PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

15 May 2001

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By authority of the Victorian Government Printer

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The Hon. P. R. HALL to 20 March 2001
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Tuesday, 15 May 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent on 8 May to:

City of Melbourne Act
Corporations (Commonwealth Powers) Act
Environment Protection (Liveable Neighbourhoods) Act
Forestry Rights (Amendment) Act
Police Regulation (Miscellaneous Amendments) Act
State Taxation Acts (Further Miscellaneous Amendments) Act
Statute Law Amendment (Authorised Deposit-taking Institutions) Act

BUSINESS OF THE HOUSE

Videotaping of proceedings

The PRESIDENT — Order! I advise the house that I have given permission for officers of the Legislative Council to videotape proceedings over the next two sitting days to obtain background footage for use in departmental training seminars.

CENTENARY OF FEDERATION

Victorian Parliament

The PRESIDENT — Order! Last week saw a series of extraordinary events in Melbourne relating to the centenary of Federation celebrations. The officers, staff and members of this Parliament made a significant contribution to the undoubted success of those events.

I pay tribute to the Honourable Mark Birrell, who is a member of the national council for the centenary of Federation, as is the Minister for Education, the Honourable Mary Delahunty, the Victorian minister who oversaw our part in those proceedings after Mr Birrell. Those members of this Parliament put in an astonishing number of hours of their personal time in ensuring that Federation was properly honoured.

On the more local front, officers of our Parliament have been closely involved with the detailed arrangements over the last two and half years. I pay particular tribute to the two Clerks, Mr Wayne Tunnecliffe and Mr Ray Purdey; to the Usher of the Black Rod, Dr Ray Wright, and his counterpart, Mr Gavin Bourke, the Serjeant-at-Arms; and to the staff of this Parliament at all levels who were involved in the arrangements for the joint sitting in the Royal Exhibition Building and the commemorative sittings in our two chambers.

It is a tribute to those people that the arrangements went off without a hitch and that our visitors were overwhelmed by the experience of those historic events.

I thank all of the staff of the Legislative Council under the Housekeeper, Mr Bill Jarrett; the maintenance staff under the maintenance engineer, Mr Brian Bourke; and the garden staff under the manager of the gardens unit, Mr Paul Gallagher.

The chief executive of Centenary of Federation Victoria, Mr David Pitchford, LVO, was an outstanding choice for that role. The liaison officer for the federal Parliament, Mr Bernie Harris, who was responsible for the arrangements from the federal Parliament's perspective, also worked tirelessly in cooperation with our officers to ensure the success of the commemorative program.

Once again, I thank all members of staff for their tireless work and their cheerful professionalism.

QUESTIONS WITHOUT NOTICE

SRO: relocation

Hon. M. A. BIRRELL (East Yarra) — I direct my question to the Minister for Industrial Relations. Is it government policy to forcibly retrench state public servants who refuse, as in the case of employees of the State Revenue Office, to move their place of residence from one city to another city?

Hon. M. M. GOULD (Minister for Industrial Relations) — The government has announced its intention to establish a feasibility study to consider the relocation of part of the State Revenue Office to Ballarat, and the Ballarat Technology Park is an example of the type of location that would place the SRO among a cluster of technologically focused businesses and adjacent to the university, which offers relevant educational and training opportunities.

This reflects the government's strong commitment to promoting economic growth and new investment in regional Victoria. In line with our partnership agreement with the Community and Public Sector Union, which has been involved in the consultation on the feasibility study of the possible relocation of the State Revenue Office, the government will continue to

ensure that SRO staff are fully involved in the feasibility study and any outcomes that may affect staff.

The government's overall approach to industrial relations is markedly different from that of the opposition. This government emphasises a proper consultative process. As I indicated previously in the house, the government has a policy of relocation, redeployment and/or retrenchment. Consultation is continuing with the union. This government is committed to the policy.

