
> The MP, who is outraged at his own party leadership's support for the bill, was talking to a concerned constituent in the wake of the lower house's passage of the Bracks bill.
>
> His statement only concerns — —

Hon. R. H. Bowden — On a point of order, Mr Deputy President, I know in the context of this debate we are tolerant of all views because we are dealing with an emotional bill. I have listened for some minutes to the honourable member maligning, in some ways, the Liberal Party and now aspersions are being cast on an as-yet unnamed Liberal member of Parliament. I ask the honourable member to name the member of Parliament who is being quoted.

The DEPUTY PRESIDENT — Order! The honourable member is still reading from the document, which she has identified. I suggest she proceed and accede to the request of Mr Bowden.

Hon. C. A. Furletti — On a further point of order, Mr Deputy President, in deference to the house the honourable member should be asked if she intends to name the member of Parliament before she is permitted to continue reading the material.

The DEPUTY PRESIDENT — Order! The honourable member will proceed with her contribution. As I understand it, she is part way through reading the document. A judgment will be made when she has completed it.

Hon. W. R. Baxter — On a further point of order, Mr Deputy President, does your ruling mean that if the honourable member intends not to name the alleged

member of Parliament, she should not quote further from the document?

The DEPUTY PRESIDENT — Order! That would be the intention. Is the honourable member prepared to name the person she is speaking about?

Hon. JENNY MIKAKOS — On the point of order — —

The DEPUTY PRESIDENT — It is not a point of order; it is a question.

Hon. JENNY MIKAKOS — It is in relation to the point of order; I am addressing the specific point of order. I am reading from an email that I am happy to circulate to honourable members, if they so wish, that has been provided to me by the Citizens Electoral Council of Australia. The email has details about where it has come from. An allegation is being made by the Citizens Electoral Council, not by me, that a Victorian Liberal Party member of Parliament made such a statement to a constituent.

I wish only to quote the assertion made by way of example, my point being that the position the Liberal Party has taken has given ammunition to extremist organisations, such as the Citizens Electoral Council of Australia, to promote their own causes. I was not seeking to name any specific parliamentarian because that would be unfair.

Hon. W. R. Baxter — Then don't quote the document; that smears them all.

Hon. JENNY MIKAKOS — I am only able to confirm that such a statement was made, in fact — —

Hon. C. A. Furletti — On a point of order, Mr Deputy President, the honourable member is entering into debate.

Hon. JENNY MIKAKOS — If I were to name the parliamentarian, it would be regrettable and something I would not wish to do. I wish to make the point about the — —

Hon. R. H. Bowden — On a point of order, Mr Deputy President, I am concerned about what I have heard in the past few minutes. An allegation has been made about a Liberal member of Parliament in the argument for and against in the debate on the bill and a very difficult allegation — —

Hon. Jenny Mikakos interjected.

Hon. R. H. Bowden — I want honourable members to know the identity of the alleged member of Parliament.

Hon. C. A. Furletti — Further on the point of order, Mr Deputy President, my concern goes beyond that of Mr Bowden's. It goes to the insinuation on the part of the honourable member that the member of Parliament is actually named in the document from which she is reading. I do not believe the member of Parliament is named. I would like you, Mr Deputy President, to seek confirmation from the honourable member that there is a name of a member of Parliament on the document from which she is reading. If there is not, the honourable member is seeking to mislead the house.

The DEPUTY PRESIDENT — Order! If the honourable member is in the position to name the member of Parliament she should do so; if not, she should desist and move on.

Hon. JENNY MIKAKOS — I am happy to move on.

Hon. Bill Forwood — Because you can't name the name.

Hon. JENNY MIKAKOS — As I said, I thought it was inappropriate to name him, given that the assertion is made by the Citizens Electoral Council. The point I was seeking to make was that the position — —

The DEPUTY PRESIDENT — Order! Ms Mikakos, the ruling I made was for you to desist from that and move on. I suggest you move on.

Hon. JENNY MIKAKOS — I am desisting from reading further from the email, but so there is no misunderstanding, the point I was making earlier, which is why I was reading the email, was by way of example of the wishy-washy conscience vote position of the Liberal Party and is giving fuel — —

The DEPUTY PRESIDENT — Order, Ms Mikakos!

Hon. C. A. Furletti — On a point of order, Mr Deputy President, the conduct of the honourable member is despicable and shows absolute lack of respect to the Chair and the house. She is not paying regard to your direction and she continues to refer to and quote from a document on which she has been found out.

Hon. JENNY MIKAKOS — I am not continuing to quote from any document; you have not been listening.

The DEPUTY PRESIDENT — Order, Ms Mikakos!

Hon. C. A. Furletti — On a point of order, Mr Deputy President, throughout the debate the honourable member has disregarded your directions and ignored the respect due to the house. If she is to proceed, she should move on from this ragged document from which she is now reading.

Hon. R. H. Bowden — On a point of order, Mr Deputy President, I would like it recorded in *Hansard* that I consider the comments I heard from the Honourable Jenny Mikakos to be vilification against the Liberal Party.

The DEPUTY PRESIDENT — Order! I have already asked the honourable member to move on, and I suggest she do so.

Hon. JENNY MIKAKOS — I realise this is a very sensitive issue for members of the Liberal Party and I am prepared to move on, but I do not accept that I am seeking to vilify anybody. I am specifically not naming individuals because that was not the point I was seeking to make. The point I was making was that it is unfortunate we do not have tripartisan support for the bill.

The DEPUTY PRESIDENT — Order! I ask the honourable member to desist from that line and move on. If she resists my direction, I will be forced to sit her down.

Hon. JENNY MIKAKOS — In that case, Mr Deputy President, I feel you are gagging me from participating in the debate. I do not regard a comment that it is unfortunate that we do not have tripartisan support as being something that is inappropriate for me to say, or in breach of any standing order of the chamber. I know it is a sensitive point for members of the Liberal Party.

I welcome the fact that the Honourable Carlo Furletti has taken a strong position in his own party room in support of the bill, and I regard it as unfortunate that his position is not shared by all of his colleagues. However, I will move on. In fear of being gagged any further — —

The DEPUTY PRESIDENT — Order! Move on!

Hon. JENNY MIKAKOS — I will not even begin to cast aspersions in terms of fathoming the motivation of the National Party in opposing the legislation. I hope it is only misguided in its concerns.

Hon. E. J. Powell — On a point of order, Mr Deputy President, I take offence at the comment that the National Party is misguided in its concerns. I ask the honourable member to withdraw the comment because I find it offensive on behalf of National Party members. We undertook a great deal of consultation on the issue, and I do not want it on the record that we did not take these matters into consideration. I ask you to ask Ms Mikakos to withdraw that comment.

The DEPUTY PRESIDENT — Order! On the point of order the Deputy Leader of the National Party has raised, there can be no withdrawal unless the comment is a personal affront. There is no point of order.

Hon. E. J. Powell — On a further point of order, Mr Deputy President, I do feel personally affronted, because I did a lot of research on behalf of the National Party, and I take the comment as a personal insult.

The DEPUTY PRESIDENT — Order! The Honourable Jeanette Powell feels personally affronted by the comment, so I ask the honourable member to withdraw it.

Hon. JENNY MIKAKOS — I withdraw the statement. It is unfortunate that people are being so precious during the debate.

Hon. E. J. Powell — On a point of order, Mr Deputy President, I take offence at that comment. I am not being precious. I believe I am allowed and entitled to have my comments on the record, and I do not want the comment of the honourable member on the record. I ask the member to withdraw her comment that I am being precious.

The DEPUTY PRESIDENT — Order! As the honourable member is personally affronted, I again ask the Honourable Jenny Mikakos to withdraw, and when she does so, to move on.

Hon. JENNY MIKAKOS — The comment is withdrawn. The point I am seeking to make is that the National Party believes there is no need for the legislation. I understand that the Honourable Jeanette Powell says she has done some research into the background of the legislation. Obviously members of the National Party have not come across instances of vilification. I personally volunteer my services to them to take them into my electorate and neighbouring electorates to talk to individuals and groups who have been personally vilified so that they can appreciate the very real need for this legislation.

Hon. E. J. Powell — I represent north-eastern Victoria, not your electorate, Ms Mikakos.

Hon. JENNY MIKAKOS — You are also a parliamentarian in this Parliament representing the interests of all Victorians.

I do not want to give specific examples of vilification in my contribution, because I do not believe it is helpful to record in *Hansard* bigoted language or attitudes. However, I note that honourable members would have received a document produced by the Uniting Church in Australia entitled 'Through the eyes of the vilified'. That document gives a number of examples of racial and religious vilification, and I urge all honourable members to read it.

The absence of this type of legislation in Victoria at the present time means that cases of vilification are not able to be reported. The absence of a reporting mechanism means that the number of instances of vilification cannot be quantified. However, I do not regard the absence of a specific quantum of instances to be a reason for not supporting the bill. The complaints and prosecution mechanisms established in the bill will provide a barometer of the health of our society.

I hope that sometime in the future we can repeal the legislation because it will no longer be necessary. I also hope that the bill, if it is passed, will not need to be used on a frequent basis. However, in the meantime I hope all honourable members in the house can support the bill.

In conclusion, I strongly support the legislation. I believe it will seek to promote a more tolerant Victoria, and I urge all honourable members to support it today.

Hon. W. R. BAXTER (North Eastern) — The house has seen yet again that the Honourable Jenny Mikakos simply cannot help herself. Time after time she comes into the house and wants to cast aspersions on and upset a quite reasonable debate by introducing allegations and innuendo. However, the worst feature of her performance in the last few moments was that she spent a good deal of time criticising an organisation known as the Citizens Electoral Council of Australia, saying it had no credibility, then in the next breath giving it extraordinary credibility by quoting a document the organisation produced as if the document had some basis in truth!

Hon. R. M. Hallam interjected.

Hon. W. R. BAXTER — As Mr Hallam said by interjection, she relied on it for her argument. I find it extraordinary that her keenness and ideological desire to have a crack at the Liberal Party on every occasion she can makes her prepared to resort to quoting from documents from organisations such as the Citizens Electoral Council of Australia, which she abhors — rightly so — and which I suspect every other member of the house also abhors. I find it quite extraordinary that she cannot see the contradiction in her behaviour in quoting from that document.

Worse than that, she was going to try to convey to the house and to the readers of *Hansard* that that document named a member of the Liberal Party who allegedly made the statement referred to. We have all received the document and we all know that it does not name a Liberal member of Parliament. Presumably it is an invention of Mrs Isherwood, who wrote the email in the first place. It is a construction and fabrication. Most of us know it is but apparently not Ms Mikakos. She tries to give the document an element of truth, substance and status in order to beat the Liberal Party around the head on a debate as important and sensitive as this. It just shows how shameful she is and how out of touch she can be.

I have no time for racists, bigots, religious fanatics or right-wing extremists. My record over 25 years in fighting the League of Rights in this place and in other places adequately demonstrates that. But I cannot support this legislation either because I think it is over the top; it is unnecessary and it undermines the very fabric of the free Australian society that we all enjoy, that we hold so dear and that has so often been referred to in the debate in such glowing terms.

This legislation has the potential to destroy the very things we hold dear — the ability to live and work together as Australians from diverse ethnic, religious, national and cultural backgrounds. The good-natured chiacking and the like that goes on between people — an important part of the cement that holds us all together — is under threat because this legislation is manna to the complaints industry. Over the past decade the complaints industry has burgeoned with disputes over unfair dismissals, equal opportunity and discrimination, where complainants with very little substance to their complaint go off to the various bodies and the poor old defendant gives in and pays up because he knows it will cost him a lot more to fight the case and win. That is what will happen in this case. Any sort of comment made, overheard, taken out of context — no matter how mild — will be taken up by those who see that there is an opportunity either to get a dollar that they could not otherwise get or to persecute someone via the judicial system and the appeals process.

I am absolutely convinced that this legislation is a product of the elites — the chardonnay set who run the ALP state conference. Ms Mikakos criticised the Liberal Party for allowing a conscience vote on this issue and suggested that there was unanimity in the Labor Party, that all members of the Labor Party wanted this sort of legislation. Where has she been? Why hasn't she been listening in the corridors of this place over the past week where good, real, solid, down-to-earth people have been saying, 'We don't want this sort of stuff but we are locked into our ALP conscience vote'?

