

Tuesday, 23 March 1999

The SPEAKER (Hon. S. J. Plowman) took the chair at 2.07 p.m. and read the prayer.

APPOINTMENT OF CLERKS

The SPEAKER — Order! Pursuant to the provisions of the Parliamentary Officers Act 1975 I nominated Raymond William Purdey, the Deputy Clerk, to be Clerk of the Legislative Assembly in the place of Philip John Mithen, JP, retired. The Governor in Council was pleased to make the appointment in accordance with the said nomination. As a consequence, I appointed Marcus Leonard Bromley, Assistant Clerk of Committees, as Deputy Clerk. Those appointments were not made by me on a whim: the positions were advertised throughout Australia and New Zealand. Both gentlemen were successful on their merits, not because they were coming up in order.

Honourable Members — Hear, hear!

The SPEAKER — Order! I am sure as time goes by they will serve the house with distinction.

SHADOW MINISTRY

Mr BRACKS (Leader of the Opposition) — Yesterday the Labor caucus elected me to be the Leader of the Victorian Opposition. As a consequence, within the next few weeks I will be making some minor changes to the shadow ministry. In the meantime, I advise that the following changes have been made to the shadow ministry since Parliament sat last November: I will remain shadow Treasurer and shadow minister for industrial relations; the honourable member for Albert Park will remain Deputy Leader of the Opposition and will be responsible for health and planning; and the honourable member for Broadmeadows will be responsible for multicultural affairs, and agriculture and rural affairs.

The honourable member for Pascoe Vale will be responsible for community services and women's affairs; the honourable member for Northcote will be responsible for education and the arts; the honourable member for Richmond will be responsible for industry and trade; the honourable member for Morwell will be responsible for rural and regional services and Aboriginal affairs; the honourable member for Niddrie will be shadow Attorney-General and will be responsible for gaming and Workcover; the honourable member for Altona will be responsible for employment, tertiary education and training and youth affairs; the

honourable member for Footscray will be responsible for finance, infrastructure, major projects and regional development; and the honourable member for Dandenong will be responsible for sport, recreation, racing, and tourism.

Mr Speaker, in announcing the shadow ministry I assure you that I will do my utmost to ensure that I and all members of my parliamentary team give you the respect due to you and that the forms of the house are respected.

The SPEAKER — Order! I thank the Leader of the Opposition for those announcements and that commitment.

DISTINGUISHED VISITOR

The SPEAKER — Order! Before calling questions without notice I recognise the presence in the gallery of Mr Rene Harris, a 24-year member of the Nauru Parliament, who is here to see how we perform!

QUESTIONS WITHOUT NOTICE

Workcover: co-payments

Mr BRACKS (Leader of the Opposition) — I refer the Premier to his callous attack on the common-law rights of injured workers in this state and ask him to confirm that he has plans for further attacks on injured workers and that the government's Workcover committee has made a secret recommendation to force workers to pay for their own Workcover insurance?

Mr KENNETT (Premier) — Firstly, I congratulate the Leader of the Opposition on his elevation to the peerage, and I wish him well in the discharge of his duties.

Secondly, in answering his question I simply point out that he has been running the continual disagreement on Workcover policy between that side of the house and this for some years now. The reality is that the government has introduced a system that is a lot fairer on those who are injured, particularly those who may have to go through the legal process of establishing fault, because they can now gain immediate access to assistance such as medical care and so on.

I have no knowledge of any further policy changes whatsoever. As a government we will continue to make the decisions that will be —

Mr Batchelor — You hate workers, don't you!

Mr KENNETT — It does not take long to establish that nothing has changed on the other side. I am sorry the honourable member for Thomastown missed out on his great opportunity!

The government will continue to manage the affairs of the state as it has in the past — that is, responsibly and quietly. As to the matter raised by the Leader of the Opposition, the government will continue to ensure that workers have access to good and adequate care immediately they are injured in the workplace. That is unlike the policy that applied under the former Labor government, when not only many missed out but those who sought common-law recognition found that their common-law settlements were for one reason or another quickly eroded, leaving them with nothing while they suffered for the rest of their lives.

Victoria: economic management

Mr FINN (Tullamarine) — I ask the Premier to advise the house how state government policies have encouraged recent economic and jobs growth and provided benefits for all Victorians.

Mr KENNETT (Premier) — Today is an ideal opportunity to review the progress in the state's economy since the Parliament last sat. The Victorian figures for total consumption and investment, which were released last week, outstrip those of any other state. That is no mean feat, given that Victoria occupies only 3 per cent of the land mass and has only 25 per cent of the Australian population. The figures show that in trend terms Victoria recorded a real growth in demand of 6.5 per cent in the final quarter of 1998, compared with an Australian average of 4.5 per cent. The policy direction of the government, in partnership with both its bureaucracy and the private sector, is providing the Victorian community with a return substantially above the national average, and that is reflected in the high level of employment throughout the state. It is interesting to note that in the December quarter alone spending in Victoria grew by 1.8 per cent, compared with 1.1 per cent in Australia. As we go into 1999 the trend in this state is very favourable.

Victoria's growth through the year was driven by investment. In the year ended December 1998 business investment in Victoria increased by 8.4 per cent in real terms, compared with the Australian growth rate of 0.6 per cent. That rate of growth again indicates the importance of the policy mix we have in place, including consistency in policy, and the community's confidence in the government's ability to deliver good government.

Another important ingredient underpinning Victoria's growth rate is its strong employment growth. Approximately 2.17 million Victorians, 1.6 million of whom were in full-time employment, held jobs during February. That is important because it means that over a number of successive months Victoria has had the highest level of employment in its history. When you compare the unemployment rate with the rate we inherited when we came to office in 1992, you will see it has dropped from 11.6 per cent to 7.6 per cent, a reduction of a full 4 percentage points.

The trend is encouraging, but we cannot be complacent. One of the real indicators is consumer confidence, expressed through retail spending. In Victoria retail turnover grew by 10.5 per cent in the year to January, compared with growth in Australia of just 7.7 per cent. Motor vehicle demand is another area that is an expression of personal and industry confidence. That increased by 12 per cent in the past year, with more than 51 000 cars registered in the three months to January.

The last figure I will mention, because this is a good opportunity to have a look at a number of important statistics, is the Melbourne CPI, which rose by 0.3 per cent during the December quarter, giving an annual rate of growth of only 0.8 per cent — the lowest of all capital cities. By comparison, the national average CPI growth was 1.6 per cent.

All the settings are in place, not only in terms of policy but also in the way the community is responding to the government's message and to the partnerships it has in place with the community. However, as you have heard me say before, Mr Speaker, we cannot be complacent. Although we have enjoyed growth greater than our neighbours and the rest of Australia, we cannot rest on our laurels. We have to understand what is happening in Asia. Obviously at some stage parts of Asia's economies will pick up while others will unfortunately continue to deteriorate in the short term. As well, things that are happening in other parts of the world will ensure that we remain ever vigilant.

I can say only that the Victorian community, having observed and participated in the great renewal of this state — the creation of a new Victoria — can be confident that, given the policies the government has introduced, growth rates will be maintained and, we hope, increased. However, in the short term all our efforts must be directed towards maintaining employment levels in the face of a great deal of uncertainty in the communities to our immediate north.

Workcover: co-payments

Mr BRACKS (Leader of the Opposition) — I refer the Premier to a proposal to force workers to pay for their own Workcover insurance through the introduction of workers co-payments for premiums, set out in a secret 1998 business plan of the Victorian Workcover Authority, and I ask how he can justify imposing an additional tax of up to \$220 per worker per annum on top of his already vicious attacks on the common-law rights of seriously injured workers?

Mr KENNETT (Premier) — As the Leader of the Opposition knows, I have been his campaign director for the past 18 months. One of the reasons we very much welcome his elevation is that he has been my candidate. We are not going to attack him today; instead, we are going to smother him in kindness so he can get through this week and come out the other side with a warm inner glow.

The Leader of the Opposition worked for the Cain and Kirner governments and will know that governments and their agencies often do a great deal of work in looking at a whole range of options in the community for delivering good government.

As I indicated to the Leader of the Opposition, I am not aware of the document to which he refers. I am not aware of any intention to change the current procedure by which we administer the state in the area he referred to.

If the Leader of the Opposition wishes to establish a platform on which to base his leadership, I advise him that it is important from the word go to launch himself from a platform of fact rather than trying to create a situation that clearly does not exist.

Drugs: federal funding

Mr McLELLAN (Frankston East) — I refer the Premier to the \$20 million allocated recently by the federal government for drug counselling and rehabilitation programs of which Victoria received only \$2.7 million while New South Wales received \$5.4 million and Queensland received \$3.8 million. Will the Premier pursue the extra \$2.2 million that a spokesperson for the federal health minister indicated is available to Victoria?

Mr KENNETT (Premier) — The Victorian government has taken a leadership role in embarking on the Turning the Tide program that has been in place for some time. Some \$100 million of additional money has come from the Community Support Fund for that program, which is on average \$25 million a year. That

is on top of all the other money the government spends on policing, research and so on. Obviously that is still not enough, given the increase in heroin-related deaths in our society.

Unfortunately, during the 1998 calendar year approximately 250 Victorians lost their lives and many others were seriously incapacitated because of either the strength of or the mix of product within doses of heroin. Last year approximately 450 people in New South Wales lost their lives, and more lives were lost throughout the commonwealth. The Leader of the Opposition is probably not interested in this subject, but it interests many parents and it certainly interests many young people.

The Victorian government tried to get the other states and territories together to deliver a coordinated position at the Premier's conference to be held on 9 April. I am happy to report that Premier Beattie was not concerned about political persuasion and was present at the meeting. Premier Carr sent his apologies because of his election campaign but he made a contribution. I am sure there will be a uniform approach at the Premier's conference in Canberra.

As for the comments of the honourable member for Frankston East, on the one hand, I was pleased that the commonwealth has issued another \$20 million throughout Australia to deal with this issue. I was concerned that Victoria received substantially less than I thought it would get, given that the state contributes about 25 per cent of the revenue that goes to Canberra. Our programs are well in place. The federal government has said it will adjust that figure in due course. In the meantime, my assessment is that \$20 million is but a drop in the bucket of what is required.

Although some may become overly excited about the small share that Victoria received, given our entitlement, the government is much more focused on the bigger picture — that is, that I hope the result of the 9 April conference will not only be that the commonwealth will allocate more money. Apart from looking at heroin and heroin-related deaths and injuries in particular, one issue I am very keen to get up is the commission of cause of which I have spoken. I have asked the Prime Minister to make it a federal program.

Of the many social issues, whether they be drug-related problems, homelessness or suicides of young people or older people — and unfortunately they are mainly men in regional Australia — governments respond to deaths, injury, homelessness and suicide. I do not know if we do enough work on trying to understand what causes

the particular acts. There is no doubt that very little work is being done internationally on causation and depression. If there were ever an opportunity for this country to take a lead in trying to better understand the causes in order to prevent people beginning to use drugs and to prevent homelessness and suicide, a properly structured commission of cause could make a major impact.

Recently I attended the world economic forum held in Davos, where I went to some of the health seminars. Now depression is the second-largest killer in the world. It is predicted that within about 12 years it will become the largest contributor to deaths. To be quite honest, the doctors and professors from the United States of America and other countries with whom I spoke do not have enough information or relate to it easily. Having witnessed what is happening in Victoria, and having spoken to many individuals who have either tried to take their lives or are involved in heroin and to the families of those who have suicided, I believe that it is important to establish a commission of cause in trying to understand better those ingredients that have forced people into those positions of insecurity.

In the meantime, the government will continue to try to deal with those who have a drug-related problem, not by defining it as a crime but by recognising that they have a health problem, no different from suffering from cancer or AIDS. People who are prone to using drugs or are suffering depression should be able to come forward, reach out to the community and get assistance without being treated differently.

The SPEAKER — Order! The Premier has been speaking for almost 5 minutes. It is an important subject that perhaps should be the subject of a ministerial statement.

Mr KENNETT — It is an important subject, Mr Speaker. People should be able to reach out for help in the community without being made to feel that in some way they are second-class citizens or that they have not succeeded or that they have failed.

Workcover: co-payments

Mr BRACKS (Leader of the Opposition) — I refer the Premier to his previous answers concerning the Workcover co-payments. Is it not a fact that the only reason workers have not been forced to pay for their own Workcover insurance through the introduction of the co-payment is because the government desperately wants to keep this matter secret until the next election?

Mr KENNETT (Premier) — I have answered this question twice. This is a bit pathetic. What people want

to know is what the opposition has to offer, if anything. The opposition keeps rearranging the deck chairs on the *Titanic*.

Mr Bracks interjected.

Mr KENNETT — You have the plan, have you?

Honourable members interjecting.

Mr KENNETT — The Leader of the Opposition says, 'We've got the plan'. He has a wish list and he is trying to please all the people all of the time. He does not have one policy out at the moment.

Honourable members interjecting.

Mr KENNETT — Mr Speaker, I was being misled by my learned colleague on the other side of the house. The Leader of the Opposition can make all sorts of claims about secrecy until the cows come home. That will not help his party one iota. The opposition must decide what it stands for and where it wants to take the state.

Education: state system

Mr LUPTON (Knox) — Will the Minister for Education inform the house of the current standing of the government education system compared with the position in 1992?

Opposition members interjecting.

Mr GUDE (Minister for Education) — I thank the honourable member for Knox for his question because it proves that the opposition is not dead! I was worried about it for some time. I congratulate the honourable members for Williamstown and Northcote on their elevation and commiserate with the losers — the honourable members for Footscray and Broadmeadows.

The honourable member for Knox has raised a very interesting question in the context of comments that were made by the latest Leader of the Opposition, who was quoted in yesterday's *Herald Sun* as saying:

The key issues will be what we as a party will do to restore the school system to the pre-eminent position it was in '92.

How was it in 1992? The VCE was a national joke, testing was a dirty word and excellence was something that other people strove for. The Labor Party looked to world worst practice when it came to educational standards. There was no curriculum and the union was able to do what it wanted, when it wanted — it engaged in social experimentation with children's lives.

By contrast, the Kennett government introduced a curriculum standards framework that is both rigorous and meets world best practice. The VCE has been reviewed and revamped to provide appropriate standards with proper levels of equity and fairness to students, teachers and parents. The government introduced the learning assessment process. For some time LAP was blindly opposed by the opposition, but in recent times, surprisingly, the previous Leader of the Opposition has supported it. It is not known whether the new leader supports it or not.

What happened in 1992 when a teacher went on sick leave, annual leave, long service leave, maternity leave or leave of absence? The previous government hired another full-time teacher! Eventually thousands of teachers were excess to requirements and the state incurred some \$200 million in unfunded liabilities as a consequence of that direct action.

I ask the Leader of the Opposition how the former government paid for those excess teachers. I will answer the question for him in case he does not remember what happened when he was a Cain minder. The answer is that it was paid for out of superannuation funds, despite the problems the state was in.

Do opposition members want to go back to what the former government did in 1992 when it could not pay grants to the Catholic and independent schools? As a result the two school systems had to borrow money and the dopey lot on the other side repaid it with interest.

When the same thing happened to the bus operators — the former government did not have the money to pay the bills — the poor old bus operators had to borrow money and the former government paid them back with more interest. While I am on the subject of buses, in those days the conveyance allowance was a measly, miserable \$70. The Kennett government is paying \$300 — a tremendous difference.

Do opposition members want to go back to 1992, when there was a schools maintenance backlog of some \$670 million? Under the Kennett government that has been reduced to some \$190 million, and it will continue to decrease because the government has a commitment to quality schools and standards, unlike the lot on the other side, who want to take us back to the Cain years and the past!

The SPEAKER — Order! The minister has been speaking for more than 4 minutes. I ask him to complete his answer.

Mr GUDE — Some \$50 million has been saved by the contracting out of maintenance — by one sensible

decision — yet you were incapable of doing it when you were in office.

The SPEAKER — Order! I ask the minister to make his remarks through the Chair and not to direct personal remarks to the opposition.

Mr GUDE — Nowadays Victorian teachers are paid at the top level of rates paid around Australia and its young teachers will soon be the highest paid. Teachers are currently being provided with some 36 000 laptop computers to support them — the second-largest such purchase anywhere. Record funds — some \$500 million extra — are being directed towards education. A total of more than \$4 billion is going to schools education! In contrast to the former government's 1992 targets, the Kennett government has targeted funds of \$102 million annually for literacy — an equivalent 1000 full-time places going into schools.

Mr Thwaites interjected.

Mr GUDE — I feel sorry for the Deputy Leader of the Opposition. We know he really wanted the job.

The SPEAKER — Order! The minister has been speaking for 6 minutes. He is now getting into something that is irrelevant to the question. I suggest he get someone else to ask him another question. If the minister cannot complete his answer, I will call the next question.

Mr GUDE — The government has targeted funds for literacy, numeracy and science; there is in place a targeted program to look after the youngsters who are having difficulty in the middle years; and the government is raising teacher and education standards. That is the contrast. Victorians can choose between being led by a former bureaucrat and going back to the bad old days of the Cain-Kirner years, or going forward into the future.

The SPEAKER — Order! I call the next question.

Workcover: safety inspectors

Mr HULLS (Niddrie) — I refer the Treasurer to the fact that the number of deaths in the workplace is rising, and to the fact that the Victorian Workcover Authority's own secret polling has found that two out of three workers were not aware of ever seeing a Workcover inspector and 74 per cent of employers have never had a Workcover inspector inspect the safety of their workplaces. Will the Treasurer act immediately to implement Labor's pledge to introduce 30 new hazardous site inspectors to help curb the tragic rise in the number of workplace deaths?

Mr STOCKDALE (Treasurer) — The Labor Party seems to have a policy it is trying to get up on this side of the house. Honourable members have seen the Leader of the Opposition advocating co-payment, a policy he cannot get up on his side — and one he certainly could not get up on this side!

The Workcover scheme is one of the great successes in Victoria. It is providing workplaces that are among the safest in the world, benefits for workers injured in industrial accidents that are among the best and most secure in Australia, and premiums that are among the lowest in Australia — and it is operating on a sustainable basis.

It shows an enormous political hide on the part of the honourable member for Niddrie — something he is well and truly renowned for — that he should ask questions in relation to Workcover when honourable members are able to look back on the dismal experience of Workcover — Workcare, as it then was — between 1985 and 1992. In that period Workcare accumulated unfunded liabilities of nearly \$4 billion, it was grossly insecure, benefits for workers were cut all the time, the system was in a state of constant flagrant abuse, the community had lost confidence in it, and it was driving investment out of Victoria. Victorians have had two opportunities to say which workers compensation scheme they enjoy. I bet that at the next election they pick the same one.

Public sector: senior executive service

Ms McCALL (Frankston) — Will the Treasurer advise the house of the level of expenditure on the Energy Projects Division of the Department of Treasury and Finance and other senior executive employment in the Victorian public service, and of any plans in relation to those matters?

Mr STOCKDALE (Treasurer) — I thank the honourable member for Frankston for her question as I know she is interested in sound administration. The senior executive service in Victoria and the Energy Projects Division of the Department of Treasury and Finance are two of the great success stories of the last six and a half years of government in Victoria.

The senior executive service has turned around Victoria's finances. Even more importantly, while it was managing the state out of the crisis that the Labor Party had created, it was also creating fantastic growth in the services delivered to Victorians. Some 200 000 more people are treated in our public hospitals than was the case in 1992. Victoria has the lowest crime rates in Australia. This state, and Melbourne in particular, is

acknowledged as one of the safest places in the world in which to live. Victoria has high and rising parental satisfaction with state government schools and the education system in general, and the highest level of employer satisfaction with our TAFE system compared with any other state.

Those four important service delivery measures reveal the success of the senior executive service positions. The response from the Labor opposition is similar to that when the Honourable Joan Kirner was Leader of the Opposition and the new Leader of the Opposition was writing the script for Joan Kirner. It said then that there were too many members of the senior executive service and that in coming to government it would slash their numbers and save a fortune; it also said that there were too many Treasury officials managing the privatisation program. No doubt it may get marks for consistency. The Leader of the Opposition was writing that rubbish for Joan Kirner; he wrote it for the former Leader of the Opposition, the honourable member for Broadmeadows, and he is now adopting it himself.

I congratulate the honourable member for Williamstown on his election as Leader of the Opposition. It is flattering that a few years as an ineffective shadow Treasurer is regarded as a qualification for appointment to that position.

Recently I read that the honourable member for Broadmeadows may be appointed shadow Treasurer. That will no doubt create the Labor Party revolving-door policy: when honourable members opposite get disgruntled with the Leader of the Opposition they will reappoint the honourable member for Broadmeadows as leader of the Labor Party.

On 1 February this year the now Leader of the Opposition recycled the allegation of \$257 million alleged savings that would fund the extravagant promises he makes in carrying on the Labor tradition. In the first place, he said he would save \$80 million by abolishing the Energy Projects Division at the Department of Treasury and Finance. There are two problems with that.

The SPEAKER — Order! Question time is a period for honourable members to ask questions about government policy and not for ministers to debate opposition policy or promises. The question asked of the Treasurer related to his portfolio and policies within his portfolio. I ask him to reply along those lines.

Mr STOCKDALE — I was about to indicate that the Energy Projects Division of the Department of Treasury and Finance is in the process of being wound

up. It has largely completed its task and by the middle of the year it will have totally completed its task and will be wound up. There will be no savings available because the cost savings are factored into the forward estimates already. Indeed, the Leader of the Opposition shows he has no understanding of the way the privatisation program has been funded despite numerous briefings. Not only is the division being wound up but it has never been funded at a net cost to the state budget. The costs have been recouped from the proceeds of privatisation and it has had no net impact on the bottom line of the budget. So there is an \$80 million black hole in the spending commitments of the Labor Party.

Similarly, the Labor Party has said that it will reduce by 200 the 689 senior executive staff in Victoria, claiming that it will produce savings of \$49 million. That means the remaining \$11.4 million will be available to pay the 489 senior executive service officers at an average salary of \$23 000. That is not only less than average weekly earnings, but is a quarter of what even the lowest paid executive member of the public service is paid. We have another \$49 million of alleged savings unavailable to the Labor opposition. Just those two mistakes alone account for \$129 million of Labor Party promises that will be unfunded. The most alarming thing for Victorians is that the Leader of the Opposition has spent the past two years as shadow Treasurer yet he makes these basic errors. If people are to have any confidence in the Labor Party, how can he possibly get wrong these two fundamental issues in claiming he can save \$129 million? The black hole begins again and we will have more to say about Labor Party black holes in the future.

Local government: elections

Mr DIXON (Dromana) — Will the Minister for Planning and Local Government inform the house of the outcome of last week's 20 municipal elections held throughout Victoria?

Mr MACLELLAN (Minister for Planning and Local Government) — On 20 March this year 20 municipalities conducted their elections. A total of 457 nominations were received for 166 vacancies for councillor positions at the 20 councils that were conducting elections on that date. There were in effect 2.75 candidates for every position being filled and no vacancy failed to attract a valid nomination. Some 164 councillors have been declared elected, while 2 positions are subject to recounts. Nominations were received for every vacancy. Some 41 vacancies were uncontested and were filled unopposed by the one person nominated for each of those vacancies.

The election has resulted in 73 new councillors and of those 6 new councillors were elected unopposed. The 73 new councillors represent approximately 44.2 per cent of the vacancies available. There has been a considerable turnover in the number of candidates. Some 135 candidates, or 29.5 per cent, were women and, disappointingly, the number of women elected represented only 26.6 per cent of successful candidates, which means there will continue to be an under-representation of women councillors. The largest number of candidates nominated was in the Nillumbik shire where 80 candidates contested 9 vacancies, including 27 candidates for 4 vacancies which were new positions on the council.

Mr Haermeyer interjected.

Mr MACLELLAN — The honourable member for Yan Yean indicates by interjection that it was a big success. I have great respect for the honourable member's opinion about this. The result of the election was that only one of the former councillors was re-elected. In other words, it is almost an entirely new council.

When we turn from that shire to the council which was least troubled by democracy, we find that in Golden Plains shire two candidates contested one of the wards and the other eight ridings were filled uncontested. In the Melbourne City Council 47 candidates contested 9 vacancies, including 23 candidates for 5 vacancies, which was to be the highlight of the municipal election campaign. Community Labor candidates were seeking to finally and triumphantly win control of the Melbourne City Council. Only four city councillors were returned and five new councillors were elected, so Community Labor was spectacularly unsuccessful.

Drugs: support services

Ms DELAHUNTY (Northcote) — In light of the Premier's earlier comments today I refer him to the findings of the recent report on illicit drugs, which said that first-time heroin users are now in their teens, and to the comment of the senior court magistrate that juvenile offenders as young as 13 years were skipping school and committing serious crime. Before your government gagged its publication, the Department of Education's own figures confirmed alarmingly high truancy rates among 13 —

The SPEAKER — Order! The opportunity to ask questions without notice does not give a member the opportunity to make a statement. I ask the honourable member to rephrase her question.

Ms DELAHUNTY — Given that the nexus between drugs, truancy and crime is well established, will the Premier admit that, far from combating the drug menace among young Victorians, this government has worsened it by leaching support services from our schools?

Mr KENNETT (Premier) — I thank the honourable member for Northcote for her first question; I am sorry she missed the first call. The only way to learn in this place is to make a mistake — and usually one never makes it again! I say ‘usually’ because there are many examples of where that has happened on the other side.

That was an extraordinary question from the honourable member for Northcote for two reasons. Firstly, it is generally accepted throughout the country that, through the Turning the Tide program this government put into place and in its national advocacy role on drugs, no government has done more than this one to address the dehumanising issue of drugs in our community. I have consistently stated that no matter how much the government is doing it should be doing more and it should be doing it effectively. It is clear that the honourable member did not even listen to the answer I gave before.

My second reason for finding her question totally irrelevant is that only yesterday her new leader said publicly that he thought this government was doing a good job on drugs and that he was going to offer a bipartisan approach to this essential issue.

Let me put on the record that I welcome that bipartisanship because this is not a problem of the government’s or the opposition’s making; it exists in our community and we all can and should be working together to overcome it. If the honourable member for Northcote does not want to be part of that new partnership — that is, if the Leader of the Opposition cannot get his members on side to support his position — members of the opposition will have something to worry about.

The question is clearly not a dorothy dixer so I know you, Mr Speaker, will allow me to expand on my answer. There are two important issues for schools. You might remember that not so long ago some young children in one of our schools were found to be regularly shooting up. There was a debate as to whether security cameras would be allowed to be put into toilets to try to — —

Mr Micallef interjected.

Mr KENNETT — Who said ‘shame’? I cannot understand the honourable member for Springvale

saying that, as he has been very active in his own area. If young people are going to do themselves a great deal of damage, school authorities and parents of students at the schools have to be given the opportunity to try to withdraw those children from that risk at the earliest possible moment. If the only way to do it is to put security cameras into toilets where children are shooting up, the government must be prepared to consider that, and it is considering it.

Further, as you know, Mr Speaker, not long ago this government sent to every household a document on drugs not only to educate children but, importantly, to educate their parents, who do not understand the language or many of the risks involved.

I make one other point because this question is in one sense obscene, given that the Leader of the Opposition is prepared to be bipartisan on this issue. As I said, I accept that. One of the real issues about drugs — and it has something to do with cause and I hope to be part of the commission on cause that might investigate it — is that it is not good enough to simply ask, as did the honourable member for Northcote, what is the government doing about this issue in schools or about what is happening in Springvale, Richmond or Melbourne or anywhere else. The issue is what parents can do in the way we educate our children, set standards and understand the problems that confront children so that we can assist them through this period of difficulty. We all know people who have the best intent, even those with close families, who unfortunately have lost children to drugs, homelessness or through a form of depression that has resulted in suicide. I feel very strongly about this issue to the point that I do not think — —

Mr Thwaites interjected.

Mr KENNETT — The Deputy Leader of the Opposition asks, ‘Why don’t you do something about truancy’? The reality is that when the Labor Party was in government it also recognised that a percentage of children would involve themselves in truancy. You cannot stop them. You cannot have a government officer in every home or school. There is no point in members of the Labor Party being hypocritical on these issues. They have to decide whether they are going to take a bipartisanship approach. I am prepared to include them in efforts to address the issues of drugs, suicide and homelessness if they want to be involved. However, it does not help the issue if members of the opposition ask stupid questions that either undermine the position of the new Leader of the Opposition or indicate that he does not talk to his back bench.

This is an Australian challenge, not a Victorian or coalition or Labor challenge. I hope the Leader of the Opposition will start talking to his backbenchers so that stupid, inane questions are not asked. Such questions undermine the very good work that is being done in Victoria and the bipartisanship approach to this very important community challenge, which approach the government welcomes.

NOTICES OF MOTION

The SPEAKER — Order! Are there any notices of motion?

Notices of motion given.

Rural Victoria: fuel prices

Mr HAMILTON (Morwell) — I desire to give notice that on the next day of sitting I will move:

That this house condemns the Kennett government for failing to address the outrageous attack on country Victorians through the abandonment of petrol and LPG price controls, as unlike city Victorians country Victorians do not have a highly subsidised public transport system and must rely on private cars for their daily transport needs.

The SPEAKER — Order! Rather than being part of the motion that last sentence sounded more like a point of view.

Further notice of motion given.

Rural Victoria: community development scheme

Mr STEGGALL (Swan Hill) — I desire to give notice that on the next day of sitting I will move:

That this house congratulates the government and the Minister for Rural Development for the implementation of the rural community development scheme, funded from the Community Support Fund, as this initiative has delivered over 200 project grants valued in excess of \$6 million to rural towns and communities throughout Victoria, adding significantly to the renewal and upgrade of community assets.

The SPEAKER — Order! As I said to the honourable member for Morwell, I suggest that rather than making statements of opinion members use facts when putting together motions of this kind.

Further notice of motion given.

Rural Victoria: community development scheme

Mr LUPTON (Knox) — I give notice that on the next day of sitting I will move:

That this house congratulates the government and the Minister for Rural Development for the implementation of the rural community development scheme, funded from the Community Support Fund, as this initiative has delivered over 200 project grants valued in excess of \$6 million to rural towns and communities throughout Victoria, adding significantly to the renewal and upgrade of community assets.

The SPEAKER — Order! I suggest that is an identical motion to that of the member for Swan Hill. Those two motions might be put together as one.

Further notice of motion given.

The SPEAKER — Order! I suggest to the house that this whips' competition about how many notices they can get on the notice paper is becoming rather ridiculous. Today there have been 54 general business notices, none of which, I predict, will be debated. We all know the reality of the notice paper. I ask the leaders of business on both sides of the house to consider this practice and to limit the number of notices each day so that there might be some expectation that members — —

Mr Micallef interjected.

The SPEAKER — Order! I suggest there be some limitation so that members giving notices might have some expectation of their motions being debated. There seems little point in taking up half an hour of the house's time putting on the notice paper matters that will never be debated.

PETITIONS

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

Catchment management authorities: levy

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

We strongly object to the Liberal-National Party government's introduction of another state tax, through the introduction of a catchment management levy on every country household.

Your petitioners therefore pray that the Kennett government reverse its decision to allow the catchment management authorities to levy taxes from the people of Victoria.

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

By **Mr CAMERON** (Bendigo West) (5278 signatures)

Gippsland Lakes

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

The petition of the undersigned citizens of Victoria regarding the Gippsland Lakes blue-green algae —

1. We draw to the attention of the honourable members our great concern at the current state of the water systems comprising the Gippsland Lakes where the present out-of-control growth of the blue-green algae throughout all of the lakes is, in our opinion, a major ecological disaster. The stench from rotting algae is now so powerful and all pervasive in many areas that it is akin to living in an abattoirs. Its effect on surrounding areas is of great concern.
2. Because the Gippsland Lakes are part of our national and international heritage and have a well-recognised recreational potential their marine environment must be of great concern to all citizens in the state of Victoria.
3. Tourism to this area will be adversely affected if this modern-day escalation of blue-green algae is allowed to thrive unchecked because of the possible effect of a number of factors such as — weather, water flow through the lakes, damming of rivers, rivers carrying farm chemicals into the lakes, local effluent inflow, together with any other unnamed agents. What we now see and experience is a totally unpleasant environment in this vast lakes area comprising a significant part of the south-east of this state. This coastal lakes system needs our immediate and expert attention to implement short and very long-term management plans to combat this and similar problems that can afflict this type of fragile marine environment.
4. We do not believe that this present problem is the responsibility of any individual but that a combination of events over many years involving residents, farmers, local authorities and government may have created a set of circumstances that now needs urgent remedial attention. The important fact is that the blue-green algae is there in monstrous proportions and needs to be dealt with on a crisis basis before that marine environment is irrevocably damaged.

Your petitioners therefore request that the state government's Legislative Assembly take immediate steps to:

1. Control and manage the effects of the current Gippsland Lakes' blue-green algae disaster in order to lessen the present impact on residents and tourists.
2. Immediate implementation of scientific investigations into all possible causes of the explosive growth of the blue-green algae including weather patterns, water flow or lack of it through the lakes, the effects of the damming of rivers that flow into the lakes system, the carrying of farm chemicals by the river systems or other means into the lakes, local effluent inflow, together with any other unnamed agents.
3. Based on the findings enact appropriate legislation and regulations together with finance and manpower to ensure that a manageable solution will be able to be implemented in the short and long term to provide ongoing protection for the Gippsland Lakes environment.

We petitioners prayerfully request your consideration and appropriate action.

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

By Mr PERTON (Doncaster) (8 signatures)

Yarra: management

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

The humble petition of the Friends of the Fairfield Park Boathouse Inc. sheweth that the City of Yarra, as committee of management of the Fairfield Park Boathouse, is spending a significant amount of ratepayers' money in pursuing legal action against the lessees of the Fairfield Park Boathouse despite Supreme Court decisions which illustrate that council's tender process was flawed.

Your petitioners therefore pray that the government of Victoria investigates the management of the City of Yarra, including its financial practices.

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

By Mr PHILLIPS (Eltham) (4641 signatures)

Preschools: funding

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

The humble petition of certain citizens in the state of Victoria sheweth concerns over government mismanagement of the introduction of children's services regulations, the unreasonable expectations of time and personal level of responsibility demanded of voluntary committees of management, and of parents to fundraise.

Your petitioners therefore pray that the state government accepts responsibility for providing more support to preschools so as to lessen the enormous strain currently on volunteer committees to fundraise for basic necessities, which are required to provide a proper preschool education for all Victorian children.

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

By Ms CAMPBELL (Pascoe Vale) (89 signatures)

Ordered that petition presented by honourable member for Bendigo West be considered next day on motion of Mr CAMERON (Bendigo West).

Ordered that petition presented by honourable member for Pascoe Vale be considered next day on motion of Ms CAMPBELL (Pascoe Vale).

Laid on table.

NATIONAL CRIME AUTHORITY

Annual report

Mr W. D. McGRATH (Minister for Police and Emergency Services) presented report for 1997–98.

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates

Mr McARTHUR (Monbulk) presented report on 1998–99 budget estimates, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 1

Mr RYAN (Gippsland South) presented *Alert Digest* No. 1 of 1999 on:

Barley Marketing (Amendment) Bill
Environment Protection (Amendment) Bill
Gas Industry Acts (Amendment) Bill
Health Services (Further Amendment) Bill
Magistrates' Court (Amendment) Bill
Petroleum Bill
Public Correctional Services Authority Bill
Public Sector Reform (Further Amendment) Bill
State Taxation (Further Amendment) Bill
Statute Law Revision (Repeals) Bill

together with appendices.

Laid on table.

Ordered to be printed.

Right to silence

Mr RYAN (Gippsland South) presented final report on inquiry into right to silence, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

BLF CUSTODIAN

41st and 42nd reports

The SPEAKER presented reports given to him pursuant to section 7A of BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

Ordered to be printed.

COUNCIL OF MAGISTRATES

Annual report

Mrs WADE (Attorney-General) presented, by command of His Excellency the Governor, report for 1997–98.

Laid on table.

PAPERS

Laid on table by Clerk:

Albury–Wodonga Development Corporation — Report for the year 1997–98

Alpine Resorts Commission — Report for the period 1 November 1997 to 29 April 1998

Ballarat Health Services — Report for the year 1997–98 (two papers)

The Constitution Act Amendment Act 1958 — Statements of functions conferred on the Electoral Commissioner, dated 15 December 1998 and 16 February 1999

Crown Land (Reserves) Act 1978 — Section 17DA Orders granting under Section 17D leases by —

Parks Victoria (two orders)
Bayside City Council (three orders)
Bass Coast Shire Council
Moonee Valley City Council

Eastern Regional Waste Management Group — Financial Statements for the year 1996–97

Environment Conservation Council Act 1997 — Amended Terms of Reference for the Environment Conservation Council's investigation of Victoria's Marine, Coastal and Estuarine areas

Environment Protection Act 1970 —

Order declaring Industrial Waste Management Policy (Waste Acid Sulfate Soils) (*Government Gazette No. S151, 15 December 1998*)

Order declaring State Environment Protection Policy (Ambient Air Quality) (*Government Gazette No. S19, 9 February 1999*)

Order declaring Variation of State Environment Protection Policy (The Air Environment) (*Government Gazette No. S19, 9 February 1999*)

Financial Management Act 1994 —

Reports from the Minister for Agriculture and Resources that he had received the 1997–98 Annual Reports of the —

Emu Industry Development Committee

Murray Valley Wine Grape Industry Development Committee

Northern Victorian Fresh Tomato
Industry Development Committee

Victorian Dried Fruits Board

Water Training Centre

Reports from the Minister for Conservation and
Land Management that she had received the 1997–
98 Annual Reports of the —

Northern Regional Waste Management
Group

South Eastern Regional Waste
Management Group

Yarra Bend Park Trust

Reports from the Minister for Health that he had
received the 1997–98 Annual Reports of the —

Ambulance Officers' Training Centre

Alexandra and District Ambulance
Service

Coleraine and District Hospital

Edenhope and District Memorial
Hospital

Healthit Limited

Hess Rural Health Service

Kooweerup Regional Health Service

Optometrists Registration Board

The Queen Elizabeth Centre

Report from the Minister for Youth and
Community Services that he had received the
1997–98 Annual Report of the O'Connell Family
Centre (Grey Sisters) Inc.

Interpretation of Legislation Act 1984 —

Notice under section 32(3)(a)(iii) in relation to
Statutory Rule Nos. 148/1998, 160/1998

Notice under section 32(4)(a)(iii) in relation to
Amendment No. 3 of the Building Code of
Australia 1996

Judicial Remuneration Tribunal — Report on Tribunals'
Salaries and Allowances, 22 December 1998 and statement of
reasons from the Attorney-General for accepting certain
recommendations contained in the Report

Melbourne City Link Act 1995 — Orders pursuant to section
8(4) increasing the Project Area (twelve orders)

Mental Health Act 1986 — Report of the Community
Visitors for the year 1997–98

Mercy Public Hospitals Incorporated — Report for the year
1997–98, together with an explanation for the delay in tabling
(three papers)

Murray-Darling Basin Commission — Report for the year
1997–98

Murray Valley Citrus Marketing Board — Report for the year
1997–98

Parliamentary Committees Act 1968 — Response of the
Minister for Industry, Science and Technology on action
taken with respect to recommendations made by the
Economic Development Committee's Inquiry into the
Economic Impact of Business Migration in Victoria

Planning and Environment Act 1987 —

Notices of approval of the following new Planning Schemes:

Ballarat Planning Scheme

Baw Baw Planning Scheme

Glenelg Planning Scheme

Indigo Planning Scheme

Melbourne Planning Scheme

Pyrenees Planning Scheme

Queenscliffe Planning Scheme

Wangaratta Planning Scheme

Wyndham Planning Scheme

Notices of approval of amendments to the following Planning
Schemes:

All Planning Schemes — Nos. S78, S79, S80, S81,
SR5

Alpine Resorts Planning Scheme — No. C2

Ballarat Planning Scheme — Nos. C1, C5

Banyule Planning Scheme — Nos. L19, L21, L22

Baw Baw Planning Scheme — Nos. C3, C4

Bayside Planning Scheme — Nos. L18, L19, L21

Berwick Planning Scheme — Nos. L139 Part A,
L142, L145

Boroondara Planning Scheme — Nos. L39, L57

Bright Planning Scheme — No. L47

Brimbank Planning Scheme — Nos. L41, L44,
L56, L60, L61

Buninyong Planning Scheme — No. L62

Cranbourne Planning Scheme — Nos. L183, L187,
L190, L210, L218, L219, L220, L222 Part A,
L225, L227, L230, L231

Darebin Planning Scheme — Nos. L59, L61, L63,
L64

Doncaster Planning Scheme — No. L133

Doncaster and Templestowe Planning Scheme — No. L137

Euroa Planning Scheme — No. L28

Flinders Planning Scheme — Nos. L166, L191

Frankston Planning Scheme — Nos. L106, L113

Glen Eira Planning Scheme — Nos. L29, L30, L32, L34

Goulburn Planning Scheme — Nos. L12, L13

Greater Bendigo Planning Scheme — Nos. L49, L80, L83

Greater Geelong Planning Scheme — Nos. L233, R168, R214, R226, R229, R231, RL190

Hastings Planning Scheme — No. L150

Hepburn Planning Scheme — No. L6

Hobsons Bay Planning Scheme — No. L12

Hume Planning Scheme — Nos. L47, L53, L56, L58

Karkaroc Planning Scheme — No. L4

Kingston Planning Scheme — Nos. L33, L41, L45

Knox Planning Scheme — Nos. L166, L167, L172, L175, L176, L180

Macedon Ranges Planning Scheme — No. L28

Maffra Planning Scheme — No. L34

Maribymong Planning Scheme — No. L29

Maroondah Planning Scheme — Nos. L26, L28

Melbourne Planning Scheme — Nos. L237, L294, L296, L305, L306, L307, L308, L320, L323, L324, L325

Melton Planning Scheme — No. L105

Mildura (City) Planning Scheme — No. L65

Moe Planning Scheme — Nos. L45, L46, L47

Monash Planning Scheme — Nos. L37, L38, L49, L56

Moreland Planning Scheme — Nos. L55, L58, L62

Narracan Planning Scheme — No. L60

Nillumbik Planning Scheme — Nos. L16, L17

Pakenham Planning Scheme — Nos. L134, L142, L158, L159, L160, L161, L163, L164, L168, L169

Port Phillip Planning Scheme — Nos. C3, C7, C15

Rosedale Planning Scheme — Nos. L49, L51

Sale Planning Scheme — No. L31

Shepparton Shire Planning Scheme — No. L83

Sherbrooke Planning Scheme — No. L133

Stonnington Planning Scheme — No. L37, L51, L54, L70, L71, L75

Traralgon (City) Planning Scheme — No. L77

Victoria Planning Provisions — No. VC6

Warmambool Planning Scheme — No. L31

Werribee Planning Scheme — No. L117 Part 2

Whitehorse Planning Scheme — Nos. L21 Part 2, L29, L37, L39, L40, L41, L42, L44

Whittlesea Planning Scheme — No. L165, L166, L173

Wodonga Rural City Planning Scheme — No. L22

Yarra Planning Scheme — Nos. L65, L84, L85, L86, L87, L90

Yarra Ranges Planning Scheme — No. L76, L96, L97, L103, L104

Project Development and Construction Management Act 1994 — Orders in Council under sections 6 and 8 respectively and Statement under section 9 of reasons for making a Nomination Order (two papers)

Renewable Energy Authority Victoria — Report for the year 1997–98

Robinvale District Hospital and Health Services — Report for the year 1997–98 (two papers)

Rural Finance Act 1988 — Direction by the Treasurer to the Rural Finance Corporation to establish, operate and administer a scheme of assistance for persons affected by the floods in North-east Victoria in September 1998

Seymour District Memorial Hospital — Report for the year 1997–98

South Eastern Regional Waste Management Group — Financial Statements for the year 1997–98

Statutory Rules under the following Acts:

Accident Compensation Act 1985 — S.R. No. 8/1999

Administration and Probate Act 1958 — S.R. No. 143

Audit Act 1994 — S.R. No. 11/1999

Building Act 1993 — S.R. Nos. 148, 16/1999

Club Keno Act 1993 — S.R. No. 15/1999

Country Fire Authority Act 1958 — S.R. No. 161

County Court Act 1958 — S.R. No. 144, 145, 157, 158, 20/1999

Dangerous Goods Act 1985 — S.R. No. 153, 154

Dentists Act 1972 — S.R. No. 139

Drugs, Poisons and Controlled Substances Act 1981 — S.R. No. 159

Education Act 1958 — S.R. No. 7/1999

Fisheries Act 1995 — S.R. No. 1/1999, 9/1999

Forests Act 1958 — S.R. No. 146

Gas Industry Act 1994 — S.R. No. 19/1999

Gas Safety Act 1997 — S.R. Nos. 4, 5, 6/1999

Health Act 1958 — S.R. No. 21/1999

Land Tax Act 1958 — S.R. No. 156

Legal Practice Act 1996 — S.R. No. 14/1999

Liquor Control Reform Act 1998 — S.R. No. 13/1999, 18/1999

Local Government Act 1989 — S.R. No. 2/1999

Magistrates' Court Act 1989 — S.R. No. 137, 162, 163, 10/1999

Marine Act 1988 — S.R. No. 170

Meat Industry Act 1993 — S.R. No. 136

Melbourne City Link Act 1995 — S.R. No. 22/1999

Occupational Health and Safety Act 1985 — S.R. No. 138

Pay-roll Tax Act 1971 — S.R. Nos. 149, 3/1999

Physiotherapists Act 1978 — S.R. No. 167

Planning and Environment Act 1987 — S.R. No. 168

Podiatrists Registration Act 1997 — S.R. No. 155

Property Law Act 1958 — S.R. No. 166

Psychologists Registration Act 1987 — S.R. No. 147

Road Safety Act 1986 — S.R. No. 169, 17/1999

Tattersall Consultations Act 1958 — S.R. No. 15/1999

Transport Act 1983 — S.R. Nos. 140, 169, 171

State Superannuation Act 1988 — S.R. No. 12/1999

Supreme Court Act 1986 — S.R. Nos. 141, 142, 150

Tobacco Act 1987 — S.R. No. 160

Transfer of Land Act 1958 — S.R. Nos. 164, 165

Water Industry Act 1994 — S.R. No. 151

Wildlife Act 1975 — S.R. No. 152

Subordinate Legislation Act 1994 —

Ministers' exemption certificates in relation to Statutory Rule Nos. 137, 139, 141, 142, 143, 144, 145, 150, 156, 157, 158, 162, 163, 10/1999, 20/1999

Ministers' exemption certificates in relation to Statutory Rule Nos. 136, 146, 151, 153, 154, 155, 159, 160, 164, 165, 166, 167, 169, 170, 171, 1/1999, 2/1999, 3/1999, 9/1999, 12/1999, 14/1999, 15/1999, 16/1999, 17/1999, 19/1999, 21/1999

Tattersall's — Financial Report for the year 1997–98

Victorian Fisheries Co-Management Council — Report for the year 1997–98

Victorian Relief Committee — Report for the year 1997–98, together with an explanation for the delay in tabling

Youth Parole Board and Youth Residential Board — Report for the year 1997–98

The following proclamations fixing operative dates were laid upon the Table by the Clerk pursuant to an Order of the House dated 17 February 1998:

Building (Plumbing) Act 1998 — Remaining provisions (except for section 6) on 1 January 1999 (*Gazette No. S148, 11 December 1998*)

Drugs, Poisons and Controlled Substances (Amendment) Act 1988 — Remaining provisions on 31 December 1998 (*Gazette No. G49, 10 December 1998*)

Electricity Industry (Further Miscellaneous Amendment) Act 1997 — Sections 4(2), 6 and 8 (except paragraph (a)) on 13 December 1998 (*Gazette No. G50, 17 December 1998*)

Electricity Industry (Miscellaneous Amendment) Act 1997 — Section 11 on 13 December 1998 (*Gazette No. G50, 17 December 1998*)

Gas Safety Act 1997 — Remaining provisions on 1 February 1999 (*Gazette No. G3, 21 January 1999*)

Health Services (Further Amendment) Act 1998 — Section 6 on 21 December 1998 (*Gazette No. S148, 11 December 1998*)

Licensing and Tribunal (Amendment) Act 1998 — Remaining provisions on 1 February 1999 (*Gazette No. G51, 24 December 1998*)

Liquor Control Reform Act 1998 — Remaining provisions on 7 February 1999 (*Gazette No. S22, 16 February 1999*)

Melbourne Cricket Ground (Amendment) Act 1998 — Remaining provisions on 22 December 1998 (*Gazette No. S148, 11 December 1998*)

National Electricity (Victoria) Act 1997 —
Remaining provisions on 13 December 1998
(*Gazette No. G50, 17 December 1998*)

Patriotic Funds (Amendment) Act 1998 —
Remaining provisions on 1 December 1998
(*Gazette No. G47, 26 November 1998*)

Planning and Environment (Amendment) Act
1998 — Remaining provisions on 3 December
1998 (*Gazette No. G47, 26 November 1998*)

Printers and Newspapers (Repeal) Act 1998 —
Remaining provisions on 19 November 1998
(*Gazette No. G46, 19 November 1998*)

Racing and Betting Acts (Amendment) Act
1998 — Remaining provisions (except for sections
14 and 15) on 10 December 1998 (*Gazette
No. G49, 10 December 1998*). Sections 14 and 15
on 18 February 1999 (*Gazette No. G7,
18 February 1999*)

Rail Corporations (Further Amendment) Act
1998 — Sections 17, 18, 19, 22, 25 and 26 on
1 January 1999 (*Gazette No. G51, 24 December
1998*)

Road Safety (Amendment) Act 1998 —
Remaining provisions on 1 May 1999 (*Gazette
No. G11, 18 March 1999*)

Road Safety (Further Amendment) Act 1998 —
Sections 5(1), 8, 11 and 12 on 1 May 1999
(*Gazette No. G11, 18 March 1999*)

State Taxation (Further Amendment) Act 1998 —
Sections 12, 13, 14, 15, 27 and 30 on 1 February
1999 (*Gazette No. G3, 21 January 1999*)

Transport Acts (Amendment) Act 1998 —
Remaining provisions on 4 March 1999 (*Gazette
No. G9, 4 March 1999*)

Transport (Amendment) Act 1998 — Remaining
provisions on 8 December 1998 (*Gazette No. S145,
8 December 1998*)

Victorian Institute of Marine Sciences (Repeal) Act
1998 — Remaining provisions on 1 January 1999
(*Gazette No. S148, 11 December 1998*).

ROYAL ASSENT

Message read advising royal assent to:

17 November 1998

Accident Compensation (Amendment) Bill
Education (Amendment) Bill
Livestock Disease Control (Amendment) Bill
Superannuation Acts (Amendment) Bill
Transfer of Land (Single Register) Bill
Local Government (Governance and Melton) Bill

24 November 1998

Appeal Costs Bill
Chattel Securities (Amendment) Bill
Electricity Industry Acts (Amendment) Bill
Gaming Acts (Further Amendment) Bill
Gas Industry Acts (Amendment) Bill
Land Titles Validation (Amendment) Bill
Legal Aid (Amendment) Bill
Liquor Control Reform Bill
Local Government (Nillumbik Shire Council) Bill
Petroleum Bill
Racing and Betting Acts (Amendment) Bill
Rail Corporations (Further Amendment) Bill
Transport (Amendment) Bill
Victorian College of the Arts (Amendment) Bill

1 December 1998

Licensing and Tribunal (Amendment) Bill
Melbourne City Link (Amendment) Bill
State Taxation (Further Amendment) Bill
Melbourne Cricket Ground (Amendment) Bill

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Barley Marketing (Amendment) Bill
Environment Protection (Amendment) Bill

BUSINESS OF THE HOUSE

Grievances

Mr GUDE (Minister for Education) — I move:

That for the purposes of sessional order no. 4(1), Wednesday,
14 April 1999, be appointed a day upon which the question
‘That grievances be noted’ may be put.

Motion agreed to.

Correction of bill titles

Mr GUDE (Minister for Education) — I move:

That where a bill has passed through both houses and the
citation of the bill includes a reference to a calendar year
earlier than that in which the passage of the bill was
completed, the Clerk of the Parliaments be empowered to
alter the calendar year reference in the citation of the bill and
any corresponding reference within the bill itself to the year in
which the passage of the bill was so completed.

I point out that members will be aware that several bills
introduced in 1998 are still before the house for debate.
From now on any of those bills that are passed into law

will require adjustment so that the year expressed in the title reflects the year of enactment. The effect of the motion is that the Clerk of the Parliaments will be empowered to effect those minor changes prior to presenting bills for royal assent and so relieve the houses of passing purely formal amendments and exchanging messages on that account. A similar motion will be moved in another place.

I commend the motion to the house.

Motion agreed to.

Program

Mr GUDE (Minister for Education) — I move:

That, pursuant to sessional order no. 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 25 March 1999:

Magistrates' Court (Amendment) Bill

Statute Law Revision (Repeals) Bill

Public Sector Reform (Further Amendments) Bill

Environment Protection (Amendment) Bill

Barley Marketing (Amendment) Bill

Motion agreed to.

PERSONAL EXPLANATIONS

Mr ROBINSON (Mitcham) — I wish to make a personal explanation. In response to a question during question time on 29 October last the Deputy Premier made a number of claims concerning my father-in-law, Mr David George, which were incorrect. The Deputy Premier claimed that legal action at the National Flower Centre involved my father-in-law, who was described as a solicitor. At a further point in the Deputy Premier's response it was suggested that my father-in-law was leading a cabal with a political agenda. His comments were totally incorrect.

For more than 50 years my father-in-law has been self-employed as a flower grower and has never been, or claimed to be, a solicitor; nor is he or was he at the time the statement was made involved in any legal action against the National Flower Centre. He has not led any action, legal or otherwise, by flower growers.

I also wish to make a further personal explanation. On 10 March 1999 an article appeared in the *Whitehorse Post* quoting me in relation to state government roads policy. Although most of the article accurately reflected

the comments contained in the press release I had sent the newspaper, the opening and closing paragraphs grossly misrepresented my position. The first paragraph of the article states:

Stud Road could soon become a toll road according to one MP —

namely, me. I have never made such a claim. Rather, my claim was that the delays in widening Stud Road pointed to the much-talked-about Scoresby Freeway being approved — —

Mr Gude — Mr Speaker, I hesitate to raise a point of order when a member is making a personal explanation; I do not think I have ever done so before. However, it is usual that a member's personal explanation be relevant to a matter raised in this place. It appears the honourable member is now directing the attention of the house to something quite extraneous to Parliament. I question whether this is the appropriate place for such an explanation.

The SPEAKER — Order! There is clear precedent about a member alleging he or she has been misrepresented, particularly in the print media. In the past a member has had the opportunity to correct that incorrect statement. He or she is not allowed to lead argument but only to make a statement about where he or she has been misquoted. There is no point of order.

Mr ROBINSON — The final paragraph in the article quotes me as having said that increased public funding is needed for public roads like Scoresby Road. I have never made such a claim about Scoresby Road. My press release referred primarily to the need for increased public funding for roads such as Stud Road.

MAGISTRATES' COURT (AMENDMENT) BILL

Government amendments circulated by Mrs WADE (Attorney-General) pursuant to sessional orders.

Second reading

Debate resumed from 29 October 1998; motion of Mr GUDE (Minister for Education).

Mr HULLS (Niddrie) — The opposition vehemently opposes this outrageous and totally inappropriate legislation. The bill yet again shows the Attorney-General's lack of understanding of the committal and appeals processes in this state. As I have said previously, this type of legislation would make Dr Mahathir proud. It is an indictment on the

government and of all government members who support it.

Mr Perton — Do you oppose every paragraph?

Mr HULLS — I will not take up the inane interjection of the current member for Doncaster. If he had read the legislation properly and understood it, if he had been involved in the court process, if he had represented clients, particularly Aboriginal clients, or if he had done any legal aid or duty solicitor work, he would know it is an abhorrent piece of legislation that should not be supported by any fair-minded citizen.

I expect a public outcry when it becomes clear exactly what the legislation proposes. The Attorney-General slips it into this place on the first day of the new sessional period after having given an undertaking — at least her office gave an undertaking to my office — that the debate on the second reading of the bill would not be resumed in the first three days of the sitting on the basis that the opposition had to be given a further briefing. Despite that undertaking, not only has the debate been resumed but a range of amendments are proposed on which the opposition has not had time to be briefed. It is an abhorrent piece of legislation that shows a complete lack of understanding by the Attorney-General of the committal and appeals process.

Before getting into the nuts and bolts of the legislation, I remind honourable members opposite that the legislation proposes a term of imprisonment of up to three months for any person who decides to exercise his or her right of appeal against conviction or against what the person believes to be an inappropriate sentence. In the past if a person sentenced to a term of imprisonment decided to appeal the decision in the belief that the term was inappropriate or that he or she had been wrongly convicted, any time spent in gaol up to the time of the appeal was taken into account in the final sentence. In other words, it was not dead time — it was time that a judge took into account when imposing the final sentence.

The bill reverses that situation and provides that up to three months of the time a person spends in gaol pending an appeal need not necessarily be taken into account in any final sentence. It means a person can get up to three months gaol for simply exercising his or her democratic right of appeal. It is an absolute outrage, and I expect it does not occur anywhere else in Australia.

The legislation has been introduced because the Victorian and federal Attorneys-General have not been able to get their act together on legal aid. There is a legal aid crisis in Australia and the Victorian

Attorney-General's way of being seen to attempt to fix that crisis is to put more people in gaol and prevent them from appealing against their sentences, thereby stopping requests for legal aid in relation to such appeals. The Attorney-General ought to know — she will find out in due course — that that will make the legal aid crisis worse.

In the past the Attorney-General has pranced around the state prior to elections pretending to be tough on law and order and sympathetic to the victims of crime. In reality she is weak on law and order and does not give a damn about the victims of crime. She will go down in history as the Attorney-General who took away compensation for pain and suffering for innocent victims of crime in Victoria. That will be her epitaph —

Mrs Wade interjected.

Mr HULLS — The Attorney-General says, 'Are you still going to introduce it?' The answer is yes. Labor cares about victims; you don't give a damn about them. You should make that quite clear. Tell all your colleagues and all the victims groups that Labor will reintroduce compensation for pain and suffering for victims of crime. Write it down! Labor will do that. Just so you will not forget, each time I come in here and talk about the victims of crime, I will tell you that Labor will reintroduce compensation for pain and suffering for the victims of crime. It is in Labor's policy document. It is a pledge Labor has made, and it will do it. The fact is that you are weak when it comes to law and order and you are vindictive when it comes to the victims of crime.

The ACTING SPEAKER (Mr Richardson) — Order! The honourable member has been in this place — and in federal Parliament — long enough to know that if he uses the expression 'you' when making a speech to the house he is referring to the Chair. The honourable member also knows that the Chair regards that as a very serious breach of protocol and a sign of great disrespect to the Chair. I ask him to bear that in mind.

An honourable member interjected.

The ACTING SPEAKER (Mr Richardson) — Order! It is also disrespectful to the Chair to have interjections of any kind immediately following the sorts of remarks the Chair has just made.

Mr HULLS — Thank you, Mr Acting Speaker. I meant to say that the Attorney-General is weak on law and order and has no respect at all for victims of crime, despite prancing around the state pretending to care

about victims. The Attorney-General does not give a damn about victims.

It is not surprising that the Kennett government has introduced this type of legislation during this session of Parliament. The bill has all the hallmarks of the Kennett regime, just as the recent legislation to abolish compensation to victims for pain and suffering has all its hallmarks. The legislation is really about fixing a perceived problem with a sledgehammer. It is designed to resolve difficulties by simply removing the rights of Victorians in the criminal justice system.

Before I go to the nuts and bolts of the legislation I refer to the supposed consultation process that has surrounded this bill. In the past the Attorney-General has said that she is introducing this legislation after consultation with the legal profession, the judiciary and relevant stakeholders. She is on the record as saying that the Court of Appeal requested certain amendments. I understand in more recent times the Attorney-General has backed off from that proposition. I also understand that that proposition has been rejected outright by the Court of Appeal. The Attorney-General is now saying that the legislation comes from a warped reading of a few judgments by members of the Court of Appeal. It in no way reflects official policy proposals by the Court of Appeal.

The bill concerns the legal profession deeply. As members of Parliament — and I am sure most opposition members are in the same boat, as were most government members when they were in opposition — we often look for leaks coming out of members' offices or government departments. From time to time we get leaks and are able to use those leaks to politically embarrass the government. I have never received as many leaks on legislation as I have concerning this bill. I suppose the only comparison would be with the DPP bill in 1993, which the Attorney-General well remembers.

Much concern has been expressed about the bill. Prior to its introduction so many copies of it were sent to me that I would walk outside my front door and expect a tip truck to be there with more and more copies of the bill. Many Victorians are so gravely concerned about this draconian legislation that it has been very easy for the opposition to get a copy of it. The deep concern the community has with the legislation is shown by the multiple copies that arrived almost on a daily basis with clauses underlined and with words such as 'appalling' and 'draconian' written beside them.

As a result of the leaks I understand the Attorney-General subsequently engaged in a

witch-hunt, which seems to be an outrageous act by a person who sees consultation as an act of treachery. The Attorney-General is not looked upon kindly for her understanding of the term 'consultation'. I also understand from further leaks that the Attorney-General had her staff ring around the legal profession demanding to know who leaked the bill and informing them of the likely consequences for the culprit. To ascertain who leaked the bill the Attorney-General would need to make many phone calls because many copies of the bill kept landing on my desk almost daily. I expect I know some of the people who forwarded the bill on, although it is really guesswork. I suspect that some of those people were decent honest government members with grave concerns about the way the Attorney-General is moving with her reforms of the legal profession, and her proposal to impose a gaol term on people who want to exercise their democratic right of appeal.

The lack of consultation process has been attacked roundly by the Law Institute of Victoria, by the Federation of Community Legal Centres, by the Victorian Bar Council, and on and on the condemnation goes. The Federation of Community Legal Centres has made a fairly substantial submission about the legislation. In its submission dated January 1999 the federation states:

At the time of its tabling in Parliament —

that is, the tabling of the bill —

the federation also expressed considerable dissatisfaction with the purported process of consultation up to that point in time. The Attorney-General asserted that the so-called reforms outlined in the tabled legislation had been developed after extensive consultations ... The 'extensive consultation' was undertaken with various members of the legal profession, including Supreme and County court judges, and magistrates, and was conducted under the provisions of parliamentary privilege. This effectively silenced those 'consulted' from speaking out publicly on the provisions of the draft legislation, seeking public input into the legislation, or encouraging public debate on these issues.

Upon becoming aware of the proposed bill the federation approached the justice department to provide input into the legislation. The federation was invited to view the bill on the condition that it, too, would be bound by parliamentary privilege. The federation is of the view that an organisation which represents 40 community legal centres in Victoria, with in excess of 250 voluntary community management committee members, 750 volunteer workers, in excess of 200 paid workers, and having assisted in excess of 40 000 clients who have difficulty in accessing their rights under the legal system in the last financial year, that such a process is clearly inappropriate.

Who would blame the Federation of Community Legal Centres for taking that view? It can consult and look at

the bill but it is not allowed to talk to anybody. The federation is not allowed to get any input from anybody. What sort of outrageous consultation is that supposed to be?

Mrs Wade interjected.

Mr HULLS — The Attorney-General says that the bill has been in Parliament for a long time. I would have thought that consultation with the relevant stakeholders should occur prior to drafting the bill. Otherwise you find, as this Attorney-General has found on many occasions, that you waste Parliament's time by coming back time after time, moving amendment after amendment to legislation. You consult before you bring the legislation in, prior to drafting it and not after. It is as simple as that.

Similarly, the Victorian Law Institute was forced to go public about the lack of consultation. The president of the Law Institute, Mr Andrew Scott, was reported in the press on 5 November 1998, when the legislation was introduced, as saying:

A recent example of how the detail warranted criticism was in the appeals provisions of the Magistrates' Court (Amendment) Bill.

The method chosen by the government in this bill to discourage what it says is an excessive number of unmeritorious criminal appeals was to give the court a discretion it had previously not had; a discretion to say to the person appealing that if the appeal failed and they had served part of a gaol term between their original conviction and the appeal, then up to three months of that time served could be ignored when considering their sentence.

Mr Scott continues:

Most lawyers I have spoken to think this is wrong. If there is a problem with unmeritorious appeals, let's work out other ways of discouraging them. The Attorney-General has publicly stated that the judges of the Court of Appeal requested this change and that she did, in fact, consult the legal profession. I am certain that not all Court of Appeal judges have requested that the changes be made.

All the more reason, then, why when that particular legislation was introduced, a worthwhile consultation process ought to have been observed by the government. The offending words would have been more likely to come to light then rather than now ... Mind you, this did not stop the Attorney-General from threatening lawyers and others with contempt of Parliament for talking publicly about impending legislation ... It is a powerful disincentive against appealing. It should be subject to a thorough community debate. We should not, as the government wishes, have the legislation introduced and then discuss amendments — surely an extraordinary way to go about business for a government committed to efficiency.

I reinforce the point made by Andrew Scott. You do not introduce legislation without proper consultation and

then say, 'We will consult after introducing the legislation', because you will then have to bring it back and move amendments. That is how the Attorney-General goes about her business. She comes up with a half-baked, draconian idea, drafts a piece of legislation based on that idea, and then threatens a contempt action against members of a stunned legal profession if they decide to speak out against it.

The only reason that the legislation is not law today is that details of it were leaked and there was community outrage at the proposals. If the legislation had not been leaked it would now be law; it is as simple as that. However, the Attorney-General was caught with her pants down, so to speak, and the legislation was leaked. The Attorney-General had to throw her hands up in the air and say, 'My God, I've been sprung again, just as I was with the DPP legislation. I had better put up a facade of consultation. I had better say this is just a draft piece of legislation and that I want to hear people's views'.

The truth is that the Attorney-General had no intention to consult. She simply wanted to ram the legislation through and be seen to be tough on crime. However, not only is the Attorney-General not tough on crime, she does not understand the way the Victorian criminal justice system works.

One must ask why the legislation is being introduced. The opposition is of the view that it is being introduced in direct response to the legal aid crisis in Victoria. In the past, the Attorney-General has given a two-tiered defence to the legal aid crisis. Firstly, she stated that there is no legal aid crisis in Victoria, and from time to time in the past the Legal Aid Commission has said there is no legal aid crisis in Victoria. However, there has been a shift. The Attorney-General now says there is a legal aid crisis in Victoria, but that it is not her fault — it is the commonwealth government's fault.

Now the Attorney-General comes into the house with legislation that she says is about efficiency. That is not what the legislation is about. It is about alleviating the pressure points of her legal aid crisis by yet again removing the rights of ordinary Victorians.

Members of this place should be aware of the background to the legislation. I doubt whether many members, particularly on the other side of the house, understand the nuts and bolts of the legislation. The critical importance of legal aid and legal representation in the criminal justice system was best described by Mr Justice Brennan in the famous Dietrich case:

An entitlement to legal aid would be an important safeguard of fairness in the administration of criminal justice. A society

which secures its peace and good order by the administration of criminal justice should accept, as one of the costs of providing a civilised society, the cost of providing legal representation where it is needed to guarantee the fairness of a criminal trial.

It could not be put more simply than that. Any democratic, fair society needs an appropriate system of legal aid to ensure that the most disadvantaged can have access to affordable justice. Mr Justice Brennan was making a fundamental point about our system of justice and our society. He was stating that any civilised society must provide legal representation for those who cannot afford it to ensure that their rights are not trampled on. If that is not the case there will be a two-tiered system of justice in Victoria and Australia.

It is fast becoming the case in Victoria that there is one system of justice for the wealthy and another for the poor. There is the Rolls Royce system for the Elliotts and the Lloyd Williamses of the world, but when it comes to the Barry Battlers out in Broadmeadows, that is just bad luck — they have to fend for themselves.

In 1997 the strain of state and federal government legal aid cuts began to cripple the Victorian justice system. This was noted by the Supreme Court of Victoria in its 1997 annual report in what was an unprecedented statement. The court stated:

It is already clear that there are many more unrepresented applicants before the court than used to be the case in previous years.

On one view, that is a political statement. The judges were saying, 'Look, the current system is not working and there are more and more people appearing before our courts who are unrepresented'. The judges commented that in Victoria the pro bono scheme basically relied on a number of barristers who, thankfully, had donated their time to relieve the crisis.

The Attorney-General does not give enough credit to those members of the legal profession who annually do thousands of hours of pro bono work for disadvantaged members of the community. They realise that the legal aid system is in crisis and they are not prepared to stand by and allow it to crumble. The barristers are prepared to put in thousands of hours and thousands of dollars worth of work to prop up Victoria's ailing legal aid system.

In the annual report the judges went on to comment:

It should not be thought that such a scheme, which depends upon the goodwill of qualified persons whose services have been given at short notice, can be an adequate substitute for fully funded legal assistance in a case which requires it.

The judges are saying, 'Thank goodness for the pro bono work of the barristers who are propping up the system, but this cannot go on forever; it should not become entrenched in Victoria's criminal justice system'.

In January 1998 it was reported that half the persons appearing before the Court of Appeal were unrepresented. That is an extraordinary number, and I do not know how many honourable members understand that. I do not know how many members of the house have appeared in court either as defendants, acting for clients or representing themselves in civil matters, but it is a daunting experience. I am sure the honourable member for Doncaster has had that experience — appearing, I hope, for his clients and not for himself.

Opposition members have read reports by the honourable member for Doncaster, who appeared in several FOI matters. We have learnt from his mistakes that it is not advisable to appear for an opposition at a royal commission because one is likely to stuff it up and become the issue rather than just the representative of the opposition.

It was suggested that some honourable members, including me in my position as the shadow Attorney-General, should represent the opposition at the Longford royal commission. However, I used the Victor Perton defence. I was able to show my colleagues that it would be a mistake. What the honourable member for Doncaster did may have been in his interests and he may have received a good deal of publicity, but it was not publicity that any honourable member would want. When my colleagues read what the honourable member for Doncaster had done they laughed and told me not to be a fool like Victor.

Appearing in a court or representing someone is a daunting experience, whether it is before a royal commission or before a tribunal on an FOI matter. No-one should have to appear unrepresented in a court of appeal where the result will decide whether that person's life or liberty is at stake. Clearly in 99 per cent of instances an appropriate case cannot be presented unless there is representation. As a result of the legal aid crisis some 50 per cent of people who appear before the Court of Appeal represent themselves. That problem must be fixed, but it will not be fixed by the imposition of a term of imprisonment on people who decide to exercise their right of appeal.

Certainly fewer people will appeal because of the threat of having to spend three months in gaol, but does that make the legislation right? Three years from now the

Attorney-General will be saying that no-one who appears before the Court of Appeal is unrepresented, but that will be because people are petrified to appeal under threat of having to spend three months in gaol. That is not the way to fix the problem. The way to fix it is to ensure that more people obtain either representation or legal advice about whether they should appeal in the first place.

I recall when I represented Aboriginal clients in criminal matters in north-west Queensland hearing stories of people who were given up to two weeks in gaol for a first offence of being drunk and disorderly in a public place. That is an outrageous sentence, and when the duty solicitor found that that had occurred he or she would more often than not whack in an appeal. Why wouldn't you do that? Although the way rough justice worked in north Queensland meant it was often difficult to obtain bail pending such an appeal, at least the person would know that any time spent in gaol would be taken into account.

Mrs Wade interjected.

Mr HULLS — Although the Attorney-General says it is not relevant in Victoria, I say the philosophy behind the legislation makes it relevant. People should not be denied their democratic right to appeal. Because few people obtain legal aid at the first instance many do not know their legal rights. In such cases a term of imprisonment may be imposed, and because those involved receive no legal assistance and are not consulted about whether the sentence is appropriate, they whack in an appeal, as is their right. The Attorney-General now says that if such people wish to withdraw their appeals — I will turn to that shortly — they can be punished. If they decide to proceed the threat of three months in gaol hangs over their heads. What kind of society is being created with this legislation?

I have received a letter dated 5 November 1998 from the Victorian Aboriginal Legal Service concerning the proposed legislation. A copy of the letter was sent to all honourable members. It is signed by the chief executive officer, James Christian, and states:

The Victorian Aboriginal Legal Service does not normally become involved in political debate as it is something best left to Parliament. However, the Magistrates' Court (Amendment) Bill is something that we are concerned about and we thought that we would write to each member of Parliament explaining our concerns. The provisions we consider would bring disquiet to any citizen.

Boy, are they right! The letter continues:

However, we do not consider that people should receive imprisonment for what is basically a procedural mistake.

The letter further states:

For that reason a significant number of people may be represented by duty solicitors or in some cases by no solicitor at all.

If they receive a heavy punishment (such as gaol) then quite often they will appeal.

That is what I was talking about. The letter continues:

The decision to appeal may be made without legal advice in the case of people who are sent to prison or with advice that is flawed.

The letter further states:

In a similar way receiving a term of imprisonment is something which causes shock and often means that a person will for a time have trouble taking in information. In those circumstances it is not surprising that appeals are put in that are later withdrawn.

That is not surprising. People who represent themselves at court will get a shock if a term of imprisonment is imposed on them. Such people will be locked in the local watch-house not knowing where they are and will have no opportunity to contact family or friends. They will see the local copper at the police station and that is often where they will receive their first advice about what they can and cannot do. They will be advised that they can lodge an appeal, and they will do so because they want to get out of the place or speak to a family member. The bill says, in effect, 'Whack in your appeal, but you will be punished if you decide later to withdraw it. If the appeal is unsuccessful you may also receive three months in gaol'. Only an uncivilised society would take away the democratic right of a person to appeal.

The letter continues:

We are concerned that the changes do not appear to be required by any objective analysis of the case load of the County Court and that the venture is, overall, tied to using the threat of increased imprisonment to prevent people exercising their right of appeal.

The Aboriginal Legal Service is spot on! The legislation is all about imposing the threat of a term of imprisonment to prevent people exercising their democratic right of appeal.

Earlier I quoted some figures from January 1998 that showed that half of the people who appeared before the Court of Appeal were unrepresented. In June of 1998 that figure was quoted in the inquiry into the Australian legal aid system of the Senate's Legal and Constitutional References Committee. That appalling

state of affairs was caused by the implementation of strict legal aid guidelines in response to cuts to legal aid. The guidelines state that assistance for appeals is available only where a sentence imposed is manifestly excessive. The evidence from lawyers is that Victoria Legal Aid is applying that test in the toughest possible way.

It may well be that because of the legal aid cutbacks Victoria Legal Aid has no choice. However, lawyers have told me that the guidelines are applied in the toughest possible way and that people are simply not getting assistance. As a result they are appearing unrepresented before the courts. Mr Geoff Masel, Chairman of Victoria Legal Aid, admitted that when he stated recently:

The time has now arrived where VLA can conscientiously say we have done our best and we can't manage into the future ... If you want us to continue to meet our statutory obligations to provide legal aid in the most effective economic and efficient manner, we will need more money.

It is as simple as that — Victoria Legal Aid will need more money. The 1997–98 annual report contains Geoff Masel's comments on its perilous position:

My real concern is that VLA will not be capable of meeting the expected demand for legal assistance in 1999–2000 unless there is a significant increase in Victorian funding for state law cases (which VLA has requested) or a dramatic reduction in the range and scope of VLA's activities.

It must be understood that legal aid is a joint state–federal responsibility. However, the guidelines have changed. If strictly applied, federal contribution can now be used only for federal matters. As a result, the Attorney-General says, 'We simply do not have enough money to fund matters that come under the state jurisdiction'.

That is not good enough. A state Attorney-General cannot just throw his or her hands in the air and say, 'Federal funding is to be used for federal matters, but I will not find any more money for state matters. I will blame the feds'. That is an abrogation of his or her responsibility to the citizens who have to appear before courts on state matters. It is a non-argument that does not make sense, particularly when on the one hand the government's priority —

Mrs Wade interjected.

Mr HULLS — It is not an argument she has made succinctly. The Attorney-General has attempted to make the argument, and not very well.

The government has a warped sense of priorities. On the one hand it is able to hand out approximately

\$73 million and waive penalties for the casino, yet on the other hand it cannot find any more money for legal aid to assist the most disadvantaged members of the community.

The legal aid crisis provides the background for the legislation. The Attorney-General knows there is a crisis in legal aid. As a result Victoria Legal Aid has decided to reduce — and has reduced — its activities. To take the pressure off Victoria Legal Aid and prevent the spectacle of unrepresented defendants appearing before higher courts the Attorney-General is now launching a legislative agenda to remove the rights of Victorians to appeal, free of fear or sanction.

What sort of message would be sent to the Victorian community if just prior to an election judges were to go public and say, 'We have a crisis in the criminal justice system because unrepresented people are appearing before us daily.'? It would send an ugly message to the Victorian community, particularly when the Attorney-General is pretending to be tough on law and order in the lead-up to the election. It would not be much good if, on the one hand, judges say, 'It is a joke; people are appearing unrepresented before the courts' and on the other hand the police say, 'It is a joke; you have taken a thousand of our members away'. How could the government then be seen to be tough on law and order?

The Premier said the government will review police numbers. I would be interested to hear who will head the review and what it will reveal. However, the Attorney-General has said she will fix up the crisis in legal aid by punishing people if they decide to appeal. It is a two-pronged attack. On the one hand the Attorney-General is sanctioning people for exercising their democratic legal right and on the other hand the Premier is massaging the police problem. The government's actions on law and order will be clearly found out. It is a joke. You do not take away the democratic rights of Victorians and pretend to be tough on law and order. With this bill the Attorney-General is accepting that she is more than happy to take away the democratic, human rights of Victorians by hiding the legal aid crisis in this state. And that applies to anyone who supports the bill.

The legislation is primarily designed to intimidate, threaten and force people convicted and sentenced for crimes not to appeal against their sentences. Any individual who understands the justice system in Victoria would know that from time to time magistrates or judges from the County or other courts hand down sentences that are not in line with either the court practices or community expectations. On occasions

both the Attorney-General and the Premier have expressed dismay about sentences handed down on certain matters.

As the shadow Attorney-General I am firmly of the view that it would be inappropriate to tamper with judicial discretion in sentencing. However, judges are human. From time to time they get it wrong and pass sentences that are not necessarily in line with community expectations. A number of judges in a range of jurisdictions have informed me that from time to time they have had to overturn sentences imposed by the Magistrates Court, particularly those imposed by magistrates gaoling Aboriginal youths in regions where gaol was clearly an inappropriate and, on one view, unjust punishment.

Our criminal justice system has an appeals system so that, irrespective of his or her gender, race, class, or geographic location, no individual before our courts is treated differently. However, the bill strangles the appeals process by placing a sign in front of the most vulnerable members of our community that says, 'If you want to exercise your rights, suffer the consequences'. It is as simple as that.

Mr Haermeyer interjected.

Mr HULLS — The honourable member for Yan Yean makes an interesting interjection, which I take seriously. Unfortunately when one looks for the reasons behind the bill's introduction one comes up only with sinister ones. The crisis in legal aid is one.

One must ask whether the legislation fits into the government's privatisation agenda and whether stopping people from appealing against their sentences, which will no doubt ensure that more and more people go to gaol, is not simply playing into the hands of the privatised prison system in this state. It is playing into the hands of organisations or companies such as Group 4.

Mr Haermeyer — To prop up their profits.

Mr HULLS — As the honourable member for Yan Yean says, to prop up their profits. The Attorney-General has not produced any figures to justify the bill. She has not produced any figures to show that the number of frivolous or abandoned appeals is growing. Nor has she produced any documentation from the Court of Appeal or any Victorian court to show that they have grave concerns about the number of appeals coming before them. All she has produced are statistics to show that about half the number of people appearing before the courts are unrepresented.

One of the key features of the appeal process in the past has been that warnings have been given to convicted persons who appeal against decisions that they may have their sentences increased. That has always been a protocol of the appeal process. Often judges have given that warning to provide a firm indication that the appeal may not be meritorious. It is fundamental for both efficiency and natural justice. In *Brand v. Parson* (1994) 1 VR at page 252 Mr Justice Coldrey of the Supreme Court stated that when a County Court judge on appeal fails to give an intimation that he or she contemplates increasing the custodial sentence imposed by a magistrate on the appellant, there is a failure of procedural fairness because the appellant has not been alerted to his or her situation of jeopardy, and has not been given the opportunity of formulating a response.

That has been the law — the protocol followed. That principle was also discussed in *Parker v. DPP and Anor.* (1992) 28 NSWLR at page 282. In that case High Court judge Mr Justice Kirby stated:

There is an established practice or convention in District Court appeals under section 122 that a judge, contemplating an increase in the sentence under appeal, will signal that possibility to the appellant ... Although it is not a rule of law, it is an established practice. It should rarely, if ever, be departed from. The basis for the practice is to be found in a species of the double-jeopardy principle.

If a person appeals against a sentence because he or she believes it is too long or inappropriate, it has always been fair for the appeal judge to state that, although the person may proceed with the appeal, on the facts before the court it is not only unlikely to be successful but there is a possibility that the sentence will be increased. In the past a person has been able to abandon his or her appeal on the basis of that direction. The bill strikes at the heart of procedural fairness by removing the requirement for a judge to provide a warning to an accused that he or she could incur an increased sentence without any opportunity being given for the accused to argue why the sentence should not be increased. The bill precludes a judge from warning people that if they proceed with the appeal, they may incur an extra two to three months or two to three years on their sentence. In effect, the accused is given little choice but to proceed with the appeal. Serious questions have been raised at the government's Scrutiny of Acts and Regulations Committee about the constitutional validity of some of the amendments, and it is extraordinary that the bill is before the house given that those questions have not been resolved.

Clause 14 is one of the many clauses opposed by the Federation of Community Legal Centres. The federation in a submission states as follows:

The federation is concerned that this proposed amendment may lead to situations of procedural unfairness where an appellant has not had access to legal advice or representation for either his/her Magistrates Court hearing or the appeal. In such circumstances, the appellant will be unaware of the potential risk that his/her sentence may be increased on appeal, and by virtue of the amendments proposed in section 14 of the Magistrates' Court Act 1998 will be prevented from abandoning his or her appeal.

In the last statement the federation alludes to the next aspect of the bill that I wish to discuss — the abandonment of appeals. The bill not only removes the right of an individual to be warned that his or her sentence may be increased, it limits the circumstances whereby appeals can be withdrawn. Clause 14 provides that a person can only abandon an appeal against a sentence in exceptional circumstances. That means that a person who wishes to withdraw an appeal may need to show exceptional circumstances for doing so at another full-blown hearing. The Attorney-General claims that the bill will increase efficiency, yet it makes absolutely no sense that a person will need a full-blown hearing with witnesses called to explain why they wish to withdraw their appeals.

The Victorian Bar Council has attacked the clause by stating:

It is the view of the Bar Council that clause 14 is manifestly unjust, and will undoubtedly have the effect of increasing the expense, to the parties and to the public, of criminal appeals. The implementation of clause 14 would be likely to have the effect of tying up more court time rather than have the intended effect.

I believe that is absolutely right. How can the Attorney-General say on the one hand that she is introducing legislation for efficiency, yet on the other hand implement a clause that will lead to more court time being taken up to decide whether a person has a right to withdraw his or her appeal? It is absolutely ludicrous, and shows that the Attorney-General fails to understand how the criminal justice system works and has worked in Victoria.

Under the present system the judge can warn defendants that they may cop an extra whack, following which they can withdraw their appeals. The system is as simple as that, and it is enshrined in case law. However, under the bill defendants who decide they should withdraw their appeals will have to undergo hearings to determine whether they will be allowed to withdraw. The system will be a waste of court resources. It is unjust, inefficient, and, because of the legal aid crisis, patently ludicrous.

Defendants who decide to withdraw their appeals will be told they will have to go through full-blown hearings

to ascertain the merit of their being allowed to withdraw — and they will seek legal aid for those hearings. The Attorney-General has not followed this through. There are no funds in the legal aid budget to allow such people to be represented. Therefore those people will be representing themselves; therefore the hearings will take longer; therefore courts will be even more clogged up; and therefore Victoria will have an even more inefficient justice system. Therefore it is bad legislation. That is why the opposition does not support it, and that is why the Attorney-General should have taken advice from the Bar Council, the Law Institute and the Federation of Community Legal Services instead of locking herself in a tower of power over in the marbled Treasury Place with a few of her advisers.

Mrs Wade interjected.

Mr HULLS — 'Reconstituted granite from Italy', says the Attorney-General. I do not know whether we are talking about the Attorney-General's advisers or the building. In any event, the Attorney-General needs to take advice from a wider circle than her inner sanctum of advisers. The members of her inner sanctum have not been out in the real world. They do not know what is happening in the criminal justice system; they have not been out to rural Victoria to represent people in bush courts; and they have not appeared for appellants in courts of appeal. They have not been practising law in the real world; instead, they have been working their way up through the Department of Justice, in the main kowtowing to the Attorney-General. As a result they have given the Attorney-General the advice they think she wants to hear — but it is wrong advice!

Members should speak to the honourable member for Doncaster about the bill. In his honest moments he gives advice without fear or favour. He will tell you that it is inappropriate to impose gaol sentences of up to three months on persons simply because they want to exercise their rights of appeal. He may well support the bill — he is a team player, and good luck to him — but the fact is that when this type of legislation is mentioned to him around the corridors of this place he just shakes his head and says, 'Don't look at me. It's her again!'. Many members on the government side are sick of saying 'It's her again'. They are just waiting for the moment when the Attorney-General decides to make the formal announcement that she is off and out of this place. There will be a queue wanting to jump in, have no doubt about that — and I can name them if anyone wants me to.

I see the smiling face of the parliamentary secretary for justice, who represents the unsafe seat of Berwick. As we read in the weekend newspapers, he is one of the

chosen few who are ready to jump into ministerial positions — and we know which one he wants! But you cannot be a minister if you are in opposition; and more than that, you cannot be a minister if you ain't got a seat! The local ALP candidate, Mr Phil Reid, will ensure the honourable member for Berwick will not be a minister. Nevertheless, I advise the honourable member to stay in the queue, because it is growing longer. At the head of the queue is a member in another place who is desperate to jump in. That member is just waiting for the Attorney-General to make the announcement, which I expect is not far off.

Mrs Wade interjected.

Mr HULLS — The Attorney-General says that after she leaves she will miss the opportunity of sitting here listening to me. Have no doubt, I will send her copies of *Hansard* so she knows exactly what is said when, as Attorney-General and on a bipartisan basis, I decide to use her talents by appointing her to a tribunal such as VCAT, where she would be in a position to make decisions on the future opposition's FOI requests. If she did not feel up to being a member of the Victorian Civil and Administrative Tribunal, I am sure we could find her a tipstaff's position. That depends on her not having already appointed herself to the Supreme Court bench! The rumours are rife that she will shortly jump from her position as Attorney-General, sit on the back bench for a short time, and then have the honourable member for Berwick, who will replace her, appoint her to the Supreme Court bench. I expect that to happen in the not-too-distant future.

The Victorian Bar Council has made it clear that clause 14 is manifestly unjust. As I said, under the current system judges can warn defendants that if they appeal they may cop an extra sentence, and as a consequence the defendants can withdraw their appeals. But under the system proposed in the bill defendants who want to abandon their appeals will have to undergo hearings to determine whether they should be allowed to withdraw. The proposed system is ludicrous and inefficient.

The bill also deals with the sentencing of non-appearing defendants. Many defendants will simply not appear at their appeals for fear of the consequences, including being forced to make submissions to County Court judges as to why they want to abandon those appeals — something that would be extremely daunting for many Victorians. Under clause 9(2) and (3) in part 3 the County Court is given the power to uphold any convictions and determine sentences without the burden of having the defendants appear in court. In other words, if defendants do not turn up because they are

scared or intimidated, judges can dismiss their appeals or increase their sentences. It is extraordinary that a criminal court can be allowed to make a finding of criminal liability and impose a sentence in the absence of the defendant.

The other part of the bill that causes the opposition grave concern is the one allowing the awarding of costs against defendants. The attack on appellants does not stop with the threat of terms of imprisonment. The bill also allows the County Court to award costs against an appellant if the court believes the action is vexatious or frivolous. It is important to note that the clause applies to convictions and sentencing. The court will now be able to hear a matter *de novo* from the Magistrates Court and then award costs against the defendant for bringing the action.

The proposed legislation can have only one result; it is designed to target people who are not wealthy — that is, those who simply cannot access the Rolls-Royce end of the judicial system and are not wealthy members of the Liberal Party. It is designed simply to frighten poor people from appealing. It is outrageous, draconian and possibly breaches article 14.5 of the International Covenant on Civil and Political Rights, which provides that:

Everyone convicted of a crime shall have the right to a conviction and sentence being reviewed by a higher tribunal according to law.

The legislation proposes limiting that right.

Mr Perton interjected.

Mr HULLS — The legislation will limit that political right by using sanctions of the state to threaten with imprisonment or potentially massive costs a person who exercises that right. As the honourable member for Doncaster is a student of international covenants, he must have read on many occasions the International Covenant on Civil and Political Rights. By interjection, he says that the proposed legislation will not limit the right of a person to have a conviction reviewed by a higher tribunal. The legislation proposes restricting that right. The spirit of the international covenant is that a person should have an unfettered right to appeal against a conviction of a crime. The law should not be such that a person has to pay \$1 million to access the right of appeal. Surely that is not what the international covenant is all about. The law should not provide that a person has a right to appeal but that that right is exercised along with the threat of being beheaded. I am sure that the honourable member for Doncaster would agree that such a provision would be inappropriate.

The bill goes close to breaching the international covenant because under its provisions a person exercising a right to appeal has hanging over his or her head not only a threat of criminal sanction or of going to gaol but also of massive legal costs being awarded against him or her if the appeal is unsuccessful. As I said, the proposal will remove the unfettered right of appeal and may breach the International Covenant on Civil and Political Rights.

I should be interested to hear the Attorney-General in her summing up give her interpretation of the International Covenant on Political and Civil Rights, in particular the section dealing with appeals. I should be interested to hear her explain how the imposition of the threat of a criminal sanction or huge legal costs, on a person exercising a right of appeal does not breach that international covenant. Under the proposed legislation a person who is unsuccessful in an appeal will face the possibility of a gaol sentence or will be risking the family home or other assets.