Industrial relations: disputes

Hon. R. F. SMITH (Chelsea) — I direct my question to the Minister for Industrial Relations. Given today's release of the Australian Bureau of Statistics figures on industrial disputation, will the minister explain whether Victoria is experiencing less disputation under the Bracks government than was experienced under the previous Kennett government?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank Mr Smith for his question and acknowledge his keen interest in the issue. Today's Australian Bureau of Statistics (ABS) figures again confirmed that a Bracks government year has a significantly lower number of industrial disputes than a Kennett government year.

In March I was pleased to inform the house that Victoria had recorded the lowest number of days lost to industrial action since 1995. I am pleased that today I can announce that the trend of falling industrial disputes continues. Statistics released today by the ABS indicate that for the 12 months ended February 2001 Victoria lost fewer working days to industrial disputation compared with the same period in previous years. When the February 2001 figures that were released today are compared with the 12 months ended February 2000, they show a decrease of 47 per cent. When compared with the 12 months ended February 1999 they show a decrease of 30 per cent.

The Bracks government's approach of promoting cooperative workplace arrangements is obviously having a positive effect in Victoria. It is not just a one-off; it is an ongoing trend and it shows that Victoria is the place in which to invest.

SRO: relocation

Hon. B. C. BOARDMAN (Chelsea) — I refer the Minister for Industrial Relations to previous answers both today and last week on the impact on public servants in the State Revenue Office of the relocation from Melbourne to Ballarat. Will the minister now promise that no employees will be retrenched and that only voluntary departure packages will be offered?

Hon. M. M. GOULD (Minister for Industrial Relations) — I refer to my previous answer on the possible relocation of the State Revenue Office to Ballarat. I indicated that the government is to undertake a feasibility study in consultation with the union and that staff will be offered assistance with relocation to Ballarat, redeployment elsewhere in the public service or retrenchment through voluntary departure packages.

Fishing: rock lobsters

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Energy and Resources inform the house of the recently announced assistance package to the rock lobster fishery to support the industry in the transition to quota management and explain how that approach differs from that of the previous Kennett government?

Hon. C. C. BROAD (Minister for Energy and Resources) — The Bracks government has committed some $3.9 million to a structural readjustment package to help rebuild the rock lobster fishery and to provide a voluntary — I stress that word — government and industry buyback of licences. The government's package is the decent and responsible way to implement quota management by minimising impacts on individual licence-holders.

The announcement followed extensive consultation by this government and the release of a draft quota order in March with a questionnaire that sought feedback from those affected. As a result of the feedback, a number of changes were made to reflect industry interests. For example, a maximum quota holding has been introduced to ensure a fair distribution of quota across the industry for the long term. Provision has also been made for the carry over of a small quantity of quota between seasons in line with requests from industry.

As part of the assistance package and in an effort to alleviate costs to industry, some $200 000 per year has been provided to administer the quota system, which is a point of some concern to industry, and that will commence in November of this year.

In addition to these measures a rebate of up to $1000 has been made available to allow fishers to seek professional and legal financial advice to assist them make the best decisions about whether to participate in this voluntary buyback. This assistance will provide a balanced result for the future of the rock lobster fishery and the community and jobs that depend on it. The Rural Finance Corporation will manage the buyback. It has a great deal of experience in managing this type of

assistance in other industries, and I have every confidence that it will manage the implementation of this systems package just as well. Following consultation with industry any shortfall will be repaid over a number of years through a levy on those fishers remaining in the industry, who will benefit as a result of greater value of their licences and quotas following the restructure.

A $1.2 million subsidy is included in the package for the eastern zone fishery in recognition of its being in much more serious decline, less profitable and in need of greater support.

The Bracks government's package is in stark contrast to actions of the previous Kennett government, which was not prepared to provide any assistance to this industry. The former government made a decision that the fishery would move to quotas with no assistance whatever. By contrast the Bracks government has acted decently and responsibly in the long-term interests of this fishery and the individuals who depend on it.