Hon. Jenny Mikakos — On a point of order, Mr Deputy President, the Honourable Jeanette Powell took a similar point of order not too long ago about members of her party being besmirched in the same way as Mr Baxter now seeks to suggest that members of the Labor Party are not supporting this legislation. I ask him to name those individuals.

The DEPUTY PRESIDENT — Order! There is no point of order. I ask Mr Baxter to continue.

Hon. W. R. BAXTER — It is absurd for Ms Mikakos to try to brand the Liberal Party as somehow weak because it allows a conscience vote. I would say it has strength in giving its members the right to make their own decisions on a very sensitive and emotive issue, and I praise the Liberal Party for allowing it. I might say in passing, lest someone think the National Party does not have a conscience vote on this issue, of course we have; we have it on every issue. It just so happens we usually think alike!

Often in this place when we get this type of legislation, I hear comments such as we heard from Mrs Coote and others that they feel they have to support the legislation, that they have to accede and concede to some sort of fashionable, allegedly public, opinion. Mrs Coote referred to it as courageous. With no disrespect to her, I do not think it is courageous at all. I think those of us who are prepared to stand up against fashionable public opinion are being courageous.

Whether it is on the relationships bill, this bill or whatever piece of social legislation is being considered, there is always a group out there — the elites, the chardonnay set or whoever — who try to convey the impression that they know best, that they are speaking for the majority, that theirs is the tack we should be taking, and it takes a bit of withstanding. I do not argue about that — it does. But at times I find myself mystified as to why members of Parliament feel they have to go along with it just because it is a social issue. If they were dealing with economic or defence matters they would have no trouble in rejecting those sorts of pressures, but because this is a sensitive issue they feel they have to go along with it. I for one do not have those qualms. I am happy to take my own counsel on these matters and to make decisions accordingly.

Some of the provisions of the legislation are grossly unfair. For example, it protects the elites — people in the art world, some journalists, and others. It gives them all the protection in the world; they can virtually do what they like. They can have something down at the art gallery that is offensive to me and to many other people, as we saw not so long ago, but under this legislation they will get away with it. They will be exonerated because it is in the name of art; it is all right. But my two poor fellows up in the pub in Wodonga after they have laid a couple of hundred bricks making a joke or two are exposed, and I cannot see the sense in that.

Hon. K. M. Smith interjected.

Hon. W. R. BAXTER — A couple of hundred bricks, I said, Mr Smith, not drinks! That is my conundrum. Why have a piece of legislation that protects, quarantines, or separates out the educated, those who are in a position to defend themselves? The legislation gives them an out, but the average citizen, perhaps the less educated person, will be exposed to pressures they were not expecting and are not in a position to deal with properly. To that extent the bill is unfair and I could not accept it on that basis alone.

I cannot accept clause 18, which goes to vicarious liability for employers. I can accept vicarious liability for employers in work circumstances and sometimes under Workcover, because clearly employers must provide a safe working place; they have to be responsible for what the employees do and so on, but to legislate that an employer is somehow liable for what an employee might say or do is totally unreasonable. It is little wonder that more and more employers are looking for ways of producing their product, whatever it is, without engaging any employees. Between Workcover, the proposed industrial manslaughter legislation and what have you, and this legislation on top of it, why would you employ people? It is just another disincentive and it is totally unfair to suggest that an employer is somehow liable for what his employees might say. Again, I say the bill is unfair.

As for the provision dealing with incorporated associations — heavens above! Why should volunteers in incorporated associations be responsible for what some of their members might say or do?

We are having enough difficulty getting people to serve on hospital boards, the local footy club, the kindergarten, and so on. They have been scared off by the threat of the introduction of the industrial manslaughter legislation. Once they get to hear about this, they will be even less likely to serve in a voluntary capacity in our community. Is that what we want? Do we want legislation such as this to further undermine the willingness of people to participate in our communities? Will we all withdraw back into our shells, close the front door and stay inside because of bills such as this being put on the statute book? Taken to the nth degree this is real Thought Police and George Orwell stuff.

Ultimately, we have a responsibility to think through the implications if legislation such as this is put on the statute book. Proper thought has not been given to what a vexatious litigant could do with this legislation in terms of pursuing an individual or a group of people in this community.

Hon. Jenny Mikakos — The commission will throw it out.

Hon. W. R. BAXTER — It is all very well for Ms Mikakos to say, 'The commission will throw it out'. The commission is even obliged under the bill to help the complainant! What about helping the defendant, for heaven's sake? I do not have any faith in the commission throwing it out; and in many instances it should not get to the commission in the first place. The bill will give all sorts of vexatious people the opportunity to go cavorting off through — —

The DEPUTY PRESIDENT — Order! Through the Chair, Mr Baxter.

Hon. W. R. BAXTER — I beg your pardon, Mr Deputy President.

I also want to retain the right to criticise activities with which I disagree. So long as I am not defaming people, I cannot see any reason why I cannot reflect adversely on the actions of others. I refer to the example of the extraordinary and dreadful oppression of women in Afghanistan by the current Taliban regime. As I interpret the bill, if I were to criticise that regime, or anyone else, someone could accuse me and take action on the grounds that I am vilifying the Muslim religion. Is that what we want? Are we saying that as much as we might disagree with what the Taliban does, and as much as we might think it is absolutely obnoxious, that our lips are sealed and we are stunned into silence by this legislation? That is the implication in the bill.

It is all very well for Ms Mikakos to say that the tribunal will throw it out; I do not want to test it and I do not think I should have to test it. Why should I even be exposed to the threat of being hauled up before some tribunal because I want to protest, complain about, oppose, and if I possibly can, undermine the extraordinary oppression of women in Afghanistan? I just use that as an example. No doubt I could come up with plenty more.

I want to stand up for minorities. I want to stand up for the oppressed. As members of Parliament we have a duty to stand up for the oppressed. We talk about it often enough. Parliamentary privilege gives us the opportunity to record oppression and the like. I can do it in here, presumably, but under this bill can I do it out on the front steps? It appears my opportunities will be severely restricted. I cannot acquiesce to legislation that somehow or other reins in my opportunities to defend the oppressed and flush out and point out injustice and inequity in our society because I am under the threat that in so doing I will be pursued by people.

Hon. Jenny Mikakos — What a joke!

Hon. W. R. BAXTER — Ms Mikakos says, 'What a joke!'. Of course, they probably said that when Hitler came to power in Germany.

Hon. Jenny Mikakos — They probably gave the same reasons you are giving.

Hon. W. R. BAXTER — They probably said it when Stalin was first getting mobile — and we all know what happened with those two! Good people allowed themselves to get sucked in instead of standing up for what they knew and believed was right.

There is overwhelming concern about the legislation in the electorate represented by the Honourable Jeanette Powell and me. I have received many letters. Yes, some of them have been over the top; some have been similar to the letters the Honourable Andrea Coote quoted from, expressing views that were quite frightening and views that I am disappointed to know exist in the darker corners of my electorate. However, many of the letters were from people with genuine concerns, such as those I have expressed today. I have a duty to reflect those opinions. More than that, I have no difficulty in reflecting them, because those that were properly and moderately expressed are similar to my own.

I have had very few requests from my electorate to support the legislation. About the only request I have had is from the Uniting Church, and it has not come from the parishes in my electorate but from the head office down here. I say one thing about the Uniting

Church, not only on this issue but on many issues: it is not representing its country congregations. Why is the Uniting Church so empty now? It is because the hierarchy of the church is out of step — it is out of touch with what its parishioners think. They are voting with their feet — they are either leaving the church totally or going to other denominations.

Hon. K. M. Smith — You will not be able to say that once the bill comes in. Make the most of it.

Hon. W. R. BAXTER — I received a booklet from the Uniting Church, which quotes a number of examples of vilification. They are all unpleasant and I do not subscribe to any of them. However, if this is the worst it can come up with, why do we need draconian legislation such as that before us today? Most of the examples could be dealt with by existing laws.

I refer to the example the Honourable Andrea Coote used during her speech — and it was a good speech; I do not criticise her speech — about the brick through the window. The action may well have been racially motivated; it probably was. However, this legislation will not do much about it unless we can catch the perpetrators. If the perpetrators had been caught on that occasion they would already be before the courts under a range of laws we have to deal with that sort of vandalistic activity. A greater penalty would have been imposed on them if it could have been proven that their act in breaking the window fell within the offences contained in the bill. The point I make is there are already laws to deal with the activity or offence of breaking the window.

We should not get too carried away and believe the bill will give us a greater ability to deal with unpleasant instances that are already occurring in our community. The greatest problem is apprehending the perpetrators. It is all very well criticising such actions, but the problem is to catch in the act those who write slogans on walls and break windows. The actions of the people who threw the eggs might not have had too much to do with racial vilification — although I suspect they did — but why were they not apprehended at the time? It did not require this bill to pull those people into gear.

I conclude by saying that I am frustrated by the legislation. Many of its supporters support it in good faith, and I do not criticise them for that. However, they are entirely misguided in believing the legislation will add to the wellbeing of our society. My view is that it is likely, regrettably, to do the opposite.

Hon. R. H. BOWDEN (South Eastern) — This is probably one of the most important pieces of legislation to have come before this house since I arrived late in 1992. During the past few months I have received ever-increasing amounts of correspondence from my constituents across a large and diverse electorate. Although some of that correspondence has been unfortunate and quite unacceptable, the overwhelming majority — expressing their opinions and asking advice of me as the representative of approximately 150 000 voters — stated that they do not want me to have any part in reducing their civil rights and freedoms. They do not want me to have any role in reducing the level of free speech in this great state. My constituents are clearly asking me not to support the bill.

I am informing this house that I will not vote for the bill. I am proud to be a member of the Liberal Party because my party enables us to exercise our conscience through a conscience vote when we truly want to reflect the views of the majority of the electorate we represent, and I will do that.

Nobody can support those who practise racial or religious vilification. I do not. I will not support them, and I condemn them. There is no case for vilification, either religious or racial, at any time. Over many years I have done everything I can to make a positive contribution to our successful multicultural society. I am proud of that contribution, and I make it constantly and with real sincerity. Within Victoria we have more than 200 nationalities, and among us in this state more than 150 languages are spoken in the wider community. It is fair to say that Victoria is a successful, tolerant society, and I believe sincerely that we do not need to restrict or weaken free speech if we are to continue the very fortunate circumstances and the wonderful history we have.

This bill is not necessary. Given the obvious basic harmony and success of our diverse community, we are fortunate not to need it, and it is sad that the state government believes it has to present legislation of this type when we already have adequate laws — both federal and state — to handle criminal, civil and other forms of abuse.

During the public consultation process I went to a meeting at Springvale that was very well attended by several hundred people. The clear majority of those who went clearly expressed the view that they did not want the bill. One comment summarised the feelings of that large public meeting:

> We came from overseas to Australia to escape this type of state control.

The enactment of harsh laws such as those imposed through the legislation before us today is definitely not necessary. The bill will have the inevitable consequence of significantly reducing free speech. But it goes beyond that. It is running a very substantial risk of, for the first time, breaking a longstanding community value — it is running the risk of combining the church and the state.

The state is in danger of taking onto itself the power of deciding religious issues through state servants. I remind honourable members of section 116 of the federal constitution. I will read it because people with professional backgrounds have advised me that this bill may be subject to challenge — it could be challenged as being invalid on the basis of section 116 of the Australian constitution. That section states:

> The commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the commonwealth.

The notes that go with this publication on the constitution state:

> The section prohibits the commonwealth from doing four separate things: it may not:
>
> make a law for establishing a religion;
>
> make a law for imposing a religious observance;
>
> make a law for prohibiting the free exercise of any religion …

Therefore I have real reservations about the validity and conformity of the bill as it relates to the constitution, which takes precedence over state legislation. It may indeed be subject to a finding of invalidity at a subsequent hearing.