The proposed changes will create a series of inefficiencies and problems for the court system as well as seriously undermining the rights of persons appealing a decision of the Magistrates Court in the County Court. This impact was highlighted in a letter from Mr David Curtain on behalf of the Victorian Bar Council to the Attorney-General — and, I am sure, to all members of Parliament. It states that:

It is the view of the Bar Council that clause 14 is manifestly unjust, and will undoubtedly have the effect of increasing the expense, to the parties and to the public, of criminal appeals. The implementation of clause 14 would be likely to have the effect of tying up more court time, rather than having the intended effect. Court time required to hear appeals and costs incurred in preparing appeals would increase for the following reasons:

It is important that subsequent government speakers address the issues raised by Mr David Curtain on behalf of the Victorian Bar Council. His letter goes on:

If an appellant decides before the hearing of the appeal that he or she desires to abandon the appeal, he or she would still need to appear before a judge to make an application to abandon the appeal. He or she would need to establish the ground of exceptional circumstances. In practice, no appellant will make such an application before the hearing date. If the application is unsuccessful, the appellant will have unnecessarily incurred the costs of the application. Further, he or she will face the prospect of paying additional costs incurred by the prosecution in the event of a costs order under proposed section 88AA if the appeal is unsuccessful. The practical effect therefore of clause 14 would be that all appeals filed would need to be allowed court time for hearing, with no sifting process taking place. Further, because of the impossibly high standard of the test to allow abandonment, all appeals would in fact proceed to conclusion.

After that salient point the letter continues:

The current practice of a 'warning' from the appellate judge that they are considering increasing the sentence imposed in the Magistrates Court usually has the effect of causing an appellant (often after only a small amount of court time has been taken) to seek leave to abandon the appeal. This leads to much saving of court time. In light of the 'exceptional circumstances' test for abandonment, appellants who desire to abandon their appeal may well decide that their best chance to have the appeal struck out is by failing to appear. In this event, no notice would be given to the prosecution, who would then incur costs unnecessarily preparing appeals. Further court time set aside to hear the appeal would be wasted. A superficially attractive response to this anticipated problem might be to either set high undertakings to prosecute appeals, or to refuse bail orders under the proposed section 88AA (discriminating against those who are poor). The reality is that many would not be able to pay, and further to avoid such orders would seek to make applications for re-hearing under proposed section 89A which, whether successful or not, would consume even more court time. Clause 14 would lead to a deliberate disobedience of the law.

The salient points of the letter make it clear that the proposed legislation will lead to a more rather than less inefficient court system. The more inefficient the court system the more delays are experienced in access to justice. We all know that justice delayed is justice denied.

I refer specifically to the most contentious part of the bill.

Mr Perton — You are still 3 hours short of the record.

Mr HULLS — It is interesting to note that the person to whom I have given some praise for being a small-l liberal, and who in a moment of truth in his heart of hearts knows that much of the legislation introduced by the Attorney-General is bad, simply resorts to ridiculous comments about the record on how long someone speaks. The bill is an important measure that deals with a person's liberty. Any legislation that provides for a person to be gaoled must be taken seriously. In the unlikely event that at some stage the honourable member for Doncaster or the Attorney-General find themselves in trouble and require a lawyer to represent them, they would want that lawyer to represent them as vociferously, eloquently, steadfastly and honestly as possible. They would not want their lawyers to make half-baked attempts to represent them because of the time involved. The same applies to this sort of legislation.

When dealing with a person's liberty one should not be restricted in any way by the sorts of comments one needs to make. That is particularly so when the legislation is bad, when it is opposed by the opposition

and when the opposition urges government members to oppose it. By voting for the legislation government members are saying they believe it is appropriate to send people to gaol for up to three months because they exercised their right of appeal. Even former police officers who are members of the government have consciences. They would want to think long and hard before they voted to remove a person's civil liberties and democratic right to appeal by imposing up to three months gaol.

Clause 18, which relates to appeals to the Court of Appeal about sentences, is the most contentious. It provides that in determining the final sentence the judge is vested with the power to decide that up to three months of time already served can be discounted if he or she decides the appeal was vexatious, frivolous or brought without reasonable grounds. I understand the amendments proposed by the Attorney-General deal with clause 18. The original legislation provided that a judge could simply impose up to three months gaol if someone exercised their right of appeal and that appeal was unsuccessful.

When the bill was leaked there was public outcry about the Attorney-General even considering allowing judges to impose up to three months gaol in unsuccessful appeal matters. At the eleventh hour the Attorney-General decided to move amendments during the committee stage. The amendments provide that a three-month gaol term can be imposed only if the court considers that an application is frivolous, vexatious or brought without there being any reasonably arguable grounds for it.

The opposition does not believe that is good enough. It does not believe there is anything wrong with the current system where a judge can warn a person about withdrawing his or her appeal. Indeed, the judge can take into account the time served in gaol pending the appeal. That is not a bad system. Under the proposed legislation a judge will have the power to punish a person for merely bringing an appeal against the sentence.

The bill is outrageous and represents a complete departure from the basic tenets of the criminal justice system. The bill says the state may punish individuals for exercising their basic human right to appeal decisions to detain them.

The Victorian Bar Council made that point clear in its submission, which states:

In the view of the Bar Council this provision functions as an attempt to minimise appeals for the sake of easier case management. In effect, imprisonment for the period pending

appeal becomes the punishment for bringing an appeal which is judged to be unmeritorious. This is plainly unjust. If this clause were passed, Parliament would in effect be creating a statutory offence of bringing an unmeritorious appeal. It appears that the effect of such a provision would be to discourage meritorious appeals, and thereby to seriously undermine principles of access to justice.

It cannot be stated more succinctly than that. The proposed legislation creates the statutory offence of making an unmeritorious appeal. As a result it will discourage meritorious appeals. It is an infringement of basic human rights. It breaches article 14.5 of the International Covenant on Civil and Political Rights, which says that every person convicted of a crime shall have the right to a conviction and sentence being reviewed by a higher tribunal according to law.

That point was made clearly by the Federation of Community Legal Centres on page 9 of its submission, which states:

The federation is also particularly concerned that the amendments are in breach of Australia's obligations under international law and flies in the face of basic common-law principles. Australia is a party to the International Covenant on Civil and Political Rights and since 25 December 1991 a party to the first optional protocol to the covenant, which recognises the competence of the United Nations Human Rights Committee to receive and consider complaints from individuals who claim to be victims of violations of any of the rights set out in the covenant.

Article 14.1 of the ICCPR provides, amongst other things, that 'All persons shall be equal before the courts and tribunals'.

Article 14.5 provides that:

Everyone convicted of a crime shall have a right to his conviction and sentence being reviewed by a higher tribunal according to law.

Article 26 provides that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The federation makes an interesting point and expands on it further by stating:

The abovementioned section is in breach of articles 14 and 26 by making prisoners unequal before the courts, depriving prisoners of the right to appeal and by discriminating against prisoners who do appeal and depriving them of equal protection of the law. The amendments make prisoners unequal before the courts, in breach of article 14.1, by permitting prisoners to be exposed to punishment in the form

of up to three months extra imprisonment if they unsuccessfully appeal to the Court of Appeal. Non-prisoners who appeal to the Court of Appeal are not faced with the risk of extra imprisonment or imprisonment if they unsuccessfully appeal and so prisoners who appeal to the Court of Appeal are not equal as required by the ICCPR.

The opposition seeks an explanation on that point from the Attorney-General. The proposed legislation appears to create a two-tiered appeal system in Victoria: one for prisoners who face up to three months imprisonment if they appeal against their sentences and another for people who are not in custody and have not been sentenced to terms of imprisonment.

The amendments to the clause that passed through the coalition party room a matter of hours ago do not change the fundamental breach of rights inherent in the legislation. They tinker at the edges in an effort to give the appearance of consultation and to avoid the backlash that will result from the passing of the bill. This abhorrent legislation sets a precedent that threatens the very basis of Victoria's criminal justice system.

There are also changes to the committal process. I refer the house to the High Court case of *Grassby v. The Queen*, the Al Grassby case, reported at page 1 of the Victorian Law Reports. In that case Mr Justice Dawson, who is well known in Victoria, dealt with committal proceedings and the philosophy behind those proceedings. I shall not read large slabs of that judgment, but at page 15 of the reports His Honour states:

The importance of the committal in the criminal process should not, however, be underrated. It enables the person charged to hear the evidence against him and to cross-examine the prosecution witnesses. It enables him to put forward his defence if he wishes to do so. It serves to marshal the evidence in deposition form. And, notwithstanding that it is not binding, the decision of a magistrate that a person should or should not stand trial has in practice considerable force so that the preliminary hearing operates effectively to filter out those prosecutions which, because there is insufficient evidence, should not be pursued. Indeed, the significance of the magistrate's decision is clearly reflected in the requirement now contained in s. 41(6) of the Justices Act that the magistrate should discharge a defendant if he is of the opinion that, having regard to all the evidence, a jury would not be likely to convict. Furthermore, the value of committal proceedings to a person charged may be such as to warrant a trial being stayed or postponed where an ex officio indictment has been presented without committal proceedings, in order to prevent an abuse of process of the trial court and to ensure a fair trial.

I hope the Attorney-General has read that judgment because it gives a basis for the necessity for committal proceedings. It is well known throughout the legal profession, in this place and among stakeholders involved in the criminal justice process that this

legislation is but one step the Attorney-General intends to take to cover up the legal aid crisis in Victoria. It is well known that the next step she intends to take is to abolish committal proceedings altogether. Further legislation will come before this place in the next few weeks in that regard, as well as legislation that will restrict freedom of information in Victoria. The opposition expects that legislation will be introduced to abolish the public interest override in FOI matters. There will be a huge public outcry if that occurs yet the Attorney-General continues down the path of abolishing committal proceedings.

Apart from listening to her advisers, I hope the Attorney-General listens to stakeholders and reads the Grassby case in relation to the importance for and the necessity of committal proceedings. If the Attorney-General is not prepared to read the Grassby case she should read *Victorian Criminal Procedure: State and Federal Law in Australia* by Richard Fox, a publication which lists the reasons why committal proceedings are desirable. Chapter 7 headed 'Committal Proceedings' on page 163 refers to the obligation to conduct committal proceedings:

Because of the seriousness of presenting a person for trial before a judge and jury in the Supreme Court or County Court, the law sets a prerequisite in the form of a preliminary examination conducted by a magistrate to assess the strength of the accusation that the person has committed an indictable offence.

Fox reports at page 164 that in the case of Barton (1980) 147 CLR it is made clear that:

The High Court has ruled that a preliminary examination constitutes such an important element in the protection of the accused, that for the prosecution to contrive to hold a trial without antecedent committal proceedings, for example by direct presentment of the accused, would ordinarily be considered unfair. Such an omission might warrant the trial judge or an appellate court postponing or staying the trial until the committal proceedings were held. The court might even discharge the defendant under its inherent power to prevent abuses of its own processes.

Fox goes on to refer to the benefits to the accused and the prosecution of having committal proceedings. At page 168 he states:

Some 10 per cent of persons who face a committal proceeding are discharged without being directed to stand trial.

So there would be at least a 10 per cent increase in criminal trials if committal proceedings were abolished. Fox then sets out the benefits to the accused:

The committal proceedings gives the person accused an opportunity to obtain more precise details of the charges laid and the supporting evidence. This is quite distinct from the

examining magistrate's power to order the prosecution to supply further and better particulars of the charges in relation to which examination is being held. The examination does not compel the prosecution to make full disclosure of the nature of the Crown case, nor to call particular witnesses, but it does provide a form of pre-trial disclosure or discovery of the essence of the case for the prosecution. It also provides an opportunity for the accused's legal advisers to test, by cross-examination, the merits of the evidence of the Crown witnesses whose testimony or statements form part of the disclosed Crown case. Any discrepancies between evidence on key issues given at the committal proceedings and that given later by the same witnesses at the trial may be used in an effort to discredit the prosecution case at the trial. The credibility of the witnesses and their character and prior convictions can also be inquired into under cross-examination at a committal proceeding, to an extent that would be fraught with danger at the trial because its effect would be to expose the accused's own character to attack under Crimes Act 1958, s. 399(5).

Because the discharge of an accused at the conclusion of committal proceedings produces reasons for not proceeding to trial (i.e., a magistrate has formally held that the evidence is insufficient to justify directing the person to stand trial), it may also be seen as providing a more public clearance of the accused's name than if the Director of Public Prosecutions simply chose not to file a presentment or later entered a *nolle prosequi*. No public reasons need to be given, nor usually are given, for the latter decisions.

So there are enormous benefits for the accused and the efficiency of the administration of the justice system by continuing to have the committal proceedings. Fox also sets out the benefits to the prosecution:

Although the defence is not obliged to present its case at the committal proceeding, the examination can be of benefit to the prosecution by clarifying issues in dispute; by publicly disposing of a weak case; or, if the prosecution case is a strong one, by encouraging the accused to plead guilty to gain the benefit of a sentencing discount for an early plea of guilty.

The legislation tampers with the committal process and, I repeat, is the first stage in an attempt by the Attorney-General to abolish committal proceedings altogether.

The proposed changes appear to be designed to enable the committal process to become an arm of the police investigation of the defendant. They will enable an informant, without notice to the defendant, to summons a person to court for the purpose of being examined by the informant or producing a document or thing and giving a deposition. The defendant can do nothing but stand by and watch such an event; he or she will not be able to cross-examine the person or address the court on the application. I should be interested to hear from the Attorney-General what is the basis for this fundamental change.

All honourable members understand that one must get the correct balance between the rights of the accused

and those of the state and the rights of the informant and those of the victim. However it defies logic to claim that Victoria has a fair criminal justice system when an accused person is precluded from being part of a fundamental aspect of the committal proceeding. How can one possibly justify precluding an accused person from being part of his or her own pre-trial hearing or trial? The proposal is that, in effect, the law will tell an accused, 'You have been charged with a serious offence' — with murder or rape or robbery or break and enter — 'you have been advised of the charges; but, bad luck, we are not going to allow you to be a party to an aspect of the proceedings against you'.

As I said, such legislation would make Dr Mahathir, the Prime Minister of Malaysia, proud. It is a draconian, undemocratic and unfair proposal and, indeed, an abuse of the basic human and civil rights of Victorians. I cannot see any reason for introducing the bill. I expect there will be public outcry when the proposal becomes known throughout the Victorian community. Already the Victorian Bar Council has described the changes to the committal proceedings in the following terms:

No justification for this clause has been advanced. The clause seems to be designed to confer upon a police officer an unrestricted power to obtain evidence under compulsion of law once an indictable offence has been laid. A witness who is subjected to the procedure may well find themselves in court again to be cross-examined on the committal. The same witness would then be subject to being called in the trial itself. Clearly, this is impractical and time-wasting. To the best knowledge of the Bar Council, no equivalent provision exists in any other Australian jurisdiction. Clause 5 is also objectionable to the extent that it abrogates the civil liberties of witnesses.

Therefore, according to the Bar Council, the Attorney-General cannot advance even the argument that the government is just following legislation in other states. Even then the opposition would oppose the bill because the proposal is to breach the civil liberties of people charged with offences. It does not get the balance right. It precludes a person charged with an offence from taking part in an aspect of his or her trial — that is, the pre-trial process. However, the Attorney-General does not even advance that argument. As I said, the Bar Council's view is that no other state in Australia has equivalent legislation.

In conclusion: Madame Attorney, you ain't got it right yet again. You have mucked it up. It is an abhorrent piece of proposed legislation. The bill simply represents the government's response to the campaign on the crisis in Victoria's legal aid system that Labor will run right up to the next election. It is not a scare campaign but is based on the fact that ordinary Victorians cannot get legal aid in this state. It is based on the fact that this

Attorney-General has created a two-tier justice system in Victoria. There is a Rolls Royce justice system for the wealthy and an FJ Holden justice system for ordinary Victorians. It is not even that — FJ Holdens are now valuable. It is a broken billycart justice system for ordinary Victorians and a Rolls Royce system for the Ronnie Walkers and the Johnny Elliots and the Lloyd Williamses of the world. They can afford the best justice system that Victoria can provide, but for the Barry Battlers out in Broadmeadows it is just bad luck — they have to represent themselves. Members of the opposition are not going to stand by and allow you to introduce legislation that exacerbates the problems.

Mrs Wade interjected.

Mr HULLS — The Attorney-General says, 'I think you are'. No, we are not, and we will conduct a campaign in the electorate of Kew where in the last election the Attorney-General got one of the biggest swings against her —

Mrs Wade interjected.

Mr HULLS — The Attorney-General says 'The trend is going up'. The trend might be going up, but she is not only going down but out. A member of the other place is running around, telling everybody who wants to listen that he is about to get into the queue for her seat. As I said, the honourable member for Berwick also wants to get into the increasing queue for Kew. I assure the Attorney-General that a campaign on the bill will be conducted in her electorate. The proposal is draconian. It should not be supported by any fair-minded member of Parliament. It shows that the government has no vision and has done nothing to fix up the legal aid crisis.

The Attorney-General's response is to propose punishing people who seek legal aid. Her response is, in effect 'Let's impose a gaol term of up to three months on people who fail in an appeal against their sentences. That will stop the blighters representing themselves in the Court of Appeal'. A by-product of the bill will be more money for those who run the private prisons. The opposition will not stand by while the government continues to wreck the legal aid system. This is not civilised legislation; it is draconian and undemocratic. I urge all members, particularly the honourable member for Doncaster, to support the opposition in opposing the proposed legislation and to once and for all show a bit of guts, stand up to the Premier and the Attorney-General and do the right thing.

Dr DEAN (Berwick) — That was 2 hours of being shouted at. After a while one just turns off. One can

stand just so much shouting into microphones. After that, one drifts away and tries to think of other things. However, I did pick up some of the comments made by the honourable member for Niddrie. Most of his speech — those aspects I was able to concentrate on — seemed to be entirely missing the point of the bill. The bill contains an enormous amount of reform of the Magistrates Court and its processes. It is a very exciting development. Rather than those important matters all we got were two points repeated over and over and louder and louder.

I will address a couple of the points raised. Although the proposed legislation has nothing to do with legal aid, the honourable member for Niddrie got onto the legal aid bandwagon, of course. It is important to remember that in 1992 the then Labor government spent \$8 million on legal aid because it had access to the Solicitors Guarantee Fund, which, as honourable members know, has collapsed. It ought to be noted by the community that now the Kennett government spends \$25 million directly from government on legal aid. That is a threefold increase.

The debate about whether the Kennett government and the Attorney-General have done the right thing by legal aid should include that little fact — one of those little facts that seem to have escaped the notice of the honourable member for Niddrie, or one of those things he knows about but does not want to talk about. The amount of legal aid has not been decreased, in fact it has probably increased nominally since the time we had to increase it so dramatically on first coming into government. So, not only has there not been a reduction in the government's contribution, there has been a massive increase.

When the commonwealth government withdrew its legal aid funding, the state government could fill the gap to only a limited extent. The commonwealth is a large organisation. It may not even notice those missing funds — they may constitute a small amount so far as the commonwealth is concerned — but to the state government they represent a catastrophic amount to try to make up. Such things need to be pointed out.

Let us consider some of the important reforms proposed in the bill, their background and their purpose. The honourable member for Niddrie concentrated heavily on the proposed reform of the appeals mechanism from the Magistrates Court to the County Court and from the County Court to the Court of Appeal. I will not refer in detail to the extent to which those courts were involved in consultations on the drafting of that part of the bill, but I am well attuned to the thinking of the judges of those courts and can state clearly that no overt or covert

criticism reached my ears from any of them concerning the adequacy of consultation. Honourable members will find, if they speak to the judges of those courts, that they realise there is a problem and that it needs to be fixed.

I differ markedly from the honourable member for Niddrie in the amount of faith I have in the judiciary. I have faith in those people, not just because they have earned their positions through their expertise and prowess but also because they are part of the constitutional principle referred to as the separation of powers. Those who do not have faith in the judiciary and want the legislature to start interfering with the judiciary breach that principle and would rue the day that the separation of powers was interfered with. Be it for philosophical or personal reasons, I have faith in the judiciary.

The provisions that have been hotly and loudly argued for so long today by the honourable member for Niddrie mean simply that the courts have been given a power that they may choose to use or not to use. I do not believe for one moment that the courts will use it inappropriately. The honourable member for Niddrie bases his argument on the idea that those who appeal will be at a great disadvantage because they will have an extra three-month prison term imposed on them — that is, that judges will inappropriately exercise their power under the provision. He does not have the faith I do in the judiciary. I feel sorry for him on that score. As we all know, some appeals are stupid or outrageous and are brought when they certainly should not have been. When such an appeal is made, everyone standing in the courtroom knows it. On such occasions there ought to be some flexibility for the judge to make an appropriate determination. Until now judges have not had such a power.

When they are granted a power judges are not forced to exercise it in the wrong way. Rather, they can accept it from the legislature as a trust. Can we assure them that no frivolous appeal will ever be brought before them or that action will never need to be taken to show that an appeal is stupid or deliberately brought so the prisoner or the appellant could spend some time in court rather than in gaol? If such a thing never occurs they will never have to exercise this power.

Judges of the Court of Appeal have made mention of such circumstances in their judgments. However, it may be that even in the cases in which they deliberately mention such situations judges may choose not to exercise the power. The government has sufficient faith in judges to give them a power against the time when they might need it. The honourable member for Niddrie

has completely overlooked that point in his nonsensical statements about defendants being sent to gaol because they have appealed.

The proposed legislation reforms the criminal law process and is long overdue. Any member of the bar who is asked whether the criminal process needs reform will answer yes. The argument that this legislation is a first step towards getting rid of committals is demonstrably incorrect and should be knocked on the head. The process of reforming the criminal justice system started with a project called Pathfinder, which was a very open process that included all the stakeholders in an investigation of the criminal justice system and the need to reform it. It began well before the commonwealth took away legal aid funding. It is demonstrably incorrect, therefore, to say that the bill is an attempt by this government to remove committals and save funds because of the legal aid situation. The Pathfinder project began well before the legal aid crisis created by the commonwealth government.

I will not shout or gesticulate as the honourable member for Niddrie did. I will calmly and coolly review some of the background to why these reforms are taking place and why they are so important. The bill is a new approach to the criminal process. However, unlike some other people I believe it is just a first step. Others see it as a major step in itself, because many people in the criminal justice system find change difficult. For me it is the beginning of an ongoing process of reviewing procedures in both civil and criminal courts to ensure that we have a system that serves the public well.

Why are we going through a process of court reform? What is it about the courts that needs reform? Why can we not simply leave them as they are, chugging along as they have done for 50 or 60 years? What has changed in the community to cause us to want to change the procedure? Is the community essentially the same as it was before, and are we tinkering with a process that is working well? Or are there fundamental changes in the community that must now be absorbed by the courts?

I do not in any way hold this as a criticism of those who are deeply enmeshed in the judicial system, but when you are closely involved in the system on a day-to-day basis it is difficult to see how it is being affected by outside changes. I was part of that system for 10 years, and I admit I could not see the need for some of the changes I now see the need for, having moved outside the system and looked back, if you like.

I draw an analogy with a very good live-in butler who spends all his time working in a grand mansion. As the years go by things change outside, but the butler does not see them because he is totally preoccupied with his job.

Ms Gillett — I have never had a butler.

Dr DEAN — Then you will agree with what I am saying, because you are not in a position to disagree. I am glad you accept what I am saying as correct.

Ms Gillett — That is an odd analysis.

Dr DEAN — It is not an odd analysis because those in the legal profession are very much engaged in the households of their system. Because they are totally preoccupied with their day-to-day work in court and in chambers, it is hard for them to see the community changing around them and the need to change the way their house is organised. I would have to say that it is only after moving outside that house and looking back over time that I have been able to see the effects of those changes. In what ways have changes in the community forced this re-examination of the judicial and legal system?

Mr Coleman interjected.

Dr DEAN — That interjection is a good start — television came along. I will use that as a starting point because technology has had a lot to do with the need for the legal profession to see itself in a different light. If you think for a minute about our history you will realise that no-one could argue that society is not constantly changing. In feudal times disputes were settled by trial by ordeal and trial by judges who were friends of the king. What has changed in the way people live? The answer is that time has passed and things have happened, such as the increased access to information and the empowerment of what we now call the middle class.

As time has passed, we have become more wealthy. It is hard for us to see how much more wealthy we have become. Again I will use an analogy, for which I am sure I will be criticised; however, it will help me make the point. It is a bit like being on a ship the deck chairs of which have been reshuffled. More people now travel in first class and fewer people travel in steerage. All you can see is those changes, but the ship is constantly moving in the one direction. Regardless of the preoccupation with the changes on board, everyone is moving forward. Slowly but surely, society has become much more wealthy.

We still have disputes about whether wealth is being distributed properly, but the wealthier people in the expanded middle class want access to the same rights as those once enjoyed by only a small group of people in the upper class. It used to be that only members of the establishment had the access to the courts that many now have — but as I said, times have changed. The middle class has expanded; democracy has spread; and the information revolution has meant that the average person in the street is now much better informed than his forebears. As society's wealth has increased its education system has improved, so the average person in the street is now better educated.

People demand the ability to have their rights adjudicated. Under the old system courts were accessed only by the wealthy and members of the establishment. Courts are now required to do the same job for a much larger group of people. Further, Parliaments pass laws all the time, and when we add to that body of law we create more rights. Because more people are better informed about and wealthy enough to access those rights, the pressure on courts has increased enormously.

Put simply, the process is constant. I can remember there not being a Trade Practices Act or a Fair Trading Act. How did those acts come into place? In trying to do the right thing by their communities, and in trying to be more civilised, slowly but surely parliaments gave people more rights — for example, the right not to be cheated, deceived or misled. But passing those acts and creating those rights had a flow-on effect to the courts. All of a sudden people had a huge bag of rights, the wealth to act on them and the information they needed to access them. They knocked on the door of the courts and said, 'We want these matters to be adjudicated'.

The pressure on the courts has increased enormously, which takes me back to my original point. Society has changed and so must the courts — and that is exactly what the process is about. The judiciary, the legal profession and all the others involved in the legal process are being told, 'We must have a system of adjudication that can manage the huge onslaught of people requiring your services. We cannot go on with the same structures'. Every time a person comes to court it is just not possible to give him or her a Rolls Royce silk and a junior, given the huge fees and so forth. The system would break under the strain.

The honourable member for Niddrie suggested that the reforms are about providing access for the rich.

Mr Steggall — Over and over again!

Dr DEAN — And shouting! It is bad enough to be boring, but his shouting out boring things is too much to take. Nothing could be further from the truth. The amendments are designed to enable members of the middle class to get access to the courts.

Take, for example, the reforms associated with the creation of the Victorian Civil and Administrative Tribunal. The purpose of VCAT is to enable people who would otherwise never have the ability to access judicial adjudication to do so without the need for lawyers and without the associated costs. It allows them to do that simply and efficiently and to air their disputes within a system that is open to them because they can afford it. I get extremely angry and concerned when the honourable member for Niddrie, either deliberately or because he has not understood a word of the legislation, sends out the message that the opposite is true.

I will examine what Parliament has set out to do. Project Pathfinder was set up to involve all the stakeholders in what I believe to be — and I think most judges would agree — the most consultative process any government has undertaken on the reform of the legal profession and the process of criminal appeals. That extraordinary project, conducted over many years, has enabled judges, barristers and solicitors to join in the process.

A small team of people invited consultancy groups to come in and brainstorm about criminal procedure. Some of the groups were very large, comprising 60 to 70 people all discussing particular topics. The groups were later reduced to smaller committees.

I am talking about the judges of the Supreme and County courts — including the chief judges — magistrates, barristers and solicitors, and people from community organisations involved in the legal process all coming together and putting forward their ideas.

The small management group took those ideas and created a proposal. It then went back to the revision committees, as they were called, and said, 'Now we have done that, what do you think about it?'. This process went to and fro for some two years. It is just misleading and deceptive conduct, if I can refer to it in terms of the Fair Trading Act, for the honourable member for Niddrie to say that the bill is not the result of consultation.

Mr Robinson interjected.

Dr DEAN — I would probably prosecute him, too! That huge effort of consultation has resulted in changes that I believe have been totally accepted by the profession. I do not think anyone involved in that

process, be it judge or barrister, would say that he or she was not completely consulted and completely satisfied. Even after the committees were consulted the proposals were brought back for further consultation to new committees. When the report was produced it went back to the people who had been involved and they were invited to examine it and express their views. That is what happened with the proposals.

It is also important to note that even after all that, when the Attorney-General finally received the Pathfinder report, which was agreed to by all those people, she formed another committee. She told that committee, which also represented those involved in the process, 'I want you to be involved in the actual legislation — that is, when we do the drafting I want you to give me advice'. I had a list of all the people involved, but I cannot find it now. It is an extraordinary list of representatives of the judiciary, the bar, solicitors, groups of lawyers outside the practising profession, if you like, and public servants. They all had an enormous input.

What was the result of all this work? Pathfinder examined the process followed by police, the way charges were laid, how charges went through to the courts and if a person was found guilty how the prison system accepted that process. However, to concentrate on just the court process, one of the things we discovered was that the capacity in committal proceedings for delays and adjournments absorbed an enormous amount of time and effort. How did that happen?

The committal proceeding would come along and suddenly someone would say, 'I need more time to prepare', so the hearing could be adjourned for another two or three weeks or even a month. The committal proceeding would start and a defendant would say, 'I have not had access to legal advice yet', and the whole thing would have to go off. Something like 40 per cent of adjournments were a consequence of people simply not being prepared. Sometimes the defendant would say, 'I have not yet received the hand-up brief from the prosecutor, so how can I proceed?'.

The committee decided to set up a timetable so that the information from the prosecutor — that is, the prosecutor's hand-up brief to the defendant — would be received well before the committal proceeding and so that when there was a mention all the items, such as whether the defendant had received legal advice, whether there were any outstanding matters and whether either side wished to cross-examine any of the witnesses, would be covered. It was decided that all the things which had previously been left to the committal

stage and which caused committal hearings to be adjourned should be covered in the mention.

The committee decided the magistrates should do the mention and be proactive. That was to ensure that the mention would be the time when everyone discussed what was outstanding and when they found out what was outstanding the magistrate could say, 'You do that by this time', 'You have this done by this time', and 'You two do this together' — a hands-on approach by the magistrate.

That process has been operating successfully in the civil jurisdiction for some 10 years, so it is ridiculous to suggest it is not appropriate in the criminal system. For some reason the criminal system has not got around to implementing it.

That process reduces duplication and delays enormously, and a side benefit is that because the hand-up brief gets produced a lot earlier the defendant is required to identify any issues she or he has in relation to that brief before the committal hearing stage, and matters are being resolved. Suddenly, because the defence knows the strength of the prosecutor's case and the prosecution knows the defendant's responses, people say, 'I do not want to go ahead with this. I know you have the information so I have decided to do a plea'. Previously that was not happening until the committal proceeding.

The result of the pilot project in Broadmeadows and other places where it has been tried is that there have been enormous reductions in the time wasted in the courts. What is the result of saving time in the courts? It does not take an Einstein to realise it opens up the courts for greater access by others.

By carrying out this process and ensuring that a defendant is aware of the prosecutor's brief well before he or she gets to a committal hearing, that all the outstanding thorns and problems have been resolved and that when the committal stage is reached everyone has legal representation and all matters are out in the open, not only are many cases being resolved before they even reach committal — and therefore we are not wasting two or three days on a committal that would have gone that way anyway — but committals are being handled very quickly, so it is a double positive.

The benefits extend to a whole lot of things down the line. The proposed legislation requires the production of certain documents and gives the defendant the capacity before the committal to give notice of requiring certain documents he or she wants produced. It requires everything to be out in the open, with all the

information up front. It does not allow a prosecutor to hide a case until the committal or a defendant to say, 'I'm not going to tell you, so I can get you by surprise'. It forces everything out into the open as early as possible because that is best for overall justice.

Once we go through the pilot, and if we follow it to the next step, the whole process has the capacity to provide an efficient system of criminal justice.

Mr CARLI (Coburg) — I oppose this abhorrent and draconian piece of legislation. The honourable member for Berwick made some very good arguments about why the system should be reformed, but not about these particular reforms, which are an affront to a whole series of rights of Victorian citizens. Opposition to the proposed legislation from practitioners in the area, the Federation of Community Legal Services, the Victorian Bar Council and the Law Institute of Victoria has been growing. Complaints have been made about the poor consultative process — it involved only a few individuals and those involved were largely forced to shut up about what was proposed. It is a clear case of people's rights being trespassed on, or even removed where a lack of funds affects court waiting times or restricts the availability of legal aid. There is a crisis in those two areas, yet the government proposes draconian legislation to ration the use of the courts.

It is ironic that certain elements in the bill, if they are used by appeal court judges, will increase the amount of time it will take for appellants to have their cases dealt with. Apart from exceptional circumstances, once an appeal is lodged it will not be able to be withdrawn, forcing the appellant to go through the whole appeal procedure, potentially bear the costs and possibly spend up to three months in gaol.

As at January 1998, half of the people who appeared in the Court of Appeal were unrepresented. The honourable member for Doncaster asks by interjection, 'What does it mean?'. Clearly people who do not get proper legal advice can be ambushed when draconian legislation has the effect that after a period an appellant is not able to withdraw his or her appeal. That is what I am talking about. The honourable member for Doncaster asked whether everyone should appeal. The answer is no. However, appellants should not be ambushed by a lack of legal advice. There is potential for them to act illegally when trying to withdraw from the procedure, and if that happened they could be forced to carry the costs and spend three extra months in gaol. The ambush component of the legislation is no doubt intended. Because it is triggered easily it will deter not only frivolous appeals — we would all welcome that — but also appeals which have merit and

which should go before the Court of Appeal. Appellants will think long and hard about whether it is worth trying because of the pain, if you like, of going through the procedure.

Not only does the opposition regard the proposed legislation as abhorrent, the Scrutiny of Acts and Regulations Committee, which has a noble history as a committee of this Parliament and which seeks to look at issues of rights —

Mr Perton — On a point of order, Mr Acting Speaker, the rules of practice of this place provide that if a member cites a parliamentary committee report he should do so with accuracy. The honourable member for Coburg has said that the Scrutiny of Acts and Regulations Committee has described this bill as abhorrent. I have read the report of that committee and it says no such thing. I ask the honourable member to withdraw that remark.

Mr CARLI — I did not get the opportunity to say what the committee thought of the bill. If the honourable member for Doncaster gives me the opportunity, I will go through the report in detail.

The ACTING SPEAKER (Mr Seitz) — Order! I have heard sufficient on the point of order. There is no point of order. The honourable member for Doncaster can refute the claims when he gets the opportunity to debate the bill.

Mr CARLI — The members of the Scrutiny of Acts and Regulations Committee take off their party hats when they enter the committee room and look at the merits of the bill they are considering — and the honourable member for Doncaster, who was chairman of the committee for a number of years, has stood up to the government in the past. While debating the bill last night, all members of the committee expressed concern about its nature and the extent of the trespass of rights involved in it. I am concerned to see that the committee's work is recognised by Parliament and that honourable members look seriously at the implications of the bill. A detailed examination of the points the committee made about the bill will reveal how it trespasses on the rights of individuals in a major way.

I begin with the tampering with the committal hearing process. Of greatest concern to the committee were the new procedures that require applicants to specify the scope and purpose of proposed cross-examination. A person has to seek leave to cross-examine a witness, and in certain situations must demonstrate the substantial relevance of the facts in issue before being given that right. The real concern is that at a committal

hearing a person is unlikely to know all the facts and details. What is being asked of applicants is that they should know everything before they go to a committal hearing, and clearly that will not be the case.

It is obvious from the committee's report that under the changes the committal hearing will lose a lot of its relevance. An applicant who is not able to demonstrate that the proposed questioning has substantial relevance to the facts in issue will not be given the opportunity to cross-examine the witness. That is of major concern. The Victorian Bar Council was represented at yesterday's meeting and gave the committee a detailed briefing on the bill. All members of the committee saw it as a substantial issue of rights.

The committee's role in Parliament is to comment on trespasses on, infringement of, and changes to rights. The members of the committee believed there were issues of concern about that provision and decided to write to the Attorney-General on the issue. The committee also expressed concern that the new provisions may impair the rights of defendants to know at an early stage of criminal procedures the full extent of the cases against them and may therefore affect their ability to fully defend cases at trial. That is a very serious concern. The members of the committee hope the Attorney-General will take that into account and either amend the clauses in question or provide reasons as to why the concerns are not justified. I believe the change is a major infringement that trespasses on the rights of individuals. Because in most cases defendants will not be able to cross-examine witnesses, the change will be detrimental to their ability to rebuff the cases against them.

The committee is also concerned about clause 9 of the bill, under which the County Court is not required on the hearing of an appeal under section 87 to warn appellants of the possibility of their receiving a longer sentence. That is a fairly basic idea. Under the legislation an appeal judge in the County Court will not be able to warn people who appeal in good faith what could happen if they continue with the appeal. Often a judge will quietly say, 'You had better give it up. Let it go. It will only get worse and you could receive a longer sentence'. That will no longer be possible. As a result an appellant's situation could deteriorate, because an appellant faces a whole host of detrimental elements in the hearing of an appeal.

It is a major concern when people are not represented, particularly when it involves their freedom, where they could end up in gaol or where they are in gaol and are seeking to appeal. As I said, in half the cases going to the Court of Appeal people are not represented. People

who do not have legal advice or do not know the ramifications of what they are doing may end up in gaol. In his contribution the honourable member for Niddrie referred to the letter from the Aboriginal legal aid service about people being in shock. People want an opportunity to have their cases heard and to lodge appeals if necessary. In those circumstance those without legal aid may further injure themselves and make their cases worse. They may find themselves with longer sentences and having to carry costs. The opposition is obviously concerned about this issue.

Another concern is the fact that in dealing with an appeal to the County Court the judge is not obliged to inform the person that he or she may end up with a longer sentence. In examining proposed legislation the Scrutiny of Acts and Regulations Committee must ensure that there are no implications affecting section 85 of the Victorian Constitution Act concerning the ability to appeal further to the Supreme Court, a principle which is embedded in the Victorian constitution. Last night, when members of the committee were discussing this issue, it appeared that section 85 of the Constitution Act may be altered. Although it may not be overt, certainly there is the opportunity that people seeking to appeal to the Supreme Court about a County Court judgment may not be told there is a possibility that their sentences may be increased. It is certainly something that the committee noted. We have written again to the Attorney-General saying that we believe implicitly the bill will alter section 85 of the Constitution Act, and, of course, there is a series of issues as to how the Parliament should respond to that.

An issue raised by the Victorian Bar Council last night — I understand it has also been canvassed by others — is whether this provision is constitutional under chapter III of the Australian constitution. One must ask whether we are witnessing an unjustified intrusion by the executive on the operation of a state court. I have been given a number of documents outlining what that may mean. Because the County Court is partly looking after federal jurisdiction, I suggest it would be an unfair and unjustified intrusion if the Victorian executive tried to dictate to and force judges to abrogate certain responsibilities as to the information they can give the appellants. Again, the committee believes it is not able to make a judgment on that.

Alert Digest No. 1 of 1999 contains a fair amount of documentation. It is clear that if the bill is passed the issue will have to be judged by the High Court. It is of great concern to the opposition that legislation passed by the house may well be unconstitutional.

The opposition opposes a number of other provisions, including the repeal of section 87 of the Magistrates' Court Act. Clause 11 inserts section 88AA which provides the County Court with the power to order an appellant to pay all or part of the costs. That is obviously intended to deal with vexatious complaints or when the processes are abused, but a series of amendments will make it increasingly difficult for people to appeal and for appeals that have merit to be made because taking someone to the appeal court may well compromise or worsen their situation.

The opposition opposes the whole thrust of the bill. Although the bill is aimed at trying to ration legal aid and court time, it does none of that. Potentially it has the ability to lengthen cases, unless, of course, it forces people to stop using the appeal processes altogether. There are also concerns about issues of fairness in the changes planned for the appeals process.

The findings of the all-party committee were very strong. In my time on that committee since my election in 1994 this has been the strongest position taken by the committee against Victorian legislation. The committee is clearly attempting to carry out its role as the custodian of issues of rights.

In respect of the failure to warn an appellant that he or she stands the risk of a more severe sentence, the committee decided to write to the Attorney-General and raise issues of concern about the procedural fairness and issues of natural justice. Again the committee has raised very serious issues of justice and of rights.

The committee believes a question bearing on the jurisdiction of the Supreme Court may also be raised in that amendment. It is not in a position to give an authoritative response to that, but it is flagged as another area where a section 85 issue may arise as a result of those changes in clause 9.

It became apparent in the committee's discussions that there were concerns about the time it would take to go through a case. The bill takes the position that after a period there should not be an ability to withdraw applications. That was also taken up by the Victorian Bar Council. The view of the Bar Council is that:

... clause 14 is manifestly unjust, and will undoubtedly have the effect of increasing the expense, to the parties and to the public, of criminal appeals. The implementation of clause 14 would be likely to have the effect of tying up more court time, rather than have the intended effect. Court time required to hear appeals and costs incurred in preparing appeals would increase for the following reasons.

A series of reasons is then given as to why it would increase court time, but largely it is the failure of not

having a strong legal aid system. People decide to appeal on the basis it may give them another opportunity. The current practice is that the appellate judge will often warn the person that if the case is not going well, he or she should get out. That clearly leads to a lot of saving in court time. But that opportunity will no longer be available.

In light of the situation that only in exceptional circumstances can a case be made as to why the appeal needs to be abandoned, the reality is that people may not be able to pay or may not have anyone to represent them, and therefore they may not show up. The fear of the Victorian Bar Council — I share this fear — is that clause 14 will lead to a deliberate disobedience of the law. So there is further concern in that area.

The opposition believes the bill is abhorrent and draconian. Potentially it could lead to an increase in expenses to all parties, especially appellants. The legislation will not reform the criminal justice system, as was put to us by the honourable member for Berwick. He continues to argue that the big stick — this new power — is based on trust and the discretion of appellate judges and that its purpose is to ration and restrict access to appeals.

People involved in the criminal justice system do not believe that to be the case, and the number of submissions that the Scrutiny of Acts and Regulations Committee has received supports that position. Detailed submissions were given yesterday, including oral submissions from the Victorian Bar Council, and they all seemed to indicate that there are enormous misgivings about the legislation bill. In part the misgivings concern —

Mr Perton — When was the last time they didn't have any misgivings?

Mr CARLI — The honourable member for Doncaster asks me when was the last time they did not have any misgivings.

The ACTING SPEAKER (Mr Seitz) — Order! The interjection is disorderly, and the honourable member for Coburg will address the Chair.

Mr CARLI — It is certainly the role of the Bar Council to comment on the legislation. The propaganda from the government stated that there had been extensive consultation with the Bar Council, members of the bar and other legal practitioners. However, these people claim there was very little consultation and that those who were consulted were prevented from commenting on the proposed legislation. They said it

was a very poor process and they have great misgivings about it.

The legal profession has further misgivings about the impact of the legislation and what it means for those who are most in need. The argument that this is part of a campaign to create a two-tiered legal system in Victoria is well founded. Clearly if people can afford the justice system — the lawyers and costs in the appeal court — they can do whatever they like. It is a system to suit people's bank accounts. If they cannot afford it or are represented by the Federation of Community Legal Centres or the Aboriginal Legal Aid Service, they will miss out and find themselves unable to utilise their right to appeal or rights concerning committal hearings. Committal hearings are a problem, and there are also problems associated with the appeal process and the draconian measures used by the government to cut costs. A huge sledgehammer is being used to break a small walnut.

Clearly, there is a problem with vexatious appeals being made to the Court of Appeal, and I take that as given. I have heard that said but it is not seen to be the problem. Certainly the practitioners do not see it as the problem the government makes it out to be; their view is very different. A whole raft of people who attempt to use the appeal system will not have access to it because they will not be able to afford it, or if they try to access it they risk three months imprisonment or the incurring of costs or a whole host of other measures that cut out people's rights to use the system.

Members of the Scrutiny of Acts and Regulations Committee hold many differences of opinion, but our preferred agreed approach is to bring our misgivings to the Attorney-General and ask her to look at each of the concerns, make a judgment and amend the bill if necessary. We ask that she let us know what her justification is for certain things. We have probably been more strident in expressing our views on this bill than on many other bills, and necessarily so. On all controversial issues we have outlined our concerns. There are differences of emphasis and differences in position on some of them, but the fact that there are concerns was common to all.

We seek a response from the Attorney-General and I — I cannot speak for the committee on this matter — will seek changes and amendments. If we can agree that there is a need for reform, that is a good start. We cannot simply reform legislation to the detriment of individuals in Victoria, particularly those most in need, the ones who have the most reason to fear the criminal justice system. They are the people we speak of and on behalf of.

I have raised a series of concerns about provisions in the bill that limit the rights of defendants at committal hearings and the provisions that discourage criminal appeals under the threat of cost and custodial sentence. That is the basic concern of the opposition and the reason for our vigorous opposition to the bill. They are issues the opposition clearly flagged and wrote about to the Attorney-General; they are the ones that we centre our argument on.

It is high time the issues in the bill were resolved. The bill will create enormous controversy in Victoria and put us behind the rest of the commonwealth. It has the potential to be unconstitutional. At the very least the bill needs further examination. The Scrutiny of Acts and Regulations Committee as an all-party committee has outlined its misgivings about the bill. We seek a quick response from the Attorney-General because the concerns need to be responded to.

Sitting suspended 6.28 p.m. until 8.04 p.m.

Mr PERTON (Doncaster) — In today's debate on the Magistrates' Court (Amendment) Bill the house has heard two opposition speeches full of huff and puff. I found it extraordinary that the shadow Attorney-General should say he found every provision of the bill abhorrent. During my contribution to the second-reading debate I shall talk about the purposes of the bill, the consultative process undertaken to arrive at its provisions and a process of which the bill is part — that is, the project known as Pathfinder, the idea of making Victoria's criminal justice system the most modern and efficient system for the benefit of the community.

The main purposes of the bill, as set out in clause 1, are:

- (a) to reform committal proceedings in the Magistrates' Court;
- (b) to change the system of appeals from the Magistrates' Court in criminal proceedings;

The other objectives include, interestingly enough, as described in clause 1(d):

... to make the Chief Magistrate responsible for the professional development and training of magistrates and registrars;

I am somewhat puzzled that the opposition has adopted a blanket objection to the provision to update and modernise committal proceedings. I can understand the opposition's concerns and the fact that the Scrutiny of Acts and Regulations Committee has sent questions to the Attorney-General, which I am sure will be answered during the second-reading debate or the committee stage.

In April 1998 the Attorney-General established a committal proceedings consultative committee comprising senior members of the legal profession to inquire into the operation and future of committal proceedings in Victoria. The committee members included a Supreme Court judge nominated by the Chief Justice, the Chief Judge of the County Court, the Chief Magistrate and Deputy Chief Magistrate, the Victorian Director of Public Prosecutions (DPP), the Chief Crown Prosecutor, the commonwealth DPP, the managing director of Victoria Legal Aid, several prominent members of the defence bar, the chairman of the criminal law division of the Law Institute of Victoria and seven Department of Justice representatives. The reforms in the bill result from the reform process undertaken by that committee.

By necessity, consultative processes do not necessitate every member of the process unanimously agreeing with the provisions of a bill. One can understand that those whose opinions were not followed to the letter will be critical of the bill, as one can understand the criticism by David Curtain of the Victorian Bar Council as quoted by the shadow Attorney-General, and other criticism including that from the Scrutiny of Acts and Regulations Committee. But the house must understand the context within which this legislation is going forward. It involves the modernisation of the criminal justice system.

The bill relies on the notion of early and full disclosure. It strengthens the disclosure function of committals to assist the identification issues in dispute. At the earliest possible stage the prosecution will be required to provide a defendant with full details of the case against him or her. In turn, a defendant will be required to state the issues in dispute when seeking to cross-examine witnesses at a contested committal hearing. The legislation will also require early and full disclosure to the defence of all relevant and admissible material. It will cover additional categories of material, being material the defence would be now entitled to receive upon issuing a subpoena to produce.

The legislation will streamline the process for requests and production of items such as expert witness notes and standard operational records with a view to reducing delays and the involvement of the court. Production will be subject to public interest immunity and privacy considerations.

The parliamentary Law Reform Committee is currently studying —

Mr Andrighetto interjected.

Mr PERTON — An excellent committee, as the honourable member interjects. The honourable member for Narracan is a valuable member of the committee and is chairing a subcommittee investigating issues concerning intoxication and criminal liability. That study has generated much interest throughout the community. The honourable member has engaged in a tremendous amount of public consultation, and the way he has led the subcommittee has been excellent. Another reference before the Law Reform Committee includes an investigation into technology in justice.

During that process public hearings were held and evidence was given by the Law Institute of Victoria and lawyers practising in the criminal field. The success of early disclosure of prosecution material was an interesting finding. As an example, evidence was taken from solicitors acting in Footscray who had taken part in the pilot project. They found that by participating in Project Mercury, in which the prosecution undertook to provide material to defence firms as quickly as possible, their entire firm was modernised, enabling them to give the best possible advice to their clients.

Responding to a question from the honourable member for Narracan, both police and defence counsel witnesses talked about the success of early disclosure of prosecution material. That makes sense. If someone charged with an offence goes to his or her solicitor who has no access to the material, the sensible advice would be to defend the proceedings and to go down the track of examining all possible defences to the action.

The defence lawyers advised the Law Reform Committee that once they saw that guilt was likely to be established on the evidence disclosed by the police both they and the police were able to engage in greater cooperation. They were able to negotiate appropriate pleas to appropriate charges and agree on the material to be placed before the magistrate or the judge. The wheels of justice moved more efficiently with less cost to both the prisoner and the legal aid budget.

Honourable members opposite have talked about a shortage of legal aid, but none of them has taken any interest in Project Mercury or the early disclosure of prosecution material. Failing to look at the procedural changes may be the great weakness in the report of the Scrutiny of Acts and Regulations Committee. Although the committee should have had time over the summer break to take evidence from practitioners and others working in the field, it does not appear to have done so. The honourable member for Coburg, who is a member of that committee, has probably let down both the committee and the community by failing to take procedural changes in prosecutions into account.

The idea of fast-tracking guilty pleas and plea briefs is beneficial to both the accused person and the community. In cases where the defendant wishes to plead guilty the need for the prosecution to prepare a full hand-up brief is questionable at best. For sentencing purposes the prisoner often does not require a full brief to be prepared. In the past the practice of preparing full briefs has added to delays in both resolving a case and the costs of prosecution.

The bill endorses the preparation of plea briefs in cases where the parties agree and the defendant wishes to plead guilty. There is also an ability to fast-track guilty pleas to the County Court.

We are living in a new age in which we question various practices. The community is entitled to say that a criminal justice system that is manifestly creaking and inefficient needs to be improved by practices that reflect the needs of the late 1990s and the new century. In that context the changes to committal proceedings that were made in consultation with experts in the field are a very good first step. As with any consultative process, no unanimity exists between the parties. However, I am surprised that the shadow Attorney-General spent 2 hours of bombast attacking every part of the bill. I am even more surprised that the honourable member for Coburg could hold his head high and follow the same line.

The honourable member for Coburg is not a stupid person. He understands the challenges of the new millennium and that technological change alone is not sufficient. The introduction of technology into the court, the prosecution process and policing will lead to large-scale behavioural change. I am puzzled that he took no account of that in his speech.

The honourable member for Narracan deserves the praise I am heaping upon him. In the course of the inquiry led by him public hearings were undertaken and evidence about the new method of policing was taken from the police and the new contractor, IBM. The honourable member for Narracan was strong in his belief that in both policing and prosecution activities the data should be entered only once. Police exhibits should be scanned and used in electronic format. That was proven in Project Mercury, in which the use of scanned material sent to criminal lawyers led to the resolution of cases.

The inquiry discovered that the average police officer will be linked by computer technology directly to police headquarters. On apprehending a person the data will be fed in once. I pay tribute to the now retired member of another place, the Honourable James Guest,

my predecessor as chairman of the Law Reform Committee, and to the parliamentary secretary, the honourable member for Berwick.

The Pathfinder project, which involves the notion of integrated justice for Victoria, is generally regarded as the best model in the world. The honourable member for Coburg, who had responsibility for multimedia policy, was trying to pursue a bipartisan approach to those issues. In talking to IBM and to judicial officers overseas and interstate I have heard them express the notion that Victoria, with the Pathfinder project, is the leader in this field.

The system is computerised so that material procured by the police is made available to the defence at the earliest possible opportunity. If the material prepared by the police is transmitted to the courts and the prosecution faster and more efficiently, it leads to cheaper and better justice.

The truly revolutionary aspect of the Pathfinder project is that it involves the total integration of the activities of the police, the prosecution, the defence, the courts, the prisons, the agencies that are required to deal with people who have received alternative sentencing and those who are responsible for providing drug treatment and the like. There must be behavioural change in this revolutionary environment. Again, I am surprised that in the 2½ hours of speeches made by opposition members no mention was made of the new technology used by the police.

Mr Cameron interjected.

Mr PERTON — The honourable member for Bendigo West interjects appropriately. He has had experience in the criminal field and knows that the use today of DNA evidence in many criminal cases that would have been strenuously defended in the past means that such cases are quickly resolved. That is part of the behavioural change the bill is designed to facilitate. On the other hand, just as some cases are being despatched much faster, other cases that would previously never have been prosecuted are now being brought before the courts. Quite extraordinary conspiracy cases have come before the courts because of the new use of satellite technology, video surveillance technology and audio surveillance techniques. As a result people who are engaging in conspiracies to import drugs, for instance — —

Mr Maclellan — People alleged to have.

Mr PERTON — The minister interjects appropriately and says, 'People who are alleged'. The fact is that many people have now been convicted of

conspiracies in matters that would never have been brought before the courts in the past. The real ringleaders of drug trafficking and organised crime are more likely to be apprehended today than ever before.

I find it extraordinary that in his bombast the shadow Attorney-General talked about million dollar justice. The whole problem in our legal aid system arose as a result of the difficult decision in *Dietrich v. R.* As a good community lawyer the honourable member for Melbourne knows that the Dietrich case was sheer and utter madness, and that a person alleged to have engaged in a significant drug trafficking offence, who had enormous resources — —

Mr Cameron — On a point of order, Mr Speaker, the honourable member for Doncaster is reflecting on the High Court. I seek that he withdraw his comments reflecting on the High Court's commentary in *Dietrich v. R.*

The SPEAKER — Order! I do not uphold the point of order. There is no point of order.

Mr PERTON — It is only a peripheral point, but in *Dietrich v. R.* the High Court set the high jump at a high level for the community, and as a result the Victorian government and other state governments legislated to reverse the impact of the case. I am surprised that the honourable member for Bendigo West, whose party supported our amendments on Dietrich, did not take into account the fact that such expensive criminal defences take away money from a whole range of other legitimate legal aid issues. The honourable member for Melbourne is nodding, because he is very much aware that women in dangerous circumstances and violent relationships, and individuals who have been cheated, do not have the money or opportunity to engage in proceedings. Clearly the legal aid budget has to go beyond applying just to the big cases and has to help what the honourable members for Melbourne and Narracan would call the little people — those who really need the government's assistance.

Although there is and will continue to be argument about the provisions that will amend the committals procedure, those provisions are generally accepted by most of the community as heading in the right direction. The government is prepared to revisit the provisions and I commit myself, as I hope the honourable member for Niddrie will commit himself, to revisiting them, if in a couple of years an injustice arises as a result of defects in the procedure. As project Pathfinder continues to develop; as the courts become more and more computerised; and as more and more data is interchanged between the police, parties to

actions, the courts and other authorities, there is no doubt we will continue to revisit the procedures. As the honourable member for Coburg would know, no benefits or efficiencies will flow from the introduction of new technologies without behavioural change. Part of that behavioural change is set out in the bill.

It surprises me that the honourable member for Niddrie says he opposes the whole bill. As he has now re-entered the chamber, I ask him whether he really finds the Chief Magistrate being made responsible for the professional development training of magistrates and registrars objectionable?

Mr Hulls — Abhorrent.

Mr PERTON — Abhorrent? It seems to me to make perfectly good sense. Part of the good sense has been seen by the honourable member for Narracan and me in the Judicial Commission of New South Wales. The commission was originally set up to engage in disciplining judges, but it has moved to providing the intellectual and training resources judges need, in both developments in the law — as we saw — and sensitivity to gender issues. I am sorry I left out the honourable member for Melbourne; he was also there. One of the good things that has been done in New South Wales is the introduction of the sentencing database. Following the reaching of convictions in criminal proceedings, magistrates or judges can access a database that covers literally tens of thousands of dispositions of criminal cases and make assessments of the normal range of sentences for particular offences by looking at ages, previous convictions and antecedents.

Mr Loney interjected.

Mr PERTON — The honourable member for Geelong North does not want to be left out. He has seen it, and I think also supports it.

The database manages to achieve a sort of tariff because everyone going to court knows the rough range of sentences that are likely to be applied. In my view it would be an appropriate development in Victoria. The Attorney-General has turned her mind to the issue and is engaging in consultation about the best way to deliver training and better information to judges. I strongly recommend to her — I think the honourable members for Narracan, Melbourne and Geelong North would join with me in saying this — that it would be a legitimate task for some sort of judicial commission or the like to provide guidance on sentencing. If that were to happen almost all the arguments of the honourable member for Niddrie against the appeal provisions in this bill would be —

Mr Cole interjected.

Mr PERTON — The honourable member for Melbourne interjects. In answer to the honourable member for Niddrie, who said that it will introduce a new hazard for prisoners, I make the point that if we had a general statistical database that was able to provide the prisoner, the magistrate, the defence counsel and the prosecution with an appropriate tariff, a lot of the fear would go. It is of interest that the Court of Appeal in New South Wales now regularly rejects appeals on sentence if the appeals are within the appropriate range. Unfortunately I cannot cite the names of the cases. I suspect if that were to happen here it would dispel a lot of the angst and anger that has been involved in this debate.

I must correct something said by the honourable member for Niddrie. He implied that anyone who appealed and lost would receive an increased sentence. In fact, the provisions of the bill make it discretionary.

Mrs Maddigan interjected.

Mr PERTON — No, the honourable member for Essendon has not read the bill.

Honourable members interjecting.

The SPEAKER — Order! An honourable member should not refer to another member by his or her surname. Members should be addressed by reference to their electorates, if referred to at all. Interjections are disorderly.

Mr PERTON — The bill provides that the Court of Appeal may increase a sentence, but only if it finds that an application is frivolous, vexatious or an abuse of process — a narrow set of circumstances. The honourable member for Coburg purported to have a sheath of papers that ran an argument that the provisions would fail because of provisions in the Australian constitution. I think that is probably untrue. The effect of the advice in front of him is that the High Court would treat the provisions quite narrowly, that they would always be interpreted in favour of the prisoner, and that in only a few circumstances would an application be frivolous, which is not a word that applies to most people in the criminal justice system; vexatious, in the ordinary dictionary meaning of the word; or an abuse of process. Clearly the judges of the Court of Appeal have asked for the provisions —

Honourable members interjecting.

Mr PERTON — My advice is that there has been a request from the judges, and that the judges will treat the provisions responsibly.

These provisions arise from a long period of consultation. It is always easy for a shadow Attorney-General to find people who will argue against a government bill. When we were in opposition we never had any trouble finding someone who was critical of the former Attorney-General, Jim Kennan, and before him John Cain. The present Minister for Planning and Local Government ably attacked a number of pieces of legislation that were brought in by the former Labor government despite being opposed by the Victorian Bar Council and the Law Institute of Victoria.

The bill deals with difficult issues. We are living in a changing world. The courts are using new technology that allows for different, more efficient behaviours, often to the advantage of the prisoner and the community. In another two to three years when police have PCs installed in their patrol cars and isometric evidence and surveillance technology are used increasingly, a parliamentary committee may have to revisit the legislation to review the impact of these provisions and consider new provisions.

The bill involves issues that require a degree of bipartisanship. The honourable member for Yan Yean talked about how great home detention with people wearing bracelets would be. We all talk about how good it would be to have video cameras to protect people in dangerous areas. All of those good ideas have their upsides and downsides, and people on both sides of politics have to be willing to revisit the provisions to provide best quality justice to both the accused and the victim in the light of changing practice and after a consideration of what will ultimately benefit the community.

Mr CAMERON (Bendigo West) — I am pleased to make a contribution to the debate on the Magistrates' Court (Amendment) Bill. The bill is bad because it applies law instead of justice. The community takes it for granted that courts apply justice, but the reality is vastly different because courts must apply the law. We all want the courts to apply the law and administer justice, and in a just society that happens because the law and justice work hand in hand.

The honourable member for Doncaster seems to confuse law, justice and computers. He seems to believe that because computers and technology are so wonderful, justice and the law have nothing to do with

them. The reality is that technology is only an aid to the law, and we hope it is an aid to the law and justice.

Mrs Maddigan — He is in cyberspace!

Mr CAMERON — As the honourable member for Essendon accurately observes, the honourable member for Doncaster is in cyberspace. The honourable member for Doncaster, when speaking about the wheels of justice, simply cast aside the opinions of the Victorian Bar Council and those who work in the criminal justice system. He is not worried about such things. He would have us believe that the government, in its inward-looking shell, is some great hub and fount of knowledge. He would have us believe that he is one of the spokes in his wonderful wheel of justice, and I must say that I am tired of it! The community is tired of it. We are all tired of his wheels of justice.

The Attorney-General has made changes to the legal process that are to the detriment of society, and the bill goes further down that path. Not all of the provisions are bad, but when it comes to the big-ticket items, the Bar Council is right to say it is bad. However, I believe a small part of the bill is good — the provisions that concern plea briefs. When someone is charged with a serious offence that must be dealt with in a higher court such as the County Court, the Director of Public Prosecutions must prepare a brief. But if a person makes it clear early in the proceedings that he or she intends to plead guilty, it is in the interests of all concerned that the matter be dealt with as quickly as possible. To have a matter tidied up and the file put away is in the interests of the defendant, the defendant's family, the victim, the victim's family, the administration of justice, and ultimately society.

The bill provides for a simplified procedure to deal with cases involving persons who plead guilty. In such cases evidence of a technical nature is not required; the only evidence that is required is that which allows a guilty plea to be made. A brief needs to be prepared only in cases involving pleas of not guilty. I welcome that development. That aside, the provisions that concern the big items such as justice are bad. I intend to go through some of those items.

The honourable member for Doncaster —

Mrs Maddigan — Where is he?

Mr CAMERON — He has scampered off, but the honourable member for Gippsland South is here now. If he had been here earlier he would have heard the honourable member for Doncaster casting aspersions in his direction. The honourable member for Doncaster passed a large slight in the direction of the honourable

member for Gippsland South, who is the chairman of the Scrutiny of Acts and Regulations Committee.

I will refresh your memory, Mr Acting Speaker. The honourable member for Doncaster said that the honourable member for Coburg and the Scrutiny of Acts and Regulations Committee let Parliament down. I do not know why he said that, but it seems the honourable member for Doncaster was concerned that the committee appeared to put people ahead of the interests of the Liberal-National Party coalition.

Those comments are extremely disappointing, coming as they do from the chairman of the Law Reform Committee. In its report tabled in Parliament today the Scrutiny of Acts and Regulations Committee observes that the bill abrogates citizens' rights. Who could blame the committee for making comments that are being made all around the place? The honourable member for Doncaster cast them aside; he was fussed only about the interests of the Attorney-General, not about the interests of justice, the law or the Victorian community.

The honourable member for Doncaster gave the game away when he said that later down the track the impact of the provisions would have to be reviewed. He was not convinced they would be good. If he were, he would have said, 'They are fantastic! They should be set in concrete, and no-one need worry about them', but he did not. He knows that the proposed legislation is bad and that it will have to be reviewed to see how bad it is!

The opposition is concerned about the extent of the harm the proposed legislation will do to the administration of justice in the state. As a community we like to believe the proper administration of justice is one of the foundations on which our society is built. The honourable member for Doncaster has merely cast those concerns aside, making it clear that he will vote for the bill notwithstanding its enormous problems.

The honourable member for Berwick made some observations about the bill, saying he had faith in the judiciary. Why on earth would he make a point of saying that? We all have faith in the judiciary. But the honourable member for Berwick would have us believe he has faith in the judiciary — notwithstanding the bad aspects of the bill!

Mrs Maddigan — That is a bizarre point of view!

Mr CAMERON — It is a bizarre point of view. The honourable member for Berwick appears to be saying, 'Don't worry about all the bad things in the bill. The courts will turn a blind eye to it; they won't worry about it'. Why introduce such bad legislation in the first

place? It should not be necessary to express your faith in the judiciary to overcome bad legislation. Victorians should have good legislation and a good judiciary! That is what they want, not legislation that derogates that fundamental principle.

The bill has two major components: one concerns committals, the other the appeal process as it is presently administered. Yesterday I had the pleasure of hearing a submission from representatives of the Victorian Bar Council, Mr Mark Derham, QC, Mr Ross Ray, QC and Mr Jonathon Morrow, who set out clearly the views of the Victorian bar. Before I turn to those views, I ask the house to consider what the Attorney-General had to say about the bar.

Mr Finn interjected.

Mr CAMERON — The honourable member for Tullamarine will be interested to observe that the Attorney-General said she had established a committal proceedings consultative committee that consisted of various people, including:

... several representatives of the Criminal Bar Association and Bar Council and the Law Institute.

The Attorney-General wandered into the house, tossed a bit of ratty legislation on the table and said, to put it in plain English, 'Representatives from everywhere have had input into this, including representatives of the Bar Council. It is a wonderful piece of legislation'.

I was very interested yesterday to hear the views of the three gentlemen who represented the collective view of the Bar Council. They said, 'The criminal bar says the proposed legislation is crook, and we say it's crook'. Yet the Attorney-General would have us believe they were doing cartwheels because it was so good. I was disappointed to hear the Attorney-General make those entirely misleading comments, coming as they did from the first law officer of the Crown.

What did the Bar Council have to say? Mr Ross Ray, QC, is a fair-minded man. He does not go around simply championing the cause of defendants; instead he goes around championing the cause of justice and the law. He has prosecuted many cases, including many murders, and has seen the law from both sides.

Members of the Victorian bar have seen both sides of the equation, and they want to see fair trials. That is not much to ask, is it, Mr Speaker? It is unfortunate that we have to ask ourselves that question.

The Bar Council believes that the bill does not propose fair legislation and that it undermines some of the most important legal rights held by Victorians, even though

the Attorney-General believes members of the bar are doing cartwheels in their enthusiasm for the bill.

The Bar Council points out that the new paper committal procedure that the bill proposes is not in the best interests of justice because it does not have the safeguards and the checks and balances contained in other legislation. The only other comparable legislation in Australia is the National Crime Authority Act, which honourable members will appreciate deals with a very different level of crime. The Bar Council says the federal act contains the necessary checks and balances and protection. Unfortunately, there are no such provisions in the bill.

The Bar Council makes it clear that the proposed changes to section 56 of the principal act are radical in that they propose a new compulsory examination procedure that is unheard of. The bill proposes that if defendants want to cross-examine witnesses at committals they will have to seek leave to do so, and the cross-examination will have to be relevant to the facts. Those requirements are set out in clause 13 of proposed schedule 5, which sets out the criteria for the granting of leave to cross-examine a witness.

Considerable argument will be necessary to determine whether credit is an issue on which someone can be cross-examined, because that is not a fact, per se, and credit is a vital issue to any trial, including a committal. The situation may arise in which a witness will not be able to be cross-examined on those issues, resulting in an unnecessary trial. On the other hand, if the cross-examination had been allowed, a magistrate may well have found that the test to allow the matter to go to the County Court had not been met. There is no point in that.

I refer to the process of appeals to the County Court whereby one has one month to withdraw; one is otherwise locked into proceeding unless one goes to court seeking to withdraw the appeal. The effect will be that people, especially those who are not able to obtain legal aid, will be locked into proceeding with appeals. They will have to seek to abandon an appeal, which they will be reluctant to do because of the costs of the hearing. Who would turn up on the hearing date and say, 'Before we start, Your Honour, can we withdraw the appeal?' If the judge says no, the person will have to proceed with the appeal. Who will do that? The result of such silly provisions will be that the courts will be even more clogged up with cases.

Providing for appeal to the Court of Appeal will allow someone who is in custody to have the time of his or her detention added to the sentence, although there

appears to be no recent case for that. The courts will try to pull back the legislation and read it as restrictively as possible. As the honourable member for Berwick said, one must have faith in the judiciary's ability to overcome bad legislation by reading it as narrowly as possible. As we do not know how the courts will read bad legislation, we should not pass it. I appreciate that as he is a lawyer the honourable member for Berwick is extremely apologetic when making such remarks. He should not have to make them; it is disappointing that he has had to make such a veiled apology.

The proposed legislation refers also to abandonment of appeals. Many people will be scared by the provisions and will take the view that an appeal abandoned at the last moment may be considered vexatious or frivolous and that they will have to pay costs. If one has legal aid one will not be fussed about costs, nor will people such as John Elliott, but if one is a breadwinner from a ordinary working family one will be worried about the cost implications. An appeal might have a good likelihood of success, but it might not be proceeded with for fear of the costs involved. As a result, appeals that should take place will not be proceeded with. That is not the way our society should function.

Honourable members should stand up to the Attorney-General and adopt the principle that justice must overcome the law, and I urge them to oppose the bill.

Mr RYAN (Gippsland South) — I join with pleasure in the debate on the Magistrates' Court (Amendment) Bill. Although I was not in the chamber earlier, as was correctly observed by the honourable member for Bendigo West, I was listening intently to the contributions made by various members who have spoken on the bill. The contributions of members of the opposition need a good dose of practicality, which has been lacking in their comments on the proposals in the bill. I cannot help but reflect upon the issue raised towards the end of the contribution of the honourable member for Bendigo West, who said that the courts should not have to address what is in his view bad legislation.

Here is an immediate divergence of views. Contrary to what he said, on reflection it is apparent that there is everything to be said for putting general case management issues and the administration of matters relating to the way in which business is discharged through the courts in the hands of those who are best able to do that work. They include the administrators and I believe strongly also that the general administration of the courts is assisted considerably by judges and magistrates being empowered with a range

of discretion about the way the business of the court passes through their hands.

It is essential that judges have a wide discretion to deal with the many matters that come before them by way of a mechanism that they consider best suits the huge variety of circumstances they confront every day in the discharge of their onerous responsibilities. To take the opposite position from that advanced by the honourable member for Bendigo West, the courts are at their weakest when constrained in the manner that he generally advocates. It is far better to have legislation that provides a generalist capacity for a judge or a magistrate to deal with matters in the court in the manner that the appropriate member of the judiciary deems necessary for the particular needs of the occasion.

The general community view is that the committal and appeal processes require reform. They are not different from other areas of the court system. We are talking about the proper use of scarce resources in the operation of the court system. That should be balanced against justice, fairness and equity, particularly for the vulnerable in our society. A balance is constantly sought to be struck in the way the system is structured.

I shall exemplify that need to find a balance by reference to the civil jurisdiction in which I practised for about 20 years. When I look back over what occurred in the civil jurisdiction in those bygone days, in the early 1980s in particular, if one were acting for someone who was injured in an industrial or motor car accident one would go through a process of gathering the evidence from that individual, gathering medical reports where necessary, interviewing witnesses and going through the various interlocutory processes associated with the preparation of the court documents. Eventually the case would be set down for trial. Then, because I practised in Sale, the case would be listed for hearing at the next court circuit.

I remember that in one year back in the early 1980s we had six full months of County Court and three months of Supreme Court circuits in the City of Sale — that is, for nine months of the year we had the County and Supreme courts respectively hearing cases in Sale. Invariably at the start of a civil circuit I would have about 30 cases in a County Court list. As one went through the process of negotiating at the proverbial door of the court, or even after running a case for part of a day, a full day or some days, as all the issues were fleshed out and the respective parties had a better idea of their cases, one would settle. That happened often. On other occasions, but not frequently, cases would proceed to verdict. That is the way civil business was

transacted through the courts during the period I am referring to.

Changes had to be made when it became apparent that there were not enough resources to ensure the consistent availability, not only in the circuit courts but in the civil jurisdiction in Melbourne, of all the administrative and judicial aspects that are necessary if a jurisdiction is to properly discharge its functions. That meant that those who were practitioners in the civil jurisdiction and those who were parties to the various cases within it also had to recognise and react to change — and that has continued over the years.

Among the basket of changes that have been made in the civil jurisdiction are court-ordered mediations, which force the parties to a civil dispute to come to a conference to see whether a settlement can be negotiated before they reach the door of the court and otherwise have the case unfold. It means that weeks or even months before a case could be heard, the parties are brought together, the various issues are thrashed out and an endeavour is made to resolve the matters in dispute. In a high percentage of cases settlements are achieved. I say that with some authority, not only because I practised in the jurisdiction but because, in my latter years, I became qualified as a mediator. I conducted a number of mediations, and for many of those involved it was a case of seeing one's life pass before one's eyes. Only a few years before, those cases would have ended up in court, taking up valuable time and consuming the court's resources — and the current system has enabled us to preserve those resources.

The same circumstances apply to the Family Court. Is there any greater tragedy than a fight in the Family Court between a couple who are contesting the custody of their children?

An honourable member interjected.

Mr RYAN — With due respect to the minister, it does not change the essential notion. I take the minister's point that if they are both on legal aid — as I understand him to be suggesting — it may protract what is already a tragic circumstance. To the extent that that ever were to happen, he is right.

The essential point is that once upon a time we did not have a mechanism to enable the parties to that sort of dispute to come together in a non-threatening and non-adversarial environment to resolve the issues. However, in those instances the children suffered the most. It was all right for the parents to become involved in that sort of skirmish; it was for the children's sake that changes were made. As a result the parties are now

required to attend court-ordered conferences to see whether they can settle their differences. In some instances people have to go to court, but in many cases settlements are achieved. That is another example of the change that has occurred with the passage of the years.

In the other jurisdictions — the arbitration jurisdiction, the Federal Court and the Magistrates Court — the theme is similar. To preserve scarce resources and to achieve outcomes that are fair and balanced for everybody, the government has introduced mechanisms whereby people can address the issues earlier than has historically been the case in a controlled environment, enabling them to achieve better and more meaningful outcomes. Invariably they achieve the outcomes they sought when first they entered the process.

We are talking about managing change. The bill deals with changing the mechanisms that apply to committals and appeals. The government has been looking at the issue with a view to achieving two primary goals: preserving court resources, and properly managing justice, particularly in the interests of vulnerable parties.

I take up another point made by the honourable member for Berwick. I share his faith in the capacity of the judiciary to properly apply the provisions of the bill, and clause 18 in particular. To echo the sentiment expressed by the honourable member for Bendigo West, I point out that yesterday the Scrutiny of Acts and Regulations Committee received a deputation from members of the Victorian bar, who made a constructive contribution to the debate. It is interesting to note that in the letter they sent me on 18 March in my capacity as the chairman of that committee, they referred to clause 18 as the most disturbing provision in the bill. The tenor of the comments made by the honourable member for Niddrie reflects that point of view. He argues that people will be subject, willy-nilly, to a clause that will penalise people on an ad hoc basis because they have had the temerity to lodge appeals that may later be found wanting, which may mean they will have to serve an additional 90 days in prison.

When one looks at the clause one sees that that is not the case. When one combines that notion with the notion that the judiciary has a proper role to play on the basis of the separation of powers and its capacity to discharge its responsibilities, one does not arrive at the outcome arrived at by the honourable member for Niddrie and the other opposition members who have contributed to the debate.

Under the heading 'Time held in custody pending appeal', proposed section 18 says in part:

The Court of Appeal, on dismissing an appeal ... may —

and I emphasise the word 'may' —

direct that the whole or any part of the period of time during which the appellant was held in custody ...

The proposed section goes on to say that it might be considered irrelevant for the purpose of any sentence subsequently passed. A further subsection says that that period cannot be greater than three months. So if it is considered appropriate, the Court of Appeal may decide it is not possible for a prisoner to have the benefit of having his sentence reduced by up to 90 days.

The second-reading speech says that that will apply only when an appeal is frivolous.

I quote briefly from the second-reading speech at page 889 of *Hansard*:

In recent years, the Court of Appeal has expressed concern that some appeals are being brought before the court which are totally without merit. Such appeals delay the hearing of meritorious appeals, waste valuable court time and increase the burden on legal aid resources.

The Sentencing Act 1991 is being amended to deter frivolous appeals.

Honourable members know that in relation to the interpretation of the legislation before it the Court of Appeal has regard to the second-reading speech and the debates in this place. In a practical world this provision will be used only in the remotest of circumstances. In the United Kingdom, those orders, which exist under different forms of legislation, have been reluctantly applied by judges, and I agree with that. The Court of Appeal, the superior court in Victoria, comprises three judges, not a single judge. I do not understand the argument of the honourable member for Niddrie that this provision will be applied in the way he suggests, especially when one has regard to the material to which I have referred.

It is inevitable that the legislation will be amended. The opposition referred to the Scrutiny of Acts and Regulations Committee's *Alert Digest* No. 1 of 1999. That report refers to 10 bills, 7 of which are amending legislation. Changes will be made to legislation which has passed through this place. That is part of the dynamics of the world in which we live. Legislation is not cast in stone; changes will be made from time to time. That will also be the case with the bill before the house.

The Scrutiny of Acts and Regulations Committee, which I chair, has made a number of points about the operation of this measure. It has expressed some concern about the way it may be applied. I emphasise that in so doing the committee believes it is conceivable

in certain circumstances that people might be disadvantaged by the operation of the legislation. However, it is ridiculous to take that issue to the next step and say that the inevitable consequence of the legislation will be to bring about the outcomes described by the honourable member for Niddrie. I reiterate that if the concerns expressed by the honourable member for Niddrie occur in the administration of this legislation, changes will be made. The very fact that amendments have been made to the legislation referred to in the *Alert Digest* that I tabled today exemplifies the fact that the government is willing to make changes when required. We must not let that strike out the need for reform of committal proceedings and appeals.

It is a nonsense to say that committal hearings do not incorporate an element of fishing expeditions and rehearsal of cross-examination. I remember them well and went through the process many times on behalf of clients. It occurs particularly with white-collar and blue-collar crimes and fraud cases. Changes need to be made to the way committal hearings are run. It is not correct to say courts are sufficiently empowered to enable magistrates to contain fishing expectations. I know of many incidents where attempts made to curtail irrelevant cross-examination, sometimes intended for future purposes, were unsuccessful. Counsel representing clients will speak of going to the Supreme Court and having orders made by magistrates struck out. It is in that environment that the government is moving to bring about changes to the act.

I again adopt the points made by the honourable member for Berwick in his contribution. The bill results from a tortuous process of consultation, not just the Pathfinder expeditions, but other general consultation. It has taken many years and the bill is the product of the process.

The government will isolate and identify the facts at issue and get to the guts of the matter, if you like, to concentrate everyone's mind on the issues in dispute so they can be dealt with as early as possible and limit the scope of possible trials. The general tenor of the legislation is sound and if, in the course of the administration of the act, changes need to be made, those changes will become apparent.

Clause 5 sets out the capacity for a witness to be summoned before the court and examined in the circumstances set out in the provision. Members of the bar and others have expressed concern about this clause. The clause is wide in content and will need to be monitored to ensure it fulfils the purpose for which it is designed, because its application is narrow. One need

only to refer to the second-reading speech to see the purpose of the clause. On page 888 of *Hansard* the minister states:

This power has become necessary to combat an increasing problem where persons or institutions refuse to cooperate with investigating authorities to provide statements, thereby jeopardising complex prosecutions such as fraud cases.

That illustrates the tenor of the provision. We are not talking about the provision being used willy-nilly in the manner suggested by the opposition. It will be done on a considered basis. The powers contained in the provision are relatively wide and the government will monitor them carefully. The mechanisms of hand-up briefs are also described. The defendant must give notice and apply for leave to cross-examine and there will be a need to identify in that notice the issues specific to the purpose of the cross-examination. They must be of substantial relevance to the facts at issue. One of the considerations will be the definition of 'substantial relevance'. Again that is something the court will flush out as the legislation is applied.

The point is made in the submission by the Bar Council that the issue may go to the important matter of credit, because credit is central to the notion of whether the witness's evidence should be properly accepted in the course of evidence given before a court. So it may be that the interpretation of the provision include something to do with the notion of credit. If the lack of a proper definition impedes the tenor of the legislation, the government may consider amendments.

The bill provides protection for certain witnesses and issues regarding cost discretions. Invariably courts will exercise discretion carefully. I say that with some authority because historically that is the way it has been. The provision will apply only in circumstances which attract its use.

I turn now to the issue of appeals and the way they operate in the context of circuit courts. Invariably when the circuit judge came to a place such as the City of Sale the first order of business in the County Court was the appeals. The order of events was that the court would deal with the appeals, then the civil juries, and then the civil cases that did not require a jury. However, sometimes, after the various cases in the Magistrates Court that had preceded the arrival of the circuit — it might be one or two or even three months later — an appeal would be lodged, put in a drawer and forgotten.

Eventually one would find out who the County Court circuit judge was. With the greatest of respect to the members of the County Court bench, the reality is that there were those with whom one felt more confident of

one's capacity to persuade the court to one's point of view. It was one of those wonderful intricacies of modern life. So it was that such an event had a slight, and sometimes a substantial, impact on the way the appeal would develop. At times I have seen 20 appeals disappear from a list by some magic trick — that is, the resources of a court were brought to Sale for the purpose of hearing appeals which did not proceed. Obviously I am describing extreme circumstances, but often a number of appeals would go from the list. That sort of situation would be repeated across the jurisdiction right throughout the state.

The bill provides a mechanism by which some realistic control can be exercised in such a situation.

Honourable members interjecting.

The ACTING SPEAKER (Mrs Peulich) —

Order! I have shown some latitude, especially with interjections, to allow the debate to proceed and to be a little more interesting. However, the honourable member for Morwell is disorderly and out of his place.

Mr RYAN — The idea is to shift the onus to the appellant's giving realistic consideration to what he or she is involved in and to make a decision at an earlier time than currently happens and therefore assist in case management.

Honourable members interjecting.

Mr RYAN — I hear the comments about legal aid. Inasmuch as difficulties about access to legal aid are a factor in the debate, I agree it is necessary to have regard to them. The legal aid system may need to be adapted to pay proper regard to the same issues. However, in principle there is nothing at all wrong with the notion that people in this jurisdiction — as they do in every other jurisdiction I have described — must have a realistic regard to the notion of matching the use of scarce resources with the need to do the fair thing by those involved in the system. That extends all the way through to the top powers, and I reiterate that I am sure they will be applied judicially and carefully.

I appreciate that on the face of it the notion of abandonment carries a heavy onus or has the potential to do so. However, the key is that people have to make their decision within the 30-day window of opportunity from the first day of prosecution. If they do that, they will not get themselves into the tangle of having to abandon after that. Therefore mechanisms will be provided by which justice can be served properly, but there will be change. The amendment in clause 24, which is the power to restrict the publication of material

pending a hearing in the Magistrates Court, is long overdue and is to be applauded.

In summary, I am sure this constructive amendment will work well because the best people to oversee it will be doing so. I have unfailing faith that the Victorian judiciary will do what they have done so superbly over the decades of Victoria's existence.

Ms GILLET (Werribee) — Having heard the contributions of some of my fellow members of the Scrutiny of Acts and Regulations Committee, one could be forgiven for thinking — accurately, as it happens — that the members of the committee take their job very seriously. Yesterday we spent considerable time, ably assisted by the committee staff, going through all the legislation. We generally do that, but the time we spent on the Magistrates' Court (Amendment) Bill far outweighed what we spent on all the other legislation before us.

The reason is simple — the bill requires a great deal of scrutiny. On looking at *Alert Digest* No. 1 of 1999 honourable members will find an enormous amount of space given to the committee's assessment of the bill. That is partly because the committee received a number of representations on the bill from bodies external to Parliament. Committee members are always concerned to receive representations from people outside Parliament, and they are treated seriously. We had representations from community legal centres and the Victorian Bar Council, organisations that deal with the justice system every single day of the week.

They see the broadest possible range of clients, although one could argue that they may serve different ends of the community spectrum. It could be argued that some, being highly paid members of the Bar Council, may have wealthier clients, whereas community legal centres look after less advantaged clients. Yet representatives of both those organisations sang in harmony but not in praise of the bill. They were singing the same song, directing the attention of members of the Scrutiny of Acts and Regulations Committee to the problems they foresaw in the operation of the bill.

I follow the honourable member for Gippsland South in this debate but I do not share his arguments. Having spent perhaps two decades working in the civil jurisdiction, he spoke of his experiences in the development of mediation. He described mediated settlements as a progressive and thoroughly sensible way of moving forward. I agree with that. Anybody with any commonsense and a desire to reduce not just the costs of justice but the human costs of people

suffering through their efforts to obtain justice would support mediation — that is, everybody supports mediation. In the resolution of disputes in the industrial arena, the Australian Industrial Relations Commission has those two equally strong pillars. Equally, in the Family Court jurisdiction mediation is a critical element.

However, the one aspect of conciliation or mediation that the honourable member for Gippsland South forgot about was that the parties have to agree either to a conciliated settlement or to participate in mediation. The bill does not provide for agreement; rather, it seeks to legislate a compulsory move to mediation. It would be my very strong submission to this house and anywhere else that one cannot legislate for goodwill. One must come to a mediation or conciliation with goodwill in the hope of being able to reach an agreement.

I agree with the progressive move towards mediation. Goodwill, however, is the foundation upon which mediation is built. It is the first priority to be met, and must come freely. Goodwill cannot be legislated for, as is proposed in this bill.

The honourable member for Gippsland South spoke about the bill being part of the process of managing change. The Scrutiny of Acts and Regulations Committee considered a reference from the Attorney-General on the right to silence. The committee was required to examine various legislative changes that had been made to the application of the right to silence, both pre-trial and at trial, in the United Kingdom and the Republic of Ireland. The committee also looked at the issues that brought a conservative United Kingdom government to the conclusion that it would have to move in that direction.

That government decided, for a range of reasons including a forthcoming election, that it should alter the operation of the right to silence. An interesting aspect of that decision was that access to legal aid was greatly enhanced. In fact, the cost of the additional legal aid required was about £90 million in the first year, and the cost grew and grew in following years. It was understood that if the legislature was going to interfere with the operation of the right to silence, it needed to provide timely legal advice to people who were being questioned in police stations. That is what they accepted, that is what they understood and that is what they did.

When change is being generated it is important to avoid reckless or half-baked experimentation. It is not all right to make whatever legislative changes one likes. Some

might take the view that legislative mistakes can be corrected by the judiciary, or that the judiciary may not avail itself of the changes in the legislation anyway, and it is true that the judges might ignore them.

Nevertheless, if the judiciary does not fix the mistakes that this government is proposing to make, then, as is their constant and frightening habit, people can say the government did not get the legislation right the first time because it was too sloppy, too lazy or too unprepared to listen, and Parliament will then have to amend it. Governments should not throw out into the community its half-baked, sloppy and purposeless changes or conduct witless experiments with change. They should consult widely about changes, but this government has not bothered to do so. Instead, it has taken a sloppy step because it sees a problem with all aspects of management of the criminal justice system.

Government members are racing in like bulls at a gate, led by the biggest bull of them all, to bring about legislative change, even though they are not confident about it. They know that everyone who knows anything about the criminal justice system is complaining about it, but they don't care. They are not prepared to listen. They will offer every available excuse to explain why they should be able to do whatever they want to, and they will just keep on going.

It would do this government no end of good to listen to what people have to say. The Victorian Bar Council spoke loudly and clearly to just about anyone it could find, because the government did not listen to it. In a letter of 18 March to the honourable member for Gippsland South, the chairman of the Scrutiny of Acts and Regulations Committee, the Victorian Bar Council states:

I am writing in order to convey to you the views of the Victorian Bar Council in relation to the Magistrates' Court (Amendment) Bill, which was introduced into Parliament on Wednesday, 28 October 1998 ...

The Bar Council holds the gravest concerns for this proposed legislation. The Magistrates' Court (Amendment) Bill would, if passed, undermine some of the most important legal rights held by all Victorians.

The Bar Council is particularly concerned by provisions in the bill which would limit the rights of defendants at committal, and most importantly the provisions which would discourage criminal appeals under threat of costs orders and custodial sentence. A further serious concern is the introduction of an unprecedented procedure which allows police to compel a person to attend for a court-enforced interrogation.

The time and money savings the bill seeks to achieve are unclear, but the bill clearly has the effect of restricting access to justice in a legal environment which, by virtue of cuts to legal aid, has already made radical inroads into access to

justice. In these circumstances the Bar Council believes that, contrary to the statements issued by government, the bill would compromise community confidence in the criminal justice system.

The government could not get a clearer indication of grave concerns than from this huge, professional, knowledgeable group, a body that is hardly radical! I have read only from the cover page of the letter. The letter goes on to identify clearly each of the concerns of the Bar Council. The community legal officers did precisely the same thing.

As I have said before, this government would save itself and the Parliament huge amounts of time, energy and money if it adopted the principle of doing something once and doing it well. It seems, however, that this legislation, like so many other bills that come before the house, has wrong priorities. The first priority in this bill is the saving of time and money. 'Burn people, burn their rights, burn the justice system. Just save time and money', it declares. It represents a very short-sighted attempt by the government to enact changes without it realising that the changes will cost people more time and money. The legislation will repeatedly come back to Parliament for amendments that the government was invited to make when the bill was being drafted.

But the cost to Victorians will be greater than that. The real cost of the mistakes in the bill will be in the loss to Victorians of their common-law rights. The legislation does not improve the criminal justice system. If passed, it will do little if anything to improve the operation of the system, according to those who work in the system every day.

When the Scrutiny of Acts and Regulations Committee came together to examine the legislation, members of the committee had many comments to make. That committee is always very careful to apply itself strictly to its charter, which it considers to be a rights charter. It endeavours to ensure that the existing rights of Victorians are not diminished or extinguished.

The Scrutiny of Acts and Regulations Committee had a field day with the legislation. The first comment the committee makes in *Alert Digest* No. 1 concerns part 5 of proposed new schedule 5 of the bill headed 'Procedure where hand-up brief served'. With regard to clause 13 of proposed new part 5, which is headed 'Application for leave to cross-examine a witness', the committee states:

The new procedure requires the applicant to specify the scope and purpose of the proposed cross-examination before being granted leave to cross-examine.

Before cross-examining somebody the applicant has to be able to say, 'I am going to cross-examine this witness and show that this cross-examination is relevant based on the facts'. My colleague from Gippsland South spoke about practicality. I would hate to be a lawyer at a committal — it is supposed to be a forum for exploring the facts and conducting a forensic search — as I would be expected to have a crystal ball or two and to know the case before it had been explored. The committee continues:

Cross-examination is not to be permitted unless the applicant can show that the evidence sought to be adduced by the proposed questioning has substantial relevance to the facts in issue. The 'relevance' test may prove to be difficult to satisfy, however it remains to be seen what standard of specificity will be required by the bench in the notice for leave to cross-examine. The committee is of the view that the committal proceeding is meant to determine what is of relevance for the purposes of a trial and that to make an application seeking leave to cross-examine on the foundation of questioning that is 'relevant' would appear to presuppose that what is 'relevant' is already known by the defendant/applicant.