I have already mentioned that commonwealth and state laws that apply to the citizens of Victoria can cover to my satisfaction virtually anything that could be covered by the proposed legislation. In Victoria we have the Summary Offences Act, the Crimes Act, and the Equal Opportunity Act, and there are also commonwealth laws that apply to everyone.

I sincerely believe the state should not arbitrate on free speech where religion is concerned. I have been advised by ordained members of the clergy that they are extremely concerned that the state is taking on itself powers to determine religious issues, and on that point alone I cannot in conscience support the bill. It is an example of unnecessary political correctness and is a focused attack on free speech as we have it in this state and in our wonderful nation. The bill weakens many of the individual freedoms that the vast majority of my constituents hold precious, and among those I single out the freedom to think, the freedom to worship, the freedom to speak, the freedom to choose and the freedom to be independent. The bill takes away much of that freedom and replaces it with a state-sponsored ability to control thought, speech and actions through state-appointed officials. They are not even elected. It could easily provide a platform for intimidation and harassment for people in civic, religious, business and political life.

I will address several specific clauses that are cause for concern. Clause 3 uses the term ‘lawful religious belief.’ Those words are proposed by the state government as its definition of what is religious belief. I contend that the only people who could truly say what are lawful religious beliefs are those people who are ordained. No state public servant, no unordained member of Parliament, nobody who has not been ordained, can tell anyone else what is a lawful religious belief.

Clause 4 is contradictory. The two main points are that it wants equal participation for every person in the society, but it goes on to expand, using words which are clearly contradictory and saying, ‘Providing you do it this way!’. That is my interpretation of clause 4. It is contradictory and unacceptable.

Honourable members should be very conscious that clause 6 is ringing alarm bells. It provides for the act to bind the Crown. My earlier comment about the state and religion being combined at the request of the state is of concern because not only will the state make decisions and impose penalties but those decisions will bind the Crown. We do not know where this will lead and therefore I think it is straight-out interference where we previously have had a clear separation between religion and state. I cannot support any move to combine those two.

I am concerned about clauses 7 and 8. In defining what is racial and religious vilification the bill refers to a single act, extraterritorial reach, and being outside Victoria. If someone sends a communication by fax, over the Internet or by letter — an unsolicited communication — and ultimately there is an investigation and a prosecution, are we, as Victorians, required to be accountable for the person or persons who sent that communication to us? I think this is full of real difficulty. What about compensation for people who are put to that expense?

Clause 9 says that motive is irrelevant. I am not a lawyer, but I cannot understand how in preparing a

document as significant as this, a proposed law as important as this, when legal cases are involved and when people will have their reputations and their lives on the line in terms of their life's work and their families, motive could be irrelevant. I suggest that is absolutely unacceptable.

Clause 10 refers to incorrect assumptions. There will be misguided people at the hotel or the sporting club who may be talking utter rubbish, yet they will have a problem because under the proposed legislation if they make a joke or a statement that may not be factually correct they can be hauled off and caught up in this dreadful situation. The Honourable Bill Baxter said he believes there is an element of elitism in this bill and I believe there is. I object because the bill certainly seems to be serving the attitudes of elites: the arts elites, the journalistic elites and other elites.

Another factor which I cannot support is the reverse onus. We have a tradition going back hundreds of years in this country where you are innocent until you are proven guilty. In this dangerous legislation there is a reversal of the onus of proof. You do not know that you are going to be charged until it happens. If an accusation is made and you are charged, the reverse onus of proof applies so you are guilty until you are proven innocent. That is totally unacceptable to the way our community operates. It has the potential to intimidate people — and who is going to objectively understand what can happen?

The ability of private conversations to be overheard and made the subject of complaint is appalling. Clause 12 provides that private conversations are intended to be exempt unless — there is a sting in the tail — someone may overhear. It could be that two people are having a private conversation in their home and a third person is on the lawn doing some work or walking past the house or something and overhears this private conversation. Under the proposed legislation that unintended third person who happens to hear that private conversation can not only make a complaint but will also get state assistance to refine that complaint. That is the next thing to a police state. I will not have anything to do with the establishment of a law that extends private conversations so they can be manipulated into a police state situation.

Clause 17 is very, very worrying. In our business community we ask people to be successful. We hope they are successful. We want them to prosper, have a good life, be successful and employ people. We have a mixed economy. However, we are now adding another burden to the already substantial burdens businesspeople have to contend with. In clause 17 an employer or a principal is accountable for the thoughts, actions, deeds and motives of employees. I can tell the house that in our country the overwhelming majority of employers and employees are honest, hardworking people who do not go around vilifying others or even thinking about it. However, I suggest that in a corporate, company sense an honest employee who was unfairly accused would have a devastating time with that accusation. I had the privilege of working for a highly respected multinational company for nearly 20 years and the mere fact that one is accused does not mean one is guilty, but it is an enormous burden to carry. False accusations can destroy careers and businesses. I do not believe it is reasonable for employers and staff to take responsibility as intended by this bill.

Clause 19 is the one I find the most objectionable. It concerns who can complain. Among those defined as people who can complain are children. For the first time in any legislation in this country that I am aware of, it will be possible for children to be given state assistance to inform on their parents and family members. That is possible in this bill and I will not support that for one second.

Another unwelcome, totally unpalatable and un-Australian aspect of this bill is clause 21. It says the commission must — I repeat must — assist a complainant in formulating the complaint. Off goes someone bent on harassing somebody to the Equal Opportunity Commission and it must help them and must point out if there are factors that could lead to a criminal prosecution under this legislation. The Equal Opportunity Commission must help a complainant develop a complaint. I think that is offensive in the extreme. The penalties are absolutely horrendous: $6000 or six months imprisonment for an individual, or both; or for a body corporate, $30 000. I suggest that in considering the penalties in this legislation, as outlined in clause 24, the government has not only gone over the top but lost its calibration. Those penalties are way out of line with the types of activities which one may unfortunately see or hear of from time to time.

Clauses 24 and 25 of the bill contain what are considered to be extremely serious offences. This is serious racial and religious vilification. As I said at the beginning of my presentation today, nobody supports racial and religious vilification: they do not, cannot, should not and will not. However, I will be very concerned if this legislation becomes law, because it was only a few short weeks ago that most of the world community was concerned about what was happening in Afghanistan.

The Honourable Bill Baxter spoke about one aspect of that issue. I refer to another. A *Herald Sun* article of 3 March entitled 'Temples of doom' refers to the wanton destruction by the Taliban in Afghanistan of priceless centuries-old statues. The statues being destroyed were in the Bamiyan Valley of Afghanistan. I do not believe it would be possible for any member of this chamber or the community to criticise the wanton destruction of sacred statues on the basis of dubious justification if the legislation being debated today comes into law. That would be a shame. The priceless objects were destroyed wantonly, but if we were to say so after the bill becomes law we may be liable to prosecution, which would be inexcusable.

I now refer to clause 28, the search warrant provision. It is one of the most offensive provisions I have seen since I arrived in this place eight years ago. Parliament is being asked to authorise search warrants and the use of physical force so the Victoria Police and others may enter private homes and businesses looking for documents or evidence of some exhibited bad behaviour. I cannot support the provision. As a non-lawyer, I will not cop it.

The *Australian Journal of Human Rights*, vol. 1, no. 1, of December 1994, has some interesting information to do with the experience in New South Wales about the level of complaints. Under the heading, 'The board's experience with civil complaints' the article states:

> A total of 442 written complaints of racial vilification were lodged from 1 October 1989 until 31 July 1994. Nearly half of these complaints were against the media …

Of the total of 442 complaints, only 1 was referred to the tribunal for hearing. Do we really need the bill?

I refer to page 48 of the annual report of the Human Rights and Equal Opportunity Commission. Under the heading 'Racial hatred' it states:

> Disputes between neighbours and media represent the most common area of dispute under the racial hatred provisions.

This is not about people seeking to vilify others but about people with vested interests — the complaints industry — exercising their rights, which is over the top.

I refer also to a letter from the Presbyterian Church of Victoria, signed by the convenor of the church and nation committee. It states:

> We recognise that the government has made significant changes to the original model bill (particularly providing an exception to 'discussion of religious issues' and in separating civil and criminal actions). However, our concerns and apprehensions about this bill have not subsided.
>
> …
>
> We urge you in the interest of good government and community harmony to resist and reject this bill in its totality.

The *National Observer* is a magazine most people are familiar with. I received a letter dated 29 May from Dr Spry, QC. It states:

> The Labor Party's anti-freedom-of-speech bill involves extremely serious threats to liberty. It is the kind of legislation that emanates from dictatorships.

It further states in the attachment:

> The bill is particularly badly drafted, as the comments above show. But because it is aimed, needlessly (in view of the various wide-ranging existing provisions), against freedom of speech, further amendments could not overcome its essential vice.

Mr Terry Lane is a *Sunday Age* columnist. In an article in that paper of 10 June, he states:

> The Racial and Religious Tolerance Bill is offensive. First, it creates special categories of exempt vilifiers. Second, it creates special categories of victims. Third, it holds one person responsible for another person's thoughts and works. And fourth — most egregiously — it conflates race and religion into a single category as though they were the same.

That is difficult under law; and more difficult to accept for an average person and citizen in this wonderful state of Victoria. The article further states:

> This law not only creates special classes of exempt vilifiers, it also creates special classes of victims. I am confident that I can ridicule the Anglican Archbishop of Sydney without fear of draconian consequences. But I hold my tongue on assorted rabbis, imams and devotees of L. Ron Hubbard.

Mr Lane is suggesting that not all complaints and attitudes will be treated equally. I share that view.

The Catholic Archdiocese of Melbourne also expressed concern with the legislation. A letter dated 3 June from the Most Reverend D. J. Hart, diocesan administrator, states:

> I am disappointed that the church was not given the opportunity to comment on the precise contents of the amendments to the original bill before they were introduced into the Parliament, or at least in time to give them proper consideration.

The letter refers to the potential of a convergence between the church and the state. It concludes by stating:

> Legislation such as this was proposed in 1992. Archbishop Little was very critical of it. He said that it would have the tendency to drive the issue of racial and religious vilification underground. There is racial and religious hatred in our society; but not in such proportions as to justify this type of legislation.

> For these reasons, I am fearful that this legislation may end up being used to attack the religious freedom it seeks to protect.

Andrew Bolt, a columnist in the *Herald Sun*, wrote a significant article in that paper on 4 June entitled 'Race laws backs another type of bully'. It states in part:

> And we'll hand a further stick to professional complainers who already treat discrimination laws as a licence to extort. As in: pay me go-away money or I'll drag you off to court and make your name mud.

I have many other examples that I could cite to honourable members. We all know that even untrue allegations make headlines once they are made. In many ways the media does not report, it creates public opinion or sensationalises. Under this legislation it will be possible — and I believe it would happen — that an innocent person would be accused of an offence.

The mere fact that a person who may be in professional, business or civic life is accused will be widely reported with great damage. That is unacceptable.

The bill has the potential to destroy many fine Australians through unnecessary harassment. There has been no consideration in the bill as to penalties or costs against those who make false or vexatious complaints. There is a presumption of guilt: hence the reversal of proof contained in the legislation. Earlier I said that I will not in this chamber vote for any legislation of this type that reverses the onus of proof where emotion or non-specific information is required to be the ultimate test.

In the recent past we have seen media feeding frenzies when there is the slightest issue of racial or religious controversy, particularly in sporting activities. Political correctness is rapidly beginning to influence free speech. Political correctness is from time to time raising its head even in this house, which is sad to see. I suggest that my credentials in relation to multicultural issues are well known and recognised by honourable members as positive.

I have close friends overseas in several countries, and I value them. The disturbing aspect of this bill is that we are being asked to approve legislation that will for the first time in Victoria establish a police unit to secretly report on the religious and racial views of fellow Australians — that has to happen when the Victoria Police work with the Equal Opportunity Commission. Through this legislation we will be authorising and requiring the Equal Opportunity Commission to assist with the preparation of complaints and then to adjudicate on those same complaints.

We are also enabling the states to assist children to inform on their parents and on other citizens. We are encouraging and accepting — for the first time in Australia that I am aware of — the state funding of informants, which is un-Australian. We require employers to be responsible for the thoughts and the words of their employees, which is unacceptable. Interestingly, the bill does not accept the truth as a defence.

The bill will enable search warrants and the use of police force to be used against our constituents on the suspicion that they may have documents that could substantiate an allegation of bad behaviour. That is an unacceptable situation.

What about cost recovery? It has been suggested that the Equal Opportunity Commission and the process will solve everything. For people who never go near a court, who live their lives as sensible, productive and hardworking Victorian and Australian citizens, to receive a summons from the Equal Opportunity Commission or a knock on the door from the police over some racial or religious vilification issue will destroy them emotionally and cause them great stress. That is not acceptable. Little consideration is given to the impact of these allegations and accusations on the average citizen. I looked for but could not find any accommodation or assistance for people who will be unfairly accused. There is no accommodation or cost recovery for innocent people.

In conclusion, this bill does not reflect the Australia that I was born into, nor does it recognise or value the progress and success of our community on these issues or reflect the wishes of the large number of Victorians that I have the honour to represent in the South Eastern Province. I will have no part in legislating away or reducing our right to free speech, because that is what the legislation does. The Honourable Denis Napthine, the Leader of the Liberal Party, has approved a free vote for members of the Liberal Party on this legislation. I will exercise my right to this free vote. For me, my vote will also be a matter of conscience. Sometimes a sincere belief can lead one to a very lonely place, but this is where I must stand.

I believe the state should not adjudicate on matters of religious ethics or views. I cannot support legislation that will take away a significant proportion of the free speech or religious freedoms for which thousands of Australians have made the ultimate sacrifice. I do not support the bill, and I will not vote for it.

Hon. G. B. ASHMAN (Koonung) — I join this debate as almost the penultimate speaker. The

objectives of the bill are laudable, but I must question the motives behind the need for it. In Australia we pride ourselves on being a very tolerant society, one that has not in the past accepted vilification or discrimination on racial, religious or sexual preferences. We have been very tolerant, very multicultural. That has been our real strength. It has been part of the culture of the nation.

Our citizens have come from around the world. More than 130 countries would be represented throughout Australia. People who have been here for many years would say that their reasons for coming here are not much different from the reasons given by those who are now taking out Australian citizenship. They have come to Australia because they are looking for a better life, and have left their home countries sometimes on economic grounds, frequently for political reasons because they were not living in a democratic society, and sometimes for religious reasons. They have chosen Australia because it has always been an open society prepared to accept and tolerate a wide range of views, religions, ambitions and objectives.

Integration has not always been easy. The Italian and Greek migrants who came here after the Second World War did not find integration easy, as is the current situation with the Asian community that is not finding it easy. If one looks back into Australia's history, one sees that in the 1800s the Irish, the Scots and the English did not necessarily find integration easy, but the driving force for them was to find a better life and integration into a multicultural Australia.

The legislation sets out to achieve what I think are laudable objectives. With a number of specific exemptions it prohibits the vilification of people on the grounds of race and religion. It is some of those exemptions that cause difficulty. I do not believe the bill can achieve the government's objectives. Many of the objectives can be achieved within the existing framework of legislation.

Already the Summary Offences Act and the Crimes Act carry penalties for the offences of abusive language, and insulting and threatening behaviour. In instances where property damage is caused, already a whole raft of legislation provides for offences under those acts.

Throughout the debate the house has heard what are appropriate examples — of bricks being thrown through windows, of slogans being painted on buildings and of people being abused — but under this bill I am not sure that a conviction or an action would be any more achievable than under the existing legislation. With a large number of those actions, very much a part of the main problem is actually identifying the culprit.

I will skim through the provisions of the bill quickly. Clause 7, the prosecutions provision, contains the suggestion that vilification commenced outside Victoria can be pursued in Victoria. I question how a Victorian jurisdiction can move to other states or internationally to pursue certain matters. It suggests that a message sent from outside Victoria vilifying a person or a group living within Victoria could be pursued. Even if that happened on an Internet site, in South America, South Africa, Central Africa, Russia or other like place, I am not aware of any mechanism that state authorities would have to pursue such happenings. I question why that point has been made in the bill. That provision may be useful in sending a message to the rest of the world that we are a tolerant society and do not accept abuse and vilification in any form, but I do not see how it can be pursued in any practical sense.

I find the exemptions clause curious because the bill says that an exemption can be made if an offence is part of an artistic performance or is for an academic, religious or scientific purpose, or any purpose in the public interest. I suspect anybody charged under this legislation and called before the Equal Opportunity Commission could mount an immediate defence that an alleged offence was part of an artistic performance or for scientific purposes. I am not sure how that defence could be argued against. We are not arguing about mainstream artistic performances but about artistic performances that would, in the eyes of most people, be at the fringe of artistic pursuits. I question how that works and why that exemption is included in the bill. If it is offensive, it is offensive, and should be dealt with according to existing laws. Action can now be taken against anybody who is offensive through the available defamation and other laws.

The other issue that arises concerns vexatious claims or allegations. I note that the Equal Opportunity Commission will assist a complainant to frame a complaint. I do not note a corresponding clause that would enable the commission to assist a defendant. I envisage a scenario where a claim could be put forward which is vexatious but which on an initial look may appear to have some substance; and another individual may be faced with the option and the difficulty of defending themselves against it at a hearing or conciliation process. Some assistance should be available to the defendant so that people who are sitting around the table in a conciliation process have an equal opportunity to receive advice and representation.

I am most concerned about the clause that places a liability on the employer. Although all responsible employers would be keen to prevent any vilification on any grounds within a place of work, I am not sure how

an employer can control the actions of an employee or how the employer should be liable for the actions of the employee. Certainly employers can take action to control some activities within lunch rooms or in the workplace, and if the employer is aware of victimisation it is in their interests in managing the business to address those matters, but it is not right and proper to make the employer ultimately accountable.

The bill will, I think, pass. I am not sure, as I have indicated, that it is going to add a great deal to the statute books other than another 22-odd pages.

I have some problems with how we come up with a definition of what is a lawful religion and belief, because all honourable members would know from history that religion has been the cause of many wars and of many kings and queens losing their heads. It will forever be much debated. The Christians will not agree with the Muslims or the Hindus. We might achieve some understanding and acceptance of one another's religion, but there will be vigorous debate about the pros and cons of each religion and its particular beliefs. In what I might refer to as the large brand selection among the Christian religions, there are the Catholic Church, the Uniting Church, the Anglican Church, the Brethren, the Christian Scientists and the Church of Scientology. There is vigorous debate among that range of groups on who has the right brand and the correct belief. One day we may all know what is the right belief, but at this stage I certainly do not know what is the right brand. I subscribe to the Christian philosophy, but I have some difficulty about which brand to associate with.

Hon. W. R. Baxter — I don't think you are on your own, Mr Ashman.

Hon. G. B. ASHMAN — I think it is a widespread problem. When we law-makers start talking about what will or will not be a lawful religion, we get ourselves into some quite deep water, and I do not believe there is a way out of it for us. I have the firm view that the state and religion should be strictly separated. As I said, frequently when they have not been separated there have been wars between different groups; and kings, queens and prime ministers have lost their heads; and other terrible things have tended to happen. As I said also, questions of religion are unresolved and will remain so for a very long time.

Each of us has noted a very strong campaign both for and against the bill. That demonstrates the difficulty of legislating in this area. There are some very strong arguments both for and against the legislation. I will not canvass all of those. Suffice to say that I have some correspondence about both arguments that I probably would prefer not to have received as it has threatened dire consequences if I do not vote in a particular way. I say to all those people: it will not influence the way I vote. I had intended abstaining from the vote, but that was not as a result of the threats from anyone on either side of the argument. I have some genuine difficulty in coming to a conclusion on this piece of legislation.

I will just recount one side of all of this which I consider amusing. My office has received quite a number of emails from groups totally opposed to the legislation. A few days ago I put in place at the office a process by which they were emailed in return and an address or some other contact details were sought. I can report that 15 people were found to be living in a post office box in Coburg!

Hon. E. J. Powell — It must be crowded.

Hon. G. B. ASHMAN — I believe it is the post office box of the Citizens Electoral Council of Australia, which I thought was quite interesting.

All people have the right to be heard. As Australians we have really prided ourselves as having freedom of speech and we have provided that freedom to the media, which we all consider to be a fundamental right. We also have freedom of political speech. If we were to proceed with this legislation, we would be curtailing one of the great freedoms we have, which is one of the reasons that the migrants I talked about earlier have come to this country.

Australians consider verbal and physical abuse to be totally unacceptable. Existing legislation provides for redress against such behaviour. As I said, Australia is a multicultural society. Australians are understanding people but we find some of the behaviour of some groups to be totally unacceptable, and those elements need to be totally discouraged.

In conclusion, the way forward for us is with education. I am not talking about school education but about general education across the community as we all talk to one another and break down the barriers that lead to discrimination, vilification and all of those other unacceptable practices, so that we have community involvement and all show care and compassion for one another. Then legislation such as this will not be required.

Hon. T. C. THEOPHANOUS (Jika Jika) — I support the bill, and in so doing I recognise that there may be honourable members in this house and people in the community who have had to search their consciences on the bill. It is a challenging bill that goes

to fundamentals. It goes to the fundamentals of the way we see each other and the way we interact with each other.

I have no objection to people making up their own minds on the bill. I understand some people believe the bill compromises freedom of speech. I believe the bill challenges two great principles. The first is freedom of speech and how we value freedom of speech — and each and every one of us in this house values freedom of speech. The bill also incorporates another principle: the right of people not to be vilified. Whether the bill has achieved the balance of those two great principles is something for each person in this place to consider and to vote on according to their consciences. However, I want to tell a story about why I feel the way I do.

I have heard the argument about the Hitler era and that good people did not stand up — I think they were the words Mr Baxter used. However, just imagine for one moment that you were a Jew, not one of the German people who did not stand up. Those German people had their freedom of speech compromised under the Hitler regime and they had no rights in those terms. However, think about the Jews and imagine in that era if there had been a law such as this which prevented the vilification of the Jewish people at that time. It is an important point to imagine and understand.

One of the things we need to understand is that vilification is also about fear; it is about the fear of being vilified. Fear, of course, is an obstacle to freedom of speech. If you are afraid you are going to be vilified you are unlikely to be able to speak freely. In one sense this bill provides a greater level of freedom of speech for people who are in fear of being vilified. That is a point we need to understand and take into consideration.

How do I know this? Well, I know it because I have seen it and experienced it myself. That is how I know that vilification is a challenge to freedom of speech for minority groups. The important point that is missed in the debate is that when we talk about vilification we should be talking about it in terms of vilifying minority groups. In the Hitler example I cited earlier, it was the vilification of the Jews. In a recent example it was the vilification of the East Timorese. They are the international example of vilification and suppression of freedom of speech. Quite often the two go together. In the Australian context we are also talking about vilification of minority groups and how they have experienced it.

Every once in a while a bill such as this comes to the house which someone from my background feels strongly about. I feel strongly about it because I see the bill as enhancing freedom of speech for minority groups, and I see it as important because it is part of a series of initiatives to educate the community so that people can appreciate that vilification has effects on people and that it is unacceptable in our community.

The bill gives me an opportunity to talk about some of my own and my family's experiences over the years. If I had to characterise my family and its experiences it would be in the same terms as would apply to many thousands of migrant families who came to this country — it was a struggle. It was not only a struggle to make a life in this country, it was also a struggle for ideals.

My parents came to this country with the ideals of justice, equality and a fair go. They did not come to this country to be vilified, and they never believed they would be. During that time, however, Australia was going through a difficult period when the predominant ideology and policy related to pressure to assimilate. That policy had an effect in terms of vilification, but it also had an effect in the way those enormous pressures were felt by people like me.

I felt that pressure every day I went to school for the whole time I went to school after we came to Australia. We lived initially in Albert Park. There were no language schools at the time. The only after-hours Greek school was in the city, and my father used to take me on the tram to that school because he wanted me to retain something of the culture I had been brought up with. But when I got off the tram and went to my friends at that school, the pressure was to assimilate — and it was very, very strong.