That is not practical. It fails the practicality test set by the honourable member for Gippsland South. The committee continues:

The purpose of cross-examination at committal has always been understood as one properly involving a forensic search to determine what is relevant as opposed to a broadly based fishing expedition or a rehearsal of testimony.

The committee states further:

The committee is concerned that the new provisions may impair the right of a defendant to know, at an early stage of a criminal proceeding, the full extent of the case against him/her and therefore affect the defence opportunity to fully meet that case at trial. In some cases it may also impair the prosecution in assessing the strengths and weaknesses of charges brought, and therefore its ability to effectively prosecute those charges or in appropriate circumstances to withdraw some or all of the charges.

With concerns such as those being raised, how could anybody in the chamber argue that the bill before us is making arrangements more efficient, clear and straightforward and saving time? It is simply beyond anybody's credibility to imagine how that sort of confusion and difficulty will enhance the operation of the criminal justice system.

The other significant consideration of the committee regarding the need to limit one's cross-examination to where one can determine it is relevant reads as follows:

The new cross-examination application procedure is silent as to cross-examination going only to issues of credit —

that is, the credibility of the witness or defendant.

The committee believes that evidence on issues of credit allows both the defence and the prosecution sides to consider, in an informed way, the strengths and weaknesses of the case and may lead to an early determination of the proceedings by way of a plea or the withdrawal of some or all of the charges.

That is the first issue about which the committee is writing to the Attorney-General for clarification. It is also referring the matter for the consideration of the Parliament.

The Attorney-General will receive that lengthy assessment from the Scrutiny of Acts and Regulations Committee. Some fine intellects are represented on that bipartisan parliamentary committee — finer than mine: some of them are lawyers, but we will forgive them for some things. It is somewhat disappointing that while the committee devotes its time and energy to searching out the issues, bringing them to the attention of the Parliament and writing to the Attorney-General asking that issues be considered or further clarified — if the minister's response is consistent with that of her colleagues — by the time the committee receives a response the Parliament could be in the middle of an election campaign, or the election may even be finished. In any event it will be a long time since the passing of the bill.

Where the committee has asked questions of the minister, the minister's answers to the problems raised will not be able to be brought to the attention of members of the house until long after the legislation has been passed. That is clearly wrong.

The bipartisan parliamentary committee is to scrutinise legislation regarding rights — that is, if there is to be an alteration, diminution or removal of rights — undertake its deliberations and seek to inform itself properly, but the legislature does not take the committee's work seriously enough. The house, on receiving a report such as this one, could decide, 'Fine, perhaps we ought to wait; perhaps we ought to better consider our position'.

If the house does not do that, what is the point of having a Scrutiny of Acts and Regulations Committee? What is the point if, through no fault of its own, it does not have the capacity to inform this place of circumstances where rights may be completely extinguished — important rights in the justice system affecting the most vulnerable in the community. One wonders about the bona fides of a government — one constantly wonders about the bona fides of this particular government — that does not take seriously the institutions it creates.

It is the greatest handpass of all time for members of this house to suggest that at all costs they can pass

whatever legislation they consider satisfies their ideological, obsessive-compulsive behaviour if it achieves a cost-effective outcome. Members can forget about the people and issues of rights and justice; they just want a time-efficient, cost-efficient system where the markets decide everything under the sun. Members attempt to apply that approach in social justice areas, where far greater considerations of welfare, justice and the fact that we live in a community and not just an economy ought to apply.

That is the case regarding the Magistrates' Court (Amendment) Bill as well. It is no more or less important to get a financially balanced budget than to have a balanced society that provides equitable access to justice — that is, a justice system that everyone can afford.

It is simply not the case now. I heard a term used for the first time yesterday when, as my colleague the honourable member for Bendigo West indicated, members of the committee were being briefed by three very eminent Queen's Counsel representing the entire Victorian Bar Council. They used the term 'legal poor'. As I said, it was the first time I had heard it, but I do not expect it is the last that any of us will hear of it.

Mr Finn — What was it?

Ms GILLET — The legal poor. They are people we all have in our constituencies. They are not the people with health care cards — legal aid is still available to them, although not a lot of it. If your life or liberty is threatened you are fine if you have a health care card. Legal aid is not available to the very wealthy who can spend \$1000 to \$7000 a day on very fine legal representation — they do not care about the cost because they have plenty to pay for it.

The legal poor are another group of people who may have been like us before we came into this place — if any of us could have been called normal before we came into this place! They are people on average incomes for whom every justice system has become impossible to access. We all know them and see them in our electorate offices every day. They come in seeking to pursue a case of some description, perhaps in family law or a civil jurisdiction, or to defend a criminal matter in a Magistrates Court. The case may involve young people whose mum and dad have very good jobs and two average incomes, but they will never get legal aid and they simply cannot afford to avail themselves of the very expensive end of the legal market.

This morning the honourable member for Niddrie, the shadow Attorney-General, was talking about two

systems — a Rolls Royce and a billycart system. That situation is not about to develop; it already exists, and the people in our electorates know it. They are the ones the opposition and the government seek to represent. They will ultimately have to decide whether the government has been a decent, reasonable and honourable government or whether all its members have become a bit ideologically obsessed and have let things run for far too long.

It was fairly clear that the contribution to the debate by the honourable member for Doncaster was wholly and solely focused on one thing — that is, his absolute desire to prove himself to be the most suitable candidate for the information technology portfolio after the Treasurer retires at the next election. It had absolutely nothing to do with the bill. It is a tragic and disgraceful state of affairs because he used to be a member of the government party who could look at the world in a very broad way, who genuinely cared about a true sense of justice and who believed one could go to court and really get justice. He was committed to such a system of justice, but now that is not so. Tonight he was simply trying to demonstrate that he would be the best new minister for information technology in what he hopes will be another Kennett government.

A similar situation probably exists with a number of members on the government side of the house. They must be in an awful situation, with so many ministers retiring at the next election and all the jockeying for positions all over the place.

Mr Coleman interjected.

Ms GILLETT — We are sorted out. You have to go through it yet. I assume the preselections are in May.

The ACTING SPEAKER (Mrs Peulich) — Order! The honourable member is straying from the parameters of the bill and she has only a short time remaining to conclude her remarks.

Ms GILLETT — Everyone has told the government that the bill should be withdrawn. The fact that it does not want to do that simply demonstrates it has no capacity to listen. It will be embarrassed again when inevitably the Attorney-General will introduce even more amendments than she has circulated today. It is a tragedy.

Opposition Members — Hear, hear!

Ms McCALL (Frankston) — It is always a pleasure to join debate in this chamber after having heard such erudition and such enlightening speeches from so many lawyers, or even, may I dare suggest, bush lawyers. I

have sat very patiently through most of the speeches and still have had a great deal of difficulty grasping what they were trying to get me to not agree with. Either they have missed the point or I have — but I am prepared to consider that they probably have.

My experience of the legal systems both overseas and in Australia has been as one sitting on a jury under the United Kingdom system; as a student in France and in Scotland studying how the rules on the onus of proof worked — studying the system was in fact very different from being a juror in the United Kingdom; and during my time as an employer advocate in the Industrial Relations Commission in Victoria. So my knowledge of the legal system is in many respects as the consumer, if you like, rather than as the lawyers or legal eagles who have spoken in this chamber.

I direct the attention of honourable members to the *Oxford English Dictionary* definition of 'magistrate' — I remind the house that it had to be the *Oxford* rather than the *Macquarie*.

Ms Gillett — You are dreadful!

Ms McCALL — Yes, I have a reputation to uphold and I am very happy to do so. The *Oxford* dictionary has a longer, expanded definition of 'magistrate':

A civil officer charged with the administration of the laws, a member of the executive government.

That is an interesting one. I do not think we have considered that as an option for a magistrate. The original definition under the system that we have subsequently inherited in Australia was that a magistrate was the wise man of the village; he was the magister, which is Latin for 'master'. He was the wise person who advised the community on the most appropriate course of action on minor offences — and I say 'minor'. The magistrate would ensure that cases were heard speedily, that difficulties in the community were dealt with quickly, and that the system was not as complicated, slow and complex as it would appear to have become today.

A book by Edward Rutherfurd called *London*, which is about a family that survives in England from the very early days of the marshes right through to the present day, describes in some detail the bases of the legal system we have inherited in Australia. One of the points made quite specifically in the book is that the legal system has become progressively more and more complicated and more alienated from the people it is there to serve.

I suggest that a measure such as the Magistrates' Court (Amendment) Bill is an indication of what the government has done over the past few years to try to demystify much of what happens in the legal system in the state and, in particular, in the Magistrates Court.

The purposes of the bill are very specific: to reduce delays in courts; to promote the early resolution of criminal cases, particularly in early pleas of guilty; to reduce the number and length of contested committal hearings; to reduce the number of witnesses called in contested committal hearings and to protect them from unnecessary cross-examination; and to improve the disclosure of evidence function of committals, enabling issues and disputes to be identified and narrowed at an earlier stage than currently occurs. In other words the bill promotes accountability among the stakeholders.

I take from the preamble of the bill a particular line that deals with an issue in which I take some interest. It provides that the hand-up brief must contain:

... for proceedings involving sexual offences, a copy of every statement made by the complainant to any member of the police force relating to the offence.

The amendments seek to address some of the issues by speeding up cases to be heard in court, making the courts more efficient and requiring, if anybody should be arrested and is ready to appear in court, that at the earliest possible stage the prosecution provide the defendant with full details of the case against him or her. Surely logically that has to be a much fairer and more obvious way to go in protecting the public. No cross-examination without leave will be permitted. The second-reading speech states:

Cross-examination of witnesses will now only be allowed at committal hearings if the magistrate grants leave.

The bill provides that leave shall not be granted unless the magistrate is satisfied that the evidence is relevant to the issues in the proceeding.

I turn now to those provisions of the bill that will enhance the ability of magistrates to control proceedings. I think the honourable member for Gippsland South made that point. It is appropriate that those who control the proceedings should have the expertise to do so. I have enough faith in the legal system to assume that the magistrates know what they are doing, although they may not always get it 100 per cent right.

The SPEAKER — Order! The time appointed under sessional orders for me to interrupt business has now arrived. The honourable member for Frankston

will have the opportunity to continue her remarks when the bill again comes before the house.

Debate interrupted pursuant to sessional orders.

ADJOURNMENT

Melbourne–Geelong road: Werribee exit

Mr LONEY (Geelong North) — I raise for the attention of the Minister for Roads and Ports in another place a major safety issue on the Geelong–Melbourne road. The road has been acknowledged recently by no less a person than the Premier as the state's most important road. The matter needs to be addressed urgently to ensure the safety of those who use it. It is also fair to say that the road has been continually neglected by the government. That is demonstrated by the deterioration of the road's surface over recent years and the inability of motorists to travel its length without encountering continual restrictions. Restriction signs are in place because the road has been allowed to deteriorate as a result of the government's neglect.

The Geelong–Melbourne road is of major importance, both economically and as a transport route to the Geelong region and the western part of the state. Billions of dollars in trade depend on the road and millions of vehicles pass up and down it each year. Unfortunately the road has a poor safety record — many fatalities have occurred on parts of it. An area of great concern for many years has been the exit ramp from Werribee into the Geelong-bound lanes on the south side — it empties cars into the right-hand lane of a high-speed freeway and is a significant safety problem. Most people who use the Geelong road know how hard it is to get out of that right-hand lane as they come off the Maltby bypass.

A new exit is now being built on the south side of Werribee, within 200 metres of the current exit. It was obviously engineered for the rejected toxic waste dump, but the fact that there is no Geelong-bound exit demonstrates a total lack of thinking and a neglect of road users in that area.

I ask the minister to move urgently to have a Geelong-bound exit included in the new exit ramp on the south side of Werribee to ensure the safety of road users. Now is an appropriate time to include the ramp because the exit is currently under construction. It is appalling that the need for such a ramp was not realised at the design stage. I hope the government will move quickly to ensure the oversight is corrected.

CFA and SES volunteers

Mr JENKINS (Ballarat West) — It is with sadness that I raise a matter for the attention of the Minister for Police and Emergency Services. I ask the minister to recognise the contribution of the Country Fire Authority and State Emergency Service volunteers who provide service to the community, both in my electorate and in the state generally.

The CFA force consists of 70 000 volunteers who are supported by paid staff and operate through 1260 brigades. The aim of the CFA is to protect the lives and property of others. The SES consists of 5500 unpaid volunteers who are supported by a small group of permanent staff in more than 145 units around Victoria.

I ask the minister to comment on and pay tribute to those people who since the spring session of Parliament have made the supreme sacrifice in losing their lives. I refer firstly to the five volunteers from the Geelong West fire brigade who lost their lives at Linton, which is just outside the city of Ballarat — my home town. I am sure honourable members extend their sympathy to the families of the volunteers who lost their lives in that fire. The Geelong West volunteer firefighters who lost their lives were Christopher Evans, Gary Vredeveltd, Stuart Davidson, Mathew Armstrong and Jason Thomas.

I also refer to the very sad news this week of the death of Dennis Clark, a volunteer from the Warragul SES group. An article in the *Herald Sun* of 22 March under the headline 'Town loses man of mercy' states:

Dennis Clark was an angel of mercy, dedicated to plucking life from the wreckage of road smashes.

Day or night the State Emergency Service volunteer responded to his pager, knowing someone was trapped in a tangle of metal, their life in the balance.

He was there to rescue them. Sadly he lost his life travelling to a rescue last weekend.

It was a very sad day for both emergency services, the CFA and the SES, when they lost those personnel. and I ask the minister to respond in the usual form.

Rail: Bendigo workshops

Mr CAMERON (Bendigo West) — I refer the Minister for Transport to V/Line rail privatisation and its harmful impact on jobs in Bendigo. Bendigo has been savaged over rail jobs. Eighteen months ago the minister told the residents of Bendigo that V/Line Freight privatisation would be great for their city. Since

then 19 V/Line Freight jobs have been lost in Bendigo by pre-privatisation moves, mainly by centralising some of the administration jobs in Melbourne and closing down the V/Line Freight roundhouse maintenance depot.

However, the blow has been even worse since the government announced last month that V/Line Freight would be sold. The North Bendigo rail workshops, Goninans, was to be part of the buying consortium and it was hoped that it would get work. That was essential as other rail work was running out. Last week it was announced that Goninans would not be part of the proposed consortium and that around 35 Bendigo jobs would go. Soon there will be only about 30 jobs at the workshops.

I remind the minister that during the 1992 election campaign the Liberal-National coalition promised at least 262 jobs at the workshops for the future. I also remind him that the Premier promised during the forced privatisation of the workshops in 1996 that it was a once-in-a-lifetime opportunity. I urge the minister to advise the house whether the sale of V/Line Freight to the proposed consortium is finalised, or, if not, whether there is any way to stop it. I urge the minister to try to save as many jobs as possible in Bendigo from the government's failed and stupid privatisation policies.

East Gippsland: logging machinery vandalism

Mr TREASURE (Gippsland East) — I refer the Minister for Police and Emergency Services to various acts of terrorism and vandalism in my electorate against logging contractors and their machinery. Once again this season these unfortunate acts have been taking place.

Only a few days ago a bulldozer belonging to a local contractor, Mr Frank Brunt, was burnt in the bush near Bendoc. Some \$120 000 worth of damage has been done to that machine, which has put its owner in a difficult position. He has to find the money to pay the repair bills, and, in the meantime, he, his family and his employees are out of pocket and out of work.

Unfortunately acts such as those are all too frequent in East Gippsland — and they are perpetrated season after season. The police are unable to catch the offenders and prosecute them. Last week a considerable amount of damage was done to government property, including a bulldozer on a government road job — the hydraulic system of the machine was filled with dirt. A number of culvert pipes worth approximately \$10 000, which were stacked along the roadway ready for the road-making

process, were smashed, probably with sledgehammers. That sort of damage is done repeatedly.

Local people who are legitimately trying to make a living and go about their daily business in a legal manner in accordance with all accepted practices of the logging industry are being victimised and treated in a way that makes it more and more difficult for them to earn a living.

I ask the minister to look into the matter and do what he can to increase penalties and put extra facilities and manpower into the area so that these acts can be prevented and a legitimate industry can go about its business.

Family services: Central Highlands–Grampians

Ms CAMPBELL (Pascoe Vale) — I ask the Minister for Youth and Community Services to address the eligibility for services of a group that, tragically, has been ignored in his current bundling of human services — the homeless across all target areas. The matter has been brought to my attention by a worker in the Central Highlands–Grampians region of the Department of Human Services, Helen Jeffrey. The department's latest service integration and purchasing framework, more commonly known as the service bundling approach, has overlooked this key group under the term 'family bundling of services'.

The department has embarked on a brave new world system, under which the single homeless aged over 24 years, or families who are not escaping family violence or whose children may not have been abused, have been seriously overlooked in the latest competitive tendering process. Ms Jeffrey wrote to me and to members of the government and shadow ministers outlining serious concerns that had been brought to her attention while she was working at Peplow House, which is auspiced by Centacare in Ballarat.

Peplow House has eight beds. Its clients come from a range of backgrounds where problems include drug and alcohol abuse, gambling, relationship breakdowns, psychiatric illness, mental or physical disability and unemployment, or they may be trying to settle back into society after serving a gaol sentence. The clients do not fit into the traditional definition of 'family', and the minister needs to extend the terminology under 'family bundle of services'.

I ask the minister to remedy this serious oversight so that singles over 24 and families who are not escaping family violence or whose children are not sexually

abused are supported by the state. People should not have to be sexually abused or bashed before the state is prepared to help them.

Koorlong Tennis Club, Mildura

Mr SAVAGE (Mildura) — I direct a matter to the attention of the Minister for Planning and Local Government. In mid-1998 the Mildura Rural City Council identified the Koorlong Tennis Club courts as being located on saleable land. The council made no inquiries locally or at the post office to ascertain whether the courts were still being used. The Koorlong Tennis Club members have been playing tennis at that location for 70 years. Instead of acting in accordance with section 189 of the Local Government Act and advertising the land for sale, the council placed it in the hands of a local real estate agency, L. J. Hooker Pty Ltd. The contract of sale stipulated that a deposit had to be paid by 15 January 1999, with the balance of the sale price becoming due for payment on 19 February 1999.

The first thing the tennis club knew about the sale was when the *Sunday Independent Sun* carried a small article about it on 17 January last. The council and tennis club members then held discussions, but at no stage was the club told it had the option to appeal or lodge a submission under the provisions of section 189. In fact, it was given advice to the contrary.

On 26 February I sought advice on behalf of the club from the council. I spoke to the mayor, who said a meeting would be held on the following Tuesday.

Mr Kennett — A good man.

Mr SAVAGE — I am sure he may be a political hopeful. However, the mayor was deceptive in the advice he gave at that meeting. I call on the minister to inquire into the actions of the Mildura Rural City Council in this affair. I believe the council has breached section 189, which requires that land owned by a council must be advertised as being for sale at least four weeks before the land is to be offered for sale. The council has failed to act in accordance with the act.

Whitehorse Road, Mitcham: resurfacing

Mr ROBINSON (Mitcham) — I ask the Minister for Sport to direct to the attention of the Minister for Roads and Ports in the other place an important safety issue in Whitehorse Road, Mitcham. The road in the vicinity of the property of Mr Neville Dodds is in desperate need of resurfacing work. Mr Dodds came to prominence last year following publicity in the local newspaper after four cars had damaged his front fence in the space of four years. Those accidents occurred

because of the road surface on a bend in Whitehorse Road that becomes difficult for drivers to navigate in wet weather.

I have discussed the issue at length with Mr Dodds. He showed me correspondence dating back to 1996 in which Vicroads promised future action. It is apparent that Vicroads has failed to deliver on its undertaking. In February another accident occurred — the fifth in five years — when a car swerved off the road in wet weather and crashed through Mr Dodds's fence. The accidents have caused Mr Dodds not only inconvenience but substantial financial loss because some drivers involved in the accidents were uninsured. At this stage the best offer from Vicroads is to consider resurfacing that section of Whitehorse Road in the next financial year.

I believe Mr Dodds has waited far too long and deserves better, as do the thousands of motorists who use that part of Whitehorse Road daily. I urge the minister to take any necessary action to get the job done — not just to make promises — as soon as possible.

Moorabbin Airport: pilot training

Mr LEIGH (Mordialloc) — I direct to the attention of the Minister for Planning and Local Government problems associated with Moorabbin Airport. It is essential for the long-term development of the community that the airport continue to operate, although aspects of its operations are questionable. During pilot training, trainer aircraft, particularly helicopters, are supposed to fly only over the airport precincts and not over local residential property.

Will the minister investigate the possibility of allowing trainer aircraft to fly over an extended area outside the airport airspace that has almost no houses? Large areas of land to the south or south-east of Governor Road are regarded as industrial estates, and there are almost no houses there. It would be safer for the community if the airport continued to be used as the base of operations and the helicopter training were relocated. A real issue would arise if a helicopter came down on someone's house. When a plane crashed at Essendon Airport all training operations ceased.

Moorabbin Airport has done a good job compared with the slack operations of the Federal Airports Corporation, particularly when the colleagues of the bunch on the other side of the chamber were in power in Canberra. Everyone knows that both Simon Crean and Gregory Wilton have done nothing. It may be to

everyone's advantage for some operations to be moved away from the airport during the day.

A further issue concerns the Labor Party's opposition to any development of industrial estates at the airport. The government has done the right thing and Moorabbin Airport is endeavouring to do the same. Will the minister advise whether it is possible to have a leasing arrangement over the land outside the airport's airspace?

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

Casey: Premier's visit

Mr PANDAZOPOULOS (Dandenong) — I refer the Premier to his attendance last Wednesday night at a Liberal Party meeting at Endeavour Hills in the City of Casey. I was surprised to receive a letter dated 18 March from the chief executive officer of that city, Mr Mike Tyler, which states:

From a comment made by the Premier it was clear that he was not aware that the City of Casey is Victoria's fastest growing council.

I am sure that you are aware that this is the case. I would appreciate if you could ensure that this message is continually relayed to Spring Street.

Mr Tyler also wrote to the Premier. His letter states:

I write to express my concern that, as Premier of Victoria, the name Casey does not jump into your mind when you think of urban growth.

The Liberal Party, the Premier and the honourable member for Berwick advertised that public meeting as an opportunity to hear the government's policies on local issues. Questions were asked about police resources and the council's campaign for a new police station in Endeavour Hills, but the Premier had no answers. Road issues were raised, and again the Premier had no local knowledge.

Mr Leigh — On a point of order, Mr Speaker, the honourable member for Dandenong has spoken about both roads and police. My understanding of the adjournment debate is that only one matter may be raised.

The SPEAKER — Order! I uphold the point of order. Honourable members may raise only one issue for response by a minister.

Mr PANDAZOPOULOS — Mr Speaker, the issue I wish the Premier to address is that when he visits the City of Casey in the future he be well briefed on

matters such as AFL Park at Waverley and schools. The Premier was unaware of those issues.

What are the government's policies? A report in the *Dandenong Examiner* of 23 March refers to the Premier's visit to Casey, and states:

He predicted that in five years people will be able to walk into a doctor's surgery and pick out a new heart, lung, liver, spleen, eye or other organs from a box and have a transplant.

Perhaps we will pick out of that box a Premier who knows about local issues. Perhaps we will have a choice about whether it is this Premier. I ask the Premier to be well briefed when he next visits the City of Casey. He should know it is the state's fastest growing municipality. In the past financial year the city gained 6800 new residents. The area has massive infrastructure needs. The Premier should cease playing pretend Premier. Residents want the people who run the state to be well briefed. They want new roads and new schools, AFL Park to be saved and more police resources. The residents do not want a Premier who only meddles and talks theoretically about transplants.

The SPEAKER — Order! I will leave it to the Premier to determine which one of that grab bag of matters he will respond to.

Sunbury Road, Bulla

Mr FINN (Tullamarine) — I raise with the Minister for Transport, who represents the Minister for Roads and Ports in the other place, the road from the end of the Tullamarine Freeway to Sunbury — known as Sunbury Road, Macedon Street and Riddell Road.

I raised the issue in the spring session. Sunbury Road is now subject to very heavy traffic, and in the morning peak it is not unusual for gridlock to occur. A high number of trucks now use the roads in and around Sunbury, and traffic crawls behind the trucks at a minimum speed, often right down to the Tullamarine Freeway.

An honourable member interjected.

Mr FINN — If it will fix it, that may be something we can look at. I also raise the issue of the bridge over Deep Creek at Bulla. The bridge is beautiful and old, but quite inadequate for the enormous number of vehicles that use it daily. My great concern is that a major accident will occur on the bridge. The closure of the bridge for any period would lead to total traffic chaos. It would close the major route between Sunbury and other towns in the Macedon Ranges and the airport, and would lead to major problems for a large section of the work force at Melbourne Airport. The issue is often

raised in my electorate and I believe it needs some attention.

The other issue I raise concerns the bridge over the railway line in Macedon Street, Sunbury. It is totally inadequate for the demand on it, which is growing daily.

I ask the minister to develop, along with Vicroads, a full traffic strategy plan for the roads. The situation is bad enough now, but without such a strategy plan it will only get worse. Sunbury is a rapidly growing and developing township, and the volume of traffic is obviously growing with it. I ask that the minister turn his attention and give an urgent answer to this important issue.

Flemington church demolition

Mrs MADDIGAN (Essendon) — I ask the Minister for Education to investigate the alarming situation whereby his department is threatening to sue the Uniting Church unless it continues with the demolition of a historic church in Mount Alexander Road, Flemington.

It appears that the Department of Education entered into a contract to buy the land with the Uniting Church, and both claim they were unaware that the old church on the land, which was built in 1865, had a heritage listing. Since then the Uniting Church has had concerns about the building and would like to be released from the contract, because it wants no part in the demolition of an historic building, part of which has been illegally demolished.

The City of Moonee Valley and the Uniting Church are happy to settle the matter and restore part of the church so that it can be used as a community building, and I understand that another state government department is interested in buying it. However, the minister's department refuses to even discuss the matter with either the Uniting Church or the Moonee Valley City Council and seems determined to go ahead with destroying the building.

A number of compromises have been suggested to the Department of Education, which wants the land for school space, and the City of Moonee Valley and the Uniting Church are happy to make other arrangements. But the department utterly refuses to even discuss it.

The contract is such that the Department of Education could remove itself from it tomorrow if it wished. It is amazing that one government department is happy to press ahead with policies that are directly contrary to

the planning section of the Department of Infrastructure and to the wishes of another government department.

I know the Minister for Education is a caring—

The SPEAKER — Order! The honourable member for Essendon's time has expired. The honourable member for Sunshine is interjecting while out of his place, and has used unparliamentary language a number of times this evening.

Responses

Mr KENNETT (Premier) — The honourable member for Dandenong raised, I believe in a fit of pique or jealousy, the fact that, according to the honourable member for Berwick, more than 300 people attended a public meeting in Endeavour Hills recently. For some years the government has held regular public meetings — often as many as two or three a week — and all of them have been well attended. I have never attempted to respond to a question if I do not know the answer. On two or three occasions at meetings in Endeavour Hills I have taken questions on board and followed them up with the person who raised them.

It was a good meeting, and I am sorry the honourable member for Dandenong cannot generate those sorts of crowds when he holds meetings. I am also sorry the new Leader of the Opposition has decided not to give the honourable member the responsibility of the shadow ministry for ethnic affairs. The Leader of the Opposition has set the standard of leading from behind on his first night, given that he did not bother to be present in the chamber after dinner.

The SPEAKER — Order! The last remarks are irrelevant to the matters raised in the adjournment debate.

Mr W. D. McGRATH (Minister for Police and Emergency Services) — In response to the comments made by the honourable member for Ballarat West about the contribution of volunteers, I give him my total support. I am sure everyone in the house would give their total support to the honourable member's comments about Country Fire Authority and State Emergency Service volunteers. It is a tragedy that in the past few months Victoria lost five volunteer firefighters in the recent fires at Linton. Christopher Evans, Gary Vredeveltdt, Stuart Davidson, Mathew Armstrong and Jason Thomas from the Geelong West fire brigade were called to the fire in the course of duty and subsequently perished. It was a time of sadness for the Geelong West fire brigade.

The next day I visited the brigade and noticed that the honourable member for Geelong North was also in attendance. The Premier attended the funeral services for those volunteers, and I attended four out of the five services.

Last weekend a State Emergency Service volunteer, Dennis Clark, died in a car accident on his way to provide assistance at an accident at Warragul. He was one of 5500 volunteers in the State Emergency Service who turn out from about 145 units around Victoria to floods, storms, earthquakes and road accidents to perform search-and-rescue, support and relief roles. I hope to attend his memorial service at Warragul on Thursday.

We in this house are fortunate to be able to reflect on our volunteer services and to give them our vote of appreciation. Volunteers play an important role when working both in isolation within their individual communities and collectively across Victoria.

Recently I was pleased to announce a \$500 000 grant to the State Emergency Service for the computerisation of the 145 units around Victoria. That roll-out is taking place now.

The computerisation will be completed with the training of SES volunteers and their career officers by the end of the financial year. That significant advance in information technology will greatly assist them. Naturally all those deaths will be subject to coronial inquests, so I cannot say much more at this stage.

I will quote from the foreword to a valuable publication entitled *Directions in Volunteer Development in Australian Emergency Services*, which was launched last year. The foreword was written by Len Foster, the executive chairman of the Country Fire Authority, and Alan Hodges, the director-general of Emergency Management Australia:

Through recognising the contribution made by volunteers, this document represents a significant milestone for emergency services. It provides a comprehensive insight into the status of volunteering throughout Australia and the issues likely to impact on the viability of this culture into the future. In addition, the report provides volunteer-based emergency services with the information and tools which will be fundamental to the development of appropriate strategies to manage the risks and opportunities posed by prevailing internal and external change.

The publication is a constructive document given its promotion of volunteers.

Mr Baker interjected.

Mr W. D. McGrath — Perhaps the honourable member for Sunshine does not have much volunteer support in his area, but across the rest of Victoria CFA and SES volunteers play an important role. I thank the honourable member for Ballarat West for raising the matter tonight.

The honourable member for Gippsland East referred to the sabotage of the forest industry in the Errinundra Plateau. I sought a police report on the matter, which shows that DNRE officers handled the situation very well. They had to tolerate the smashing of concrete culverts and piping by irresponsible protesters. Dirt was placed in the radio and hydraulic systems of a bulldozer owned by the department, causing damage of the order of \$10 000. Further, a D7 G bulldozer owned by Brunts was damaged by fire. The machine was being used in a sensitive area on the plateau, which had been the centre of environmental protests over the new year. The bulldozer was worth \$160 000, and the damage caused to it will cost approximately \$120 000 to repair.

Mrs Maddigan interjected.

Mr W. D. McGrath — The honourable member for Essendon interjects in support of the environmental thuggery that has gone on. It is to her discredit that she is giving solace to those people. I can assure the honourable member for Gippsland East that the police, including Superintendent Haldane and Detective Baines from the Bairnsdale CIB, are carrying out their various investigations into the terrorist sabotaging. I hope that police will be able to lay charges and bring people to justice in the not-too-distant future.

Mr MACLELLAN (Minister for Planning and Local Government) — The honourable member for Mordialloc raised for my attention the operation of helicopters at Moorabbin Airport. He suggested that it might be possible for the depots to be maintained on the airport site but that some of the practical flying experience could be undertaken over a controlled area to the east or south-east, with a view to reducing the air traffic associated with the airport.

Perhaps I will seek advice from the airport management about whether there is a need for any cooperation between the state and federal authorities on the matter. Recently we successfully negotiated the appropriate land-use controls around Tullamarine Airport, which have been accepted by the commonwealth and the airport. I believe they have the broad acceptance of the local municipality.

We are making some successful moves in establishing a new and cooperative regime about land-use

management. If the honourable member is saying that it would assist in the resolution of Moorabbin Airport land-use issues — there are issues about that airport — if helicopter operations were not so concentrated within the airport perimeter and that people would not object, we will see what we can do. I will take up the matter with airport management to see what can be done.

The honourable member for Mildura raised a matter about the Mildura council advertising for sale properties owned by the council. Before a council can sell property it must advertise and an opportunity must be given for members of the public to comment to council. Usually that is done in a centralised way, with an advertisement listing a number of properties placed in a newspaper circulating in the area of the municipality. Then it is up to members of the public to respond if they wish.

The mere fact that councils advertise on a list a property for examination and sale does not mean it has to be sold. It is a requirement before it can be sold, but it is not a requirement that it be sold because it was advertised. Public opinion is sought and often councils review the situation and decide that because they were perhaps not aware of the interest or concern about the property that it should be kept and therefore not sold.

At the time he raised the matter there was some noise around me, but if I understood the honourable member for Mildura correctly, I believe he said the property has been sold and he considers that the tennis club that used the courts had inadequate opportunity to express its views. It was suggested that the council had made a commitment to sell prior to considering recommendations that may have been made following the advertisement.

The honourable member may not be aware that in a recent case about another municipality the Supreme Court struck down the decision to sell a property on the basis that the council had made up its mind and had made a commitment to sell prior to the advertisement being placed in the local newspapers and therefore the opportunity for the community to comment was frustrated by a prior sale. I shall take up the matter with the council to find out the facts. I am not saying I doubt the honourable member, but I must have specifically set-out facts such as times and dates to see what is the situation. For that purpose I expect that I shall ask the honourable member to repeat the facts as he knows them to Mr Vern Robson of the Department of Infrastructure who will then be able to discuss the matter with the council and come to some resolution without having an inquiry. He will take the matter on

board and hear the council's point of view on the same issue.

Mr GUDE (Minister for Education) — The honourable member for Essendon raised a matter for my attention concerning some Uniting Church land and its potential to affect the Debney Park Secondary College. It is important that the issues be put in appropriate order and in factual terms.

The Department of Education is seeking to purchase the church land on which to extend the Debney Park Secondary College. Honourable members who have visited the school would not challenge its need for additional land. As the owner of the property the Uniting Church commenced demolition of an old church building on the land without a planning permit. The department is not yet the owner of the land and has no responsibility whatever for the demolition of the building. However, the department has contracted to purchase the Uniting Church land adjacent to the Debney Park Secondary College. The land has been leased by the department for a number of years and is required as dispersal space for students.

In 1995 the department obtained a soil assessment that indicated the presence of low-level contaminants. The Uniting Church agreed to undertake clean-up works and demolish the church building prior to settlement. The demolition commenced on 21 September 1998 in accordance with a building permit obtained by the church's contractor, K and K Demolition.

On 1 October 1998 the City of Moonee Valley stopped demolition because the church had not obtained a planning permit to demolish the building. A subsequent application by the Uniting Church for a permit was refused. On 23 February the Victorian Civil and Administrative Tribunal heard an appeal by the Uniting Church against the refusal. The tribunal has reserved its decision and an outcome is not expected for some 30 days.

The honourable member for Essendon is trying to have her cake and eat it too. She is trying to deflect some responsibility for the fact that the church did not obtain appropriate permits and acted contrary to the apparent express wishes of the local community. It is a matter for the church to sort out in association with the local council. That has not occurred and the church has approached the issue in a proper and sensible way by taking the matter on appeal to the tribunal. I would suggest that we await the outcome of that appeal and hope that a sensible conclusion will be determined in the interests of all in the community.

Mr REYNOLDS (Minister for Sport) — The honourable member for Geelong North raised a matter for the Minister for Roads and Ports in another place concerning the much-needed upgrading of the Princes Highway between Melbourne and Geelong. The government agrees that the highway needs to be upgraded and has already put up its half of the money. However, the federal government must come to the party for the upgrade to occur, including the construction of the ramp referred to specifically by the honourable member.

The honourable member for Bendigo West, in a very well-read speech — it seems he cannot speak in this house without reading his speech — raised a matter with the Minister for Transport concerning the privatisation of V/Line in the Bendigo district. I am sure the Minister for Transport will respond if the honourable member will give him the written speech he read.

The honourable member for Pascoe Vale raised for the attention of the Minister for Youth and Community Services the plight of homeless people in the Grampians area. I am sure the minister will answer the question in his usual soft and caring way.

The honourable member for Mitcham raised for the attention of the Minister for Roads and Ports in another place the surface of Whitehorse Road. I hope the honourable member is more accurate in the matter he raised with the minister than he was in the correspondence he recently sent to me. That approach is typical of the honourable member. The Minister for Roads and Ports will be in touch with the honourable member on the issue.

The honourable member for Tullamarine raised for the attention of the Minister for Roads and Ports the section of the road from the Tullamarine Freeway through to Bulla township and the two bridges on the road to Sunbury. He is concerned about the bridge at Bulla and the bridge over the railway line in Macedon Street. If the honourable member continued further down the road he could fix two more bridges in the electorate I represent. I have raised the issue with various ministers for roads and ports over many years and I have been singularly unsuccessful. I trust the honourable member is successful in his plea for the upgrading of that section of road because it was of concern well before the honourable member was a member of this house.

The SPEAKER — Order! The house stands adjourned until next day.

House adjourned 10.53 p.m.

Wednesday, 24 March 1999

The SPEAKER (Hon. S. J. Plowman) took the chair at 10.05 a.m. and read the prayer.

PETITIONS

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

Catchment management authorities: levy

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

The humble petition of the undersigned citizens of the state of Victoria sheweth we strongly object to the Kennett government's introduction of another state tax, through the introduction of a catchment management levy of up to \$50 per household.

Your petitioners therefore pray that the Kennett government reverse its decision to allow the catchment management authorities to levy taxes from the people of Victoria.

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

By Ms GARBUTT (Bundoora) (3151 signatures) and Mr LONEY (Geelong North) (3468 signatures)

Fishing industry: pippis

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

We strongly object to the current limit for the removal of 5 litres of pippies per person per day from our Victorian beaches.

We consider this limit to be well above a reasonable amount.

Your petitioners therefore pray that the state government reduce the legal limit for removal of pippies from the beach to 1 litre per family per day.

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

By Ms GARBUTT (Bundoora) (1969 signatures)

Minyip sewerage scheme

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

We the undersigned being residents and ratepayers of the Wimmera township of Minyip in the state of Victoria wish to oppose the proposed Minyip sewerage scheme as outlined by Grampians Water.

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

By Ms GARBUTT (Bundoora) (21 signatures)

Orbital transport corridor

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

The undersigned draw the attention of the house of Assembly to the government's proposed orbital transport corridor for Melbourne. Your petitioners ask that at no time will any such freeway or tollway go through the green wedge, and that any upgrading of existing roads will not be at the cost of the environment.

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

By Mr PHILLIPS (Eltham) (162 signatures)

Laid on table.

PAPERS

Laid on table by Clerk:

National Rail Corporation (Victoria) Act 1991 — Commonwealth and States Rail Corporation Third Amending Agreement

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Banyule Planning Scheme — No. L25

Castlemaine Planning Scheme — No. L21

Kingston Planning Scheme — No. L46

Knox Planning Scheme — No. L158

Monash Planning Scheme — No. L40

Nillumbik Planning Scheme — No. L18

Sale Planning Scheme — No. L32

Yarra Planning Scheme — No. L73

Statutory Rules under the following Acts:

Physiotherapists Act 1978 — S.R. No. 23

Victorian Civil and Administrative Tribunal Act 1998 — S.R. No. 24

Subordinate Legislation Act 1994 —

Minister's exception certificate in relation to Statutory Rule No. 24

Minister's exemption certificate in relation to Statutory Rule No. 23

CATCHMENT MANAGEMENT AUTHORITIES: LEVY

Ms GARBUTT (Bundoora) — I wish to move that the house do now adjourn for the purpose of discussing a definite matter of public importance — namely, the

public statement made by the member for Warmambool on 12 March 1999 in which he said that the catchment management authority tax is inequitable and could not be justified and that the catchment management programs should be funded from consolidated revenue and that this statement by a senior member of the government opposes stated government policy.

Required number of members rose indicating approval of motion being put.

Ms GARBUTT (Bundoora) — I move:

That the house do now adjourn.

The statement is a loud and ringing challenge to every member of the government. Will they listen to their constituents and stand up for them?

Honourable members interjecting.

The SPEAKER — Order! Before we get started on this debate I counsel members that the debate is about the remarks of the honourable member for Warmambool, not about the position of every government or opposition member of Parliament.

An honourable member interjected.

The SPEAKER — Order! The terms of resolution are very clear.

Ms GARBUTT — The statement is a major challenge to the honourable member for Warmambool. Will he debate the issue? Will he stand up for his constituents or will he go weak at the knees and toe the government line? Will he take the next call and repeat what he has said? Will he vote in support of his statements, or does he say one thing in Warmambool and another in Spring Street? That is the real test. The debate is also an opportunity for other members of Parliament. Will they stand up for their constituents? The honourable member for Warmambool and other government members will be truly tested on this matter of urgent public importance.

The catchment management authority tax is part of an extraordinary attack on country Victorians by this government. It symbolises the government's attitude in three important ways. Firstly, it is a heavy burden placed onto country Victorians. They are already suffering from closures of schools, hospitals, railway lines and banks, and the government is adding to that burden. It will be interesting to see whether the honourable member for Shepparton is willing to support his colleague.

Secondly, the tax symbolises the failure of the government and its members to listen to their constituents, who oppose this tax loud and clear and have protested in every way they know how. The government fails to listen because it is out of touch. Thirdly, the tax symbolises the arrogance of a government in not caring about country Victorians or about the extra burdens it is placing on them. So, in three different ways, the tax symbolises what this government has come to represent.

Members on this side of the house agree with the honourable member for Warmambool. We think he is right on every count, and we encourage the honourable member to vote with us on the motion. The honourable member said that the tax is inequitable, and we agree with that.

The reasons why it is unfair, several of which the honourable member for Warmambool raised himself, are many. One is that although the appalling state of our rivers and catchments needs to be attended to, it was not caused by present-day country property owners, the people who are being slugged with this tax. The reason for the appalling state of our rivers and catchments goes back decades. It is a matter of history that it has been contributed to by everyone — not just by current country property owners but by people right across the state throughout our history. It is unfair to put the burden on present-day country property owners.

The tax is applied exclusively to country property owners. Melbourne residents, for example, do not pay such a tax, as the honourable member points out. They have a catchment management authority (CMA), the Port Phillip Catchment and Land Protection Board, and residents do not pay 1 cent towards it. Nevertheless, members of the government say that they pay the equivalent tax. They quote the parks levy, but that levy is for parks, not for rivers and catchments. It is entirely different. Melbourne residents also pay a drainage levy, and I believe you can guess what that is for. Yes, for drainage — Melbourne's stormwater — not for catchments and rivers. Melbourne residents do not pay a tax like the catchment management authority tax. That tax is a plague visited solely upon country Victorians by this uncaring, arrogant government.

There are no pensioner concessions in the tax. A person living on a very low income in a shack out the back is treated no differently — that person still pays the tax without concessions. I have received many complaints about that aspect of the tax, as has every government member, including the honourable member for Warmambool, who mentioned that aspect in his statement as one of the problems with the tax. Despite

some fiddling around the edges, as announced recently by the minister, that issue has not been addressed. Pensioners will keep paying the same rates as other property owners.

The tax is a cost-shifting exercise by the Department of Natural Resources and Environment. In the last budget in April 1998 at least 300 jobs were cut and \$20 million removed from the department's budget. A departmental representative said at the time that part of the department's strategy was to shift its earlier functions and responsibilities onto the catchment management authorities. In a note to the Public Accounts and Estimates Committee in response to its questions, a departmental officer said the catchment management authorities were taking over departmental functions. That is how the department was able to shift the costs and save the \$20 million, but it meant that no responsibility was to be taken for rivers and management by people who do not own land. That is unfair. Such a responsibility is not the preserve of property owners alone, it applies to everyone, as the honourable member for Warrnambool made quite clear in his statement.

The tax is not the same as the former river management levies. Years ago, river management committees levied small fees, but those fees bear no comparison with this tax. They were at least 10 times less than the taxes people are facing now, and millions more people are paying the tax now than paid the former levy. Figures prepared by the opposition show the difference between the fees of the former river management bodies and the tax now imposed by catchment management authorities. In 1995, the river management committees issued about 110 000 notices and raised \$1.8 million.

In the same geographic areas in 1998–99, 540 000 assessments were made, not counting assessments made on all the new people who now pay the tax — that is, 540 000 property owners were slugged. The amount raised from those assessment notices was \$15.5 million. Such a levy, therefore, bears no relation to the former river management levy. It is a new tax, devised by the government and dropped onto the shoulders of country Victorians.

The honourable member for Warrnambool in his excellent statement expressed the great concern passed on to him by his constituents. He states:

There has been a lot of concern expressed through my office on this matter. In fact, this has probably generated more correspondence to my office than the train issue or the guns issue, which is really saying something.

Every government member in country Victoria will have experienced exactly the same response, as have members on this side of the house.

Today we see the first of thousands of names of petitioners being tabled in this house. Petitions signed by 3000 or 4000 people were tabled today, and further petitions signed by similar numbers will be tabled tomorrow, with more coming through all the time. Whole towns are sending in petitions. I received nearly 1000 names from St Arnaud. That number must include virtually every person in the town. I have had the same number from Dunolly, once again representing nearly every person in the town. The honourable member is right when he says that the tax has caused great concern.

Packed meetings have been held around the countryside. Some 500 people attended a meeting in Hamilton, nearly 600 in Geelong, and Ballarat held a similar-sized meeting, which I attended. Warrnambool, Portland and Geelong have held meetings. The tax has hit people right across the state, and they have protested.

There has been rampant non-payment of the tax. People from all parts of the state say to me that they will simply not pay the tax because it is unfair, unnecessary and they cannot afford it. It was reported that last week, which was the due date for final payments, almost 17 per cent of country property owners who should have paid the tax had not paid the tax, saying that enough was enough. In country Victoria the inclination is to pay tax. Those people are honest, decent and hardworking and they generally pay up, albeit sometimes under protest or sufferance. But not in this case. Municipalities such as Ballarat, Greater Bendigo and Greater Geelong experience 98 per cent payment of their rates. If they did not receive that level they would worry, and the news would be all over the place. This tax, on the other hand, has a 17 per cent non-payment rate. That should speak volumes to the members of the government.

The honourable member for Warrnambool and I have received numerous letters, some of which I will quote from. The first, from a woman in Kyneton, states in part:

I am very conscientious about paying my bills, and as a single, part-time income earner have often gone without food to see my commitments are paid, but this was enough, is enough, and it will probably cost me a lot more for my stand. My argument against it is:

1. There was no prior notice explaining what it was about.
2. It did not say who these people on the authority were or who elected them.

3. The fact it arrived just before Christmas when everyone's funds are stretched.
4. It does not say it is compulsory.
5. Or any penalty or interest charged if not paid.
6. It is not specific about what the money is to be used for.

That is a fairly good analysis of what was going on. This conscientious person, who pays her way as a single, part-time income earner, decided enough was enough.

The Beaufort Business Association sent me a copy of its letter to the local MP, Mr Stephen Elder, the honourable member for Ripon. The letter states:

Let me tell you that this tariff was poorly implemented to say the least. There was little or no prior warning, a sneaky TV campaign that told us nothing about a levy. Many people have received multiple bills, which has confused them. There was no consultation from any local community group that was set up to advise on the need for a levy, and who are the people that formed this group? The deadline to pay this levy was short-dated, right on Christmas with council rates due in February.

People are not silly. They know why that has been done. The Beaufort Business Association letter continues:

The local DNRE have little or no equipment and due to staff cutbacks would not have the people to use it anyway. What has happened to the money allocated for Landcare? Where is the money from the Telstra sell off going? The funds for catchment management should come out of consolidated revenue and not a further slug on the people.

Next comes the real sting in the tail. It is a pity the honourable member for Ripon is not here to directly answer his constituent association:

The Beaufort Business Association has read all the letters, has been to the public meetings and has seen the TV advertisements, and still we don't want the tariff! As our member of Parliament we request you table this letter in February along with the large petition and speak in favour of reversing the levy as you indicated to me that you would.

I am expecting the honourable member for Ripon to appear in the chamber — he has not managed to do that yet — to speak in favour of his petitioners and constituents as he promised he would. The opposition is waiting with bated breath to see whether the government member is prepared to stand up for his constituents or go missing, saying one thing in his electorate yet nothing in Parliament, where it really counts.

I received many letters from St Arnaud, and I will quote from one in particular:

We are aged pensioners and both suffering different sicknesses and this is just another burden on our shoulders that we do not need. Please try to stop it.

A petition was attached. The message from the residents of St Arnaud is unanimous: they do not want the tax. I point out that those pensioners will get no concession.

I quote in part a letter sent to the editors of the local papers in the Heathcote area:

Last week I received a bill for \$31 tax ... This levy came from an authority I never heard of to be collected by a debt collector.

The collection of the tariff was tendered out, and in several places the successful tenderer was the local debt collector. People are worried that local debt collectors now have their names on databases. If the levy is paid by credit card, the credit card provider will know that money has been paid to a debt collector. What will happen with that information? The letter goes on to mention a couple of other concerns:

First and foremost, there appears to be no 'ceiling' placed on this levy/tax. Each bill could and probably will be higher than the last to cover the usual bureaucratic bungling, double dipping and/or fiscal fiascos exhibited by so many pseudo government bodies over the years.

How right that is! The levy will go up, as has been the experience in Gippsland where there was a dramatic increase. The letter continues:

Secondly, the members of this body are to be appointed, the people who pay therefore have no say in who spends or how the money will be spent.

That is another issue. Catchment management authority members are appointed, not elected — and the appointment process is very dodgy. The letter continues:

Thirdly, this tax [is] collected by a debt collection agency. These people do not work for nothing, so how much of each tax assessment goes to pay the collector?

That is a good question. The opposition believes an enormous amount of the tax will go towards paying the collection costs. The Greater Geelong City Council was approached about the collection of the tariff, which at that stage was only \$20. By the time it came into operation, the tender process having been carried out, the tax was \$32. Obviously the difference comes from having to pay the tariff collector and the bureaucracy. The money will not be spent on the ground to maintain rivers and catchments.

The last letter I will quote is from a Clunes resident. The people of Clunes have to pay \$5000 or more for

sewerage connections. Now they have to pay this extra tax. The letter states:

I am writing to you about this statement in the [Ballarat] *Courier* on Saturday by Deputy Premier, Mr Pat McNamara.

I am pleased that the Deputy Premier is in the chamber because he will hear how his comments have been received. I quote the Deputy Premier's comments as reported in the letter:

I don't think it will hurt anyone's pocket.

The letter continues:

That's the trouble with him, he just doesn't think, because he doesn't understand that people are already hurting. How much more is he going to take from people? He has already forgotten the debt he has forced people to go into over his sewerage plan. What short memory this man has.

This is how this government can have a budget surplus because they keep squeezing money out of ordinary hardworking people ...

I hope you will bring this to his attention.

As the Deputy Premier is sitting in the chamber, I can inform him that his comments were hated and bitterly resented. His comments were wrong — the levy hurts people's pockets. If the Deputy Premier does not listen now, he will continue to be wrong.

Such comments have been echoed by the Premier. On radio in Ballarat, and facing questions from a hostile constituency, the Premier tried to put the levy in context. He said:

We are saying that — in your case, in your area — \$32, about 75 cents per week to make sure you live in an improving environment as opposed to \$7 for a packet of cigarettes. How much is a bottle of grog these days?

People might make such choices, but the people who have written the letters I have quoted from certainly do not spend their money on cigarettes and bottles of grog. If people do, that is their choice, but with the government unfairly and unnecessarily slugging them an extra \$32 just before Christmas, it is no wonder they are outraged — and they have expressed that in as many ways as they can.

Opposition members agree with the honourable member for Warrnambool. The tax is unfair and inequitable. I would be interested to hear the honourable member quote from some of the letters he has received and tell us about the responses of his constituents. He should make sure the tax is abolished. The opposition believes this unnecessary and unfair tax should be abolished. Government members should stand up for their constituents and not be silenced.

The levy raises many issues of concern. I have already mentioned that pensioner concessions do not apply to it. Other issues include debt collection and the costs of administration and advertising as well as the cost of the shift from the Department of Natural Resources and Environment to the authorities.

Sloppy administration led to dozens of people receiving bills for a tax they had never paid before from an authority they knew nothing about. When they telephone for information they cannot get through. Many people have rung me saying they have tried to get through to their catchment management authority but have been unable to do so. When they ring Telstra the operator tells them, 'If you are trying to ring the catchment management authority, do not bother. There is nothing wrong with the line; it is just constantly engaged'. People just cannot get through to make their protests.

The mismanagement is further demonstrated by the advertising and administration costs. A large slice of the money collected by the tax is going into bureaucratic processes. No action will be taken on the ground because the money has been syphoned off to pay for bureaucracy.

Some country Victorians are paying double taxation. They received no refund on their taxes when the funding allocation of the Department of Natural Resources and Environment was cut by \$20 million and the number of employees was reduced by 300. They paid their taxes, in return for which the department had a responsibility to undertake certain projects. The levy represents a double taxation for country people.

However, in some areas people are paying triple taxation. In Ballarat people were already paying an environment levy to the local council. Residents in the area covered by Barwon Water, which has responsibility for 20 kilometres of the Barwon River, have already been paying the tax. They do not get that back, of course — they just have to pay a heap extra. The management authority has just dipped into residents' pockets for \$30 more tax, for which they do not thank people. It is absolutely objectionable that people are paying double or triple tax.

Catchment management authorities are new. People are not familiar with them, so it is important to consider how they were established.

The ACTING SPEAKER (Mr McArthur) — Order! I remind the honourable member of the Speaker's advice at the start about the parameters of the debate — that is, that the motion before the house is

that the house do now adjourn for the purpose of discussing a matter of urgent public importance, namely, the statement of the honourable member for Warmambool. That does not allow any honourable member to go into the history, foundation or membership of catchment management authorities.

Ms GARBUTT — I shall confine my remarks to what is in the statement by the honourable member for Warmambool as reported in the press:

Levy notices were sent out late last year by newly established catchment management authorities set up by the government.

The authorities were indeed newly established. They took over from catchment and land protection boards, but instead of being made up of elected representatives the government appointed members of the authorities. The government called for nominations but the selection process was not open and transparent. The opposition has seen evidence of political interference in a document obtained under the Freedom of Information Act. It refers to selective political input. No-one on the opposition side of the house had any political input. It was all political interference or input from government frontbenchers and backbenchers.

The ACTING SPEAKER (Mr McArthur) — Order! I am not sure whether the honourable member for Bundoora heard my earlier comments. Is she trying to dispute what I said before?

Ms GARBUTT — I am referring to the statement made by the honourable member for Warmambool as reported in the press. However, I shall return to his main point, which is that the tax:

... was clearly 'inequitable' and could not be justified.

The honourable member for Warmambool called on the government to impose no further levies — in other words, to abolish the tax. That is also the opposition's position. It believes the tax is unfair and unnecessary and should be abolished. A Labor government will abolish the tax.

The honourable member for Warmambool is reported in the following terms:

... the state government could easily accommodate the levy's cost within its budget.

'We are talking about \$17 million from a state budget of \$16 billion, so it is not big dollars.'

Indeed, it would be even less if one took out the money spent on the bureaucracy, advertising, public relations, debt collection and red tape. After taking all that into account, the total cost of projects on the ground would

not be \$16 million or \$17 million, but probably \$10 million at the most. People do not know what the projects are yet because no announcements have been made about them. The process of calling for tenders is just now being undertaken. The honourable member for Warmambool is absolutely right when he says the tax should be abolished. That could be done with minimal impact and the funds for the projects could be obtained from state government revenue.

I return to my first point, that the statement by the honourable member for Warmambool presents a great opportunity for him to express the views of his constituents and to call on the government to abolish the tax. A real test of whether he has some spine will be shown by his standing up for his constituents in here, where it counts, and not just in his electorate. It will also be a test for other government members, who also should have been listening to what their constituents have been saying loudly and clearly in every forum they could find. It will be interesting to see whether they will take up the challenge and stand up for their constituents or whether they will just duck out of the house — not many government members are here now. Will they will stand up and call for the abolition of this unfair tax?

Mr McNAMARA (Minister for Agriculture and Resources) — Firstly, I need to clear up a few misconceptions of the honourable member for Bundoora. She made the point quite forcefully that catchment management is a new concept. However, catchment charges have been collected in regional Victoria, particularly Gippsland, South Gippsland, the north-east and the northern part of Victoria, for 50 years in some cases.

I point out that the major broadening of charges in the area was a Labor Party initiative when it was in government in 1987. The ALP introduced a whole-of-catchment levy for the Mitchell River in Gippsland, the Ovens River in the north-east, other catchments in East Gippsland and the Tarwin catchment.

Mr Maclellan — The shadow minister is walking away from Labor policy.

Mr McNAMARA — It is Labor policy. Labor Party members have betrayed themselves as the carers of the environment.

It is worth reinforcing the role of catchment management services. A range of bodies that existed previously across the state — river management authorities, salinity groups and various river protection

groups, as well as the old catchment and land protection boards — were brought together under one umbrella — that is, catchment management organisations. With the merging of the conservation and natural resources departments it was considered quite sensible, after a very detailed examination and broad public input from across Victoria, to manage things on a catchment basis.

The state has been divided into nine regional catchments and much value has already resulted from that work. No-one disputes that the work of the catchment management authorities (CMAs) is valuable. Not even the opposition has suggested catchment management services should not be continued. The issue is the tariff.

I again point out that the catchment rating system was driven by Labor some 12 years ago when in 1987 the former government introduced it in numerous catchment areas across Victoria.

An honourable member interjected.

Mr McNAMARA — The ALP has been concerned that the rating program is somehow the subject of budget supplementation through the Department of Natural Resources and Environment. The honourable member for Bundoora has made several public statements that \$18 million was taken out of the department last year. She asked, 'Where has that money gone?'. Government members know it has gone predominantly into country health and education services, which are considered high priorities not only by their constituents but by representative groups such as the Victorian Farmers Federation, and others. There has been no budget supplementation through the department for catchment management services.

In its last budget the Kimer government spent \$70 million on catchment management services through the department. The government is now spending \$94 million on the same services, a little more than a 30 per cent increase — an extra \$24 million is coming directly from the department.

The ACTING SPEAKER (Mr McArthur) — Order! I remind the Deputy Premier of the advice I gave the honourable member for Bundoora. The debate on the motion before the house is not an opportunity to debate catchment management per se. It is a debate on the statement made by the honourable member for Warrnambool.

Mr McNAMARA — Mr Acting Speaker, if I can be given some latitude to respond to the claims of the opposition spokesman for the purposes of clarification, I will get to it very quickly.

The ACTING SPEAKER (Mr McArthur) — Order! Briefly.

Mr McNAMARA — In her argument the opposition spokesman said words to the effect that, 'This is all going to administration. Where is the value?' The previous Labor government provided \$3 million for the administration of the catchment management authorities, and the current government is providing \$8 million to cover all administrative costs. The honourable member for Bundoora also said that much of the money was being swallowed up in collection costs. She said that the Corangamite authority had talked initially about a levy of \$20, but it had got up to \$31 or \$32, and she deduced from that that the extra \$11 or \$12 was all administration costs. The facts are that where councils are collecting the levy the cost varies between about \$1.50 and \$2, so by far the overwhelming bulk of the cost of those levies goes to on-ground works and the administration costs are covered by an extra \$5 million, bringing the amount provided by the government for administration to \$8 million.

The opposition also made great play of its suggestion that there is no benefit to people living in communities, particularly in urban areas, and asked how a householder in a country town benefits. Unfortunately country Victoria has always had a major problem with water sources, particularly for urban communities. Although Melbourne has closed catchments and Melburnians enjoy what is probably some of the best drinking water in the world, the water sources serving most country towns are degraded by the presence of either high nutrient levels or salinity. An immediate financial benefit will accrue to people living in urban areas if catchment management authorities can improve the base quality of water sources, because the costs involved in running urban water authorities and getting the water up to drinking standard will be substantially reduced. Last year the cost of water to all country communities was reduced by 18 per cent. Further dividends will accrue as catchment management authorities continue to work in this area.

Ms Garbutt — On a point of order, Mr Acting Speaker, as the minister well knows because he is responsible for them, these authorities have nothing to do with catchment management authorities and were not mentioned in the statement made by the honourable member for Warrnambool. The minister is drifting a long way by getting into those sorts of issues. I ask you to bring him back into order.

The ACTING SPEAKER (Mr McArthur) — Order! I have already explained to the Deputy Premier

the parameters of the debate. He did point out that in this case he was responding to comments made by the honourable member for Bundoora in relation to benefits of the levy. There is no point of order at this stage. However, I remind the Deputy Premier that his rebuttal should be brief.

Mr McNAMARA — Thank you, Mr Acting Speaker. I will not dwell on the issue further. It is obvious that the work of CMAs has a direct benefit in the cost of water supplied to every urban household in country Victoria. The opposition spokesman also commented on what could be done in hardship cases. There are provisions in place for that.

Ms Garbutt — On a point of order, Mr Acting Speaker, the minister has been here long enough to know we should be referred to by our correct titles; and in any case, I will never be a spokesman on anything.

The ACTING SPEAKER (Mr McArthur) — Order! I remind all honourable members that they should refer to other members in the house in the proper manner.

Mr McNAMARA — Would the honourable member prefer the title 'madam spokesman' or the title 'spokeswoman'?

Ms Garbutt — I can't be a madam.

Mr McNAMARA — You can be a chairman, anyway.

The ACTING SPEAKER (Mr McArthur) — Order! I ask honourable members to return to the debate.

Mr McNAMARA — I thank the honourable member for Bundoora for her clarification in relation to that matter. I will not refer to her in that manner again.

The opposition spokesperson referred to hardship cases. Such issues are of concern to everyone and the government is determined to deal with them. Landowners who suffer genuine hardship can apply in writing for consideration and CMAs have the option of dealing with such applications in a number of ways. They can make provision for payment by instalment or waive the cost in part or in full for people in necessitous circumstances.

Another issue that the opposition has thumped very hard in the debate — in fact opposition members tried to make a feature of it — is that the tax is somehow unique to country and regional Victoria and is not applied in the metropolitan area. That is incorrect. For

some 50 years Melbourne Water has applied a drainage charge of \$44. The funds collected through that charge are used not only on drains but also on rivers such as the Maribyrnong and Yarra. The Melbourne charge applies as a flat rate to every household in the metropolitan area and does basically the same sort of work that the CMA charge does in regional areas — and it is applied at a rate that in some cases is more than double the rate applied by some CMAs and is at least 50 per cent higher than that charged by any CMA in regional Victoria.

I am not aware of any move by the honourable member for Bundoora to try to remedy that situation when Labor was in government. In 10½ years of the Cain-Kirner government there was no move to change the Melbourne rate. Honourable members, particularly country members who have residences in Melbourne, would be aware that people in the metropolitan area also pay an extra \$42 parks charge. Melbourne Water imposes additional charges to a total of about \$86 for catchment and drainage work and the maintenance of parks in the metropolitan area.

It would be helpful if the opposition, particularly the spokesperson on conservation matters, took a little more interest in environmental and conservation issues and in ensuring that Victoria's agricultural base is sustainable in the future. The opposition has made no attempt to address fundamental environmental problems that the CMAs are attempting to address such as vegetation issues, soil stability, stream work, salinity, nutrient run-off, and the use of various farm chemicals.

It is worth commenting on the statement made by the opposition that a large number of people are refusing to pay the tariffs. My latest information is that the rate has been paid by 90 per cent of the residents covered by the North Central CMA; 83 per cent of residents in the Corangamite CMA have paid in response to only one notice sent to them; and 88 per cent of Victorians under the Glenelg Hopkins CMA have paid. As for the remainder of the state, basically 100 per cent of people in areas covered by the Goulburn Broken, North East, West Gippsland and East Gippsland CMAs have paid the levies. The work being done by the CMAs in areas such as East Gippsland and north-east Victoria following the floods of last September is particularly welcome.

Mr Hamilton interjected.

Mr McNAMARA — I had hoped the opposition would get behind it. I stress that only about 12 per cent of the total funds spent on catchment management services comes from the levy. About \$140 million

comes from the government — an extra \$70 million on what was put in by the former Labor government — and when collected from across all areas of the state the levy will raise an additional \$17 million.

The way the opposition presented its argument today does little for its credibility. I had hoped it would go onto the front foot and recognise that the catchment issues need to be addressed. Certainly the levy is a new charge on many areas of the state. The CMAs need to explain their work better and publicise the way the government is working on the ground. When that happens we will get a good response to the CMA levy.

Because the levy will be worth while for Victoria's future I had hoped the government and opposition could adopt a combined approach on this issue rather than the opposition suggesting that \$17 million should be taken from the Department of Natural Resources and Environment, thereby effectively cutting about 50 per cent of the research work now being done by the department. The opposition is not suggesting that additional money is being collected but that the \$17 million should be cut from the Department of Natural Resources and Environment. As the honourable member for Morwell knows — —

The ACTING SPEAKER (Mr McArthur) — Order! The honourable member's time has expired.

Mr CAMERON (Bendigo West) — I am extremely disappointed in the comments of the Deputy Premier and Leader of the National Party. He said today that his party and the government are extraordinarily enthusiastic in the application of the government's taxation policy on country Victorians. He said the government will not back off and will proceed full bore to slug country people with this country-only tax.

The Deputy Premier says there is little credit to be given to the Labor Party's policy of abolishing the discriminatory tax. However, he is really saying he gives little credit to the honourable member for Warrnambool for daring to honestly reflect the view of country people.

Members come into this house with the best of intentions. It may be that we disagree about how to achieve our ultimate goals, but we arrive with the best of intentions. Over time the honourable member for Warrnambool has, no doubt, watched this government's persistent attacks on country Victoria. There comes a time when enough is enough: the honourable member has said, 'Enough is enough' and has made it clear he believes the tax is unfair and unjustified. It is disappointing that the Deputy

Premier — the Leader of the National Party — should vehemently disagree with the honourable member and seek to continue the imposition of this discriminatory rural tax.

Last year this house debated amendments to the Catchment and Land Protection Act. Honourable members will recall that the amendments were designed essentially to ensure that no impediments stood in the way of the government's plan to apply the tax across country Victoria. At that time the tax had already been applied in Gippsland West, where questions arose about its legality, but the government quickly responded with legislation to clear any obstacles that may have been in the way.

At that time honourable members had the chance to say whether they supported a discriminatory rural tax. Opposition members stood up for country Victoria but were disappointed that the National Party became the champion of the cause of having country people slugged with the tax.

The honourable member for Warrnambool has put good reasons why the tax is inequitable. Why should so many country Victorians, out of the blue, receive notices in the mail requiring them to pay a tax they have not had to cope with in the past? Were the government to argue that the tax represented some extra benefit for country people, some may well accept its argument. But, as the Deputy Premier has admitted today, the government has removed at least \$17 million from the budget of the Department of Natural Resources and Environment. He admitted that the department formerly had the funds to do the work it previously carried out, but those functions have now been transferred to the catchment management authorities (CMAs). In lieu of those funds being available, country people were slugged with the new tax.

Obviously the honourable member for Warrnambool would say the tax is inequitable. Unfortunately, he did not say it last year, but after the rise of public sentiment and disquiet he has been prepared to speak out against the tax. I am disappointed that National Party members have continued to support the 'Melbourne, Melbourne, Melbourne!' policies of the government. Such an unfair regime will continue until a Victorian Labor government removes the discriminatory tax.

Many people in my electorate were shocked when they found out about the tax. People in Bendigo, Castlemaine, Newstead, Dunolly, Maldon and Tarnagulla received notices in the mail ordering them to pay a tax that was not imposed on them last year.

Yet, absurdly, the government has said, 'It is not a country tax; Melbourne people pay it. The tax was not imposed on country Victorians last year' — but it is there now!

The Deputy Premier says Melburnians have had the same regime in place for more than 50 years; that Melburnians pay a drainage charge. So what? That old Melbourne and Metropolitan Board of Works rate has been around for years and has been part of the Melbourne landscape. Much of that drainage work is done in country areas by local government. People become even angrier when the government makes such statements and, in trying to make excuses, digs its own hole deeper. The government's effort to pull the wool over their eyes has made country people even more determined to lash out at the government for its anti-country policies.

The ACTING SPEAKER (Mr McArthur) — Order! I remind the honourable member of the motion before the Chair.

Mr CAMERON — The honourable member for Warrnambool has made it clear that the tax cannot be justified. In a statement he made to the Warrnambool newspaper he pointed out that he has been contacted more often about this issue than any other issue.

Last month I was the only state MP to attend a public meeting in Warrnambool concerning the tax. The people of Warrnambool were furious that their local MPs did not have the decency to come and front them. I am pleased to see that since that time the honourable member for Warrnambool has accepted the view of the public and accepted that his previous view was incorrect, and he has now spoken out against the government. No doubt we will hear from the honourable member for Warrnambool this morning, and no doubt he has heard the Deputy Premier make it clear that the government was determined to persist with this anti-country tax, and no doubt the honourable member for Warrnambool must consider whether he wants to continue to be part of an anti-country government.

No doubt the honourable member for Warrnambool believes this tax is not justified because the amount collected is so small compared to the overall state budget, especially taking into account that the \$17 million that is now collected by the tax was taken out of the annual budget of the Department of Natural Resources and Environment by the government.

Country people now have to make up the shortfall in the department's budget, but in doing so it imposes

additional burdens through administration costs. The Deputy Premier says that is not the case, but to make such a comment is stupid when the details are well known. In the north-central catchment management area an administration charge of \$2.92 for each notice was imposed because a private company was given the business of collecting the tax. There were 110 000 notices at a cost of \$2.92 each, so more than \$300 000 was wasted in collecting the tax.

In addition, advertisements placed on the radio and in newspapers in the local area cost more than \$50 000. There was also an extensive advertising campaign in central Victoria as, no doubt, there was in the rest of country Victoria.

When one considers all those costs one sees that in the central Victoria area more than \$500 000 was wasted — money that could have been used on works on the ground. If the government had not taken away that \$18 million to \$20 million from the Department of Natural Resources and Environment and had spent it on the ground rather than wasting it, more funds would be available today.

In the Bendigo area the honourable member for Warrnambool has not been supported by coalition MPs. The honourable member for Bendigo East admitted that money was taken from the Department of Natural Resources and Environment —

The ACTING SPEAKER (Mr McArthur) — Order! I remind the honourable member of the Speaker's earlier advice to the house about this motion.

Mr CAMERON — Yes, Mr Acting Speaker. The honourable member for Bendigo East finds himself in stark contradiction because the honourable member for Warrnambool says that these funds should come from consolidated revenue, as does the Labor Party. He endorses the Labor policy. I urge him to go the next step and say to the government, 'I've had enough of you, my public has had enough of you, and I'm going to call it a day and stand up for country people instead of sitting idly by'.

Mr RYAN (Gippsland South) — It is a great pleasure to join the debate because in this place we have many political debates, and that is what this is all about.

A point that must be emphasised at the start of my contribution is that we are not discussing the merits of catchment management authorities (CMAs), as is put by the Labor Party. This is a classic Labor Party political stunt. Government members have been urged by the honourable member for Bundoora and other

members of the opposition to carefully consider their position when they vote. What absolute nonsense! The vote of government members on this motion is inevitable. It would be different if there were debate on the merits of the CMAs, or if we were looking at the work they were doing or the way it was being done.

It might be different if the ALP were trying to advance a policy position that would provide long-term benefits to the people of Victoria from river and waterways management, but this is classic ALP politics. I say that because on its face the wording is about nominating and emphasising a particular member, whatever government policy may or may not be. The point to be made for anybody following this debate is that we are talking about pure politics.

I want to deal with some of the matters that have been touched on by other speakers and to further emphasise that initial point. I wonder what people who live in the electorates of Yan Yean, Albert Park, Williamstown and Bundoora, represented by the honourable member moving the motion, think about the notion of CMAs. Do they have any understanding of what a CMA is or what it does? I suggest that they have no idea at all. It highlights the crocodile tears that have been shed by the opposition during the debate and emphasises that what is being talked about is pure politics.

The motion deals in passing with some aspects of CMA activity. It makes reference to the so-called tax that has been collected from different parts of country Victoria. CMAs and their predecessors have long existed. Back in the 1980s the CMAs, through their various noms de plume, were already doing the style of work that the current CMAs are engaged in. In 1987 the ALP introduced the whole-of-catchment tariffs on a bipartisan basis in the Mitchell, Ovens, East Gippsland and Tarwin catchments. The area I represent in Gippsland was the first area to have this important work undertaken.

As I said the principal issue in the debate is pure politics. The ALP's political opportunism is highlighted by the fact that the initiative it introduced in 1987, in the way that I have described and in the regions that I have nominated, is now the subject of an opposition motion that says it ought to be opposed.

When one looks at the way the CMAs operate it is pertinent to note that this so-called tax is not a tax in the true sense of the word as governments of all persuasions understand it. Although the word 'tax' is used in the motion the reality is that this tariff — which is what it is — is collected within the areas of the operation of the CMA and spent within those same

areas. It does not pass through the general revenue of the government of the day.

Also, of the \$157 million of federal and state contributions now being spent statewide on these important works, only \$17 million is being collected through this tariff.

As opposed to that we have people in places such as Warrambool and areas such as Gippsland contributing on the basis that their money is spent on works that are undertaken on their behalf in their own areas. For up to 50 years a similar situation has applied in metropolitan Melbourne in some instances. Earlier speakers referred to a drainage fee of \$44 and a parks fee of \$42.

The so-called tax referred to in the motion is the tariff collected from people in catchment areas, supplemented by the contributions by government. It is important to understand that the work done by CMAs is imperative in the interests of country Victorians. Because the motion attacks the general nature of that work it is pertinent to refer to some of those projects. I have obtained from the West Gippsland Catchment Management Authority a brief outline of its work in two catchments. During the current year work at a total cost of \$1.5 million will take place in the Lake Wellington catchment, including 34 kilometres of fencing, 26 hectares of streamside revegetation, and 68 kilometres of willow reduction, water quality monitoring, streamside maintenance and in-stream work.

In the South Gippsland catchment work at a total cost of \$750 000 will include 55 kilometres of fencing, 50 hectares of streamside revegetation, and 32 kilometres of willow reduction, water quality monitoring, streamside maintenance and in-stream work.

The framing of the motion and the expressions used in it, including the word 'tax', highlight its lack of relevance to the operations of CMAs. It reflects poorly on the Labor Party that through the motion it is attacking a structure that was set up in country Victoria to achieve wonderful outcomes. As I said the structure originally had bipartisan support. In the early 1980s the Labor Party in government initiated the same sort of process that the CMAs now operate under. The motion is nothing but sheer and utter politics.

The political nature of the motion is further highlighted by correspondence to the West Gippsland Catchment Management Authority from its constituents. In moving the motion the honourable member for Bundoora read correspondence criticising the operations of CMAs.

Unlike that correspondence, a letter dated 15 February from the Loch-Nyora Landcare Group to the West Gippsland authority does not paint a picture of dread and despair about the activities and conduct of the CMA. The letter is signed by Mr Dick Howarth, the president of the group, and states:

The Loch-Nyora Landcare Group would like to express its thanks to the catchment management authority for the Bass River willow clearance works recently completed in our region.

When you addressed our committee and land-holders, with Bass River frontage, on 13 March 1998 (see attached), the proposed clearing of willows on the Bass River was in the 'possibility' basket. Today it is a reality and part of the Bass River in our region is now willow free.

The letter continues in a similar vein. It goes to the fundamental point of concern for all honourable members when voting on this issue. This motion is all about political opportunism of the worst kind by the Labor Party. The opposition is seeking to take advantage of people who are deeply involved with works that are critical to the future interests of Victoria.

In some places there is a divergence of views about how bodies such as CMAs should be shaped, structured or funded. That divergence of views is healthy because it shows that the government is prepared to proceed with initiatives that do not always receive universal acclaim in some quarters of the community. If I were to go back over some of the initiatives undertaken by the government since it came to power in 1992 it would be obvious that the sorts of arguments used today by the opposition were also used years ago. With the benefit of hindsight those initiatives have become part of the way the community is structured, and that applies particularly to country communities.

I will respond in passing to the comments of the honourable member for Bundoora on school closures, health services and the like. As I said, although numerous discussions took place and views were expressed heatedly when the government introduced various initiatives, with the passage of the years the benefits of those initiatives in country Victoria have been realised. I freely say that there were deficiencies in the administration of CMAs as they emerged and began their work. However, it has been a healthy process. Through the work of the CMAs the government has been able to provide the best outcomes for people in the regions served by the authorities.

I refer particularly to people who struggle to pay the tariffs levied by CMAs. The West Gippsland Catchment Management Authority issues approximately 96 000 notices annually and

approximately 1000 people have arrangements of different sorts that are designed to accommodate their payment of the tariff over a certain period. Many of those folk are pensioners who pay at the rate of \$4 or \$5 each month or six weeks. It takes time for such initiatives to be taken up by all catchment management authorities. However, different administration styles exist, and I recognise that although those differences may be viewed properly by individual CMAs as being responsive to the needs of the people in their areas, they could also draw criticism.

The fundamental issue must not be forgotten — that is, the motion is all to do with politics. Instead of using this once-in-a-lifetime opportunity to develop a bipartisan policy on the important issue of catchment and waterway management, the Labor Party is engaging in another cheap political stunt designed to do everything except serve the needs of Victorians, and most particularly the needs of country Victorians.

The opposition's motion is to be deplored. The house has lost a valuable opportunity to properly debate an important initiative of advantage to all Victorians.

Mr HAMILTON (Morwell) — I am amazed by the contribution from the honourable member for Gippsland South. Isn't it strange that there should be a political debate in the Victorian Parliament! He is absolutely unbelievable. Of course, as a lawyer he has tried to use legalistic semantics to change a tax into a tariff.

The house is debating an article that appeared on the front page of the *Warrnambool Standard* of 13 March headed '\$32 levy must go, McGrath', referring to the honourable member for Warrnambool. The *Warrnambool Standard* is a paper for which I have great respect, as no doubt does the honourable member for Warrnambool, but it has been a little unkind to him. The subheading of 'Complaints stir MP into action' is most unfair. The honourable member for Warrnambool does not need to be stirred into action; he does his job very well.

I wish to restrict my remarks to the honourable member's statements as they relate to the motion so that I will not be picked up for drifting from the subject of the debate.

The ACTING SPEAKER (Mr McArthur) — Order! The Chair is glad to hear that.

Mr HAMILTON — The honourable member for Warrnambool is reported in the article as having said:

In fact, this has probably generated more correspondence to my office than the train issue or the guns issue, which is really saying something.

I believe every honourable member representing country Victoria, whether it be Ballarat, Bendigo, Latrobe Valley, Geelong, Shepparton or Warrambool, would have received the same response. I confirm the honourable member's statement, as I am sure every Victorian country member of Parliament would, because there is no doubt that the government has got it wrong. Country Victorians generally are pretty easygoing and accept things that are imposed on them by any form of government. However, this matter has outraged and angered them. In the 10 years that I have been a member of Parliament no other single issue — and there have been some hot issues — has created so much anger in country Victoria.

The relative size of the levy, which should be criticised because of its lack of consistency, has stirred up enormous feeling. The honourable member for Warrambool should be congratulated for standing up and saying to his constituents that it is his job to represent them to the government rather than, as other honourable members say — as I have heard the honourable member for Shepparton saying through the media — 'It is my job to represent the government and tell you what the government is doing'. There is a bottom line that tests all members of Parliament: why are they here? The honourable member for Warrambool has clearly said he will not roll over and blindly and meekly accept the government's policy which is objected to by his constituents. Congratulations, I believe that is what it is all about.

However, when one examines the vote on the retrospective legislation that imposed this same levy on the people in my region — which is covered by the West Gippsland Catchment Management Authority — one discovers that the honourable member voted for the retrospective legislation that legalised a then illegal tax. The time is long past when members representing country Victoria should have stood up for their constituents. That should be not undertaken lightly or with a lack of attention to detail.

I have listened to the comments made by the honourable members for Gippsland South, Shepparton and Polwarth. The impression I have gained is that they falsely believe voters in country Victoria are somewhat complacent. They believe that no matter what impositions the government puts on them, country Victorians will continue to vote for either the Liberals or the Nationals. That is patently not true. Government members are burying their heads in the sand. Country

Victorians are angry about this issue and they will express their anger.

The honourable member for Warrambool has got it right. If there is not some response from the government — not the weak, lily-livered excuses given by honourable members who have spoken today and a number of honourable members who have been quoted in country media — they will be punished, and so they should be. There is no doubt that country people have suffered greatly in the past few years. Services have been reduced in all parts of Victoria. As well as reducing services, an additional tax or compulsory payment has been imposed on Victorians. It does not matter whether you dress it up as a levy or a tariff — or whatever other name you give it — it is a tax. Country Victorians are worried about it and they have every right to be.

The first question that came to my office about the tax was, 'It is \$25 this year, what will it be next year?'. No ceiling has been put on this new tax — it could be anything. The residents of East Gippsland started paying about \$17; then it was \$28, and now it is \$34, which is nearly a 200 per cent rise in the tax for people living in the region covered by the East Gippsland Catchment Management Authority. Is it any wonder Victorians are nervous, not only about a new tax but about a new tax with no ceiling? Given the dire circumstances that country Victorians are experiencing at the moment, we should be very mindful of that.

Of course, the figures I quoted are minimum levies. Other groups of people, such as farmers, are paying hundreds of dollars on the same levy. It is an additional imposition on farms, and farmers have not been doing it easy. Neither have multiple property owners, as the honourable member for Warrambool explained. In my area, multiple property owners, such as people who own blocks of flats, have done it particularly hard. Not only do they have to pay this additional charge, this additional tax, but because of the economic climate in our region they are not able to mete those charges out and increase their incomes. In fact there has been a drop in their incomes and an additional tax imposed on them. They are angry, and rightly so.

Honourable members have spoken about the need for proper catchment management. No-one has argued against that. I agree wholeheartedly with the honourable member for Warrambool when he is reported as saying that he:

... supported the concept of a program of environmental protection works for the water catchment regions, but —

and this was the key —

did not believe a landowner levy was the way to pay for them.

Opposition members are not arguing against proper catchment management, and neither was the honourable member for Warrnambool. In supporting his statement he concurred with that objective. The problem is the way it has been done — and one can think of some of the possible reasons. The first, of course, is the corporatisation of the water authorities. That corporatisation is the little Greek cafe on the road to privatisation. We all know the water authorities were corporatised so they can be privatised. There is not a doubt in the world about that — it is all there in black and white.

The ACTING SPEAKER (Mr McArthur) — Order! I remind the honourable member of his commitment to the Chair at the start of his speech.

Mr HAMILTON — It seems that the corporatisation of the water authorities, which included a guaranteed income and profit, left the authorities with the problem of managing the quality of the water that they would eventually sell off to the public.

What did the government do? It said, 'We cannot keep throwing money at these things', and created nine new semi-government catchment management authorities — that is, new quangos all over the state. The government has directly contradicted its policy of not establishing new quangos.

Finally, the Deputy Premier, who is also the Leader of the National Party, spoke a great deal about the politics of blame and went back to a time more than six and a half years, when a Labor government was in this place. That line is becoming very thin. For six and a half years the people of this state have had the bad experience of a Liberal-National government; they are past believing that everything that goes wrong is the fault of the previous government. The people of country Victoria are sick of that set of excuses.

Every time the government tries to defend the indefensible, that lame excuse comes up. It is time, if not past the time, for it to listen to the people of Victoria who say, 'Hey, you're in government. You're responsible, and it's time you performed,' by withdrawing this terrible, inexcusable tax, and doing the job of governing properly.

Mr I. W. SMITH (Polwarth) — I wish to make a contribution to this debate because I am a strong supporter of the concept of catchment management authorities (CMAs) and the work they do, and I have grappled with methods of finance.

Firstly, I will comment on the purpose of the debate, which is to discuss the adjournment motion moved by the honourable member for Bundoora, which refers to comments made by the honourable member for Warrnambool. In his public comments reported in the *Warrnambool Standard* the honourable member for Warrnambool was simply making commentary on a wide range of complaints made to honourable members in country electorates when the catchment management authorities created their new system of levies.

We all received such complaints. In my electorate of Polwarth I sent question-and-answer sheets to and personally spoke with each person who complained to the office, to clarify the matter. Having spent some time working through the issues with each person who complained, I consider it fair to say that only a handful of people were not satisfied with the reasons and explanations I was able to give. I will give the house the benefit of hearing some of that explanation today.

The tariff was established in accordance with sections 259 and 144 of the Water Act 1989, so the authority for the charge comes from legislation passed by the previous government.

Recently I attended a meeting in Geelong which was organised by a Labor candidate, Mr Ian Trezise, and addressed by the former Leader of the Opposition. In her comments the honourable member for Bundoora mentioned that about 600 people were at the meeting. However, the 500 chairs put out were not all occupied, so I suspect her figures are slightly exaggerated.

At the meeting the then Leader of the Opposition, the honourable member for Broadmeadows, claimed that the catchment levy was a new tax paid only by country people. However, the facts are that Melbourne property owners have been paying the levy for more than 40 years. The present average charge to Melbourne property owners is \$45, on top of which they pay a parks management charge, which currently averages \$42.70.

At the meeting the then Leader of the Opposition went on to say that the tax was a new Kennett government tax on country people. It is new to some country people, but the fact is that during the 1980s the previous government introduced a similar tax for the Mitchell River, Ovens River and Tarwin River catchments.

The former Leader of the Opposition further commented that the Corangamite Catchment Management Authority Board had no representatives from Geelong, despite the fact that its chairman, Bob

Carraill, and one of its members, Harry Peeters, are both residents of the Geelong community.

The honourable member for Bundoora claimed that the levy was increased because \$20 million was cut from the budget of the Department of Natural Resources and Environment. The \$20 million was cut from the DNRE budget for head office staff and all the regional budgets remained the same. In addition, the government made further amounts of money available to the catchment management authorities. So the comments made by the then Leader of the Opposition, and similarly some of the comments made by the honourable member for Bundoora, were factually incorrect.

Over the next three years the state and federal governments will contribute of the order of \$140 million to the tariff structure of catchment management authorities, and property holders will contribute only \$17 million per year. Since 1992 this government has more than doubled direct state funding to waterway management, which is a commendable effort.

Country members such as myself, who have been around for a while —

Mr Hamilton — Perhaps too long, some would say!

Mr I. W. SMITH — Some would say that, yes, but fortunately not a majority. Those of us who have been around for a while have noticed an appalling degeneration of catchments in parts of the state. In my electorate, which is a large geographic area of approximately 10 000 square kilometres, the natural productive capacity of the land is degenerating at approximately 1 per cent per annum. Of course, that can be offset by fertiliser programs and so on. But the essence of people's lack of understanding on which the honourable member for Warrnambool was commenting is that they are not aware of the huge amount of degradation that is occurring in catchments. If that is not addressed and redressed properly, our catchments will be so damaged and depleted that they will be irreparable and will not be able to contribute to the livelihood currently enjoyed by the country community.

Those of us who have been here for a while have noticed that in the past governments have placed a low priority on catchment management.

Ms Garbutt — On a point of order, Mr Acting Speaker, this is a narrow debate focused on the statement made by the honourable member for Warrnambool. The current speaker is drifting a long way from that. He has not mentioned what we would all be very interested to hear — that is, whether he

supports what was said by the honourable member for Warrnambool. You should bring him back to the subject of the debate.

Mr I. W. SMITH — On the point of order, Mr Acting Speaker, the honourable member for Warrnambool was making a commentary on objections that were made to him. The remarks I am making are entirely related to the range of objections and the answers given to those objections by members of Parliament, including me. My comments are entirely relevant to the debate.

The ACTING SPEAKER (Mr McArthur) — Order! The motion before the Chair states that the tax is inequitable and cannot be justified. I accept that the honourable member for Polwarth's comments deal with the levy's equity and justification. There is no point of order.

Mr I. W. SMITH — The point I was trying to make is that it has not been appreciated by successive governments that degradation has occurred and is still occurring. The worry is that in the battle to divide the financial cake governments prioritise human services. The former Labor government mastered that art and went way beyond the norms by squandering huge amounts of money it did not have.

The ACTING SPEAKER (Mr McArthur) — Order! I remind the honourable member for Polwarth that he is now straying from the terms of the motion.

Mr I. W. SMITH — I was coming to the point that people who live in catchment areas and have been made aware by responsible members of Parliament of the problems associated with catchment management and who have seen the lamentable lack of support by successive governments agree that they need to make a contribution to solving the problem. The honourable member for Bundoora talked about equity in contributions, and by inference suggested a poll tax. I do not mind what ideas the Labor Party comes up with to fund catchment management authorities, but when tackled on this issue at the meeting in Geelong the then Leader of the Opposition did not promise to sustain or increase the level of funding. That is the key issue.

I take it no argument will come from anyone in the house that catchment management authorities are necessary or that they do a lot of work. The argument presented and the commentary made by the honourable member for Warrnambool are about how equitable contributions can be made. Country people who have watched the efforts of successive governments would be cynical and sceptical about the capacity of

successive governments to adequately fund sustainable catchment management authorities.

It comes back to what can be extracted from government, and what is equitable and justifiable for the people who live within the catchment. The people in catchment areas with the strongest vested interest — the strongest commercial interest — are property owners. However, if the Labor Party wants to have a poll tax whereby non-property owners also make a contribution, let us hear what is suggested. People with the strongest commercial interests should pay the levy because if catchment areas degenerate continually, as happens now, their assets will not grow at the same pace as they would if the catchments were healthy and well looked after; they may even become depleted.

All government members who represent country Victorians, including the honourable member for Warrnambool, have mulled over those problems with their constituents, cabinet ministers and the responsible minister. Improvements can be made to the administration and through contributions made by stakeholders with the strongest vested interests. The community has suggested that there needs to be a change, and the government will look at that need. However, I cannot see why people with a strong vested interest in maintaining healthy catchments and improving them should escape making a contribution. That is the essence of the debate.

I commend government members who have put in hours of their time, firstly, publicising why catchment management authorities are needed, and secondly, supporting catchment management authorities in raising levies and in answering the vexed question of what equities or inequities exist. It is fair to say that government members have a close relationship with catchment management authorities and meet with them regularly to help them through their problems.

We support passionately the work done by catchment management authorities and acknowledge the need to repair years of neglect and the rape and pillage of the land and waterways within Victoria. The government initiative is a giant step on the road to the reparations that have been neglected, particularly in the past 15 years. I commend the comments made by government members who fervently believe that local contributions made to catchment management authorities are the correct and sustainable way to proceed.

Ms DAVIES (Gippsland West) — I am pleased the honourable member for Polwarth can be passionate

about something, even though his contribution lacked passion.

I support both the urgency motion and the honourable member for Warrnambool's comments that appeared in the *Warrnambool Standard* that the \$32 water catchment management levy was unfair and should be abandoned. I have a great deal of respect for the honourable member for Warrnambool and his work, and I hope he can encourage his colleagues to assert themselves a little more firmly than they have so far.