A whole range of other things occurred in the way people were treated at that time. We moved to Broadmeadows, which was another working-class area. At that time Broadmeadows was one of the fringe areas of Melbourne, and in many ways it still is. I went to school at Glenroy High School. The pressure I felt at that school was, in my mind, absolutely incredible. It came from teachers, it came from students and it came from my peers. It came from my maths teacher, who laughingly referred to me in class as 'Theo squared' because my name happened to be a double name and was difficult to pronounce. It came as I walked down the street and a gang of kids would come up to me and call me 'wog', 'greasy' or 'dago'. Not only would they do that, they would call me a dago and then threaten to belt me up, or they would incite other people to belt dagos up.

How was that different from what was happening to the Jews in the early stages of Nazi Germany? The difference was that fortunately in this country we had a democracy that at least offered a level of protection. However, let me tell you that those pressures were phenomenal.

I will give you another example. I remember going to school one day and my sandwich somehow getting mixed up with the sandwich of one of my Anglo friends. His sandwich was your normal two pieces of white bread with one of the normal things you would have in a sandwich at that time — I think it was ham. Mine was made of very thick bread — the old Vienna bread that you had to cut up — so it was a lot thicker, and inside was grilled eggplant that my mother had grilled the night before and put into the sandwich. Why do I remember this?

Hon. K. M. Smith — You hated eggplant!

Hon. T. C. THEOPHANOUS — I can laugh at it now, but I can tell honourable members that at the time I felt it so intensely because I was made to feel a laughing-stock because no-one understood what was in the sandwich. The other boy who got my sandwich showed it around to everyone, asked them to say how yucky it all was, and threw it away. That is an example of the sort of educational process that we had to go through.

It is interesting that my parents felt fearful of interacting with the outside world because they did not have the local language, which meant that the role of interpreter fell to us, their children, because we picked up the English very quickly and were able to converse. The disempowering nature of having to use your small children to communicate with other people cannot be understood unless you experience it. There were no interpreters, there was no-one else, so it was left to the kids.

Imagine the pressure on kids trying to interpret lawyers! I remember doing that because my mother suffered an injury while she worked at the Australian Jam Factory when one of the belts that was turning around fell and came crashing down and hit her. She was involved in a workers compensation case back then, and at that time everything was done with solicitors. Just imagine a boy of eight in a courtroom trying to interpret for his parents in a workers compensation case! They are the sorts of things that happened. They happened to me and they happened to thousands of other people as well.

I remember clearly when the Whitlam government came in and the mood began to change to the idea of multiculturalism being the appropriate philosophy for this country. But it contributed a lot more than just a philosophy. With the Whitlam changes came things like a free education system at tertiary level, which meant that people like me were able to get into places like this. It meant that the dreams of my parents to educate their children were able to be fulfilled, because the money involved meant they could not afford to send their children to university.

These were the struggles and the ways we tried to become a part of this country, to interact with it but also to be accepted by it. The policy of multiculturalism and the way it came into place had a great effect on me. It is one of the reasons I very strongly support reconciliation with Aboriginals. The introduction of the policy of multiculturalism and its adoption by political parties of both sides was accompanied by a recognition that what had happened during the assimilation years was inappropriate. In that sense the multiculturalism policy was akin to the whole community saying ‘sorry’ for what had happened during the assimilation years. That is how it was felt by people like me, my parents and many others.

I agree with others that there should be an education process alongside this legislation, because ultimately we have to educate people about respecting one another. But that does not mean that this legislation is unnecessary; rather, it is an adjunct or an addition. In an ideal society it would never have to be used — that would be our hope — but the truth is that there are many people out there who make those kinds of statements and who challenge our notions of free speech. As I have said, freedom of speech is always in a context: not being vilified helps those people, because freedom from the fear of being vilified enhances the freedom of speech of those people who would otherwise be vilified.

Freedom of speech is also valued in our society because we are, fortunately, a democratic society. We are able to support the notion of, ‘I disagree with what you say but I will fight to the death for your right to say it’. I support that. It is a known principle. But when that known principle is applied to people who are hungry and uneducated and have no access to the means for a normal life as we enjoy in this country, it is a fairly shallow principle. Beyond that, even in this country is the principle of free speech really meant to shield people who go around spreading racial and religious hatred and vilifying others? I have given examples of individuals who in a whole host of ways vilify our Jewish community and who vilify other races by calling them inferior or by seeking to incite others to exclude them from society.

In our society, in every quarter, rights come with responsibilities. We have a right to freedom of speech and we all value it, but it comes with a set of responsibilities that involve respecting others, not vilifying them. I do not believe the bill will erode freedom of speech or open debate, because both rely on strong democratic institutions and accountability systems as well as an independent judiciary, and thankfully this country has all of those.

I will conclude by talking again about my family. As with thousands of other families, my father came to Australia before the rest of the family. I did not see my father for three years because of that separation, so one of my earliest memories is of the footbridge and of walking off the ship when we arrived and looking around for the father I could not remember. My family back then was grateful to the World Council of Churches because, unlike thousands of other migrants, we were not able to come on the assisted program and would not have been able to join my father had it not been for a loan from the World Council of Churches.

In trying to encapsulate the migrant experience and why migrants such as I feel so strongly about this legislation, I will conclude my remarks by reading a poem into *Hansard*. It is a poem about my father. It is a poem I read at his funeral, and it is meant to describe the feeling of the immigration experience, how migrants felt about it, and how they saw this country with hope and as a country where they could have freedom of speech — free of vilification from anyone. That is how they saw it.

You came to this land
Migrant worker
With a culture
Impregnated in your mind
They had no task to perform
No special grinding to fit the cog
A little oil
On moulded steel
And you spun
In orchestrated silence
To their command
You came to this land
Migrant worker
With a vision
Of justice and equality
Of respect amongst all man
You worked in this land
Migrant worker
And fought against intolerance
And fought for understanding
And on that factory floor
You changed this land
Forever

Hon. M. T. LUCKINS (Waverley) — At the outset I acknowledge the terrific contributions that have been made to this debate by honourable members in both houses, particularly members from migrant backgrounds. I never thought there would be a day when I would be congratulating Mr Theophanous, but I would like to congratulate him on his wonderful and very moving contribution on this important bill for all Victorians.

From the outset I will say that I intend to support the legislation, but I will raise some concerns I have with certain provisions of the bill. I am not from a non-English-speaking background. I am fully Celtic — Irish and Welsh. Yet I, too, over the years have been taunted because people have made assumptions about my ethnic origin. People have assumed that I am basically anything and everything, particularly European, due to my colouring. That always dismayed me, particularly when I was quite young. The fact is that no-one should be subjected to racial or religious taunts because of how they look, where they come from or what they believe in.

In 1996, shortly after I entered Parliament, I had the opportunity to participate in a debate on racial tolerance that was initiated by Premier Jeff Kennett after the rise of Hansonism in Australia. I think it was in June of that year. In that speech I said that I was very proud to support the motion, which reaffirmed the coalition government's commitment to racial tolerance, and that I cannot abide sectarianism in any form. I have made my view on discrimination very clear in this place and throughout the community, certainly within my electorate. I abhor discrimination on any basis.

I believe we need to educate the Victorian community to ensure that people understand what their obligations are in how they treat others. I would like to commend Vichealth, which is currently running a campaign through the media that highlights the responsibilities of employers to provide a work environment that is free of discrimination. I believe the government could have embarked on a similar program to reinforce the messages for what is, on the whole, a very tolerant and caring Victorian community.

The primary reason that I support this bill is that it goes to the root of the foundations of this country. I am very proud to be Victorian, and I am very proud to be Australian. I am very proud of our history in accepting people from all over the world into the Australian community. My electorate of Waverley Province includes the areas of Springvale, Clayton, Oakleigh, Glen Waverley, Mount Waverley, Bennettswood and Box Hill. It is not only a very multiculturally diverse community but it has a high representation of

individuals from many religious groups from all over the world.

It has been brought to my attention, unfortunately on many occasions, that people within my own community have from time to time been vilified by others within that community. That is something I do not readily accept, but unfortunately that is the case.

I grew up and went to school in Springvale. During the 1970s, when I was at primary school, the Enterprise hostel was situated on Westall Road, Springvale. My primary school, St Joseph's, accepted many of the refugees who had come to Australia under immigration programs instituted primarily by a Liberal government when Malcolm Fraser was Prime Minister. During my primary school years I was widely exposed to people from all over the world and from many different racial and religious backgrounds, which has certainly coloured my view and perception of our community. On the whole, the children I went to school with from Cambodian, Vietnamese, Laotian, Maltese, Italian and Greek backgrounds were well accepted by fellow students and the community.

It must be said that throughout the settlement of Australia each wave of new migrants has unfortunately experienced some degree of discrimination. Some people in our community remain on the receiving end of discrimination every day of their lives. Racism and discrimination is mainly borne out of ignorance. People such as Pauline Hanson and other groups — for example, Lyndon Larouche and his merry men — work on the insecurities of people in the mainstream community and talk about the threat being posed by people from different backgrounds. There is a lot of ignorance. Discrimination often is based on lack of exposure to different cultural and religious experiences. I believe education is the best way to alleviate any form of discrimination in our community.

The Equal Opportunity Act was first introduced by a Liberal government. Part 2 of that act sets out under 'Attributes':

> The following are the attributes on the basis of which discrimination is prohibited in the areas of activity set out in Part 3.

I will refer to part 3 in a moment. Those attributes include age, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, parental status or status as a carer, and personal association. Those provisions in the Equal Opportunity Act deter unnecessary and discriminatory behaviour in the community. It is a matter of educating the community more widely about their obligations and responsibilities under acts such as the Equal Opportunity Act.

Similarly, the Summary Offences Act carries penalties for obscene, indecent and threatening language or behaviour. As a member of the Scrutiny of Acts and Regulations Committee I have been pleased to have participated in the formulation of a discussion paper which was circulated last month on the inquiry into the Summary Offences Act 1966. SARC has gone through every provision of the existing Summary Offences Act and has proposed amendments and in some cases repeal of some of the provisions.

Section 17 of the Summary Offences Act deals with obscene, indecent and threatening language or behaviour. The committee proposed that the section be re-enacted and changed so that it covers a prohibition of behaviour and three new generic offences which include offensive, threatening or obscene conduct, offensive, threatening or obscene language, and the display of offensive or obscene material, depictions or representations.

Basically, the penalties in the Racial and Religious Tolerance Bill are summary offences. I fear that despite its clear commitment to a multicultural Victoria by not allowing unwarranted discrimination to occur in our community, the government has, nonetheless, divided the community by the way the model bill was put up and the subsequent consultations that occurred within the community. Even within different religious groups and sometimes within the same religion, I have been given conflicting views about the bill. I have also had conflicting views put to me by individuals from the same multicultural groups and from the same ethnic background.

The government could have made good its commitment to stamp out racial and religious vilification by strengthening the provisions of the Summary Offences Act rather than recreating new legislation. I reiterate that education is an important core component of any commitment to stamp out racial and religious intolerance in our community.

Clauses 7 and 8 deal with racial vilification and religious vilification and deem them to be unlawful. Clause 10 states:

> … it is irrelevant whether or not the person made an assumption about the race or religious belief or activity of another person or class of persons that was incorrect at the time that the contravention is alleged to have taken place.

The penalties for serious vilification offences against people on the basis of race or religion are: in the case of a body corporate, 300 penalty units; in any other case, imprisonment for six months or 60 penalty units or both. They are maximum penalties for a summary offence. If these offences had been incorporated into the Summary Offences Act as it now stands we could have avoided a lot of the grief the community has been subjected to through the debate on this bill.

I have a problem personally with the exemptions in clause 11 concerning public conduct. The clause states that conduct engaged in reasonably and in good faith:

> (a) in the performance, exhibition or distribution of an artistic work; or
>
> (b) in the course of any statement, publication, discussion or debate made or held, or any conduct engaged in, for —
>
> (i) any genuine academic, artistic, religious or scientific purpose; or
>
> (ii) any purpose that is in the public interest; or
>
> (c) in making or publishing a fair and accurate report of any event or matter of public interest —

is exempt from the provisions of the bill.