When I have brought this issue to the attention of the house several times in the past year I have stated repeatedly that I support the work of catchment management authorities (CMAs). We need waterway improvement and weed and pest control, and catchment management authorities will take more and more responsibility for that work. I also support the essential work formerly done by the Department of Natural Resources and Environment before the government cut its funding. The Deputy Premier tried to justify the cuts to DNRE funding when he said that the \$18 million taken out of that funding was used to fund rural schools and hospitals. I do not know how he can hold his head high after making such a comment. There should be no need to choose because there is no reason not to support DNRE, catchment management authorities and schools and hospitals.

As I said, I strongly support the comments made by the honourable member for Warrnambool. It is a great pity that National Party members have been so swamped by the city-focused members of the government that they have not been able to assert themselves properly on this and other issues.

Mr Kilgour — How would you know? You don't know what happens in my electorate — you are way down in the west!

Ms DAVIES — Excuse me! Mind your manners.

The ACTING SPEAKER (Mr McArthur) — Order! The honourable member for Shepparton will have his opportunity when the time comes, if he wishes to take advantage of it.

Ms DAVIES — As the honourable member for Warrnambool so clearly stated, there are many more equitable ways of funding the work of the CMAs than the way the government — with the approval of the honourable member for Shepparton — has chosen. The charging of a flat rate of \$25, as has been done in West Gippsland, is not equitable. To a large business or landowner, \$25 might seem very little; to a pensioner, \$25 is a great deal of money.

I have been approached by more people about the catchment management authority tax than I have about any other issue since I have been in Parliament — as has the honourable member for Warmambool. I have received a great many letters on the issue, and, as other members have commented, the people in my electorate — like, I dare say, the people in your electorate — are generally very respectful of government decisions.

The ACTING SPEAKER (Mr McArthur) — Order! I remind the honourable member that she should address her remarks through the Chair. When she says 'you', she is taken to be referring to the Chair. I take it that in this case she was referring to someone else.

Ms DAVIES — I beg your pardon, Mr Acting Speaker. I will quote from a couple of the letters I have received, which I dare say are similar to the letters received by the honourable member for Warmambool — which were the reasons he spoke up in the first place.

One letter was from Judith Hall from Leongatha. She lives in the electorate of the honourable member for Gippsland South, who sounds more and more like a Liberal member of Parliament these days. In her letter to me she said:

If this charge has been instigated by the state government — as it has been —

it is just another example of a regressive tax —

I should remind the honourable member for Gippsland South that it is a tax —

with its extra financial burden, being placed upon the shoulders of the less successful members of the community. It would seem that the \$100 [householder] levy has now been replaced by another one, but only imposed upon the people of Gippsland. My cynicism tells me that it will be a growth tax ... The truth of the matter is that I am being stretched to the limit, and if the current government policies continue... I will be obliged to sell my Kilcunda property after using it for 35 years.

Sue Altenhof stated in her letter that she feels like a sitting duck on her property because she has no defence against the additional charges imposed by the authority.

I also quote from a letter written by Paul Haar from Archies Creek, who stated:

It is quite unreasonable to charge ratepayers for the establishment and maintenance of yet another bureaucracy which will achieve very little on the ground, and will see its budgets absorbed largely by white-collar administration.

Paul Haar is a member of the Archies Creek Reafforestation Group, the members of which have spent thousands of their own dollars and hours on improving the waterways around the Archies Creek–West Creek area.

Different rates are being applied to different CMA areas across Victoria: the tax is being imposed inequitably, as the honourable member for Warmambool so rightly stated. The system will never be fair, because catchment areas will always have different numbers of people, different numbers of properties and different waterway problems to solve with only locally raised taxes. The only way the inequitable burden can be lifted is by having the work funded centrally by the state government, with the funds distributed according to need.

The West Gippsland Catchment Management Authority got itself together a little earlier than many other authorities. Residents of the region have thus far had two tariffs imposed on them, the first — imposed in April 1998 — being the one that caused the initial rush of protest. That tariff was supposed to cover the 1997–98 financial year. Yet in November last year we received another tariff request for the 1998–99 financial year. We have paid twice; others have paid at differing levels and different amounts. The extent to which the tax may rise as funding for the Department of Natural Resources and Environment continues to be cut remains to be seen.

I warn National Party members that they are not in favour in rural areas. The *Portland Observer* states that grassroots National Party members throughout the south-west are so upset they are proposing to move a three-point motion against the tax. I have also been told of local National Party branch members who have expressed their dissatisfaction in fairly strong terms.

It is up to National Party members to listen to what people in rural areas are telling them and to assert themselves by saying, 'We cannot support this tax by local tariff. There is plenty of money in the state government coffers'. I suggest they speak loudly and in a united voice to encourage an upwardly mobile, city-focused state government to start funding the work of the CMAs. As I said, the authorities do valuable work that I support, but it should be funded from state government money raised more equitably than through the imposition of local tariffs.

Mr KILGOUR (Shepparton) — I understand the honourable member for Warmambool talked about inequities involved in raising the catchment management authority (CMA) tax in his area. The

shadow minister for environment, conservation and land management put all country Victorians into the one basket when she spoke about country people across the state being unhappy with the tax. However, I can inform the house that the tax has been levied in my electorate for more than three years and that my electors are very happy about it because they can see that the catchment management authority will safeguard the future of agriculture in the Goulburn Valley.

Mr Hamilton interjected.

Mr KILGOUR — I would not expect the honourable member for Morwell to understand anything about agriculture and salinity in the Goulburn Valley. He comes from an area where although there is coal underground not much is grown on the surface because of the number of big holes from which the coal has been cut. The future of the Goulburn Valley lies in its land and its available water, and for that reason the people of my electorate have been happy to pay the tariff over the past three years. I understand that catchment management authorities in other parts of the state have adopted different methods of collecting the tariff, and I agree with the honourable member for Warrnambool that in some areas the way in which it has been asked for has left a lot to be desired.

When the local catchment management authority first imposed a tariff to augment the massive amount of government funding that had already been expended, some residents asked why. They were quickly told that if our waterways are to be cleaned up and if the quality of our drinking water and the water we use on our properties is to be maintained, something needs to be done about river management.

My electorate is in a desperate situation with the water table and the rising salt table. The problem would be greater if the catchment management authority were not undertaking drainage works. Members of the Labor Party show their hypocrisy when talking about the drainage tariff. They should know that people are already paying a \$44 drainage fee in Melbourne and that fee is not being charged in the country. The Goulburn Valley has a future in growing peaches, pears, apricots, tomatoes and nectarines and in growing grass to feed the cows to produce products for the dairy industry, which is a large exporter to the city of Melbourne. The future of agricultural pursuits depends on what the catchment management authority can do to ensure we can grow the grass, the trees and the fruit.

The catchment management authority has been involved in programs of revegetation and stabilisation

of stream beds and banks to reduce the risk of major breakaways when there is a flood. Education and planning activities are undertaken to enhance the environment and the recognition of the value of waterworks throughout the Goulburn Valley. Schoolchildren are examining the water table and reporting the results to allow the catchment management authority to spend its dollars on associated problems.

In the early days of the new tariff, many people in the City of Greater Shepparton telephoned me and said, 'But I don't use the river'. I said, 'Where does water go from the roof of your house?' They said, 'I suppose it goes into our sewerage system'. I said, 'It does not; it goes into the river system. When it rains the water from everybody's house goes into the river, so you are directly involved in providing water that goes into the rivers and streams and therefore you have an interest in looking after what happens to the rivers and streams'. The quality of water should be attended to by not only the water authority but also by local government or whoever looks after it downstream.

We must be concerned also about the amount of salt going into the River Murray. The challenge is to develop an ecologically sustainable approach to agricultural development, such as that of the local catchment authority which is chaired by John Dainton and has Bill Okane as its chief executive officer. As the honourable member for Polwarth said, members in country areas work closely with catchment management authorities and speak almost weekly with them.

The other day I attended a meeting at Mooroopna where the catchment management authority put forward a new proposal on flood areas of the lower Goulburn River to stop the possibility of water breaking out of the Goulburn River during a flood. That significant environmental proposal for a river management catchment will receive support from federal and state governments. People in the lower Goulburn River area are coming onside. Those whose properties will be affected by the proposed flood plain will have to sell their farms and homes but those outside the proposed flood plain are telephoning the catchment management authority about their enthusiasm for the scheme.

Ms Davies — On a point of order, Mr Acting Speaker, as I understand it, the focus of the member's discussion should be on the motion moved and its subject matter. The point of order is on the question of relevance. The catchment management authority is irrelevant to the points under discussion.

The ACTING SPEAKER (Mr McArthur) — Order! Unfortunately the Chair has been involved in discussing with the Clerks procedures for a future division on this matter. I was not able to hear all the matters raised by the honourable member for Shepparton. I remind all honourable members that they should restrain themselves and confine their remarks to the subject matter of the motion.

Mr KILGOUR — What I was saying was relevant because people are going along with the authority and the future of the Goulburn Valley and its waterways. People should be involved, as are the catchment management authorities throughout Victoria where there is a problem.

The people in the Goulburn Valley have no problem with the proposal of the catchment management authority because they can see a future in managing the agricultural area in an ecologically sustainable way. Not only do people in the area understand that they must have some involvement in the plan, but people outside the area telephone and ask, 'Can we be in it?' The catchment management authority provides value for money spent on the work done on the ground. For some time Victoria has been in the forefront not only in Australia but throughout the world on catchment management issues. Leading the field has given people an understanding and the government is being educated on why it should look after the future with ecologically sustainable development as well as addressing the immediate needs of agricultural industries.

The achievements of the City of Greater Shepparton and the catchment management authority show what can be done about catchment management. People can see that unless the salinity problem is solved and our rivers are upgraded we will not have a future. Things are different in some areas but it is vital to the future of the Goulburn Valley that members of the public contribute to the future.

The ACTING SPEAKER (Mr McArthur) — Order! The time under standing orders for debate on the motion has now expired.

House divided on motion:

Ayes, 29

Baker, Mr	Langdon, Mr (<i>Teller</i>)
Batchelor, Mr	Leighton, Mr
Brumby, Mr	Lim, Mr (<i>Teller</i>)
Cameron, Mr	Loney, Mr
Campbell, Ms	McLellan, Mr
Carli, Mr	Maddigan, Mrs
Cunningham, Mr	Micallef, Mr
Davies, Ms	Mildenhall, Mr
Delahunty, Ms	Pandazopoulos, Mr

Dollis, Mr
Garbutt, Ms
Gillett, Ms
Hamilton, Mr
Hulls, Mr
Kosky, Ms

Robinson, Mr (*Teller*)
Savage, Mr
Seitz, Mr
Thwaites, Mr
Wilson, Mrs

Noes, 50

Andrighetto, Mr
Ashley, Mr
Burke, Ms
Clark, Mr
Coleman, Mr
Cooper, Mr
Dean, Dr
Dixon, Mr (*Teller*)
Doyle, Mr
Elder, Mr
Elliott, Mrs
Finn, Mr
Gude, Mr
Henderson, Mrs
Honeywood, Mr
Jasper, Mr
Jenkins, Mr
John, Mr
Kilgour, Mr (*Teller*)
Lean, Mr
Leigh, Mr
Lupton, Mr
McCall, Ms
McGill, Mrs
McGrath, Mr J. F.

McGrath, Mr W. D.
Maclellan, Mr
McNamara, Mr
Maughan, Mr
Naphine, Dr
Paterson, Mr
Perrin, Mr
Pertion, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr A. F.
Reynolds, Mr
Rowe, Mr
Ryan, Mr
Shardey, Mrs
Smith, Mr E. R. (*Teller*)
Smith, Mr I. W.
Spry, Mr
Steggall, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr
Treasure, Mr
Wade, Mrs
Wells, Mr

Motion negatived.

CHILDREN AND YOUNG PERSONS (CORRECTIVE SERVICES) (AMENDMENT) BILL

Introduction

Ms CAMPBELL (Pascoe Vale) — I desire to move, by leave:

That I have leave to bring in a bill to amend the Children and Young Persons Act 1989 to incorporate the prohibition of privatised youth remand, youth residential centres and youth training centres.

Leave refused.

PLANNING: MINISTERIAL INTERVENTION

Mr DOLLIS (Richmond) — I move:

That this house condemns the Minister for Planning and Local Government for —

- (a) allowing the misuse of commercial-in-confidence clauses to hide shady deals on major projects from the Victorian public; and
- (b) flagrantly ignoring the rights of ordinary Victorians by overriding the planning decisions of democratically elected local councils and calling in planning appeals from the Administrative Appeals Tribunal.

The majority of Victorians have no doubt that Victoria's planning system is in a state of crisis. It has been in a state of crisis since the Minister for Planning and Local Government decided to introduce his own idiosyncratic, individualistic and non-collective style. The minister may attempt to refute that fact, but the more he tries to paper over the cracks the more everyone is painfully aware of the truth.

I will start by explaining the visions and values on good urban planning that the Labor Party will implement when in government. Good planning can deliver to communities better services, more affordable housing, social justice, jobs, sustainable environment and a fair say about the future. Urban planning is also about creating an urban structure that is sympathetic to the social needs of the community and not just to the most affluent, powerful or articulate individuals. Special groups whose needs differ significantly from the community, such as the Aboriginal community, ethnic communities, the unemployed, the elderly and children living in poverty, should also have their needs addressed.

The values that form the basis for Labor's policy on urban planning are livability, participation and sustainability. Livability can be characterised by health, social equity, physical environment, safety and cosmopolitanism and is also concerned with access, equity and affordability. Those dimensions are mutually reinforcing.

Public participation in the government is part of our democratic heritage and the integral fabric of our society. Effective participation means creating multiple pathways to influence and inform public policies formation and implementation. Without strong and rigorous public participation from all sections of the community there is a danger that the direction of urban development could represent the views and priorities of a small minority.

Sustainable development is the key to planning urban policies in the 1990s and beyond. As Victoria enters the next century achieving sustainable development will mean more than minimising any adverse environmental and economical impacts. Victoria needs to address the environmental and economic issues that confront society today and plan for the long run.

That is the Labor Party vision; it is its agenda for the future. The Minister for Planning and Local Government and the government have presided over a loss of planning rights, attacks on the residential amenity and the systematic politicisation of the planning process. This minister, when in opposition, criticised everything the then Labor government did even though the then government enabled people to participate in the process and to have rights so that they felt secure with their residential amenity. This interfering minister has an idiosyncratic style that has caused people to feel threatened and uncertain about their rights. Victorians feel restricted in trying to get on with living because they are concerned about what will happen to their homes, streets or suburbs.

Over almost six years government actions have directly resulted in a lack of confidence in the planning system. That is the reality people face today, and it is a reality that the Minister for Planning and Local Government has brought to this state. The minister has mishandled planning issues. He has flouted good planning processes and, as a result, Victoria is in a state of crisis — planning is in a crisis. People have no confidence in the Victorian planning system.

People appearing before the Victorian Civil and Administrative Tribunal face significant delays and there is anger over the government's market approach to planning. There is nothing wrong with a market approach, but there is something wrong when it is the only approach adopted in the planning system.

This interventionist minister has damaged the planning system. He has created a crisis and the opposition has frequently called on him to do something about it. This crisis has occurred at a time when the state faces enormous social and environmental challenges. Unfortunately the government is ignoring the need for strategic planning and is wasting the opportunity to better equip Victorians to face the new millennium.

The government has introduced planning reforms that are destined to become the most costly and counterproductive in the history of Victoria. The minister's planning provisions will serve only to worsen the current planning crisis. They will place further strains on municipal planning departments that are already stretched to the limit; they will create further dissension within the planning process; and they will cause further costly delays and more stress for residents. The government continues to do what it does best — ignore Victorians despite the huge problem it is causing.

The minister will remember his incredible intervention in the Scots Church planning process. The approval of the 55-metre high development of the church precinct was considered a major blow to heritage controls because it would signal the demise of the physical form of Melbourne that has evolved over the past few decades. The minister was told that in the future Melbourne would no longer be recognised for its medium-rise central pedestrian and heritage areas contrasted with the high-rise developments at the eastern and western ends of the city. The minister established a public panel which rejected the proposal for a 90-metre hotel on the site. The minister ignored the panel decision and its findings. Until good sense prevailed the minister was prepared to destroy the visual and historic character that Melbourne has developed over the past 100 years. That is the record and the legacy that the minister is giving to Melbourne.

The University of Melbourne private expansion program is a paradigm of the way the planning system is in crisis due to the minister's actions. The planning process was a fiasco and remains as one of the most incredible contradictions since the minister has been in charge of planning. Fortunately, as a result of intense pressure and public outcry from the local community and the media, a planning disaster was averted. It did not happen because of the minister's intervention, because the planning system is capable of correcting mistakes of this nature, or because we want Melbourne, a city heading into the next century, to be a city where living is the first priority. It happened because the community and the media objected to the process and won the battle.

I place on the record the fact that the local community, the media and other interested parties exposed this debacle. They were able to save a key heritage area for the benefit of future generations of Victorians. If it were not for their outcry the government would have allowed private commercial interests to override legitimate community concerns and as a result a key area of historic significance would have been lost. The irony is that the minister is a product of that academic institution and should have known what it is that the institution offers to the residents of Melbourne. The question that must be asked is, 'What went wrong?'.

In early December 1998 the University of Melbourne lodged a planning application with the Department of Infrastructure. The application was formally advertised for 14 days and all objections were to be received by 23 December. On 17 December the minister advised the City of Melbourne that he had called in the application and that he would appoint a panel.

Mr Maclellan — On a point of order, Mr Acting Speaker, I direct your attention to the notice of motion moved by the honourable member for Richmond. It refers to two main items: the misuse of commercial-in-confidence clauses and flagrantly ignoring the rights of ordinary Victorians by overriding the planning decisions of democratically elected local councils and calling-in planning appeals from the Administrative Appeals Tribunal.

Although the honourable member has been proceeding with his motion for some time and has referred to the Scots Church proposal, which has not gone ahead, and the University of Melbourne extension, I point out that neither of those processes involved commercial-in-confidence or the calling in of anything from the AAT. Neither proposal related to any decision made by democratically elected local councils. I wonder whether you may at some stage between now and 1.00 p.m. ask the honourable member to speak to the motion before the house rather than things in general.

Mr DOLLIS — On the point of order, Mr Acting Speaker, I have an understanding of what the motion is about. I am farewelling a portfolio responsibility I have held for five and a half years. In the limited time I have available I will deal with the minister's ability to ignore the rights of ordinary Victoria by overriding planning decisions. That is the way the motion was drafted. The minister will not appreciate my attempt to place on the record some of the criticisms made of him, but it is something I intend to do while debating the motion.

Mr Maclellan — Further on the point of order, Mr Acting Speaker, the honourable member has been frank. He says that because the motion on the notice paper does not suit him he will debate something else. I appreciate his frankness, but parliamentary process does not allow him to do that.

The ACTING SPEAKER (Mr Cunningham) — Order! The honourable member for Richmond has been speaking on the motion for some time. I uphold the point of order. The honourable member should get back to the motion before the Chair.

Mr DOLLIS — As I was saying, I am debating the motion, which I have drafted irrespective of whether the Minister for Planning and Local Government likes it, is willing to have the criticism placed on record or wants to have his reputation criticised. Members of the opposition know that he is rather thin-skinned but we did not realise that he is unable to listen to facts placed before him.

The part of the motion with which I intend to deal relates to the minister's ability to ignore the rights of ordinary Victorians by overriding planning decisions and to his calling in of appeals from the planning list of the Victorian Civil and Administrative Tribunal. After I have finished with the University of Melbourne issue I will move to the Mornington issue which, as the minister knows well, is a classic example of his lack of ability.

I will now finish placing on the record the debacle of the University of Melbourne proposals. On 24 December the Minister for Planning and Local Government approved the amendment to the Melbourne Planning Scheme. The city of Melbourne was advised on about 30 December that the amendment was approved to enable the demolition of historic terrace houses in Carlton. Then the minister convened a number of meetings with interest groups and stakeholders and publicly promised that no buildings would be demolished until he had approved the final plans for the development. In typical fashion the minister intervened first and attempted to conduct a consultation afterwards!

Why did the minister approve a statutory document that allowed the demolition of the terrace houses if he was willing to ignore or waive the contents of that document? Once again, the minister created confusion and uncertainty in the planning process in a way that could and should have been avoided. It is very difficult not to conclude that the whole fiasco was designed to disempower the community and exclude it from the process.

The issue was further clouded by the Premier's comments about the planning approval for the extension of Melbourne University. In January in an interview on radio station 3LO the Premier said that a letter had been sent independently to the vice-chancellor of Melbourne University. According to the Premier, the letter stated that generalised approval was in place for only six months until the university could improve its finances.

The minister would know that it is highly unusual for conditions to be attached to a planning approval for a development by way of a letter to the proponent of a development. Furthermore, there appears to be nothing in the gazetted ministerial approval of the development that relates to a six-month time limit or that indicates that the project is conditional on the university producing adequate finances. The minister knows that the only legal document that exists is his gazetted document. However the Premier said, 'Yes, we did send the letter and the letter indicates the following'.

Either we will have a planning process that has some legitimacy — with the minister following his own legislation or the letter of the law — or we will have whimsical exercises undertaken by either the minister or the Premier.

The minister must understand that it is very important to place such issues on the record. He has been able to skate and skirt around the issues by changing the subject. The minister gazetted a decision that specified certain things, yet the Premier went a different way. It is strange also that the Melbourne City Council did not have a copy of the letter.

I refer to the local government aspect of the matter. It is possible that if conditions had been attached to what the minister would agree was a rather unorthodox planning permit then the minister acted outside his planning powers. So there is a question as to whether he acted lawfully. This is not the first time that there has been a question about whether the minister has acted lawfully. He knows very well that I am still waiting for his legal advice on the Punt Road matter. He knows very well also that that legal advice clearly indicates that on that occasion the minister acted unlawfully.

The question is whether in this particular case the minister has acted unlawfully and outside his planning powers. Unfortunately, rather than answering the community's legitimate concerns about the way the proposed development is proceeding the Premier and the minister have added more confusion to the facts of the matter. The gazetted approval clearly states that a number of conditions were attached to the permit for the development. The Premier mentioned further conditions that were not contained in that document. Is it any wonder that Victorians have no confidence in their planning system? Is it any wonder that we consider what the minister does to be one big long farce as he begins or attempts —

Mr Maclellan interjected.

Mr DOLLIS — He is a farcical example of —

An honourable member interjected.

Mr DOLLIS — He is. I can indicate to the minister how a number of his friends have described him.

Mr Maclellan interjected.

Mr DOLLIS — We can correct that. However, the farcical exercise brings us here. The planning system will not only reduce Melbourne's liveability standard but will further reduce people's individual rights. Our planning system is in crisis, Mr Speaker. Until the

extent of that crisis is understood and recognised it will continue.

To satisfy the minister's desires on the resolution, I now refer to Mornington. The minister constantly intervenes in planning processes, often against and to the detriment of the interests of local communities. Too often the minister favours development and developers get huge windfalls as a result of his intervention. That is one of the factors that has brought the planning system into a state of crisis.

The matter of the Mornington shopping complex is a classic example that must go on record because it involves a proposal for a shopping centre development in Mornington. The issue has a long history. In August 1996 amendment L56 was made to the Mornington Planning Scheme. That site-specific amendment allowed for a shopping centre development. The developer submitted development plans that were not in accordance with the zoning of the site, which is comprehensive redevelopment zone 1 under amendment L56.

The council rejected the plans on the basis that the gross leaseable floor area shown in the plan had exceeded the maximum allowed of 10 000 square feet and that the plans provided for redevelopment beyond the specified site area — indeed, beyond the area zoned comprehensive redevelopment area 1. The developer appealed to the Administrative Appeals Tribunal, which held that a planning scheme amendment would be required if the plans were to be legally approved — I emphasise 'legally approved'. The minister wrote to the tribunal before the hearing suggesting that an amendment may be in order.

The minister's writing to the tribunal saying that he 'may' make an amendment and that the amendment 'may' be in order was highly unusual. It must be asked whether the minister was attempting to influence the outcome of a tribunal decision. At best, the minister's decision to write a letter appears inappropriate; at worst it appears to be entirely improper ministerial behaviour.

Following the tribunal's decision the minister prepared amendment L83 to the planning scheme. That amendment adopted the necessary changes for the development plan to comply with the zoning on that site. A land exchange was required for the development to proceed. Delays were experienced in that exchange process, which involved the public car park becoming part of a shopping complex development and some of the developer's land becoming council land.

The developer argued that council gave him an undertaking that the exchange of the land would proceed. That is in dispute. It is arguable that the necessary land exchange creates a windfall for the developer. Car parking has been one of the biggest issues about the site. The land exchange would remove the public car park from the area, and residents have been trying to ensure that the developer provide at least a minimum number of car spaces.

The developer submitted plans under the new zoning arrangements and the council rejected them. The developer appealed to the Administrative Appeals Tribunal. The directions hearing for the developer's application was held on 5 February 1998.

Amendment L85 was signed by the minister on 20 March and gazetted on 30 March. The hearing for the application proceeded between 30 March and 1 April 1998. Amendment L86 was signed by the minister on 30 March and presented on 1 April. The amendments reduced, in effect, the number of car spaces the developer would be required to provide and therefore accorded with the decision he wished to receive from the tribunal. Intervention of that kind brings our planning system into disrepute.

On 28 January 1998 the minister wrote to me in response to my request for a meeting. He stated that as the matter was before the AAT he considered that the tribunal was the appropriate forum for debate on the merits and issues related to this project, and that therefore it would be inappropriate for him to meet with me and my constituents at that time. The minister believed it was inappropriate to meet with residents and the shadow minister in January, but he was happy to use his ministerial powers to alter the planning scheme on the same issue two months later when the matter was before the AAT. That is extraordinary behaviour, and an extraordinary way to deal with such a case. I have included that issue in my submission to the Auditor-General's proposed planning audit.

The public should be able to rely on a planning system that is fair and provides certainty. The minister has provided neither. His intervention was one of the factors that forced a negotiated settlement between the council and the developer, a settlement that will cost the council approximately \$800 000. An additional \$1.2 million will also need to be raised through the special charge scheme to fund the works that would otherwise have been carried out by the developer. A major component of those works was the construction of the 300 public car parking spaces at an estimated cost of \$550 000. Under the original proposal that item would have been substantially funded by the developer.

The minister's intervention seems to have facilitated a major windfall for the developer.

Another example of the minister's penchant for perverting the planning system involves a five-lot subdivision at 50 Big Pat's Creek Road in East Warburton. In this case the minister went to extraordinary lengths to enable the subdivision to proceed, as the information in my possession will show. The subdivision proposed by the applicant, Mr J. Richards, was prohibited by the Yarra Ranges Planning Scheme and by the regional strategy plan.

On 15 May 1997 the applicant wrote to the minister requesting a five-lot subdivision. Again the land was to be donated for public purposes. The minister intervened to insert a subclause into clause 503 of the planning scheme allowing a four-lot subdivision. In taking this action, the minister replaced a zoning prohibition, under which a permit to subdivide could not be considered, with a provision that allowed a permit to be issued. Council's professional planners recommended refusal of the permit application, but the commissioners, who by then had replaced an elected council, issued a permit to subdivide. In other words, an elected council refused to issue a permit, and the government-appointed commissioners intervened and issued a permit.

An objector, Mr E. Walsh, appealed against the decision to the Administrative Appeals Tribunal. The chairperson, Mr I. Marsden, reserved his decision and made certain directions leading to a relisting of the appeal hearing. The applicant did not comply and on 24 July 1997 informed the tribunal that he had made a further application for, in effect, the same subdivision. That application had the effect of superseding the current appeal.

On 8 July 1997 the applicant requested that the Minister for Planning and Local Government call in the application under section 97B(1)(a) of the Planning and Environment Act. Two days later, the minister called in the application and referred it to a panel, which recommended approval. By this action, the minister allowed the applicant to avoid a decision by the local council, which was once again an elected body, and instead decided the permit application himself. The local council showed its attitude to the new application by opposing it before the panel appointed by the minister to make a recommendation to him on the matter.

There are several disturbing issues that arise from this case. Firstly, the use of the call in power by a minister is relatively rare and usually reserved for major planning issues in which the government has a direct interest, or

which have the potential for important regional or other impact. By calling in an issue of this nature, the minister extended his involvement in a local planning issue beyond the more usual procedure of rezoning land to allow a council to consider a permit for the use of a development prohibited under a previous zoning. In this case, the minister directly determined a permit application on a local matter, contrary to the broad intent of the Planning and Environment Act that permit matters to be considered by the responsible authority — namely, the local council in this case.

Secondly, the minister's method of operation in this matter is perhaps unprecedented. He interfered to make an appeal hearing irrelevant to an application, and he did it while that hearing was taking place. He did it by directly considering a new application identical to the one being appealed. The minister acted to remove the new application for a permit from the hands of the responsible authority, the municipal council, and potentially the AAT. Had another appeal been lodged against the council decision on a new application, what would have been done?

The case raises grave questions about the seemingly improper use of the planning process. It leaves the minister open to allegations of favouritism and, in some cases, of collusion. The minister has never been able to answer any of those accusations, either in the past or in the house today. His actions subvert generally accepted planning processes and create the impression that the minister was determined to grant a permit to subdivide. And, in this instance, when it seemed that the first application might not be successful and the second one might be considered by an unsympathetic council, he issued the permit himself.

As a postscript to this case, the chairperson of the original appeal, Mr Marsden, issued his finding on 14 April 1998. His judgment is important to have on the record. It states:

It has long been held that further small lot subdivision of land in the rural conservation area of which the appeal site forms part should be permitted only in exceptional circumstances. No such circumstances were demonstrated in the proceedings before the tribunal. On the contrary ... it seems extraordinary that ... an application which runs counter to state, regional and local planning objectives would receive planning approval.

Mr Marsden allowed the objector's appeal and directed that no permit be issued. The question must be asked: who is the ultimate arbiter?

Mr W. D. McGrath interjected.

Mr DOLLIS — The Minister for Police and Emergency Services is usually interested in my contributions on the exotic fruit of Mildura, but given the limited time available I will not entertain him. However I am sure the minister and I will have an opportunity to discuss exotic fruit, allowing me to use words longer than those I would usually use in the house.

Mr E. R. Smith interjected.

Mr DOLLIS — The minister and I talk about a lot of things.

As a postscript to that case, it is important to place on record the chairperson's finding of 14 April 1998. Mr Marsden allowed the objector's appeal and directed that no permit be issued, yet the minister issued a permit. The opposition asks why planning in Victoria is in a state of crisis.

I will deal with the planning matter that arose in Gheringhap, in which the minister again intervened, completely disregarding the findings of his own planning advisory committee. On 10 August 1998 the minister amended the Golden Plains shire planning scheme, allowing for the subdivision of land in Gheringhap into six lots, apparently after being lobbied by the owner of the land. I am advised that the honourable member for Polwarth lobbied the council to assist in the matter. According to the minister's advisory committee, advice was received from respective councils, the Geelong Regional Commission, the amendment L13 panel, the Golden Plains Shire Council land use strategy planning authority and the committee itself. However, the Minister for Planning and Local Government went against all those bodies and allowed the subdivision the applicant sought. The report of the minister's advisory committee states:

... to allow the subdivision would only perpetuate the pattern of incremental de facto rural residential subdivisions that are clearly contrary to both state and local strategic planning policies.

The advisory committee's report also states:

... the committee firmly believes that Mr Sharkey's interests would have been better served had he and his representatives made appropriate submissions to the exhibition of the Golden Plains planning scheme, rather than pursuing this matter independent of all other planning considerations.

The planning minister seems to be prepared to go against the overall planning strategy for the area just to assist an individual. Furthermore, the amendment has the potential to create a substantial windfall for the owner of the land. That is a classic example of how people get rich under the Kennett government.

The minister's advisory committee went so far as to recommend that the minister consider awarding costs against the proponent to discourage Mr Sharkey and his advisers from persisting with further attempts to subdivide the land. Not only is this bad planning; it is inefficient and costly. The minister must be made accountable for the use of taxpayer's money in yet another of his planning advisory committee fiascos. It is no wonder the government has delayed the performance audit of the planning scheme until next year. The Minister for Planning and Local Government is out there on the loose, creating havoc, while the government is reassessing its approach to planning.

I come back to the values that have guided the Labor Party and will continue to guide it in the lead up to the forthcoming election. Good planning can deliver to communities better services, more affordable houses, social justice, jobs, a sustainable environment and a fair say in future developments. Instead the government has created a permanent crisis in our planning system.

In 1993 the minister argued that the planning system was too slow, too complicated, involved too much direction and generated too many inconsistencies among local schemes. Amendments to the Planning and Environment Act were introduced in 1996 and subsequently passed. Those amendments were designed to facilitate reform. Shortly afterwards the government released the Victorian planning provisions, or VPPs, which contained model standards, planning zones and controls for use across the state.

The minister encouraged councils to take the lead, and five councils took part in a pilot scheme. The amending legislation contained a number of key changes, but they did not improve the planning system. At the local level councils have found the system confusing and impossible to administer. It is confusing because the minister's powers are absolute. The councils do not know within what limits they are able to perform; they do not know what their jurisdiction is; and they do not know what is and is not under their authority. The minister has created further confusion by dealing directly with the chief executive officers of democratically elected councils.

In conclusion, I will state what Labor believes in. The ALP believes that the reform of the planning system is important. No-one wins if planning controls are clumsy, time wasting and confusing. Planning reform should not be allowed to fail because of poor process. It demands the strongest possible community support, yet there is no community support for the government or for anything the minister is doing. Good local processes need to be put in place to gain timely community input.

There is no opportunity for community input because the minister does not understand what it is all about.

Planning reforms should not be rushed through prior to councils making their decisions. Reforms should be supported by good community education and strong consultation at the local level. The VPPs should have been exhibited publicly for comment prior to their introduction at the local level. The minister did not commit himself to taking seriously any public comments that were made prior to finalising the VPPs. That is why there is such confusion across the state. The third tier of government, local government — an elected group of people — is uncertain about what will happen to streetscapes and planning regulations, and it is uncertain about whether it has any power to do anything.

There is not only confusion, there is crisis. Developers say we have a crisis, because they are finding it is taking them more time to implement their plans. Residents say we have a crisis because they are unable to participate in any of the planning decisions being made across the state. Local councils say we have a crisis because they are unable to exercise their right to deal with the planning matters in their municipalities. Such problems arise because the minister has concentrated all power in himself. It is the first time in living memory that a minister has held both the planning and local government portfolios. Therefore, there is no opportunity to complain to an alternative minister about a planning or a local government matter as the same minister has instituted changes in both areas across the state.

Debate interrupted pursuant to sessional orders.

Sitting suspended 1.00 p.m. until 2.04 p.m.

QUESTIONS WITHOUT NOTICE

Police: strength

Mr BRACKS (Leader of the Opposition) — I refer the Premier to his review of the adequacy of police numbers in Victoria and to his ban on the Victoria Police Association taking part in the review. Given that 98 per cent of serving police officers are members of the association, will he now admit that his proposed review is a sham and that if he were serious about community safety he would follow Labor's lead and meet with all relevant parties, including the police association?

Mr KENNETT (Premier) — I think the Leader of the Opposition asked whether we would follow Labor's

lead. I could think of nothing worse. Why would anyone want to follow Labor's lead, anywhere? I have never seen such a rabble in all my life!

As I have indicated, both to the house and publicly prior to the house sitting, as a result of information that has been made public over recent weeks, and because of the concerns that have been expressed, the government is reviewing police force numbers — and that review is correctly being processed at present. It involves discussions not only with police command but also with police officers and members of the community who are raising those issues with the government.

Mr Bracks — What about the police association?

Mr KENNETT — I am just trying to hold back. We are going to nurse you through this week, all right?

Honourable members interjecting.

Mr KENNETT — The difficulty with the police association is threefold. Firstly, at this time last year the police association was positioning itself — as can be seen from an examination of the public record a year ago — to try to exert pressure on the BERC process so the police could get a larger share of the new programs that may or may not have been introduced. It happened a year ago, it happened the year before that, and it is obviously happening now.

Secondly, there is a major play for the succession to the position of secretary of the Victoria Police Association. That is very much a matter of personalities and individuals rather than being about the interests of the state as a whole.

The third reason we are not meeting with the association is that the individual who currently heads it up — the acting secretary, Mr Mullett — has already been part of discussions with police command during which he personally agreed to a reduction in police numbers in order to get a 3 per cent increase in salary payments. Mr Mullett was involved in the deal with police command to reduce numbers in order to get a larger pay increase. He did not inform the policemen and women of this state of his agreement to that reduction. The fact that in the past couple of years the police association has affiliated itself with the Trades Hall Council is a clear indication that this is an industrial campaign like all the others.

The government will continue to work to bring about a proper result. The result of the review will be fed into the BERC process, and as we consider the demands made on public moneys right across the board, the

opposition, the community and the police force will get a better idea of how theirs weigh up against other demands in the community when the Treasurer brings down the budget on 4 May.

Youth: employment

Mrs McGILL (Oakleigh) — Will the Premier advise the house of the government's policy to enhance employment opportunities for young Victorians?

Mr KENNETT (Premier) — The house will know that since 1992 unemployment in the state has dropped by about 4 per cent. According to the figures for the December quarter just ended Victoria has the highest level of employment ever recorded in the state — and I made reference to that yesterday.

The aggregate unemployment rate is now 7.6 per cent. However, a much higher percentage of young people remains unemployed, particularly among those whom I describe as the 15 to 24-year-olds. Unemployment and the consequent sense of unworthiness that that causes breeds in many individuals what I can describe only as low self-esteem and, often, depression — to which I referred yesterday — and often that leads to drug abuse and, tragically, suicide. Victoria's teenage employment rate for January was 155 000, with half, or 77 000, being employed in the retail sector.

A recent study undertaken by the Productivity Commission investigated the link between increases in youth wages and youth unemployment. It estimated that if, for example, youth wages were to increase by 1 per cent, youth employment would decline by about 2 to 5 per cent in those industries employing young people. Obviously, if that is projected out to a 10 per cent increase in youth wages, there would be a commensurate drop in employment of about 20 per cent. That alone would translate into a loss of 16 000 full-time jobs.

The Victorian government has made youth employment a high priority. The government moved to allow 24-hour trading not only to enable members of the public to determine when they wanted to shop and trade but also to grow employment in the retail industry. That has been taken up dramatically by young people, who are getting employment experience and training — and as you would be aware, Mr Speaker, they often get references to help them in their future employment down the track.

Honourable members would also be aware that the government has introduced the youth employment initiative. The initiative brings people together for nine weeks of training prior to locking them in with an

employer for 12 months, during which time they go back for further training one day a week. Only a handful of all of those who have undergone that course have not continued.

The government and I are worried about a decision taken in Canberra recently when the federal ALP, together with the ALP in Victoria, supported the abolition of youth wages from the middle of next year. That decision has just now been reconfirmed. It is unacceptable to young people in this state and to their parents — I suspect it is also unacceptable to their grandparents — that out of absolute blindness to the interests of youth and its total subservience to the trade union movement, the Labor Party is going to put 77 000 Victorians at risk given the potential for them to lose their jobs from the middle of next year.

Over the past couple of days the Leader of the Opposition has said he seeks a bipartisan approach on issues that confront the state. He said that on drugs and on the Geelong road, and I read the reports with great interest. It is absolutely necessary for the government to work to have the ALP's decision reversed not only so that young people in Victoria and in other states can enjoy the security of the jobs they have at the moment but also so that in future other young people can look forward to the opportunity of obtaining training and experience through youth wages. I call on the Leader of the Opposition to again extend the hand of bipartisanship to do that.

Honourable members interjecting.

Mr KENNETT — So you are not going to do it. The Leader of the Opposition, having interjected throughout my comments on this issue, now remains absolutely mute. It is clear that the current Leader of the Opposition continues to adopt the position of the former Leader of the Opposition, who came out in support of Mr Beazley and the activities of the Labor Party in the Senate. The Labor Party in Victoria, with a new leader, has an opportunity to present a relevant face to the community as a whole, and particularly to young people and their parents. If the Leader of the Opposition wants to continue to deny young people the opportunity to work he will simply be expressing to the public at large that the Labor Party in Victoria is not ready for government.

The SPEAKER — Order! The Premier has now been talking for in excess of 5 minutes on this important subject. The Premier was asked to outline the government's policies, not examine the policies of the opposition. The Premier should now complete his answer.

Mr KENNETT — Mr Speaker, as you said, this happens to be a very important question because at stake right now today, and until the middle of next year, is the loss of jobs for 77 000 young people. Honourable members on this side of the chamber will do whatever they can to try to get people in other places to change their minds and protect and advance those jobs. I want an indication of whether honourable members opposite, who have already offered us bipartisan support on issues that also affect young people, particularly drugs, will join us and offer their assistance to achieve that end.

Honourable members interjecting.

The SPEAKER — Order! The Chair will determine whether the Premier is defying the Chair.

Mr KENNETT — Your turn will come at the election after next. Just wait a bit longer.

Mr Leigh interjected.

The SPEAKER — Order! I ask the honourable member for Mordialloc to stop shouting interjections across the chamber.

Mr KENNETT — This is a very important issue that goes to the very heart of what governments and parliamentarians are about — creating opportunities for young people and not, as the Labor Party is doing, working to destroy them.

Honourable members interjecting.

The SPEAKER — Order! I have just warned the honourable member for Mordialloc; I will not do so again.

Police: Mount Evelyn station

Mr BRACKS (Leader of the Opposition) — I refer the Premier to an incident that occurred at Mount Evelyn on the weekend of 27 February, during which residents were terrorised by hoonos doing burn-outs in cars, trashing streets and generally disturbing the peace. Because the Mount Evelyn police station was closed at the time police had to come from Ringwood, and they took almost 1½ hours to arrive at the scene. Will the Premier follow Labor's lead and ensure that Mount Evelyn police station remains open?

Mr KENNETT (Premier) — This is another very important issue. I remind the Leader of the Opposition that many areas of Victoria are from time to time subjected to what one would describe as a rise in crime, or certainly antisocial behaviour.

Mr Thwaites interjected.

Mr KENNETT — I do not know why we have to deal with a Deputy Leader of the Opposition who never gets his facts right. No wonder he is not the leader today. The police station is not closed.

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier to take his seat. I will call the Premier again when the house comes to order. I have a passing interest in this question.

Mr KENNETT — No wonder this mob is just not ready for government! Police stations in Victoria have differing manning levels to meet the demands of their communities. The manning levels are based on police command's assessment of the needs of each community at the time. The police station at Mount Evelyn remains open but operates on a reduced number of hours. It is important that the Leader of the Opposition and his deputy clearly understand that their allegations are not correct.

The Leader of the Opposition asked me about an incident that took place in February. However, I have correspondence dated 16 November 1998 from the local member, the honourable member for Evelyn, whom you would know well, Mr Speaker. I want to say to you, Mr Speaker, that through your representations this particular station is one of three in the local area that is being considered for a review of its operations.

The SPEAKER — Order! I ask honourable members to listen to the answer in silence.

Mr KENNETT — That is but one of three being reviewed. The others are at Kinglake — —

Mr Batchelor interjected.

Mr KENNETT — I beg your pardon?

Mr Baker — You are wobbling.

The SPEAKER — Order! I will not warn the honourable member for Sunshine again during question time.

Mr KENNETT — It is after lunch — we could not expect anything else! Mount Evelyn is one of three stations that are now being reviewed because, as the house will appreciate and as I said earlier, the incidence of crime and social misbehaviour moves from area to area. Ultimately it will not be, nor should it ever be, a politician who decides where the police apply their

manpower. That is an operational issue that should correctly be left with the police.

The police are not only reviewing that station as a result of your letter, Mr Speaker — and I think you have had a reply from senior police who have taken your complaints on board — but two others are being reviewed. One was brought to my attention when I attended a public meeting there the other night in company with my colleague the honourable member for Berwick — a meeting for which I was criticised in this place last night by the honourable member for Dandenong. All that proves is that the government is able to take on board the concerns of the local community.

I hope the review of those three stations and any other areas that may be of concern to the community can be completed in time for the budget on 4 May. I repeat, the reviews are ongoing and are based on demand, and obviously demand changes from time to time. However, you cannot go around making promises, as a politician did today, that, 'I commit myself and my party to a 24-hour station' without understanding the responsibilities attaching to that statement.

An honourable member interjected.

Mr KENNETT — What did you say?

Opposition members interjecting.

Mr KENNETT — He said 'today'. That is evidence of what we will see from the Labor Party: somebody had a complaint, he went out there, investigated and made a commitment to a 24-hour station. A 24-hour police station requires 24 to 26 officers —

Honourable members interjecting.

The SPEAKER — Order! Despite the interjections, the Premier has been answering the question for more than 5 minutes. I have a passing interest in the answer, but I would like the Premier to complete it.

Mr KENNETT — I will, Mr Speaker, but I am trying also to put up with the interjections from the other side. You cannot go around the community with a wish list, promising to give every individual you meet, in this case, a full-time police station without at least, as I said earlier, recognising the independence of the police force. Command must have the right to make those decisions. Command has to take on board the requests of the honourable member for Evelyn, as command is also looking at two other stations. That is the proper and responsible way to behave. I hope that

by 4 May the government will be able, through the budget, to address some of the concerns expressed.

Workcover and TAC advertising

Mr WELLS (Wantima) — Will the Treasurer advise the house of the success of public awareness campaigns run by the Transport Accident Commission and the Victorian Workcover Authority, and state whether the government proposes to slash those campaigns, as suggested by the opposition?

Mr STOCKDALE (Treasurer) — Victoria has an enviable reputation for public awareness and public advertising campaigns in a number of fields — in tourism, for example — but most particularly in areas where such programs help: in the campaign to save lives on the roads and in the workplace.

In the time I have been Treasurer with responsibility for the Transport Accident Commission and an interest in Workcover I have been involved in meetings with people not only from other states but internationally who have sought the cooperation of Victoria in having those programs replicated in other jurisdictions. As the house will probably be aware, Victorian TAC advertisements have been run from time to time in New South Wales with the intellectual property and even the advertising material in those campaigns being provided by Victoria.

That area has been one of enormous success for Victoria, which is regarded as a world leader. The advertising is having an enormous community benefit, and the TAC programs of the past few years have resulted in a dramatic reduction in the incidence of injury and death on our roads. The Workcover public awareness campaigns have contributed to a reduction from 200 deaths and industrial accidents in the 1992 financial year to only 118. That is still too many — we would not want even one, of course — but between 1992 and 1998 the government has achieved almost a halving of the number of accidental deaths.

It has always been my understanding that those campaigns had broad consensus through the Victorian Parliament. When the Labor Party was in office it ran campaigns, although not as effectively targeted as those this government has run since 1992. It was, therefore, somewhat amazing to discover that the consensus has broken down. On 8 February the new Leader of the Opposition, with the then Leader of the Opposition, released a statement in which he committed a Labor government to cut spending by \$30 million a year. As about \$48 million a year is now spent on Victorian government advertising, including the Workcover and

TAC campaigns, the statement of the Leader of the Opposition would lead to the whole of the Victorian government's effort being funded by only \$18 million.

The Victorian Workcover Authority spends \$8 million on its workplace safety and back-to-work messages through television, radio and billboards; and the TAC spends \$12 million on its road safety, drink-driving and Speed Kills campaigns. They already total \$20 million — more than the total amount the Labor Party proposes to spend on advertising. The government will maintain socially responsible, highly successful programs of international standing, but the Labor Party says it proposes to slash them. Not even the Victorian Labor Party would be so irresponsible. We all know the Labor Party would maintain those programs.

In addition, that figure does not even touch the very successful Tourism Victoria Jigsaw campaign; the recently released health services directory campaign; job advertisements for government departments; advertising programs about problem gambling, and multiculturalism — programs that, hitherto, the Labor Party has not only supported but has said the government should spend more on!

Apparently, one of two things applies: either the Labor Party will slash all the spending on public awareness, social and information programs or, more probably, its commitment to save \$30 million year is a completely hollow piece of Labor Party rhetoric. The Labor Party, in office, would not deliver on the commitment the Leader of the Opposition made on 8 February.

In his second day as leader, the Leader of the Opposition has disclosed he has another \$30 million black hole in his proposed election commitment funding program.

The SPEAKER — Order! The Treasurer has been speaking for more than 4 minutes. I ask him to complete his answer.

Mr STOCKDALE — I should wind up within 5 minutes, Mr Speaker. In addition to yesterday's promises, the black hole will now total \$159 million. Therefore, \$159 million of the commitment the Leader of the Opposition is preparing to make would be funded through the bogus claims he has made about executive employment, the abolition of the Energy Projects Division of my department, and now, the slashing of the government advertising campaigns.

The Leader of the Opposition is totally lacking in credibility and needs to explain to Victorians, when he starts making promises, why his promises are any different from the promises made by the Labor Party in

the past. Why are they different from the promises he wrote for John Cain and Joan Kirner? Why should he have any credibility when he makes claims that simply cannot be accurate? His is a poor beginning: \$159 million in two days! At this rate, the Labor Party cannot afford to keep him.

I notice the excitement on the face of the honourable member for Albert Park — always the bridesmaid. And what a pretty bridesmaid he is!

Police: Mount Evelyn station

Mr BRACKS (Leader of the Opposition) — I refer to the Mount Evelyn police station and to the fact that because of the Premier's failure to increase police numbers as promised, the station is open to protect the community only on Mondays from 9.00 a.m. to midday, on Thursdays from 4.00 p.m. to 7.00 p.m., and on Saturday mornings from 9.00 a.m. to midday. Has the Premier instructed his vast public relations unit to inform criminals that they should confine their illegal activities in the Mount Evelyn area to just 9 hours a week when the police station is open?

The SPEAKER — Order! I rule that to be a frivolous question. I call the next question.

Gaming: problem gambling

Mr TREASURE (Gippsland East) — Will the Minister for Youth and Community Services inform the house of the next stage in the government's strategy to address the needs of people with gambling problems?

Dr NAPTHINE (Minister for Youth and Community Services) — Mr Speaker, as you would be aware, there are many people in Victoria who gamble as a social and recreational activity. A small number of these people experience problems because of their gambling behaviour. Since the election of the Kennett government more than \$39 million has been allocated for services to assist people with gambling problems and their families. The services include counselling services, 24-hour G-Line services to provide assistance, and research and community education campaigns.

I am pleased to announce today that in addition to the \$39 million already allocated through the Community Support Fund the government will be providing a further \$21 million over the next three years for problem gambling services. This will further enhance Victoria's already significant problem gambling strategy.

Prior to 1992, despite the fact that the former Labor government introduced legislation for casinos and

electronic gaming machines in Victoria and that the first electronic gaming machines were commissioned and opened by the former Labor government, there was no consistent funding to assist problem gamblers and their families. It took the election of the Kennett government in 1992 to provide a consistent stream of funding for problem gambling services and an integrated strategy to assist families and individuals with gambling problems. That strategy has now been accepted as not only the best in Australia, but probably the best in the world.

The 24-hour G-Line service is backed up by 18 Breakeven services, which operate from over 100 sites throughout Victoria. People throughout Victoria can access services to assist them if they are concerned about their gambling, if their families need assistance or if they have chronic gambling problems. That is backed up by extensive multimedia campaigns, and last December I released two new initiatives where convenience advertising was introduced in the toilets of each of the gaming venues that have electronic gaming machines operated by the TAB and Tattersalls. Information is provided in a convenient place for people who have gambling problems, and they can take away information concerning local Breakeven services.

Recently the government announced another \$5 million multimedia campaign, including radio, television and print advertising, and local advertising. It takes a harm-minimisation approach and highlights the concept that if you are no longer having fun gambling, you should walk away. This is an early-intervention harm-minimisation approach to identify in the early stages a person who may be at risk of becoming a problem gambler.

The research from Breakeven services and G-Line clearly shows that early intervention is more likely to achieve results. The additional \$21 million in funding with the \$39 million allocated for these services in Victoria brings the total to more than \$60 million allocated for problem gambling services. The government is proud of its problem gambling services and its integrated approach of the Breakeven services and G-Line, and the research backed up by community education provides the best services in Australia and amongst the best in the world.

TATTERSALL CONSULTATIONS (AMENDMENT) BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) — I move:

That I have leave to bring in a bill to amend the Tattersall Consultations Act 1958 and for other purposes.

Mr HULLS (Niddrie) — I ask for a brief explanation of the bill from the Treasurer.

Mr STOCKDALE (Treasurer) (*By leave*) — This is a fairly simple bill. There is an alleged anomaly in relation to the coverage of the 10-cent ticket tax to regularise the practice that Tattersalls has had and the intention the government had that all forms of participation in Tattersalls consultations would be subject to the ticketing tax, and to ensure that consumers are treated equally. The government proposes to regularise the existing practice to apply it to telephone entries.

Motion agreed to.

Read first time.

TRANSPORT ACCIDENT (FURTHER AMENDMENT) BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) introduced a bill to amend the Transport Accident Act 1986 and for other purposes.

Read first time.

YEAR 2000 INFORMATION DISCLOSURE BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) introduced a bill to encourage the voluntary disclosure and exchange of information about year 2000 computer problems and remediation efforts and for other purposes.

Read first time.

OFFICE OF THE REGULATOR-GENERAL (AMENDMENT) BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) — I move:

That I have leave to bring in a bill to amend the Office of the Regulator-General Act 1994 and for other purposes.

Mr LONEY (Geelong North) — I ask the Treasurer to provide a brief explanation of the bill.

Mr STOCKDALE (Treasurer) (*By leave*) — I am happy to provide the honourable member with a briefing. The bill makes a series of technical amendments to the legislation to do with ongoing reviews of the regulation of monopoly elements of various industries subject to the regulation of the Office of the Regulator-General in the main made after consultation with the Regulator-General.

Motion agreed to.

Read first time.

SUPERANNUATION ACTS (FURTHER AMENDMENT) BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) — I move:

That I have leave to bring in a bill to amend the Emergency Services Superannuation Act 1986, the Magistrates' Court Act 1989, the Parliamentary Salaries and Superannuation Act 1968, the Public Sector Superannuation (Administration) Act 1993, the State Employees Retirement Benefits Act 1979, the State Superannuation Act 1988, the Superannuation (Portability) Act 1989 and the Transport Superannuation Act 1988 and for other purposes.

Mr MILDENHALL (Footscray) — I seek a brief explanation of the contents of the bill.

Mr STOCKDALE (Treasurer) (*By leave*) — The commonwealth has made amendments mainly in relation to vesting and preservation of superannuation rights. The bill brings the list of superannuation acts into line with the commonwealth legislation, and the main impact is on the preservation of benefits.

Motion agreed to.

Read first time.

GOVERNMENT SUPERANNUATION BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) — I move:

That I have leave to bring in a bill to provide for the administration of certain Victorian superannuation schemes, to repeal the Public Sector Superannuation (Administration) Act 1993, to consequentially amend certain other acts and for other purposes.

Mr MILDENHALL (Footscray) — I ask the Treasurer to give a brief explanation of the bill.

Mr STOCKDALE (Treasurer) (*By leave*) — It would be interesting to hear what the honourable member for Footscray thinks it is about! The bill restructures the major Victorian public sector superannuation schemes to reflect the risks associated with the various categories. The legislation is designed to create a situation where the accumulation schemes can pass to federal administration to provide national uniformity and enhance portability. On the other hand, it reflects that the taxpayer carries the main risk for the old defined-benefit schemes. A new administrative structure is created with wide-ranging consequential amendments to the structure of the schemes.

Motion agreed to.

Read first time.

WATER ACTS (AMENDMENT) BILL

Introduction and first reading

Mr McNAMARA (Minister for Agriculture and Resources) — I move:

That I have leave to bring in a bill to amend the Water Act 1989, the Water Industry Act 1994 and the Melbourne and Metropolitan Board of Works Act 1958 and for other purposes.

Ms GARBUTT (Bundoora) — I request a brief explanation of the bill.

Mr McNAMARA (Minister for Agriculture and Resources) (*By leave*) — The primary purpose of the legislation is to amend the First Mildura Trust to enable water trading to occur, and to effect some other ancillary amendments.

Motion agreed to.

Read first time.

LAND (RESERVATIONS AND OTHER MATTERS) BILL

Introduction and first reading

Mrs TEHAN (Minister for Conservation and Land Management) — I move:

That I have leave to bring in a bill to provide for the revocation of the reservations over certain pieces of land, to provide for the re-reservation of certain land and for other purposes.

Ms GARBUTT (Bundoora) — I ask the minister for a brief explanation of the bill.

Mrs TEHAN (Minister for Conservation and Land Management) (*By leave*) — Bills such as this appear almost every sitting. Under the bill three pieces of land are affected by the repeal of reservations. The first is at Walhalla, the second is at Point Henry — and I cannot remember the third one.

Motion agreed to.

Read first time.

EDUCATION ACTS (AMENDMENT) BILL

Introduction and first reading

Mr GUDE (Minister for Education) — I move:

That I have leave to bring in a bill to amend the Education Act 1958 and the Teaching Service Act 1981 and for other purposes.

Ms DELAHUNTY (Northcote) — I ask the minister to give a brief explanation of the bill.

Mr GUDE (Minister for Education) (*By leave*) — The bill has three purposes. The first is to update the Education Act to clarify the rural areas where non-government primary schools with fewer than 20 pupils can be registered. The second is to amend the Education Act so that section 84 will apply to ministerial orders made under section 15T. The third is to amend the Teaching Service Act to provide that all appointments to the teaching service are made solely on the grounds of relative efficiency.

Motion agreed to.

Read first time.

TRANSPORT ACTS (FURTHER AMENDMENT) BILL

Introduction and first reading

Mr COOPER (Minister for Transport) — I move:

That I have leave to bring in a bill to amend the Public Transport Competition Act 1995 and the Transport Act 1983 and for other purposes.

Mr BATCHELOR (Thomastown) — I ask the minister to give a brief explanation of the bill?

Mr COOPER (Minister for Transport) (*By leave*) — The bill does two things. Firstly, it changes

the length of the transitional period for bus operators to obtain accreditation. Secondly, it amends the provisions concerning the licensing of passenger ferries.

Motion agreed to.

Read first time.

LEGAL PRACTICE (PRACTISING CERTIFICATES) BILL

Introduction and first reading

Mrs WADE (Attorney-General) introduced a bill to amend the Legal Practice Act 1996 to alter the practising certificate year from the calendar year to the financial year and for other purposes.

Read first time.

CORONERS (AMENDMENT) BILL

Introduction and first reading

Mrs WADE (Attorney-General) introduced a bill to amend the Coroners Act 1985 and for other purposes.

Read first time.

FAIR TRADING BILL

Introduction and first reading

Mrs WADE (Minister for Fair Trading) introduced a bill to re-enact with amendments laws relating to trading practices, to make further provisions about trading practices, to repeal the Consumer Affairs Act 1972, the Ministry of Consumer Affairs Act 1973, the Fair Trading Act 1985 and the Market Court Act 1978 and for other purposes.

Read first time.

SURVEILLANCE DEVICES BILL

Introduction and first reading

Mrs WADE (Attorney-General) — I move:

That I have leave to bring in a bill to regulate the installation, use and maintenance of surveillance devices and restrict the publication of information gained from their use, to repeal the Listening Devices Act 1969, to amend the Evidence Act 1958 and for other purposes.

Mr HULLS (Niddrie) — I ask the Attorney-General to give a brief explanation of the bill.

Mrs WADE (Attorney-General) (*By leave*) — Of all the bills I have sought to introduce this is the one about which I did not expect the opposition's legal spokesperson, the honourable member for Niddrie, to request an explanation. The bill has received much publicity resulting from a discussion paper setting out the government's proposals to extend the provisions of the listening devices legislation to cover video technology, tracking devices and devices that can monitor computer transmissions. The paper was widely circulated last year. The bill is complex.

I am pleased that the honourable member for Niddrie has asked for an explanation because it provides me with an opportunity to correct a report published in the *Age* this morning.

The SPEAKER — Order! The explanation does not give the Attorney-General an opportunity for a personal explanation. A description of the bill will suffice.

Mrs WADE — The bill allows for video surveillance of private areas such as toilets and changing rooms where the police obtain a warrant for such an installation. The report in the *Age* this morning stated that the Premier had got that wrong. However, the Premier was right in his description of the proposed legislation.

The SPEAKER — Order! Should honourable members wish to make personal explanations, they may do so. The Attorney-General will undoubtedly have many opportunities during the debate on the bill.

Motion agreed to.

Read first time.

SENTENCING (AMENDMENT) BILL

Introduction and first reading

Mrs WADE (Attorney-General) — I move:

That I have leave to bring in a bill to amend the Sentencing Act 1991 and the Children and Young Persons Act 1989 and for other purposes.

Mr HULLS (Niddrie) — I seek a brief explanation of the bill rather than a personal explanation.

Mrs WADE (Attorney-General) (*By leave*) — The bill makes a number of changes to the sentencing legislation. The major change proposed is to allow courts to impose deferred sentences. In other words, courts will be able to hear a matter, find a person guilty and then defer the sentencing on the understanding that

the convicted person may have to comply with certain conditions of the sentence deferral — for example, a person might undertake a drug treatment program or have plans for employment or something else. If the person goes ahead with the undertakings he or she has given to the court, that will be taken into account in sentencing. The government believes that will be a particularly useful option for the courts to deal with people involved in criminal activity as a result of drugs, but it may also be useful in other circumstances.

Some changes are also made to intensive correction orders and to combined custody and treatment orders.

Motion agreed to.

Read first time.

MAGISTRATES' COURT (AMENDMENT) BILL

Second reading

Debate resumed from 23 March; motion of Mr GUDE (Minister for Education).

Ms McCALL (Frankston) — As said to the house yesterday, I am happy to support the Magistrates' Court (Amendment) Bill because it is part of a number of bills introduced by the government to move the legal system forward. The Victorian legal system has been in existence for many years. As with many things, it has been much slower to change than the society it serves. I have had only a passing experience of the law in Australia. I openly admit to appearing once in the Prahran Magistrates Court some years ago.

Mr Hulls — Tell us more!

Ms McCALL — It was a speeding fine. I paid the fine and I have been a good girl ever since.

I was disturbed about the language used and the slowness of the Magistrates Court system, and the lack of recognition that the community the court served had changed rapidly around it. The legal environment has failed to recognise that those who make up our society are better educated, better informed, and more eager to access the legal system as it exists today. It also means that people are critical of aspects of the system if they do not understand it.

The legal system, particularly in Victoria, has been the domain of those who have the language to understand it. Members of the general public have found it a great mystery. One of the things I found difficult was understanding the language of the barristers, solicitors

and court officials so that as a member of the public I could access the system, understand it and use it more appropriately.

The bill takes positive steps forward in trying to demystify or de-gobbledegookise the legal system as we understand it. Many members of our society are now interested in being able to access the court system. Perhaps people are less inclined to pass all the authority for the legal system over to lawyers, some of whom have ended up in Parliament — I do not know whether they have been elevated or demoted in their professions. One could argue perhaps it was a promotion to become a member of Parliament!

Traditionally we have resorted to a combative or confrontational way of settling a dispute or an argument through our legal system, and to a certain extent we use this rather professionally here as a way of getting our points across.

Mr Hulls — Speak for yourself!

Ms McCall — I will. The honourable member for Niddrie is very good at adopting a combative style of approach when it is required. Many members of the general public are often uncomfortable, intimidated and feel patronised by that style being applied by the legal system. Having spent some time in the arbitration environment of the former Industrial Relations Commission, the former Equal Opportunity Commission and the United Kingdom arbitration and conciliation system, I support the proposals in the bill to encourage far greater levels of arbitration, what the bill calls alternative dispute resolution. I agree that they are buzz words in the latter 1990s, but they make the system more manageable for those of us who wish to be part of it. They allow disputes to be discussed before they get to the confrontational environment of a courtroom. They allow many of us to resolve disputes by open access to information about the case.

Although I am not an expert on the criminal system, I can look at it from an industrial relations perspective. If someone is accused of unfair dismissal, sexual harassment or whatever, it is appropriate that all the evidence, documents and information relating to the case are made available to the parties to the dispute at the earliest possible moment. How can you possibly hope to argue an issue if you are not in full possession of the facts?

The alternative dispute resolution system set out in the bill is part of the way across that. The system recognises that while the magistrate is the person who may have the final decision on what information should

be available and how the dispute should proceed, it at least gives all parties to the dispute the opportunity to know what the case is about before they reach the court. In deference to members of the public, that means the government is listening to them. They have told the government there are aspects of the legal profession they do not understand, do not like, find intimidating and unapproachable. The bill will allow them greater access to knowledge and understanding.

I support the bill. The longer I am in this place and the more access I have to information about amendments to the Victorian justice system, the prouder I am of the steps the government is taking, recognising that the community is telling it about the need to change and how important it is that we move forward. It is significant to note that the amendments in the bill relate to an act that was originally passed in 1989 and its predecessor in 1958. The 1958 act was based on the 1952 act which was the first act of Parliament passed under the reign of Queen Elizabeth II and in fact mirrored the UK act. It is gratifying to know that not only have we matured as a nation and as a state, but we recognise that our legal system and legal profession needs to mature as well. Victoria is creating its own appropriate legal precedents for the move forward into the third millennium. I am happy to support the bill.

Mr MICALLEF (Springvale) — I rise to make some comments about the Magistrates' Court (Amendment) Bill. I think everybody agrees that the courts play an important role in not only dealing out criminal justice within the community but in determining the future of people who come before them, who may change the way they have behaved and related to the rest of the community in the past. Any move away from the old system of dealing out justice on the basis of punishment instead of rehabilitation is to be commended.

Some years ago I was involved in the Garry David inquiry. He is an example of somebody who was absolutely bastardised by the system. He became such a so-called menace to society that Parliament had to pass a special bill to incarcerate him — one person — on the basis that he was seen as a threat to society. In retaliation to a threat he said, 'I will do much more to you than you threatened me with'.

The courts have the opportunity to assess people who come before them on the basis of the way they will be treated and whether they are suitable for rehabilitation, community orders or some other process by which they can get back into the community and not develop a life of being in and out of the criminal justice system, including gaol.

It is important that that take place and that the procedures for resolving disputes the previous speaker talked about — conciliation and arbitration procedures, neighbourhood dispute centres and family mediation centres — should be fully utilised and exploited before people get to court so they have much better outcomes. If people come away from the processes feeling suitably accommodated they are less likely to reoffend or feel bitter about what they see as so-called justice being handed out to them.

The court system in this country was set up many years ago along the lines and in the tradition of the British Westminster justice system. The system has been available to and utilised by people who have come from backgrounds of wealth and privilege and are better educated and know how to use the system. Many others who have gone before the courts over the years have been incarcerated. Look at what has occurred with the Aborigines in this country and with the blacks in the United States. In the USA 25 per cent of blacks within certain age groups are incarcerated in prisons. That is absolutely disgraceful.

There are certain underclasses and vulnerable groups within the community who come before the criminal justice system who are disproportionately represented within the system. Those who are wealthier have always been able to use the system to their benefit and get access to proper justice, whereas those who do not have wealth or privilege do not know their way around the system and have often finished up incarcerated when they should not have been.

I oppose the bill for the same line of reasoning and logic put out by the shadow Attorney-General. Among the issues he raised were those clauses that deal with the right of appeal and threaten a three-month gaol sentence, which are absolutely unacceptable. In any system all people must have the ability to appeal and to process their rights without sanctions being imposed upon them. I cannot see how it can be said that this government is making changes for the better when it introduces legislation with provisions that cut across any progressive provisions that may in some ways make the legislation better than it was previously.

As the shadow Attorney-General pointed out, nobody should be denied the legal right to appeal. A letter from the Aboriginal Legal Service raises that as one of the issues of concern to the service.

Another thing that makes it hard for people to receive justice in this state is not having access to legal aid. Any members of Parliament who deal with the community daily must have a plethora of such people coming to

them saying that they have been denied access to legal aid. That is one of the sad indictments on this government. When I was shadow minister for ethnic affairs I raised the issue many times, because the underclass of people going before the courts who are unable to pay for legal representation includes people from non-English-speaking backgrounds. Recently I was a witness in a case before a Melbourne court, the costs for which were in the vicinity of several thousand dollars a day, so justice in this state can be extremely costly.

It was interesting yesterday in question time, in answer to a question asked by the shadow Minister for Education, to hear the Premier talk about drug addiction being an illness in the community. With the number of such cases now coming before them magistrates are being asked more and more to deal with cases relating to drugs and drug-related offences. I would suggest that the courts have to be better tuned in to what is going on in the community.

Last year, along with the honourable member for Shepparton, I was fortunate enough to visit the United States of America and see drug courts in action. We were extremely impressed with the drug court system in the United States. I believe it is not the drug courts themselves that operate so well, but the systems in which they work. Such systems could be incorporated into our criminal justice system. The Magistrates Courts in Victoria have some good court diversion programs that work extremely well. I commend the process.

Recently members of the Drugs and Crime Prevention Committee met with magistrates at Dandenong, where we saw that the credit program, the young offenders program, and a number of other programs are certainly the way to go. It is better for the courts to be given more power and to direct people into the various treatment processes than to send them off to prison.

Also recently we had the privilege of visiting the Malmesbury Juvenile Justice Centre, where many Magistrates Courts clients are referred. About 74 young people at the centre are being treated for a number of ailments, including drug addiction, dietary problems, and lack of education. A good TAFE system operates at the gaol.

This is the way to the future so young people — some of them from my electorate of Springvale — are given an opportunity to get their health and personal lives together through personal development and education and can return to the community. The incidence of recidivism among young people who have been given

those opportunities is extremely low. The government must provide resources to facilitate those approaches, instead of merely building gaols to lock up people and throw away the key, as some of the rednecks in the community and talkback radio programs have suggested.

We are becoming an enlightened community. At Malmsbury Juvenile Justice Centre I asked some questions about what happens when Magistrates Courts and other courts refer people to the Malmsbury centre despite the fact that it does not have enough accommodation. The people at the courts told me that the Malmsbury centre must take the young offenders irrespective of whether it has room for them.

The problem for the government is that it does one positive thing but then does a reactive thing against it. I do not believe camera surveillance is the way to go. I interjected to the Premier on that point yesterday and I make no apology for it. I have seen the results of camera surveillance in Cabramatta, Queensland and Brisbane: all it does is push activities from one place to another. It does not solve the problems associated with drug and other anti-social or criminal activities. If surveillance programs are introduced into schools, younger people will start to appear before the courts.

As the Premier says, people on drugs have an addiction that is an illness. In Australia we do not lock up people who have contracted cancer from smoking; or people with diabetes due to bad diet; or people who suffer from asthma when in smoke-filled rooms or who have other allergies. We must come to terms with the fact that more young people are coming before the courts who should not be there.

The report of the Catholic Justice Commission states that young Vietnamese people are disproportionately represented in the juvenile justice system. Many times I have quoted Victor Borg, the former president of the Ethnic Communities Council, who said that a disproportionately high number of people from non-English-speaking backgrounds are arrested and brought before the courts. I raised the report of the Catholic Justice Commission with the magistrates at Dandenong and they said that the police arrest and make the charges against the people who come before the courts and that the magistrates merely process those arrests. A coordinated approach needs to be taken to the criminal justice system to ensure that everyone in society is treated equally and fairly before the law. If that happens there will be much more respect for the criminal justice system within the community.

As I mentioned, the report of the Catholic Justice Commission raises the fact that young Vietnamese people are disproportionately represented before the justice system. Recently a young offenders forum was held at Springvale at which we talked about the young offenders program which is carried out in conjunction with the Magistrates Courts, the Department of Justice, the Springvale Community Health Centre and the Springvale Indo-Chinese Mutual Assistance Association, which is funded under one of the Vichealth programs. The magistrates spoke extremely highly of the Indo-Chinese community in Springvale because of their active cooperation with, involvement in and support for the programs. If those programs are successful, they will give many young people who come before the courts a second chance and an opportunity to develop and become much more constructive members of the community.

The criminal justice system must have mandated treatment programs that have been strongly endorsed. We must also develop the best combination of the criminal justice system, community facilities, and the police. The Premier's Drug Advisory Council said that in 1996 the cost of drug abuse to Victoria was in the vicinity of \$458 million. The cost to the community is enormous. Any strategy that allows the Magistrates Courts and other courts to help young people to become more productive in the community must be endorsed by the government. The future of the people who come before the courts is extremely important, and the issues raised by the shadow Attorney-General should be taken into account.

The other important fact is that drug addiction is an illness that is a social and health problem. The sooner the government can get those cases out of the courts, the sooner we will have a system that deals with those people appropriately. In some cases we have progressed, but in other cases we are still locking up people for having leprosy. It has been said that leprosy is a disease that equates to modern-day drug addiction. We must deal with drug addiction in a proper way by accepting it as a medical and social problem and by taking it out of the Magistrates Courts. If we treated people properly it would result in the demise of drug-related offences such as theft, prostitution and a whole range of other criminal offences that people commit to pay for their addiction.

I oppose the bill and look forward to the government responding to the issues raised, particularly the concerns about the appeals mechanism raised by the shadow Attorney-General.

Mr ANDRIGHETTO (Narracan) — The purpose of the bill — it should be the purpose of every bill — is to bring about equity and affordability for all Victorians. This is one area of government administration that has fallen behind in efficiency.

Whenever any section of the justice system ties up the court's time ordinary Victorians are denied access to speedy and equitable justice. The old saying that justice delayed is justice denied is as true today as it was when it was first coined.

The legal system works on the old doctrine of *stare decisis*, or the doctrine of precedent. Under that doctrine, an established precedent that works should be maintained and built on as a principle of law. That is all well and good, but in many ways the doctrine works against a preparedness to adopt new principles and adapt to change.

When we consider the technological advancements that have been made during our lifetimes in other fields of endeavour we are amazed at the changes that have occurred in such a short time. Not so long ago Parliament amended the Crimes Act to ensure that all police interviews of defendants charged with indictable offences were tape-recorded. When the legislation was enacted members of the legal profession, police informants and others engaged in the administration of justice were concerned that that was a retrograde step. Around that time I recall hearing some humorous and entertaining after-dinner speeches by the then Director of Public Prosecutions, Bernard Bongiorno, QC. His speeches were generally along the lines that police informants tended to verbalise the defendants who, as a defence lawyer, he had to represent. He cited a number of cases in which he had been able to expose that practice.

As a result of allegations of verballing, the Parliament — and rightly so — enacted legislation requiring a new form of tape-recorded interview. If interviews are not tape-recorded so courts can hear what the defendants have said, they are not admissible as evidence. That change occurred not so long ago; the legislation was introduced in the late 1980s by the previous Labor government. In retrospect it was an excellent move because it introduced technology into investigative procedures. No-one would dare go back to the old system, with a police interviewer sitting at a typewriter on one side of the table and the person accused of committing a crime sitting on the other. Since the courts and everyone in them have been able to hear exactly what is said during records of interview, allegations of verballing have disappeared from the courts.

When the principal legislation was introduced it was considered a revolutionary step. Now everyone agrees it was a good move, and, as I said, no-one would even consider going back to the old system. Similarly, when the keeping of the magistracy registers was subjected to huge technological change, with the move from extraordinarily large books to computer terminals on the benches, you should have heard the outcry! I am sure they predicted that the end of the world and civilisation as we know it would come to an end.

Victoria is now leading the charge around the country and the world in introducing technological change in the administration of justice. Mr Acting Speaker, as a fellow member of the Law Reform Committee you have travelled to other states and countries and seen first hand the systems they employ in the administration of justice. As one of the proactive members of that committee, you will agree with me that Victoria is leading the charge. To turn our backs on modern technology and new forms of court procedure would be a retrograde step. I am astounded that the opposition opposes all parts of the bill.

There are many things happening in Victorian courts as part of what I describe as the new computer age. In delicate cases involving child victims, videoconferencing is now the norm. Not long ago, when I was prosecuting an alleged paedophile schoolteacher in a committal involving a dozen or so young children who had been sexually assaulted, I called on the magistrate to introduce a screen because of the reluctance of the child witnesses to give evidence against the alleged perpetrator. The defence counsel and I argued to and fro as to whether the magistrate had the authority to introduce a screen. Although it was decided that he had the power, he was not prepared to do so because it would have created a precedent.

We have come a long way from a reluctance to introduce simple screens to protect child victims to allowing children to give their evidence by videoconference rather than being required to be in the courtroom. It is part of the revolutionary process that Victoria must keep up with. With all the advances in email, the electronic transfer of documents and so on, the government must continue to introduce legislation that enables the legal system to keep pace with what is happening in the world around us.

I recall when committal hearings were nothing more than fishing trips — and some of the most stupid things I have observed have happened in the committal courts. I recall a murder committal that lasted longer than the trial: the committal went for seven weeks while the trial went for only two days. I was astounded because the

murder committal was originally booked in for four days. I wondered how on earth it could have been extended for so long until I became aware of some of the questions being asked of, for example, the forensic photographer.

In my six years experience as a permanent prosecutor and 20 years experience in the courts, I had never seen forensic photographers held in the witness box for more than a few minutes — or an hour at the most. Their job is simply to prove that they are the ones who took the photographs. Generally, they are asked only a question or two, such as, 'From what direction was that photo taken?', or, 'What exactly is the object in the photograph?'. At the committal the forensic photographer was held in the witness box and cross-examined for a day and a half. Honourable members may well ask how the defence counsel came up with sufficient questions. I will tell them.

It got to the stage where the cross-examiner asked the forensic photographer to turn to the back of a photograph, which he did. The photographer was then asked, 'What are all those markings on the back?'. The photographer said, 'I don't see any markings on the back of the photo'. The defendant's counsel said, 'Have a look at mine'. The photographer said, 'That is exactly the same as mine; I don't see any markings'. Counsel asked, 'See those marks all over the page?', and the photographer said, 'You mean Kodak by Kodak and the watermark?'. Counsel said, 'Yes. That is what this is all about'. At that time I thought it was something the government must do something about. I am pleased that the Attorney-General has taken a commonsense approach to what is happening and made certain provisions in the bill which I totally endorse.

I was involved in another committal hearing where I was prosecuting a murderer in a case where a knife had been used as the murder weapon. The murder had been committed in the presence of the children of the deceased. It must be harrowing for any child to see a mother murdered. It is a shocking thing and one should try to protect children who are victims in such situations. Yet those young children were forced to appear in the committal hearing where they were cross-examined at length about the same thing over and over again. Everyone wondered why such a system was allowed to develop as it did. Between the committal hearing and the trial the accused reversed his plea and pleaded guilty, so the children were spared giving evidence in the higher court.

The bill introduces provisions by which witnesses who have been ordered to attend simply to be cross-examined to find out what they may say are

protected, although the statements they have produced are available and in the hands of the defence who simply want to pick the statements to pieces and cross-examine. Witnesses can be dragged through the courts to go through the same thing time and again, particularly witnesses who are called merely to prove matters of a technical nature, such as a person who may own property but may not have been in the state when the crime was committed.

Many times I have seen the owner of a motor car, dwelling or property called to give evidence in a committal hearing simply to prolong the proceedings. I have seen hundreds of statements that say, 'My name is so and so. I own this property, and I did not give any person the authority to damage, break or steal it'. Such matters are clear-cut, but I have seen owners of property, who have had nothing to do with the crime or even been near the crime scene, called and cross-examined at great length over matters that were irrelevant to the charge.

The bill goes a long way towards preventing such matters happening again. It gives the magistrate the ability to examine on the substantial relevance to the facts in question. It provides the court with the opportunity of taking control of proceedings. I acknowledge that our adversarial system has served us well, but there are better ways of doing things. The mere fact that a system has served us well in the past does not necessarily qualify it for service in the future because given the changes happening around us the courts must also be prepared to change. Change in legal doctrine occurs slowly over a long period, and that is fine for fundamental principles of law. The bill does not attack those principles. It reflects an examination of the procedures where fundamental principles of law can be maintained and cases can be more efficiently disposed of.

The bill provides for early and full disclosure. That is a breath of fresh air in legal procedure for both the prosecution and defence who rely to a significant degree on what is termed ambush. In many cases a crucial piece of prosecution or defence evidence about the issue would be held at bay and kept a secret. The reason for doing so is that they wanted to create a wonderful entry in the courtroom by introducing a fresh piece of evidence so that everybody would say, 'Wow!'. Clearly all that does is prolong the hearing. If the other side is aware of the availability of the evidence the whole case can be resolved more quickly. In recent times making available crucial evidence from the other side has resulted in an enormous number of early resolutions of what could have been lengthy processes.

I recall a decision in the case of Sohbi, which commenced its life in the Children's Court. The decision created an enormous amount of discussion because the magistrate ordered that the statements be tendered to the defence before the case was to be heard. The decision was upheld by the Supreme Court. Subsequently, the then Attorney-General introduced legislation which codified that sensible decision of the magistrate. As a result, when evidence is gathered before somebody is charged with an offence the person charged has the right to know what the evidence is against him or her so that he or she can properly and adequately prepare for his or her defence if he or she decides to go ahead.

Not only did that change allow for adequate preparation of the defence but, more importantly, following defence consultation after seeing the evidence put before the court, many matters were resolved. Counsel would say, 'Look, this is the evidence against you. If you think you will be able to convince them that you have not done it when all this evidence is available to them, you had better have a rethink'. In the past, without knowing the evidence, defendants would go to a lawyer and say, 'Look, I have been charged with that and I cannot understand it because all I have done is this' or 'I never done nothing'. The lawyer would say, 'If you never done nothing we had better go along and contest it'.

Since then we have come a long way because now lawyers can explain that there are certain options — one can contest, plea or do whatever one likes — and say, 'My advice to you, based on the evidence before you, is that this is the path you should take'. Immediately after such monumental changes take place in the criminal and civil procedure in our courts all sides treat them as being over the top because they are not used to them.

However, as the benefits of the changes are felt, the changes are embraced and adopted. In some instances there is a need for further change, and that is what this bill addresses.

The changes in the bill address the ability of the courts to run cases in the most efficient way. It is important for courts to have that ability because there is limited money available for legal aid. The more money that is used on any individual the less there is to go around for others, particularly people who are involved in small cases but who do not have the ability to conduct it themselves and need only a 1 hour appearance. Lengthy committals have the potential to run for weeks or months — some have gone for years, although the public purse does not fund those. When such cases are funded the bulk of the available legal aid money is used

for one person and others who need legal aid are denied it. For that reason among others I support the bill. The bill will result in a greater availability of legal aid funding to people who would not normally receive it.

The Pathfinder project has been mentioned by previous speakers. That project is an example of the changes that have taken place under the integrated justice system and demonstrates that more change can be accommodated. The Magistrates Court, the Children's Court, the Coroners Court, the prosecutions and police departments, the Sheriff's Office, and the Office of Corrections, which oversees intensive corrections and community-based orders, are organisations with good technological systems, but they cannot communicate with each other. The Pathfinder project has identified that much can be done to integrate justice and make the system more efficient through simple technological changes.

Honourable members who have served on the Law Reform Committee and have visited courts will realise that the notions of an organisation being protective of its system and maintaining that its system is different from every other system are not valid. The systems are in place to record and place into some sort of order various bits of information that are in turn called upon to be spat out at the other end further down the track — they are used to facilitate and assist the running of the justice system. For some reason each organisation seems to want its own individual system and to protect its own information. That approach is another barrier that needs to be addressed, and the government and the Attorney-General are looking forward to the recommendations of the Pathfinder report on what can be done further down the road.

The bill addresses the issue of cost. An enormous amount of change can be expected when people's hip pocket nerves are affected. People might think twice before unduly prolonging cases for their own advantage if they are faced with the likelihood of having costs awarded against them by a court as a result of that action. I would think twice if I were in that situation. The bill ensures that that becomes a relevant issue when a lawyer is determining how to run a particular case.

The appeal system required revamping and the proposed changes address that. The explanation of clause 9 of the bill, which is at page 14 of the explanatory memorandum, encapsulates exactly what the mischief has been in relation to appeals. It states:

At present, if a County Court judge is considering imposing a more severe sentence than that which was imposed in the Magistrates Court, the judge is required to warn the appellant that a higher sentence may be imposed.

That warning can be given at any time before the decision is made. The judge must say that he is considering a higher sentence. At that stage a lawyer could turn to his or her client and perhaps suggest that they leave, saying that that was not a good position in which to be placed. In such cases appellants who were engaged in frivolous and vexatious appeals, or in appeals that constituted an abuse of process, could leave without any fear of penalty. Most lawyers waiting to get cases on would agree with me that it is in the interests of the majority of people who are waiting for their cases to be heard for those sorts of practices to cease.

The change does not mean that people will not get a warning that if they appeal and their appeal is deemed to be an abuse of process, frivolous or vexatious they will be penalised accordingly. The explanation further states:

Under the new provisions, any such requirement is removed. The appellant will in fact be informed in all cases, prior to lodging his or her appeal, that a more severe sentence may be imposed ... The purpose of these clauses, in conjunction with other amendments, is to ensure that the appeal operates as a de novo hearing.

I believe the provisions will be used rarely because I have confidence that the judiciary and the magistracy will have no need to use them in most cases. I am also confident that on the rare occasions judges or magistrates feel the need to use the provisions, they will be thoroughly justified in doing so. I support the judiciary and the way it administers justice at the moment. Unlike the opposition, I do not think that the courts or all police are corrupt. In most cases the police and the courts are doing a good job, have the interests of Victorians at heart and work to ensure fair and decent outcomes.

It is a shame that the opposition attacks all legislation that is introduced, regardless of its merit. The bill is an attempt to go a long way in improving the efficiency of the courts, and it is a sad state of affairs that every part of it is being opposed by the opposition. I support the bill.

Mr COLE (Melbourne) — I thought the honourable member for Narracan was doing all right until the last 5 minutes of his speech. The opposition is not opposing the bill for the sake of opposing it; it has valid reasons for the attitude it has taken. It is a shame that the Premier talks about bipartisanship. One might think the Premier would like to go to the next election on a bipartisan basis — with no-one to oppose him. It seems whenever he proposes something these days, everyone has to agree with everything he says.

The house must debate this bill. The opposition believes people being held in remand pending an appeal should have that period considered as part of the sentence if the appeal is lost. The bill will have the effect of preventing people from appealing to a higher court just because some appeals are deemed frivolous, unimportant or supposedly doing great damage to the legal system by clogging it up. The government is saying that a person may suffer a penalty of three months if he appeals against his sentence.

I was a criminal lawyer for almost 10 years and the only time I advised my clients to appeal was when I thought we had a good chance of winning the appeal. If a person was given a three-month sentence at the Magistrates Court, he would end up with a 12-month sentence at the County Court because judges think differently from magistrates. I never made frivolous appeals.

The former Labor government stopped justices of the peace from hearing court cases. It wanted some certainty in sentencing matters. I can remember justices of the peace sentencing a defendant and when the barrister informed them that he would appeal the sentence they said, 'Appeal dismissed'. They had no authority to do that.

I well remember a stipendiary magistrate giving my client a \$200 fine on the Friday and when my client appeared on the following Monday before justices of the peace on a less serious charge he was given six months' imprisonment! There was no logic in the decision! Justices of the peace supposedly represented the community, but they had no intelligence. My client appealed against the sentence and the penalty was reduced to a \$50 fine. Under the proposed legislation I would say to my client that he should sit pat, and do the six months, because he would run the risk of copping more on appeal. At the time my client was being held in the Turana Youth Training Centre, but he was released pending the appeal. Many people are not as fortunate.

You cannot put qualifications on an appeal system. There is a well-known rule that judges will take the lodging of a frivolous appeal into account. If a sentence is reviewed judges will often increase the sentence, not reduce it. I am concerned that the government would introduce this punitive measure to solve a complex problem. It is probably why I am on this side of the house rather than the government side. It is a dangerous precedent to introduce a system that takes away the rights of a person to appeal based on the possibility of an extra sentence.

I refer honourable members to clause 25 relating to the closure of proceedings to the public. The problem with the provision is that it will deny access to the court. Although members of the media may be atrocious at times and on some occasions we may be best without them, if court proceedings are closed to the public we face the serious risk of denying people the right to a fair hearing. I support the provision when the case relates to sexual penetration or other related matters. Courts should be closed on those occasions so that witnesses are not subjected to the public listening to their evidence.

We must be vigilant in making sure that on every possible occasion courts are open to the public. They should be open to public scrutiny and they should only be closed when it is necessary to protect children or witnesses giving evidence about sexual offences. We must balance the need to protect their rights against the rights of the community. The prohibition of publication of a case is an important issue. Too often in the past the media has publicised matters that need not have been publicised. Judges should use sparingly and only when absolutely necessary the direction to prohibit publication of a case.

The names of clients or witnesses attending the Children's Court must not be publicised, and rightly so. Some years ago when appearing for a client in the Children's Court I was concerned that even though it was necessary to have a closed hearing, often one received closed hearing justice. Magistrates had much more authority and control than I thought was appropriate. With the important child protection cases I often worried that magistrates would take a self-righteous attitude that was not subjected to public scrutiny. I witnessed some cases that I thought were not appropriately handled in the circumstances and there was no way that the public would know of those issues because the proceedings were conducted in camera.

The Attorney-General and the shadow Attorney-General support committal hearings. I can remember raising the issue of committal hearings some six or seven years ago in relation to cases of fraud. I indicated then that with those cases committal hearings may not be necessary because often they had the effect of elongating the trial process. I am not of that view now, but we should review how we can truncate the length of committal hearings, certainly where they involve major fraud cases.

I raise the important issue of the indictable offence dichotomy. In 1993 I visited England and made an extensive study of the Magistrates and County courts systems. After the post-Sharman report with respect to

violence in Brixton and other places the British government removed police prosecutors from Magistrates Courts and replaced them with lawyers. We should move as quickly as possible to that system, especially for major indictable matters which often can be heard summarily. Even if a person chooses to have the matter go before a judge or jury, the case can still be sent back to the Magistrates Court if police officers are not prosecutors. Police officers tend to handle these issues in a different way; they pushed cases up to a higher court rather than negotiate them sideways or downwards. Many cases handled by police prosecutors are not handled in a way that facilitates or improves the administrative throughput of cases.

In England the change was made for a different reason — that is, because the relationship between the police and the public had broken down. Removing the role of prosecutor from the police force made the system much more efficient. The removal of the dual prosecutor-witness role meant that the police became prosecution witnesses rather than prosecutors per se. I should like to see Victoria go that way so that the Director of Public Prosecutions becomes responsible for all prosecutions rather than, as at the moment, the police and the DPP each being responsible for half. It would expedite matters; many people could be helped summarily.