This means that some of the most offensive material that may incite people to take action against others is exempt. The bill seeks to protect minorities from minorities — the minorities from non-English-speaking backgrounds from the minority of Victorians who are bigoted — but exempting art and comedy, when the most offence can really be taken by individuals, makes the bill a bit of a folly. I was personally offended by the Serrano exhibition — I will not go into what the representation was — as were many members of the community.

This bill will exempt any depiction or representation and any statement made that may be discriminatory in nature if it is deemed to be artistic. I have a problem with that provision. But as the bill stands the provision exists, and it will not preclude me from supporting the bill.

I feel proud to be part of a very tolerant multicultural Victorian community. I feel proud to have been exposed to family experiences of what it is like to be a migrant coming to this country, notwithstanding the fact that my father came from Britain in the 1950s. From my childhood I have been enriched by my exposure to and contact with many ethnic and religious groups within our community, and I am certainly endeavouring to ensure that my children benefit from that appreciation of other cultures and religious beliefs. I commend the bill to the house.

Hon. J. W. G. ROSS (Higinbotham) — I have not participated in a debate with such ambivalence since I entered this place. The Liberal Party is absolutely committed to the proposition that there is no place in our community for racial and religious vilification. However, there is a healthy diversity of opinion on our side of the house on the best ways and means of achieving that outcome.

The Victorian community faces myriad problems with many social issues. Such problems range from drug abuse, interpersonal pathology expressed as domestic violence and child abuse, and youth suicide. In many debates in this house I have put the view that legislation is a very blunt instrument. It has a limited capacity to improve our social environment, and in many cases it can be counterproductive.

The primary emphasis in the objectives of this bill should be on appropriate programs of community development, and in particular the proper education and skill of living in an increasingly complex and diverse society. There is absolutely no doubt that the control of racial and religious vilification is a subset of the need for the community to develop effective programs to deliver improved interpersonal harmony within a supportive society. However, today our collective mind is focused on the issue of racial and religious vilification.

Therefore at the outset I advise the house — and in all conscience I believe I represent many Victorians who have sufficient confidence in our multicultural society and our personal attitudes towards cultural and religious freedom — that I will be saying no thank you to this bill. In expressing that confidence I feel obliged to reveal at least some of the aspects of my own ancestry, upbringing and education. In many ways one's personal life experiences determine the positions one adopts on many social issues.

Unlike many of my colleagues I stand before the house as a fifth-generation Australian, and a descendant of Tasmanian convict stock to boot.

In a sense I suppose that puts me at a distinct disadvantage in comparison with some more recent immigrants to this country. I listened with enormous intensity to the compelling arguments put by Mr Theophanous about the challenges he was presented with in coming to this country as a child. I sympathised with his separation from his father and the difficulty he

had at school. I make no greater comment than I was moved by his sincerity.

My disadvantage is I have not been personally subjected to the racial and religious taunts that I know many others in this country have suffered. Nevertheless, and strange as it may seem, my maternal grandmother experienced such discrimination and refused to acknowledge her ancestry as the grand-daughter of a convict. She refused to convey within the family her Anglo–Celtic heritage for fear of discrimination, for the reasons I have explained. Her insecurity was expressed in various ways, including the withholding of information that I sought from her on our family history and the origins of our culture. Running up a totally blind alley in being inquisitive about one's cultural background and ancestry is an eerie experience.

Having said that, I put on the record and accept totally that I have no special claim to an Australian national identity. As a member of the local Moorabbin council prior to coming into this place and as a member of Parliament I have welcomed thousands of migrants as new citizens in the dozens of local citizenship ceremonies I have attended in and around my electorate, and I have relished their new-found equality. The point I make is that, apart from our indigenous people, none of us have not experienced some social challenges in changing residence to a new country. In my case that social dislocation is remote, and I have obviously been sheltered from it. However, that experience of generations past has instilled values in my family that find every form of social, religious or ancestral vilification totally repugnant.

In due course I had the privilege of a private Anglican education under the tutelage of Canon P. St J. Wilson in Brighton. My racially diverse school community was encouraged to explore the dimensions of religion and culture. In comparative religious studies we examined Hinduism, Buddhism, Roman Catholicism, Christian orthodoxy and many other religions of the world. I well remember the enormous impact that had on me. I also remember the invitations issued by the late Rabbi Danglo, the visits I made to the Jewish synagogue and the enrichment that experience provided in my life. That multicultural experience continued into university life. In a sense the internationalism that is the hallmark of my chosen field is an enriching experience.

The waves of migration from Europe during my youth, and more recently from Asia, have expanded the horizons of all Victorians through the cultural and linguistic diversity this state has experienced. The truth is that, especially over the past 50 years, Victorians have been able to develop one of the most harmonious societies in the world. Our community comprises people originating from more than 150 countries, who speak over 200 languages and follow more than 100 religious faiths. My problem is that this bill telegraphs a message to the world at large that Victoria has been unable to properly manage its cultural and religious diversity. That message is patently wrong and counterproductive. I represent a group of Victorians who are confident and secure in our society and celebrate its diversity. I am pleased to say that by and large this has been achieved without the unnecessary heavy hand of the law.

On the other side of the coin is the consideration of what successive waves of new migrants have found most appealing in their new home. I can think of only one word that could capture the all-embracing sentiment of most migrants, and that is freedom: freedom of speech, freedom to celebrate their cultural heritage, freedom to explore their ancestry, freedom to practice religion, freedom to educate their children in their own way, freedom to protest against oppression in their countries of origin, and the greatest of freedom of all — simply to be themselves. These freedoms are a beacon to the world, and they have been achieved through the process of multicultural socialisation and not legal bludgeoning, from which many migrants have sought to escape.

The greatest criticism that can be made of the bill before the house this evening is that it has the potential to impinge on those freedoms and compromise the high level of multicultural harmony that is endemic in Victoria. Nevertheless, nobody in this place would dispute that the freedom we enjoy in this country is not without limits. People should never be free to inflict racial and religious vilification on any individual, but in my view such action should not be a criminal offence, rather it should be managed by a process of social development. That is the Australian way. It has long been the Australian way, and the product of it is the society that we currently enjoy, in all its multicultural dimensions.

The problem with this bill is that it is simply not necessary. Even if the Labor Party has a proclivity for civil sanctions — I do not say that in a disparaging way in any sense — we have the Victorian Crimes Act, the Victorian Summary Offences Act, the Victorian Equal Opportunity Act and the commonwealth Racial Discrimination Act. They all provide the ways and means to achieve the objectives of the bill.

Even in other jurisdictions where comparable legislation exists, we are assured it is hardly ever used.

The catchcry is, 'Don't worry about this bill, it will have no practical impact and is largely symbolic'. For example, in New South Wales I understand there have been only about four instances where comparable legislation has been used. My immediate response is: if it has no practical importance, why bother?

In fact, the bill has already shown its potential to invoke the very behaviours it purports to suppress. The weight of correspondence and opinion I have received from my electorate and elsewhere indicates to me that a significant amount of racial disharmony has already emerged since the conceptualisation of this bill. That weight of public opinion has undoubtedly in some measure been shaped by the *Herald Sun* editorials. Nevertheless, there is no doubt the paper struck a chord in the community, and the strength of collective public opinion has a real place in this debate.

My major objection to the bill is one of principle, but there are details that I believe are simply bad law. I have great personal difficulty with the reverse onus of proof placed on an individual accused of racial and religious vilification. We all know that it is difficult for individuals to extricate themselves from prima facie allegations by any form of due process. Once mud is thrown it has a tendency to stick and is often difficult to remove.

The irrelevance of motive is also a cause of great concern to me, especially where language and style of address is complicated by cross-cultural and linguistic ambiguity. I well remember the television personality, Bert Newton inadvertently insulting the great Mohammed Ali by referring to him as 'boy'. The remark was clearly not intended to offend, but it had a special meaning to black Americans.

The principle of vicarious liability, where an employer is held responsible for the actions of an employee, will prove to be unworkable in practice. The bill will require an employer to appear before a tribunal and prove their innocence. The bill seeks to enact a flawed process where employers will be held accountable for every dubious action of their employees. That is just not practical and is patently unfair. How can employers be constantly held accountable for such complex issues as interracial harmony and words spoken inadvertently out of place and then be called up before a judicial body and made to defend the actions of their workers? It is patently unfair.

The ability of children to make allegations in respect of others, including their own parents, is another minefield that could easily generate real difficulties for parents in managing their children and their families. I know of instances in the current working of society where the access of children to income independent of their parents results in the individuals moving to divorce their parents. It can generate enormous problems in maintaining the integrity of the family. There is no more basic social building block in our society than the family. There are no more important groups in our society than dedicated and loving parents who need to manage their children through difficult adolescent years. The capacity for unfair allegations to be made by children against their parents, who may then be hauled before a tribunal is not a hypothetical problem, it could turn out to be a problem in practice.

One of my most substantial objections relates to the exemptions provided for artists, performing artists, academics, scientists and the media. Firstly, subjectivity is implied in such exemptions. What is a professional artist? What are the limits set on the artist? It has the ultimate effect of creating an elite group of individuals who would be above this law. As I read the legislation, it would undoubtedly condone actions such as the photographic display by Andres Serrano known as 'Piss Christ'. Honourable members will recall the display at the National Gallery of Victoria that caused widespread distress among Christian communities right across Victoria and was ultimately withdrawn for a variety of reasons. I believe the legislation would go a long way towards legitimising such a display and is simply beyond the pale. Given the strong support for the exhibition from sections of the arts community at the time, if the bill were law we could have expected a different outcome from what occurred. The legislation would have been wheeled out to justify the display.

The whole process provides a giant loophole to groups and individuals who for cynical purposes wish to stir up trouble of a racial and religious nature and then shelter behind the exemption provisions of the bill.

I cannot be more blunt than to say, especially with respect to the exemptions and the creation of elite groups, that this bill has within it the seeds of its own destruction. I have a number of real ethical and moral dilemmas with this bill. I applaud and acknowledge that its main objective is to reduce the prevalence of racial and religious vilification, but I believe the legal framework that has been proposed by the government is simply wrong headed. I cannot in conscience support its passage through this house.

Hon. K. M. SMITH (South Eastern) — This legislation strikes at the heart of freedom of speech. I look at freedom of speech as one of the main cornerstones of our democracy to enable people to say what they want to say — I do not mean racial or

religious hatred. This bill will restrict the freedom of speech of people in this country.

We should never forget that people have come to this country to escape this sort of legislation. They came here because they knew that Australia is a country where people can express themselves with some freedom and nobody will be charged or thrown into jail, as happens in some places around the world where a person can be killed because they have expressed their point of view.

I have agonised over my decision about what I would do in regard to this bill. I come from a normal background, and Mr Theophanous today spoke about his background in his contribution on the bill. I can understand some of his concerns and the reasons for the bill being implemented. I worry a little because everything he spoke about — how the kids at school called him a wog, a dago or whatever, and how they expressed their dislike for him — probably happened many years ago, but that was basically Australia in those days.

I can remember my father talking about the dagos, the wogs and the spics who were coming here. I did not understand what it meant. We went to school with kids who came from different backgrounds. They were kids that you grew up with and played football with, and when you grew up they became part of your group. We used to go down to the Chows for tea of a Friday night. You would take your pot and have it filled up with Chinese food. People no longer go to the Chows; they go to a Chinese restaurant because expressions have changed and our society has grown up. Our society is multicultural: one where we do not have to put people into little boxes and abuse them.

Hon. M. R. Thomson — We still do.

Hon. K. M. SMITH — We don't! If you do, it is really your fault. My background is in the building trade, which probably has the very best of abusers, but we also have the very best tradesmen such as the concreters, the tilers and the builders, who came from countries around the world. We looked up to them and admired their work. We had some belief in those people in the building industry. You could call them dagos, wogs and so on, but it was done on a friendly basis. Those people would call one another wogs because that was the way they talked to one another. I would not call people wogs.

I would not think of Mr Theophanous as a wog; I consider him as a colleague in Parliament. I do not believe in the things he believes in, but never in all of the debates have I referred to him as a wog, nor would I call him that in the corridors of Parliament. That language was probably the norm some 50 years ago. It was wrong.