The Attorney-General has moved towards that system, but too often cases get up to the County Court and the DPP states that a case cannot be proceeded with. The classic or typical example involved the Austudy five. The case experienced troubles along the way but after 18 months it reached the County Court — and was withdrawn. The five people got away. Increasingly it can be seen that the prosecution system would be more efficient if the DPP's office replaced the police. The DPP has more independence than the police, who provide all the prosecution evidence.

Britain's legal aid system does not work as well as Australia's but I have seen the prosecution system in England and it works better than ours. The Australian DPP system was modelled on the British system so it would be logical to do what I suggest.

I have already mentioned the three months that cannot be taken into account in an appeal. It is neither necessary nor appropriate to impose such a penalty on a person who chooses to appeal against a conviction. Victoria has an appeal system; people should be allowed to use it and not suffer any penalty other than the risk that if the case is lost more could be lost. Appeals are too expensive for most people to embark on willy-nilly, anyway, particularly with legal aid being

as it is these days. I have worked on many appeals but we chose only long cases. Most lawyers would advise their clients similarly.

Earlier I referred to justices of the peace. A Labor government abolished the practice of justices of the peace hearing matters by themselves and introduced stipendiary magistrates. People from the legal profession were appointed to the Magistrates Court with the result that its professionalism was elevated. Many of the justices of the peace in the Magistrates Court served the community very well, but a change was needed and it has been positive. Under the old system I observed that the magistrates who came up through the system seemed to have entrenched views as a result of their 30 years experience before being appointed to the bench. A new system was needed to enable the appointment of magistrates who were much more aware of, familiar with and practised in the rules of evidence, much more open to sentencing studies and ideas. By and large it has been a great success. The magistrates who have been appointed have moved Magistrates Courts to a more important and sophisticated level.

In that vein, more work could be and is being given to the Magistrates Court. We should be able to reduce appeals by that simple method. The honourable members for Narracan and Doncaster mentioned the Law Reform Committee's trip to Sydney's District Court. It had the most amazing statistical data — sentencing details of every case handled, the rates, the par value for a particular offence and so on. The biggest single issue to confront in sentencing is certainty. Provisions governing appeals would scarcely be necessary if there were greater certainty. The way to achieve that is to develop such a credible database of sentences that when magistrates or judges pass sentence they will know what the penalty is for each offence in equivalent circumstances. If that is done, then the magistrate or the judge will give a sentence with some degree of certainty. I suggest, as did the member for Doncaster, that that is much more important than ad hoc punitive sentencing by legislation that directs judges on what to do. We are better off if we resolve sentencing problems and appeals by using the educative model of the Magistrates Court.

That brings me to one of the sections of the bill which requires and provides the capacity for the Chief Magistrate to arrange for professional development and training of magistrates, the Principal Registrar and so on. It is interesting to note the dramatic change in how we consider judges. Once we looked at their discretions, rights and powers. Now we look at training, education and sophisticated methods of giving them the

latest and up-to-date information. That should be applauded. We should go forward with that attitude and always seek to achieve decent and acceptable decisions on matters which are known according to the statistics and database provided.

In conclusion, the most important issue is not whether someone appeals in the three months but the range of options available to people when considering what is going on in the criminal law area, for how long people will be going to gaol and what effect that will have on the community. I was concerned when I heard the Premier say the government was doing something for law and order because now 250 more people had been locked up than two years ago. That sort of statistical garbage is enough to make any sane person ask if this Premier is for real. It is well known that increasing the prison population does not reduce crime. More often than not, an increase in the number of people in prison will be accompanied by an increase in crime. There is no correlation between the two that results in showing that an increase in one produces a decrease in the other. It would be better to show pride in the fact that Victoria has a low prison population and that it is able to handle issues with dexterity and competence because the government is committed to having a society that does not just put people in gaol as a solution to very complex problems.

The range of options that can be provided requires resources. People are concerned about frivolous appeals and time in gaol when they should be concerned about what can be done for people once they are in gaol. What can be done to provide something that will enable people to do their time and come out better people for it? Again, the government adopts a punitive approach, by saying, in effect, 'If you appeal and exercise your right because you think you are being hard done by, we will give you another three months if you get it wrong'. It is not enough for the government that the judge will probably do that anyway; it is not enough to have it written that if someone appeals the time spent in gaol during the appeal should count towards the sentence.

The other issue that concerns me is that the bill does not include a range of options for committal proceedings. As usual, it contains provisions that are administratively easy; but the crunch decision to replace committals with a trial mechanism has not been made.

It is obvious that if that cannot be done committals must be retained. The question of whether the abolition of committal proceedings would increase the time a trial takes is not even considered, because we do not know. Those issues are not explored adequately. It is only with the big ticket items, the big offences such as frauds and

conspiracies that take a long time and use up significant legal aid funds, that the government suddenly decides it must do something to resolve the problem.

My final point today concerns the development of our thinking about drug taking. Drug taking per se is generally not considered an offence. A person who has taken drugs may be required to go to court, but no-one is locked up simply for the use of drugs. If, however, there are related matters, the position may be different. The reason so many people are in gaol for drug-related offences is that they have also committed other offences.

I would like to see a magistracy that is efficiently trained and given the option of supporting people rather than putting them in gaol. In particular, I believe support for the heroin trial as proposed and supported by the Premier is long overdue. I wish he had been a bit more bipartisan six or eight years ago or more when I used to raise this matter regularly in Parliament, only to be told that I would not be happy until I was shooting up behind the Speaker's chair before I made a speech. Bipartisanship is something that has come since the Premier adopted Labor policies on drug taking.

It is not enough to introduce administrative changes to the Magistrates' Court Act or to hope that people will not appeal because of the punitive three-months provision placed upon them. We must provide viable, sensible options rather than punitive measures as proposed in the bill.

Mr THOMPSON (Sandringham) — An English judge once commented when a number of changes were proposed to the law:

Reform the law? Good heavens, no! Things are bad enough as they are.

The Magistrates' Court (Amendment) Bill is the result of concerns regarding delays in the criminal justice system, and is the result of wide-ranging consultation. I note the remarks of the honourable member for Melbourne, but I will respond to the comments made during yesterday's debate.

Rod McGeoch told a story about a defence barrister cross-examining a substitute coroner in a case. The barrister asked the coroner, 'Did you see the deceased or know the deceased when he was alive?'. The coroner replied, 'No'. He then asked, 'Did you see the deceased when he was dead?'. The coroner replied, 'No'. The barrister then put it to him that, 'You would not know whether the deceased was dead or alive', to which the coroner replied, 'Well, you might put it that way

because, since I have the man's brains in a jar on my desk, he could be working as a barrister somewhere'.

A number of remarks made in this chamber yesterday reflect certain parallels between the coroner in McGeoch's story and the contributions of a number of opposition members in relation to the bill. There is a parallel, for example, between the coroner's remark and a comment made yesterday about the bill assisting the cause of privatisation of prisons. That is an outright absurdity. I would like to see what would happen if opposition members made such remarks in a judicial forum.

The bill is a product of extensive consultation under Project Pathfinder that was under way when these reforms and reviews were being taken into account. Our legal system is a product of a 1000-year developmental period. Nevertheless, as Churchill once said, the system is at risk of being lost in a moment in the dust. It is important that reforms to the legal process be made wisely and carefully. The bill is the result of widespread consultation in a number of important areas. The focus has been to better utilise the resources the community has for overseeing the criminal justice system.

Individual liberty is an important issue, as are the rights of the accused to know the case against him or her and for an expeditious trial. These issues are fundamental to our legal system. When an accused, a first-time offender for example, goes to court, he or she may be anxious to minimise any penalty, and to ensure that a sentence is developed or planned in the best possible manner.

Several years ago a fellow had been convicted of an offence in the Magistrates Court. He sought legal advice and was told that it might be futile to appeal to the County Court. As a consequence of the conviction, he felt duty-bound to advise his employer as to his conviction, aware that this would have an impact on his job, which was important to him for his livelihood. He took steps, against the advice of a number of people, to appeal to the County Court, being aware of the strategies that would be adopted within the process.

He knew there were some judges who were regarded as being more kindly in certain circumstances, and others who were more likely to enforce the original penalty or perhaps even increase it. The fellow made representation to the judge as to the importance of his life circumstances, circumstances not dissimilar to those found in Victor Hugo's *Les Misérables*. Jean Valjean had misappropriated the bishop's silverware and was now appearing before him. New beginnings

and new opportunities were accorded to Jean Valjean by the bishop, enabling him to go on and make a constructive contribution to the lives of several other people.

An honourable member interjected.

Mr THOMPSON — In the case I referred to a little earlier, the gentleman did appeal to the County Court. He had a well-founded case. To the credit of the presiding judge, a conviction was not recorded against his name, and his employment circumstances were not changed as a result. He was therefore well served by the criminal justice process.

A point strongly emphasised in this house yesterday by the honourable member for Berwick was that appellants would not be bound automatically to serve an additional three months in gaol. On the contrary, that decision would be made by a judge. It is important to emphasise that point.

We are fortunate in Australia to have a very strong separation between the legislative, executive and judicial aspects of our legal and political systems.

There are examples of the accused having a recidivist approach to life and being aware of his or her malfeasance. Such people would be aware of the different opportunities available to them through the court process. It might serve their immediate interests to lodge appeals, giving them the opportunity to have time away from the judicial process to put their affairs in order; or they might bide their time in the hope of lighter sentences. If when the time comes for the hearing things do not appear to be going well, their legal advisers might suggest they are at risk and should abandon their appeals; hence court time would be lost.

Forty per cent of cases are delayed at the committal stage because of a lack of preparation or readiness to go to court. Proposed new schedule 5 canvasses significant improvements to the criminal justice process that will expedite hearings. Hearings will be better planned by the prosecution and the defence. I will refer to those changes in some detail because to the best of my knowledge they have not been discussed in great depth.

Clause 4 substitutes proposed new schedule 5. Under part 3, which is headed 'Service of prosecution briefs', proposed new clause 5, which is headed 'Plea brief may be served by informant', states:

- (1) With the consent in writing of the defendant, or a legal practitioner representing the defendant, given at any time before service of a hand-up brief under this Part, the informant may serve personally on the defendant a plea brief containing —

- (a) a copy of the charge-sheet relating to the offence; and
 - (b) a statement of the material facts relevant to the charge; and
 - (c) a copy of any statement relevant to the charge signed by the defendant, or a record of interview of the defendant that is in the possession of the informant; and
 - (d) a copy, or a transcript, of any tape recording within the meaning of Subdivision (30A) of Division 1 of Part III of the Crimes Act 1958; and
 - (e) a copy or statement of any other evidentiary material that is in the possession of the informant relating to a confession or admission relevant to the charge made by the defendant.
- (2) The informant must include in a plea brief a copy of any statement, that is in his or her possession and the contents of which would be admissible in evidence, made by an alleged victim of an offence to which the committal proceeding relates about the circumstances of the offence.
 - (3) The informant may include in a plea brief any other statement relevant to the charge that the informant wants to include in the circumstances.

Proposed new clause 6, which is headed 'Service of hand-up brief by informant', states:

- (1) Subject to sub-clause (2), the informant must serve on the defendant a hand-up brief which must contain —
 - (a) a notice in the prescribed form —
 - (i) specifying the committal mention date; and
 - (ii) explaining the nature of a committal proceeding and the purpose of the various stages; and
 - (iii) explaining the importance of the defendant obtaining legal representation, describing the effect of clause 4(7) and providing details of how to contact Victoria Legal Aid; and
 - (b) a copy of the charge-sheet relating to the offence; and
 - (c) a list of the persons who have made statements that the informant intends to tender at the committal proceeding together with copies of those statements; and
 - (d) if a person has been examined under section 56A and the informant intends to tender a record of that examination at the committal proceeding, a transcript of the recording of the examination; and
 - (e) a copy of any documents that the informant intends to produce as evidence; and
 - (f) a list of any things proposed to be tendered as exhibits; and
 - (g) a photograph of any proposed exhibit that cannot be described in detail in the list ...

The long list of prerequisites continues.

The objective of the reforms is to address the circumstances in which 40 per cent of adjournments at the committal stage result from a lack of preparedness at the time of the hearing. The changes are the product of extensive consultation with members of the judiciary, including magistrates, under Project Pathfinder. Groups with a wider focus have been brought into play. It is important that effective use be made of the limited resources the government has the capacity to provide across the range of public sector programs and services.

I note the constructive work undertaken by legal aid centres and the members of legal aid groups who donate their time on a pro bono basis to ensure that people are well represented. If one relied on the remarks of the honourable member for Niddrie, one would form the view that legal aid hours had been curtailed. It is appropriate to point out that the statistics prove that suggestion wrong. When the Kennett government came to office in 1992 the financial commitment to legal aid was \$8 million, plus the overflow available from the Solicitors Guarantee Fund. In 1999 the amount the government has committed to legal aid is not \$8 million but \$25 million. It should be noted that the government has endeavoured to ensure that legal representation or advice is made available to as many people as is practicable.

The objectives of the bill form part of a broader reform package that is aimed at reviewing procedures in criminal cases to ensure that hearings are more efficient and cost effective. A number of amendments have been made to the Crimes (Criminal Trials) Act to re-vamp the conduct of trials. The bill includes measures to reduce delays in court and promote the early resolution of criminal cases, particularly early guilty pleas. Often a constructive process can follow, with worthwhile liaison between defence counsel and the prosecution to ascertain the nature of the charges and the evidence to be led, whereupon defence counsel can constructively advise the defence of the options at a particular stage.

Every now and again, through a process of dialogue, an indication can be given as to which offences an accused may be prepared to plead guilty to, and those cases can be expeditiously processed. Attempts can also be made to reduce the number of witnesses called in committal hearings so that delays in the court process can be minimised. Another purpose of the bill is to improve the disclosure of evidence at committals, enabling the issues in dispute to be identified and narrowed at an earlier stage than might presently be the case, and to

promote the accountability of the stakeholders in the system.

The bill has a number of wider features that time does not allow me to comment on. Suffice it to say, it is important for the community to recognise that if it is to deliver justice the criminal justice system must be effective, transparent and expeditious, enabling the delivery of appropriate outcomes for all those who form part of it.

Mr BAKER (Sunshine) — At the outset I thank the honourable member for Sandringham for the delightful vignette about the brains in the jar. At last count the members of my immediate family affected by the creeping disease of having been admitted to the bar had gone up to three. They are all starting to sound the same, too: I have noticed they are getting that 'hong' in their voices!

The following section of the minister's second-reading speech attracted my attention:

The objectives of the appeal amendments are to alter the system of appeals in criminal cases to bring about a fairer and more efficient appeals system in which an appellant will be genuinely 'at risk' when he or she appeals from the Magistrates' Court to the County Court.

I know from my past experience that whenever the government — particularly the Attorney-General — uses the term 'more efficient', children tend to run to the safety of their mothers' arms and grown men are known to stir in their sleep because the government's and Attorney-General's record on matters of efficiency in the judicial process are quite frightening.

I am sure history will show that those who produced the idea for establishing the prison hulks were talking about dealing more efficiently with criminals and those who thought up the idea of transportation were arguing that that was a much more efficient system. Therefore, I regard with great suspicion the proposition of removing in even any minor way some people's right of appeal or allowing some form of coercion — as is suggested here — to be placed on that essential right. Any proposal to do so must be examined very closely and the right-of-appeal principle must be defended.

One wonders what will be next. I appreciate that, if we accept in isolation the government's proposition that only in a minor proportion of cases will people be done in for the three months that they have already spent in servitude, perhaps we might be inclined to allow that through. But it cannot be taken in isolation from the steady process of denuding standards and the classic English legal rights that have been built up and granted to citizens over centuries through the mosaic of English

law. The moment you start allowing one of them to be whittled away in isolation you have a problem. Of course it is not just one; the elements are there. Murmurs and the whistling of the paper can be heard in the air.

Last year the house dealt with another little bill that provided for the confiscation of property on suspicion, or without enabling someone to explain how he or she had come by that property. A basic principle was changed and the onus was reversed, and that change got through. The true Liberals and the true defenders of the law in this place said, 'Oh, well, it is just a minor matter'.

The proposition to remove the right to silence is now being canvassed. Again, when that is taken together with the matters I have mentioned already, the question of limiting appeals adds to the overall result of significantly reducing people's legal rights. The 11-to-1 jury decision has also been discussed. The argument of efficiency is always advanced. It is proposed to do away with the tried and true principle that 12 good men and true — and nowadays also good women and true — should be the people to make the decision and if it were not a unanimous decision the case would be thrown out.

What is next? Will there be a proposition to reverse the onus of proof? Why not go the whole hog and do that? That would be the most efficient of all! When you take into account the cumulative effect of all the changes, although I am not a lawyer I wonder how long it will be — especially if further elements emerge — before a case is taken to the Human Rights Commission about the government's behaviour in gradually eroding citizens' rights under the English legal system that Australia has inherited.

If efficiency in the legal process is sought, there may well be other ways of achieving it. I note the reference in the bill to cleaning up committal proceedings earlier. From my experience as a young journalist covering courts and committals and from my understanding of recent committal proceedings, there have been very few cases — in fact I cannot remember one in recent times — of committal hearings preventing a case from going on to further hearing. That is not an opposition view; it is just my observation.

Honourable members have participated in debates in the lifetime of this Parliament in which ample evidence has been produced to suggest that the main cause of the criminal jurisdiction being clogged up — it goes without saying — is the proportion of drug-related cases. The proposition has been put in this place and

supported by the opposition — and I understand also by some members on the government side — that one of the best consequences of decriminalising drugs would be to greatly reduce the burden on the legal system. If I remember correctly, something like 60 per cent or more of cases going through the criminal jurisdiction are drug related. If they accepted that proposition the government and Parliament could, in one fell motion, reduce the pressure on the courts to an extent way beyond this tacky diminution of citizens' rights.

Another proposal I have always had in mind, given my training in the business school, is that some solution is on offer, perhaps in the higher civil courts, to try to reduce knee-jerk litigation in major and minor civil disputes and squabbles. Of course, the way to do that would be for the government to persuade its federal colleagues to seriously consider either limiting or barring altogether claiming as expenses on the profit and loss sheet the legal expenses for court cases of that kind, because in the end the taxpayers pay for those cases.

All honourable members have seen the spectacle of umpty-doo barristers turning up in major civil litigation cases where quite often the very action has been brought in the interests of some deal, shareholding battle or power struggle that is going on in the structure of the firm.

The interests of all those parties are best served by using the court process to keep it going. They have no serious intention of resolving it. Public funds are held up in the most appalling way. It is worse than that. Many people do not understand that the taxpayer pays a major proportion of the cost because it is written off on the profit and loss statement and the tax shield applies. If the company tax rate is, say, 35 per cent, 65 per cent of that cost is met. It is a matter that should have been considered with a bit more lateral thinking rather than being dealt with in the mealy-mouthed, miserly and minging way the government has acted to withdraw people's rights.

The long-held community expectation has been that if a person spends three months in servitude — in the jug — that period should count. How could it possibly not count? It is bad enough that people are brought into the legal process, particularly people from areas such as Sunshine, and have to appear without legal representation. — and the number is increasing because of the lack of legal aid. Time and again a large proportion of people who are overawed by the legal process and by the courtroom atmosphere are hauled into that foreign atmosphere without representation. They take advice from the wrong quarters — perhaps

from the police, who do not necessarily have their best interests at heart, or from other people around them who claim to know what they are talking about but who do not have professional expertise — and, hey presto, they lose.

For example, a friend came to see me recently because as a student 30 years ago he or she — let's disguise the identity — stole from a university book shop a book that was needed to do a course. The student was doing it a bit hard and did not know any better — he or she came from the wrong side of the tracks and was not versed in the ways of the law — and went along to the court where a conviction was recorded. Recently the person applied for a job and the conviction was there on the police file. There has never been any suggestion of a further criminal offence. That is the kernel of what I am talking about: the right of appeal is a protection against that sort of abuse of the system and that form of underprivilege in our community.

If it was all so aboveboard and decent and fair — I am amused that the Attorney-General dares to use the word 'fairer' — why was such a secretive and mysterious process set up around consultation? I would like the Attorney-General to give us some understanding about that in her closing remarks. Why was it necessary to threaten people with contempt? Why was it necessary to bully them? Why was it not just a simple matter of getting this out into the public arena and letting people have a chat about it? A lot of these arguments could have been aired. Why is it that the community legal service groups, which I understand from having heard the shadow Attorney-General's excellent presentation on the bill yesterday have something like 40 000 clients in their history, were not consulted? You would do that unless you felt you had not got it right and this was going to be more efficient in terms of the money line rather than being more fair — in moral terms.

When is the government going to stop? When is the Attorney-General going to stop? What is next? What is the next link in the chain? It is going to be the right to silence, is it not? One can see it coming that it is going to be the right to silence. What are we going to do? Are we going to hang them upside down in chains? Why not put them in stocks? That would be efficient. Why not reintroduce stocks and put people in a public place as a punishment? That would be efficient because there is public open space that is not being used. That was the argument for transportation — it was more efficient. As I said at the outset, that was the argument for the rotting hulks.

I see the honourable member for Glen Waverley's eyes are lighting up. He liked it when I mentioned the rotting

hulks. I got him. 'Why not', he said, and when I said 'transportation' his eyes fixed upon me in a way that I will dream about — I will have nightmares about the way his eyes fixed on me.

When it is all put together the end effect is that it is just like mercury and fish — it is a cumulative poison. Exactly the same principle applies. Of course, it is the final dose that kills you. You do not know until you have got the final dose. What is it going to be here? What is going to be the final end of a citizen's rights in the courts? Is it going to be the right to silence or the alteration to the jury system? Which one is it going to be? What else?

An Honourable Member — The abolition of committals.

Mr BAKER — The abolition of committals; there you are!

What else is there in the locker? The Attorney-General keeps on rolling them out bit by bit. They are usually obscured in bills that contain a range of omnibus functions, such as this one. This is getting very close to an omnibus bill. I understand from the shadow Attorney-General that if parts of the bill had been separated and presented as separate bills they would have been supported by the opposition. But the government cannot expect the opposition to support a bill that contains a sinister provision such as the withdrawal of the right to appeal and the element of coercion that goes with it. The honourable member for Sandringham suggested it would be okay because some judge would decide. That is not good enough, because the situation has changed and there is an implication of coercion, so that there is pressure not to appeal. That is what it is, and that is what it is about.

The passage of the bill would lead to that right being withdrawn. I was scoffed at when I started my contribution, when I said this process will inevitably and inexorably lead to a human rights case against the government. Once this package is finally put together and passed, there will be a good case to take to the international Human Rights Commission. I ask the Attorney-General to assure the house that she and her advisers have checked this and the other measures I referred to against Australia's current treaty obligations, although I am prepared to lay London to a brick that they have not so checked. Even though I am not a lawyer, my suspicion is that we are getting close.

Mr Hulls — You would have made a good lawyer.

Mr BAKER — I find that grossly offensive.

The ACTING SPEAKER (Mr Richardson) — Order! Does the honourable member wish the honourable member for Niddrie to withdraw the remark?

Mr BAKER — Thank you for your concern, Mr Acting Speaker, and your gracious intervention, but I will deal with the honourable member!

I want my prediction on the books: at some stage in the future, if this process of diminution of legal rights continues, a case will be mounted and the case will succeed. If one were to examine our treaty obligations one would find we are now tinkering on the brink of transgressing those obligations.

This proposed legislation comes at a time when the Prime Minister has taken his stubby pencil and produced his composition which includes, of course, an indication of obedience to the rule of law. The rule of law is that mosaic of law that has been built step by step but has no logic. I argue that English law — that is, our law — is a series of mosaic building blocks. Rules are built upon precedents and have been adjusted to meet the circumstances of the time, but our law has solid tenets that have remained for centuries. Those tenets include, and have always included, the right to appeal. Even if the bill contains only a suggestion of the total rejection of the right of appeal, it also contains the suggestion of coercion and compulsion — that a right is being removed.

I heard the contribution of the honourable member for Narracan. His speech was the most loquacious and eloquent I have heard from him, even though he had an autocue. In the case of the honourable member for Narracan, you can take the prosecutor out of the court but you can never take the prosecutor out of a politician.

The honourable member's contribution was interesting. As a young journalist I covered many courts; today I recognised many of the grievances and annoyances suggested by the honourable member for Narracan. I agree, the early parts of the bill contain some elements with which I would not quibble. We have all seen people play those games, and the ambush system the honourable member referred to is ridiculous. But we have an adversarial system, not a fact-finding system as they have in Europe, where magistrates have the authority to become investigators. I suspect we will not see such a change to our system during our lifetime.

In the European system the moment you go to court and are charged — and now I can see the honourable member for Narracan's eyes light up — there can be no

appeal; you're gone! It is assumed you are absolutely guilty. We in Australia do not do it that way. As much as the European system may suit the fantasies of the honourable member for Narracan, Australians do not, will not, nor should they do it that way.

Part and parcel of our system is the right to appeal. I appeal to the Attorney-General, who has a kind face, at times. She should seriously reconsider this element of the bill and find some other way of reducing the logjams in the legal system.

Mr JOHN (Bendigo East) — My contribution will be brief. I support government members who have previously contributed to the debate on this most important piece of legislation. I also congratulate the Attorney-General for her courage, tenacity and intellect in attempting reform in a most difficult and complex area of the law.

As is the tradition when a member of this place contributes to debate on a bill that may have some effect on that member, I place on record the fact that I hold a current solicitor's practising certificate which I first obtained in 1967, although I no longer practise law and have not done so for the years I have been a member of this place.

During my time in practice in Bendigo, the area I now represent in this place, I appeared hundreds, if not thousands of times in the Magistrates Court. I appeared in the County Court on several occasions and in the Supreme Court on a couple of occasions. As happens in the country — the honourable member for Narracan will be familiar with the practice — a lawyer in a provincial city is often required to appear as both a solicitor and a barrister. He or she often plays a dual role. I could claim to have had about 20 years experience in the operation of the County and Magistrate courts because for at least the past 25 years the County and Supreme courts have travelled on circuit to the Bendigo area.

Of the County, Supreme and Magistrates courts, the Magistrates Court is the people's court in that most people who ever have anything to do with a court either appear before or are witnesses in the Magistrates Court. Its extremely broad jurisdiction has been increased significantly in the past decade. It used to be called the Court of Petty Sessions. Especially during the time I have been a member of this place the jurisdiction of the Magistrates Court in criminal and civil cases has been increased markedly. Today many magistrates deal with complex cases which hitherto had been the province of judges of the Supreme and County courts.

I would like to read into the record clause 1 of the bill for no other reason than that I believe it is extremely important to put these principles on the record. Clause 1 states:

The main purposes of this Act are —

- (a) to reform committal proceedings in the Magistrates' Court;
- (b) to change the system of appeals from the Magistrates' Court in criminal proceedings;
- (c) to broaden the civil rule-making powers under the **Magistrates' Court Act 1989**;
- (d) to make the Chief Magistrate responsible for the professional development and training of magistrates and registrars;
- (e) to empower the Magistrates' Court to prohibit publication of material relevant to a pending proceeding;
- (f) to enlarge the power of the County Court to grant injunctive relief in criminal proceedings and the power of the Supreme Court and County Court to close the court in both civil and criminal proceedings;
- (g) to amend the penalties for certain offences under the **Sentencing Act 1991** constituted by the breach of a sentencing order.

They are extremely important principles. The reforms address criticisms of the current committal process and implement the government's objective of achieving high-quality outcomes at the least possible cost. It is a question of maintaining principles of justice and fairness and equity yet at the same time maintaining efficiency and cost-effectiveness. Personnel and legal resources must be utilised in a way that produces the best outcome for Victorians.

The bill will reduce delays and costs in the courts. It will promote the early resolution of criminal cases, particularly early pleas of guilty. It will reduce the number and length of contested criminal committal proceedings. It will improve the disclosure of evidence functions at committal hearings and promote accountability among stakeholders within the system.

The proposed reforms will provide more effective and efficient committal proceedings, promote earlier consideration of the issues by the parties, and ensure that summary cases and guilty pleas are dealt with expeditiously. That will result in savings in time and money in the court system.

The bill provides the Chief Magistrate with a new power to set time frames that are expected to be achieved in the committal system. To this end the Chief Magistrate will establish a working party with membership from a broad range of legal stakeholders.

Accountability will be maintained and magistrates will have greater control over their own destinies in their own courts. This is important because they must deal with the vast majority of people who come before the court system.

One of the issues addressed by the bill is early identification of issues in dispute before the court. I recall from my days in practice that there was a complex historical method of doing paperwork handed down from the British system of justice, which provided complex rules for identifying the issues between parties. The bill tries to simplify the early identification of issues in dispute by providing for early disclosure of the issues. The problems between the parties will be crystallised, and this will be of great benefit.

To this end the bill contains amendments to avoid wasting court time concerning discovery issues. I should explain to honourable members who are not familiar with the legal system that discovery is the process whereby each party endeavours to put on the table the documents that are relevant to the case. It may be a contract, a letter, a memorandum, or some kind of paper relevant to the case. The bill endeavours to improve the method by which discovery is undertaken by the lawyers involved in the case.

It is a policy objective of the bill to eliminate where possible frivolous appeals to the County Court from the Magistrates Court. Much has been said about this, particularly by opposition members. The honourable member for Niddrie in his lead speech for the opposition thought that this was somehow a curtailment of rights. That is nonsense. For most of his address, which took some 2 hours, the honourable member harangued us with an aggressive set of statements as if the world were coming to an end tomorrow and somehow the government were breaching a fundamental principle of justice by trying to curtail frivolous appeals.

The reality for a person who has appeared in courts and worked in the system for many years, as I have, is trying to prevent stupid, frivolous, nonsensical appeals taking up valuable court time and engaging resources so that someone can have a second bite of the cherry. Some people having had a case heard properly in the Magistrates Court do not accept the judgment and go on to the County Court to get the case heard again. Often, because different evidence and slightly different circumstances may be presented, the judge is somewhat curtailed in being able to indicate that not only might people not get lower sentences, they might get higher ones because of alleged bias or other difficulties.

The bill endeavours to streamline the system and make the best use of available resources. It achieves that end and curtails the right of people to get re-runs of their cases when they have already been dealt with and there is no appeal of substance. There is nothing in the bill that prevents a real appeal of substance, a real matter of law being appealed against in the higher courts. This is still quite in order and is fundamental.

I reiterate something that was mentioned by the honourable member for Sandringham concerning comments on legal aid made by the honourable member for Niddrie. I put on the record yet again that the former Labor government was spending \$8 million a year on legal aid and the present Kennett government is spending \$25 million a year on legal aid. That is three times the amount of money being spent on legal aid in this state in the short time the Kennett government has been in office. The Kennett government and the Attorney-General are to be congratulated on providing this sort of support to enable people to have proper access to the judicial system.

There are many other proposed changes in the bill that will improve the legal system in the Magistrates Court, provide better justice and eliminate frivolous appeals and applications. It should provide the most cost-effective use of legal personnel and resources.

Mr McARTHUR (Monbulk) — The Magistrates' Court (Amendment) Bill is a sensible piece of legislation. Once the bill successfully results in the expedition of court proceedings perhaps it may be used as a template for proceedings in this place. Some of the contributions we have heard over the past day and three-quarters could be characterised as nothing less than time wasting, tedious repetition and a constant fishing for extraneous issues.

Although not always in the chamber I was listening in my office, and some of the comments made by the honourable member for Niddrie and his colleagues were far from the mark and had little to do with the substance of the bill. The honourable member for Niddrie is fast becoming known in this place as the Chicken Little — or is it the Henny Penny? — of Victorian politics because he is constantly running around saying, 'The sky is falling, the sky is falling' but as yet it never has. Victoria is in a better position now than it was in the former decade despite the honourable member for Niddrie's oft-predicted demise of civilisation resulting from some or other piece of legislation. He protests too much in many matters.

As an example of the government's increasing commitment towards legal aid the honourable member

for Bendigo East mentioned the amount of \$25 million now being spent on legal aid compared with the approximately \$8 million spent under the former Labor government. That increase comes at a time when the offence rate for serious crimes is down. Victoria is doing better on public safety issues and criminal offences than other jurisdictions.

If the government is spending three times as much money on legal aid and fewer serious offences reach court, it is not difficult to deduce that the money goes to the cost of those actions — not because there are more of them but because they are more expensive. One can guess where the money ends up. In the hands of the legal profession, whose members spend much time arguing points of law. The bill attempts to reduce that level of argument, but without reducing the rights of people, whether they be defendants or those involved in civil proceedings.

If the legislation results in reduced costs for access to the legal system it should be applauded. If it means that the ordinary man or woman can afford to go to court to have a matter resolved, the bill should be applauded. It should also be applauded if a person charged with an offence can more easily afford the costs of his or her defence. Rather than pillorying those sensible moves, they should be supported by honourable members opposite.

The opposition is hypocritical in constantly bleating about access to the law in the public arena and in complaining about funding to legal aid — despite being incorrect on both issues — and then decrying the Attorney-General's attempts to make access to the law more affordable to the community. The honourable member for Niddrie might consider those comments, but I doubt that he will.

As was mentioned by some previous speakers the bill contains several major initiatives. Committal procedures will be reformed, the process of appeals from Magistrates Court decisions will be altered and the power of the County Court to issue injunctions in both civil and criminal matters will be widened.

Any reduction in the delays currently faced in court proceedings will be welcomed. The most common complaint about the law is that it is too slow. The opposition constantly complains about the amount of time people who are charged stay on remand before their cases come to trial. All honourable members should support action that will reduce the time people spend on remand. People who have been charged will benefit if they do not have to wait up to six months, and in some instances longer, for their cases to be heard. It

will benefit the community if matters are speedily resolved. There is an oft-repeated saying that justice delayed is justice denied. All honourable members should support moves to reduce the delay for those waiting to have their day in court.

Moves by the Attorney-General during the past six and a half years to improve the judicial system by and large have made access to justice more affordable and accessible to Victorians. The Attorney-General has had success in areas bound by tradition in the same way that parliaments are bound by tradition. The law is an area where any change in traditional practices is regarded as an attack on individual rights. That is often far from the case. Rather than being about a diminution in or an attack on the rights of the people involved, changes are often made for management or process reasons.

Care must be taken in drawing a distinction between those two things. To change a process does not mean that the rights of the people involved are reduced. As the honourable member for Bendigo East pointed out, people who have a good reason to appeal from a Magistrates Court decision will still have that right. The changes made by the bill impinge more on frivolous appeals made in an attempt to have another go rather than on cases where there is a genuine grievance that in the earlier decision justice was flawed. The bill deserves the support of all honourable members, and I wish it a speedy passage.

Mr E. R. SMITH (Glen Waverley) — For a few hours I listened in my room to some of the speeches made by honourable members opposite. After listening to some of the most outrageous claims about the legislation, particularly those made by the honourable member for Sunshine suggesting that perhaps the Human Rights Commission will be called in to see what we are doing in Victoria, I thought that it was time that some of the truths behind the Attorney-General's consultative process were made known.

Listening to the honourable members for Niddrie and Sunshine one would think the bill was the result of a delusion of the Attorney-General's and that it would take away the people's rights. The consultative committee that made recommendations to the Attorney-General comprised some very eminent people. They included judges and magistrates, the Victorian Director of Public Prosecutions, the Chief Crown Prosecutor, the Commonwealth Deputy Director of Public Prosecutions, the director of Victoria Legal Aid, Robert Cornall — who I seem to remember was with the Law Institute of Victoria years ago — and representatives of the Criminal Bar Association, the Victorian Bar Council and the Law Institute of Victoria.

By giving advice to the Attorney-General and examining the legislation after it was drafted those eminent individuals put their reputations on the line. The claims made by the honourable members for Niddrie and Sunshine are outrageous. A person reading *Hansard* could be forgiven for thinking that the legislation, as the honourable member for Bendigo East said, overturned everything Australians believe in — and the whole of the British justice system. The honourable member for Bendigo East was a practitioner and appeared in courts for more than 20 years. I think he said that as a lawyer in Bendigo he had appeared in the Magistrates Court on hundreds of occasions. The bill has the imprimatur of experienced people. I know that people making decisions read *Hansard* from time to time, and they might be persuaded by such claims and use them in argument at some stage.

I turn to examine the criticisms of the bill. The Attorney-General is trying to get rid of vexatious and in many cases frivolous appeals. If a decision made by a magistrate is wrong in law the party concerned has every right to appeal, which in most cases is to the next court, a judge in the County Court. We know many of the judges in the County Court have fearsome reputations. At the moment when an appeal is being heard the judge may say that he would have imposed a longer sentence than the magistrate imposed. What happens? The parties appealing withdraw the appeal there and then because they have been given the nod from the judge that he would up the sentence and they know they will not get any further.

Money is wasted in frivolous and vexatious appeals such as those. The figures have not been done, but I am told on good authority that up to a half of the cases before the Court of Appeal are withdrawn. In other words, a sizeable number get to that stage and are then withdrawn.

Mr Hulls interjected.

Mr E. R. SMITH — It is interesting that whenever you catch the honourable member for Niddrie out he carries on as he is doing at the moment. It is his normal reaction, so you know you are right when he reacts as he is now reacting. It is always the same.

At least half the cases that go forward are withdrawn. If people who appeal know the likelihood is that the judge will find the sentence should have been longer, these frivolous appeals will not be made. Who are the ones losing out? The lawyers and the barristers taking the cases forward, who are quite happy to represent people and get paid for it.

Mr Hulls interjected.

Mr E. R. SMITH — The honourable member for Niddrie says they are representing themselves. What is the point of a party appealing if he or she knows there is no case in law that would provide a right of appeal and knows the judge will increase the sentence? In other words, a lot of court time will be saved and a lot of unnecessary expense will be removed.

Over the past few days I have listened to some of the outrageous personal invective heaped on the Attorney-General by the honourable member for Niddrie. If the Attorney-General were a man the honourable member for Niddrie would not do it. It is fascinating to listen to him attack the Attorney-General because she is a woman. He does it all the time. I think it is amazing.

Mr Hulls interjected.

Mr E. R. SMITH — He may laugh, but that is the usual way the honourable member for Niddrie carries on. When he protests the loudest you know you have hit the nail on the head and you have come to the crux of the matter. Let's see if his behaviour changes. Which minister brings in more bills than any other? Obviously it is the Attorney-General, followed closely by the Treasurer. The invective that comes out of the honourable member's mouth whenever there is no-one much around is unbelievable. In all fairness to the Attorney-General, she accepts it and wears it. The interesting thing is that when he gets caught out he giggles in the funny way we just heard.

Mr Richardson interjected.

Mr E. R. SMITH — The honourable member for Forest Hill has a point.

As I said earlier, if this were a creation of the Attorney-General's imagination some credibility could be put on the honourable member for Niddrie's claims. However, the people who have given advice to the Attorney-General — the judges, the magistrates, the Victorian DPP, the commonwealth DPP, people from Victoria Legal Aid, the Bar Council and the Law Institute of Victoria — would not be putting their reputations on the line by giving bad advice as a consultative committee, particularly on the reform of committal proceedings. They are the people who made up the committee from which the Attorney-General took advice.

One would think the media would be lapping up what the honourable member for Niddrie comes up with, but you never read a line of it. In other words, the

credibility of the people making these unfounded accusations is rock bottom. We never read a thing about them. People try to use debates in this place to get cheap publicity. If half of what they said in here were true, we would have read about it in the papers. They know that most of the time what they are talking about is utter rubbish.

People such as the honourable member for Bendigo East, who has spent thousands of hours on hundreds of cases in the Magistrates Court over a 20-year period, and practitioners who have experienced the types of situations that are dealt with by the proposed legislation, have given their imprimatur to the bill. No-one claims that every bill is perfect. However, the principles proposed by this bill are sound and the changes to the appeals process and the reform of committal proceedings are necessary according to practitioners. To try to gain cheap political capital out of it is nothing but humbug, and it should be treated accordingly. I wish the bill a speedy passage.

Mrs WADE (Attorney-General) — This has been an interesting debate. A large number of members have participated in it. I have endeavoured to hear most of the contributions, although due to commitments I made before I appreciated that such a wide range of views would be expressed on the legislation I have missed out on some.

The bill has been in the public arena since its introduction last year. Prior to yesterday some criticism of the bill appeared in the press and in the submissions received by the government. However, over that time there was nothing approaching the type of criticism we heard from the honourable member for Niddrie and other opposition members during the debate. I do not believe the government has had any submissions that would justify the sorts of adjectives we have heard, such as 'outrageous', 'abhorrent' and 'vindictive'.

I found the debate extremely interesting. Of course there can be a differences of opinion, particularly among lawyers, without our being faced with what the opposition seems to be suggesting — as I understand it, a catastrophe in the legal system. Opposition members would do well to remember when they receive submissions from lawyers that changes to legislation can often affect the livelihoods of members of the legal profession, and that may affect their views. Unlike the honourable member for Niddrie, I endeavour to keep that in mind. That does not mean I disregard the submissions that were made, but neither do I necessarily assume that everything I am told about a piece of legislation by legal professional organisations, such as the Victorian Law Institute, the bar, or even the

Federation of Community Legal Centres, is the truth and only the truth.

Among the criticisms the government has received about the bill is that it does not go far enough, particularly with regard to committal proceedings. Some people would like to see committal proceedings abolished. I have had regard to their views, and I have rejected them. I think committal proceedings serve a useful purpose. It has also been suggested that some of the changes to committals do not go far enough and that the proceedings could have been modified even more. I do not think that would have been appropriate.

It would appear from the comments of the honourable members for Niddrie and Sunshine that they relied on either the views of the legal trade unions or on another technique, which I believe is described as an Aunt Sally. An Aunt Sally involves attributing a particular opinion or motive to an opponent and then attempting to discredit that opinion or motive, and usually occurs in circumstances where what is attributed to the opponent was not the opponent's intention or the motive anyway.

Both the honourable member for Niddrie and the honourable member for Sunshine spent a large amount of time on Aunt Sallys. In the course of his Aunt Sallys the honourable member for Niddrie attributed a number of motives to me, none of which had any substance. He tried to say that I am weak on law and order. I think the honourable member for Sunshine felt that totally the opposite was the case. I do not think I have a reputation for being weak on law and order — and I am happy to stand on my reputation over the past six and a half years. I ask honourable members who want to know my attitude to law-and-order issues to look at the record of legislation and other initiatives for which I have been responsible and not to have regard to the views expressed by opposition members, the legal profession or the press.

The honourable member for Niddrie also said that I am vindictive towards victims of crime, and referred to the changes the government has made to crimes compensation legislation, which have attracted some criticism. I am pleased to report that the new victims referral and assistance scheme the government has set up and victims services throughout the state are receiving widespread support from both victims and community organisations, including from victims who received compensation under the previous system and who have now come back to avail themselves of the services under the new system. Those people say they wish the new system had been in place when they initially suffered as a result of crimes.

The honourable member for Niddrie kept returning to the theme that the bill is about reduced legal aid funding. As a number of government members have pointed out, the government has not reduced legal aid funding in any way since it has been in office. The facts are that as a result of the collapse of the Solicitors Guarantee Fund, if I may put it that way, the government has increased its contribution to legal aid funding from \$8 million in the year the previous government went out of office to \$25 million a year in the past few years. Those figures demonstrate the government's strong commitment to the legal aid system.

In 1997–98, Victoria Legal Aid provided grants for 21 526 out of a total of 25 642 applications in criminal matters — and VLA provides aid for committals and for appeals. There is no crisis in legal aid, although it is being carefully monitored by the government. The current government was the only government in Australia to act after the Dietrich decision to give its courts power to order legal aid in trials where people are not legally represented and the courts feel those people cannot get proper trials without such representation. The bill is not about legal aid. The bill is about improving the court system for the benefit of citizens who are involved in the courts, including accused persons.

The appeals provision seemed to attract the most attention from opposition members. I note that a significant number of appeals that are lodged in the County Court are withdrawn on the day of hearing. As the honourable member for Gippsland South said, in a case where 12 to 14 appeals are set down for hearing the judge might find when he or she gets to court — perhaps in the circumstances described by the honourable member for Glen Waverley — that they all suddenly disappear. The judge will then have no cases to hear that day. He or she cannot be allocated elsewhere because nobody else will have received notice, and the day in court is wasted.

I feel strongly that if the issue of whether people are really serious about appeals is sorted out in advance it will be possible to use judges more effectively so that people who have been waiting for trials or for genuine appeals to be heard — sometimes for longer than we would like to see — can get their cases on earlier. The amendments to the appeals system are in the best interests of people who come before the courts.

I turn to the changes to the procedure for taking appeals to the Court of Appeal. It is extraordinary that the honourable member for Niddrie has so little faith in the

judges of the court. Three judges sit in criminal appeals cases, and I believe that the Court of Appeal — —

Mr Hulls interjected.

Mrs WADE — They are all very good judges. I believe the Court of Appeal would be very cautious in using the new powers proposed under this bill to disregard a period spent in custody by a convicted person who was awaiting appeal and say that that period would not be taken into account in specifying a sentence. The provision is based on a United Kingdom provision that is rarely used. I imagine that that will also be the case here. I do not believe it will be any significant disincentive to the bringing of well-founded appeals. However, the government wants to ensure that people who are contemplating appealing to the Court of Appeal or the County Court think carefully about it. It is inappropriate for courts to spend time on frivolous or vexatious appeals or appeals that totally lack substance.

At the moment there is no downside to appealing. A person who is convicted and receives a sentence will almost automatically appeal, because on appeal he or she can get only the same or a lesser sentence. A judge contemplating handing down a longer sentence must tell the appellant what he or she proposes to do, and the appellant will then withdraw the appeal. As a result almost everybody has an incentive to appeal against his or her sentence automatically. That is not a satisfactory way to use the resources of the courts, particularly judges of the Court of Appeal and the County Court, who could be better placed hearing other matters.

The honourable member for Werribee based some of her comments concerning committal proceedings on the substantial relevance of facts issue. The substantial relevance requirement is the first matter referred to in the report on the bill of the Scrutiny of Acts and Regulations Committee. The committee reports that such a requirement might be difficult to satisfy. However, there is a similar requirement under the Evidence Act relating to a defendant seeking leave to cross-examine a sexual assault complainant about prior sexual history. The requirement was introduced by a Labor government and has been in operation for approximately 10 years. It would seem that the courts and the legal profession are well able to understand its meaning.

A number of other matters raised by opposition members were referred to in the Scrutiny of Acts and Regulations Committee report, and I will respond to that report in the near future. There is no need at this stage to amend any of the provisions as a result of the comments made in the report. Some of them show that

the people who made submissions fail to understand the particular provisions. For instance, comments made about the compulsory examination procedure suggest that there will be no right to cross-examination when a person is compulsorily examined.

Compulsory examination was suggested by the commonwealth Director of Public Prosecutions to cover situations including fraud and white-collar crimes when, for example, representatives of financial organisations such as banks refuse to make statements about important evidence in criminal trials. It is proposed that such persons should be able to be examined, and that the record of the examination should be given to the accused. If the record is included in the hand-up brief, the accused will be able to apply to cross-examine the person concerned. That may not have been made clear in the material presented to the Scrutiny of Acts and Regulations Committee.

The bill is the result of extensive consultation. A wide range of people, including members of the Pathfinder focus groups that were mentioned by a number of government members and a committee that included a large number of people with experience in the criminal justice system such as judges and magistrates and members of the Criminal Bar Association and the Victorian Bar Council, considered the whole committal process and suggested many of the amendments included in the bill.

The bill is the next step in the reform of the criminal justice system and, as forecast by the honourable member for Sunshine, the government will be making further changes to the system over the next couple of years because there are other areas that need to be explored.

In response to the question raised by the honourable member for Sunshine I point out that I did not threaten to have people charged with contempt of Parliament if they disclosed the contents of the bill. After the bill was leaked by a member of the Law Institute I was asked by the media outside Parliament House why it was circulated confidentially instead of being made publicly available. I explained that when I was a young parliamentary counsel I was told that the contents of bills about to be introduced should not be made known to the media before they were made known to members of Parliament. Therefore I am always careful in those circumstances to ensure that that does not happen.

House divided on motion:

Ayes, 50

Andrighetto, Mr
Ashley, Mr

McGill, Mrs
McGrath, Mr W. D.

DISTINGUISHED VISITORS

116

ASSEMBLY

Wednesday, 24 March 1999

Burke, Ms	McLellan, Mr
Clark, Mr	MacLellan, Mr
Coleman, Mr	McNamara, Mr
Cooper, Mr	Naphine, Dr
Dean, Dr	Paterson, Mr
Dixon, Mr (<i>Teller</i>)	Perrin, Mr
Doyle, Mr	Perton, Mr
Elder, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Henderson, Mrs	Rowe, Mr
Honeywood, Mr	Ryan, Mr
Jasper, Mr	Savage, Mr
Jenkins, Mr	Shardey, Mrs
John, Mr	Smith, Mr E. R. (<i>Teller</i>)
Kennett, Mr	Spry, Mr
Kilgour, Mr (<i>Teller</i>)	Tehan, Mrs
Lean, Mr	Thompson, Mr
Leigh, Mr	Traynor, Mr
Lupton, Mr	Treasure, Mr
McArthur, Mr	Wade, Mrs
McCall, Ms	Wells, Mr

Noes, 29

Andrianopoulos, Mr	Hamilton, Mr
Baker, Mr	Hulls, Mr
Batchelor, Mr	Kosky, Ms
Bracks, Mr	Langdon, Mr (<i>Teller</i>)
Brumby, Mr	Leighton, Mr
Cameron, Mr	Lim, Mr (<i>Teller</i>)
Campbell, Ms	Loney, Mr
Carli, Mr	Maddigan, Mrs
Cole, Mr	Micallef, Mr
Cunningham, Mr	Mildenhall, Mr
Davies, Ms	Pandazopoulos, Mr
Dollis, Mr	Robinson, Mr (<i>Teller</i>)
Garbutt, Ms	Seitz, Mr
Gillett, Ms	Wilson, Mrs
Haermeyer, Mr	

Motion agreed to.

Read second time.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING SPEAKER (Mr Maughan) —
Order! I recognise the presence in the gallery of two members of the Greek Parliament, Mr Eugene Haitidis and Mr George Kirkos.

MAGISTRATES' COURT (AMENDMENT) BILL

Debate resumed.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Mrs WADE (Attorney-General) — I move:

1. Clause 4, line 22, omit "personally".
2. Clause 4, line 23, after "practitioner" insert —

"by —
 - (a) leaving it at the business address of that practitioner with a person who apparently works there and who apparently is not less than 16 years of age; or
 - (b) sending it by registered post to that practitioner at that practitioner's business address."

Those amendments, which relate to the service of documents, make it clear that service may be effected by leaving the documents at the business address of a practitioner with a person who apparently works there and who is apparently not less than 16 years of age, or by sending the documents by registered post to a practitioner at the practitioner's business address.

The amendments arise from concerns expressed while the bill was available for comment by the general public that the provision as drafted creates a new obligation for personal service on the legal practitioner concerned that would be unduly onerous for the police to satisfy, as well as being potentially resource intensive. The amendments remove the requirement for personal service on a legal practitioner and instead provide two alternative methods of delivering documentation to the legal practitioner on the record.

Amendments agreed to; amended clause agreed to; clauses 5 to 8 agreed to.

Clause 9

Mr HULLS (Niddrie) — The opposition opposes clause 9. The clause deals with the powers of the County Court on appeal and makes it clear that despite any law or practice to the contrary, judges of the County Court will, on the hearing of appeals under section 83, not be required to warn appellants before making sentencing orders of the possibility of such sentencing orders being made or of their intention to make sentencing orders that are more severe than those made by the Magistrates Court.

A key feature of the current appeal process is that judges warn convicted persons that if they appeal decisions from the Magistrates Court they may have

their sentences increased. As I said in the second-reading debate, judges issue that warning in a manner that indicates that in their view the appeals may not be meritorious, which is fundamental to the efficient rendering of natural justice.

I refer the house to Mr Justice Coldrey's statement in *Brand v. Parson* (1994) 1 Victorian Reports at page 252, that when a County Court judge on appeal fails to give an intimation that he or she contemplates increasing the custodial sentence imposed by a magistrate on the appellant there is a failure of procedural fairness in that the appellant has not been alerted to his or her situation of jeopardy and has not been given the opportunity of formulating a response to it.

Mr Justice Kirby, now Justice Kirby of the High Court of Australia, also stated in *Parker v. DPP and Anor.* (1992) 28 NSWLR at page 282 that:

There is an established practice or convention in District Court appeals under section 122 that a judge, contemplating an increase in the sentence under appeal, will signal that possibility to the appellant ... Although it is not a rule of law, it is an established practice. It should rarely, if ever, be departed from. The basis of the practice is to be found in a species of the double-jeopardy principle.

Clause 9 purports to remove the requirement that judges provide that warning. As I said earlier, that strikes at the heart of procedural fairness by enabling judges not to warn persons who could suffer increased sentences and then to increase their sentences not having heard any arguments from the accused as to why their sentences should not be increased.

A number of issues have to be raised with the Attorney-General, given that the Scrutiny of Acts and Regulations Committee has expressed concern about the provision. The committee is made up of some competent — some would say outstanding — members of Parliament. They are not fools, and I believe they have enough guts to stand up to the Attorney-General. The chairperson of that committee, who is in the chamber, has from time to time made what I have no doubt were difficult decisions, pointing out to the Attorney-General some grave flaws in legislation she has proposed.

The chairperson of the committee is a trained lawyer and he has not been backward in coming forward in expressing the view that some aspects of the Attorney-General's legislation are flawed. On this occasion the committee raised concern about whether this clause is in breach of the Australian constitution. It is extraordinary that the Attorney-General has set up the Scrutiny of Acts and Regulations Committee to review

legislation and make recommendations to her, and yet that committee's report on the legislation is tabled on the same day that the Attorney-General decides to ram the legislation through this place.

The Attorney-General has had no chance or has not bothered to address the concerns of the Scrutiny of Acts and Regulations Committee, except in the most frivolous way in her summing up on other legislation. She said in effect that the committee got it wrong. She said that she does not believe the proposed legislation was explained properly to the Scrutiny of Acts and Regulations Committee. I am sure members of that committee would beg to differ with what the Attorney-General said. In making such comments she is saying that members of that committee are a bunch of dullards who did not understand what was being put to them.

As shadow Attorney-General I have far more faith in the members of that committee than the Attorney-General has. For example, I have far more faith in the ability of the honourable member for Gippsland South than the Attorney-General has. He is a competent lawyer who would not make frivolous demands unless he was serious about his concern and was prepared to put it in writing. On behalf of the committee he has expressed concern about the clause, but the Attorney-General says that it was not explained properly to him. That is a slap in the face for the honourable member for Gippsland South and all the other members of the committee. They are competent people who should not be treated like fools but should be listened to.

It is a pity that the Attorney-General has not taken the time to explain to Parliament why the Scrutiny of Acts and Regulations Committee was wrong and their concerns are unfounded. I disagree with the Attorney-General. I am on the side of the Scrutiny of Acts and Regulations Committee. Members of that committee have bona fide concerns that have not been addressed by the Attorney-General. On the contrary, she has ignored their concerns and is ramming through the legislation on the same day that those concerns have been tabled in Parliament.

Clause 9 is also vehemently opposed by the Federation of Community Legal Centres. The Attorney-General says that the opposition is not correct just because groups such as the Federation of Community Legal Centres, lawyers and the Victorian Bar Council oppose a particular aspect of the bill. I agree with that. From time to time the Law Institute of Victoria has expressed to me views about legislation with which I have disagreed. From time to time the Federation of

Community Legal Centres has expressed a view on a particular matter with which I have disagreed, as I have on occasion with the Victorian Bar Council. However, on this particular occasion the federation is right and the Attorney-General is wrong. They federation says:

The federation is concerned that this proposed amendment may lead to situations of procedural unfairness where an appellant has not had access to legal advice or representation for either his/her Magistrates Court hearing or the appeal. In such circumstances, the appellant will be unaware of the potential risk that his/her sentence may be increased on appeal, and by virtue of the amendments proposed in section 14 of the Magistrates Court Act 1998 will be prevented from abandoning his or her appeal.

I wholeheartedly agree with that concern. Has the Attorney-General read the comments made by the Scrutiny of Acts and Regulations Committee on the proposed legislation? If she has, does she agree with the committee that the clause diminishes the common law right of procedural fairness and natural justice propounded by the Victorian Supreme Court, the High Court and the Privy Council? Has the Attorney-General received specific legal advice that contradicts the concerns expressed by the Scrutiny of Acts and Regulations Committee that the clause may be in breach of the federal and state constitutions? Does the Attorney-General agree that the clause is inconsistent with the principles of natural justice? It is imperative that the Attorney-General give a full explanation of why she disagrees with the report of the Scrutiny of Acts and Regulations Committee.

Clauses 9(2) and 9(3) are inappropriate. The effect of the clauses will be to enable a County Court judge to determine an appeal when an applicant fails to appear — that is, a judge will be able to find a person guilty and sentence him or her in that person's absence. I dealt with that matter when the bill was debated in the house. The measure will mean that when faced with what may occur during an appeal process a number of defendants may simply not appear for fear of the consequences of being forced to make a submission before a County Court judge on why they want to abandon their appeal.

The bill purports to overcome that problem by giving the County Court the power to uphold any conviction and determine a sentence without the burden of having the defendant there — that is, if a person does not turn up because he or she is scared or intimidated, a judge can dismiss the appeal and increase the original sentence. The opposition does not support that inappropriate clause.

Does the Attorney-General agree with the Scrutiny of Acts and Regulations Committee when it says that the

amendment to section 86 of the principal act proposed in clause 9(3) will impair a defendant's right not to have a criminal matter adjudged on the merits and criminal sanctions imposed without the necessity of being present at the proceedings in which that takes place? Is the Attorney-General prepared to respond to the committee's concerns before this matter becomes law or will she do so after it becomes law?

The opposition opposes clause 9 because it is a bad measure. It asks the Attorney-General to advise the house whether she still has faith in the Scrutiny of Acts and Regulations Committee, whether she intends to override that committee both now and in the future, and, if so, whether she has advised the honourable member for Gippsland South that his work is a waste of time, that he has no talent and that he is only a Liberal Party stooge whom she is not prepared to listen to in the future. Or will the Attorney-General adhere to his recommendations and exclude the clause immediately?

Mrs WADE (Attorney-General) — Clause 9, which has so much upset the honourable member for Niddrie, has been referred to in the course of debate on the bill. It was focused on by most opposition speakers. The clause is an attempt to amend and reform the appeals system in criminal cases where decisions in the Magistrates Court are appealed to a single judge of County Court. The matter encountered is an almost automatic appeal in many cases because there is no disincentive for a person convicted in the Magistrates Court to lodging an appeal.

Under the current process, once a person has been sentenced in the Magistrates Court that person can lodge an appeal and decide whether or not to proceed. Many people abandon their appeals, but often not until the day of hearing or until they know which County Court judge will be presiding. Other people proceed with appeals that can be described only as frivolous or totally lacking in substance.

An Honourable Member — How many?

Mrs WADE — Quite a large number. It is a matter of concern to both the County Court and the Court of Appeal. A lot of time is wasted hearing appeal applications that lack substance. Often a judge, a prosecutor and a person acting on behalf of the appellant are engaged in circumstances where the court's time could be better spent hearing other matters awaiting trial. It is not appropriate to have prisoners held on remand and waiting for long periods because the court's time is being taken up by unjustified appeals.

The changes will cause people to think seriously about whether they have an appropriate case for an appeal. If they have there will be no problem in their going ahead and seeking legal advice. Many people are assisted by Victoria Legal Aid in deciding whether they should go on appeal and VLA normally represents appellants if they have an appropriate case. However, as the honourable member for Werribee said, some people are unable to get legal aid because Victoria Legal Aid believes they have no grounds for appeal. In those instances people often represent themselves and take up court time to no avail.

Ms Gillett interjected.

Mrs WADE — The honourable member Werribee can get up and talk in a minute. She will get her turn; perhaps she might like to listen to what I have to say.

Under the changes there will be a genuine risk of appellants receiving increased sentences. A person will have 30 days in which to lodge an appeal after a magistrate hands down a sentence. During that time an appeal can be either lodged or withdrawn. If after the expiration of 30 days a decision has been made to proceed with the appeal, the appellant will be locked into the appeal and will not be able to withdraw during the course of the hearing.

I shall explain in more detail what happens at present. As a hearing proceeds a judge can say that the sentence imposed by the magistrate was appropriate or impose a lesser sentence. If the judge proposes to impose a longer sentence he or she must warn the appellant of that. In such cases appellants almost always withdraw their appeals. As happens frequently, if an appellant behaves sensibly and listens to the judge there is no chance that he or she will get a heavier sentence than the one received at the Magistrates Court.

The honourable member for Niddrie expressed concern that following the changes judges would no longer give warnings of an increased sentence. Perhaps he and members of the Scrutiny of Acts and Regulations Committee have overlooked clause 13. Clause 13 inserts in schedule 6 of the principal act new subclauses that describe what happens when a convicted person lodges a notice of appeal. The notice will have to be lodged in an approved form. It will have to include a statement in the form approved by the chief judge of the County Court signed by the appellant to the effect that the appellant is aware that on the appeal the County Court may make a sentencing order more severe than that sought to be appealed against.

When lodging an appeal an appellant will get a warning that he or she already gets in the course of the trial that if a decision is made to go ahead with the appeal there is both an upside and a downside — the sentence may be confirmed, lessened or increased. Before accepting receipt of a notice of appeal under section 83 a registrar of the Magistrates Court must give to the person seeking to file the notice of appeal a notice in the form approved by the chief judge of the County Court to the effect that on the appeal the County Court may make a sentencing order more severe than that sought to be appealed against. If the person seeking to file the notice of appeal is not the proposed appellant, the registrar must be satisfied that the proposed appellant has signed the statement required to be included in the notice of appeal.

It is not correct to say that no warning of the possibility of an increased sentence will be given when a decision is made to proceed with an appeal. The warning will be given at the earlier stage — the appellant will need to acknowledge receipt of the warning if he or she wants to go ahead with an appeal. In those circumstances a person will need to think carefully about appealing. However, if he or she is advised by a lawyer that there are good grounds for appeal, there will be no problem about going ahead.

I have more faith in the judges of the County Court and the Court of Appeal than does the honourable member for Niddrie. Judges and magistrates are very concerned to ensure that the principles of natural justice apply throughout the court system. Notwithstanding these changes, those principles will continue to apply.

Dr DEAN (Berwick) — The honourable member for Niddrie made no mention of clause 13. In attempting to construct an argument, based on comments by judges in various cases, that an appellant had received no warning that he or she may suffer a more serious sentence, it would be extraordinary if the proponent of such an argument did not read out a clause which amended the act to require that such a warning be given and which created a situation where it was no longer solely up to the judge, who may or may not give a warning. Clause 13 provides that such a warning must be given in clear terms and must be signed by the appellant.

Another fundamental point has not been mentioned in the debate so far. The proposed change does not say that a County Court judge shall not give a warning on top of the warning already received; it says the judge is not required to do so. If a County Court judge wants to give a warning on top of the statutory warning that has already been received, the judge will do so. Under the

new provision the appellant must be warned, whereas there is no guarantee in the present system — it depends whether or not the judge decides to do so at the time.

The members of the Scrutiny of Acts and Regulations Committee made it clear that they were not in a position to give a constitutional law opinion. Although they reported that there may be problems, they would also be the first to agree that in previous judgments on the issue the judges involved did not take into account proposed clause 13. As a result, those judges would probably say that following a change in the law their decisions could not be relied and that they would have to reconsider their opinions. It is open to opinion as to whether the judges would say that. The Victorian Bar Council would be the first to say that it represents the views of the council. It does not call meetings of the bar to discuss these issues, and it does not take votes on whether the entire bar agrees or disagrees with the views expressed. It is not required to do so, nor am I saying that it should do so. As sensible people, members of the council admit that their view may or may not be representative of the bar. The Bar Council is obliged by its constitution to give such views and its views should be noted. It is not correct to say that its views are the views of the legal profession.

How can the honourable member for Niddrie say that the bill has been rammed through Parliament when it has been sitting on the table for months so people can examine it? If that is the honourable member's definition of a bill being rammed through Parliament, what would he say about a bill that had reasonable consultation — a couple of years! Any person who wished to comment on the bill has had ample time to do so, and so they should.

The honourable member for Niddrie must have made a mistake when he said that the Scrutiny of Acts and Regulations Committee was established by the Attorney-General. It is a committee of the Parliament. The committee expressed its views in moderate terms. It recognised the limitations it had in making those views to Parliament and its views must be taken into account.

The final matter I wish to comment on is fundamental to the appeal process. It was never the basis of an appeal that one could pick a judge. It was never the basis of an appeal that one could test one's case before an appeal judge, get a preliminary opinion and decide whether to continue. The basis of an appeal is to say, 'I have now received a judgment. I have received advice about the judgment and I wish to make a decision about whether I will appeal'. That is what an appeal is. The

only thing the legislation will eliminate, if it eliminates anything, is the ability to pick a judge. It will eliminate the opportunity for a person who does not believe he has any merit in his case to gain some indication from a particular judge as to whether he can strike it lucky.

Mr Baker interjected.

Dr DEAN — Wrong, we are not dealing with that clause. Keep concentrating and I am sure you will get your moment. It is clear that the only thing this provision is doing is correcting a situation which needed to be corrected, while maintaining all the rights of notice that an appellant needs to know when making up his or her mind to appeal. As a consequence, it ought to be supported.

Committee divided on clause:

Ayes, 51

Andrighetto, Mr	McGrath, Mr W. D.
Ashley, Mr	McLellan, Mr
Burke, Ms	MacLellan, Mr
Clark, Mr	McNamara, Mr
Coleman, Mr	Maughan, Mr
Cooper, Mr	Napthine, Dr
Dean, Dr	Paterson, Mr
Dixon, Mr (<i>Teller</i>)	Perrin, Mr
Doyle, Mr	Perton, Mr
Elder, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr
Finn, Mr	Reynolds, Mr
Gude, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Savage, Mr
Jasper, Mr	Shardey, Mrs
Jenkins, Mr	Smith, Mr E. R. (<i>Teller</i>)
John, Mr	Smith, Mr I. W.
Kennett, Mr	Spry, Mr
Kilgour, Mr (<i>Teller</i>)	Tehan, Mrs
Lean, Mr	Thompson, Mr
Leigh, Mr	Traynor, Mr
Lupton, Mr	Treasure, Mr
McArthur, Mr	Wade, Mrs
McCall, Ms	Wells, Mr
McGill, Mrs	

Noes, 30

Andrianopoulos, Mr	Haermeyer, Mr
Baker, Mr	Hamilton, Mr
Batchelor, Mr	Hulls, Mr
Bracks, Mr	Kosky, Ms
Bumby, Mr	Langdon, Mr (<i>Teller</i>)
Cameron, Mr	Leighton, Mr
Campbell, Ms	Lim, Mr (<i>Teller</i>)
Carli, Mr	Loney, Mr
Cole, Mr	Maddigan, Mrs
Cunningham, Mr	Micallef, Mr
Davies, Ms	Mildenhall, Mr
Delahunty, Ms	Pandazopoulos, Mr
Dollis, Mr	Robinson, Mr (<i>Teller</i>)
Garbutt, Ms	Seitz, Mr
Gillett, Ms	Wilson, Mrs

Clause agreed to.

Sitting suspended 6.30 p.m. until 8.04 p.m.

Clause 10 agreed to.

Clause 11

Mr HULLS (Niddrie) — Once again, the opposition cannot support this inappropriate clause. As the Leader of the House would know, the effect of the clause is to enable the County Court to award costs against an applicant where the judge is of the view that the appeal in a criminal matter was brought frivolously, vexatiously or in abuse of process.

The clause is designed to continue the Attorney-General's aim of creating a two-tier justice system in Victoria. As I described it in the debate proper, one tier will be a Rolls Royce system for the wealthy — for the Lloyd Williamsses, the Ronnie Walkers and the Johnny Elliotts of the world — and the other will be a broken billycart system for the rest of Victoria. A person who appeals will face a gaol sentence. If costs are awarded against the person in a criminal appeal the family home will be put at risk. There is every likelihood that the clause is in breach of the International Covenant on Civil and Political Rights.

It is interesting to note that the Scrutiny of Acts and Regulations Committee commented on the clause, saying that the amendment may deter applicants from bringing some meritorious appeals and may impact most heavily on financially disadvantaged appellants who do not qualify for legal aid. The Attorney-General must explain to members of this place why she is going against the Scrutiny of Acts and Regulations Committee report, why she wants to introduce such draconian legislation to stop people applying for legal aid and why she does not adhere to the Scrutiny of Acts and Regulations Committee report. I want to know also whether the Attorney-General believes the clause will deter some defendants from appearing before the County Court because they fear losing the family home.

Mrs WADE (Attorney-General) — The honourable member for Niddrie has asked me a number of questions about the provision. I point out to the house that the power of the County Court to order the appellant to pay all or a specified portion of the costs is in the discretion of the court, which must be satisfied that the appeal was brought vexatiously or frivolously or was an abuse of process. They are very detailed provisions. I should have thought it would be rare for a case to fall into those particular descriptions as they are at the far end of the spectrum.

I have a great deal of confidence in the judges of the County Court, the Supreme Court and the Court of Appeal. It would appear that, although from time to time the honourable member for Niddrie talks about his respect for the independence of the judiciary and the separation of powers, he has very little confidence in Victoria's judges. The provision will ensure that it will not be open to the court to uphold an appeal if a party brings before the County Court a matter that should not be there. The party would presumably have sought advice from his or her own legal adviser or sought legal aid from Victoria Legal Aid and been advised that there would be absolutely no hope of the appeal succeeding.

I have no difficulty with the provision, and I am surprised that the honourable member for Niddrie has any difficulty with it.

Dr DEAN (Berwick) — I spoke at some length about the increased pressure on courts and the need to find new and efficient ways to afford greater access to the courts to those who wish to have that access. The sum total of the proposal of the honourable member for Niddrie is that he believes frivolous and vexatious appeals should be allowed with no inhibition. He believes it is perfectly appropriate for someone to bring a vexatious or frivolous appeal before the court with no possibility of the court expressing or hinting at its displeasure. A result of that would be to remove from the judicial process the capacity for other people with appropriate appeals the right to be heard in court.

It is well known that an increasing number of people quite rightly want access to the courts. The system is under great strain and it is clearly appropriate to clear from the system those who are abusing it, if that is at all possible. That will enable those who want to access the system to do so and obtain appropriate service. It is very hard to believe that a man who says he holds the ideals and has the support of the less well-off in this community would suggest that there ought to be no capacity for the courts to inhibit those who wish to abuse the process, and thereby enable people — including people who often lack the funds that others might have — to rightly access the system.

It is extraordinary that the honourable member for Niddrie believes vexatious and frivolous appeals ought to continue with the court having no capacity to inhibit them.

Committee divided on clause:

Ayes, 50

Andrighetto, Mr
Ashley, Mr
Burke, Ms

McGill, Mrs
McLellan, Mr
MacLellan, Mr

Clark, Mr	McNamara, Mr
Coleman, Mr	Maughan, Mr
Cooper, Mr	Napthine, Dr
Dean, Dr	Paterson, Mr
Dixon, Mr (<i>Teller</i>)	Perrin, Mr
Doyle, Mr	Perton, Mr
Elder, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr
Finn, Mr	Reynolds, Mr
Gude, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Savage, Mr
Jasper, Mr	Shardey, Mrs
Jenkins, Mr	Smith, Mr E. R. (<i>Teller</i>)
John, Mr	Smith, Mr I. W.
Kennett, Mr	Spry, Mr
Kilgour, Mr (<i>Teller</i>)	Tehan, Mrs
Lean, Mr	Thompson, Mr
Leigh, Mr	Traynor, Mr
Lupton, Mr	Treasure, Mr
McArthur, Mr	Wade, Mrs
McCall, Ms	Wells, Mr

Noes, 29

Andrianopoulos, Mr	Hulls, Mr
Baker, Mr	Kosky, Ms
Batchelor, Mr	Langdon, Mr (<i>Teller</i>)
Bracks, Mr	Leighton, Mr
Brumby, Mr	Lim, Mr (<i>Teller</i>)
Cameron, Mr	Loney, Mr
Campbell, Ms	Maddigan, Mrs
Carli, Mr	Micallef, Mr
Cole, Mr	Mildenhall, Mr
Davies, Ms	Pandazopoulos, Mr
Delahunty, Ms	Robinson, Mr (<i>Teller</i>)
Garbutt, Ms	Seitz, Mr
Gillet, Ms	Thwaites, Mr
Haermeyer, Mr	Wilson, Mrs
Hamilton, Mr	

Clause agreed to.

Clauses 12 and 13 agreed to.

Clause 14

Mr HULLS (Niddrie) — This is another outrageous clause and the opposition will not support it. It is designed to prevent a person abandoning an appeal to the County Court after 30 days unless the court finds —

The ACTING CHAIRMAN (Mr Richardson) — Order! I ask the committee to come to order. Those honourable members who wish to conduct conversations may do so outside. The committee has become most disorderly.

Mr HULLS — This is not only an unjust clause; it is grossly inefficient and patently ludicrous. The effect of the provision is that you cannot abandon an appeal unless there are exceptional circumstances, and those can be established only if a hearing takes place, in

which case parties need to be represented. So one party will, in all likelihood, apply for legal aid. Given the legal aid crisis that the Attorney-General says does not exist in Victoria, that is an absolute joke.

The clause is grossly inefficient and makes no sense at all. The Attorney-General should advise the committee whether a grant of legal aid for an appeal will be provided if applied for, and whether special funds will be set aside for a special application to abandon the appeal. Does the Attorney-General agree that such a system would virtually ensure early abandonment by defendants of their appeals if they are unable to get legal aid, irrespective of the merits of the appeals?

Does she also agree with the Scrutiny of Acts and Regulations Committee report that in such cases the amendment may impact adversely on persons who are reliant on legal assistance and who, without such assistance, are not in a position to assess in an informed manner the merits of their case and therefore the likelihood of success of the case on appeal? Will the Attorney-General respond to the issues raised by the Scrutiny of Acts and Regulations Committee? Or will she ram the clause through without proper consideration?

It is an unjust clause that is part of an unjust bill, and the opposition does not support it.

Mrs WADE (Attorney-General) — The clause has already been explained on several occasions. Obviously the honourable member for Niddrie has not been listening to the debate. A person can apply for an appeal and has 30 days after the sentence is handed down in the Magistrates Court to abandon the appeal without any problem. However, if after 30 days the appellant indicates that he or she still wants to go ahead, the appeal cannot be abandoned without leave of the court, and leave of the court will be granted only in exceptional circumstances.

As I have explained, the aim of the provision is to ensure that anyone who is contemplating an appeal seriously considers the basis for it and does not go ahead if it is frivolous, vexatious or totally lacking in substance. The government is putting the provision forward because of the tendency for people to lodge appeals and abandon them on the day of the hearing. A judge set down to hear appeals might find they are not going ahead. In some cases appellants simply do not turn up because they have decided the appeals are not likely to be successful.

The provision locks people into appeals after 30 days, but I stress that they have up to 30 days to get legal

advice. The turnaround time for Victoria Legal Aid, if legal aid is needed, should be sufficient to allow an appellant to get assistance, if it is forthcoming, on the basis that the appeal has substance. I have no difficulty with the provision. It will lead to a more efficient handling of appeals in the County Court.

Dr DEAN (Berwick) — It is important to recognise, as all judges would, that there is a problem with appeals in the County Court. Some 27 per cent of appeals are abandoned at some time, either at the start of the hearing or during that process. More than a quarter of appeals waste the time of the court. Such a situation cannot be allowed to continue. To overcome the problems caused by 27 per cent of appeals being abandoned — problems that are greatly distressing to the judges involved — positive action needs to be taken.

We need to get back to the basis of an appeal, which is that a person knows all his or her rights in advance. That person is warned and must sign a statement that he or she knows the appeal may result in the sentence being increased. Once all the legal advice is received, that person has to make a decision. Surely at that stage, having made that decision, he or she ought to be required to continue with the appeal unless some exceptional circumstance exists. If we continue without some mechanism to deal with people who vexatiously and frivolously abuse it, the system will buckle under the pressure, thereby denying access to those who need it.

The bill is an appropriate reply by a responsible government to the concerns expressed by those in the judiciary who see the system being abused. It is not surprising that members on the other side, who are not into leadership, solving problems or correcting difficulties, have adopted the position they have. It is clear that members on the other side are happy to accept that more than a quarter of appeals are abandoned prior to their conclusion for no reason. If that is their attitude, if that is the way they think the system should be run, it is an indication of how, if they came to hold office, they would approach the modernisation of the legal system.

The Attorney-General has the courage to lead. She listens to what the judiciary has to say and responds. I congratulate her on having the strength to make these decisions, in contrast with members opposite.

Committee divided on clause:

Ayes, 50

Andrighetto, Mr
Ashley, Mr

McGill, Mrs
McLellan, Mr

Burke, Ms
Clark, Mr
Coleman, Mr
Cooper, Mr
Dean, Dr
Dixon, Mr (*Teller*)
Doyle, Mr
Elder, Mr
Elliott, Mrs
Finn, Mr
Gude, Mr
Henderson, Mrs
Honeywood, Mr
Jasper, Mr
Jenkins, Mr
John, Mr
Kennett, Mr
Kilgour, Mr (*Teller*)
Lean, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms

Macellan, Mr
McNamara, Mr
Maughan, Mr
Naphthine, Dr
Paterson, Mr
Perrin, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Reynolds, Mr
Rowe, Mr
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr E. R. (*Teller*)
Smith, Mr I. W.
Spry, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr
Treasure, Mr
Wade, Mrs
Wells, Mr

Noes, 30

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Cole, Mr
Cunningham, Mr
Davies, Ms
Delahunty, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr

Hamilton, Mr
Hulls, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Leighton, Mr
Lim, Mr (*Teller*)
Loney, Mr
Maddigan, Mrs
Micallef, Mr
Mildenhall, Mr
Pandazopoulos, Mr
Robinson, Mr (*Teller*)
Seitz, Mr
Thwaites, Mr
Wilson, Mrs

Clause agreed to.

Clauses 15 to 17 agreed to.

Clause 18

Mrs WADE (Attorney-General) — I move:

3. Clause 18, line 10, omit "an appeal" insert "an application for leave to appeal against sentence brought".
4. Clause 18, line 11, after "may" insert " , if it considers that the application is frivolous or vexatious or brought without there being any reasonably arguable grounds for it,".
5. Clause 18, line 15, omit "appeal or of the".
6. Clause 18, line 16, omit "appeal" (where secondly occurring) and insert "application".

The amendments deal with appeal provisions relating to the Court of Appeal. Section 18 of the Sentencing Act 1991 provides a mechanism for recognising the time an offender has been held in custody prior to sentence and

for treating such terms as a period of imprisonment already served under the sentence.

The first aspect of clause 18 is to extend the application of that provision to appeals to the Court of Appeal. I imagine the provision would have the support of the opposition, but under the amendments as currently drafted — —

Mr Hulls interjected.

Mrs WADE — As the honourable member for Niddrie would have heard if he had been listening rather than talking to everyone else, I said that currently the act does not allow for time spent awaiting an appeal to be taken into account when a sentence is handed down. I would have thought, from all he said earlier, that he would support this particular amendment.

Mr Hulls — In your dreams!

Mrs WADE — By saying, 'In your dreams', the honourable member for Niddrie demonstrates he has no understanding whatsoever of the subject. I sometimes wonder whether he has any legal qualifications.

Honourable members interjecting.

The ACTING CHAIRMAN (Mr Richardson) — Order! The Attorney-General and the honourable member for Niddrie having had that exchange, I ask the committee to come to order.

Mrs WADE — Under the amendments as currently drafted the Court of Appeal will have a discretion to order that up to three months of time spent in custody pending the determination of the appeal not be reckoned as time served under the sentence. The intention was that the power would be invoked in only extreme circumstances — that is, in frivolous or totally unmeritorious cases. I have every confidence that the Court of Appeal will exercise that particular power in only rare circumstances.

The clause has been subject to some criticism since the bill was introduced into the house last year and the government has introduced the amendments to take that criticism into account. Amendment 4 provides that the power will be exercised only where the Court of Appeal is satisfied that the application for leave to appeal is frivolous or vexatious or brought without any reasonably arguable grounds for it. That was always the intention and the amendment clarifies the matter by making it absolutely clear that the provision is not to be used in other circumstances.

The government has also amended the proposed amendment to limit the provision to appeals against sentence and not to include appeals against conviction. I commend the amendments to the house. To save my speaking on amendment 9, I point out that that amendment is consequential upon the amendments now before the committee.

Mr HULLS (Niddrie) — That is not a very appealing argument from the Attorney-General. She has been talking a load of absolute nonsense.

Mrs Wade interjected.

Mr HULLS — The Attorney-General should calm down a touch. She knows full well that it is common practice for judges to take into account in any subsequent sentence the time served in gaol pending an appeal. It is a nonsense for the Attorney-General to say that such power is not provided by the Sentencing Act. As the Attorney-General would well know if she had practised law in any real sense rather than sitting in some dark room writing legislation, when imposing a sentence judges take into account time spent in gaol pending an appeal.

The Attorney-General is now imposing the threat of a term of imprisonment on people who decide to exercise their democratic right to appeal. The government would not punish the Crown if an appeal is unsuccessful. It believes that the best way to fix up legal aid, which has been in trouble, is to punish any person who dares to exercise his or her democratic right to appeal.

You do not have bipartisan support for the proposal. Your own Scrutiny of Acts and Regulations Committee — —

The ACTING CHAIRMAN (Mr Richardson) — Order! The honourable member for Niddrie knows that when he uses the expression 'you' he is referring to the Chair. I ask him to desist.

Mr HULLS — I apologise profusely, Mr Acting Chairman. The Attorney-General knows full well that her own Scrutiny of Acts and Regulations Committee has expressed grave doubts about the clause. Indeed, it has raised the question of whether it breaches the International Covenant on Civil and Political Rights. Has the Attorney-General received legal advice on this matter? As I have said time and again, the clause would make Dr Mahathir, the Prime Minister of Malaysia, proud. This is Victoria, Australia — not Malaysia. I should have thought that the Premier, the Dr Mahathir of Victoria, would have grave concerns about the proposed legislation.

I should have thought the honourable member for Doncaster, who is a small-l liberal and a decent human being, would be able to convince the Premier to wake up to himself for once in his life, look at the legislation properly and not go down the same track as Dr Mahathir. The Premier should not impose the threat of a legal sanction on people simply because they want to exercise their democratic right of appeal.

The provision is absolutely obnoxious. I ask the Attorney-General to name any legal body, judge or senior member of the legal profession who agrees with the clause. If the Attorney-General's parliamentary secretary intends to make yet another useless contribution to the debate on the clause, I invite him to have the guts to at least tell the committee who supports the clause. If the government has consulted on the measure the parliamentary secretary will be able to tell the committee the names of people who support this provision. Nobody considers it appropriate to impose the threat of a term of imprisonment on somebody simply because that person wants to appeal.

The opposition vehemently opposes the proposed legislation in general and the clause in particular. It will call for a division on the amendments and it will campaign in the electorates of the Attorney-General and the Premier and particularly in Berwick, where Phil Reed is about to knock the honourable member for Berwick from his seat. One of the main aspects of his campaign will be the obnoxious, antidemocratic piece of proposed legislation the government is promoting.

Dr DEAN (Berwick) — As I have said before, it is sad to see the honourable member for Niddrie lose control in this house again and again. The classic example of a member of this Parliament who has lost control is a member who shouts into the microphone, yelling abuse at all the honourable members he can see in the house, hoping to make some impact. Of course, the only reason for someone doing that is that he knows his position is weak.

Let me explain why the honourable member for Niddrie has a weak position. He came into this house and said the government was ramming this legislation through until I pointed out to him — if he did not know this he must be away with the fairies — that the proposed legislation had been sitting on the table for all to see for months and months. He said the Attorney-General had therefore ignored all considerations of those who had sought to have some input into these provisions, yet here is a provision — the exact provision he was discussing — where the Attorney-General received input and said, 'Fair enough, I will change the position'.

She then moved amendments so that rather than there being a reference to conviction it was a reference to appeals on sentence. Here we have a situation where the very thing this man has been shouting into the microphone about for so long — that the government and the Attorney-General are not willing to listen — is categorically demonstrated to be incorrect. Criticism was made, the Attorney-General listened, and she moved an amendment to the provision.

Let us get back to fundamentals. The fundamental position is that people are abusing the system. The honourable member for Niddrie challenged me and said, 'You name all those people who have said that this is a problem'. I say to him, 'Why don't you read a few judgments of the Court of Appeal, because if you do you will find there are a number of judgments where this issue has been raised by judges who have said, "Please do something about it."?'.

When a judge takes the time to mention in his judgment a problem with a particular piece of legislation you can be assured that that judge had grave concerns. What were those grave concerns? The grave concerns were that the processes of the court were being abused. There is nothing worse in our community, which operates on the basis of the separation of powers between the judiciary and the legislature, than what happens when one of those areas — the judiciary — is abused and there is a cry for help.

When a judge says in a judgment, 'Our sector of the constitution is being abused, please help us', the honourable member for Niddrie says, 'Get lost'. He also says that when interest groups come to him he will succumb. He is too frail to make the changes. The difference between the honourable member for Niddrie and the Attorney-General is that she is not too frail to make amendments. What is the amendment? The amendment is that if you bring a frivolous or vexatious appeal to the Court of Appeal the judges may take no notice and may do nothing but the judges are given the power, and we trust them to use that power, to do something about it. The government has simply equipped the judiciary to handle a problem for which it has cried out for help to handle.

If the honourable member for Niddrie were ever put in the position to which he aspires, he would never be able to show the leadership the Attorney-General has shown on every amendment to the act. It is a crying shame that he not only does not read judgments but does not understand that we need to modernise our system and simply hides under the banner of politics to talk rubbish in this chamber.

MAGISTRATES' COURT (AMENDMENT) BILL

126

ASSEMBLY

Wednesday, 24 March 1999

Committee divided on amendments:

Ayes, 50

Andrighetto, Mr	McGill, Mrs
Ashley, Mr	McLellan, Mr
Burke, Ms	MacLellan, Mr
Clark, Mr	McNamara, Mr
Coleman, Mr	Maughan, Mr
Cooper, Mr	Naphthine, Dr
Dean, Dr	Paterson, Mr
Dixon, Mr (<i>Teller</i>)	Perrin, Mr
Doyle, Mr	Perton, Mr
Elder, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr
Finn, Mr	Reynolds, Mr
Gude, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Savage, Mr
Jasper, Mr	Shardey, Mrs
Jenkins, Mr	Smith, Mr E. R. (<i>Teller</i>)
John, Mr	Smith, Mr I. W.
Kennett, Mr	Spry, Mr
Kilgour, Mr (<i>Teller</i>)	Tehan, Mrs
Lean, Mr	Thompson, Mr
Leigh, Mr	Traynor, Mr
Lupton, Mr	Treasure, Mr
McArthur, Mr	Wade, Mrs
McCall, Ms	Wells, Mr

Noes, 30

Andrianopoulos, Mr	Hamilton, Mr
Baker, Mr	Hulls, Mr
Batchelor, Mr	Kosky, Ms
Bracks, Mr	Langdon, Mr (<i>Teller</i>)
Brumby, Mr	Leighton, Mr
Cameron, Mr	Lim, Mr (<i>Teller</i>)
Campbell, Ms	Loney, Mr
Carli, Mr	Maddigan, Mrs
Cole, Mr	Micallef, Mr
Cunningham, Mr	Mildenhall, Mr
Davies, Ms	Pandazopoulos, Mr
Delahunty, Ms	Robinson, Mr (<i>Teller</i>)
Garbutt, Ms	Seitz, Mr
Gillett, Ms	Thwaites, Mr
Haermeyer, Mr	Wilson, Mrs

Amendments agreed to.

Committee divided on amended clause:

Ayes, 51

Andrighetto, Mr	McGrath, Mr W. D.
Ashley, Mr	McLellan, Mr
Burke, Ms	MacLellan, Mr
Clark, Mr	McNamara, Mr
Coleman, Mr	Maughan, Mr
Cooper, Mr	Naphthine, Dr
Dean, Dr	Paterson, Mr
Dixon, Mr (<i>Teller</i>)	Perrin, Mr
Doyle, Mr	Perton, Mr
Elder, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr
Finn, Mr	Reynolds, Mr
Gude, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Savage, Mr

Jasper, Mr	Shardey, Mrs
Jenkins, Mr	Smith, Mr E. R. (<i>Teller</i>)
John, Mr	Smith, Mr I. W.
Kennett, Mr	Spry, Mr
Kilgour, Mr (<i>Teller</i>)	Tehan, Mrs
Lean, Mr	Thompson, Mr
Leigh, Mr	Traynor, Mr
Lupton, Mr	Treasure, Mr
McArthur, Mr	Wade, Mrs
McCall, Ms	Wells, Mr
McGill, Mrs	

Noes, 30

Andrianopoulos, Mr	Hamilton, Mr
Baker, Mr	Hulls, Mr
Batchelor, Mr	Kosky, Ms
Bracks, Mr	Langdon, Mr (<i>Teller</i>)
Brumby, Mr	Leighton, Mr
Cameron, Mr	Lim, Mr (<i>Teller</i>)
Campbell, Ms	Loney, Mr
Carli, Mr	Maddigan, Mrs
Cole, Mr	Micallef, Mr
Cunningham, Mr	Mildenhall, Mr
Davies, Ms	Pandazopoulos, Mr
Delahunty, Ms	Robinson, Mr (<i>Teller</i>)
Garbutt, Ms	Seitz, Mr
Gillett, Ms	Thwaites, Mr
Haermeyer, Mr	Wilson, Mrs

Amended clause agreed to.

Clause 19

Mrs WADE (Attorney-General) — I move:

7. Clause 19, line 7, omit "119" and insert "120".
8. Clause 19, line 9, omit "120." and insert "121.".
9. Clause 19, line 15, omit "appeal or notice of".

Amendments 7 and 8 correct the numbering in the Sentencing Act, and amendment 9 is consequential on the amendments made to clause 18.

Amendments agreed to; amended clause agreed to.

Clause 20

Mrs WADE (Attorney-General) — I move:

10. Clause 20, line 18, omit "After section 590" and insert "At the end of Part 7".
11. Clause 20, line 20, omit "591." and insert "592.".

These amendments are statute law revision-type provisions correcting numbering problems because apparently the Crimes Act contains two sections numbered 590.

Amendments agreed to; amended clause agreed to; clauses 21 to 30 agreed to.

Clause 31

Mrs WADE (Attorney-General) — I move:

12. Clause 31, page 43, after line 11 insert —

“(e) in Part 7, for “590,” (where secondly occurring) substitute “591.”

This amendment renumbers section 590 of the Crimes Act.

Amendment agreed to; amended clause agreed to.

Reported to house with amendments.