People are saying, through this legislation, which has been debated in the other house and in this house, that the situation is as bad as it ever was and we should do something about stamping it out. The problems are not as bad as people are trying to make them out to be.

The legislation will drive a wedge between communities. It will give people an opportunity or a forum to take somebody to court to argue a case. The media, the newspapers and the television cameras will report their hatred for the person being taken to court. One example is the soccer player who crossed his heart with his three fingers. I did not notice it because it did not mean anything to me, but for a Croatian it was an insult, and if the legislation had been in place that player would have been taken to the Equal Opportunity Commission because somebody objected to the gesture. The riots in the soccer stands because of racial hatred are bad enough, but these matters will finish up in the courts and in the streets. It will perpetuate the hatred.

Hon. M. R. Thomson — I thought you said it didn't go on.

Hon. K. M. SMITH — That is the sort of hatred I am talking about, and it could continue. I am not a great supporter of Liberty Victoria, but in this case I tend to support its stand against the bill, because it can see the problems that will be created if it is passed.

Only once in the 12 or 13 years I have been a member of this place has a person approached me complaining about ethnic vilification. He was a Chinese doctor from the south-eastern suburbs who made an appointment to see me and brought with him a tape recording that he had taken from an answering machine in his surgery. That man, whose wife had taken the message, ended up in tears as he again listened to the hate in that message. He was a terrific bloke who did a lot of work for the people in his area. I thought, 'How awful it is that somebody would have the lack of courage, for a start, to talk like that into a telephone'.

The bill would not be a deterrent to such an incident. It would not have stopped the hatred or led to a prosecution because the gutless wonder who left it did not bother to leave his name or telephone number. This sort of legislation will do nothing to overcome that sort of problem.

The second-reading speech states:

> 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.

Why not get on with those other measures before you use a sledgehammer to crack the nut? I believe in the evolution that has occurred in the past 60 to 80 years. Education is available, and people have learnt to live with one another. People do not insult one another. Yes, I agree, you still get extremists, and the house has heard about windows in synagogues being broken and the abuse that goes on from time to time. But laws are in place now to deal with those circumstances. It becomes a matter of education and being able to talk to people to make them understand.

Australia accepts immigrants from around the world. Many of them come from cultures that have experienced hundreds and sometimes thousands of years of hatred from people living in neighbouring countries. This legislation will not stop that sort of hatred. Education will make a difference, but this bill will not. Having these sorts of laws in place will not stop vilification.

An article in the *Herald Sun* of 7 February is headed 'Arabs fear race bill will kill debate'. It states, in part:

> Arabic community groups have raised concerns about the state government's racial vilification bill.
>
> The groups are concerned about freedom of speech and whether the government will adequately fund anti-racism education programs.

I do not think the second-reading speech says anything about an allocation of funds for education. The article further states:

> Palestinian Refugee and Exile Awareness Association spokesman Asem Judeh said yesterday he feared the proposed legislation would stifle public debate.
>
> 'I don't want to punish people for their views, I prefer to debate people', he said.
>
> Mr Judeh said he opposed racial vilification, but was concerned that Arab Australians would be unable to raise certain Middle-East issues.
>
> 'I don't want to be called anti-Semitic if I criticise the Jewish ideology of Zionism', he said.

That is true. Those two groups of people have been fighting for many years, and whether you are a Jew, an Arab or a Palestinian the problems exist in those countries. But if those people come to Australia they must understand they will be living in Australia and abiding by Australian rules. Education will help people. There is no point in dragging people through the courts, because that only provides a forum in which to air the hatred that may have existed between them for years.

The article further states:

> Last week an Islamic shop in Brunswick withdrew a book from its front window after complaints from B'nai B'rith.
>
> Mr Ben-Moshe said the book, *Protocols of the Elders of Zion*, was anti-Semitic and should not be publicly displayed.
>
> 'If someone put something in a Jewish shop saying that all Arabs are terrorists, that would be outrageous — —

Hon. M. R. Thomson — Yes, it would.

Hon. K. M. SMITH — Yes, but are we to censor what people display in bookshops or what they read? Are we to push our views onto Arabs or Jews? It is up to them to decide what they want to do. A book displayed in a shop window does not amount to racial hatred.

I have concerns with the problems this bill will create down the track. I do not believe we have to hate, but it worries me that the second-reading speech states:

> 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.

That means that people are going to start going into little corners if they want to have conversations. because they may be overheard by somebody else expressing some views that somebody else does not want to hear. It says:

> 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.

But if somebody's conversation inside is heard outside that may well lead to a prosecution that is not warranted. The legislation that has been brought into this house — and with our support, if there is enough support for it to go through — will allow these problems to occur. I do not want to see these problems occurring. I thought as a country we had grown up enough that we did not have to have this sort of legislation. There is enough other state legislation and enough federal legislation to cover any of the problems that we have already spoken about here tonight, and today and yesterday when we spoke about this bill. We have those in place, and here we are once again setting up a sledgehammer to crack a walnut.

The bill opens up for other people's interpretation what has been said or how it has been said. Honourable members know the sorts of people that will get around — some of the troublemakers — who will interpret things in a way they want to interpret it; not in the way it was said or the way it was intended, but the way that they themselves actually want to hear that having been said. I have a problem with that because somebody could well be dragged before court after the Victorian Civil and Administrative Tribunal had dealt with them and be facing some sort of unwarranted charge.

I will say again that people have come to this country on the basis that they want to escape the type of legislation that we are bringing in with this bill. That worries me. It worries me for their sake, and it worries me for the generations ahead that are going to be in a similar situation. I do not support this legislation — and I will not be supporting it! I disapprove of people's rights and their freedom of speech being taken away from them. I think that is wrong.

If I could correct Mr Theophanous: he said that Voltaire said, 'I disapprove of what you say but I will defend to the death your right to say it'. In fact, Helvetius said that. I think it is wonderful that I had the opportunity to correct that, but I believe in that principle, too — I will defend your right to be able to speak and to say the things you wish to say.

Honourable members interjecting.

Hon. K. M. SMITH — I defend the right for even you, Mr Theophanous, to say some of the things that you say. I do not always agree with you, but I will defend your right to say it.

I do not agree with this legislation. It is going to take people's freedom of speech away from them. It is going to close the doors on some people and it is going to open the doors on the courts. It is going to open the doors to racial hatred and religious hatred being put on the front pages of the papers again.

It seems ludicrous to exempt churches from this legislation. I think sometimes the greatest purveyors of hate within communities are in the pulpits of churches. Most of the great wars have started from people not agreeing with one another's religions, and here we are going to exempt them! We are going to exempt the members of the media if they report on any sort of racial or religious vilification. In fact, they will be the purveyors of it themselves, and under this legislation they will have some rights to do it.

Racist violence in this country is relatively insignificant and isolated. It should not occur, but it does. However, as a country we are growing out of it.

I do not support this legislation. I think this is a sad day for Victoria when we have to bring in this type of legislation. I will conclude there.

House divided on motion:

Ayes, 32

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

Noes, 9

Atkinson, Mr	Hall, Mr
Baxter, Mr	Hallam, Mr (*Teller*)
Best, Mr (*Teller*)	Powell, Mrs
Bishop, Mr	Strong, Mr
Bowden, Mr	

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their contributions. I know for some members it was a difficult debate, and I believe there were some well-thought-out and reasoned contributions put to the house. I thank honourable members who supported the bill.

House divided on motion:

Ayes, 32

Ashman, Mr	Jennings, Mr
Birrell, Mr	Katsambanis, Mr (*Teller*)
Boardman, Mr	Lucas, Mr
Brideson, Mr	Luckins, Mrs
Broad, Ms	McQuilten, Mr
Carbines, Mrs	Madden, Mr
Coote, Mrs	Mikakos, Ms
Cover, Mr	Nguyen, Mr

Craige, Mr
Darveniza, Ms
Davis, Mr D. McL.
Davis, Mr P. R.
Forwood, Mr
Furletti, Mr
Gould, Ms
Hadden, Ms (*Teller*)
Olexander, Mr
Rich-Phillips, Mr
Romanes, Ms
Smith, Mr R. F.
Smith, Ms
Stoney, Mr
Theophanous, Mr
Thomson, Ms

Noes, 8

Baxter, Mr (*Teller*)
Best, Mr
Bishop, Mr
Bowden, Mr
Hall, Mr
Hallam, Mr
Powell, Mrs (*Teller*)
Strong, Mr

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

APPROPRIATION (2001/2002) BILL

Introduction and first reading

Received from Assembly.

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

PERSONAL EXPLANATION

Hon. R. F. SMITH (Chelsea) — I wish to make a personal explanation to the house. On Wednesday, 6 June this year, the honourable member for Mornington, Mr Robin Cooper, stated in the Assembly that I had demanded that Southcorp Wines provide me with 24 dozen bottles of premium wine at no charge. He asked the question in the house as to whether I had kept the wine for my own use, or alternatively had I sold the wine, and if I had what had I done with the proceeds.

He stated that I had, in fact, stood over Southcorp and demanded goods free of charge. He asked had I declared those goods to the taxation office. He stated that I should answer these allegations. Mr President, I choose to do that now.

I did not demand or even ask Southcorp Wines for anything. I did, however, ask for a quote for 12 dozen bottles of middle-range wines, being eight dozen white and four dozen red. I explained to Southcorp that the union had a Christmas function for its delegates and guests and that I would be grateful for a quote.

I did this after consultation with the delegates at Southcorp Wines. The company offered the wine to the union at a generous price. At no time did I pressure or make demands on Southcorp Wines or any other company. I have never asked any company for anything for myself and I am offended when accused of having done so. Mr President, these wines were enjoyed by me and approximately 300 delegates and guests at our Christmas function.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday next at 10.00 a.m.

ADJOURNMENT

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

That the house do now adjourn.

Marine parks: Ricketts Point

Hon. C. A. STRONG (Higinbotham) — I raise with the Minister for Energy and Resources to take up with the Minister for Environment and Conservation in the other place the matter of marine parks in my electorate. Like most Bayside City Council constituents, I was absolutely astounded and incredulous when Ricketts Point was not included in Labor's recommendations for marine parks. In fact, in this week's issue of our local newspaper, *Bayside Advertiser*, an article by Martin Boulton highlights that there have been many rallies at Ricketts Point asking for its inclusion and that the mayor of Bayside council has rung up the Premier asking for its inclusion.

Like all environmentally minded Victorians I was left rather agog yesterday when the minister in the other place petulantly withdrew the marine parks bill with the excuse that there was not enough money left in the massive budget surplus the Labor government inherited to do it. I guess they are fundamentally too tight to put a bit of small change on the table to achieve marine parks of national standards. When you compare that to the hundreds of millions of dollars they are happily spending on water down the Snowy River, one wonders at the difference! I hope the question of marine parks will return in some way to this house.

My appeal to the minister is that when she looks at this issue again she reconsiders Ricketts Point in any future proposals that may come forward. In advocating that she does so, I point out that this is an easily achievable proposition. Local support for it is enormous. The local council is in favour of it. It would not affect any fishing areas at all so probably no compensation would be required. I therefore ask the minister to pursue this matter with her colleague in the other house.

Roads: cattle overpasses

Hon. E. J. POWELL (North Eastern) — I raise with the Minister for Energy and Resources, representing the Minister for State and Regional Development in the other place, a complaint I received from a Mr Des Morgan, a dairy farmer at Invergordon.

Mr Morgan's son, Travis, recently phoned the Victorian Farmers Federation about a government subsidy for stock overpasses–underpasses. I believe the VFF was administering the fund. Travis explained that he and his father wanted to divert 600 cows that twice a day were being moved along Union Road, a 1-kilometre dirt road, to their adjoining property. Travis was led to believe they would be funded under this scheme and made application on 25 July last year. He received responses on 10 August and 19 September stating that the application was still under consideration. On 21 November Travis received a letter advising that his application was unsuccessful because the crossing did not meet the strict criteria. The letter states that due to the high demand for funding, priority was now given to those who met the criteria, implying that it would have been successful had there not been such a high demand on the funding.