Remaining stages

Passed remaining stages.

STATUTE LAW REVISION (REPEALS) BILL

Second reading

Debate resumed from 13 November 1998; motion of Mrs TEHAN (Minister for Conservation and Land Management).

Mr MILDENHALL (Footscray) — The opposition has no difficulties with the intention or content of the bill and wishes it a speedy passage.

Mrs WADE (Attorney-General) — This is a great contrast to the debate on the previous bill on the notice paper, and I must say that the honourable member for Footscray is a much nicer person to deal with than the person who dealt with the previous bill.

I am sure the opposition has looked at the bill with great care and I am grateful for its support.

Mr THOMPSON (Sandringham) — As a member of the redundant legislation subcommittee I would like to make a few brief remarks in relation to the clearing of the statute book on a range of provisions. Important work has been undertaken on a bipartisan basis by the subcommittee. I am pleased to support the passage of the bill and I thank the house for the opportunity to make a submission.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

PUBLIC SECTOR REFORM (FURTHER AMENDMENTS) BILL

Second reading

Debate resumed from 13 November 1998; motion of Mrs TEHAN (Minister for Conservation and Land Management).

Mr BRACKS (Leader of the Opposition) — On face value the bill, which amends the Public Sector Reform (Miscellaneous Amendments) Act, appears to make mainly textual changes by correcting typographical errors and making other minor amendments. It reveals the poor drafting of the original bill and the related Public Sector Management and Employment Bill. It is not that there is anything fundamentally wrong with the proposed amendments, but the opposition was opposed to the original bill and therefore, for the sake of consistency, will also oppose this bill.

The opposition believes that both the Public Sector Reform (Miscellaneous Amendments) Bill and the Public Sector Management and Employment Bill — now acts — have diminished the independence of the public sector in Victoria and compromised the frank and fearless advice that has been the hallmark of the Victorian system for some time.

We should remember some of the provisions in the original Public Sector Management and Employment Bill and the related Public Sector Reform (Miscellaneous Amendments) Bill. Clearly the bills minimised procedural fairness for non-executive officers by removing discipline and grievance hearings and government or management actions from external review via regulated action. The bills also removed the period of notice to be given on termination, which was a significant omission from the original arrangements, and therefore required them to be developed agency by agency with other guidelines. The original legislation also moved to severely erode job security and open the way to further casualisation of the service.

One might say, ‘Well, the rest of the work force does not have secure arrangements any more; why should the public sector have secure arrangements?’. It is an understandable view, but it is important to have continuity of arrangements for the public sector because the advice the public sector gives to ministers and to the executive should be given without fear of losing one’s job, fear of intimidation or fear of contracts being cancelled because the advice is not favourable or is critical or adversarial in nature.

It is true there is an understanding that the notion of long-term job security has changed in the wider work force, but there are good, clear, understandable arguments why we need better protections in the public sector to avoid indiscriminate action being taken to prevent governments from receiving the proper advice they need — and they need critical advice.

The worst thing that could happen is to have a series of public servants, non-executive and executive, employed on short-term tenure contracts, with the contracts requiring the officers to second-guess the minister and their managers and give them the advice that they think they want rather than the advice they need. That is the critical part in the arrangements and that is why in principle the opposition opposes the bill. The opposition does not oppose the minor fundamental changes but opposes the values inherent in the measure.

The original legislation removed the long service leave entitlement and limited the concept of a career in the public service. These provisions were always enshrined in the old Public Service Act. The earlier legislation opened the way for nepotism and cronyism by removing the obligation for notification of vacancies as of right and opened the area up much wider. It eroded redeployment possibilities by terminating the publication of the Victorian public sector notices, thus increasing the potential for greater job losses, especially in rural Victoria.

The earlier bill eroded the notion of a public service officer entering a service, not just a job, where the officer may carry out a particular function for a certain department at a point of time, and if the position is changed or made redundant the officer can move across into another capacity. That changes with the present bill because people's allegiance and loyalty come to the one employer and department. Each department is effectively a private sector employer. The notion of a service goes in this new arrangement. What remains is the arrangement where departments are employers, and the notion of a public service is consequently reduced.

The original bill purported to place employees on a similar footing to employees in the private sector but did not give them the same rights and salaries as those in the private sector. Nor did the employer forgo its special rights as the state government regarding the jurisdiction of the Industrial Relations Commission for the dismissal of public servants.

Historically in the public sector in Victoria and nationally, salary sacrifice was an accepted and legitimate reason for people entering the service because they knew they would receive other benefits.

They had long-term service and a career with permanency, and those often highly skilled officers chose to remain in the public service rather than take the higher salaries that they would have received in private sector positions in the wider workplace. If the notion of surety is taken out and the salaries are similar, those officers will be disadvantaged in the future. The opposition opposes the underlying principle in the original act, and therefore the proposed amendments.

The Labor Party will do what is contained in its 137-page New Solutions policy — the plan for Victoria. Under a future Labor government two things will happen. The Public Sector Management and Employment Act and other related acts will be abolished and replaced with a new act that will ensure the independence of the public service — it will be a service again — and secure employment arrangements that will enable public servants to advise without fear or favour. Those two things will be enshrined in the principles of the new act.

Secure employment arrangements may mean longer term or open-ended contracts, but will not mean the sorts of arrangements which now pervade the public sector and which provide that public servants who are critical lose their jobs. That is not what the Labor Party wants. The principles the party will take into government enshrined in a new act are independence; promotion and appointment on the basis of merit; proper internal appeals processes; dispute resolutions arrangements; internal arrangements that are dealt with in house and dealt with externally only if they cannot be handled in-house; and compliance with equal opportunity principles.

Those principles are designed to ensure an independent public service that is free from political interference and is able to give advice without fear or favour. That is the fundamental difference from what applies now. Honourable members should forget about this particular change because although there is some poor drafting and some typographical errors the bill and the principal act are designed to take away the notion of a public service that is able to give advice without fear or favour. The legislation is not only not in the public interest, it is also not in the minister's or the government's interests because they are not receiving the best possible advice. For those reasons the opposition opposes the bill.

Mr MILDENHALL (Footscray) — The opposition hopes another former public servant will respond. It will be interesting to see what ex-colleagues of the Minister for Youth and Community Services have to say about the proposals in the bill.

I join with the recently elected Leader of the Opposition in opposing the legislation. It is a continuation of another chapter in the general running down of the protections of the strength, integrity and independence of the state public service, a process that was put on a firm footing with the passage of the principal act in the autumn sessional period last year.

The opposition remains fundamentally opposed to the principal features of the legislation because of three main concerns — a reduction in the independence of the public service, the destruction of the concept of a career in the public service and the likelihood that the legislation will erode the terms and conditions of more than 25 000 public sector workers. A basic difficulty with the bill is that although its intention is to somehow adopt the protections of private sector employment conditions to the public sector, that principle cannot be adopted by, adhered to or absorbed into legislation. The honourable member for Williamstown pointed that out strongly in his contribution in the debate on the principal act last May when he referred to the impact of the AEU case in the High Court. The effect of the court's ruling was that Victorian public servants would not have the automatic rights that exist under the relevant federal legislation.

A situation exists where not only are the public sector conditions and protections being watered down but also private sector conditions and protections, and avenues of negotiation and appeal do not apply. It has been pointed out that in an enterprise in the private sector of equivalent dimensions to the state public service there would have been at least some negotiation, sense of agreement or attempt to bring the work force inside. The principal act was introduced without any agreement with the work force or its representatives or any notification other than the minimum required by the legislative process. At its most cynical the legislation represents the final step in the absolute centralisation of power in the public sector work force back in the Premier's office. Victoria has an empire that emanates from the Premier's office — the heads of the bureaucracy are not accountable in a contractual sense to their ministers.

The head of the agency for which the Minister for Youth and Community Services is responsible is contracted to the Premier. Weekly meetings are held between the heads of agencies and the head of the Premier's department, to which ministers are not invited. The lines of accountability, the power and responsibility for contracts, move directly from the Premier's office to the heads of the bureaucracy. Senior officers on short-term contracts, using that authority and direction from the Premier's office, wind back the

working conditions of public servants such as firefighters and child protection workers.

The line of authority I have referred to is unhindered by the democratic process, unless the Premier is affected — and that is one of the opposition's aims. During the debate on the principal act one of the defences used by government members was that the Office of the Public Service Commissioner would be the umpire or ombudsman in this situation. They said it would offer protection to public servants and would ensure that principles of equity, employment conditions, merit and so on were adhered to.

It is interesting that at that time the determinations of the former Public Service Commissioner were not available. The government, true to its normal practice, offered the 'trust-me' promise to Parliament and to its employees. It was called the adoption of minimum standards but came under the formal title of commissioner directions. There was some debate about whether those commissioner directions were to be advisory, mandatory and compulsory on agencies.

A fair bit of time was devoted to that in the debate. In particular, the honourable member for Malvern relied on it. He was adamant that that would be the essential protection for public servants, that minimum employment conditions would be declared and maintained and a comprehensive set of standards would be laid down.

Since then the directions have been published and, needless to say, it is quite a disappointing read. The directions are very general and wishy-washy. Consistent with the way the government goes about its business, the directions are enabling. They set out principles and exhortations to agency heads that they should go about their business with an eye to fair play and to principles of merit and equity. However, at the agency level it is disappointing to see exactly how vague and devolved the implementation and interpretation of those principles are.

To overcome the enormous concern of the state public service work force, which was concerned about core employment conditions, it was argued by the Public Service Commissioner that the award and commissioner directions would protect core employment conditions for public servants. There are no core employment conditions outlined in the commissioner directions. The headings are, 'General information', 'Selecting on merit', 'Managing and valuing diversity', 'Managing underperformance', 'Reviewing personal grievances' and 'Upholding

public sector conduct'. The upholding of public sector conduct was a rehash of the 1995 code of conduct with a new foreword on the front which says that this code of conduct now becomes a commissioner direction as outlined in the 1998 act. If public sector employees were looking for help, comfort or reassurance from the implementation of the act they were not to find it.

One valid comment is that an opportunity to repair this flawed, vague, loose legislation, which has loopholes that you could drive a truck through, has not been taken up. The implementation of the Public Sector Management and Employment Act has demonstrated to both public sector employees and this house that the criticisms the opposition was making at the time were valid. I refer in particular to a section of the commissioner directions headed 'Selecting on merit' which are meant to provide some form of comfort to public sector employees. One would have thought that those minimum standards would contain protections, an absolute requirement and a tight framework to ensure that cronyism, political favouritism and reasons for recruitment other than absolute merit were excluded from the criteria for selection of employees to public sector agencies. However, the intent of the minimum standards sounds worthy:

The best available people are recruited and selected for advancement in the public sector.

The third minimum standard states:

Vacancies may be exempted from advertisement:

where the agency head certifies there is no breach of merit and equity.

That is it. It is a broad exemption where an agency head may sign off a certificate saying, 'This is what I believe'. There is no definition, no process requirement and no protections. It is extraordinarily loose.

The approval requirements state:

There are no approval requirements external to the agency.

So the authority rests with the agency head. That is one of the other criticisms the opposition has made. The eight central departments of the public sector become eight separate employing agencies, eight corporations for all intents and purposes. The heads of the agencies become the employers. The employers are able to exempt themselves from some of the key protections. The logical absurdity of that exemption is not really addressed. When one considers the proposition:

The best available people are recruited and selected for advancement in the public sector ...

One recognises that there is no absolute requirement or standard practice to advertise. One wonders what protections there are to ensure that the best available people are recruited. If the best available people do not know that there is a vacancy, you cannot ensure that you have selected them. So those loopholes and difficulties are contained in the minimum standards.

One would have also thought that the Victorian legislation would have had the force to say, 'For the Victorian public sector we will set minimum standards below which practices will not be contemplated'. But it has one of the fascinating general overrides. Part of the preamble of the commissioner directions says:

Grievance review processes in workplace agreements override the minimum standards in this direction on matters covered by that agreement.

So there is an ability for all sorts of agreements to waive the protections, as loose as they are, from being adopted. With the ability to override the minimum standards, one struggles to identify exactly what level of non-adherence to the principles, in the case of reviewing personal grievances, are contemplated within the scope of the legislation.

I looked for a greater sense of assurance and had hoped that the minimum standards would be reasonably comprehensive and tight, but I did not find that. The proposed legislation is brief. It contains some delightful catch-all clauses which say things like, 'Employees can be terminated for any other reason that the agency head sees fit'. If the agency head cannot sack anyone under the specific five or six clauses above, he or she can always go to paragraphs (e) or (f) at the bottom of the list.

I looked for other protections. One trumpeted by the government is that the independent officer will report on the adherence to the principles and the minimum standards. So I looked for the annual report. I guess it is a bit unfair to expect a comprehensive analysis of adherence in the most recent annual report, given that the legislation only took effect at the start of July last year. But consulting the web site of the Office of the Public Service Commissioner provided no comfort at all. There was nothing in the annual report about the sorts of processes that would be adopted, and there was nothing on the web site about the work in progress. The only indication of how the office would proceed was an ominous one which said that it was about to downsize, contract out, and reduce its capacity — a predictable trend right throughout the public sector — that a consultancy would be let, and that there would be a formal review of the directions.

Those who are the victims, shall we say, of the legislation would be interested to know how the process will work, with what level of vigour, detail and scope the reporting will be carried out, and what level of access public sector workers will have to the office. But no detail was available.

The standard legislative practice has occurred here. Brief pieces of enabling legislation have been introduced granting ministers and chief executives enormous power, fettered only by mealy-mouthed platitudes about principles — that we would all agree with — and which offer few protections.

The power is in the bill. The protections are meant to be in the detail, but they are offered via the 'trust-me' provisions introduced after the legislation is introduced. We are told the details will be provided. We are never in a position to pass judgment on the package as a whole; we are expected only to be able to form judgment probably many years after the legislation has taken effect.

It is a shame that the original concerns that spread throughout the public sector upon the introduction of this legislation last year have not been addressed. The opportunity to do so has not been taken up with this bill. Some of the glaring gaps, feeble protections, and loopholes have not been taken seriously, and the concerns of work force representatives have been totally ignored. Rather than commissioner directions which offer a level of comfort, limp-wristed and feeble sets of protections and mechanisms are given to ensure that the principles of the legislation are adhered to.

We oppose the legislation. While nobody would object to its addressing typographical errors, its overall intent, its role and the process that it is part of are objectionable to both the opposition and to government employees. For their work, toil, and commitment to the state, such employees should have been treated better by the government with this legislation.

Ms CAMPBELL (Pascoe Vale) — The Public Sector Reform (Further Amendments) Bill is an interesting piece of legislation, but it is not what the government claims it is — that is, a bill which contains minor consequential amendments and corrects typographical errors associated with the Public Sector Reform (Miscellaneous Amendments) Act 1998. Although I would like to make many points about that act, I will contain my remarks to the Adoption Act.

Schedule 1 of the act will be amended so that in paragraph (a) of the provision relating to section 69(3) of the Adoption Act 1984 the term 'wherever

occurring' will be inserted after 'Director-General'. It is more than a typographical error; it is an extremely relevant amendment which relates to how seriously the Department of Human Services wishes to address the issue of foreign adoptions. The relevant section of the Adoption Act provides that the court can direct that a notice of an application be given to the Director-General — a very important point. That ensures that foreign adoptions are closely monitored by the Department of Human Services.

The amendment will mean that notifying the Director-General will no longer be mandatory but will occur only as a result of an arbitrary decision made by a court. That is a dangerous precedent for questionable intercountry adoptions. If the Department of Human Services is not obliged to notify its Director-General, it may claim ignorance with impunity, it would seem, unless the Minister for Youth and Community Services is able to contradict that. The amendment in the bill allows the courts to decide arbitrarily when the Director-General should be notified. I believe the current legislation is good in that it protects children, families and the state against possible litigation involving questionable foreign adoptions, and I have addressed my remarks particularly to that section of the legislation.

As opposition members have stated, the earlier legislation was reprehensible. It was introduced without consultation, and it is well known that the independence of 23 000 public sector employees was severely compromised. This bill is superfluous if people believe in the notion of a truly independent public service.

Mr ROBINSON (Mitcham) — I am reminded of the film *Groundhog Day* where the main character relives one day of his life over and over again. I say that because the reforms of the public sector seem to have boomeranged back into the house in record time. The principal bill received the royal assent on 26 May 1998, yet the amending bill we are now debating was read a first time only six months later, in November 1998. Like Bill Murray, we are revisiting those same provisions of the original bill that the opposition found objectionable last year and continues to find objectionable.

The amending bill, like the principal bill, affected 23 000 public servants in Victoria. The opposition does not support the bill for the reasons outlined earlier. Another reason it does not support the bill is that, although it aims to correct poor drafting in the principal bill, it is itself badly drafted. The explanatory memorandum to the bill indicates that it purports to make only minor amendments to the Public Sector

Reform (Miscellaneous Amendments) Act 1998. However, I dispute that the bill makes only minor amendments because included in the two schedules is a total of 50 substitutions, 11 insertions and 2 omissions. On my reading of the definition of 'minor' an example would not be 50 substitutions, 11 insertions and 2 omissions, and they are necessary after only six months. In that respect the bill is more akin to a substitution racket. The government should not be allowed to get away with saying that the bill makes only minor changes to what is an important act.

The principal bill was an appalling piece of draftsmanship, particularly given the fact that the government prides itself on literacy. With your background, Madam Acting Speaker, you should know the significance of literacy for young children. The bill and the act it proposes to modify would have to be serious contenders for the worst-drafted pieces of legislation in the past seven years. Opposition members would like to know who was responsible for the drafting of the principal act because it has led us, like Bill Murray, back here again less than a year later, wasting Parliament's valuable time on amendments that should not be necessary. I would like to know whether a public servant was responsible for the poor drafting or whether it was a political minder. Someone has not been doing the homework and it is not good enough that Parliament has to revisit legislation every few months. If proper consultation had taken place before the bill came into the house there would be a reasonable expectation that it would be in a form that would suffice for some time.

Two good examples of the appalling drafting of the principal bill are addressed in the amending bill. Clause 9 of schedule 1, which relates to section 5(1)(b) of the Estate Agents Act 1980 proposes to substitute for the words 'Department of Conservation and Environment' the words 'Department of Conservation and Natural Resources'. I find it amazing that even an incompetent draftsman could get the name of a department incorrect when drafting a major piece of legislation, yet that appears to have happened.

Dr Napthine — The name has changed.

Mr ROBINSON — However, a possible explanation may be that the Minister for Conservation and Land Management prepared a memo to the draftsman but sent it to the wrong place or locked it in a drawer. She is known to have done those sorts of things in the past.

Similarly, clause 25 of schedule 1 proposes to amend the provision relating to section 3(1) of the Road Safety

Act by substituting for the words 'accredited drink-driving program' the expression 'accredited drink-driving education program'. Until the amendments pass through Parliament those provisions in the principal act have the opposite meaning to what was intended. It stands to reason that 'accredited drink-driving program' means a program run by an agency to encourage people to drink-drive, but we all know they are designed to do the exact opposite. It is an appalling mistake that should never have been allowed into Parliament in the first instance.

The bill is an embarrassment to government members who so proudly stood up less than a year ago insisting that the principal act is an efficient piece of legislation. It is not, and anyone who wants to argue the toss needs only to consider the time wasted this evening debating the amendments. In April and May last year numerous government speakers were absolutely certain that the original bill was an efficient piece of legislation based on adequate consultation. Last year the opposition claimed that the principal bill was flawed because there had been inadequate consultation, and that is as true today as it was then.

Although the bill attempts to tidy up an objectionable principal act, the act will remain objectionable even after these amendments are passed.

Mrs MADDIGAN (Essendon) — The bill continues the Victorian Liberal government's attack on the independence of the public service. The government has shown through its introduction of the parent legislation that it does not like the Westminster system. Any honourable member who has been in this place for some time knows that the Premier is far more comfortable with a dictatorial style of government than he is with a fair and open system such as the Westminster system.

Two of the major tenets of the Westminster system that contribute to its strength are merit-based appointments and permanency of employment in the public service. The bill further erodes those two elements of government in Victoria. It is important to have merit-based appointments and permanency of employment in the public service because they help to safeguard the public from government stupidity, cronyism and corruption. It is a great shame that the government is so willing to abandon those safeguards and leave the people of Victoria without the sort of public service they have been able to rely on in previous years. It is not only public servants who feel under threat from the government; no doubt the people of Victoria do not have the confidence they once had in the public service.

The change has been brought about by the government's total misunderstanding of the nature of public service. It is not a business; it cannot be measured in purely economic terms. All the economic reforms the government has introduced and all the measures it has taken to downgrade the independence of the public sector mean nothing. The government does not understand the basic premise of public service, which has to be measured in terms of social indicators and the good of the community, not just in economic terms.

The Victorian public service used to stand for integrity and responsibility. People had faith in it; they trusted it and expected the government to run it independently and fairly. However, the government has shown time and time again that it does not care about that at all. It is hardly surprising that when you talk to Victorian public servants you find their motivation levels are at rock bottom. Most of them are too frightened to comment publicly; they are afraid of the government's vindictiveness.

The bill is a continuation of some of the government's most appalling attacks on the Victorian public service. It continues the government's destruction of the concept of a public service career, and it continues to erode the terms and conditions of the state's 25 000 public service employees. Those public servants are vital — the ones who are left, because the government has managed to get rid of so many — because they provide important services to the citizens of Victoria. They are the people who put out bushfires, protect our homes and families, teach our children, and look after the aged, the infirm and others who are unable to look after themselves.

All honourable members, including members of the Liberal and National parties, must be aware of the increase in the numbers of constituents who come to their offices because they cannot get the services they expect from their public servants. Those people find themselves on long waiting lists when they want to go to hospital. They find their children in crowded classes because there are not enough teachers, and they find that they have to wait because the officers they need to speak to are not available. In short, they find there is no system in place to help them.

One industry that demonstrates those problems more clearly than any other is the electricity industry. I am sure all honourable members have received complaints from their constituents about the current situation. When the SEC was in charge, you could ring up and speak to someone who could give you some assistance. These days you are doing well if you can get past a call

centre for any of these services. If you do not know which button to press, you will sit there forever — because there are no public servants left to help you. The government has removed public servants and tried to make public utilities operate as businesses. It does not understand that that is not their role.

I notice there have been no speakers on the bill from the government side. That is a clear indication of the government's lack of concern for the public service and for the wellbeing of public servants. The honourable member for Pascoe Vale outlined some of the problems in one of what the government claims are minor amendments to the bill. If the government continues with its current policy on the public service, all Victorians should feel concerned. Even though the public service reforms — or what the government claims are reforms — have been in place for some time, the last budget led to the loss of 600 more public sector jobs. It will be interesting to see whether the attack on the public service continues in the next budget.

Many members of the community are wondering whether there will be a public service left by the time the government loses office, which will be fairly shortly if the election is held as soon as we expect.

Mr Robinson interjected.

Mrs MADDIGAN — The honourable member for Mitcham suggests that if you get rid of all the public servants — —

The ACTING SPEAKER (Mrs Peulich) — Order! The honourable member for Mitcham has had his turn. The honourable member for Essendon, without assistance.

Mrs MADDIGAN — I think you have hurt the honourable member's feelings, Madam Acting Chair. I worked in the commonwealth public service for some years. Some of the traditions of the public service have involved the maintenance of certain standards and requirements. To some extent that can be seen in the rigidity of the selection process for employment and advancement and in the range of bureaucratic procedures that protect the service's independence.

The government has put in place a system of employment contracts. However, the people in charge of public service departments do not have as part of their performance measures social indicators such as reducing youth suicide rates or improving housing conditions. Most public service performance measures are based on saving money. The government has such a narrow focus that it sees public service in strictly economic terms. Members of the opposition and many

other people in the community would like to see social indicators become part of the assessment of success in the public service, about which a great deal has recently been written both here and in America and England. Those indicators show how society is faring by measuring more than just the economic results of cost cutting and staff cutting.

The narrow range of work that has been done thus far on social indicators reveals that the incidence of suicide, divorce and depression is increasing, which suggests an unhealthy society.

A public service that has very little money spent on it may appear to be efficient and effective, but the society in which it operates will be unhealthy. That is because the public service cannot provide the infrastructure that is needed to support the community. Unfortunately that is increasingly occurring in Victoria; and while the government persists in believing that economic indicators are the only measure of success, we can expect that to continue. It is a great shame that although the government can afford to provide greater assistance to the community, it does not attempt to do so.

Dr Napthine interjected.

Mrs MADDIGAN — I am not all that interested in the typographical errors, I am more interested in the government's mismanagement of the public service and its lack of concern for the community at large. Unfortunately, the government can deal only with minor matters rather than with the whole picture, which is why it is such a poor government.

Dr NAPHTHINE (Minister for Youth and Community Services) — I thank the opposition members who spoke on the bill for their contributions. The bill continues the significant public sector reform undertaken by the government. The Kennett government has worked in partnership with the Victorian community and the public service to restore Victoria's health and wealth and its pre-eminent place in Australia. I place on the record the fact that I have been a member of the public service. The government is proud of the state's public service, which has improved significantly under the Public Sector Management Act.

House divided on motion:

Ayes, 52

Andrighetto, Mr
Ashley, Mr
Burke, Ms
Clark, Mr
Coleman, Mr
Cooper, Mr

McLellan, Mr
MacLellan, Mr
McNamara, Mr
Maughan, Mr
Napthine, Dr
Paterson, Mr

Davies, Ms
Dean, Dr
Dixon, Mr (*Teller*)
Doyle, Mr
Elder, Mr
Finn, Mr
Gude, Mr
Henderson, Mrs
Honeywood, Mr
Jasper, Mr
Jenkins, Mr
John, Mr
Kilgour, Mr (*Teller*)
Lean, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McGill, Mrs
McGrath, Mr W. D.

Perrin, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr A. F.
Reynolds, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr E. R. (*Teller*)
Smith, Mr I. W.
Spry, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr
Treasure, Mr
Wade, Mrs
Wells, Mr

Noes, 28

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Cole, Mr
Cunningham, Mr
Delahunty, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr

Hamilton, Mr
Hulls, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Leighton, Mr
Lim, Mr (*Teller*)
Loney, Mr
Maddigan, Mrs
Micallef, Mr
Mildenhall, Mr
Pandazopoulos, Mr
Robinson, Mr (*Teller*)
Seitz, Mr
Wilson, Mrs

Motion agreed to.

Read second time.

The DEPUTY SPEAKER — Order! The time appointed under sessional orders for me to interrupt the business of the house has now arrived.

Sitting continued on motion of Mr GUDE (Minister for Education).

Remaining stages

Remaining stages.

Remaining business postponed on motion of Mr GUDE (Minister for Education).

ADJOURNMENT

Mr GUDE (Minister for Education) — I move:

That the house do now adjourn.

Disability services: South Morang

Mr ANDRIANOPOULOS (Mill Park) — I direct to the attention of the Minister for Youth and Community Services the government's proposal to construct in the South Morang township a facility to cater for people with behavioural problems. To use the terminology of the Department of Human Services, the facility will provide a unit to house people who exhibit challenging behaviour, such as self-injury. In simple terms it will be a facility to cater for intellectually disabled people with behavioural problems. I appreciate the need for such facilities, but the Department of Human Services has proceeded in a most secretive manner by proposing the facility and shepherding it through its lending process without proper public consultation or the provision of factual information.

Last Monday night concerns were raised at a public meeting of no fewer than 282 local residents. The South Morang township, at the edge of my electorate and at the gateway to Whittlesea, is not large and I was surprised that 282 people turned up in anger.

The public meeting carried a unanimous resolution calling on the government to cease proceeding with the facility at least until meaningful consultation had taken place with the community and more information was available. The South Morang community wants an assurance from the government that the facility will not proceed.

Main Road, Eltham: school crossings

Mr PHILLIPS (Eltham) — I ask the Minister for Youth and Community Services to direct to the attention of the Minister for Roads and Ports in another place the need for pedestrian-operated traffic signals in Main Road, Eltham, near the intersection of Dalton Street. I have been approached by representatives from the Eltham Primary School and the Eltham High School about the risks faced by the children who cross that dangerous section of road. I refer the minister to letters from Vicroads dated January and August 1996, confirming the need for pedestrian crossing signals in Main Road. One letter, which is dated 2 January 1996, states in part:

Vicroads has investigated the proposal and it is considered that the site meets its criteria for the installation of pedestrian-operated signals. Vicroads funds for 1995-96 are fully committed. However, Vicroads will consider this application for funding in its 1996-97 works program.

It is now March 1999 and nothing has been done. Many children use Main Road, which, as the letters indicate, meets the criteria for the installation of signals. Both

Vicroads and the Nillumbik shire have recommended the installation of pedestrian-operated signals for that section of road, but nothing has been done because of the shortage of funds and the need to install crossings in other locations.

I know the intersection well: it has one carriageway running in each direction. Eltham Primary School is on the corner of the intersection, which many children from the school cross, so the proposal warrants careful consideration. I believe the pedestrian crossing should have a higher priority than it has. As a matter of urgency I ask the minister to give serious consideration to the installation of pedestrian-operated traffic signals on that section of road. I believe there is a real risk of an accident occurring even though the road is supervised during school hours. The volume of traffic and the speed at which cars travel down the road warrant the minister's urgent consideration of the matter.

Helping Hand Association, Whittlesea

Ms CAMPBELL (Pascoe Vale) — I raise for the attention of the Minister for Youth and Community Services the delay in the payment of the staff training allocation for the Whittlesea district branch of the Helping Hand Association. I have received a letter from Mr Vic Michael, the president of the association, about the delay in payment. I ask the minister to ensure that the \$12 270 owed by the Department of Human Services is delivered by courier before the close of business on Friday, 26 March.

In June 1998 the Department of Human Services wrote to the Whittlesea District Adult Training and Support Services, which is a member of the Helping Hand Association, advising that it would receive payment for in-service training. It said that 50 per cent would be provided to the agency by late June 1988, with the remaining 50 per cent being paid in December 1998.

On 5 February this year, Ms Sarah Russell, the executive director of the Whittlesea District Adult Training and Support Services, wrote to the Department of Human Services requesting the immediate payment of the money.

Almost nine months after the department's original letter advised that 50 per cent of the agency training allocation would be paid in late July 1998 and the remaining 50 per cent in December 1998, not 1 cent has been received by the association. It is in diabolical financial strife. The department's response on 22 February to Ms Russell stated that the money could not be sent to the agency because funding to the

northern region had not been received from the central office.

Mr Deputy Speaker, the people who manage that agency, members of the staff and the committee of management want the money paid to them immediately. They do not want to hear the platitudes that are coming from the department; they need the money and they need it urgently. If the Department of Human Services is not concerned about the significant financial plight of the agency, certainly the members for Yan Yean and Bundoora and the next member for Seymour, Mr Ben Hardman, are.

The opposition informs the minister that one cannot hold out a helping hand when the Department of Human Services is cutting off that hand. I ask the minister to immediately ensure that assistance is given.

Bridges: Echuca–Moama

Mr MAUGHAN (Rodney) — I seek a commitment from the Minister for Roads and Ports that following the New South Wales election on Saturday he will immediately consult with his New South Wales counterpart to confirm that the New South Wales government is committed to funding its share of the cost of replacing the Murray River bridge at Echuca. I also seek confirmation that the New South Wales government will process the necessary planning and environmental impact statement, costing and consideration of options as rapidly as possible but consistent with conducting thorough consultation with members of the local community.

The existing bridge has served Echuca–Moama well for more than a century. During the past 10 years it has doubled as a rail and road crossing, providing a vital link for the transport of large quantities of tomatoes, chemical fuel and other supplies between Victoria and New South Wales. As the volume of traffic is approaching 20 000 vehicles a day, a new bridge is desperately needed. I commend the Minister for Roads and Ports for applying in 1997 for federation funding. I also commend the commonwealth government for announcing it was prepared to provide \$17 million from the Federation Fund, which has been a great help.

I thank the minister for confirming that the Victorian government is committed to supplying its share of the funding and note that the New South Wales government has committed \$200 000 to a feasibility study currently being undertaken by the Road Transport Authority, Vicroads and the respective municipalities — that is, the shires of Moira and Campaspe. I understand that the funding projects are

time limited and that Vicroads will lead the work on the Victorian side of the bridge. I ask the minister to make his best endeavours to complete the study of the options and the EIS as rapidly as possible and to urge discussion with the New South Wales government with a view to formalising the building of the bridge.

Finally, I ask the minister to facilitate widespread community discussion about alternate routes with a view to having the matter resolved as soon as is practicable.

Tertiary education: student union fees

Ms KOSKY (Altona) — The matter I raise for the attention of the Minister for Tertiary Education and Training is voluntary student unionism. As he is aware, legislation is currently before the federal Parliament to prevent universities collecting fees either on behalf of student unions or for student services and amenities. The bill will override previous Victorian legislation.

Members of the opposition, while also expressing concern about the Victorian legislation, have major concerns with the proposed federal legislation. I raise this matter for the minister's attention because I would like to know what action he has taken to ensure that there will not be a loss of jobs within universities and local economies. What action has the minister taken to address this issue with his federal counterparts?

The DEPUTY SPEAKER — Order! The honourable member for Altona should be asking the minister to take some action, not asking a question of the minister. The adjournment is an opportunity to ask for the minister to take specific action.

Ms KOSKY — I am asking the minister to take action to ensure that jobs remain in Victorian universities, and that services remain available within those universities. The figures show that Victorian universities will suffer losses estimated to be 740 jobs at a cost of about \$37 million. That is not about cronies and mates, it is about child care —

Honourable members interjecting.

Ms KOSKY — Unless, that is, you are talking about Peter Costello or Michael Kroger. The matter concerns child-care services, health services, dental services, second-hand bookshops, all for students, of course, and all for international students too. Our universities market themselves to overseas students, not only on the basis of their academic offerings but also on the provision of services such as those I have mentioned. Loss of services will have a significant impact on the number of international students coming

into Victoria and Australia to study. Those people may choose to go and study in places where student services are much better than they will be here.

The Western Australian legislation has had a major impact on the provision of services and jobs. In addition, there is a flow-on effect.

Mornington Peninsula Freeway: noise controls

Mr DIXON (Dromana) — I raise for the attention of the Minister for Roads and Ports in another place the issue of noise and security barriers along the Mornington Peninsula Freeway at Dromana and Rosebud.

That section of the freeway was built about 20 years ago. Land use in the area and traffic volume on that section of the freeway have changed considerably since then. The freeway is no longer just a freeway for the holiday season. Weekends are extremely busy now, and weekdays are far more busy than they were 20 years ago. Land use has changed considerably. Houses have been built on what were then vacant blocks of land, and many of the owners are now permanent residents. Many houses that were once holiday houses are now permanently occupied, often by elderly citizens. Unfortunately, the freeway is now close to many homes.

As I said, along some sections of the freeway there is no protective barrier to screen the noise and provide security for the homes close by. Natural barriers such as trees are few. Many of the trees that were planted have died since the freeway was first opened, and there are no cuttings or embankments to provide natural barriers. The problems of noise and security, which have increased considerably in recent times, are regarded as very important by the elderly citizens living in the area.

A chain-wire fence runs along the edge of the freeway, but it is far from adequate and has many holes cut in it. Naturally it does not screen any noise and it provides no security for residents when cars break down or when people use the freeway and the holes in the fence as a pedestrian thoroughfare.

I have used the South Eastern Freeway on many occasions and have seen the effective use of sound barriers along that road. Obviously, they are highly effective because we see them being added to many freeways in built-up areas.

The peninsula is going from strength to strength, economic activity having greatly increased. Some large tourism developments are coming along well — I hope so, anyway — and millions of dollars are being

invested in the area. Traffic volume will only increase as a result. Therefore I ask the minister to investigate the possibility of installing sound barriers along those sections of the Mornington Peninsula Freeway that are close to homes. If there are no plans for sound barriers in the near future, I ask the minister to consider their installation when funds become available. That would not only increase the amenity of the surroundings for those who live nearby but also increase those people's security.

Driver licences: testing

Mr ROBINSON (Mitcham) — In raising a matter for the attention of the Minister for Roads and Ports in another place I seek his assurance that the current driver testing procedures will not be watered down. The matter has come to public prominence in the eastern suburbs as a result of an article in last week's *Whitehorse Gazette* entitled 'Drive tutors tip P-plate test to be "a joke"'. The article contained serious claims about the watering down of tests conducted by Vicroads for drivers seeking to gain P-plates.

A driving instructor, Mr Trevor Canobio, has claimed that the 20-minute test conducted by Vicroads at Burwood East would become a joke under the proposed changes. Apparently Vicroads has denied that on-road times would change, claiming that the cutbacks are only administrative in nature. However, the article goes on to say that the administrative side of the driving tests includes vital eyesight testing. Driving instructors in the eastern suburbs are alarmed that the changes Vicroads is implementing will mean that drivers will be able to gain a licence with less testing and experience than is currently the case.

According to Mr Canobio, Vicroads staff are struggling to draw up new and shorter test routes to dodge traffic lights. I thought one of the purposes of instructing young drivers was to familiarise them with typical driving conditions, which include driving through heavy traffic and red lights.

Honourable members interjecting.

Mr ROBINSON — That is what we want to avoid! We are worried that the new tests will lead to people driving through red lights.

Driving instructors in the eastern suburbs believe the moves being made are indicative of Vicroads being set up for privatisation. That would do young drivers no good whatsoever. It is time that dollars were not put ahead of safety. I call on the minister to ensure there is no weakening of the testing procedures and no lowering of the testing standards for new drivers.

Building industry: unions

Mr WELLS (Wantirna) — I ask the Minister for Youth and Community Services to raise with the Minister for Industry, Science and Technology in the other place the number of construction sites in Melbourne that still have no-ticket, no-start arrangements. Last week I was contacted by a group of concerned constituents who provide building products for big construction sites. Although there are no more no-ticket, no-start signs to be — seen at construction sites in Melbourne, the practice is still rife in Victoria. I maintain that it has now reached the stage where it is out of control, and I will give the house a couple of examples.

One constituent builds ceilings. At one construction site the Construction Forestry Mining Energy Union (CFMEU) representative said to the driver, 'Where is your union ticket? If you don't have an union ticket, mate, get off the site'. It was as clear as that.

Another issue must also be mentioned. When union members find out that a product is made by non-union labour, the driver of the truck carrying the product is told to get off the site. The CFMEU official then telephones the builder, who rings the supplier of the product and says, 'I'm sorry, mate, we can no longer purchase your product because it is made by non-union labour'. That is grossly unfair. Suppliers of building products have entered into contracts fairly and squarely, but when they go to a site in good faith they are told to get off because the driver is not a member of a union and the product is made by non-union labour.

In another instance the case went to court. It costs a lot of money to take a builder to court to say, 'Look, I need you to accept this product'. The union practice breaks every fundamental law in this state; it employs restrictive and uncompetitive trade practices and uses standover bullyboy tactics that the mob opposite wants to survive.

Mrs Maddigan interjected.

Mr WELLS — It is ironic that the honourable member for Essendon says, 'Employ a lawyer'.

The situation I have described is the reason for the government supporting small businesses. They must be supported by providing quick and simple solutions that will help them to avoid having to go through long and drawn-out legal cases. The union practice is not fair. We have laws in this land to protect small businesses and it is only right that they be protected simply, quickly and efficiently.

Rail: Tullamarine link

Mrs MADDIGAN (Essendon) — I ask the Minister for Planning and Local Government to investigate concerns that have been raised with me about the proposed Tullamarine rail link. The problem relates to the seven major level crossings along the route between the city and Broadmeadows and the effect on those road crossings of a third train running every quarter of an hour 24 hours a day.

Particular concern has arisen because at a briefing held by the Moonee Valley City Council Department of Infrastructure officers said, in answer to a question from a community member, that in considering the proposals they had not thought about their effect on the major crossings — that is, Glenroy Road, Puckle Street, Hall Street, Park Street and Buckley Street.

It is interesting to note that a Kensington resident did his own study on the effect on Macauley Road and came to the conclusion that during the Royal Agricultural Show, when extra trains are going there, the Macauley Road gates would be closed for all but 8 minutes every hour, which obviously would have a substantial effect on traffic along that road, and certainly severe problems are expected further along the track as well.

Such issues would normally be investigated in the preparation of an environment effects statement, but the minister has refused to allow statements to be prepared on any of the three routes examined, particularly the preferred route, which is the extension of the Broadmeadows railway line.

The conclusion one would have to reach after the briefing by the Department of Infrastructure officers is that the minister refuses to have an EES prepared for that route because he would not like to see the answers it would provide. It would show that it is an unacceptable route. Certainly it would have a significant effect on traffic along the roadways, given the traffic in the area and the expected overflow as people seek to avoid paying the toll when City Link opens next month — or whenever it is planned to open.

Residents of the area already have significant traffic problems and if another train runs every quarter of an hour 24 hours a day those roadways will be impossible to use.

Goulburn Ovens Institute of TAFE

Mr KILGOUR (Shepparton) — I raise for the attention of the Minister for Tertiary Education and Training a staffing issue at the Goulburn Ovens

Institute of TAFE at Shepparton. The minister knows all about the institute, of course. He was there last week when he announced a magnificent allocation of \$3.5 million for a new food technology centre. That will help keep the Goulburn Valley at the forefront of teaching food technology. It is the food bowl of Australia, and I know the minister enjoyed the fruit that the orchardists supplied following his magnificent announcement.

While he was there last week the minister would have been advised of an award problem between the Goulburn Ovens Institute of TAFE and the Australian Education Union. The award for TAFE teachers provides that TAFE teachers will have four weeks annual holidays, but the union is seeking an additional 27 days of non-attendance. It is just ridiculous to expect the TAFE system to cater for teachers to be a way for 27 days on top of their four weeks holiday.

The new principal of Goulburn Ovens TAFE, Mr Peter Ryan, who is doing a magnificent job, has agreed to an enterprise agreement, and an enterprise agreement committee with 50 per cent union and 50 per cent non-union membership has been established. Because the union wants to negotiate only with union members it wants staff who do not belong to the union to be excluded, yet 50 per cent of the teachers and 25 per cent of the non-teaching staff belong to the union.

Mr Ryan says he wants one agreement to cover all staff and is prepared to have the agreement registered as a union enterprise agreement, but the union says it will agree to an agreement only with union members. In typical union bullyboy style the Australian Education Union is now boycotting meetings with the TAFE college. One might expect that to happen, but it has become a test case for the state.

I ask the minister to intervene and support the TAFE college in its negotiations with the union. It is an important test case because whatever happens in Shepparton will be looked closely by other institutes around the state. I ask the minister to support the college in the approach it has taken to achieve a single agreement with all staff. The union has reneged on the agreement.

Responses

Mr HONEYWOOD (Minister for Tertiary Education and Training) — The first issue raised for my attention was raised by the honourable member for Altona, the opposition spokesperson on tertiary education and training, in her maiden question in that portfolio area.

An Honourable Member — Inaugural.

Mr HONEYWOOD — We will say it was her inaugural question. The issue involved has been out in the marketplace for more than three months, and I congratulate the honourable member on raising that recycled issue.

It is amazing that most honourable members have been here long enough to remember the incredible opposition from the other side to the Victorian voluntary student union legislation — the most amazing opposition. It was suggested government members were right-wing zealots who were going to be ruling universities. Tonight honourable members have heard the opposition say it is not bad legislation and is suitable to be used in place of the Canberra alternative. The student unions are saying the same thing. The student union organisation that opposed the Victorian legislation so starkly is now saying to me, 'Look, could you persuade Dr Kemp in Canberra to use your model, the Victorian legislation, which provides for 14 allowable services? Would you please request him to use the Victorian legislation as a model?'. It is amazing that if you stay here long enough, what goes around comes around.

I was interested to hear the opposition spokesperson's remarks, because it was all about jobs for trade union members. The word 'student' was mentioned once right at the end after I interjected and asked, 'What about students?'. If all the opposition is worried about is jobs for its union mates it is recycling the 1980s. All honourable members are aware that voluntary student unionism is a philosophical mantra that is used on the other side of the house and by various political parties. Of course, federal ministers can afford to be brave when they have Buckley's chance of getting anything through the Senate.

In that context, I suggest the opposition should not become too excited about the proposed legislation coming out of Canberra because I predict that that legislation, although it has caused a lot of noise, is unlikely to see the light of day. Notwithstanding that fact, the Victorian government is committed to a freedom of association which is enshrined in the Victorian legislation. It is the right of every student and every Australian to choose to belong to an organisation. The government stands behind that principle. It has ensured that a number of services are available and accessible to students but that no student is required to belong to an organisation with which he or she feels no affinity. That is the ultimate philosophical difference between the government and the opposition.

I am glad the opposition has woken up to the issues that have been in the marketplace for three months. However, I am concerned that the whole priority given to the shadow minister's point this evening was about jobs for union mates rather than services for students.

By way of contrast, the conscientious honourable member for Shepparton, who is concerned for his community, played a leading role in the creation of the wonderful Goulburn Ovens TAFE institute. I was pleased to be in Shepparton last week not only to announce a \$3.5 million food technology centre but to hand out \$400 training vouchers to about 1200 businesses in the Goulburn Ovens area, particularly in Shepparton, in the automotive, aged-care and child-care industries as well as in the vitally important food and vegetable growing industry in that area.

It was brought to my attention that we have a ludicrous situation where an employer is not being permitted to talk to employees. The shadow minister, who is now walking from the chamber, would no doubt support the troglodyte position of the trade union in this matter. It is saying, 'No, the employees cannot talk to the employer; it is not permitted'. That is similar to freedom of association. The government is lending support to Mr Peter Ryan, who has done a wonderful job as director of the Goulburn Ovens TAFE institute, and the president of his governing council, Mr Martin, who is also the effective production manager at SPC canneries, so they can sign an agreement with their employees. The majority of employees there want to sign agreements with the employer but they are subject to industrial relations thuggery on the part of the Australian Education Union, which is determined to play a role in the process.

I can understand the union wanting to play a role. In February 1998 the government offered a 12.2 per cent pay increase to all TAFE teachers, but the AEU said, 'No, hold out for more, let the independent umpire decide. We will take it to the Industrial Relations Commission'. Consequently, we had to wait until September to discover that the IRC thought TAFE teachers were worth only an 8.5 per cent increase. I ask the house to imagine the embarrassment of the AEU, because the IRC increase included no retrospectivity. The TAFE teachers received no pay increase for the six months hiatus after the union had persuaded its teachers to hang out for more. Then, the independent umpire awarded the teachers 4 per cent less than the government had offered.

As a generous minister who is most concerned about benefits being paid to teachers, I wanted to provide the

teachers with more — but there you go, the AEU held out for more and, it being the effective leadership group it is, did them in the eye yet again!

Dr NAPHTHINE (Minister for Youth and Community Services) — The honourable member for Pascoe Vale raised with me an issue concerning the Whittlesea district branch of the Helping Hand Association and an allegation of moneys owing to that organisation from the Department of Human Services. I will investigate those claims and if moneys are owing I will ensure they are paid as quickly as possible.

The honourable member for Mill Park referred to a proposal to build a purpose-built facility on a former school site in the South Morang area. The site would have a significant buffer zone and the facility would consist of a number of purpose-built independent dwellings for clients with intellectual disabilities who have come from community placements or from families and homes across Victoria and are experiencing behavioural difficulties that make it more difficult for them to live in community placements.

The purpose of the facility is to provide specialised input and assistance on a short-to-medium-term basis so that the clients can access specialist behaviour modification programs and support from specialist psychologists and mental health professionals as required, as well as significant staffing levels to assist with their behaviour modification, thus enabling them to return to a suitable community placement.

It is a difficult issue, but people with intellectual disabilities are part of our community and deserve our support and understanding to enable them to continue in community placements. They may need specialist assistance in behaviour modification for a short time.

On Monday night there was a public meeting attended by departmental officers who provided information and advice. I will take on board the honourable member's comments about the need for the department to be more proactive in informing the community of its plans for the facility and to reassure the community about the client group and the purpose of the facility. The facility is needed by a small group of people with intellectual disabilities who are currently living in and have lived in the community and who need specialist assistance and support to enable them to continue to live in the community from which they come.

The honourable member for Eltham raised with the Minister for Roads and Ports the need to install a pedestrian-operated traffic light in Main Street, Eltham near Dalton Street, which is near the Eltham primary

and high schools. It is obviously an issue of public safety, and the honourable member for Eltham is renowned for strongly representing his community on these issues. It is a significant community concern and I am sure when I pass this matter on to the Minister for Roads and Ports he will view it seriously and respond to the honourable member for Eltham.

The honourable member for Rodney, again an outstanding local member in representing his constituents at every opportunity, raised an important issue concerning the need for an appropriate new bridge over the Murray River at Echuca and the need for the Minister for Roads and Ports to consult immediately after the New South Wales election with whoever is appointed the new minister for roads in New South Wales to ensure that the bridge is constructed forthwith, particularly as there is a window of opportunity with federation funding that may assist in that process. I am sure the Minister for Roads and Ports will take on board the comments of the honourable member for Rodney and act appropriately immediately after the New South Wales election.

The honourable member for Dromana, who represents that area extremely well, raised the issue of the Mornington Peninsula Freeway at Dromana and Rosebud. He advised the house that the freeway has been operating for approximately 20 years and in that time there has been a significant increase in traffic volume. There has also been a significant increase in the number of people living in the vicinity of the freeway, and the issue of noise abatement is a serious concern in the area. The existing chain fence is not providing sufficient noise abatement. I am sure the Minister for Roads and Ports will respond to the honourable member and have the matter examined to ensure appropriate action is taken to look after the citizens of the area.

The honourable member for Wantirna raised an important issue in both philosophy and practical implementation. The issue is about real jobs in the private sector with people wanting freedom of choice about whether they become union members. Neither they nor their employer should be penalised in any business opportunities resulting from that freedom of choice.

Construction sites with that outmoded no-ticket no-start practice, or even worse, the black-banning or chasing up of organisations that supply material to sites to ensure those suppliers have only union labour is intolerable in 1999 and going into the 21st century. I am sure all honourable members will join me in saying that Australia is a country that values its freedom and

the freedom for people to choose whether to join a union.

If a union provides significant benefits and opportunities for workers they will freely join, but in our society it is intolerable for anyone to be coerced or intimidated into joining a union. The Minister for Industry, Science and Technology will be concerned about the increasing problem on many construction sites where the practice of no-ticket no-start appears to be returning.

The honourable member for Mitcham referred to driving instruction tests and sought an assurance that the tests would not be watered down. I assure the honourable member that the government takes road safety very seriously. Every attempt is made through reviews and improvements to ensure that people who are licensed to drive on Australian roads are appropriately skilled and have an understanding of road laws so that they pose minimal danger to themselves and other road users and pedestrians.

I will pass on the concerns of the honourable member to the Minister for Roads and Ports. The government's track record in the reduction of deaths and injuries on the road is unsurpassed. A high emphasis is placed on continually improving opportunities to make roads safer for the citizens of Victoria.

The honourable member for Essendon referred the Minister for Planning and Local Government to concerns about the proposed route for the Tullamarine rail link and its effect, should it be implemented, on railway crossings further down the route through the City of Moonee Valley and the City of Melbourne. Two of the crossings were Macauley Road and Puckle Street. I will pass on those concerns to the Minister for Planning and Local Government and I am sure he will contact the honourable member for Essendon.

Motion agreed to.

House adjourned 10.54 p.m.

Thursday, 25 March 1999

The SPEAKER (Hon. S. J. Plowman) took the chair at 10.05 a.m. and read the prayer.

NOTICES OF MOTION

The SPEAKER — Order! Are there any notices of motion?

Notice of motion given.

Member for Northcote: conduct

Mr FINN (Tullamarine) — I desire to give notice that on the next day of sitting I will move:

That this house believes it is the duty and responsibility of all members to accept and present properly worded petitions on behalf of constituents and to treat their constituents fairly and with respect, and that insofar as the honourable member for Northcote has:

- (a) refused to present a legitimate petition on behalf of her constituents,
- (b) verbally abused a constituent after her refusal was the subject of public comment, and
- (c) directed that same constituent to present at her electorate office for a tape-recorded interview,

this house refers this matter to the Privileges Committee for study and report.

The SPEAKER — Order! There is a proper procedure for bringing matters to the Privileges Committee. The latter part of the motion may have to be struck out.

PETITIONS

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

Late-term abortions

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

The humble petition of the undersigned citizens of the state of Victoria sheweth that:

We oppose partial birth abortion under any circumstances;

We believe that late-term, partial birth abortion is morally and ethically wrong;

We seek amendments to the Crimes Act which will prevent partial birth terminations.

Your petitioners therefore pray that section 10 of the Crimes Act be amended accordingly to disallow the practice of late-term partial birth abortions in Victoria.

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

By Mr TRAYNOR (Ballarat East) (32 signatures)

Powercor: Kyneton depot

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

The humble petition of the undersigned citizens of the state of Victoria sheweth we strongly object to Powercor's proposal to close their Kyneton depot. We do not accept that a local service agency of four people can or should replace the work and services provided by the current 14 staff at the Kyneton Powercor depot. This is purely a cost-saving exercise and ignores the excellent performance, large demand for — especially at times of emergency — and scope of work performed by the current Kyneton depot staff.

Your petitioners therefore pray that the Kennett government make representations to Powercor to reverse its decision to close their Kyneton depot.

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

By Mr TRAYNOR (Ballarat East) (1492 signatures)

Catchment management authorities: levy

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

The humble petition of the undersigned citizens of the state of Victoria sheweth we strongly object to the Kennett government's introduction of another state tax, and believe that catchment management authorities should be funded through the Department of Natural Resources and Environment.

Your petitioners therefore pray that the Kennett government reverse its decision to allow the catchment management authorities to levy taxes from the people of Victoria.

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

By Ms GARBUTT (Bundoora) (6619 signatures)

Rail: Tullamarine link

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

The humble petition of the undersigned citizens of the state of Victoria sheweth that the proposed route is to be opposed as it will pass through valuable parklands and be in close proximity to residential homes.

It will:

create noise and danger 24 hours per day,
be a danger for children,
desecrate the Valley Park sports and passive recreational facility,

threaten the park's environment for natural plants and animals that has been painstakingly redeveloped over the past years.

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

By Mrs MADDIGAN (Essendon) (234 signatures)

Flemington church demolition

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

The humble petition of we, the undersigned citizens of the state of Victoria, sheweth that the Wesleyan Chapel at 167 Mount Alexander Road, Flemington, is of local and regional heritage value.

Your petitioners therefore pray that the state government:

1. Opposes the demolition of the chapel.
2. Amends legislation so that demolition permits can only be issued by the local government authority in which the buildings are located.
3. Ensures that demolition permits cannot be issued without 14 days notice of the application, being displayed on the site.

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

By Mrs MADDIGAN (Essendon) (202 signatures)

Rail: Tullamarine link

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

The humble petition of we, the undersigned citizens of the state of Victoria, sheweth that we strongly oppose the proposal to develop a third rail line along the Broadmeadows line to the Tullamarine airport, unless an environmental effects statement is carried out, and affected residents are consulted.

Your petitioners therefore pray that submissions be called for in relation to the entire proposal and that no other action be taken until an environmental effects statement is completed.

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

By Mrs MADDIGAN (Essendon) (251 signatures)

Spear thistle

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

The humble petition of certain citizens of the state of Victoria sheweth concerns over the uncontrolled rampant growth of the noxious weed spear thistle — *Cirsium vulgare* — over large areas in the Lang Lang–Caldermeade district.

Apart from the devastating effect on pasture growth on local farms, this situation affects all South Gippsland land-holders in two ways:

The huge volumes of seed are carried over much of South Gippsland by the westerly winds and establish on pasture;

The psychological effect of seeing such neglect every time we drive to Melbourne, knowing that we try so hard to eradicate weeds where we live.

Your petitioners therefore pray that the Minister for Agriculture and Resources makes the control of spear thistle in this area a government priority.

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

By Ms DAVIES (Gippsland West) (610 signatures)

Catchment management authorities: levy

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

The humble petition of certain citizens of the state of Victoria sheweth concerns over the imposed levy of \$25 demanded by the West Gippsland Catchment Management Authority.

Whilst we support the aims of the authority and the work it intends to do, we are not happy with the method of money collection.

Your petitioners therefore pray that the Minister for Agriculture and Resources withdraws this charge and makes funding for the West Gippsland Catchment Management Authority available by other means.

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

By Ms DAVIES (Gippsland West) (79 signatures)

Strzelecki State Forest

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

We, the undersigned citizens, have great concerns about the corporatisation and pending privatisation of the native forests of the Strzelecki State Forest. This last, large public tract of the great forest of Gippsland deserves a high degree of protection. Your petitioners therefore pray that the state government implement the establishment of a 30 000-hectare national park in the Strzelecki State Forest, as outlined in the proposal produced by Devenish, Constable and Standerling.

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

By Ms DAVIES (Gippsland West) (191 signatures)

Banyule: Bellfield

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

We the undersigned citizens request that the state government and the minister for conservation and land protection fully support the City of Banyule's recommendation that the area bounded by Banksia Street, Waterdale Road, Bell Street and the Darebin Creek have its name restored to Bellfield. The proposed restoration of the name Bellfield to the area currently known as Heidelberg West has been strongly

supported since 1991 by the vast majority of local residents, the then City of Heidelberg and the present City of Banyule.

The history of the name Bellfield dates back to 1947 when the ministry of housing constructed homes in the district under the name of the Bellfield Estate.

We petitioners are seeking the restoration of the name Bellfield to the area, as many of the local landmarks and groups such as the Bellfield Community Centre, the Bellfield Primary School, the Bellfield Preschool — currently known as the Audrey Brooks Preschool — the Bellfield Combined Pensioners Association, the Bellfield Cricket Club and other sporting groups are either within the boundaries or within close proximity. The name change would also end the widespread confusion that the suburb of Heidelberg West, which currently finishes at Banksia Street, concludes at Bell Street.

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

By Mr LANGDON (Ivanhoe) (128 signatures)

Banyule: Bellfield

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

We the undersigned citizens request that the state government and the minister for conservation and land protection reject any suggestion that the Ivanhoe area bounded by Banksia Street, Waterdale Road, Bond Street and the Darebin Creek be considered as part of the new suburb of Bellfield. The said proposal, which was a recommendation of the Place Names Committee, has been strongly rejected by the vast majority of local residents and the City of Banyule.

We petitioners are seeking the retention of the name Ivanhoe as any change would have a detrimental effect on the area, would cause confusion, devalue homes and property as well as creating a new suburb — Bellfield — with two different postcodes — that is, 3079 and 3081. Also, the area has always been considered a part of Ivanhoe and never Bellfield.

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

By Mr LANGDON (Ivanhoe) (262 signatures)

Children: sexual assault

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

The humble petition of the Oakleigh Liaison Group, South East Centre Against Sexual Assault, and the undersigned citizens of Victoria sheweth in light of the constant sexual offences against children as reported in the 1997–98 SECASA annual report, your petitioners therefore pray the government immediately enact the following recommendations, that:

1. The criminal offence of sexual assault against a child be vigorously prosecuted.
2. Protocols be developed within religious organisations to ensure that the option of the criminal justice system is pursued to ensure evidence is not contaminated by internal investigations.

3. Educational programs to be funded to increase knowledge for parents and teachers about the physical and emotional indicators of physical and sexual abuse of children.

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

By Mrs McGILL (Oakleigh) (790 signatures)

Ordered that petition presented by honourable member for Bundoora be considered next day on motion of Ms GARBUTT (Bundoora).

Ordered that petitions presented by honourable member for Gippsland West (Spear thistle, Catchment management authorities: levy, and Strzelecki State Forest) be considered next day on motions of Ms DAVIES (Gippsland West).

Laid on table.

PAPERS

Laid on table by Clerk:

Drugs, Poisons and Controlled Substances Act 1981 — Documents pursuant to section 12H — Poisons Code —

Standard for the Uniform Scheduling of Drugs and Poisons No. 13

Amendment Nos. 1 and 2 to the Standard for the Uniform Scheduling of Drugs and Poisons No. 13

Notice regarding the amendments, commencement and availability of the Poisons Code

National Environment Protection Council — Report for the year 1997–98

Statutory Rules under the following Acts:

Fisheries Act 1995 — S.R. No. 25

Road Safety Act 1986 — S.R. Nos. 26, 27, 28, 29

Transport Act 1983 — S.R. No. 30

Subordinate Legislation Act 1994 — Minister's exception certificate in relation to Statutory Rule No. 25

PUBLIC CORRECTIONAL SERVICES AUTHORITY BILL

Withdrawn

Withdrawn on motion of Mr GUDE (Minister for Education).

BUSINESS OF THE HOUSE

Adjournment

Mr GUDE (Minister for Education) — I move:

That the house, at its rising, adjourn until Tuesday, 13 April 1999.

Motion agreed to.

ENVIRONMENT PROTECTION (AMENDMENT) BILL

Government amendment circulated by Mrs TEHAN
(Minister for Conservation and Land Management)
pursuant to sessional orders.

Second reading

Debate resumed from 13 November 1998; motion of Mrs TEHAN (Minister for Conservation and Land Management).

Ms GARBUTT (Bundoora) — The provisions of the Environment Protection (Amendment) Bill cover waste management in Victoria — or perhaps I should say waste mismanagement, because that has been the record of this government.

The government has been an appalling failure in matters of policy because it has lurched from one ad hoc decision to another; in public consultation — which, until recently, had simply not happened, or if members of the public made their feelings known they were ignored — and in protecting the environment, where site after site has been proposed for waste facilities that were inappropriate and would threaten the environment. Most importantly, it has been a total failure in safeguarding public health, because much of the waste is hazardous and will affect people's health. All those aspects have been ignored by the government.

The minister's comment in her second-reading speech that:

Under the Kennett government, Victoria has been a leader in environmental protection and waste management —

is one of the best laughs we have had in this house for a long time. It is also one of the greatest lies — it is simply not true. The government's record is appalling.

I will refer to a few of the diverse provisions of the bill. The bill affects the household recycling system. It provides for a temporary levy so that during the prescribed three years the landfill disposal levy in Melbourne, Mornington, Geelong, Bendigo and

Ballarat — which is now up to \$4 per tonne — can be increased by \$1 per tonne; it alters the state environment protection policy (SEPP) to allow for reuse and recycling; and it provides for the national environment protection measure (NEPM) to be adopted as part of the SEPP.

The bill also ensures that Industry Waste Reduction Agreements (IWRAs) are of a standard format and that all issues are addressed. Perhaps most importantly, it allows the Environment Protection Authority to issue PIN notices for breaches instead of having to go to full criminal prosecution.

The bill changes the permit system for transporting hazardous wastes. It also introduces a new prescribed waste levy of \$10 per tonne, which will start from 1 July. The money will be used to fund cleaner production and waste management programs. A rebate will be offered if the wastes are recovered within three years. So the bill covers both the municipal and prescribed waste areas — that is, the rubbish we produce every day and the hazardous waste, which is a major concern.

As I said, the government's record in the area is truly appalling. I refer to recycling. Over the past three years of the minister's term — and longer in the government's term — recycling has come close to collapsing. Many of us have seen pictures and stories suggesting that in the local papers.

An article in the *Northcote Leader* of 4 February 1998, headed 'Paper pick-up uncertainty', states:

Darebin's kerbside paper collection faces an uncertain future with a severe paper glut putting pressure on recycling firms already overstocked with waste paper.

An article in the *Herald Sun* of 12 May last year, headed 'Paper crisis as recycling costs soar', says:

Kerbside paper recycling is near collapse.

Several councils are poised to withdraw their involvement and others are tipped to follow.

For several years similar stories have been reported. Local government has been most concerned that the whole system would collapse because of the costs it was incurring.

The concern is not all in the past; it is continuing. A submission dated February 1998 from the Whitehorse City Council refers to the problem in the following terms:

... the cost of kerbside collection has increased dramatically due largely to factors beyond council control ...

From a local government perspective, kerbside collection has reached a costing crisis. The collection costs at Whitehorse have spiralled up 97 per cent in the past two years with monthly costs continuing to rise. The volatility of the recycling market has resulted in an increase in the recycling cost for each household in the City of Whitehorse from \$9.90 per annum to \$19.40 per annum over that period.

That is a 97 per cent increase. Council after council has faced such cost increases; contractors have gone broke because they could not afford to collect and sort on the prices they were getting; and people have been outraged when they realised that recycled material was being dumped into landfills.

People were assiduously and conscientiously separating their waste and putting it in the appropriate recycle bins, only to learn it was being dumped into landfills. In the midst of the crisis, the Minister for Conservation and Land Management announced an extra \$1 million grant to local government. Local councils estimated that it would cost \$24 million to meet the gap between the collection costs and what they were being paid for the goods collected, yet \$1 million was all that was provided. Some councillors said they wanted to throw the cheque back because they were so insulted about the lack of recognition of the depth of the problem.

Early last year the minister announced a special review of recycling and appointed the honourable member for Prahran to lead it. The minister said in her press release dated 1 December 1998:

This review should be able to identify any efficiency gains related to the high cost of recycling to ensure its ongoing viability ... The report is due in March 1998.

We have yet to see that report. The honourable member for Prahran was in the house but appears to have scuttled out. I hope she will return and tell us what happened to the review, given that the report is now a year late. The review was supposed to solve the problems but local government is still forking out millions of dollars. In February 1998 I asked the minister about the review and she said it would be completed within four to six weeks. However, we have not seen the report in the past 12 months.

The recycling levy will increase by \$1 per tonne. Local government does not support the increase because it is concerned it will not solve the problems. Each council will have to bear an increased cost of recycling of around \$40 000 per annum. I have received press releases, comments and letters from various councils and I will go through a few of them to provide the flavour of what local government thinks about the levy. The problem is that the levy will increase the payout by local councils, but they will not receive the funds —

they will go to Ecorecycle Victoria. In a Municipal Association of Victoria press release of 21 November 1998 headed 'Council screwed over landfill levy' — I am sorry if that is unparliamentary language — the president of the association states:

This levy will cost Victorian councils an extra \$4.5 million over the three-year program, yet there are no guarantees in the legislation that local government will get a say in the expenditure.

Councils are being screwed financially and at the same time being denied a say in the process.

Similar comments about the extra funds have been made by South Eastern Regional Waste Management Group, and a letter from the City of Greater Dandenong states:

... this equates to an additional amount in the order of \$35 000 to \$37 000 per annum, for a three-year period. Greater Dandenong already supports recycling to the tune of approximately \$1.36 million per year ... The City of Greater Dandenong seeks your support in this matter as the future of kerbside recycling must be addressed on the basis of shared responsibility from all stakeholders. Local government cannot continue to absorb the full cost of recycling.

The Shire of Yarra Ranges commented as follows in the Municipal Association Victoria bulletin of November 1998:

The MAV is writing to natural resources and environment minister Marie Tehan outlining the hypocrisy of the move, which amounts to local government 'subsidising' the state government's subsidy for local government's \$100 million recycling bill.

The Shire of Yarra Ranges is encouraging local members to raise the issue with the minister. Local government will not support the levy unless the money raised subsidises its recycling costs of \$24 million a year. It is happy to have a levy if it will receive the funds to set recycling on a proper financial basis.

Let's look at the government's industrial waste management record. The figure that appeared in the draft report of the Environment Protection Authority's Zeroing in on Waste strategy revealed a truly worrying attitude to waste. Although the EPA and the government say they support the minimisation of waste, it has not been minimised. The draft report showed a 640 per cent increase in solid prescribed waste between 1985 and 1995! Clearly, talk about minimisation is merely rhetoric because it has not been happening. I point out to the minister, because she may not have read the bill, that a large part of the bill is about prescribed waste. Perhaps she should read it now.

The other features of the government's record have centred around a policy of more and more landfills. As

soon as the EPA released its Zeroing in on Waste strategy, the government announced that more toxic landfills were to be established at Werribee and Niddrie in direct contradiction to the recommendations of the EPA that landfilling should be a last resort. Landfilling is not a last resort for the government. Instead it leaps into landfilling at the first opportunity without having any statewide plan for it. A company comes along and says, 'We have a big hole and we want to fill it to make money' and the government says, 'Go for it! Put the hazardous waste in there. It does not matter how you mix it up. You do not have to monitor it in the future'. That is not a policy — the government just takes any ad hoc opportunity.

I do not see anything in the bill that will change the government's attitude about developing a statewide policy. It should look at the steps we need to take to minimise waste, including cleaner production, designing out waste, recycling, reusing, and selling the waste to another company to use it as a primary resource. That has not been the pattern of the government. It has moved from one bitterly opposed decision to another.

Therefore, I move:

That all the words after 'That' be omitted with the view of inserting in place thereof the words 'this house refuses to read this bill a second time until the government has provided a guarantee that local municipalities contributing to the landfill disposal levy are returned \$1 per tonne, as a cash grant, to directly assist with their recycling costs, and abandons all plans for new toxic waste landfills'.

The bill does the minimum to make the government sound good. Although imposing the levy makes it sound as if the government is moving in the right direction, the funds will not be applied where they are needed most. The funds should go to the local councils that incur the costs of recycling.

Local government, for example, has done a lot of work on obtaining contracts that will not result in their betting on the futures market, given that the prices of paper, glass, plastic or whatever go up or down according to global trends. Councils have been caught in the past because they have had fixed contracts and the price of glass, paper or whatever has bottomed out. That is why they have spent a lot of time developing contracts that overcome that problem.

Manningham City Council has spent \$90 000 developing such a contract, and other councils, including Knox and Boroondara, are having to spend \$30 000 to \$50 000 for their new contracts. That is the sort of thing the government should be applying the money to, but the bill contains no guarantee that the

money will come from Ecorecycle Victoria, which may decide to spend it on advertising recycling, thereby boosting rates. That is fine, and the opposition supports it, but every time the rates for recycling go up, costs for local government go up. If the government intends to allow the money to be spent in that way, local government will be worse off, not better off. I have moved the reasoned amendment to support local government through the guaranteed return of the increased levy.

The government's record on the industrial waste reduction agreement is pathetic. It has resulted in no prosecutions because it has no teeth. Now the government is proposing weaker penalties. That will not help! The Environment Protection Authority needs to be tougher, stronger, and more independent. It needs to be a real environmental watchdog for the public, not an arm of government policy, which is what it has been so far.

Mr Perrin — Where is your policy?

Ms GARBUTT — We put out a policy long before you did.

Mr Perrin interjected.

Ms GARBUTT — We will send it to you!

The ACTING SPEAKER (Mr Cunningham) — Order! The honourable member for Bulleen will have his opportunity.

Ms GARBUTT — The terminology used to describe the prescribed waste levy is causing great confusion in the community, and I suggest that the minister clear it up. The terms 'hazardous waste', 'toxic waste' and 'prescribed waste' are used as if they were interchangeable; they are not necessarily. We now have two separate waste levies — disposal levies and landfill levies — that have entirely different applications.

The \$10 prescribed waste levy is a move in the right direction, but it represents only a small percentage of the cost of disposal of hazardous waste. The levy alone will not solve the problem, so the minister has to examine other strategies. The levy is an inadequate response to the failure of waste minimisation strategies over the past decades. Substantial incentives, significant disincentives and regulations are required if the government is serious about addressing the problems.

I suggest the minister look at what the Labor government did in 1986–87, when it banned liquid prescribed waste from landfills. Industry had to immediately undertake major programs to reduce the

amount of liquid waste — and that happened. The minister has to consider more than just a \$10 per tonne levy, because that will not solve the problems of hazardous waste.

The hazardous waste consultative committee that the minister set up — she would not let me on it, but she insisted it was a bipartisan effort —

Mrs Tehan interjected.

Ms GARBUTT — I am not casting aspersions on anyone! Caroline was quite happy for me to go on it. The minister is playing politics. The committee was not even the government's idea. The Werribee Residents Against Toxic Dump pushed for it for a long time, but I am pleased the minister has taken it up. She needs all the help she can get in developing policy on the issue, because thus far the policy has been absolutely hopeless!

There is no detail whatsoever in the minister's second-reading speech or in the bill as to what amount the prescribed waste levy will raise or where the money will go. We know it is going into cleaner production, but what does that mean? What are the programs? What are the details? How much money will be raised? That fact was not even mentioned. People need to know the details about the amount of money that will be raised and where the government will apply it.

I understand many honourable members wish to speak on the bill. Given the government's long-term record of inappropriately managing Victoria's waste, I am not surprised. Many Victorians feel their environment and their health have been damaged and put at risk by the government.

The government has missed an opportunity to put in place a good, solid, statewide plan for dealing with both prescribed waste and the financial liability problems associated with household kerbside recycling. The bill is a start, but by and large it is a missed opportunity. At least it might mark the end of the government's lack of policy and ad hoc decision-making, which have led to appalling results such as those we have seen in Niddrie and Werribee. The bill is a good start, and the opposition will not be opposing it, but it is disappointing that the government has not put in place a thorough, detailed plan.

Mr DIXON (Dromana) — I support the bill, but I do not support the reasoned amendment moved by the honourable member for Bundoora. Under Labor policy — which is little more than a wish list — the solution to all problems appears to be to throw cash at them. In this case, Labor's solution to the recycling

problems experienced in various industries and various areas of the state is to throw cash at local councils. The bill, on the other hand, represents a big-picture solution.

Victoria has a world-class recycling system, which is why many countries and other Australian states look to what we do here. However, the system is not perfect — but the recycling industry is not perfect wherever you go in the world. Many factors outside the control of individual states affect prices, markets and demand, but the bill goes a long way towards addressing the big picture and providing long-term solutions and the incentive to make large-scale changes. There are no quick fixes to be achieved by throwing cash at those sorts of problems.

One important and positive aspect of the bill that the honourable member for Bundoora did not address is the emphasis on clean and green food production. Victoria has an excellent reputation for producing clean and green food, the export of which has increased considerably over the years — and that has not been by accident. It is a good example of the government's commitment to excellence, and it is the result of pursuing new markets and doing what we do best — exploiting our assets.

The importance of clean production cannot be overestimated. Significant economic and environmental gains can be made through clean and green production, including the reduction of waste. The whole process from pasture to plate, as we like to describe it, must be clean and faultless. One of the aspects the bill addresses is the elimination of waste, and if any one link in the chain from pasture to plate is broken, the process is contaminated.

The bill will strengthen the chain in two ways. Firstly, it will raise funds for cleaner production partnership programs involving customers and suppliers. A cleaner process will result in the production of an uncontaminated, better quality product; and together with a reduction in production costs, that will make the product far more marketable.

The bill will also fund a once-only chemical collection and disposal program, which is commendable. It is a good example of the levy being used in a positive way. Last week I attended a meeting of one of my local Victorian Farmers Federation branches, at which the problems farmers have with the disposal of chemicals were discussed. Many local farmers are assiduous in their training and have undertaken courses in the use and disposal of chemicals.

Over the years the problem of disposal of chemicals has been that chemical containers that are left lying around farms for many years are a safety hazard. In most cases the containers have no safety directions on them and the farmers do not know how to dispose of the chemicals properly. Farmers are keen to get rid of such chemicals because they may leak into the environment. We want a cleaner and greener environment. Chemicals deteriorating in drums and other storage containers will not add to a green production chain. Farmers must be able to dispose of chemicals at sites set up specifically for that purpose.

This week my local newspaper has an advertisement about the disposal of chemicals, giving full details of where farmers and the local community can dispose of them. Clean production will lead to a cleaner environment in my electorate, which includes market gardening, flower growing and vineyards.

I refer to the kerbside recycling program. Recently I was speaking with members of a couple of elderly citizens community groups who said that they find it hard to come to terms with recycling. They are used to throwing everything into a bin from where it goes into landfill. It is a hassle for many older people to understand what recycling is all about because it takes some effort.

Over recent years change has taken place. Our young people are learning more about recycling and that is making our recycling industry stronger. They consider it to be a natural thing to do and of advantage to the environment. They look at recycling at a practical level at school and at home, and by doing so they are creating a cleaner environment because schools and households produce a variety of waste in large quantities.

If each of us can go some way to not only reducing our waste output but also recycling that waste we can make a huge contribution to improving our environment. Currently the recycling effort in Victoria is improving, and the legislation will improve that. Some stress is being placed on our recycling industry. That is largely outside the control of the government because in world terms Australia is a large country with a small population and market for recycled and re-manufactured goods. Export may be one option, but some other countries have a problem with recycling goods. Therefore we must look to our small domestic market.

The price of recycled waste has gone down and that has an impact on profit margins for the recycling industry and local councils. It puts stress on the process and the

end use of recycled goods. The cost of collection is enormous and, of course, businesses and councils are keen to cut costs to maintain their margins.

The cost of collection, downturn in price and a small domestic market individually and collectively are hard to control. It is the government's responsibility to ensure the long-term viability of our recycling industry. One way of addressing the issue is by establishing a packaging covenant. A partnership must be formed between those involved in the collection of cardboard, glass, bottles and so on, and the legislation provides for that. The packaging covenant will be funded 50 per cent by industry and 50 per cent by government.

Over the next three years kerbside collection will be a completely transformed. Most importantly, markets for recycled goods will be developed efficiently and that in turn will cut costs. There are many good ideas for recycling product, but we must consider what can be done with that recycled product and how we can develop markets.

The \$1 increase in the landfill levy will fund practical applications and help the industry. It is different from throwing cash at the problem. I wish the bill well. The recycling world is not perfect, but the legislation is a practical move in looking at the big picture and tackling the waste issue.

Mr HULLS (Niddrie) — The minister has gone some way to restoring her reputation in the area of environment protection and recycling. However, this is a real test for her. Indeed, her reputation could be further restored if today she bites the bullet and supports the reasoned amendment moved by the opposition and gives the house a categorical assurance that she will not allow her government to proceed with establishing a toxic waste dump at the old Niddrie quarry site.

Mrs Tehan interjected.

Mr HULLS — It has everything to do with the bill. In the second-reading speech the minister said of the bill that:

It will help the government to place a renewed emphasis on waste management, including:

helping the development of improved and sustainable recycling programs;

working with industry to improve the management of industrial wastes; and

provide a focus on reducing the generation of hazardous wastes, identifying opportunities to gain maximum economic value from hazardous wastes,

and avoiding the need to dispose of such wastes to landfills wherever possible.

The reasoned amendment says, among other things:

... this house refuses to read this bill a second time until the government ... abandons all plans for new toxic waste landfills.

Members of the opposition are talking about Niddrie specifically. The minister can restore her credibility by saying in her summing up, 'I declare once and for all that the toxic waste dump proposed for the Niddrie quarry site will not go ahead'. We know that the minister has information about that site because some weeks ago the honourable member for Prahran and Parliamentary Secretary, Planning and Local Government visited the Niddrie quarry site. She is aware of its background and what is proposed there. The debate is a great opportunity for the Minister for Conservation and Land Management to rule out the possibility of the proposal going ahead.

The bill is about environmental hazards. I do not know whether the minister has seen a copy of the excellent report prepared by Mr Joseph Turrisi and Dr Peter Paspaliaris entitled *The Health and Environmental Hazards Posed by the Proposed Filling of Niddrie Quarry with Low Level Contaminated Soil*, but I would be glad to provide her with a copy. The lengthy report goes into much technological detail about the dumping of low-level contaminated soil in landfill sites. The conclusion of the experts is contained in the executive summary, which states in part:

The report concludes that the proposal being made by the developer amounts to little more than a rudimentary attempt at adapting a stone-age technology to the solution of a space-age problem. It is an attempt doomed to failure.

The four Rs of proper waste management are reducing, repairing, reusing and recycling, and the bill attempts to deal with a number of those areas. Recycling is a key business strategy. On 19 November 1997 the *Age* reported comments made during a visit to Australia by the director of Washington state's Clean Washington Centre, Mr David Dougherty. The article states:

... Victorian companies should be getting ready to take advantage of reusing raw materials to maintain a globally competitive edge.

The article continues:

... the corporate world was slowly waking up to the commercial value of using recycled materials.

The article further states:

... recycling needed to be treated as a business issue rather than a landfill solution before successful recycling systems could be set up.

Finding or digging a hole somewhere and filling it with toxic waste should be the last resort in environmental management.

The *Age* of 16 September 1997 reported the initial recommendations of a 1997 report by the former Industry Commission urging far-reaching reforms in Australian land management to protect the environment from ecologically unsustainable practices. The article states:

The commission has recommended that a duty of care be placed on all those who own, manage and use land to take all reasonable and practical steps to avoid harming the environment.

The *Age* got it right. Any person who has authority over land management has a duty of care to ensure that people living in and around the area are not harmed and that all due precautions are taken to look after their safety now and in the future.

Anyone examining the proposal for the Niddrie quarry site would conclude that not only is it proposing an unsafe practice — the Turrisi report clearly states that material will ultimately leach into the Maribymong River — but also that the number of truck movements required to fill the site over a period of 10 years as estimated by the developer, George Adams of Quadry Industries, is of concern. Mr Adams has estimated that some 200 truck movements each day, or 2½ per minute each 8-hour day, would be required. It is of concern that based on the developer's own assessment, 11-year-olds living around the Niddrie quarry site — there are schools and shopping centres in the area as well — will have large trucks going past their houses every 24 seconds until their 21st birthdays. Honourable members who understand the ramifications would be alarmed at that scenario. That is how crucial the Niddrie quarry site issue is to the local community. However, it is not only a local issue, it is a state issue.

Let's get fair dinkum: it's not on! The Victorian community cannot allow the sort of action being proposed by George Adams to proceed, because apart from the safety ramifications and the fact that an expert report has made it clear that the waste will leach into Steel Creek and the Maribymong River, the effect of the proposed level of truck movements on the children of the area would be extraordinary and objectionable. The Moonee Valley City Council has proposed a more sustainable and environmentally friendly project that does not involve filling the quarry with toxic waste, and

I congratulate it on the work it has put into the alternative proposal.

I also find objectionable the lack of good corporate citizenship displayed by the proposed developer. I have attempted to meet with him on a number of occasions as a mediator to gauge whether there is room to move, but I have been rebuffed. He is not prepared to discuss the matter because it is currently before the Supreme Court. That is not good enough. If he were a good corporate citizen he would sit down with the community and reach a resolution that was satisfactory to all parties.

I turn to the issue of the government's theft of parkland. The Spring Gully Reserve is a magnificent asset that the local community has built up over a number of years. The proposed project can go ahead only if the quarry can be accessed through the reserve — the reserve would have to be stolen from the local community, handed over to a developer and chopped up for profit. The community will not stand by and allow that to occur. Residents have said they are prepared to lie down in front of trucks rather than allow their local parkland to be stolen by the government — and as their local member I will be with them to ensure it does not happen. I hope the minister agrees that it is inappropriate for local parkland to be stolen from the local community and will join me!

Finally, although the opposition has no problem with parts of the legislation, it seems that almost overnight the government has become interested in hazardous waste. I urge the minister to show her bona fides in this area. If she is really interested in hazardous waste I urge her to make public the completed list of Victoria's 26 or 27 hazardous sites instead of trying to keep them secret. Ordinary Victorians have a right to know whether or not they are living next door to another potential Longford disaster. If the government were serious about protecting Victorians from hazardous waste it would have ensured that the ridiculous practice of backdating dangerous goods licences never occurred.

The minister has an opportunity to partly restore her reputation by giving a categorical guarantee today that the outrageous proposal for the Niddrie quarry site will not be approved.

Mr PERRIN (Bulleen) — The quality of the debate on the Environment Protection (Amendment) Bill has varied widely. I will focus on the main purpose of the bill, which is to amend the Environment Protection Act, to make further provision for industry waste reduction agreements, state environment protection policy, the transport of waste, and to impose further landfill levies.

My contribution will concentrate mainly on landfill levies because that is the most contentious issue in this debate.

I have had the great privilege of chairing the Environment and Natural Resources Committee for the past two terms of Parliament. The committee has inquired into extractive industries or quarries and the most contentious part of that inquiry was the end use of quarries: what happens to the hole in the ground after the quarry has finished its useful life? The bipartisan committee adopted unanimous recommendations that were accepted by the government almost in their entirety. Quarries can be used as rubbish tips, they can be filled with water or earth, they can be used for prescribed hazardous wastes or a number of other activities. It became obvious to me that on every occasion when the end use of a quarry is being discussed an environment effects statement must be held. It is a key process in determining the end use of a quarry. There is no possible end use for a quarry that should not have an environment effects statement.

I believe the opposition's comments about possible environmental impacts will be picked up by an EES. In April last year the government, in cooperation with the Environment Protection Authority, produced a publication entitled *Zeroing in on Waste*. One would have thought that the policies expressed in the publication that the government has adopted would be bipartisan, but obviously they are not. On page 1, under the heading 'Industrial Waste Strategy' the publication states:

Based on the principles of environmental management spelt out in the Intergovernmental Agreement on the Environment, the strategy advocates:

a commitment to environmental stewardship
(including product stewardship)

waste avoidance through cleaner production

re-use and recycling of wastes and recovery of energy where wastes can't be avoided

responsible management of all residual waste streams.

All states of Australia, except Western Australia, have adopted the principles set out in the Intergovernmental Agreement on the Environment. The measures to help achieve the strategy objectives include:

waste minimisation planning, audits and demonstration programs

cleaner production partnerships

promoting and assisting with other financial incentives

That is where levies come in. The objectives continue:

- facilitating capacity building programs
- environmental performance reporting
- awareness of potential liabilities and financial risks
- improved public data on waste generation
- waste pricing which reflects the long-term environmental risks of treatment and disposal
- helping businesses identify opportunities to divert potentially valuable resources from the waste stream
- ensuring application of best practice in all aspects of the management of residual waste streams
- working with the accounting profession to ensure managers have full financial information on which to base decisions.

They are excellent outcomes. I believe the key objective is, 'waste pricing which reflects the long-term environmental risks of treatment and disposal'. Local communities and local government will understand there is a cost in putting waste into landfill, whether it is garbage or hazardous waste. The Minister for Conservation and Land Management is clearly indicating that price signals should be present in the minds of the community by increasing levies.

Local government and industry do not like landfill levies. The minutes of the City of Manningham council meeting of 16 March reflect the fact that the council opposes those levies. I do not accept the council's view. I congratulate the City of Manningham for introducing a total recycling review. I have praised it for that, but I do not agree that the landfill levies should be given to local government, which is the aim of the opposition's reasoned amendment.

I know what the minister would use the levies for, but when I asked local government what it would use the levies for if the government rebated it to local councils, there was no answer. Parliament has the right to know that answer. The minister advised me in a letter of 19 February what the government will do with the levy. The letter states:

Thank you for your letter of 19 January 1999.

Following the stalling of direct negotiations between local government and industry, the National Packaging Covenant ('the Covenant') proposal has been negotiated between the Australian and New Zealand Environment and Conservation Council and the 'packaging chain' industries. Local government was also represented at the negotiations. These negotiations led to an industry funding offer of \$17.45 million nationally over a three-year period with matching funding to be raised by governments.

The matching funding is in the levy. I want industry to put in the \$17.45 million and I want the money collected by the levy to go into the fund so that it can be used for recycling purposes. The letter continues:

The increase in the landfill levy to provide the government's contribution is based on an original proposal by the Australian Local Government Association as the means of enabling local government to deal with the so-called recycling 'gap'.

The Australian Local Government Association supports the government and the measures introduced in this bill, but the Labor Party and local government in this state say the landfill levy must go back to local government! The letter continues:

About 65 per cent of the current landfill levy revenue comes from the commercial and industrial sector with local government contributing 35 per cent. Because the levy increase applies only to the metropolitan area an even larger proportion is likely to come from the private sector. Conversely, the bulk of funds are through local government either by direct funding of waste management regions or through Ecorecycle Victoria's grants process. Revenue from the levy increase will also be directed through Ecorecycle Victoria and will be supplemented by the funds pledged by the packaging industry chain. Once again the principal beneficiary will be local government.

I reiterate that the main beneficiary of the levy will be local government through Ecorecycle Victoria's grants plus the \$17.45 million from industry. Those funds will assist in producing better recycling programs. I do not accept the reasoned amendment put forward by the opposition. The second part of the reasoned amendment refers to abandoning all plans for new toxic waste landfills.

The small problem with that is that hazardous waste landfills are already with us. The one at Tullamarine, for example, is filling up fast. The question is: what are we to do with the hazardous waste? Do we hear anything from the Labor Party about what to do with that waste when the Tullamarine site is full? Is waste to be kept at factories in urban areas so that hazardous waste leaches into the ground or is it to be disposed of properly?

There is not the slightest doubt that there is a need to reduce the amount of hazardous waste in industry, but hazardous waste is being produced and it must be disposed of properly. The proposed levy will send a signal to industry that it must pay for what it does to the environment.

Interestingly, the policy from which I have just read outlines a clear program of events that will, firstly, reduce the amount of hazardous waste and, secondly, ensure that it is recycled wherever possible. There will

be some hazardous waste, however, and it will have to go somewhere. We cannot put our heads in the sand.

The government has done a reasonable job on waste reduction. I remind honourable members that it has set up a bipartisan committee to consider hazardous waste reduction, and the list of committee members reveals some interesting names: Mr Robert Joy from the EPA; the Honourable Caroline Hogg, an ALP member for Melbourne North Province in the other place; Mr Brian Boyd from Trades Hall Council — I am sure members of the Labor Party would support that appointment; Mr Harry van Moorst from the Werribee Residents Against Toxic Waste organisation, and many other people whose names I will not mention. The key issue for the committee to consider is how to manage hazardous waste and it will find alternative ways to handle the waste that currently goes into the Tullamarine landfill.

I strongly support the bill, which is most appropriate. I should like to see money coming from industry to top up funding for better recycling systems throughout Victoria. The only way to get that money is to pass the bill.

Mr LONEY (Geelong North) — It was interesting to hear the policy of the honourable member for Bulleen, which could be summarised as, 'You can't put your head in the sand but you can put your toxic waste there'.

I will comment firstly on a couple of things said by the honourable member for Dromana. He spoke of throwing money at the problem not being an option, which is absolutely correct. However, I suggest that his government's policy of considering the imposition of a tax as the only option is also not the answer. It seems that the only option that the government considers when addressing any problem is to impose a tax. The government taxes water, hazardous waste, landfill, households — anything. The government shows no creativity at all when setting policies — but the government has no policy on the environment.

The opposition maintains that pollution needs to be reduced, controlled and contained. However, the bill establishes clearly that the government has no credible policy to achieve those aims. Good public policy requires that where more than one measure is available to achieve good outcomes each measure should be used to achieve the optimum result.

Many mechanisms can be used to develop good public policies for dealing with environmental pollution. The imposition of taxes is just one mechanism. Others

include the development of restrictive legislated and voluntary regulations — I say that particularly because the government never considers legislated restrictions — and the provision of appropriate incentives, which is an interesting measure in the context of the bill.