Mr Morgan feels let down. It took three months to find out that the application had been rejected, and in that time a bridge was constructed over Nine Mile Creek to divert the cattle from a very busy road which is dangerous at dusk and during winter months because of fog. The cost to Mr Morgan's family was $30 000. Funding for this subsidy is through the Rural Infrastructure Development Fund and the maximum funding is $20 000 on a dollar-for-dollar basis. The criteria is for an overpass–underpass on any road or rail but not for channel crossings. However, the overpass had to be completed before he received the funding. Mr Morgan is seeking a government subsidy of $15 000 for the works that have been completed.

I ask the minister to investigate this case. Mr Morgan found a solution for keeping his cattle off an extremely busy and dangerous road and should not be penalised because the funds ran out while he was waiting three months for an answer.

Schools: woodwork materials

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise with the Minister for Sport and Recreation, representing the Minister for Education in another place, a matter I raised on 22 March regarding the use of medium-density fibreboard (MDF) in woodwork classes in schools.

On that occasion the question arose from a constituent's inquiry and concern about possible health conditions arising from the use of that material in school woodwork rooms. On that occasion I asked the Minister for Education to investigate the use of MDF in schools and determine whether there was a possibility of health issues. That was some 11 weeks ago, and I am yet to receive a response or acknowledgment from the Minister for Education and consequently have not been able to respond to my constituent.

This is a very serious matter that goes to the issue of possible health concerns about students in our schools. I ask that the minister do me the courtesy of replying to this matter, investigating it and determining if our students are at risk.

Taxis: airport dispute

Hon. ANDREW BRIDESON (Waverley) — I raise an issue with the Minister for Energy and Resources, representing the Minister for Transport in the other place. Yesterday a taxidriver based at Mount Waverley visited my office somewhat concerned about the potential flow-on effect of the new taxi car park key card scheme which I believe is soon to be implemented at Melbourne Airport.

The taxidriver informed my electorate officer that many drivers are concerned that local councils may implement such schemes and that that would lead to an impost on passengers and ultimately lead to a decline in passenger numbers and the livelihoods of taxidrivers.

I ask the Minister for Transport, who is responsible for the taxi directorate, to give an assurance that local councils will not be permitted to levy a taxi parking fee.

Consumer affairs: Colac auctioneer

Hon. BILL FORWOOD (Templestowe) — The matter I raise for the attention of the Minister for Consumer Affairs concerns an issue raised by Mr Ken Hooke of Tower Hill, near Warrnambool, regarding the

interpretation and clarification of section 4 of the Second-Hand Dealers and Pawnbrokers Act.

I have with me a letter dated 18 May from the minister to my colleague in the other place Mr Vogels, which makes it very clear that section 4 of the act does not apply to a licensed auctioneer. Mr Hooke is trying to sell his business to a Mr Maxfield. Mr Maxfield wanted to be very clear about the relationship, so he took the minister's letter to the local Colac police station, where he spoke to Acting Sergeant Don Scott. I spoke to Acting Sergeant Scott today who confirmed that was what happened on 1 June. The letter from the minister states in part:

> The letter … has been directed to me for reply, as I am the minister responsible for the act.

Despite the letter saying the minister is responsible for the act, Acting Sergeant Scott decided that the minister's interpretation was not correct and that the purchase should not take place. The extraordinary situation has now occurred where the minister has provided Mr Vogels with a letter explaining how the act works, and the local policeman does not believe it is true.

The problem is that the purchase cannot take place until the local police decide that the letter is correct. Will the minister solve the problem in any way she may care to?

Delatite: boundary review

Hon. E. G. STONEY (Central Highlands) — I ask that the Minister for Energy and Resources raise a matter with the Minister for Local Government in the other place. The recently released review of the Delatite shire has found that there are irreconcilable differences and that on balance the shire should split. The review was conducted by independent consultants using criteria set out by both the shire and, especially, the government.

Last night the Delatite shire decided to send the report in its entirety to the Minister for Local Government for his comment and decision. It is absolutely vital that the minister make a quick decision. The point I am making tonight is that unless a quick decision is made the shire will, because of the uncertainty, gradually grind to a halt as it looks for a new direction. Following the report there is a great degree of uncertainty within the shire and it does not quite know where it is going. It is certainly looking for the government to show a lead in this matter.

I ask for leadership from the local member, the honourable member for Benalla in the other place, Denise Allen, and especially from the Minister for Local Government, Bob Cameron, and for a quick decision to be made on this issue so that Delatite shire can get on with its business.

Barwon Heads Pony Club

Hon. I. J. COVER (Geelong) — I raise for the attention of the Minister for Sport and Recreation, who is also the Minister for Youth Affairs, the ongoing efforts to relocate the Barwon Heads Football and Netball Club to the Barwon Heads Village Park, which is also home to the Barwon Heads Pony Club. The matter has been going on for some time.

A report in the *Geelong Advertiser* of Wednesday of this week states that the mayor of the City of Greater Geelong, Cr Stretch Kontelj, called on the state government to provide urgent help to resolve the issue, and that in doing so he wrote to local Labor politicians — Ian Trezise, the honourable member for Geelong in another place, and the Honourable Elaine Carbines, a member for Geelong Province in this place — seeking their help. That was quite a reasonable course of action to take, given that Mr Trezise is the chair of the Barwon Heads Pony Club and Mrs Carbines is the chair of the Barwon Heads Village Park steering committee.

I thought it was a reasonable course of action, but the report in the *Geelong Advertiser* states that Mrs Carbines:

> … labelled the mayor's comments as ill-informed, untimely and incredibly ignorant.

The mayor, who is held in high regard by the Geelong community and was recognised in the Queen's Birthday honours list on Monday this week when he received the Order of Australia medal, was being attacked for simply reflecting the views of his council. That shows the disregard the Labor Party has for local government in Victoria. I fear that such an outburst may well sour the process that has been going on for some time with Mrs Carbines as the chair of the steering committee.

I call on the minister, in his capacity as the minister responsible for sport, recreation and youth, given that the activities of the Barwon Heads Pony Club cover all those bases, to indicate to the house whether he is aware of the issue and see whether he can use his influence to assist the council and the clubs concerned to get a speedy resolution.

Box Hill Hospital

Hon. D. McL. DAVIS (East Yarra) — I seek the assistance of the Leader of the Government in her capacity as the representative of the Minister for Health in the other place on a matter concerning the March quarter 2001 *Hospital Services Report* released today. That report draws attention to a number of worrying local issues in the East Yarra Province, particularly those concerning the Box Hill Hospital.

The report indicates that the number of people waiting for over 12 hours for emergency department treatment at the Box Hill Hospital increased from 130 in the March quarter 2000 to 316 in the March quarter 2001 — a 143 per cent increase.

The number of ambulance bypasses in the March quarter 2001 increased by 254 per cent compared with the March quarter 2000. The number of most urgent cases unable to access Box Hill Hospital also rose by 42 per cent in that same period.

I note that the Minister for Health has said the *Hospital Services Report* will not be presented in its current form again. I believe that in the case of Box Hill Hospital and a number of other hospitals that is an attempt to hide the facts. I seek from the minister a clear guarantee that these figures will be available in their current form into the future and that sufficient resources will be deployed at Box Hill Hospital to ensure that these figures do not continue to deteriorate.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable David Davis raised a matter for the attention of the Minister for Health. I will ask the minister to respond in the usual manner.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Chris Strong raised a matter for the consideration of the Minister for Environment and Conservation concerning Ricketts Point, and I will refer that to the minister.

I will refer the matter raised by the Honourable Jeanette Powell concerning Mr Morgan and his cattle to the Minister for State and Regional Development.

The Honourable Andrew Brideson raised a matter for the consideration of the Minister for Transport concerning taxi parking fees and local councils. I will refer that matter to the minister.

I will refer to the Minister for Local Government the matter raised by the Honourable Graeme Stoney concerning the review and future of the Shire of Delatite.

Hon. M. R. THOMSON (Minister for Consumer Affairs) — The Honourable Bill Forwood referred to me a matter relating to Mr Ken Hooke, who wishes to sell his business. We seem to have a difference of legal opinion. The legal opinion coming from my department indicates that certain actions can be taken on behalf of Mr Hooke. Apparently the legal opinion of Acting Sergeant Don Scott is not the same view as the legal opinion emanating from my department. I will therefore refer the matter to the Minister for Police and Emergency Services for further advice in relation to the specifics of this case.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I will refer the matter raised by the Honourable Gordon Rich-Phillips regarding medium-density fibreboard usage in woodwork rooms in schools to the Minister for Education in the other place.

The Honourable Ian Cover asked a question about the relocation of the Barwon Heads Football Club and other associated groups. I am conscious of the outstanding work that the Honourable Elaine Carbines is doing as the chair of that group. I suggest that the mayor's comments may be a fraction premature as there is a process under way and I have full confidence that a satisfactory resolution can be reached.

Motion agreed to.

House adjourned 7.36 p.m.

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 Council.
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, 13 June 2001

Multicultural Affairs: Racial and Religious Tolerance Bill

1705. THE HON. C. A. FURLETTI — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Multicultural Affairs):

(a) What are the names and addresses of all consultants and contracted researchers retained by the Government to report to it on its proposal to introduce a Racial and Religious Tolerance Bill and what is the cost of each consultancy and/or retainer.

(b) What consultation process was followed in drafting the Racial and Religious Tolerance Bill.

(c) Is any further work required to re-draft the proposed bill.

ANSWER:

I am informed that:

(a) Sweeney Research Pty Ltd was engaged to research and assist in developing a communication strategy to promote the government's proposed racial and religious tolerance legislation.

The Strategy Shop was engaged as part of the consultation process to facilitate the public and Indigenous consultations.

Sweeney Research Pty Ltd is located at 232 Dorcas Street, South Melbourne, Victoria 3205. The cost of research undertaken by Sweeney Research totalled $35,200 GST inclusive.

The Strategy Shop is located at 248 Coventry Street, South Melbourne, Victoria 3205. The total cost of the facilitation process was $42,128.75 GST inclusive.

(b) Relevant units within the Department of Premier and Cabinet and other government departments and agencies were consulted in the drafting of the Racial and Religious Tolerance Bill.

(c) Subsequent to Cabinet consideration of recommended amendments to the bill, parliamentary counsel has made all necessary drafting changes.

Premier: freedom of information requests

1706. THE HON. C. A. FURLETTI — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Premier): Have any individuals been employed within the Department of Premier and Cabinet to police and monitor freedom of information requests; if so — (i) what does the role entail; and (ii) how is the role different from that of Freedom of Information Officers in other departments.

ANSWER:

I am informed that:

There are no individuals employed within the Department of Premier and Cabinet that police Freedom of Information (FoI) requests.

However, two officers of the Department of Premier and Cabinet are duly appointed Authorised Officers under s 26 of the *Freedom of Information Act* 1982 (Act). They have been vested with the powers and functions that have been conferred on the Secretary of the Department (the Principal Officer under the Act). The two officers have been authorised to make decisions in respect of FoI requests for access to documents made to the Department under the Act. They also:

(i) manage the receipt and processing of those requests;

(ii) advise the Secretary, staff and senior management of the Department and its agencies on the application and interpretation of the Act and the regulations; and

(iii) maintain statistics and reports on FOI activities across the Department and its agencies.

Premier: office telephone calls

1798. **THE HON. D .McL. DAVIS** — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Premier): How many telephone calls were made from the Department of Premier and Cabinet offices and the Office of the Premier on Thursday, 10 May 2001 to the telephone number 1300 360 204.

ANSWER:

I am informed that:

No telephone calls were made from the Department of Premier and Cabinet offices and the Office of the Premier on Thursday, 10 May 2001 to the telephone number 1300 360 204.

Premier: office telephone calls

1799. **THE HON. D. McL. DAVIS** — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Premier): How many telephone calls were made from the Department of Premier and Cabinet offices and the Office of the Premier on Thursday, 10 May 2001 to the telephone number 1300 360 198.

ANSWER:

I am informed that:

No telephone calls were made from the Department of Premier and Cabinet offices and the Office of the Premier on Thursday, 10 May 2001 to the telephone number 1300 360 198.