As one might expect from the government, the bill places excessive reliance on the market-based approach it has always favoured. In this case that means levying taxes at an appropriate rate — that is, the level of tax should not be decided in an ad hoc way but only after a careful analysis of the situation. However, in her second-reading speech the minister gave no reason to believe that the levies mentioned in the bill are the result of anything but simple guesswork. Taxes imposed to reduce pollution are most effective when the government follows the polluter-pays principle. Although at times the government mouths that principle, on every occasion it walks away from applying it.

The catchment management authorities tax is a clear example of walking away from the polluter-pays principle. When taxes are levied further down the chain they become increasingly less effective, yet this bill imposes the levy down the chain. Therefore the levy will not be imposed on the polluters; it will be imposed on and collected from the managers of landfill sites and in turn paid to the government. When the bill refers to regulation it refers not to legislated government regulation but voluntary regulation. The government never considers that the two paths in regulation can be followed and that they can work together.

Part of the argument advanced by the honourable member for Bulleen in his defence of ever-increasing toxic landfills around Victoria was that toxic waste will continue to be produced. The opposition maintains that the government should be working on developing effective mechanisms for reducing the production of toxic landfill. It is possible. For example, Alcoa, which is based in the electorate of the honourable member for Bellarine, has been particularly successful in reducing the amount of its hazardous waste.

Alcoa's great record of waste reduction in recent years is an example that needs to be followed. Of its own volition Alcoa cut its previously large quantities of hazardous waste down to virtually none by disposing of it at its own site. The company should be congratulated on its achievement and all industry should aim for it. If that happened there would be no need for the ever-increasing landfills that the honourable member for Bulleen wants. That is the direction the debate and action should take.

The minister stated in her second-reading speech that the levy will:

... represent a financial incentive for developing innovative ways to reduce, reuse, recycle or treat hazardous wastes ...

It is an extraordinary jump in logic to believe that a tax can ever be described as an incentive. Taxes have always been clearly identified as deterrents; a tax could be described as an incentive only in the world of *Alice in Wonderland* or in the government's world of Orwellian language. However, an incentive is required. I would have agreed with the minister had she said that incentives were required, but I cannot agree that taxing is required.

I am reminded of one of the problems that Britain experienced in taxing landfill. The next survey results seemed to be terrific: the amount of waste dumped in landfill sites was reduced — but the lurks continued. The *New Scientist* of 30 May 1998 contained the following statement:

But contrary to the hopes of the government and environmentalists, this was not simply the result of industry adopting greener practices. Rather the reverse. For in the past 18 months 16.9 cubic metres of waste — enough to fill 4500 Olympic swimming pools — have 'gone missing', according to landfill operators. Most of it, they believe, has been spread on fields, buried beneath new golf courses and housing estates, or fly-tipped in back streets and country lanes. The reduction in landfill waste that can be attributed to valid recycling or waste reduction is, environmentalists and industry agree, relatively small.

If a levy is the only mechanism to be adopted, that is the problem. It provides an incentive to throw waste all over the countryside to avoid the levy.

The honourable member for Monbulk is a supporter of ever-expanding landfills for toxic waste. He will tell us that shortly. He and other government members support a single tactic, but it is impossible to manage the problem with a single tactic. It is necessary to open the issue and develop proper public policy. The government does not have a policy. I invite the honourable member for Monbulk to have a talk to the shadow minister for environment, conservation and land management before he begins his presentation, and to obtain a copy of the Labor Party policy on the matter. Then he could examine the policy and come up with something useful. I could go through it myself now if I had time, but my leader tells me I have only 1 minute left. It is a comprehensive policy and would take a considerable amount of time to go through.

The main point is that we need comprehensive approaches, not single-tactic approaches that are rushed in, ill-considered and not soundly based. The

honourable member for Bundoora is entirely correct to move a reasoned amendment that would allow councils to be more proactive and to undertake waste reduction mechanisms in their own areas.

Let us stop toxic waste landfill. Let us stop it now and introduce mechanisms that can stop us from producing the stuff at all. Many overseas examples show us that those objectives can be achieved, yet this government does not want to achieve them in Victoria. The Victorian government is taking the only approach it has ever known: when you have a problem, tax it out of existence. That is the only policy approach the Kennett government has employed during its seven years in office.

Mrs SHARDEY (Caulfield) — I am pleased to make a contribution to the debate on the Environment Protection (Amendment) Bill. I am intrigued by points made by members of the opposition. I wonder whether they have read the bill and know what it contains, and whether they have read any of the vast number of provisions detailed or the large number of documents associated. Obviously they have not.

Honourable members interjecting.

The ACTING SPEAKER (Mr Cunningham) — Order! The previous speaker was listened to in relative silence. The house should give the honourable member the same courtesy.

Mrs SHARDEY — I congratulate the government for its far-sighted approach, building on the achievements of the Environment Protection Authority since the 1970s.

The government has demonstrated that it has an Australia-wide approach to the environment. It is working with governments throughout Australia to develop appropriate measures that can be agreed upon by the states. One of the purposes of the bill is to assist the implementation of those national agreements to the benefit of Victorians.

The government accepts its responsibility to provide the framework for a safe and healthy environment. The bill addresses that responsibility in two key areas: recycling and prescribed waste management. The first recycling issue to be raised in the bill concerns amendments to the state environment protection policies (SEPPs). For those who do not understand those policies or even know what they are — and I get the feeling that many members on the other side of the house do not know what they are — I indicate that Victoria's environmental objectives are set out in the SEPPs under the Environment Act 1970.

They express in law the community's expectations, needs and priorities for using and protecting the environment. Proposed amendments deal also with the SEPPs that have been established over the past 25 years and set a very clear statutory framework of environmental objectives to guide the EPA and control its programs. A number of SEPPs that guide the work of the EPA have already been published dealing with issues such as the waters of Victoria; the air environment; control of noise from commerce, industry and trade; and the siting and management of landfills receiving municipal waste.

This week two more were gazetted. I suppose members of the opposition are not aware that they exist. One deals with industrial waste management policy as it relates to waste and sulphite soils and the other deals with ambient air quality. These SEPPs represent steps being taken by the Kennett government on a wide range of issues and are supported in this legislation. Development of such policies is a strenuous task. It is complicated, and involves a lot of consultation, advertising, discussion papers, responses from the community and a 10-year review cycle. Such policies do not happen in 5 minutes, as has been alleged.

Kerbside recycling is the second element of the bill. Perhaps we need no more convincing about kerbside recycling, because, as we all agree, it has been strongly embraced by the Victorian community. Many people participate in recycling programs. A study conducted in 1997 by the Beverage Industry Environment Council showed that more than 90 per cent of Victorian households made use of kerbside recycling services, and that more than 80 per cent of newsprint, glass and PET soft drink bottles were disposed of through kerbside recycling. In recent years, these services have been under increasing strain due to continuing downturns in prices, a small domestic market and the pressure of the Asian crisis.

The opposition would have us believe the government is not doing anything to address the waste management problem. In fact, a great deal has been done. The government played a key role in negotiations concerning the national packaging covenant. That covenant was produced following the stalling of direct negotiations between local government and industry, a fact that the opposition seems quite unaware of. The covenant was negotiated between the Australian and New Zealand Environment and Conservation Council on the one hand and the packaging industries on the other. Municipalities were also represented in the negotiations.

The agreement led to industry offering to provide \$17.45 million nationally over three years, with matching funding to be raised by governments. A total of \$35 million will be raised nationally to address the problem of recycling. The three-year, joint industry-government program will fund reforms to kerbside collections and market development programs. The funding associated with that transitional arrangement will finish at the end of the three years.

Local government has made representations to a number of members of Parliament, complaining about the increase in the levy from \$3 to \$4 a tonne, but it should be made clear that 65 per cent of the levy is being paid by the commercial and industrial sector. All of the levy will be applied to programs that will significantly help local government because a more viable and sustainable system will be put in place. The levy will deliver substantial long-term savings for local government.

I refer briefly to the hazardous waste landfill levy, which has been discussed this morning. All honourable members will know that hazardous wastes are regulated under law, being referred to as prescribed wastes. The majority come from oils, paints and batteries. Victoria generates some 600 000 tonnes of hazardous waste a year. I am told that is enough to fill 240 Olympic-size swimming pools, which I find hard to believe. The concept of a prescribed waste landfill levy was developed during the comprehensive public consultation process on the industrial waste strategy entitled *Zeroing in on Waste*. The opposition has claimed there was no consultation when in fact there was lengthy consultation — another point members of the opposition have failed to recognise.

The importance of the strategy is that it will map out for the next 10 years the pathways to achieving cleaner production policies and practices, reducing waste levels, maximising the value of waste through reuse, and fostering a culture of continuous improvement in waste management.

The strategy is not a bandaid approach; it is not simply imposing a tax on people. The opposition continually accuses the government of taking a bandaid approach. If anything, the strategy is the most far-sighted adopted to date, because it looks to the future and endeavours to do what is best for the community in managing hazardous or toxic wastes. The levy was also discussed during consultation on the development of the Environment Protection (Prescribed Waste) Regulations.

The proposed levy of \$10 a tonne will provide the following incentives, of which the opposition also seems to be unaware. It will act to conserve scarce space at landfills, discourage the deposit of prescribed waste, encourage waste generators to minimise waste production, promote innovative developments in the waste industry and help ensure the environmental cost of landfill waste is built into the cost of disposal. Those incentives will be understood by industry. Most importantly, the levy will demonstrate that the government is committed to managing hazardous waste through waste avoidance and minimisation.

It is not a matter of dumping toxic waste in a hole, as the honourable member for Geelong North suggested. The opposition also seems to be unaware of the amount of money that will be raised. The levy will raise approximately \$2.9 million in its first year. The funds will be used for a range of hazardous waste management programs, including cleaner production partnerships, which I will mention a later. On top of that, the levy will be used for the rural chemical collection scheme, which everyone would applaud.

I could say a great deal more but I realise that a number of honourable members wish to speak on this interesting legislation, which is of great environmental significance. However, I will raise one more important issue — namely, the opposition's announcement of its environment policies. They were announced by the former Leader of the Opposition, the honourable member for Broadmeadows, so I am not sure whether they still apply.

He announced that a Labor government would overhaul the Environment Protection Authority. Why is the opposition saying that now? It was in government for a decade, during which it chose not to change the administrative set up of the EPA — in fact, it skited about the authority's achievements. The Labor Party's announcement contained an extraordinary assertion. It attacked the chief executive officer, Brian Robinson, for providing information to the Liberal Party on issues that the authority considered to be important. If the Labor Party invited him to brief it on EPA matters I am sure he would be more than happy to attend, but perhaps the Labor Party is not interested enough to seek such briefings.

The legislation is significant because it demonstrates the government's absolute commitment to the management of waste and recycling. I congratulate the government and the EPA on what the legislation will achieve, and I commend the bill to the house.

Mr PANDAZOPOULOS (Dandenong) — I am pleased to support the opposition's reasoned amendment. It is important that the current direction in the reuse, reduce and recycle strategy be put on the record. In the 1980s Victoria was the leading state in waste management. In recent times, due to the government's budget cutbacks and its failure to properly manage waste, Victoria has fallen behind. As the honourable member for Bellarine and the other members of the Parliament's Environment and Natural Resources Committee will be aware, Victoria should be the leader in this field, but it can no longer assume that proud mantle.

When I was a councillor of the former City of Berwick, the state government funded conservation strategies in cooperation with local government. A key component of those strategies was recycling. Local government has done a great job since then: the strategies have been working, despite the lack of support from the government.

Local government has been sluggish with extra levies. On average councils in my electorate face having to pay an extra \$40 000 in levies, but they get little benefit from them. No-one from the metropolitan local councils can represent the interests of local government because it has no representative on the board of Ecorecycle Victoria, the government-appointed body that examines recycling. The levies are being paid, but there are reduced opportunities to contribute. I am critical of local government being sluggish with levies but given less of a role in the process.

In recent times the amount of landfill needed by local government has been reduced by 23 per cent, but there has been a 10 per cent increase in building and commercial waste going to landfill. In municipalities such as the City of Casey, the fastest growing municipality in the state — there is new house upon new house, with 6800 new residents last year alone — waste is not being recycled properly. The focus is on householders getting their acts together, but other creators of waste are not doing enough. The Casey City Council thinks a better job should be done on reusing and recycling commercial and building waste, rather than people continuing to adopt the mentality that holes can be endlessly dug and filled.

I want to focus mainly on prescribed wastes, which is a big issue in my electorate. I was annoyed by the outrageous response of government members such as the honourable members for Mordialloc and Cranbourne, who suggested that unless the Labor Party supported the dumping of toxic waste in Werribee that waste would end up in my electorate at the Lyndhurst

facility operated by SITA-BFI. Rather than trying to fix prescribed and toxic waste problems, they threatened to dump the waste in my area if dumping in Werribee was not supported. I am pleased the community responded to that fear campaign, setting up a local residents group called Ratwise. I congratulate Robyn Thompson, the chairperson of that committee.

Members of Ratwise — that is, Residents Against Toxic Waste in the South East, will be making a lot of noise about the issue because they have not been able to obtain certain guarantees from government members of Parliament. I wrote to the Minister for Planning and Local Government because SITA-BFI cannot alter its permit allowing it to devote 25 per cent to prescribed waste without the agreement of the state government. In his reply the minister said that he cannot guarantee that there would be no more changes or that there will be no more toxic waste or prescribed waste. The residents in the area were forced to do something — and it is good to see that they have formed a lobby group.

I was at one of the group's meetings, which was well attended by people from both the City of Casey and the City of Greater Dandenong in the Cranbourne and Dandenong electorates. They will be making a lot of noise on this issue, and collecting signatures on a petition to put their views across.

An Honourable Member — Should they have to go to that bother?

Mr PANDAZOPOULOS — They should not have to go to that bother. Under this government if people want to get what they deserve they have to form residents' groups, have public meetings, organise petitions and generally lobby. Why should they have to do all that? The governments should be looking after them, not finding the weakest communities to dump something in their area. The government hoped that by targeting Werribee no-one would notice and that the community would not stand up and fight. But the community showed them, and we are seeing the same response right across Victoria. If nothing else, the government has restarted people power. Unfortunately that is not to the government's advantage. However, it is a shame that people have to do so much to defend themselves.

Eventually the government eventually fell from grace in Werribee, where a bipartisan process has now been set up. The member for Cranbourne was quoted in the local paper as saying that it was good that the opposition was shamed into being involved with the committee. If anyone is shamed, it is the government because it has failed atrociously to deal properly with

toxic waste issues and has shown absolute contempt for local communities. It is still doing so in Niddrie, and in future it may do so again in Lyndhurst. The government is saying, in effect, 'We do not really care about a strategy'. Hopefully community resistance will be able to apply more pressure on the government.

I will give one example of where the Environment Protection Authority has failed. For a long time I have had dealings with Rolco Products Pty Ltd, a local family business for more than 50 years. Recently Gary Luxford, the managing director, who is very active in the community, received an award for his service to the Country Fire Authority.

The honourable member for Caulfield mentioned the opposition's policies on revamping the EPA. Many foundries are located in the electorate I represent and of course foundry sand is a prescribed waste. Gary Luxford wants to do the right thing by reducing the amount of foundry sand that goes to prescribed waste. His major hassles have been with the Environment Protection Authority's definition of types of prescribed waste and therefore which landfill it is sent to, which affects the landfill charge. The EPA officers say, in effect, 'I will define your waste as this type of prescribed waste'. On that basis Gary tips it at certain facilities at a certain cost. Then they say, 'No, we will define it as that type of prescribed waste', and he has to send it to a more expensive facility. The only option that gentleman has been left with is to stockpile the stuff on his very compact site until the government and the Environment Protection Authority work out exactly what they are doing.

Gary Luxford and I have written to the minister but we have received no satisfaction. He has been forced to provide the Ombudsman with all the details. The Ombudsman's recent reply has been, 'I am getting so many complaints from members of the public that my budget is not big enough to deal with them and you will have to wait for a while as well'.

Here is an example of people in a business wanting to deal properly with prescribed waste by reducing the amount of waste going to landfill and ensuring they can also run the business, but they are being given the run-around by the Environment Protection Authority and the government because of its inaction.

Government members say, 'Everything is fantastic; everything is hunky-dory' at the same time as people in local business are saying, 'Things are not going so well, despite our best efforts'.

The opposition has acknowledged that the bill is a step in the right direction, but there is a long way to go. The

government is only moving in the right direction because of the pressure put on it by the community and the opposition. We must change the mentality that as there are holes in the ground we can just put anything in them. There are good examples all over the world that we should follow; we should benchmark ourselves with best practice overseas.

It is interesting to note that during the Kimer government, the then Natural Resources and Environment Committee conducted an inquiry into landfills and Victoria started to use practices that were established overseas. We must follow the example of countries in Europe and Japan, where they have high population densities, to improve our performance. We should try also to be competitive and improve on what they are doing.

The shadow minister and the honourable member for Geelong North have highlighted the opportunities available for us in the future. The opposition is moving the reasoned amendment because we should be moving a lot faster and doing a lot better; we should not be moving at a snail's pace in addressing such major issues.

Mr McARTHUR (Monbulk) — First let me put an end to the nonsense that the honourable member for Dandenong has just stated. The government does not consider everything to be hunky-dory or okay. If it did it would not be proposing amendments to the Environment Protection Act; it would leave things as they are.

The government maintains that things are substantially better than they were 50 or 20 years ago and they are better than they were 10 years ago. However, there are problems with our programs in matters of waste handling, materials management and recycling and recovery of both ordinary and prescribed waste. That is why the government is proposing amendments to the Environment Protection Act.

The bill is not particularly complex or lengthy. In the first of its three main aspects the bill promotes and enhances the production of clean and green food, for which Victoria is very well known in South-East Asia and on which much of our marketing of both fresh and processed food products relies. The government is determined to ensure that that reputation is enhanced, and is not in any way threatened by the handling of packaging or prescribed waste or any other type of waste and residues. The bill therefore takes further steps to promote that image and protect its future.

Secondly, the bill assists and supports the kerbside recycling program. As other members have mentioned, for some years that program has been extraordinarily successful in Victoria but it faces problems not because people are unwilling to be involved in kerbside recycling or because local government is not willing to pick up waste from the kerbside but because the markets on which kerbside recycling rely have largely collapsed. There is little purpose in collecting waste from the kerbside in attempting to recycle it if one cannot find something to do with it at the end of the process. It would result in moving things around and then moving it to landfill, anyway.

The government must take positive and proactive steps to ensure a market for the products developed from kerbside recycling once the work on them is done. The bill certainly enhances that aim. The bill imposes an increase in the temporary landfill levy. The honourable member for Geelong North was complaining about that and the honourable member for Bundoora moved a reasoned amendment about it. For three years the existing levy will be increased by \$1 per tonne. However, that money will be directed to sensible disbursements.

Thirdly, the bill provides for much better management of hazardous wastes. It seeks to reduce the amount of hazardous waste produced by actively promoting cleaner production. A number of government members have gone into detail on that, and I do not propose to repeat what they have said about it. In the short time available to me I will concentrate on what the honourable member for Bundoora somewhat ambitiously called a reasoned amendment and explain why the government will not support it but will urge all honourable members to oppose it if she continues with it.

The reasoned amendment is seriously flawed. The honourable member for Bundoora has moved that the bill be withdrawn until the government has provided a guarantee that the local municipalities contributing to the temporary additional landfill levy are returned \$1 per tonne as a cash grant to directly assist with their recycling costs. Her second condition is that the government should abandon all plans for new toxic waste landfills. Let me deal with those points in turn.

The drafting of the first condition is somewhat confused, but it is pointless in any case. There would be no point in collecting an additional \$1 per tonne as a landfill levy if that money were to be given straight back to the local government bodies that paid it in the first place. The second point is that although local government bodies will contribute to the extra \$1 in the

landfill levy they will contribute only about 35 per cent of the amount collected. Industry will contribute approximately 65 per cent, and 100 per cent of the funds collected through the additional landfill levy will go towards programs that will directly assist kerbside recycling projects.

The assistance provided to those programs will directly benefit both the local government bodies that are involved in the kerbside recycling projects and the community generally by reducing the amount of municipal and industrial waste that is currently going to landfill. It will also directly benefit the environment and the economy by promoting and sustaining a decent market for the products that come out of the recycling projects. That should be applauded. It is a substantial reason for members to vote against the reasoned amendment and should convince the honourable member for Bundoora to reconsider her reasoned amendment and withdraw it.

The second condition the honourable member for Bundoora seeks to impose on the government is that the government should abandon all plans for new toxic waste landfills. Let us take the hysterical language out of it. Toxic waste landfill is actually prescribed waste, not all of which is toxic. Some is intractable waste and some is natural soil which contains a level of background chemicals and which is not permitted to be used for playing fields and similar uses. In some places it occurs naturally and hardly qualifies as the sort of material the community would regard as toxic. It exists around the old Exhibition Building and similar areas where trees have been growing happily for centuries. In some cases it is a natural part of the Australian landscape.

The honourable member for Bundoora says we should abandon all plans to find places to dispose of such material, but to do so would be totally irresponsible. Contrary to what the opposition claims to be the case, the government has announced a target of zero prescribed or hazardous waste going to landfills. It is an ambitious target that will take some time to achieve. If I remember correctly the interim target is also ambitious — a reduction of 50 per cent within 10 years. The government recognises that while moving to achieve those targets industry and the community will continue to produce hazardous waste and there is a need to do something with it. There is a need for appropriate places in which to store hazardous waste so that it can be recovered and reused when and if the technology is available for that to be done.

There is also a need to develop programs through research and through the provision of financial

incentives to encourage industry to minimise the amount of waste it produces — and the legislation is designed to achieve exactly that. Far from seeking to have the bill withdrawn, the honourable member for Bundoora should be encouraging it with her every breath.

Finally, the honourable member for Geelong North complained that the government has only one procedure for dealing with hazardous waste — increased taxes. That is far from the truth. If the honourable member read either the Environment Protection Act or the amending bill he would see there are currently proscriptions against people illegally or illicitly disposing of prescribed waste. He would also see that clause 3 of the bill provides for a procedure to allow state environment protection policies to be developed for the handling of hazardous waste. If he read more widely he would see that the government has requested the Environment Protection Authority to develop an industrial waste management policy for prescribed waste.

The government's request has been referred to the Hazardous Waste Consultative Committee, and it might surprise the honourable member for Geelong North to know that the committee is made up not only of coalition supporters. The membership of the task force includes the Honourable Caroline Hogg, a Labor member for Melbourne North Province in the other place; Brian Boyd, an industrial officer from the Trades Hall Council and hardly a renowned Liberal voter; and Harry Van Moorst, who is a member of Werribee Residents Against Toxic Dump. The consultative committee is a genuine broad-ranging committee of people with expertise and experience in the area who will be consulted in developing a policy that will do exactly what the opposition requests.

The bill deserves the support of all honourable members. I ask the honourable member for Bundoora to withdraw her reasoned amendment and support the bill in the interests of all Victorians.

Mrs TEHAN (Minister for Conservation and Land Management) — I thank honourable members who have contributed to the debate on amendments to the Environment Protection Act. On the whole there has been a positive approach on both sides of the house to addressing a major community requirement — that is, to have a much greater emphasis on, firstly, recycling to reduce the amount of material going to landfill and to seek to meet the commitment of a 50 per cent reduction of material going to landfill over a specific time, and secondly, to address other matters, including a levy on hazardous waste.

The opposition has said it will not oppose the bill but has circulated a reasoned amendment. The reasoned amendment was well summarised by the honourable member for Bundoora and responded to by the honourable member for Monbulk. The honourable member for Monbulk said that the two requirements of the reasoned amendment were, firstly, not practical, and secondly, lacked a solid policy base. He also said that because both of the matters raised in the reasoned amendment were addressed in the bill, the amendment did not add to the debate or take the matter forward.

In her opening remarks the honourable member for Bundoora concentrated first on efforts to recycle. She quoted a number of concerns raised by local government about the additional \$1 per tonne temporary increase in the landfill levy which is provided for in the bill and which is to apply for the next three years. She also said that local government supports shared responsibility by all stakeholders, yet it is precisely that shared responsibility by all stakeholders that is the component of the transitional \$1 per tonne additional levy on municipal landfill collection points that will provide the opportunity for further support of recycling.

There is no doubt that recycling has been accepted by the community. It is seen as the community's contribution to addressing serious environmental issues. It behoves all levels of government, including federal and local government, to look at ways and means of continually improving and providing opportunities for people to continue recycling in their domestic circumstances. As has been made clear in contributions to the debate from both sides of the house, hiccups have occurred in the smooth passage or implementation of the recycling program, mainly because of the Asian financial crisis and the dramatic fall in opportunities for recycling goods — particularly plastic, paper and glass. To a large extent that section of the recycling market has been subsidised by the export of the recycled goods into Asia.

Although Victoria faces a range of circumstances virtually outside the government's control it has used the opportunity of external pressure to address our recycling processes on a broader front. The honourable member for Monbulk and other members said that the \$1 levy is a component resulting from major negotiations at all levels of government to establish a partnership of industry, government and local government. Shortly we will hear about the packaging covenant now being considered by all Australian environmental ministers through the Australia and New Zealand Environment Council (ANZEC) process. Part of that covenant will be a government contribution to

meet the \$17.5 million contributed by the packaging industry to the partnership required by local government.

As honourable members have said, we now have a tripartite partnership between federal and state governments, industry and local government. The honourable member for Bundoora asked how much needs to be raised and how a levy was to be imposed. However, and more importantly, the honourable member's reasoned amendment suggested that the proceeds of a landfill levy should be returned directly to local government. She totally missed the point of the partnership between industry, government and local government, to which I am committed.

The funds to be raised by the \$1 levy will be used to address a range of recycling improvements. The money will be raised through Ecorecycle Victoria, but it will be based on opportunities given to Ecorecycle Victoria by a tripartite committee of representatives of local government, industry and state government.

We will also have for consideration the outcome of the work done by the honourable member for Prahran in her review of recycling within the urban area. The cooperation she has received from local government will be the basis for not so much reviewing as taking into account the outcomes of the review and establishing a more sustainable market-based approach to recycling in urban Victoria. The levy will be part of a contribution towards providing the opportunity for a more sustainable market-focused recycling program. The additional \$17.5 million raised from Australian industry will be part of that contribution.

The honourable member for Bundoora spoke about the waste management policy — the Zeroing in on Waste policy — and the need for an explanation of how much the hazardous waste levy of \$10 per tonne will raise and where it will be used. I am surprised that the answer did not become apparent in the briefing I am sure the honourable member received. The levy will raise up to \$2.9 million in the first full year of operation, but the amount will decrease in accordance with the waste management policy.

The honourable member for Geelong North spoke about the variants of a tax that will act as a deterrent, and it will do so. It will also act as an incentive for people in the production area to reduce the amount of hazardous waste going to landfill. We will have a dual operation. Firstly, in a full year we will raise \$2.9 million to be used for a series of programs addressing opportunities for cleaner production. Secondly, the levy will act as a disincentive for the

dumping of hazardous waste and an incentive for cleaner production and the recycling of end-use waste products.

As the honourable member for Bulleen said, one of the key programs to be funded by the hazardous waste levy will be the rural chemicals collection scheme which, in a short period, will be able to remove the chemicals still scattered across rural Victoria. That serious issue must be addressed. Already Ecorecycle Victoria has started to substantially implement that program.

The honourable member for Dromana spoke about the need for cleaner and greener production. He said the rural chemicals collection scheme will be one of the by-products of the levy. The honourable member supports that form of recycling.

The honourable member for Niddrie referred to the Niddrie quarry site. His reference was inappropriate on two bases. Firstly, that matter is before the Supreme Court and therefore I am limited in what I can say now. I am surprised that the honourable member for Niddrie did not recognise the sensitivity of that matter. Secondly, and more importantly, he and all honourable members should realise that the government recently established a task force to inquire into possible sites for the positioning of hazardous waste. As the honourable member for Monbulk clearly spelt out, the task force's second term of reference is to seek to reduce the amount of hazardous waste in programs, resulting in a policy objective of eventually having zero waste out of production streams in Victoria. The more immediate objective of a 50 per cent reduction by, I think, 2010 will address that long-term negation of industrial waste.

However, in the meantime there is no doubt that some intractable hazardous waste must be disposed of. A bipartisan committee, under the chairmanship of the honourable member for Bennettswood, is addressing those issues. The community fully supports that process. I am surprised that the honourable member for Niddrie would use this debate for his own political purposes because there has been otherwise bipartisan support for a broad overview of where and how we address interim measures to cope with the hazardous waste problem.

The honourable member for Geelong North reminded me of the excellent work done by Alcoa of Australia Ltd in reducing the amount of hazardous waste or waste in general through its production. Government members have been most impressed by the work of Alcoa. Last week, with the Minister for Youth and Community Services, who represents the Portland electorate, I visited the Portland Alcoa smelter and

heard about the remarkable reduction in waste achieved by that company, which must be congratulated on its tackling of a range of environmental issues. About two or three years ago Alcoa produced about 1300 tonnes of waste; the amount is now down to 30 tonnes. I am sure honourable members would agree that outcome has resulted from a commendable effort. All industries should study and learn from the Alcoa waste disposal operations.

The honourable member for Caulfield referred to the national focus of the government in leading the argument for a national covenant on packaging. The government could not do it alone. It was and is a difficult problem, but the government now has the cooperation of all ministers and is working with industry on a national level.

The honourable member for Monbulk dealt effectively with the arguments against the government's support for the reasoned amendment. I understand the opposition will not be withdrawing the reasoned amendment, and I indicate that government members will be voting against it for the reasons that have been spelt out clearly in the contribution of the honourable member for Monbulk.

I thank those who have been active in preparing the legislation — the honourable member for Prahran, local government members, the regional waste management groups which are doing a lot of work in this area, industry at both a state and national level as it moves towards a national packaging covenant, and the Victorian EPA, which has been a leader on this issue. Victoria now has the basis for a stronger, sustainable market-driven recycling program in response to community expectations of government that Victoria will have a sustainable recycling program. I commend the bill to the house.

House divided on omission (members in favour vote no):

Ayes, 52

Andrighetto, Mr	McLellan, Mr
Ashley, Mr	MacLellan, Mr
Burke, Ms	McNamara, Mr
Clark, Mr	Maughan, Mr
Coleman, Mr	Naphthine, Dr
Cooper, Mr	Paterson, Mr
Dean, Dr	Perrin, Mr
Dixon, Mr (<i>Teller</i>)	Perton, Mr
Doyle, Mr	Peulich, Mrs
Elder, Mr	Phillips, Mr
Elliott, Mrs	Plowman, Mr A. F.
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Henderson, Mrs	Rowe, Mr
Honeywood, Mr	Ryan, Mr
Jasper, Mr	Shardey, Mrs

Jenkins, Mr
John, Mr
Kilgour, Mr (*Teller*)
Lean, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McGill, Mrs
McGrath, Mr J. F.

Smith, Mr E. R. (*Teller*)
Smith, Mr I. W.
Spry, Mr
Stockdale, Mr
Tehan, Mrs
Thompson, Mrs
Traynor, Mr
Treasure, Mr
Wade, Mrs
Wells, Mr

Noes, 27

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Brumby, Mr
Cameron, Mr (*Teller*)
Campbell, Ms
Carli, Mr
Cunningham, Mr
Davies, Ms
Delahunty, Ms
Dollis, Mr
Garbutt, Ms
Gillett, Ms
Hamilton, Mr

Hulls, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Leighton, Mr
Loney, Mr
Maddigan, Mrs
Mildenhall, Mr
Pandazopoulos, Mr
Robinson, Mr (*Teller*)
Savage, Mr
Seitz, Mr
Thwaites, Mr
Wilson, Mrs

Amendment negatived.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 16 agreed to.

Clause 17

Mrs TEHAN (Minister for Conservation and Land Management) — I move:

1. Clause 17, page 9, line 2, before "A" insert "(1)".

Amendment agreed to; amended clause agreed to; clauses 18 to 20 agreed to.

Reported to house with an amendment.

Remaining stages

Passed remaining stages.

**BARLEY MARKETING (AMENDMENT)
BILL**

Government amendments circulated by Mrs TEHAN
(Minister for Conservation and Land Management)
pursuant to sessional orders.

The SPEAKER — Order! Before calling the first speaker I advise honourable members that I have examined the Barley Marketing (Amendment) Bill. The bill deals with matters some of which could be argued to be of a private nature. However, most matters dealt with by the bill are clearly of a public nature.

At page 853, the 22nd edition of *May* provides that a bill of this nature should not be allowed to proceed as a private bill and applies three principles that should be taken into consideration when determining whether a bill is of a hybrid or private nature. The principles to be considered as expressed in *May* are, firstly, the magnitude of the area and the multiplicity of interests involved; secondly, whether the bill proposes to amend or repeal public acts; and thirdly, whether public policy is affected.

After considering the application of those principles to the bill, I consider that this bill is a hybrid bill. However, there is a multiplicity of interests that cover a wide geographic area. The bill proposes to amend the Barley Marketing Act, a public general act, and public policy is affected. As honourable members may be aware, there is no provision under the Victorian standing orders for hybrid bills. Accordingly, I rule that this bill should be treated as a public bill.

Mr Brumby — On a point of order, Mr Speaker, on your ruling about whether this is a private bill, a public bill or a hybrid bill, I assume I am correct in saying that the consideration you have given to whether it is a private bill is because the interests of grain growers may be advantaged by its passage. Given that you have made that consideration may I ask for your ruling on the eligibility of honourable members to participate in the debate or to vote if they are beneficiaries of the bill?

I refer to the register of interests of the honourable member for Wimmera, who is also the Minister for Police and Emergency Services. The minister has confirmed his interest in a company named Harvest Grain Australia. An article in the *Wimmera Mail Times* of 7 October 1998, the minister's local paper, quotes the minister. It states:

It — Harvest Grain — would do better financially if the market were totally deregulated.

The intent of the Barley Marketing (Amendment) Bill is to further deregulate the market. By his own admission the minister will benefit financially as a shareholder in Harvest Grain Australia. Given your earlier consideration, Mr Speaker, I ask that you rule on the eligibility of the honourable member for Wimmera to vote on the legislation given, firstly, that he has a

private interest, and secondly, that by his own admission he will benefit from the passage of the bill.

The SPEAKER — Order! The honourable member for Broadmeadows has raised an interesting point. I assure the house that the decision to declare the Barley Marketing (Amendment) Bill a public bill was determined strictly by the guidance of *May*, which must guide Parliament if no specific standing order exists on an issue. The bill was declared a public bill following that examination. The issue of whether honourable members who may be grain growers and may be indirectly affected should vote is for honourable members themselves to determine. All honourable members are required to place their private interests on the record. As the honourable member for Broadmeadows has said, the honourable member for Wimmera has recorded his private interest in grain handling and marketing in Victoria and has certainly spoken of that interest in other areas.

I see no problem in the minister, having declared his interest in the issue, voting on the bill, but it is for the minister to determine whether he does so. It is an individual decision. I would probably abstain but it is his choice. It is not for me to rule on whether he is eligible to vote. He has made public statements concerning his involvement in the industry.

When the bill was considered it was clear that many grain growers might be advantaged financially to a small degree. However, generally speaking the bill has public benefit, deals with public policy and deals with a public act. The declaration of the bill as a public bill rather than a private bill allows honourable members to make their own decisions about whether they speak or vote on it.

Mr Brumby — Thank you, Mr Speaker. I will return later to your ruling and the issues it raises.

Second reading

Debate resumed from 13 November 1998; motion of Mr COOPER (Minister for Transport).

Mr BRUMBY (Broadmeadows) — The opposition will not oppose the legislation. However, it is a disgrace and an affront to the dignity of Parliament that a bill which affects the barley industry — one of the country's major industries — and which makes major changes to that industry is being pushed through with the potential for there to be as little as 30 minutes of debate. Australia accounts for 50 per cent of the world's malting exports and approximately 22 per cent of its barley exports. Australian barley comprises approximately 1 in every 5 tonnes of barley traded. It is

a big issue for Australia. In a week when no legislation of any note has been debated and no legislation of any great note appears on the notice paper for debate in the future, it is an absolute disgrace to have potentially as little as 30 minutes of debate on the Barley Marketing (Amendment) Bill.

The reason we have just half an hour of debate on the bill is that the government is profoundly embarrassed by the legislation. The red-faced award goes to the Minister for Agriculture and Resources who has his tail between his legs, moving legislation that I moved 10 months ago and which was voted down on party lines. Speaker after speaker got up in this place and made fools of themselves. They voted against my amendments. Today the minister skulked into the house, tail between his legs, red faced, and moved exactly the amendments I moved in the house 10 months ago.

The SPEAKER — Order! I remind the honourable member for Broadmeadows that reference to debate on legislation in the current session of Parliament is not permitted. The honourable member must not refer to previous debate on the same matter, whether he moved amendments or not.

Mr BRUMBY — The legislation is the mirror image of comments I made in the Parliament 10 months ago. I remember being attacked — —

The SPEAKER — Order! I thought I made it plain that the honourable member could not refer to a debate in this place 10 months ago.

Mr BRUMBY — I am not referring to it.

The SPEAKER — Order! The honourable member just did.

Mr BRUMBY — No, I am not. I am referring to the fact I have been attacked and vilified outside the Parliament for the stand I have taken to support the deregulation of this industry. Today the government is putting in place legislation that I have been recommending for some time.

This debate is about the mismanagement and incompetence of the minister and the government. What has that cost the grain growers of Victoria? Some reports that have examined regulation and deregulation suggest that the government's policy, which refused to embrace change and to allow market signals to be sent, was costing the industry \$8.5 to \$10 million per annum. That is how much the government's failure to act over the past 10 months has conservatively cost Victorian grain growers.

The minister gets the red-faced award for introducing this legislation today. It is a double backflip with a twist, the most extraordinary I have seen in my six years in this place. It has been motivated by political interest — the interest of the National Party and certain elements of the VFF — being put before the public interest.

Mr McNamara interjected.

Mr BRUMBY — The minister interjects, but he knows full well that last year he would have liked to put in place the policies I was recommending. However, he did not have the backbone or guts to push it through the National Party and through certain groups of the VFF. He lacked the political will to do that. He put his political self-interest before the public interest.

The legislation addresses three concerns the opposition has raised and has held for some time: firstly, domestic regulation has been unworkable and unpoliceable; secondly, the existing timetable for deregulation was too long; and thirdly, greater flexibility in export regulations was required to provide cooperatives with the opportunity to open up new niche markets. I am pleased that the bill, belatedly, confronts all three issues to varying extents. The first two issues — that is, domestic regulation and the existing timetable — are fully overcome in the legislation to the satisfaction of the opposition and me.

With respect to the third issue, which involves greater flexibility to provide cooperatives with the opportunity to export, the bill provides that for the two years between 1 July 1999 and 30 June 2001, traders and farmer cooperatives are able to trade and transport barley in bags and containers up to 50 tonnes. The bill also provides that bulk transporting in hulls and part-hulls is not permitted. Grower cooperatives are provided with the opportunity they have lobbied for, but the bill also provides small-scale traders with the chance to market barley overseas without a permit or licence issued by the Australian Barley Board. The restrictions, which are in place until 30 June 2001, undermine the competitiveness of cooperatives and traders for large scale and/or price exports.

I mentioned that the Australian barley industry accounts for 52 per cent of world malting barley exports and 15 per cent of world feeding barley exports. That represents 22 per cent of combined world barley exports. In my view it is doubtful whether that aspect of the bill allows Victorian traders to achieve the full benefits of this competitive advantage, and it is all about achieving competitive advantage.

All marketing issues have to be looked at on a case-by-case basis. I am not a regulator by nature; I am not a deregulator by nature. I look at these issues on a case-by-case basis. All the reports on the barley industry — and you can go back to the Centre for International Economics reports or any of the reports undertaken in 1997 — have said that the further freeing up of the market will benefit growers and rural Victorians.

The thing that incensed me most about the government's opportunistic opposition to my amendments last year was that I had petitions and letters sent to me by hundreds of grain growers across the state, hardworking and innovative grain growers who wanted no more than the opportunity to market their product in a world market through cooperatives. If they are good, producing a niche quality product at a premium price in the marketplace, they will get on. That is what they want to do. They want to invest and to grow their businesses.

The people holding them back are the Minister for Agriculture and Resources, the Minister for Police and Emergency Services, the honourable member for Swan Hill and an honourable member for North Western Province in another place, the Honourable Barry Bishop. They are the culprits, the villains who cost country Victoria \$8 million to \$10 million of export opportunity and additional benefits to that industry.

The debate today is under a tight time constraint but I wish to make a few more remarks. This debate was first considered last year. When one considers the proposed amendments, one recognises that Mr Bishop would be the frontrunner for the 1998–99 prize fool in Victorian politics award. At that time Mr Bishop was reported in the local press as saying:

They (the state opposition and the member for Mildura) have joined the elite group of super-economic rationalists who survive on ideology alone.

He continued:

The actions ... of the Labor Party would see our barley growers thrown to the wolves of the international marketplace, where market corruption and subsidisation could terminate the viability of the new grower-owned company during its initial operating period.

What a fool! What a goose! The legislation today puts effect to what I proposed last year and I hope the honourable member eats humble pie and is prepared to admit publicly just how much his stupidity has cost Victorian growers.

The members were joined in this attack by the Victorian Farmers Federation Grains Group through the then president, Warwick McClelland. In the debate last year I remember the Minister for Agriculture and Resources sitting opposite and as soon as I moved my amendment, he darted out of the chamber, got on the phone and rang Warwick McClelland. Within an hour of the debate there was a press statement out attacking me.

Mr McNamara interjected.

Mr BRUMBY — Minister, that is exactly what happened. This is what Mr McClelland said last year:

Any attempts by the opposition to redraft legislation that would bring the single export marketing powers for barley to an end are short-sighted and show a complete lack of understanding.

He gets the prize goose award. There is the prize fool award and the prize goose award. Later last year the VFF and the government sat down and jointly drafted legislation that provides the basis of the bill, which is identical and totally consistent with the amendment and the propositions I put forward in this place 10 months ago.

While the minister and government MPs are willing to vote against granting cooperatives the opportunity to export barley, as they did last year, and to criticise and vilify the honourable member for Mildura for publicly supporting the proposal, they do a double backflip with a twist and introduce legislation to do exactly what the opposition called for 10 months ago — that is, for the cooperatives to be given a chance to export barley. But they have gone a step further and given private companies and traders the chance to export barley as well.

In his second-reading speech the minister had the audacity to say that the arrangements 'will best serve growers in the future'. This is an example of the National Party putting politics before good public policy and political self-interest before the interests of Victorian grain growers. It should have introduced this legislation 10 months ago and adopted the amendment I moved then.

I will conclude with these comments, which I made on the point of order with Mr Speaker and which refer to the interests of members of this house in relation to the legislation.

Last year questions were raised in this house and elsewhere about the eligibility of the Minister for Police and Emergency Services, the former Minister for Agriculture — the honourable member for Wimmera,

Mr Bill McGrath — to participate in the debate in relation to these issues. It was shown that some time between July and August 1996 Minister McGrath made a significant financial investment in a new grain trading, packaging and processing company known as Harvest Grain Australia Pty Ltd. Later that year the company received an Ausindustry grant through the Department of State Development.

On 30 August 1997 the minister failed to meet the deadline under the Register of Interests Act to declare a financial benefit during any part of the return period — since 30 June 1996. In February last year the media reported that Harvest Grain Australia, the company in which the minister has an interest, was exporting barley and negotiating directly with international buyers. In March the Victorian cabinet voted to extend the then barley marketing arrangements for a further season. Then during debate Minister McGrath spoke in favour of the consequent legislation, the Agriculture Acts (Amendment) Bill. Later that month the minister awarded his own company a further state government award for the pursuit of excellence, and his picture appeared in his local newspaper, the *Wimmera Mail-Times*.

These matters have been raised in Parliament at question time and during other debates. Honourable members will recall that I tabled legal advice from Felicity Hampel, QC, which said that a court would hold that Minister McGrath had breached section 55 of the constitution and that his seat should become vacant. Later the opposition found out that a business partner of the minister, the Lentil Company, had also received a state government grant and that the minister had failed to declare another pecuniary interest, this time in Horsham Property Pty Ltd.

Mr A. F. Plowman — On a point of order, Mr Acting Speaker, I do not believe that what the honourable member for Broadmeadows is bringing into the debate has anything to do specifically with the bill. As he rightly said, it deals with the ruling the Speaker made after the honourable member for Broadmeadows commenced his contribution to the debate, and I believe it should be discontinued.

Mr BRUMBY — On the point of order, Mr Acting Speaker, I will conclude my remarks shortly, but the fact that the Speaker raised the matter in his ruling on the point of order shows that it is an obvious issue that Parliament should confront — that is, that the former Minister for Agriculture has a declared pecuniary interest in a company that is directly affected by the legislation.

By his own admission on 7 October last year in the *Wimmera Mail-Times* the minister said:

It —

Harvest Grain —

would do better financially if the market were totally deregulated.

This legislation deregulates the market, and it is totally in order to discuss these matters.

The ACTING SPEAKER (Mr Jasper) — Order! While I do not uphold the point of order raised by the honourable member for Benambra, I hope the honourable member for Broadmeadows is just making passing reference to the issue and that he will refer his comments particularly to the legislation before the house.

Mr BRUMBY — Thank you for your ruling, Mr Acting Speaker. I will conclude with these comments. The reality is that there is an issue before Parliament. The former agriculture minister has an interest, and he is on record as telling the local media that his company would do better financially if the market were totally deregulated.

The government's policy, as announced in this legislation through a range of mechanisms, is to deregulate the domestic and export barley markets by 1 July 2001. The bill plays a key role in implementing deregulation.

Consequently the Minister for Police and Emergency Services, a member of the cabinet, must now disclose to this house, firstly, whether he took part in cabinet discussions relating to the matter; secondly, whether he took part in any discussions with industry bodies regarding this matter, and thirdly, whether he voted in the coalition party room on the matter when the bill was proposed and endorsed to be introduced.

The fact is that he has an interest in a company and, by his own admission, that interest will be advanced if the industry is deregulated. The bill moves towards deregulation and hence, by the minister's own admission, the company in which he is a significant shareholder is a beneficiary of this legislation.

Mr A. F. Plowman — On a further point of order, Mr Acting Speaker, I have listened closely to the honourable member for Broadmeadows. I would suggest that he is debating the ruling of the Chair about whether the two members have the right to vote on the issue. I suggest that the Speaker clearly enunciated the rights of both the Deputy Premier and the former

Minister for Agriculture, and that further debate on the issue is purely on the Speaker's ruling and not specifically on the bill.

Mr BRUMBY — On the point of order, Mr Acting Speaker, I had finished my speech and did not intend to continue with this matter, but as the honourable member has raised the point of order, I will do so. Standing order no. 2 states:

No member shall be entitled to vote in the house, in committee of the whole, or in a select committee upon any question in which he has a direct pecuniary interest, and the vote of any member so interested shall be disallowed.

By his own admission the minister has a direct pecuniary interest. He has publicly said that the interests would be improved — he would do better financially — if the market were deregulated. That is what the bill does.

I have just raised points about his role in cabinet discussions. However, perhaps we should have proper debate about the points raised by the honourable member for Benambra, because standing order no. 2 says that the vote of any member with a pecuniary interest should be disallowed.

I believe the minister has a direct pecuniary interest. However, the matters I raised are broader than that and go to the question of whether the minister voted in cabinet or in the party room on these matters. If he did, I believe this is a serious matter of conflict between public office and private gain. I believe the minister and the Premier should fully investigate the potential conflict between the minister's private interest and his public office, and that pending that investigation the minister should be stood down.

The ACTING SPEAKER (Mr Jasper) — Order! I uphold the point of order raised by the honourable member for Benambra, on the basis that the Speaker has given a direction on the issue. You will recall that in my previous comments I suggested to the honourable member for Broadmeadows that he make a passing reference to the matter. I believe he is now debating it. It is an issue for the Minister for Police and Emergency Services, the honourable member for Wimmera. It has been debated far enough and the honourable member for Broadmeadows should restrict his comments directly to the bill before the house.

Mr BRUMBY — The opposition has played a key role in driving a better barley industry by deregulation and by opening up export opportunities for barley growers and cooperatives in overseas markets, particularly China. There is no doubt that if last year the

opposition had not moved the amendment for greater flexibility in export arrangements, the government would have stuck with the existing outmoded, backward-looking arrangements that penalised Victorian growers.

I am delighted by the support for the Labor Party's position shown by grain grower groups and Graeme Sudholz, who wrote widely on this topic last year. In a letter to the editor that appeared in *Stock and Land* of 14 May 1998 Graeme Sudholz states:

The VFF and National Party are guilty of running a very effective fear campaign against the demise or change to the single desk.

This effectively stifles any initiative required to develop our industry for the next millennium.

I agree with him totally. The opposition amendment of last year has now been put into legislative effect, and it will create jobs and new investment and export markets. It is a pity that was not done 10 months ago.

Mr KILGOUR (Shepparton) — I support the bill. Barley marketing was one of the areas the government worked on first when it came to office. The principal act included sunset provisions that now need to be dealt with.

It is an exciting time for the grains industry. We have seen the privatisation of the Grain Elevators Board and changes to the Australian Wheat Board. The government will now do similar things to the barley industry that it did to the wheat industry. We must understand we are dealing on a world market and overseas operations are heavily subsidised. The amendments to the Barley Marketing Act 1993 are intended to deregulate the domestic barley market as required by the majority of Victorian and South Australian barley growers.

There is a willingness by people in the barley industry, organisations such as Pivot Fertilisers and others in New South Wales, and South Australian bulk handling groups, to work together to reduce the costs to achieve a better industry service to ensure that we can compete on the overseas market. We are increasing the value of the malting industry and the new operation will move into the next century with the full support of barley growers.

I support the bill. The government has worked extremely closely with the Victorian Farmers Federation to ensure that it has come about in an orderly way, and I look forward to barley growers in my electorate and throughout Victoria enjoying a

successful time in the barley industry in the next century.

Mr SAVAGE (Mildura) — After the vitriolic rhetoric proffered by certain honourable members in this place and another place, I must say I am surprised about the inclusion of the provision that allows cooperatives to export barley overseas. It is exactly what the honourable member for Broadmeadows and I campaigned for in May last year. It is a timely inclusion and that is questionable.

Times are tough for dryland farmers in the Mallee — I do not believe they have ever been tougher. Last week at Woomelang a young farmer said to me, 'Do the bureaucrats in Melbourne understand how hard it is at the moment?'. I doubt whether they do, and I am sorry to say that some honourable members do not realise the extent of the difficulties. The viability of the Mallee is based on current commodity prices, and because of successive poor seasons there is no cause for complacency or celebration.

The provision is a welcome inclusion, particularly since cooperatives are excluded from shareholding in the new commercialised Australian Barley Board, and every opportunity must be given to barley growers to make them viable without jeopardising the single-desk function of the Australian Barley Board.

When the provision to include cooperatives, which was the result of a simple request, was debated in May last year, it was fascinating to hear the dire predictions that the honourable member for Broadmeadows and I would bring down the whole of the Australian Barley Board single-desk export capacity. It is now logical to ask, if it had been the intention to allow cooperatives to supply niche markets with container loads of 50 tonnes or less, why was a campaign of such vitriolic proportions directed at the then Leader of the Opposition and me? For all their rhetoric, the honourable member for Swan Hill, the Deputy Premier, and the Minister for Police and Emergency Services lacked the vision of the honourable member for Broadmeadows and me when we suggested that cooperatives deserve some consideration in export markets.

The failure of the Minister for Police and Emergency Services to declare his interest in Harvest Grain is reprehensible and is compounded by the fact that he debated the bill while having a pecuniary interest in the company. No other group can get a permit to export barley outside the Australian Barley Board, so why should Harvest Grain get a nod and a wink to do so?

I must concur with the comments of the honourable member for Broadmeadows about Mr Bishop, a representative of North Western Province in the other place, because after 15 years working for the Australian Wheat Board Mr Bishop seems to have learnt nothing. Given today's debate his comments in the *Sunraysia Daily* were a disappointment.

Mr McNamara interjected.

Mr SAVAGE — I have certainly never advocated the removal of the Australian Barley Board, and a check of *Hansard* would prove that. The only crime I have committed was to question the right of the National Party to determine the current marketing arrangements in the interests of all growers. Why was it impossible for the government to announce the amending provision last year? Are government members so out of touch that they do not realise that every opportunity must be explored by every barley grower? If things are so good in the marketing of barley, why is it that the Barooga private buyer, Ray Brooks, offered more money for barley than the Australian Barley Board? If the Australian Barley Board has its act together, why is Ray Brooks determining the price of the market? It is because there is an unhealthy environment that needs to have more competitive angles.

A police investigation into the illegal export of barley from the port of Geelong deserves an inquiry. It is an issue that brings no credit to the Minister for Agriculture and Resources, and it should be brought to the attention of the house. I have a copy of a letter written in 1996 by the then Minister for Agriculture to his New South Wales counterpart that states there was illegal connivance between private operators — I believe Mr Brooks would be one of them — and those selling grain through the port at Geelong. Why does the minister not table that information and inform the house of the result of the police investigation? It is a disgrace and a waste of police time.

I congratulate the government on its belated realisation that fairness and equity needed to be brought into the Barley Marketing Act. The amendment that allows for cooperatives to sell up to 50 tonnes overseas is a welcome and timely change of attitude. However, it is disappointing that the honourable member for Broadmeadows and I were subjected to the vitriol and vindictiveness that was directed at us some time after the bill was introduced last year. Some apologies may be appropriate.

I commend the bill to the house.

Debate interrupted pursuant to sessional orders.

Sitting suspended 1.00 p.m. until 2.04 p.m.

QUESTIONS WITHOUT NOTICE

Police: strength

Mr BRACKS (Leader of the Opposition) — In light of the extraordinary and unprecedented motion of no confidence in the Premier and the Minister for Police and Emergency Services that was passed today by the Victoria Police Association, will the Premier now admit not only that there is a crisis in police numbers in this state and that morale among the hardworking men and women in the police force is at an all-time low but that the only way to address the problem is for the him to back down and immediately meet with the Police Association to discuss police numbers in the state?

Mr KENNETT (Premier) — I thank the enthusiastic new Leader of the Opposition for his question.

Mr Elder interjected.

Mr KENNETT — He is my candidate, you are right. I accept responsibility for his question. The reality is that if you are either the police minister or the Premier and you do not get a no-confidence vote from the Police Association, there is something terribly wrong with you! The last one I remember clearly —

Mr W. D. McGrath interjected.

Mr KENNETT — You have not performed well — under my test! I remember clearly that former Labor police ministers Steve Crabb and Race Mathews each had one.

Mr Haermeyer interjected.

Mr KENNETT — André won't get one because he will never be police minister!

Mr Seitz — On a point of order, Mr Speaker —

The SPEAKER — Order! The Premier will refer to the honourable member for Yan Yean by his title and not by his Christian name.

Mr Seitz — That was my point of order, Mr Speaker.

The SPEAKER — Order! I uphold the point of order.

Mr KENNETT — The second point I make is that there is no crisis in the police force at all. Certainly the opposition would like to try to create a crisis. The opposition wants to be properly briefed. The Chief Commissioner of Police has extended a number of invitations to the honourable member for Yan Yean to attend briefings, but not once has he taken up the invitations. Not once!

It is a little hypocritical of my candidate to come in here and say that after two days of questions I should go and speak to the Police Association, when in fact the police commissioner has offered a range of —

Mr Thwaites interjected.

The SPEAKER — The Deputy Leader of the Opposition!

Mr Thwaites interjected.

The SPEAKER — The Deputy Leader of the Opposition!

Mr Thwaites interjected.

The SPEAKER — Order! I have twice asked the Deputy Leader of the Opposition not to interject across the table. If he wants to ask that question, I will give him the call the next time around.

Mr KENNETT — There is no crisis. As I have said both publicly and in the house, as with any area of government operation we are prepared to look at and review the way in which public money is being spent and whether it is delivering the best outcomes possible.

The review has been going for a short time. As the local member you, Mr Speaker, made independent representations on the situation at Mt Evelyn. That review will be completed in the next couple of weeks, and the impact of the findings will then be fed into the BERC process to determine whether there is an extra demand —

An opposition member interjected.

Mr KENNETT — You don't know what BERC is?

Mr Hulls — There is only one berk here!

Mr KENNETT — It will then be fed into the BERC process, and, if there is seen to be a need, a determination will be made as to whether and to what degree the government can respond.

That is not dissimilar to what happened when we reviewed education early in our first term of

government and what happened halfway through when we reviewed part of the health system. We are now reviewing the police. It is a normal part of government, which we do efficiently and professionally. We will continue to offer the people of this state a very effective police force in which they can have absolute confidence, while the Leader of the Opposition and the ALP continue to denigrate the police force and the work it does.

The SPEAKER — Order! I advise honourable members that there is some difficulty with the digital clocks at each end of the chamber so they are now turned off. Timing will still be retained at the table and the Speaker's time piece will be used. When making speeches honourable members will be given adequate warning when they have 2 minutes to go. I do not believe that will happen this afternoon given the number of second-readings. The clocks will be fixed before the next sitting week.

Indonesia: aid

Mr PATERSON (South Barwon) — Will the Premier advise the house of government initiatives to assist Indonesia following the signing of a memorandum of understanding between the Victorian and Indonesian governments last year?

Mr KENNETT (Premier) — As honourable members may be aware, Indonesia and its large population of 200 million are in diabolical trouble, both politically and socially. More than 100 million — that is, more than half the population — exist below the poverty line, which is an income of \$1 a day. There is much hardship and many deaths, particularly among infants.

During my discussions with President Habibie last year I asked how, if at all, Victoria could assist Indonesia's recovery because it is a near neighbour and because from a humanitarian point of view conditions there are substantially worse than anything one could find in this state or this nation.

The President identified food assistance, advice on agricultural development and training, and guidance in the reform of state-owned enterprises as the priority areas in which we could help.

I advise the house that Victoria's food aid project has just been officially launched in Tangerang, Indonesia, by the parliamentary secretary for state development, Mr Barry Steggall. The product, Vita Victoria, is now being distributed in Tangerang, which is an area in West Java about 40 kilometres from the capital. It has a

population about the same size as Victoria, with a mix of industrial and agricultural industries.

Vita Victoria is a blended food that has been approved by the world health food program as a food-aid product that has been especially tailored for the Indonesian community. It is wheat based and contains soy flower, vegetable oil, minerals, vitamins and sugar. It has been developed by Goodman Fielder and is being transported by Qantas. I thank Qantas Air Cargo for volunteering to fly enough product to Indonesia to get the program under way, while the bulk of the product will be sent by sea.

The product will assist children who are unfortunately not receiving supplements from their mothers and who, in many cases, are dying at an extraordinarily young age. We expect that we will be able to assist about 40 000 young people. This is a small contribution given the overall needs of Indonesia, but it is an appropriate contribution from Victoria, Australia, recognising our relative strength and security and our ability to help a neighbour that is currently in real difficulties.

We are also assisting in other areas — for example, we have been doing a lot of work in agriculture. Officials from the Department of Natural Resources and Environment will be visiting Indonesia to provide advice on the vegetable industry, with further agricultural projects planned for implementation in coming months. We are holding a seminar for 30 key Indonesian officials who will be coming here to discuss the government's reform program, some of which they wish to take on board to help them rebuild. This is an ongoing program that obviously has the imprimatur of the President of Indonesia. It is a project of which Victorians can feel very proud.

Mr Batchelor — On a point of order, Mr Speaker, I direct your attention to the time — more than 4 minutes — that the Premier has been talking. We are operating under the difficulty of the clocks not working, but it is not appropriate for the Premier to abuse the situation.

The SPEAKER — Order! I told the house that my clock is working. I wrote down the time at the beginning of the Premier's answer, and the Premier had not been speaking for 4 minutes when the honourable member rose to his feet, although he was very close to it. I believe the Premier was completing his answer when the point of order was raised.

Mr KENNETT — I was completing my answer, but I cannot believe the bad taste being expressed by the Labor Party on such an important issue.

Mr Bracks interjected.

Mr KENNETT — The Leader of the Opposition interjects and says I should have made a ministerial statement. This is a wonderful initiative that is being undertaken on behalf of all Victorians to help a neighbour of ours that is in difficulty and to help young children who are losing their lives. Yet all the honourable member for Thomastown can do is take a point of order, saying that I have been speaking for too long. This is a good project, one that should have, and I am sure does have, universal support from all members of the community — except perhaps those on the other side. I commend it to the house. I expect the project will be ongoing for some time given the situation in Indonesia. I thank Goodman Fielder, Qantas and the others who have helped us make it possible.

Mr Baker interjected.

The SPEAKER — Order! It is also the height of bad form to continue to interject across the chamber. I warn the honourable member for Sunshine. I counsel him to hold his peace.

Dorf Industries closure

Mr BRACKS (Leader of the Opposition) — I refer the Premier to the pending closure of the Dorf bathroom and kitchen factory in Oakleigh as a result of its recent acquisition by GWA International, with the predicted loss of 250 jobs to New South Wales. Will the Premier follow my lead and sit down with the management of GWA and the employees to find a way to keep these vital jobs in Melbourne and not lose them to New South Wales?

Mr KENNETT (Premier) — I shall put the matter in context. Today Dorf received a call from the union that a senior Labor official would be visiting the site. There was no mention of who it would be because they did not know. When the Leader of the Opposition arrived everyone downed tools and he then addressed them. They did not tell management he was coming. He then said to the unionists, 'Look, there is nothing I can do about this but I will raise it in Parliament. That's my great deal!'. The Leader of the Opposition did not sit down to talk with the management at Dorf.

Mr Bracks — Yes I did.

Mr KENNETT — You did not sit down and talk with them. One should get the matter in context. What has happened is that an organisation has decided to move one plant that operates in Victoria to New South Wales. The Labor Party is suggesting we should stop

that. Is that what the Leader of the Opposition is saying?

Mr Bracks interjected.

Mr KENNETT — What should we do?

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier to address his remarks through the Chair.

Mr KENNETT — The Leader of the Opposition said he would raise the matter in Parliament today. I say to him: what does he expect us to do?

The SPEAKER — Order! Honourable members are not only behaving in a disorderly fashion, they are wasting the precious time they have in which to ask questions.

Mr KENNETT — It is not the role of government to intervene, and in Dorf's instance to prevent a movement from Victoria to New South Wales. What about companies that have moved from Adelaide to Melbourne, such as Berri? I suppose the Leader of the Opposition would work for the people in South Australia to stop Victoria attracting the sort of new investment it has achieved during the past six years? What about the new investment and jobs that have been achieved through Bonlac? What about the new jobs created after Kraft and Murray Goulburn located more of their work in Victoria? The Leader of the Opposition is particularly naive and absolutely hypocritical if he believes that the government of the day should step in and protect any movement of trade in either the state or the country.

One of the great success stories in the past six years has been the attraction of an extra \$1.8 billion of new investment in the food industry alone, some 80 per cent of which has gone to rural and provincial Victoria and has resulted in the creation of 11 000 jobs.

We can see what the Labor Party is all about. The new Leader of the Opposition wants to take his party and Victoria back to the 1980s — that is what he said the other day — and back to basics. The Labor Party has no visions or plans for industry.

Mr Bracks interjected.

Mr KENNETT — You do not even have a policy! Mr Speaker, Labor has a wish list! What has it said in that wish list? In education, for instance, Labor wants to go back to the good old Kimer days of 1992. Labor's policy is to go backwards.

If at any stage the Leader of the Opposition wants to tell the house or the members of the Dorf community he spoke with today that he is going to stop Dorf's move he ought to let all Victorian industry know that if a Labor government is ever elected under the current leader it will interfere in the marketplace. It continues the Labor approach to employment that was demonstrated in its support of the move federally to abolish youth wages from the middle of next year.

The Labor Party is immaterial to Victoria's future and the employment of Victorians. The government will continue to put in place policies such as those that revitalised Victoria following 10 years of failure by the former Labor government, in which both the Leader of the Opposition and his deputy were intricately involved.

Schools: maintenance

Mr PHILLIPS (Eltham) — Will the Minister for Education advise the house what the government is doing to improve the physical resources and maintenance of Victorian schools?

Mr GUDE (Minister for Education) — I thank the honourable member for Eltham for his question. One might say he has a one-eyed approach to education in his area; he has done a fantastic job in supporting schools in his electorate.

I am pleased to announce that the government is committing a further \$9.3 million to the refurbishment and maintenance of another 123 Victorian schools. That is in stark contrast to the Labor years during which schools were allowed to run down, maintenance was appalling, roofs were rotting, guttering was hopeless and schools were in a shocking state. Some \$670 million of maintenance backlog was identified by the Auditor-General. The commitment of the government to \$1 billion of expenditure during the course of the current four-year term means that is no longer the case, and the amount being committed today will further reduce the backlog to below \$190 million.

A number of honourable members will be pleased to know the names of some of the schools that will benefit. The Noble Park Secondary College will receive some \$661 000. I have no doubt that the honourable member for Eltham will be pleased to learn that St Helena Secondary College will receive \$471 806, because it reflects the tremendous job he does there. The honourable member for Doncaster will be pleased to know that the Doncaster Secondary College will receive \$146 049. The honourable member for

Cranbourne will also be pleased to learn that the Cranbourne Primary School will receive \$93 709.

An honourable member interjected.

Mr GUDE — I thought I heard the honourable member for Preston sing out, but it was not him — he is chewing on his cud, as usual. The honourable member for Preston will be interested to know that the Preston Primary School will receive \$563 577. However, his constituents will be more interested than he, because he resides in the electorate of the honourable member for Bendigo and rarely visits Preston.

The Footscray Primary School, which is in the Leader of the Opposition's electorate, will receive \$20 000.

Mr Batchelor — On a point of order, Mr Speaker, the minister is quoting from a document. I ask that it be tabled.

The SPEAKER — Order! I ask the Minister for Education to make the document available.

Mr GUDE — I am happy to make the document available. I would be pleased if the opposition would give me leave to have it incorporated.

An Opposition Member — We won't do that.

Mr GUDE — I will be happy to table the document.

The honourable member for Northcote, who can hardly wait to hear what is happening in her electorate, although she never calls on her schools, will be pleased to know that the Northcote Primary School will receive \$22 673.

This initiative is an important continuing commitment. It is a demonstration of the government's commitment to ensure that all of the state's schools are of the finest quality for the benefit of both the students and the teachers, who do a fantastic job. Honourable members would know that I spend a lot of time visiting schools around Victoria. I can assure the house that principals, parents and children are proud of the improvements that have been taking place in the physical maintenance of the schools.

Public sector: trainees and apprentices

Ms KOSKY (Altona) — I refer the Minister for Tertiary Education and Training to a report commissioned by the Australian National Training Authority that shows that the Victorian government has the worst employment record of any state for public sector trainees and apprentices. Will the minister

explain why the government can only manage to employ 40 trainees while the national average is 700, New South Wales employs more than 1000, Queensland employs 2500 and even the Northern Territory manages to employ 170.

Mr HONEYWOOD (Minister for Tertiary Education and Training) — I welcome the question from the opposition. It is the first question on tertiary education and training that the opposition has bowled up during question time in three years. The opposition has had about 500 opportunities to ask the question, which means one of two things: it is pleased with the policies of the government in tertiary education and training and has been for three years, or it has no policy. What is the answer? Probably both!

The honourable member for Altona failed to mention that according to the Australian National Training Authority, an independent authority, Victoria has the highest employer satisfaction rate for trainees and graduates of any state.

Honourable members interjecting.

The SPEAKER — Order! I ask opposition frontbench members to have the courtesy to listen to the answer, which I am sure the honourable member for Altona wants to hear.

Mr Baker interjected.

The SPEAKER — Order! I thought I said I would not warn the honourable member for Sunshine again. The honourable member now knows that I am serious.

Mr HONEYWOOD — The Australian National Training Authority has given Victoria a big tick in having the largest increase in new apprentices and trainees — a 31 per cent increase, which translates into more than 12 000 young Victorians entering into apprenticeships and traineeships over the past 12 months.

The Premier has introduced the youth employment initiative, a worthwhile program that employs several hundred young Victorians in government departments. More importantly, unlike public-sector schemes in other states that churn them through with six-week traineeships and get no continuity of employment, 90 per cent of our graduates go on to full-time employment. It is a pathway to a career rather than one of the typical Labor RED schemes — get them off the dole queue for three months and then put them back again. Those schemes take us back to the 1970s and the 1980s, when the then Labor government introduced labour market schemes which the Labor Party loves

and which a former Prime Minister, the Honourable Gough Whitlam, invented.

Mr Batchelor — On a point of order, Mr Speaker, you ruled previously that question time is for debating government policy and not attributing motives to opposition policy. I ask you to direct the minister to answer the question, and if he cannot answer it he should sit down.

The SPEAKER — Order! I uphold the point of order. The minister was asked a question about government policy. He should enunciate government policy and facts and not debate opposition positions or policy.

Honourable members interjecting.

Mr Hulls interjected.

Questions interrupted.

NAMING OF MEMBER

The SPEAKER — Order! The honourable member for Niddrie has been consistently disruptive. I will not warn him again: I name the honourable member for Niddrie and I ask the Leader of the House to move the appropriate motion.

Mr GUDE (Minister for Education) — I ask the honourable member for Niddrie to offer an acceptable apology to the Chair so the process need not proceed.

Mr Hulls — I apologise, Mr Speaker.

The SPEAKER — Order! I am more than happy to accept the apology. I do not like the process any more than you, but I hope the honourable member, when warned by the Chair, takes adequate notice in future.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Mr HONEYWOOD (Minister for Tertiary Education and Training) — The record of Victoria stands head and shoulders above other states when it comes to genuine employment programs for young people, even according to the independent umpire, the Australian National Training Authority, on a variety of criteria rather than the one criterion to which the honourable member for Altona would have regard.

Aboriginals: employment and training

Mr SPRY (Bellarine) — I ask the Minister responsible for Aboriginal Affairs to inform the house of the actions the government is taking to increase employment and training opportunities for Aboriginal people in this state.

Mrs HENDERSON (Minister responsible for Aboriginal Affairs) — The government has put in place a number of initiatives to increase employment opportunities for Aboriginal people in Victoria. The government is allocating \$300 000 for an important and exciting program called Intrain. The program involves 10 scholarships for young Aboriginal students who are undertaking the academic years, particularly in the undergraduate degrees of social work, nursing and law. The government will also award scholarships to postgraduate students, particularly those studying psychology and mental health — important areas for the delivery of Aboriginal services.

The Department of Human Services is taking on 15 young Aboriginal trainees. Mr Speaker, an earlier question was about training opportunities for young Victorians. This is a magnificent initiative for young Aboriginal people. They will have the opportunity of employment in the public service. The program will provide a significant increase in the skills and trades of Aboriginal people with tertiary qualifications. Additional to the scholarship program will be a strong mentoring program to improve the career and advancement opportunities for Aboriginal people who work in the public service.

The government is committed to providing opportunities for Aboriginal people. It has developed a dynamic and diverse business program for indigenous people called Doing Business. This new program will give high priority to Aboriginal people. It will increase economic opportunities for those people, promoting important and diverse Aboriginal businesses and encouraging other young Aboriginal people to enter the business world. They will get good advice, networking skills and mentoring that will provide a strong focus on young people entering the business sector.

Intrain and Doing Business will significantly improve the opportunities for Aboriginal people to enter the work force. They will provide opportunities for well-trained and skilled Aboriginal people to enter the public service. They will help develop a strong indigenous business sector that will encourage enterprise and, most importantly, give Aboriginal people independence.

DISTINGUISHED VISITORS

The SPEAKER — Order! I welcome to the gallery a former Premier of Victoria, the Honourable Lindsay Thompson, and his wife.

BARLEY MARKETING (AMENDMENT) BILL

Second reading

Debate resumed.

Mr A. F. PLOWMAN (Benambra) — The honourable members for Mildura and Broadmeadows put the case that the content of the bill should have been brought forward last year. They totally missed the point that Victoria cannot act unilaterally on barley marketing as South Australia and Victoria have to deal with it bilaterally.

Negotiations for the introduction of the bill, which provides for the total deregulation of barley marketing, started in December 1997. The initial result of those early consultations was published in March 1998 and the bill has been sitting on the table since the end of the 1998 spring session. Both states have taken part in a complete consultation process on the bill and finally agreed that it meets the requirements of both state governments and, more importantly, the growers in both states. Without that the bill could not have effectively led to the deregulation of the barley market in southern Australia, to the benefit of growers in both states.

Mr Bishop, a member for North Western Province in the other place, tended towards the stand for a single marketing body but it was suggested that that would be to the detriment of growers. Of all the members of either chamber who have debated in Parliament on behalf of growers, none could have better propounded the interests of growers and centres of the grain-growing industry of South Australia and Victoria than Mr Bishop. Any criticism of Mr Bishop is grossly ill-founded. On occasions I have slight differences with him on the speed at which the deregulation process should be introduced, but I would be the very last to criticise him. He has worked harder to effect the interests of growers in both states than any other single member, in part due to his involvement in past years with the Australian Wheat Board.

The bill will dispel any criticism of a closed-shop marketing of grains, particularly barley, in Victoria. As I said, it will lead to the total deregulation of barley marketing. It will dispel any myths of having a

closed-shop, single-debt selling authority or of any advantage being given to rural producers through a marketing authority such as the Barley Marketing Board.

I have been a grower of both feed and malting barley, a consumer of feed barley through a feed lot I ran and in a small way I have contributed to the success of the major product from the malting of barley. On all those counts I consider I have a right to speak for both the producers of barley and its consumers — certainly for the interests of the brewing industry.

The end result will clearly be that all sections of the industry will benefit from deregulation. Undoubtedly deregulation gives those in the marketing field the opportunity of selling in the market of their choice, which is essential for the rural industry and one of the real benefits of deregulation.

It is clear also that the two bodies that will replace the Australian Barley Board — that is, ABB Grain Ltd and ABB Grain Export Ltd, both of which will be grower controlled and able to hold shares in both grower controlled bodies and other industries — will have greater freedom to take the initiative in the grain marketing area on behalf of their members. As a result, consumers in all aspects of the barley industry will benefit as will those who work in the malting and feed barley sections.

Debate adjourned on motion of Mr RICHARDSON (Forest Hill).

Debate adjourned until later this day.

TATTERSALL CONSULTATIONS (AMENDMENT) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

Section 6AAA of the Tattersall Consultations Act 1958 imposes a 10 cent ticket levy on the sale of most lottery products in Victoria. Most lottery sales take place through Tattersalls accredited agents and a ticket is issued to the player on each such over-the-counter sale. It is this ticket which attracts the 10 cent levy.

Recently, Tattersalls introduced a new service which involves the sale of various lottery products by telephone. This service, known as Phonelotto, is geared to persons living in remote areas who do not have ready access to a Tattersalls accredited representative but who

wish to participate in lotteries. While Tattersalls has advised that a ticket is produced in such cases, the ticket is not actually handed over to the player. Tattersalls has been collecting the 10 cent ticket levy in respect of such Phonelotto sales, notwithstanding the fact that no ticket is issued to the player.

The purpose of the amendment is to enable the minister to authorise Tattersalls to accept a subscription to a consultation by an approved method not involving the issue of a ticket to the subscriber and to provide for a 10 cent levy on such subscriptions. In the first instance, this will involve the imposition of a 10 cent levy, equivalent to the 10 cent ticket levy that is imposed on over-the-counter lottery sales, on Phonelotto sales of lottery products. This will place all classes of lottery products, however sold, on an equal footing from a taxation standpoint. Although the new Tattersalls Phonelotto system is still in its infancy and is not yet generating significant sales, the amendment, over time, will also protect government revenues.

Tattersalls Phonelotto system has been in operation for some months now. Tattersalls has been collecting the 10 cent levy on all Victorian lottery sales since the Phonelotto service was introduced and has paid the levy to the government. The legislation validates all past subscriptions made through the Phonelotto system and all duty and levies, including the 10 cent levy, paid in respect of such subscriptions. The government considers that such validation is justified since it was always the intention that such sales would attract the 10 cent ticket levy.

I commend the bill to the house.

Debate adjourned on motion of Mr HULLS (Niddrie).

Debate adjourned until Thursday, 8 April.

TRANSPORT ACCIDENT (FURTHER AMENDMENT) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

The purpose of this small bill is to provide that the TAC is liable to pay the reasonable cost of housekeeping, child-care, services of a domestic nature and nursing and attendance services. The cost of these services is currently restricted to payment at a maximum rate equivalent to average weekly earnings for Victoria.

The amendment will bring these costs into line with all other medical and like services for which compensation is payable by the TAC under section 60 of the act. A reasonable rate for housekeeping and other services provided to transport accident claimants will be determined through competitive tender.

This will improve the operation of the Transport Accident Act and enable the providers of housekeeping and other domestic services to obtain a reasonable market rate for the services they provide.

I commend the bill to the house.

Debate adjourned on motion of Mr MILDENHALL (Footscray).

Debate adjourned until Thursday, 8 April.

YEAR 2000 INFORMATION DISCLOSURE BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

Victorians have been hearing about the millennium bug since 1996. The Y2K issue revolves around the ability of individual computers to recognise the year 2000 given the common practice of programming only the last two digits of the year to save memory.

Given the enormous range of date-reliant technology, Y2K has the potential to cause significant disruption across the entire economy, unless it is addressed in a comprehensive and timely fashion. Inadequate remediation could cause a very broad range of services to fail. Conversely, insufficient information concerning the extent of any risk could cause the community to overreact and undertake unnecessary and costly contingency measures with detrimental economic and social effects.

The government's objective is to ensure that New Year's Day 2000 is much the same as any other day, by locating and addressing the bug in advance, rather than simply waiting for any effect to emerge when the year ticks over. This is a truly worldwide problem, and there is no blueprint, or even experience, from which to draw. The government takes the view that, while no guarantees can or should be given, the potential for service disruption can be minimised by appropriate management in advance. And thus substantial resourcing and priority has been dedicated to an extensive remedial program.

The Victorian government believes that public disclosure of year 2000 readiness is integral to this remediation, as it will encourage the public and private sectors to work together on the millennium bug and bring an additional level of discipline to the management of the exposure.

This bill complements the Commonwealth Year 2000 Information Disclosure Act 1999, which received royal assent on 26 February, and will have effect from that date until 30 June 2001. In order for the commonwealth and Victorian legislation to work in tandem, we seek to make this bill retrospective to 26 February 1999.

Until now, the perceived threat of legal liability has discouraged private and public entities from releasing readiness statements detailing detection, prevention and remediation of Y2K processing problems. This has added significantly to the cost of developing appropriate contingency plans. The Year 2000 Information Disclosure Bill is designed to encourage voluntary disclosure and exchange of information about year 2000 readiness. It will provide limited liability protection for entities providing public information on Y2K compliance.

The Victorian government has been working since early 1996 to minimise the prospect of a break in the delivery of essential services to the public after 31 December 1999 and has been campaigning to have the private sector also undertake remedial action.

The bill reflects the government's commitment to responding to the Y2K issue, through the provision of greater certainty to those organisations wishing to disclose year 2000 readiness statements to clients and the public.

The protection provided by this bill is limited in time and narrow in scope. Protection from civil liability for a year 2000 statement will be limited to clearly identified and authorised written disclosure statements that relate specifically to year 2000 and processing activities planned to mitigate the consequences of problems relating to that processing.

Protection will also extend to a person republishing an original year 2000 disclosure statement.

The bill will not provide protection from civil action relating to:

- year 2000 disclosure statements which are made recklessly or known to be materially false or misleading;

- actions instituted by consumers in relation to goods or services purchased following inducements provided by a year 2000 disclosure statement, such as where a product or service fails as a result of a year 2000 service failure;

- year 2000 disclosure statements made in the context of entering into a contract;

- year 2000 disclosure statements made in the context of obligations imposed by a contract or a commonwealth, state or territory law; or

- proceedings, or the exercise of regulatory or enforcement power, by a regulator or enforcement body.

A year 2000 disclosure statement will not be taken to amend a contract unless the parties agree otherwise. Provisions of the bill will not alter any intellectual property rights.

I make the following statements under section 85 of the Constitution Act 1975 of the reasons why the proposed clause 14 of the bill alters or varies section 85 of the Constitution Act 1975.

Clause 14 alters or varies section 85 of the Constitution Act 1975 to the extent necessary to prevent the Supreme Court from entertaining an action in the circumstances set out in Part 3 of the bill. Part 3 of the bill sets out the circumstances in which a person will be protected from civil liability in connection with the making of a year 2000 disclosure statement.

The reason for these limitations of the jurisdiction of the Supreme Court is to provide greater certainty to those organisations wishing to disclose year 2000 readiness statements, which subscribe to the criteria outlined, to clients and the public set out in the bill.

This bill seeks a balance in reducing barriers to disclosure of information on the one hand, and encouraging responsibility and virtuous conduct amongst those sharing information on the other. Finding such a balance will help accelerate the rate of Y2K readiness and underscore Victoria's reputation as a leader in tackling the Y2K issue.

The bill forms part of a coordinated response by the state government to the Y2K problem, which includes awareness campaigns in the public and private sectors, and a stringent testing and reporting process and is based upon the tried and true concept of Victorians working together to overcome a challenge.

In an environment that involves entities competing to find new and innovative ways to solve the Y2K issue, this bill highlights the need for that competition to be framed in a spirit of responsible cooperation. It places the common aims of government, industry and the community at the forefront of year 2000 readiness.

The government seeks bipartisan support for the introduction of this bill as a show of determination, faith and goodwill by the Parliament in the Y2K information disclosure process.

I commend the bill to the house.

Debate adjourned on motion of Mr CARLI (Coburg).

Debate adjourned until Thursday, 8 April.

OFFICE OF THE REGULATOR-GENERAL (AMENDMENT) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Office of the Regulator-General Act 1994 to improve the operation of its appeals mechanism.

The competition policy agreements signed by the Council of Australian Governments include principles for independent prices oversight and arbitration of access issues. These principles aim to ensure that the services produced by regulated industries are provided in the most cost-effective manner possible. In Victoria, the activities of the Office of the Regulator-General and the proposed amendments comply with these principles. The amendments also aim to ensure that the regulatory framework is effective and has integrity within the community and industry. The amendments to the appeals processes in the bill are designed to ensure that these objectives of the 1994 act are met.

As a result of the first appeal, the appeal process has been tested and feedback from participants has been sought. Consultation indicated that the current provisions could be further streamlined and questioned whether the provisions would accommodate a decision of the appeal panel that was not simple and unanimous. Hence the proposed amendments are necessary.

The bill will clarify the appeal process through the following amendments:

Section 38A provides for the situation when the opinion of the panel is not unanimous: first, when there is a majority of one opinion the issue will be decided by the majority; and second, when there are three separate views the decision of the chairperson will be the decision of the panel.

Section 38B requires appeal panel members to disclose a conflict of interest and any conflicts of interest that become apparent during the appeal process. This section also outlines how such situations would be handled.

Section 38C specifies the process to be followed should a panel member become unavailable during the appeal process.

Section 38(4) clarifies the powers of the appeal panel to affirm, vary or set aside a determination of the Office of the Regulator-General.

Section 37(2)(b) clarifies the grounds of appeal.

The proposed bill will improve the operations of any appeal process that is triggered in the future.

I commend the bill to the house.

Debate adjourned on motion of Mr LONEY (Geelong North).

Debate adjourned until Thursday, 8 April.

SUPERANNUATION ACTS (FURTHER AMENDMENT) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

The purpose of this bill is to make miscellaneous amendments to specified superannuation acts, including amendments to ensure compliance with the latest commonwealth preservation standards.

The commonwealth has legislated new preservation standards to apply from 1 July 1999. These new standards require all growth to a superannuation benefit from that date, whether through contributions, earnings or accruals, to be preserved until the minimum preservation age is reached, or upon prior death, disability or early release due to severe financial hardship or on compassionate grounds.

Preservation age is 55 years of age for persons born before 1 July 1960, increasing by one year up to

60 years of age for persons born after 30 June 1964. To continue compliance with commonwealth retirement incomes policies as agreed to in the commonwealth-Victorian heads of government agreement signed in 1996, these changes to preservation standards will also be applied to all Victorian public sector superannuation schemes through the current legislative mechanism of raising an order in council to specify the preservation standards to apply from 1 July 1999.

To ensure that there is no conflict between the new preservation standards to be issued under the order in council and the acts governing benefit entitlements for members of Victorian public sector superannuation schemes, the bill includes amendments in those acts to clarify that all benefits payable under those acts are to be subject to any relevant specified standards.

Provisions are being inserted in the Public Sector Superannuation (Administration) Act 1993 and the State Superannuation Act 1988 to extend the coverage of standard provisions of preservation, early release of benefits and anti-discrimination law to transferred members of the Melbourne Water Corporation Employees Superannuation Fund; the Port of Melbourne Authority Superannuation Fund; the State Casual Employees Superannuation Fund; and the Metropolitan Transit Authority Superannuation Fund.

As the rules governing the rights and obligations of this small number of transferred members were the rules as in force at the time of transfer, any legislative changes made since that date to the Public Sector Superannuation (Administration) Act 1993 or the State Superannuation Act 1988 to reflect current commonwealth or state anti-discrimination law or to comply with commonwealth standards on preservation or early release of benefit do not apply to these members. The amendments proposed in the bill enable these standard legislative changes to be applied to the governing rules of the former funds so that these members are neither less nor more advantaged than any other member of a Victorian public sector superannuation scheme.

Amendments are being made to the Superannuation (Portability) Act 1989 which will allow deferred benefits to be accessed at the minimum age of retirement without the need for the person to have also retired from the workforce. This change brings the access provisions for deferred benefit entitlements held under the Superannuation (Portability) Act 1989 into line with the access provisions for deferred benefit entitlements held in other Victorian public sector superannuation schemes.

A redundant provision in the State Employees Retirement Benefits Act 1979 is being repealed.

The bill amends the Magistrates' Court Act 1989 to provide that the Chief Magistrate is to receive pension entitlements equivalent to those of a County Court judge. Such an arrangement is consistent with the leadership and managerial tasks required of the office and reflects the recommendation of the Judicial Remuneration Tribunal that the Chief Magistrate is to be remunerated on the same level as an ordinary member of the next highest court. Such a nexus already exists between the Chief Judge of the County Court who is remunerated at the same level as a judge of the Supreme Court.

I commend the bill to the house.

Debate adjourned on motion of Mr MILDENHALL (Footscray).

Debate adjourned until Thursday, 8 April.

GOVERNMENT SUPERANNUATION BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

The purpose of this bill is to establish a new state entity, the Government Superannuation Office, to act as trustee and administrator for the unfunded closed defined benefit schemes of the State Superannuation Fund and to enable the Victorian Superannuation Board to make a valid election for the Victorian Superannuation Fund to become regulated under commonwealth supervision. These changes are to take effect from 1 July 1999.

Currently the Victorian Superannuation Board administers the closed defined benefit schemes of the State Superannuation Fund as well as the Victorian Superannuation Fund, which is an accumulation scheme. The Victorian Superannuation Fund was established in 1994 and has experienced meteoric growth to date with around 100 000 members in that fund.

The philosophies, strategies and systems required to administer the high growth Victorian Superannuation Fund compared with those required to administer a contracting and more complex State Superannuation Fund has necessitated the establishment of separate administrators for these two funds.

The Victorian government's policy for superannuation reform to date has included the transfer of many public sector superannuation funds to commonwealth supervision when a public sector fund is fully funded and the direct state government involvement in the fund is limited to paying employer contributions like all other sponsoring employers. Enabling funds to transfer to commonwealth supervision reduces the duplication of supervisory and legislative activity in an area where the commonwealth has primary policy responsibility and allows for a concentration of the state's supervisory activities on those schemes for which the state bears an ongoing financial obligation and an associated financial exposure.

The Victorian Superannuation Fund is a stand-alone, fully-funded accumulation scheme under its own legislation. As there is no financial risk to the state, there is no impediment to allowing this fund to transfer to commonwealth supervision. Transferring this fund to commonwealth supervision will also remove state-imposed competition and service delivery restraints and provide important marketing opportunities in the proposed choice-of-funds environment. Under this new arrangement, significant opportunities will be created to provide an increased range of products and services to members.

This bill contains transitional provisions and repeals the Public Sector Superannuation (Administration) Act 1993 to enable the Victorian Superannuation Board to make a valid election for the Victorian Superannuation Fund to become regulated under commonwealth supervision from 1 July 1999.

The current board and selected staff of the Victorian Superannuation Board will transfer employment to Vicsuper Pty Ltd, a trustee company which will be established to act as the administrator of the Victorian Superannuation Fund under commonwealth supervision. There are no changes to the existing rights and entitlements of Victorian Superannuation Fund members. These members can be assured that the transfer to commonwealth supervision will mean that their superannuation fund is placed within the same prudential supervisory environment as the majority of Australian superannuation fund members.

With the transfer of the Victorian Superannuation Fund to commonwealth supervision under the administration of Vicsuper Pty Ltd, the administration of the closed defined benefits schemes of the State Superannuation Fund, of which the state currently has a significant financial exposure of around \$15 billion, will need to be administered by a new entity.

The bill establishes the Government Superannuation Office, which is to be a separate service agency within the Department of Treasury and Finance portfolio. The Government Superannuation Office will have a board of directors comprising three employer representatives, three member-elected employee representatives and an independent president nominated by the minister and appointed by the Governor in Council. The minister will appoint the chief executive officer. All staff of the office will be subject to the Public Sector Management and Employment Act 1998. The bill contains provisions to ensure that the independent president is only able to vote on issues that do not directly involve members' benefit entitlements. There are no changes to existing rights and entitlements of State Superannuation Fund members.

The bill inserts provisions to cover the transfer of staff of the Victorian Superannuation Board to either the Government Superannuation Office or to the new trustee of the Victorian Superannuation Fund.

Provisions are inserted in the bill to ensure that, within the first two years of operation, the administrative operations and activities of the Government Superannuation Office are to be subjected to a contestability review and tendered to the most efficient provider. Fund administration policy and contract management will remain the responsibility of the office.

Provisions in the bill establish the Victorian Funds Management Corporation as the fund manager for the assets of the State Superannuation Fund, in accordance with the investment strategy determined by the Board of Directors of the Government Superannuation Office. The service delivery of the Victorian Funds Management Corporation will be subject to biennial reviews by the Government Superannuation Office.

The Government Superannuation Office is to be subject to the same state borrowing and investment guidelines that apply currently to the Victorian Superannuation Board and other Victorian public sector superannuation administrators under the Borrowing and Investment Powers Act 1987.

The outcome of these proposed changes will permit the Victorian Superannuation Fund to more actively compete in the very competitive superannuation marketplace and lift services to members. The proposed changes will also allow the state government to focus on its responsibilities in respect of the State Superannuation Fund where the state has a significant financial exposure which will continue for some time to come. As mentioned before, these changes will have no

effect on the existing rights and entitlements of members of either the State Superannuation Fund or the Victorian Superannuation Fund.

Provisions are also inserted to allow any other public sector superannuation scheme declared by the minister to become an administered scheme under the administration of the office if required.

I commend the bill to the house.

Debate adjourned on motion of Mr MILDENHALL (Footscray).

Debate adjourned until Thursday, 8 April.

WATER ACTS (AMENDMENT) BILL

Second reading

Mr COOPER (Minister for Transport) — I move:

That this bill be now read a second time.

This bill makes a number of small amendments to the Water Act 1989, which will significantly extend water reforms in Victoria.

For the first time, growers in the First Mildura Irrigation Trust's district are to be given clear ownership of their rights to water. They will be able to decide on their own level of risk regarding supplies in a drought, and to reap the benefit of introducing efficient irrigation techniques on their farms.

The government has strongly promoted the development of water markets. This bill widens the opportunities for individuals to transfer water into high-value-adding enterprises, and for the trust to use its surplus infrastructure to increase its business.

The bill is also important in preventing the activation of obscure rights in the Mildura area, which date back to the 1880s. These rights may have been extinguished already, but clarification of the situation is needed to eliminate any risk of uncontrolled growth in water use, and to allow further irrigation-based investment to proceed.

In addition to the above key reforms, a number of other legislative amendments are made in the bill to make the water sector operate more efficiently and equitably.

I will now turn to the particulars of the bill. Rural water authorities are generally obliged to supply water in irrigation districts. However, they may need to isolate a blue-green algal bloom, or water which is chemically

polluted, and cease supply to users if there is a risk of contaminating other parts of the water supply system. Clause 4 will enable an authority to restrict or suspend supplies where the source of supply is contaminated.

Section 85 statement

Clause 5 inserts a new section 323A in the Water Act 1989, which states that it is the intention of section 222(1C) to alter or vary section 85 of the Constitution Act 1975. Section 222(1C), which is inserted by clause 4(2), protects an authority from liability for restricting water supply where there is contamination in the water supply system and the contamination was not caused by the intentional or negligent conduct of the authority. I therefore make the following statement under section 85(5) of the Constitution Act 1975 to set out the reasons for altering or varying that section.

Section 141(4) of the Water Act 1989 already precludes liability when an authority restricts supply because of a shortage of water or 'for any other unavoidable cause'. The new provision simply extends the circumstances in which supplies can be restricted, and to be consistent a similar liability arrangement should apply. However, the authority will not be protected from liability if the contamination in the water supply system was caused through its own fault.

At present the Water Act 1989 requires that, in times of severe drought, water rights in irrigation districts be not supplied at all until stock and domestic rights have been fully supplied. The stakeholders' consultative forum reporting on entitlements to Victoria's portion of the River Murray has advised that these rights should be able to be restricted equally. This is achieved by clause 4(3).

Water rights in the First Mildura Irrigation Trust's district have had a distinct legal status, deriving from an 1887 indenture between the Chaffey brothers and Queen Victoria. This stipulated that once the Chaffeys had developed irrigation works for some land, and were thus granted freehold, they could sell it to growers, but must secure 'a sufficient water right', to run with the land as a perpetual easement.

During the process of defining entitlements to Victoria's Murray water, expert legal advice was obtained which showed that these easements were always subject to quite low limits, set by legislation from 1895 onwards. The Water Act 1989 sought to replace such easements with ordinary water rights. It said irrigators in the trust's district are entitled to

6.113 megalitres per hectare, which can be increased by the Governor in Council.

Some parties continue to contend that the old easements still exist, and that they provide rights to whatever amounts of water the crops require. This would mean that if growers changed from vines to a higher-water-using crop like citrus, their rights would become greater, which would clearly be incompatible with the cap on diversions.

The bill will put this matter beyond doubt and remove any possibility that at some time in the future people could claim an increased entitlement at the expense of all other right-holders. In the absence of any legislative clarification of this issue, it has not been possible to allow trust growers' entitlements to be traded.

Clause 6 of the bill confirms that the only water rights attached to holdings in the trust's district will be those listed in a register kept by the trust. The trust is required to determine, within 12 months, the volume of rights attached to each holding. For land which has been irrigated, the trust's determination must be based on 9.144 megalitres per hectare, though there is scope to allocate a higher amount where high-use crops have been grown. Water rights may also be allocated to land which has not been irrigated if rates are being paid for it.

These allocations are consistent with those in neighbouring districts, and in accord with agreements reached during the process of developing shares of Victoria's River Murray resources. Once the water rights on each holding have been determined, they will become fully tradeable.

The influence of the Chaffey's indenture extends beyond the trust's district. There is currently a situation just outside the district where a handful of private diverters have a right to unlimited water at no charge. Clause 6 provides for such diverters to be given a licence by the minister for at least 9.144 megalitres per hectare of land being irrigated, whereupon their traditional right will be superseded.

It has become clear that the uncertainties surrounding the Chaffey's indenture have been inhibiting development in the Mildura area. There has been insufficient scope and incentive to put water resources to their best use. Local irrigation community leaders now see there are significant advantages in being able to trade water. This bill will assist in realising the full irrigation potential of the district.

Moving to another matter, clause 8 of the bill contains amendments to make it clear that the Victorian Civil and Administrative Tribunal (VCAT) has exclusive jurisdiction to deal with claims — other than personal injury claims — under section 74 of the Water Industry Act 1994. Claims under section 74 relate to damage caused by flooding from the works of a water business. Flooding from a burst pipe is a typical example.

Section 85 statement

Clause 10 inserts a new section 183A in the Water Industry Act 1994 which states that it is the intention of section 74A(5), as substituted by clause 8, and 74A(6), as inserted by clause 8, to alter or vary section 85 of the Constitution Act 1975. Section 74A(5) gives the Victorian Civil and Administrative Tribunal exclusive jurisdiction in certain proceedings under section 74 of the Water Industry Act 1994 and section 74A(6) requires the Supreme Court to strike out uncompleted proceedings over which VCAT is given exclusive jurisdiction. I therefore make the following statement under section 85(5) of the Constitution Act 1975 to set out the reasons for altering or varying that section.

The practice of entrusting water disputes to tribunals is long standing. The tribunal system offers a specialist and cost-effective mechanism for dealing with flooding and like disputes. Prior to 1995 all property claims relating to flooding from a water authority's works were dealt with by the Administrative Appeals Tribunal.

Claims against water authorities outside Melbourne continue to be heard by VCAT. Conferring exclusive jurisdiction on VCAT to deal with section 74 claims will bring about consistency in the treatment of similar claims across the state. It will also ensure that related claims arising from one incident are dealt with in the one forum.

The bill has been drafted so as to encourage all litigants now contemplating proceedings to direct them to VCAT. The bill provides that all proceedings instituted on or after today's date are to be brought in the tribunal. If proceedings are brought in the courts the litigant faces the prospect of the proceedings being struck out if they have not been determined before the act receives royal assent.

Finally, Melbourne Water has clear legal responsibility for managing only those waterways listed in the 12th schedule to the Melbourne and Metropolitan Board of Works Act 1958. However, the boundary of its operating area has been progressively extended, and now includes many additional waterways. Clause 12

updates the list of waterways that come under Melbourne Water's management and control.

I commend the bill to the house.

Debate adjourned on motion of Ms GARBUTT (Bundoora).

Debate adjourned until Thursday, 8 April.

EDUCATION ACTS (AMENDMENT) BILL

Second reading

Mr GUDE (Minister for Education) — I move:

That this bill be now read a second time.

The bill has three purposes. First, it updates the Education Act 1958 so as to clarify the rural areas in which primary non-government schools can be registered with less than 20 pupils. Secondly, it amends the Education Act 1958 so that section 84 of that act will apply to ministerial orders made under section 15T. Thirdly, it amends the Teaching Service Act 1981 to provide that all appointments to the teaching service are to be made solely on the grounds of relative efficiency. I now deal with each of these matters.

The Registered Schools Board operates under the Education Act 1958 and is responsible for registering non-government schools and teachers in those schools. The board comprises representatives from the Association of Independent Schools, the Catholic Education Commission and the Department of Education.

The act provides that primary schools in what can generally be called urban areas need a minimum of 20 pupils to be registered. Primary schools in what can generally be called rural areas need only 11 pupils to be registered. The rural area is referred to in section 42(3)(c) of the Education Act 1958 as meaning a 'shire other than a shire listed in schedule 5 to the Public Service Act 1974'.

Once a school is registered, then section 43(1A) of the act provides that a primary school in a rural area with an enrolment of less than 10 may remain registered if the Registered Schools Board is satisfied the low enrolment is due to special circumstances of a temporary nature. These provisions create an exception for primary schools to be registered with only 11 pupils, instead of the normal 20 pupils, if the school is situated in what is generally called a rural area.

Given the changes that have taken place to public sector legislation and to the names and boundaries of municipal councils, the present reference to the shires listed in schedule 5 to the Public Service Act 1974 is out of date and is not practicable. Following consultation with the Registered Schools Board, the bill proposes to replace the present references with a reference to the boundaries currently used by the Department of Education in determining rural locations.

The boundaries currently used by the Department of Education in determining rural schools are established by the Australian Bureau of Statistics following a census count, the last census being in 1996. These boundaries also largely reflect the former boundaries under the former schedule 5 to the Public Service Act 1974.

In summary, the amendment classifies a rural area as an area outside the Melbourne statistical division and which has a population of less than 20 000 as at the date of the last census. Areas outside the Melbourne statistical division with a population of 20 000 or greater are the urban centres of Geelong, Ballarat, Bendigo, Shepparton-Mooroopna, Warrnambool, Albury-Wodonga and Mildura. The geographic areas that fall within these urban centres are also defined by the Australian Bureau of Statistics and shown in maps published by the bureau. All other areas outside the urban centres just mentioned and outside the Melbourne statistical division would be rural areas. The Melbourne statistical division is identical to the Melbourne metropolitan area except for the Upper Yarra area.

This amendment will not disadvantage any primary school already registered, and should make it easier for primary schools to be established in a rural area. It will give certainty to what area is within a rural area, and the population of that area as determined by the last census count. The amendment recognises that country municipalities cover large areas and that different considerations need to apply to schools established in heavily populated urban centres of country municipalities and small populated areas within a country municipality.

I now turn to the second matter the bill deals with — namely to make section 84 of the Education Act 1958 apply to ministerial orders made under section 15T of that act.

The Education Act empowers the Minister for Education to make ministerial orders on a range of subject matters, including efficiency and effectiveness

reviews of school councils, school charters, the suspension or expulsion of pupils, the fees payable by overseas students attending state schools, work placement and work experience.

For administrative purposes, section 84 of the Education Act 1958 is a general provision applying to orders made for any of those subject matters. Section 84 specifies when the order is to come into operation, requires orders to be published, clarifies that orders can be made subject to exemptions and conditions, that orders can be made to confer discretions or authorities, and that orders can incorporate documents already published.

The amendment will apply section 84 to orders made under section 15T of the Education Act 1958. Section 15T enables the Minister for Education to make ministerial orders specifying the terms and conditions of employment of persons employed by school councils.

I now deal with the final matter in this bill.

Section 5 of the Teaching Service Act 1981 deals with the first appointment of a person to an office in the teaching service, and authorises the secretary to the Department of Education to invite applications for appointment to offices in the teaching service.

However, before the secretary can appoint a person to an office in the teaching service, section 6(1) of the act requires the secretary to be satisfied that there is no available officer in the teaching service who is as capable of filling a vacant office as a person who is not a member of the teaching service. The requirements of section 6(1) give existing officers an advantage over persons seeking to join the teaching service, and it is an advantage that is contrary to concepts of fair competition.

Consistent with section 7(a) of the Public Sector Management and Employment Act 1998, which provides that agency heads must establish employment processes that will ensure that employment decisions are based on merit, the bill repeals the provisions which give existing officers an advantage and provides that all appointments to positions in the teaching service are to be made on the grounds of relative efficiency.

I commend the bill to the house.

Debate adjourned on motion of Ms DELAHUNTY (Northcote).

Debate adjourned until Thursday, 8 April.

TRANSPORT ACTS (FURTHER AMENDMENT) BILL

Second reading

Mr COOPER (Minister for Transport) — I move:

That this bill be now read a second time.

The main purposes of the bill are:

- (a) to amend the Public Transport Competition Act 1995 to extend the length of the transitional period allowed before bus operators are all required to obtain accreditation and to make other minor finetuning amendments;
- (b) to amend the Transport Act 1983 to repeal the provisions governing the licensing of passenger ferries.

The Public Transport Competition Act introduced transitional provisions for the introduction of operator accreditation. The act provided a period of time where operators with current licences were not required to be accredited. The first transitional period ends in July 1999.

Regulations needed to underpin the accreditation regime will not be in place before March 1999 due to the lengthy procedures associated with the fee setting, consultation and regulatory impact statement processes. Accreditation applications cannot be dealt with until the regulations are in place and it will not be possible to translate the many existing licences to accreditation applications in the few months available. The bill, therefore, will extend the transitional periods to allow time for an orderly transition of a large number of applicants from licensing to an accreditation system.

The bill will also remove a potential duplication of accreditation requirements. Where a person operates a courtesy bus or private bus service, they are required to be accredited under the Public Transport Competition Act. However, if their operation is intermittent or small scale they may not own their own buses, and could hire a bus from an accredited hire operator. In such a case hiring from an accredited person should be all that is required to ensure the bus is safe to operate. Therefore, the bill will exempt operators of a courtesy bus or private bus service from the need to become accredited if they hire all their buses from an accredited hire operator.

Division 10 of part 6 of the Transport Act 1983 contains provisions enabling the Governor in Council to proclaim Victorian waters in which a person cannot

operate a passenger ferry without being the holder of a licence. This regulation is in addition to basic marine safety requirements for passenger ferry operations which are regulated under the Marine Act. The Transport Act provisions have been unused for some years.

The bill will repeal the provisions governing the licensing of passenger ferries to remove a legislative restriction on competition and are a necessary component of the competition policy legislative review that is being undertaken by government.

I commend the bill to the house.

Debate adjourned on motion of Mr BATCHELOR (Thomastown).

Debate adjourned until Thursday, 8 April.

LEGAL PRACTICE (PRACTISING CERTIFICATES) BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this bill be now read a second time.

Practising certificates

This bill continues the process of reform commenced by the Legal Practice Act in 1996. Since the end of 1997, the government has been working with the legal profession in a review of the administration of the practising certificate system under which Victorian lawyers are licensed to practise law.

For many years, the practising certificate year for Victorian lawyers has been the calendar year commencing on 1 January. However, the financial year commencing on 1 July has become the standard operating unit for those carrying on a business, as well as being used for other purposes such as the assessment of income tax. Some other states already use the financial year for their practising certificate regimes. It has, therefore, been decided that the Victorian practising certificate year for lawyers should change from the calendar to the financial year.

This new system will commence full operation on 1 July 2001. In order to make the change, a transitional 18-month practising certificate period will be necessary. This will commence on 1 January 2000 and end on 30 June 2001.

In addition, the administrative requirements for applying for and issuing practising certificates have been carefully re-examined and the bill contains various provisions which will streamline and improve that process to the benefit of both the community and the legal profession.

There have in the past been situations where lawyers have practised unlicensed for some period because they have not renewed their practising certificates on time. Apart from the fact that such behaviour is a breach of the act, such practitioners are strictly no longer covered by their professional indemnity insurance during that period. It is simply not acceptable for members of the public to have their lawyers performing work for them while unlicensed and uninsured.

Accordingly, the bill sets out various steps which will ensure compliance with the requirements for renewing practising certificates. However, in return, the process for issuing practising certificates has been streamlined and lawyers will also have an extra month each year before they have to pay their practising certificate fees and an extra two months before they have to pay their insurance premiums. Practitioners who simply do things on time will therefore be financially better off as a result of these reforms.

Other amendments

The bill also includes amendments to allow the Legal Profession Tribunal to appoint additional deputy registrars. This has become necessary because of the increased jurisdiction of the tribunal which has been conferred by the act. The bill also provides for all practitioners to specify on their practising certificate application forms the roll on which they wish to be entered for the purpose of Legal Practice Board elections. Actual voting in those elections will, however, continue to be optional.

I commend the bill to the house.

Debate adjourned on motion of Mr HULLS (Niddrie).

Debate adjourned until Thursday, 8 April.

CORONERS (AMENDMENT) BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this bill be now read a second time.

This bill makes a number of miscellaneous amendments to the Coroners Act 1985 to improve the

operation of the Victorian coronial system. The majority of the proposed amendments were requested by the State Coroner.

Coroners in Victoria are required to investigate certain unnatural deaths and fires. They carry out detailed investigations and inquests into many avoidable deaths in Victoria and are in a unique position to determine the causes of avoidable deaths and to identify trends in the causes of avoidable deaths. One of the most positive aspects of the work of coroners is that their findings and recommendations may assist in the prevention of avoidable deaths.

This bill seeks to enhance the role of the State Coroner, or any other coroner in conjunction with the State Coroner, in preventing avoidable deaths by enabling coroners to make recommendations to ministers and public authorities on any matter connected with a death or fire which is investigated. At present, coroners are only able to make recommendations to the Attorney-General. By being able to make recommendations to ministers and public authorities on matters of public health or safety, coroners will be able to play an important role in preventing similar tragedies in the future.

Findings of contribution

At present, a coroner may only make findings on the factual matters set out in section 19 of the act, including making a finding, if possible, about the identity of any person who contributed to the cause of a death.

A finding that as a matter of fact a person contributed to the death of another person could be understood as a finding that the person is in some way legally responsible for the death. This may lead to such persons suffering from unwarranted feelings of guilt or blame. For instance, the obligation under the act means that if a person commits suicide by leaping in front of a train, a coroner is obliged to find that the train driver contributed to the cause of death, even though there may have been nothing that the train driver could have done to avoid the death. There is a very real danger that a simple finding of contribution can be misinterpreted or misrepresented, despite attempts of the coroner to explain otherwise.

To address this situation, the bill removes the obligation on a coroner to make a finding about the identity of a person contributing to the death of another person. However, the removal of this obligation does not preclude a coroner from making a finding of contribution in appropriate cases under existing provisions of the act.

The bill also makes a number of other amendments to the act:

- the State Coroner will be able to reopen an inquest or hold a new inquest in certain limited circumstances;

- coroners will be given a discretion to hold inquests into certain deaths rather than being obliged to hold inquests where an inquest would serve no useful purpose;

- the period within which coroners may respond to requests to hold inquests into deaths will be extended;

- inquests into deaths reported before the commencement of the act will be able to be reopened or reheard under the act instead of the Coroners Act 1958;

- the Victorian Institute of Forensic Medicine will be given the power to store tissue for therapeutic purposes under the Human Tissue Act 1982;

- inquests will no longer be able to be held before a jury; and

- coroners will be given the power to award costs in limited circumstances.

Section 85 statement

It is the intention of clause 5 of this bill to alter or vary section 85 of the Constitution Act 1975. I therefore make the following statement under section 85(5) of the Constitution Act 1975 to set out the reasons for altering or varying that section. Clause 14 of this bill is included to satisfy the requirements of section 85 of the Constitution Act 1975 in respect of the changes to the jurisdiction of the Supreme Court effected by clause 5.

Clause 5 of the bill amends section 5 of the Coroners Act 1985. Under the proposed section 5(2), persons will no longer have the right to apply under the Coroners Act 1958 for an order to have a new inquest held into a death or fire reported to a coroner under that act. Instead they will be required to apply under section 59 of the current Coroners Act. To facilitate this new procedure, the proposed section 5(3) invests the Supreme Court with the jurisdiction to hear such applications under section 59 of the current Coroners Act. Under that section, the Supreme Court may order a new inquest or that an inquest be reopened. Any new inquest or reopened inquest would be conducted in accordance with the current Coroners Act.

These amendments will allow a coroner investigating a death to avoid having to conduct an inquest under the old act, under which the procedure is lengthy and complex. The benefits of being able to hold an inquest

under the new act are that the inquest can be conducted under the simpler and quicker procedures provided for in the new act. This justifies indirectly removing the Supreme Court's jurisdiction to order new inquests under the Coroners Act 1958 in respect of deaths and fires reported under that act.

The bill will enhance the role of the State Coroner in preventing avoidable deaths and also improve the operation of the coronial system in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr HULLS (Niddrie).

Debate adjourned until Thursday, 8 April.

FAIR TRADING BILL

Second reading

Mrs WADE (Minister for Fair Trading) — I move:

That this bill be now read a second time.

General background

The Fair Trading Bill before the house is the result of the government's commitment to review the legislative framework relating to fair trading and consumer affairs and to enhance the concept of fair dealing in an efficient, competitive and informed marketplace where there is an equitable balance between the rights of consumers and traders.

Bill is a consolidation

The Fair Trading Bill represents a significant consolidation of the three core fair trading acts, the Fair Trading Act 1985, the Consumer Affairs Act 1972 and the Ministry of Consumer Affairs Act 1973. In addition, it repeals the Market Court Act 1978. The three existing core fair trading acts are archaic, similar in content and function and needed to be updated to improve their relevance in today's marketplace.

Coverage of the Fair Trading Bill

The reason for the introduction of the existing Fair Trading Act 1985 in Victoria was pursuant to an agreement between all states to extend the coverage of laws prohibiting a wide range of deceptive or misleading practices based on relevant provisions of the commonwealth's Trade Practices Act 1974 to non-corporate traders — that is, individuals and partnerships — trading within Victoria over which the Trade Practices Act has no jurisdiction. Both the Fair

Trading Act 1985 and the Trade Practices Act have coverage over corporate traders trading within Victoria and Victorian-based corporate traders trading outside Victoria. The new Fair Trading Bill continues this coverage.

In pursuit of uniform fair trading legislation across Australia, drafting of provisions in the Fair Trading Bill has been modelled where possible on the relevant provisions of the Trade Practices Act.

New areas of regulation for Victoria

The Fair Trading Bill introduces regulation for the first time in Victoria in a number of areas such as:

- lay-by sales provisions;
- power to prescribe codes of practice;
- non-contact sales which are more commonly known as distance sales and include sales over the Internet, sales by telephone and television marketing, and mail order catalogues;
- power to recall dangerous goods;
- undertakings provisions;
- prohibition against unconscionable conduct in trade or commerce; and
- prohibition against suppliers giving false testimonials.

Modifications of existing provisions

The bill modifies existing provisions of the core fair trading acts, such as the:

- pyramid selling provisions;
- door-to-door sales provisions, now called contact sales;
- harassment and coercion provisions; and
- provisions addressing the illegal blower industry in Victoria.

Conjoint bill

Another bill is to be introduced into the house entitled the Fair Trading (Inspectors' Powers and Other Amendments) Bill which contains transitional provisions and consequential amendments to other acts required as a result of this bill, as well as standardised inspectors' powers to be inserted into other acts across the fair trading portfolio.

Content of the bill

Part 2 of the bill entitled Unfair Practices prohibits undesirable commercial behaviours such as engaging in

conduct that is misleading or deceptive; and engaging in unconscionable conduct either in the supply of consumer-type goods or services, or generally in trade or commerce. The unconscionable conduct provision is new and mirrors section 51AA of the Trade Practices Act. Its inclusion in the bill enables a party bringing a civil action in unconscionable conduct to access the statutory remedies under the bill.

Part 2 also prohibits suppliers making false testimonials. Suppliers advertise their products using alleged quotations from satisfied consumers which are exaggerated and misleading. Whilst this practice is false and misleading advertising, a specific provision is required in the bill to facilitate prosecution of these offending suppliers and to discourage this practice.

Part 2 also prohibits the use of harassment and coercion against any person. This extends the current prohibition which only protected consumers. A list of examples of what constitutes harassment and coercion is included in the provision.

Part 2 of the bill also targets pyramid selling. The pyramid selling provisions in the existing Fair Trading Act are based on those in the Trade Practices Act, and are similar to those in other jurisdictions around Australia.

These provisions are necessary in order to discourage the schemes currently operating in Victoria in which citizens are duped of thousands of dollars every year. An example of such a scheme which has been circulating in Victoria in recent times is the Concorde game. The existing Fair Trading Act pyramid selling provisions have not been successful in combating such schemes. They also do not cover chain letters involving money. Reform of the current pyramid selling provisions has been urged at both state and commonwealth levels and Victoria will be the first jurisdiction to introduce significantly improved pyramid selling provisions.

Finally, part 2 of the bill includes a provision which addresses the blower industry in Victoria which costs small business millions of dollars. Blowers are disreputable publishers who charge businesses for advertisements in their publications on the basis that they had obtained consent to do so. Excerpts of recorded conversations which have been tampered with are put forward by the blower as evidence of consent. The blower's publications are a sham because the publication has no genuine circulation. The current anti-blower provision is easily circumvented as blowers can easily construct evidence to establish that they have

a reasonable cause to believe that they obtained authorisation.

The bill creates an offence for a publisher to charge businesses for placing advertisements, where the publisher approaches them first, unless they have obtained written instructions for so doing. The overwhelming number of publishers who seek business in this way are genuine and the provisions include exemptions for clearly identifiable classes of reputable publishers.

Part 3 of the bill on safety and information requirements replaces the outdated marking of merchandise and safe design and construction of goods provisions in the Consumer Affairs Act with the more general and inclusive product safety and information provisions of the Trade Practices Act. The new provisions will prohibit the supply of prescribed goods or services without compliance with safety and information standards which may be prescribed under the act.

Part 3 provides power to impose an interim or permanent ban order on dangerous goods or services. This power is necessary to minimise risks to the public arising from dangerous consumer products. This power currently exists in the Consumer Affairs Act in relation to goods only, and has been used recently to ban children's cots which do not conform with relevant Australian standards.

In addition, part 3 contains power for a supplier to voluntarily recall goods or services and a power for goods to be compulsorily recalled. The compulsory recall powers may be used where goods will or may cause death or injury, or where the goods do not comply with prescribed safety or information standards, or if the goods are subject to interim or permanent bans. The recall powers in the bill are new and will bring Victoria into line with the commonwealth and other jurisdictions around Australia which already have this power.

Part 4 of the bill is entitled Off-Business-Premises Sales and provides statutory protection for sales of consumer goods and services which take place away from business premises. These are divided into contact sales and non-contact sales. Contact sales replace the door-to-door provisions of the Consumer Affairs Act. Non-contact sales introduce new minimal regulation in Victoria for distance sales.

Part 4 applies to sales where the purchase price exceeds \$50, and excludes certain sales based on existing exemptions to the door-to-door sales provisions in the

Consumer Affairs Act. Generally, the current door-to-door sales provisions impose a 10-day cooling-off period for all sales of goods and services unless the purchaser physically attends the trader's premises. The cooling-off period extended to six months if the trader did not comply with certain requirements. The new contact sales agreement provisions require a five-business-day cooling-off period for sales which are entered into where both the supplier and purchaser are present at a private residence or at the purchaser's workplace. The cooling-off period extends to 30 days if certain requirements are not met.

Contact sales agreements must be in writing and be accompanied by a cancellation notice. If the purchaser cools off under the agreement, the supplier may charge a reasonable amount for goods which the purchaser cannot return or a reasonable charge for services rendered under the agreement unless the supplier falsely represented the need for the services.

Non-contact sales are agreements which are entered into where the purchaser and supplier are not in one another's presence and where the purchaser has not attended the supplier's premises in respect of the goods or services. These provisions cover among other things telephone marketing and television and catalogue selling. The supplier must provide certain information to the purchaser, such as the total cost of the goods or services, and any rights the purchaser has to cool off the agreement and how those rights may be exercised. There is no requirement that the agreement must be in writing, but if it is, this information must be given in writing in a prominent position on the agreement. If the agreement is not in writing, the information must be conveyed clearly and must be given to the purchaser in writing at or before the time the goods are delivered or before the services are performed.

It is stressed that the non-contact sales provisions do not impose a mandatory cooling-off period as is the case for contact-sales, but if a non-contact sales agreement contains a cooling-off period it is to be five business days in length unless a longer period is specified in the agreement.

Part 5 of the bill regulates lay-by sales. Lay-by is a popular form of purchasing. Currently, in the absence of any legislation in this area, consumers and traders are often confused about their rights and obligations in these transactions, particularly when things go wrong. The bill therefore includes provisions which regulate the most fundamental aspects of lay-by sales whilst taking care not to overregulate in this area. The lay-by sales provisions require the supplier to provide a lay-by statement which sets out all relevant details of the

lay-by, including when payments are due and any cancellation charge which may be payable.

Part 6 of the bill regulates codes of practice. All other jurisdictions already have a power to prescribe codes of practice. Codes assist in the effective regulation of specialised trades and industries. When they are developed in consultation with industry, greater compliance can be expected. The advantage of codes is that they can be designed to meet the specific requirements and problems of an industry. Codes can be drafted in non-legalistic language appropriate for the particular industry, and can include requirements which may not be appropriate for legislation — such as after-sales service requirements.

Part 6 of the bill enables codes of practice to be prescribed. The Director of Fair Trading can develop a code of practice of his or her own motion, or can endorse a code which suppliers of goods or services have, in consultation with other interested persons, agreed to abide by. A breach of a prescribed code of practice will be an offence but it is anticipated that the most effective method of addressing breaches will be through the undertakings provisions in part 11 of the bill.

Part 7 of the bill establishes the position of the Director of Fair Trading and sets out his or her powers and functions. Part 8 establishes a mechanism to allow people to complain to the director about disputes with suppliers of goods and services, and sets out guidelines for the director to refer disputes to conciliation within the Office of Fair Trading and Business Affairs. The director has a discretion to refer to conciliation trader versus trader disputes if the matter is reasonably likely to be settled and if a matter of significant public interest is involved.

Part 9 of the bill confers concurrent jurisdiction on the Victorian Civil and Administrative Tribunal to hear fair trading disputes and actions for damages under clause 159 of the bill. A fair trading dispute is defined as a dispute or claim arising between a purchaser or possible purchaser of goods or services and a supplier or possible supplier of goods or services in relation to a supply or possible supply of goods or services. Complex, multi-party proceedings that are inappropriate for the tribunal to determine can be transferred to the appropriate court under section 77 of the Victorian Civil and Administrative Tribunal Act 1998. Further, the parties to a fair trading dispute can, of course, choose to litigate in a court rather than in the tribunal.

Section 85 statement

Clause 164 of the bill states that it is the intention of clauses 111 and 112 to alter or vary section 85 of the Constitution Act 1975. I therefore make the following statement under subsection 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section.

Clause 111 provides that if proceedings regarding a fair trading dispute or other matter under the Fair Trading Act over which the Victorian Civil and Administrative Tribunal has jurisdiction, are commenced first in the tribunal and are not struck out or withdrawn, the dispute is not justiciable by a court.

Clause 112 provides that if proceedings regarding a fair trading dispute are first commenced in a court, the court must stay the proceedings if they could be more appropriately dealt with by the tribunal, including if a party could obtain a material advantage in the tribunal — for example, if it would be cheaper or quicker — provided that it is not outweighed by any material disadvantage suffered by another party if the dispute goes to the tribunal.

Where the court stays proceedings, a party may apply to the tribunal for an order in relation to the proceedings, whereupon the tribunal must notify the court, which must dismiss the proceedings — except where the tribunal has exercised its power to refer the matter to the court.

The reasons for the variation to section 85 of the Constitution Act 1975 are to allow the parties to a fair trading dispute a choice of forums in which to litigate and to ensure that a party wishing to take advantage of the benefits offered by the tribunal is not unfairly frustrated by another party commencing proceedings in a court merely as a tactical manoeuvre to put pressure on the other side to settle disadvantageously or to abandon the proceedings.

Part 10 of the bill sets out inspection powers. The current Consumer Affairs Act contains broad inspectors' powers which apply to acts listed in the schedule to the Ministry of Consumer Affairs Act, such as the Motor Car Traders Act 1986 and the Residential Tenancies Act 1997.

This bill enacts new inspectors' powers. All acts in the fair trading portfolio which require inspectors' powers will have revised and standardised powers.

Part 11 sets out the general enforcement and remedy provisions of the bill, and includes new undertakings

powers, the inclusion of which enables the repeal of the Market Court Act 1978.

The undertakings power enables the Director of Fair Trading to accept written undertakings from persons in connection with a matter to which the director has a power or function under the act or in connection with contraventions of any acts in schedule 1. These acts include the Motor Car Traders Act 1986 and the Estate Agents Act 1980.

Debate interrupted pursuant to sessional orders.

BARLEY MARKETING (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr COOPER (Minister for Transport).

The SPEAKER — Order! The question is that this bill be now read a second time, that the circulated government amendments be agreed to, that the bill be now read a third time, and that the bill be transmitted to the Legislative Council and their concurrence desired therein.

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 4, after line 26, insert —

“pooled grain” means barley of a season commencing before 1 July 1999 delivered to the Board and that became part of a pool established by the Board;”

2. Clause 4, page 4, lines 8 to 13, omit the definition of “residual grain”.
3. Clause 12, line 29, omit “the residual grain or” and insert “pooled grain or which relate to pooled grain or in”.
4. Clause 12, page 8, line 3, omit “the residual grain” and insert “pooled grain”.
5. Clause 12, page 8, lines 6 to 8, omit paragraph (a) and insert —

“(a) the property and rights of the Board, wherever located in pooled grain or which relate to pooled grain vest in ABB Grain Export Ltd; and”.

6. Clause 12, page 8, line 10, omit “the residual grain” and insert “pooled grain”.

7. Clause 12, page 8, lines 22 and 23, omit "will be entitled to such a share" and insert "are to have shares vested in them".
8. Clause 12, page 8, lines 31 and 32, omit "to which persons will be entitled" and insert "that are to be vested in persons".
9. Clause 12, page 9, lines 5 to 7, omit "deemed to have been transferred by the Board to the persons entitled to such shares" and insert "vested in the persons who are to have such shares vested in them".
10. Clause 12, page 9, lines 12 to 14, omit "deemed to have been transferred by the Board to the persons entitled to such shares" and insert "vested in the persons who are to have such shares vested in them".
11. Clause 12, page 9, line 20, omit "to whom a share is transferred" and insert "in whom a share is vested".

Remaining stages

Passed remaining stages.

FAIR TRADING BILL

Second reading

Debate resumed.

Mrs WADE (Minister for Fair Trading) — I was dealing with undertakings under part 11 of the bill.

If an undertaking has been breached, the director can apply to the Magistrates Court for orders that the person comply with the undertaking or pay compensation as appropriate.

Undertakings are a practical and expeditious way to enforce compliance with the act. It is anticipated that they will be used as an alternative to prosecutions. For example, people can breach the law without realising that they are doing so, and in these circumstances it is sometimes appropriate to accept an undertaking rather than prosecute.

Summary

This bill is the product of extensive consultation with industry and consumer groups, and liaison with key agencies such as the Australian Competition and Consumer Commission and fair trading agencies around Australia.

The bill effectively replaces four acts, being the Consumer Affairs Act 1972, the Ministry of Consumer Affairs Act 1973, the Fair Trading Act 1985 and the Market Court Act 1978. This reduces the burden on business and consumers in ascertaining respective rights and obligations. The bill must balance the interests of traders and consumers. The bill has attained

an appropriate balance for developing and encouraging an effective marketplace for the new millennium.

I commend the bill to the house.

Debate adjourned on motion of Mr HULLS (Niddrie).

Debate adjourned until Thursday, 8 April.

SURVEILLANCE DEVICES BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this bill be now read a second time.

The Listening Devices Act 1969 provides significant protection to private conversations from eavesdropping. It prohibits anyone who is not a party to a conversation from listening to or recording that conversation. The act also prohibits the communication or publication of records or reports of private conversations, except in limited circumstances.

Since the Listening Devices Act was passed, the use of video cameras has become very widespread. The fact that the Listening Devices Act only regulates listening devices and not optical surveillance devices produces an anomaly. Currently, private conversations may not be recorded and communicated by others, but private activities may be. At present, there is no limitation on the use of video cameras or tracking devices. A video camera may be used to video a private activity, which may then be published and communicated freely, as long as the sound is turned off.

For example, a retailer may install a video camera in a change room to watch and record the activities of customers without legal sanction. That video material may then be published freely by the retailer. This sort of activity will no longer be allowed under this bill. In an era of increasingly sophisticated technology, it is necessary to enact this bill to protect individuals' privacy. This bill will bring the regulation of optical surveillance devices into line with the regulation of listening devices. Just as the Listening Devices Act regulated listening devices in 1969, the time has come to regulate other surveillance devices in the same way.

The use of listening devices has been regulated in Victoria since 1969. The bill takes the basic model for the regulation of listening devices in the Listening Devices Act 1969 and applies it to a broader range of surveillance devices. The bill establishes a general prohibition on optical surveillance devices used to observe and record private activities; listening devices

used to listen to and record private conversations; and tracking devices used to track people and objects.

The bill also prohibits the use of data surveillance devices by the police without a warrant or without the consent of the person in control of the data. The bill provides penalties of up to two years imprisonment or a maximum fine of \$24 000 or both for breaches of these prohibitions.

The bill also restricts the publication or communication of records or reports of private conversations and activities gained using surveillance devices. This includes publication or communication by participants without the consent of all the parties to the conversation or activity. The Listening Devices Act restricts the circumstances in which recordings of private conversations may be published to others, protecting the privacy of private conversations. The bill will extend this protection to video recordings of private activities. The bill provides substantial penalties for breaches of this prohibition.

While the bill extends the protection of privacy afforded to private conversations to private activity, law enforcement officers have been given the power to use surveillance devices to fight serious crime. In these circumstances, the bill also ensures stringent safeguards to protect individual privacy. This bill achieves an appropriate balance, and provides stringent safeguards for the protection of privacy.

The bill prohibits the use of surveillance devices to intrude on individuals' privacy except in exceptional circumstances. Surveillance devices may be used by law enforcement officers for investigating suspected serious criminal activity. Surveillance devices are most useful in fighting organised crime. In many major drug cases surveillance devices provide key evidence in prosecutions. Crime that is difficult to uncover, such as organised child pornography rings, can be exposed using surveillance devices.

A law enforcement officer may only apply for a warrant to use a surveillance device if the applicant suspects or believes that an offence has been, is being, is about to be or is likely to be committed, and the use of the device is necessary to investigate the offence or to gather evidence of the offence. Before a court may issue a warrant, it must balance the nature and gravity of the offence with the extent to which the privacy of a person is likely to be affected.

When law enforcement officers wish to use a surveillance device to record or observe a private activity; listen to or record a private conversation; or

monitor the input or output of information to or from a computer, they may only do so pursuant to a warrant issued by the Supreme Court or an emergency authorisation under the bill. This is an important measure to ensure the accountability of law enforcement officers proposing to use surveillance devices and to ensure that surveillance devices are used appropriately. A warrant to track a person or object may be issued by the Magistrates Court, as tracking devices are less intrusive than other types of surveillance devices.

These requirements will ensure the protection of privacy by requiring that warrants allowing the use of surveillance devices are only issued when an appropriate balance is determined by the courts between the benefits of using the device and the potential invasion of privacy.

There are a number of stringent safeguards in the bill to protect people's privacy. Once a surveillance device has been used pursuant to a warrant, the user must report back to court on the use of the surveillance device, adding a further measure of accountability. Any evidence gathered using surveillance devices must be destroyed if it is not needed to investigate or prosecute an offence. The responsible minister must report annually to Parliament on the use of surveillance devices pursuant to the bill.

In certain limited circumstances, for instance during a kidnapping or a siege, the police force or the National Crime Authority may issue its own officers with an emergency authorisation to use a surveillance device. This may only be done where an imminent threat of serious violence to a person or substantial damage to property exists, or a serious drug offence is being committed. A police officer who receives an emergency authorisation must report to court within 72 hours of being granted the emergency authorisation. This will ensure that there is appropriate independent supervision of the use of these powers.

Finally, the bill compels law enforcement bodies to destroy potentially sensitive information gained using surveillance devices when the information is not needed. It is an offence not to destroy surveillance evidence when required to do so under the act.

The bill provides stringent safeguards to protect individuals' privacy ensuring that Victoria is a safe place to live. The bill will extend the protection of private conversations currently offered by the Listening Devices Act and will protect private activities from intrusion.

I commend the bill to the house.

Debate adjourned on motion of Mr HULLS (Niddrie).

Debate adjourned until Thursday, 8 April.

SENTENCING (AMENDMENT) BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this bill be now read a second time.

The government is committed to improving the criminal justice system so that it maintains the confidence of the community and meets the needs of victims. The government has focused on improving sentencing laws by conducting a major sentencing review and implementing many important legislative reforms. The government has introduced tougher penalties for breaching laws which impact on more vulnerable members of our community, and has increased sentences for serious offences in response to community concerns. This bill represents a continuation of that review process, with attention now being focused on the other end of the sentencing spectrum, involving the commission of lesser offences by young people, many of whom have drug problems.

The increasing use of drugs by young people is a matter of significant concern. The government has long been committed to the development and implementation of innovative responses to this issue — ones that promote the principle of harm minimisation, which is the keystone of our Turning the Tide policy.

This bill continues down that path by introducing measures that will:

- introduce deferred sentencing for young offenders to encourage them to take responsibility for addressing those factors which contribute to their criminal behaviour;

- modify sentencing orders to provide the courts with additional flexibility to tailor orders to promote the rehabilitation of offenders; and

- clarify the procedures relied upon by those who manage offenders — whether in prison or in the community — so they can more effectively respond to the rehabilitation needs of offenders.

Deferred sentencing

Deferred sentencing has been available as a sentencing tool in the Children's Court since 1991, and is used to capitalise on the high motivation of young offenders when they are found guilty of a crime by providing an incentive for them to change their behaviour. This bill will extend the availability of deferred sentencing into the Magistrates Court for cases involving offenders up to 25 years of age.

Deferred sentencing provides offenders with an opportunity to take responsibility and deal with factors contributing to their criminal behaviour. They are given an opportunity to address the problems in their lives and demonstrate to the court that they are taking their own rehabilitation seriously.

Once an offender is found guilty of a crime, their sentencing may be deferred for up to six months, on the understanding that the offender is to return to court at a later date having made good on a promise to, for instance, enrol and attend a course, work in the family business, live at home, or undertake counselling or drug treatment. When the offender returns to court for sentencing, the court can take their behaviour during the deferral period into account in determining whether a lesser penalty is warranted, or whether treatment or other conditions should be attached to a sentence to provide ongoing management of the offenders specific needs.

The government has extended deferred sentencing from children to young adult offenders in recognition that offenders who are most likely to benefit from early intervention and rehabilitation, and who are willing to take responsibility for changing their behaviour, should be given the opportunity to have their commitment to change considered by the court in sentencing.

Victim impact statements and compensation applications

In 1994, this government introduced legislation that gave a voice to victims of crime by enabling victim impact statements to be submitted to the court for consideration in passing sentence. Victim impact statements are now widely accepted as a useful and informative mechanism by which the court can better understand how victims have been affected by the crime. This bill will make it clear that victims can also provide the court with medical and psychological reports, which can be attached to their victim impact statements.

Victim impact statements are sometimes used by victims to support their applications for compensation

for pain and suffering. While courts have the ability to take various documents into account when considering compensation applications, there has been some uncertainty about the admissibility of victim impact statements in this context. This bill will clarify that victim impact statements can be relied upon by victims when they seek compensation from offenders for pain and suffering.

Where compensation is sought in respect of harm or loss suffered by a victim who is a child or by a victim under a disability, this bill will ensure that the court has the capacity to appoint a litigation guardian to make the application on their behalf. This will ensure that these victims will be able to take advantage of the compensation provisions of the act through the representation of a guardian whose interests do not conflict with their own.

Finally, the bill will clarify that all Victorian courts have the power to award costs to a party involved in an application for compensation for pain and suffering. While the Magistrates Court currently has a wide power to award costs in respect of any proceedings under section 131 of the Magistrates Court Act, this bill puts it beyond doubt that the higher courts can also award costs in respect of these compensation applications. While the presumption will be maintained that each party should bear their own costs in these cases, there may be circumstances when costs should be awarded against a party, such as in the case of a convicted offender unreasonably contesting the victim's application.

The measures contained within this bill will further promote victims' interests within the criminal justice system. The reforms also meet the needs of the community by increasing the effectiveness and flexibility of sentencing options, thereby promoting the rehabilitation of young offenders.

The government will continue to monitor the sentencing legislation to ensure that its objectives are being achieved and it is responsive to community concerns.

I commend the bill to the house.

Debate adjourned on motion of Mr HULLS (Niddrie).

Debate adjourned until Thursday, 8 April.

Remaining business postponed on motion of Mrs WADE (Attorney-General).

ADJOURNMENT

Mrs WADE (Attorney-General) — I move:

That the house do now adjourn.

Pines Preschool Centre

Ms CAMPBELL (Pascoe Vale) — I ask the Minister for Youth and Community Services to intervene to ensure that the 18 children currently enrolled at the Pines Preschool Centre, together with the 3 additional children who are about to enrol, continue to receive funded preschool education at the beginning of term 2 at the current site and with the current staff.

The Department of Human Services has informed the preschool that it should close by the end of term 2 because it had only 19 children enrolled on the enrolment census day, rather than the minimum of 20 that the department requires.

The preschool operates in a low-income area that has been hard hit by the Kennett government's \$16.5 million cutbacks in preschool funding in 1993 and 1994. The house should be mindful of the fact that gutting preschools by \$16.5 million ensures that fees rise and that the children of the families who cannot afford fees of about \$500 a year miss out on the vital preschool year. Fees at the Pines preschool are \$125 a term, making an annual fee of \$500, and fundraising is necessary on top of that.

Only 83 per cent of the prep children at the local primary school have a preschool background. In other words, 17 per cent are missing out on the preschool year. The Minister for Youth and Community Services champions the fact that more than 90 per cent of the state's four-year-olds are receiving a preschool education. I can assure the minister that that is not the case in economically disadvantaged areas.

With fewer than five days to go until the end of the term, the committee of management requires urgent written advice, preferably faxed from the minister's office, stating that the preschool will be funded, recognising that even if those three children do not turn up at the beginning of term 2 as currently promised they will continue to receive funding. To defund a preschool in The Pines is a sign of a callous government that has a callous disregard for the four-year-old children. It is a sign of a government that measures the numbers of children to fill a quota at the expense of measuring the success of a preschool year for four-year-old children.

Sport: young athletes

Mrs PEULICH (Bentleigh) — I raise for the attention of the Minister for Sport a matter about junior sport. In the current social climate more and more parents and members of the community are keen to see young people involved in productive and healthy activities as a way of keeping them on track and away from more destructive and threatening activities such as drug taking and petty crime.

As the support act to a 14-year-old who is into sport in a big way, around my electorate and throughout Victoria I am often approached by parents, coaches and others involved in various sporting codes and organisations about various impediments that exist in the sporting codes. Often they have nothing to do with funding but are practical impediments created by either the intransigence of the associations or sheer misguidedness.

For example, young athletes who are members of the Oz Squad, an elite squad of young athletes, are unable to buy specialist shoes for, say, throwing events. Even corporations such as Nike, which are then more happy to extend their market interest by promoting and using sports people, do not consider it their corporate responsibility to facilitate young and up-and-coming athletes by providing specialist footwear.

Another example is Athletics Victoria, which must be given some credit. That organisation rearranged its competitions so that 14-year-olds have to pit themselves against 17-year-olds and 17-year-olds must compete against 20-year-olds. As an indication that the burnout rate is high, only 50 athletes have gone with their track team to Perth.

Will the minister investigate what can be done to get rid of such practical impediments and consult with the Premier about setting up a subcommittee of his youth council to go around the state and consult on what practical measures can be introduced to foster young people's involvement with the various sporting codes, get rid of some of the nonsense and help young people to pursue their interests? That is where their future lies and our community and society would be strengthened as a result.

Police: Endeavour Hills station

Mr PANDAZOPOULOS (Dandenong) — In raising a matter for the attention of the Minister for Police and Emergency Services I ask him to meet with a deputation from the City of Casey, including the mayor, and from the Endeavour Hills police station

committee, as well as myself and the honourable member for Berwick so that we may put our case for a police station.

The issue was raised a week ago at a public meeting the Premier attended in the City of Casey at Endeavour Hills. It is a major issue for the local community. Honourable members would be aware of the opposition's commitment since 1992 to establishing the police station. Opposition members are on record as supporting the facility because it was planned by police command when the Labor Party was in government. It was on the books because of the population growth in that area.

Last year the government closed the nearby Doveton police station. One would hope that the government would announce the opening of a police station in Endeavour Hills to meet the population demand. A residents group has been formed and a huge petition has been tabled, but there has been no action from the government.

The honourable member for Berwick has been inactive on the matter. He promised there would be another meeting and that a group to work on the issue would be set up with representatives of the council and the Endeavour Hills police station committee. Recently the council has had to write to the honourable member for Berwick because no action has been taken. The council's disappointment with the government's lack of action in this matter was raised at a public meeting last week.

A police station in Endeavour Hills would take the pressure off the Narre Warren police station, which under current staffing arrangements has at least 8 fewer police officers than it should on its books and probably something like 15 fewer police officers than two years ago. The City of Casey, which is the fastest growing municipality in Victoria — it had some 6800 new residents last year, which indicates a population explosion — needs an additional police station.

Will the minister meet with the mayor of the City of Casey, the Endeavour Hills police station committee, me and the honourable member for Berwick? Or is the government not concerned about the police station and does it not recognise the need to make it a priority? And would the honourable member for Berwick rather forget about it?

Floods: north-eastern Victoria

Mr JASPER (Murray Valley) — I refer the Minister for Agriculture and Resources to the September 1998 floods in north-eastern Victoria and

the damage caused to the upper reaches of the King, Ovens and Kiewa rivers. At that time the Premier and the Deputy Premier visited the area to inspect the enormous damage that had been caused to the rivers and streams and to the surrounding properties. The government made a commitment to support the landowners and said it would look at what funding could be provided for reclamation works along the affected rivers and streams.

The North East Catchment Management Authority, one of the more effective catchment management authorities, was deeply involved in producing a report that was submitted to the government and sought major funding under natural disaster relief arrangements. Later in 1998 the authority produced a submission to the government claiming a total of \$7.1 million, comprising \$5.7 million for flood damage and \$4.3 million of natural disaster funding for which the authority understood it would be eligible. The report was submitted to the Minister for Agriculture and Resources and subsequently went to the Department of Treasury and Finance for approval. An assessment was undertaken and the department subsequently approved funding of \$4 049 290 over three years for works to be implemented by the authority.

My concern is the provision of support to affected landowners. A submission was put to the minister that many of the landowners whose land abutted the rivers had suffered major damage to their properties. Subsequently approval was granted for funding at a concessional interest rate of 4 per cent through rural finance. However, an additional application was made under the Land Protection Initiative scheme for funding of \$100 000 to assist with land reclamation.

I am grateful for the funding approved by the government through the North East Catchment Management Authority and funding that will be provided to municipalities for road damage, and I ask the minister to acknowledge that additional funding will be provided to landowners with properties along the affected rivers and streams.

Teachers: contracts

Ms DELAHUNTY (Northcote) — I ask the Minister for Education to continue to reverse policies that have been making teaching in Victoria a most unattractive profession. I refer specifically to the increasing prevalence of short-term teaching contracts, some of which give teachers the permanency of bar work and do not allow them to obtain a bank loan.

I raise with the minister his memo of 16 March entitled 'Preferred Staffing Profile', which was sent to all school principals and signed by the Director of Schools, John Pascoe. I am pleased to read in the memo that the government is reversing its previous directive of 30 per cent contract teachers in schools and is adopting a more benign suggestion — that principals will be encouraged to consider longer terms of employment where possible within the school work force plan.

I am delighted that the minister is adopting Labor Party policy on a fair, professional and flexible mode of employment to attract the best and brightest to our schools. The opposition welcomes the adoption of its policy because the move towards short-term contracts has been detrimental to the school system. Students have had to get used to teachers who may remain at the school for only one term. That is increasingly detrimental to the learning ability of students and is certainly destructive of a teaching profession to which we want to attract the brightest.

I urge the Minister for Education to continue to adopt Labor Party policy in our schools, in particular class sizes of 21 or fewer students.

Mr McArthur — On a point of order, Mr Acting Speaker, the honourable member for Northcote has transgressed the rules of the house in two ways: firstly, she has not asked the Minister for Education to take any administrative action; and secondly, she is raising a second matter with the minister.

The ACTING SPEAKER (Mr A. F. Plowman) — Order! The honourable member for Northcote was making a legitimate request of the Minister for Education, but I uphold the point of order in respect of the second matter raised by the honourable member. The honourable member for Northcote cannot raise two issues during the adjournment debate.

The honourable member's time has expired.

Oakleigh police sites

Mrs McGILL (Oakleigh) — I raise with the Minister for Police and Emergency Services a matter concerning the former Oakleigh police station site in Atkinson Street, Oakleigh, now that the police have moved into their magnificent new premises on the corner of Warrigal and Atherton roads, which were the former municipal offices.

In seeking information about what will happen to the site, I ask the minister to consider the impact of the heritage overlay recently completed by the City of Monash. I ask him to include in that precinct the former

Oakleigh police station, the former courthouse, the former CIB premises and the individual parcel of land in between.

I take the opportunity of thanking the minister and his officers for ensuring that the new police station is exactly where the community wants it to be — in the central business district of Oakleigh. The community appreciates that, as do the local police. Police officers have told me they are particularly pleased with the new premises and the new technology, including computers and the surveillance equipment around the site.

I ask the minister to examine the future use of the site, including the ramifications of the City of Monash's heritage overlay for the original 1930s-style two-officer building with add-ons.

Spear thistle

Ms DAVIES (Gippsland West) — I ask the Minister for Conservation and Land Management to instruct Department of Natural Resources and Environment officers to put the control of thistles higher on the department's agenda so that direct action can be taken this autumn to control a vicious thistle infestation around Lang Lang—Caldermeade.

Honourable members interjecting.

Ms DAVIES — Honourable members on the other side may not think thistles are an important issue, but they are to the people of Gippsland West.

A government member interjected.

Ms DAVIES — Yes, there are some prickly ones over there. Be quiet and behave yourselves!

The ACTING SPEAKER (Mr A. F. Plowman) — Order! The debate on thistles will cease.

Ms DAVIES — Weeds officers have estimated that 3500 square acres around Lang Lang—Caldermeade are infested. It is very rich agricultural land and local farmers do not appreciate the problems caused by the snowstorm-thick seeds that have been blowing across West and South Gippsland for the past two months. The new growth is emerging underneath the dead thistles that are still blowing the seed.

The DNRE is so underfunded that it has been unable to prioritise the control of thistles, which means no action has been taken to encourage recalcitrant landowners to deal with thistles on their land. Likewise there are property owners who may be willing but who are

unable to cope with the severity of their infestation. The lack of action is causing severe problems.

This morning I tabled a petition on thistles, the first of a bundle, containing 641 signatures. I have been approached about the issue by people from right across West and South Gippsland, and I ask the minister to take it seriously. Gippsland has a severe problem with thistles, but it is not high on the list of DNRE priorities. The department is so underfunded and undermanned that it is unable to deal with the issue properly. However, I ask the minister to give serious attention to the direct action that is needed to control the thistle infestation.

Port Phillip Prison: firearms

Mr HAERMEYER (Yan Yean) — I call on the Minister for Corrections to instruct the Correctional Services Commissioner to take over control of the Port Phillip Prison, which he has the right to do under the government's contract with the prison. In particular, I ask him to investigate what I believe to be a serious and possibly criminal breach relating to the use of firearms.

At 2.50 p.m. on 1 November last year a manager at the prison, Mr O'Reily, checked out six rounds of ammunition and a firearm, serial number 50526, which was returned at 9.10 that evening. Mr O'Reily took the firearm and the ammunition to escort a prisoner who needed to receive medical attention. The difficulty is that Mr O'Reily is not licensed to carry a firearm. So his action in checking out a firearm and ammunition from the prison and taking it out into the community with him — although he returned it later on — amounted to a serious breach of trust on his part and a serious breach of trust on the part of Group 4 Corrections Services, the managers of the prison.

It is not the first time that that has happened. Mr O'Reily did the same thing last year when he escorted the sergeant of the Bandidos motorcycle gang to Ballarat to meet his girlfriend.

A government member interjected.

Mr HAERMEYER — Mr O'Reily is a manager at the Port Phillip Prison.

There is a further issue: Port Phillip Prison has recently asked the government for an additional payment of \$3 million towards the cost of running the prison. Will the minister give a categorical guarantee that no payment will be made to Port Phillip Prison to increase prison staffing levels? I understand the prison has not made a profit since it opened and is now in dire financial straits. I wonder whether some of the

300 additional prison beds the government is seeking to create are intended to act as a back-door means of supporting the prison.

Gladstone Park Secondary College

Mr FINN (Tullamarine) — I raise for the attention of the Minister for Planning and Local Government the \$3.5 million library redevelopment at Gladstone Park Secondary College. The school has a great principal and a great staff. It is a truly magnificent school with a fine reputation. We are grateful to the Minister for Education for his ongoing support of the school and of all the schools in the electorate.

I ask the Minister for Planning and Local Government to adopt a supporting role in the relocation of the community library associated with the school. The library operates under a shared arrangement, being used by the school and the community. The problem is that the library is at the rear of the school, causing major school security problems. Anyone intercepted in that area at the back of the buildings can simply say, 'I am going to the library', and no-one can do much about it. The school has decided that the library should be relocated to the front of the grounds to reduce security concerns.

The school applied to Hume City Council for \$65 000 to financially support the relocation. I consider the request to have been fair and reasonable. Unfortunately, however, a majority of councillors rejected the application, although I am pleased to say the new mayor of Hume, Cr Jack Ogilvie, was not one of them.

I seek the minister's intervention in the major impasse that has developed and is holding up the redevelopment. I know how much the minister loathes intervening in municipal affairs, but I feel that in this case he could usefully play a mediation role to bring the school and the council together and help them to reach a happy conclusion of the matter so that building can proceed and the community can retain its library.

Dingley bypass

Mr BATCHELOR (Thomastown) — I ask the Minister for Roads and Ports in another place to find out why the Dingley bypass road project has not been undertaken and, in particular, why the Kennett government has failed to honour another election commitment. The minister will be aware of the importance of the road project. His failure as the responsible minister to advance the issue is inexplicable.

The minister should be aware of the location of the Dingley bypass. He had to be taken there last week by local members because he was not able to give any assurance that the project would be delivered in accordance with the election commitment. It is ironic that the Labor Party, which initiated the idea of the bypass through its candidate at the last election, Ms Robyn McLeod, now has to bring this matter to Parliament to see that it is acted on.

People in the Mordialloc area know that the only way they will get things done is through the persistence of Robyn McLeod and the Labor Party in bringing matters before Parliament. Labor has to do that because the coalition has broken an election promise. What the minister said this week contradicts what the local member, the honourable member for Mordialloc, said before the last election. An article in the *Mordialloc Chelsea News* of 27 March 1996 states:

Mordialloc MLA Geoff Leigh said last week the state coalition would begin construction on the Dingley bypass within its next term of office.

The article continues:

... the Dingley bypass was a 'priority road' for funding.

The Minister for Roads and Ports was shown the proposed location for the Dingley bypass. An article dated 22 March 1999 reported that:

... he would not comment on the possibility of starting the project this year.

If the project does not start this year, the government will have broken its election promise. The Labor Party, which is represented in the area by its candidate, Robyn McLeod, is putting pressure on the government to deliver that election promise. The residents know that is the only way they will get any progress on the Dingley project. Labor initiated the project and will put the pressure on to ensure it is delivered.

Responses

Dr NAPHTHINE (Minister for Youth and Community Services) — The honourable member for Pascoe Vale raised with me the future of the Pines Preschool Centre. The honourable member advised that the preschool has 18 students enrolled in its kindergarten program, with the potential for 3 more, making a potential enrolment of 21. Being diligent local members, the Honourables Sue Wilding and Cameron Boardman, who represent Chelsea Province in the other place, were both at a meeting of the preschool last night. The honourable member for Frankston East, who

was in the chamber at the time, sent representatives to that meeting.

It was clearly conveyed to the meeting that if the preschool had more than 20 students enrolled it would be able to continue and would continue to receive funding. It is important that the preschool hold an annual general meeting in the next two weeks. I understand from the feedback from the meeting that it was agreed to be necessary not only to hold an annual general meeting in the next two weeks but also to examine the financial situation of the preschool. I am advised that there are some concerns about the possible debts of the preschool, which may have some influence on its future.

Ms Campbell — On a point of order, Mr Acting Speaker, the minister is stating that there are possible concerns about annual general meetings and debts. My point of order is that he is misrepresenting what happened at the meeting last night. Forms were handed in —

Honourable members interjecting.

The ACTING SPEAKER (Mr A. F. Plowman) — Order! I wish to hear the point of order. The honourable member for Pascoe Vale will continue her point of order.

Ms Campbell — He is misleading the house.

The ACTING SPEAKER (Mr A. F. Plowman) — Order! There is no point of order. That is entirely out of order.

Dr NAPHTHINE — I was not at the meeting last night. I am conveying information that was conveyed to me by the honourable member for Frankston East, who had representatives at that meeting, and the Honourable Cameron Boardman, who was at the meeting and who discussed the matter with me only some minutes ago.

Ms Campbell interjected.

The ACTING SPEAKER (Mr A. F. Plowman) — Order! The point of order put by the honourable member for Pascoe Vale has been heard. I ask her to desist from interjecting.

Dr NAPHTHINE — It is extremely disappointing that the honourable member for Pascoe Vale seems to wish to play politics with this matter. The first priority of the elected local members — the Honourables Sue Wilding and Cameron Boardman and the honourable member for Frankston East — is the provision of a

proper kindergarten education for the children concerned, and that is also my priority.

I have already said, as the honourable member for Pascoe Vale would have heard if she had listened, that they will be funded. I have been advised that 21 students will be enrolled in the second term and the kindergarten will be funded for those 21 students. The kindergarten was advised of that situation last night at the meeting. I also conveyed yesterday to the honourable member for Frankston East, who is the local member, that if the kindergarten had only 15 students for the second term the government would still provide the standard grant for those students for the second term while the kindergarten considers its future. In other words 15 students or more will be funded on a standard grant.

However, it is important for the responsible management of that kindergarten that an annual meeting be held. It is important also that the people elected to the committee of management examine the financial situation facing that kindergarten because they have a legal and moral responsibility to manage the kindergarten sensibly and to make adequate provision to pay the staff their entitlements. Any responsible committee of management would take that position.

I note also that the honourable member for Pascoe Vale talked about participation rates. I remind her of the excellent kinder participation rates in the state. The *Report on Government Services 1999* issued by the steering committee for the review of commonwealth-state service provision indicates that Victoria has a 93 per cent participation rate. That is equal to South Australia's rate and well ahead of the participation rates in the Labor states of Queensland and New South Wales, where the governments do not care about kindergartens.

Ms Campbell interjected.

The ACTING SPEAKER (Mr A. F. Plowman) — Order! The honourable member for Pascoe Vale has already made a point of order. I ask her to desist from interjecting.

Dr NAPHTHINE — The honourable member for Pascoe Vale would be well advised to read the *Report on Government Services 1999*, which shows that the participation rate at kindergartens in New South Wales under a Labor government is 70.2 per cent, compared with the 93 per cent record level in Victoria under this government. The same document refers to hourly fees paid by parents for kindergarten services in this state compared with the Labor states.

Ms Campbell — On a point of order, Mr Acting Speaker, in my question to the minister I referred to the 83 per cent participation rate in this area and that is the matter that I asked him to address.

The ACTING SPEAKER (Mr A. F. Plowman) — Order! The honourable member must be clear on what is presented as a point of order to the Chair. I do not believe that is a point of order, and therefore I do not uphold the point of order.

Dr NAPTHINE — That is exactly the issue I am addressing. I am pointing out to the honourable member and the house that the kindergarten participation rate in Victoria is 93 per cent, which is the highest rate ever in this state. It is higher than when the Labor Party was in office and higher than the rates in the Labor states of New South Wales and Queensland. It is the highest rate according to the state government report.

Ms Campbell interjected.

Dr NAPTHINE — I am quoting from the Productivity Commission report. The honourable member for Pascoe Vale also referred to fees paid by kindergarten parents. The report states that according to the 1997–98 figures the median hourly fee in Victoria was \$1.03. That figure is now \$1.10. It is interesting to compare it with the fees paid in the Labor states of Queensland, where the average hourly fee is \$1.70, and New South Wales — that shining light of Labor social justice — where parents pay an average hourly kinder fee of \$3.48. That is 300 per cent higher than the fees paid in Victoria.

The Labor government in New South Wales — the shining light for the Victorian opposition — has a 70 per cent participation rate compared with 93 per cent under the Kennett government, and the median fee in NSW is \$3.48 per hour compared with \$1.10 per hour here. It is clear from any objective analysis by independent experts that kindergartens in this state are significantly better supported than in the Labor states of New South Wales and Queensland.

The government is pleased to work in partnership with organisations such as Kindergarten Parents Victoria and the many hundreds of voluntary committees of management, which do an excellent job together with kindergarten teachers and staff to provide high-quality kindergarten services in this state.

In conclusion, as I have said, through the strong representations of local members — the Honourables Sue Wilding and Cameron Boardman in the other place and the honourable member for Frankston East — the

Pines Preschool Centre will be able to continue to operate when it has 21 enrolments, and even if the number drops to 15, it will be funded for the second term.

Mr W. D. McGRATH (Minister for Police and Emergency Services) — The honourable member for Dandenong raised a query about a proposed Endeavour Hills police station and its relationship with the municipality of Casey. I am well aware that the proposal for a police station at Endeavour Hills has been around for some time. I have to advise that there is due process. The government has adopted a budget expenditure review committee process and all ministers go through that process with respect to programs and capital works issues. I am not in a position to report one way or the other on the proposal, but I will consider the issue at a later date. At this stage it would be premature for me to receive a deputation because the issue is being worked through.

The honourable member for Berwick has been proactive in representing the law and order needs of Endeavour Hills. My understanding of police services in the Narre Warren area is that many police cars patrol the area, and if anyone ever has a problem or an emergency the 000 number will get a very quick response from Victoria Police anywhere in the inner and outer metropolitan areas.

It is a damning indictment of the opposition that this poor old gentleman — Mr Boag, I think it was — last week signalled that he was frightened to call the police.

An honourable member interjected.

Mr W. D. McGRATH — I am giving an example of how he was frightened to call the police because of the perception that they were too busy. That perception has been created by the Victoria Police Association and the opposition, and that is a terrible indictment of the sorts of perceptions they are pushing about the police force.

The honourable member for Oakleigh raised with me the future use of the former Oakleigh police station and courthouse site following the opening of a new police station in Oakleigh. She mentioned that the new station is a very good facility. It has probably one of the best reception centres I have seen at a new police station.

The station is designed to ensure that any inquiry made at the station desk will be dealt with confidentially. It is one of 43 stations which have been constructed or on which construction has commenced in the past six months. They include a new station at Sunshine that will be completed 15 to 20 years after it was first

requested by the police — but of course, for 10 of those 15 or 20 years Victoria was governed by the former Labor government, and it could not deliver.

During the Labor Party reign in this state the police requested that new stations be built at Collingwood and Richmond — but it was left to this government to build those stations. Yet the opposition carps and harps about police stations and police resources. Shortly those new police stations will be equipped with modern information technology resources following the government's allocating \$170 million to the police.

Mr Haermeyer interjected.

Mr W. D. McGRATH — Staff numbers at Oakleigh are adequate, as they are across all areas of the Victoria Police. One has only to look at Victoria's crime statistics to see that.

Mr Haermeyer interjected.

Mr W. D. McGRATH — It would be no good asking the honourable member for Yan Yean, who continues to interject, to study the crime statistics, because he can't read!

The honourable member for Oakleigh asked me what will happen to the old Oakleigh courthouse and police station. Once the buildings are no longer used for those purposes, they will pass from my department's control. I understand a heritage question arises there and that aspect has been referred to a panel for consideration. Once that question has been determined, the buildings will pass to the control of the Minister for Finance, who will examine their possible uses. The buildings may be offered to other government agencies, but if neither they nor local government bodies are interested, they may be placed on the open market.

I can understand the honourable member's desire to see a consolidation of that land to avoid the risk of any piecemeal development. The honourable member should keep on the wheel of the Minister for Finance and ensure her point of view is put to him. The honourable member's suggestions make considerable sense.

The honourable member for Yan Yean continues to run a vendetta here against the private prison system. He mentioned a private prison manager, Mr O'Reilly. I will investigate that matter. I anticipate that again the honourable member is spreading mistruth and misinformation and is misrepresenting the situation. But, as always, I will investigate his claim.

Today Victoria has a good balance between private and public prisons, and they are producing good outcomes. If we were to benchmark one system against the other, I suggest there would be little difference in outcomes. However, from a financial point of view, the private sector option is better than the public one.

Mr Haermeyer interjected.

Mr W. D. McGRATH — Again the honourable member mentions the \$3 million supplementary payment being sought by Group 4 Corrections Services for the Port Phillip Prison accommodation. His interjection gives the house an idea of how far behind the times the honourable member for Yan Yean is, because that issue was dealt with about four months ago. The answer was in the negative then, and it continues to be in the negative.

Mr McNAMARA (Minister for Agriculture and Resources) — In response to the issues raised by the honourable member for Murray Valley I point out that there has been a prompt response from the government to catchment management issues in north-east Victoria. The response has been similar to the one that followed the floods in Gippsland. While in the area last week I handed over a cheque for \$762 000, which brings the contribution to the North East Catchment Management Authority to just over \$4 million. That will enable the authority to continue with some immediate work, particularly in relation to the King, Ovens and Kiewa rivers, and a number of other tributaries. The situation will be better than it was prior to the flood. This remedial work has opened up many of the streams and will minimise any future floods further down the track.

The government has also made concessional loans available for private landowners through rural finance at an interest rate as low as 4 per cent, and there has been a good response to that initiative. The government has also applied for \$100 000 from the land protection initiative scheme for land-regulation works, and that will be available on a dollar-for-dollar basis.

Overall the work done by the North East Catchment Management Authority has been particularly valuable; there has been overwhelming endorsement of the work it is doing. In the past many of these roles were organised by different bodies, but the approach is now coordinated and a whole-of-catchment levy, which was introduced by the former minister for water supply, is well accepted. I remember he introduced it approximately 10 days before the 1996 election. The government gained an outstanding result at the election following the issuing of rate notices less than a week and a half before. The honourable member has no idea

how appreciative I was of the timing of the issuing of the rate notices. The proof is in the pudding, and we all got re-elected with handsome majorities.

I commend the work of the authority and the great support of the honourable members for Murray Valley and Benambra, as well as others in the area, for the local CMA.

Mr MACLELLAN (Minister for Planning and Local Government) — In response to the matter raised by the honourable member for Tullamarine, which concerned a school library that is a combined school and municipal library and its possible relocation to a more secure part of the school premises, I point out that that is not part of the state government's role. The government funds municipal libraries and provides additional funding for resources and the acquisition of materials. Recently it conducted a major campaign in relation to mobile libraries, but it does not fund capital works.

However, I am sure that the local government section of my department that covers libraries would be only too willing to undertake the role of bringing the parties together to do an analysis of the issues and problems to see whether the local council and the school can resolve any differences. I understand an amount of more than \$65 000 is involved. It is not an easy matter to broach, but it may be that between the library service officers, the council and the Department of Education, a solution can be found.

Mr REYNOLDS (Minister for Sport) — The honourable member for Bentleigh has again raised several matters concerning under-age athletes and under-age sport in general. The honourable member's son is one of Victoria's foremost young athletes, particularly in field events such as the shot-put, discus and hammer throw.

The issues raised by the honourable member tonight concern the correct footwear and the availability of different sizes of clothing for junior athletes. Junior athletes working their way up through the system from a very young age often find it difficult to purchase the appropriate sized and weighted sporting equipment.

Mr Batchelor interjected.

Mr REYNOLDS — The honourable member for Thomastown rudely interjected and asked why the government had not done anything about the matter. I advise him that it has been rectified. I am pleased that he was interested enough to listen and did not have his back turned.

The honourable member for Bentleigh also raised the variations that occur in under-age sport because of the issue of age itself. Recently a 14-year old Bendigo boy came fourth in the Australian under-20 shot-put championships, which means he must spend a further five years in that age group. It would be to his advantage if there were an under-16 age group because he could then compete against competitors of a similar age.

Under-age athletes and under-age sport in general are difficult issues; and the AFL is agonising over whether to draft players at age 17. There are two avenues of research on those matters. One is the Premier's Youth Council, which focuses on all things to do with youth, and the other is my own ministerial advisory council. I will direct those matters to the attention of those councils, and I would welcome the input of the honourable member for Bentleigh.

The honourable member for Northcote raised a matter for the attention of the Minister for Education concerning teacher contracts. I am advised by the minister that the duration of the period of fixed-term employment for teachers continues to increase. The community perceives that fixed-term teacher employment is only short-term. I do not how that perception has arisen when the figures show it is not true.

Teachers employed on fixed terms are employed for periods ranging from 30 days to 5 years, yet only 13 per cent of all teachers are employed on a fixed-term basis. That means that 87 per cent of teachers are employed on other forms of contract. The number of teachers employed to fill vacancies for periods exceeding 12 months increased from 3 per cent in 1997 to 36 per cent in 1999. Those figures prove that the community's perception is incorrect.

The honourable member may have raised further issues that I did not hear. I am sure the Minister for Education will refer to those matters at a later date.

The honourable member for Gippsland West raised a matter for the attention of the Minister for Conservation and Land Management. She spoke about the infestation of spear thistle in her district.

Mr Finn — She did not say what sort of thistle.

Mr REYNOLDS — No, I had to enquire privately about which thistle she was referring to. She called it a vicious thistle. No doubt she is correct, because all thistles are vicious — they are never any other way. The honourable member for Gippsland West also tabled a petition on the problem this morning. I am sure

ADJOURNMENT

Thursday, 25 March 1999

ASSEMBLY

203

the Minister for Conservation and Land Management will reply to the honourable member.

The honourable member for Thomastown raised a matter for the attention of the Minister for Roads and Ports concerning the Dingley bypass. I know that the minister will respond to the honourable member on that matter.

Motion agreed to.

House adjourned 5.14 p.m. until Tuesday, 13 April.

QUESTIONS ON NOTICE

Tuesday, 23 March 1999

ASSEMBLY

205

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.

Questions have been incorporated from the notice paper of the Legislative Assembly.

Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.

The portfolio of the minister answering the question on notice starts each heading.

Tuesday, 23 March 1999

Tertiary Education and Training: university staff

- 122. MR HAMILTON** — To ask the Honourable the Minister for Tertiary Education and Training, in relation to each of the following University campuses — Ballarat University; Gippsland Campus, Monash University; Bendigo Campus, La Trobe University; and Warrnambool Campus, Deakin University — whether the Minister will use his powers to obtain data and information from these Universities to obtain a comparison of staff numbers (EFTS) for each academic course area and each administrative unit area as at June 1995, June 1996, June 1997 and April 1998.

ANSWER:

I am informed as follows:

University of Ballarat

	1995	1996	1997	1998
Schools				
Arts	24.40	25.35	22.80	24.80
Behavioural & Social Sciences & Humanities	35.30	34.60	31.10	33.70
Business	34.20	34.65	28.50	26.50
Education	24.10	24.00	20.50	14.50
Engineering	31.30	32.06	28.54	25.45
Human Movement & Sport Science	30.70	27.70	33.00	35.93
Information Technology & Mathematical Services	28.60	24.30	25.10	25.40
Nursing	20.00	23.40	23.80	20.80
Science	38.90	41.60	38.90	31.40
Branches				
Vice-Chancellor's Office	14.00	17.50	21.80	16.40
Academic Services	37.60	37.95	35.60	32.95
Buildings & Grounds	40.00	38.75	-	-
Corporate & Commercial Services	29.60	37.28	-	-
Financial & Planning Services	24.20	26.64	-	-
Financial & Resource Services	-	-	90.13	80.41
Human Resources Service	7.30	7.00	-	-
Information Services	40.70	46.40	48.05	46.60
Human Resources	-	-	-	7.55
Technology Park	-	-	-	2.00
STAFF TOTAL	460.90	479.18	447.82	424.39

NB: In 1997, the administrative structure of the University changed.

QUESTIONS ON NOTICE

206

ASSEMBLY

Tuesday, 23 March 1999

Monash University, Gippsland Campus

	1995	1996	1997	1998
Schools				
Art & Design	-	10.3	7.6	6.1
Arts	-	49.9	52.2	48.6
Business & Economics	-	65.8	65.4	54.6
Education	-	21.5	16.8	16.1
Engineering	-	24.1	25.6	25.6
Information Technology	-	23.6	25.7	27.7
Medicine	-	20.8	14.5	12.7
Science	-	51.6	46.4	40.6
Administrative Areas				
Library	-	29.1	25.8	23.7
Distance Education Centre	-	43.6	41.3	42.1
Student Services	-	38.0	37.8	35.5
Facilities Services	-	30.0	27.0	29.0
Other – General	-	34.4	31.1	25.8
TOTAL	-	442.8	417.3	388.0

NB: Monash has advised that the relevant statistics were not collected until 1996.

Deakin University, Warrnambool Campus

	1995	1996	1997	1998
Faculties				
Business & Law	32	35	29	27
Education	15	12	8	2
Health & Behavioural Sciences	20	15	11	9
Arts	32	31	23	18
Science & Technology	32	26	23	23
Divisions				
Deakin Australia	-	2	3	1
Library	13	11	9	9
Vice-Chancellor's Office	1	2	2	3
Deakin International	1	-	-	-
Communications & Marketing	9	7	8	8
Learning Resources Services	9	10	9	9
Vice-President (Administration)	-	1	1	1
Information Technology Services	9	11	11	10
Buildings & Grounds	9	12	11	9
Financial & Business Services	8	7	6	5
Campus & Student Services	25	26	18	19
Human Resources Services	3	1	-	-
Academic Administrative Services	8	7	3	2
TOTAL	226	216	175	155

La Trobe University, Bendigo Campus

	1995	1996	1997	1998
Academic Activities	267.0	261.2	238.4	246.3
Support Services	150.7	153.7	143.0	138.0
TOTAL	417.7	414.9	381.4	384.3

Tertiary Education and Training: university student services

506. MR ROBINSON — To ask the Honourable the Minister for Tertiary Education and Training:

1. What outlays have been made by Victorian universities in 1998 for the provision of student services.
2. Whether the range of student services at Victorian universities has increased or decreased since the introduction of voluntary student unionism in Victoria.

ANSWER:

1. In the absence of a definition of student services by the Honourable Member, student services are assumed for the purpose of the question to be facilities, services or activities of direct benefit to the institution or students at the institution, as specified in Section 12F of the *Tertiary Education Act 1993*. In 1998, the budgeted allocation for such facilities, services or activities funded from Compulsory Non-Academic Fees (known variously as CNAF, Amenities Fees, General Service Fees) (as advised by the universities) is as follows:

Deakin University	\$2.021M
La Trobe University	\$5.304M
Monash University	\$10.29M
Royal Melbourne Institute of Technology	\$5.0M
Swinburne University of Technology	\$1.645M
The University of Melbourne	\$8.428M
University of Ballarat	\$0.908M
Victoria University of Technology	\$3.088M

2. In respect of all universities, the introduction of voluntary student unionism in Victoria has not affected the provision of student services as defined under Section 12F of the *Tertiary Education Act 1993*.

The introduction of VSU was a policy decision taken by the Government to ensure freedom of association for tertiary students and is not related to the provision of student services.

Conservation and Land Management: pastoral leases

513. MR ROBINSON — To ask the Honourable the Minister for Conservation and Land Management:

1. How many pastoral leases over Crown Land were in existence in Victoria as at 18 August 1998.
2. What are the details of each lease.
3. What proportion of the State of Victoria do these leases constitute.
4. What revenue was earned by the Victorian Government in 1997/98 from Crown land pastoral leases and what is the comparable figure for the five preceding financial years.

ANSWER:

I am informed that:

There are no pastoral leases over Crown Land in Victoria.

Conservation and Land Management: native title claims

515. MR ROBINSON — To ask the Honourable the Minister for Conservation and Land Management how many native title claims had been made over Crown Land in Victoria as at 18 August 1998 and what are the details of each case.

ANSWER:

I am informed that:

Information on all native title claims is available from the National Native Title Tribunal's website.

Agriculture and Resources: DNRE Mildura staff

545. MR SAVAGE — To ask the Honourable the Minister for Agriculture and Resources, following the recent personnel cutbacks by the Department of Natural Resources and Environment:

1. How many staff members within the Mildura Region were offered, or requested, redundancy packages.
2. How many positions will be lost to the Mildura Region through natural attrition.
3. What will be the total number of positions lost to the Mildura Region.

ANSWER:

I am informed that there is no Mildura Region within the Department of Natural Resources and Environment.

Tertiary Education and Training: vocational education and training

557. MR HAMILTON — To ask the Honourable the Minister for Tertiary Education and Training:

1. Whether he will provide details of Vocational Education and Training (VET) funding in 1997 and 1998 respectively, including Commonwealth funding for — (i) TAFE Institutes; and (ii) private providers.
2. In relation to an announcement of \$42.7 million additional funds for VET whether the Minister will provide details of — (a) the amount allocated to TAFE including metropolitan TAFE institutes; and (b) the amount allocated to private providers.
3. Whether the Minister will provide a progress report of the review into the Industry Training Boards and if/when the report by the State Training Board will be released.

ANSWER:

I am informed as follows:

1.

	1997 Actual	1998 Estimated
TAFE Institutes (a)	\$476.6 million	\$491.0 million
TAFE Institutes – Capital Funds (b)	\$81.6 million	\$67.1 million
Private/Community Based Providers (c)	\$25.9 million	\$34.6 million

- (a) TAFE Institute figures include payments for program profile, apprenticeships, tendered funds, traineeships, innovative training and minor specific items.
- (b) Capital funds provided in 1997 and estimated to the end of 1998 are also listed.
- (c) Funds for Private Providers include tendered funds, traineeships, Group Training Companies enterprise training, apprenticeships and innovative training.

2. Funds available for the tender were \$42.7 million

this included:

allocation for continuing 1998 students:	\$2.8 million
Total allocated:	<u>\$39.9 million</u>
	<u>\$42.7 million</u>

Allocation

TAFE Institutes:	\$14.8 million (37%) — (Metro \$7.63 million)
Private/Community Based Providers:	<u>\$25.1 million</u>
	<u>\$39.9 million</u>

Regional Distribution of tender allocation

Metropolitan:	\$19.4 million (49%)
Non-Metropolitan:	\$17.6 million (44%)
Statewide:	<u>\$2.9 million (7%)</u>
	<u>\$39.9 million</u>

3. On 12 December 1996, I announced a Stocktake of statutory Industry Training Boards. The Stocktake was to ensure that both industry and government were comfortable with the existing industry training advisory arrangements. The outcomes of this Review were endorsed by Cabinet and made public on 10 June 1997. All respondents to the Stocktake were informed of the detailed recommendations of the Review as were all Industry Training Boards and all TAFE Institutes. There was also press comment on the Stocktake.

The recommendations of the Stocktake were:

- The Public Administration and Community Safety Industry Training Board will be wound up by December 1997. Coverage of affected industry sectors will be allocated to other bodies.
- The need for a review of the operational efficiency of the Building and Construction Industry Training Board in view of the overwhelming adverse feedback by all major stakeholders.
- The identification and where appropriate, funding (up to \$25,000) of particular industry bodies for training needs advice in specific industry sectors.
- The continuation of existing funding allocation for the thirteen residual statutory Industry Training Boards.
- The further refinement of industry coverage between industry training Boards.

The Stocktake was implemented by 31 December 1997 in an open and transparent process in consultation with all parties affected by the recommendations.

Following the expressed dissatisfaction with the advisory arrangements for the Building and Construction Industry a Review of the Victorian Building and Construction Industry Training Board was undertaken by the Office of Review of the Department of Education and a report submitted to me in November 1997.

I accepted the recommendations of the Review in January 1998.

The Review recommended that new arrangements should be put into place to provide for increased advice about specific segments of the labour market and associated skill development needs.

Following this the Victorian Building and Construction Industry Training Board went into voluntary liquidation on 6 March 1998. This advisory arrangement was replaced by six new Enterprise Training Advisory bodies led by an Enterprise Training Forum.

Mr David Murden is the Ministerial appointed chairperson of the Enterprise Training Forum. He is a well respected figure in the Building and Construction Industry and in the State Training Service. The Victorian Government also has senior representation on the Forum.

The OTFE, through the open tender process selected six managing agents, as provided for in the review, to coordinate the new Enterprise Training Advisory Bodies.

The managing agents for Enterprise Training Advisory Bodies for sectors of the Building and Construction Industries are:

- The Water Industry - Victorian Water Industry Association Inc;
- The Housing Industry - Housing industry Association Ltd;
- The Commercial and Industrial Construction Industry - Master Builders Association of Victoria;
- The Civil Construction Industry - Metal Trades Industry Association of Australia (now the Australian Industry Group);
- Special Building Trades - Master Painters Australia; and
- Building Services - The Master Plumbers and Mechanical Services Association of Australia.

The Review report has been in the public domain since January 1998. A copy of the Review report was sent to every Victorian Industry Training Board, a detailed briefing by senior staff of the Office of Training and Further Education was provided for industry and union representatives on the Building and Construction Industry Training Board and copies of the report distributed to them.

All other interested parties, on request, have either been provided with a copy of the report or with a detailed summary of the report. This summary was also distributed to all parties that responded to the advertisements in The Age on Saturday, 17 January 1998 calling for tenders to undertake the role of Managing Agent for the six Enterprise Training Advisory Bodies that replaced the Industry Training Board.

Agriculture and Resources: Murrayville ground water

- 560. MR SAVAGE** — To ask the Honourable the Minister for Agriculture and Resources, in the event that Murrayville is granted a Groundwater Supply Protection Area (GSPA) with a permitted annual volume of 1815 megalitres and a “no mining policy”, whether Wimmera Mallee Water Authority can override the decisions of the GSPA Committee to extract volumes exceeding the permitted annual volume.

ANSWER:

I am informed that:

If Murrayville is granted a Groundwater Supply Protection Area (GSPA) a consultative committee will be appointed to prepare a management plan specifying the management parameters for the area. Wimmera Mallee Water, as the Authority delegated responsibility for managing groundwater in the area, would be required to comply with the approved management plan.

Agriculture and Resources: Murrayville ground water

- 561. MR SAVAGE** — To ask the Honourable the Minister for Agriculture and Resources, whether it was claimed by Max Burns, Operations Manager, Wimmera Mallee Water Authority, at the Bordertown meeting on 17 October 1998 involving the Murrayville Groundwater Task Force, Catchment Management Authority, Victorian Farmers Federation, the Wimmera Mallee Groundwater Consultative Committee and irrigators, that he had the authority to override the decisions of the Groundwater Supply Protection Authority (GSPA) Committee; if so, what is the value of setting up the GSPA Committee.

ANSWER:

I am informed that Mr Burns made no such claim at the Bordertown meeting on 17 October 1998.

Agriculture and Resources: Coliban Water charges

562. MR CAMERON — To ask the Honourable the Minister for Agriculture and Resources, with regard to rural water users in the Coliban district:

Whether he will ensure that the concept of “affordability” of water will prevail over a policy of “full cost recovery”, to ensure that water remains affordable, particularly for those users on channels that have limited other users.

Whether he will ensure that no water user will have such expensive water under any planned government pricing policy that they will not be able to afford it.

ANSWER:

I am informed that:

Coliban Water is aware of the potential impact of price increases on customers, particularly those businesses that are dependent upon water supplies, and a strategy to minimise these impacts while achieving financial self sufficiency is being implemented.

Conservation and Land Management: Patterson River medical waste

571. MS GARBUTT — To ask the Honourable the Minister for Conservation and Land Management in relation to the report in the *Herald Sun* on 10 October 1998 concerning illegal dumping of medical wastes in the Patterson River, could she please advise — (a) the Environment Protection Authority (EPA) program for the cleanup of this material; (b) the EPA efforts to detect those responsible for the dumping; and (c) what program of further surveillance is being undertaken to prevent further illegal dumping.

ANSWER:

I am informed that:

The EPA is not familiar with any article in *The Herald Sun* on 10 October, but is aware of an article published in *The Herald Sun* on 19 October 1998, and on this latter occasion:

- (a) Waterway managers Parks Victoria and Melbourne Water acted promptly to protect the public by cleaning up and securing these materials.
- (b) The EPA has undertaken extensive investigations into the origins of the personal sharps containers found in the Patterson River and its tributaries with waste industry operatives, with needle exchanges and with hospitals and pharmacists in the area. No evidence of either “once-off” or ongoing illegal transport or dumping of such material has been found. Inquiries indicate that in excess of 100,000 personal use sharps containers, which are distributed along with syringes through needle exchanges in the Dandenong, Noble Park and Springvale areas, are not being returned. Many of these, together with containers sold by pharmacies, appear to end up in rubbish bins and as litter in public places, drains and creeks.
- (c) The EPA has asked the public to report finds of biomedical waste, and will continue to investigate such finds. The EPA will continue to assist waterway managers, the Department of Human Services and local councils to develop longer term strategies to prevent this type of waste entering the environment.

Conservation and Land Management: Patterson River medical waste

572. MS GARBUTT — To ask the Honourable the Minister for Conservation and Land Management in relation to the report in the *Herald Sun* on 5 November 1998 concerning the Environment Protection Authority's (EPA) failure to take details from Mr Bill Jacobs, of Carrum, of further finds of medical waste in the Patterson River, what action is she undertaking to investigate the failure of the EPA to give this matter the serious attention it deserved.

ANSWER:

I am informed that:

The Environment Protection Authority (EPA) has no record of being advised by Mr Jacobs of further finds of medical waste in the Patterson River. The EPA takes allegations of illegal dumping seriously and will investigate if details are provided.

Conservation and Land Management: Patterson River medical waste

573. MS GARBUTT — To ask the Honourable the Minister for Conservation and Land Management in relation to the reports in the *Herald Sun* in October and November 1998 of the illegal dumping of medical wastes in the Patterson River, how many extra staff were put on by the Environment Protection Authority to assist with the clean-up and investigation of the incidents.

ANSWER:

I am informed that:

No extra staff were put on. Investigations were undertaken by EPA, and Parks Victoria and Melbourne Water promptly cleaned up the waste as part of their normal waterway management responsibilities.

Conservation and Land Management: Patterson River medical waste

574. MS GARBUTT — To ask the Honourable the Minister for Conservation and Land Management in relation to the illegal dumping of medical wastes in the Patterson River, what steps have been taken by the Environment Protection Authority to advise the public of any risks, and of the plans and progress of the clean-up and investigation of the incidents.

ANSWER:

I am informed that:

The Environment Protection authority issued a media release on this issue on 11 November 1998.