Fishing: rock lobsters

Hon. R. M. HALLAM (Western) — I am sure the Minister for Energy and Resources will be delighted to learn that my question also goes to the management of Victoria's rock lobster fishing industry. I refer in particular to the minister's decision to shift from pot numbers to catch quotas from the commencement of the 2001 season. How does the minister justify including a catch history element in the determination of each licensee's quota when this system can be said to reward those fishermen who have put pressure on the resource and punish those who have taken less from the stocks?

Hon. C. C. BROAD (Minister for Energy and Resources) — I remind the honourable member that the previous government commissioned a panel headed by Justice Fogarty, which conducted extensive independent inquiries into methods of setting quotas. That report was presented to me shortly after the change of government, and I made a decision that in the interests of all in the fishery affected by industry restructuring it should be released prior to the making of any decision. That is what I did.

The report canvasses extensively various methods of implementing quotas with the objective, which I accepted as the responsible minister, of finding a method of taking into account both catch history and ownership of pots in the interests of reducing the burden of adjustment on as many fishers as possible and finding the fairest possible method of implementing this change in the fishery. In response to the honourable member's question, what I have implemented is in accordance with that independent report.

Geelong Arena

Hon. E. C. CARBINES (Geelong) — In light of recent media reports relating to the potential sale of the Geelong Arena, will the Minister for Sport and Recreation explain to the house what steps have been taken to ensure that one of Geelong's most important pieces of sporting infrastructure is retained for the people of Geelong?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for her question and her continued interest in the Geelong Arena issue. It has become apparent that the current owners of the Geelong Arena, which is the home of Geelong basketball, intend to offer it for sale. I further understand that the potential sale of the property will take place in a manner that will not necessarily guarantee the ongoing availability of the arena as a venue for basketball or gymnastics. In light of these facts I have reached an arrangement with the City of Greater Geelong for the undertaking of an urgent study costing $11 000 into the Geelong Arena. I am pleased to advise the house that a project brief has been finalised and it is expected a consultant will be appointed this week. It is expected that the results of the study will be available in two to three weeks. I am pleased to advise the house that the City of Greater Geelong is already gathering the data required for the study.

The study will determine three main issues: the level of demand for a facility of this kind in Geelong; the centre's operational viability and areas where that could potentially be improved; and the establishment of a financial model that will allow the asset to be retained in community hands. I am aware that a number of issues relating to the centre's physical design have been highlighted. I hope that whatever the solution, these issues will be resolved.

In the meantime it is hoped that the current owners will allow the council and the government the opportunity to develop a position prior to the finalisation of any potential sale. As a responsible government it is prudent to enable a full analysis of the issue to be undertaken.

Opposition members interjecting.

Hon. J. M. MADDEN — I hear the opposition being vocal in its criticism. However, this is being very active in the community and it is very prudent and responsible financial management to ensure that

accurate data is at hand so the government and the City of Greater Geelong can determine the best course of action to secure this asset for the region.

I thank the officers in my department for acting speedily, for being responsive to the needs of the community and for continuing to push the pace with all parties concerned. I also congratulate the fine work of Elaine Carbines for acting very responsively to the community's needs. I also congratulate other local Labor members in the other house, Ian Trezise, the honourable member for Geelong, and Peter Loney, the honourable member for Geelong North.

CFMEU: federal inquiry

Hon. P. A. KATSAMBANIS (Monash) — Will the Minister for Industrial Relations support and assist any federal government inquiry into the activities of the Construction, Forestry, Mining and Energy Union in the building industry?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member may be referring to an announcement by the federal minister, who is considering referring an issue about the interests of the Construction, Forestry, Mining and Energy Union with respect to the building industry to the Office of the Employment Advocate. The honourable member would be aware that the workings of unions in this state were referred by the previous government to the — —

Hon. C. A. Furletti — Oh no!

Hon. M. M. GOULD — I know you are a lawyer, but you don't understand industrial law!

Honourable members interjecting.

The PRESIDENT — Order! I am sure the house is interested in hearing the minister's response and I am sure that honourable members also want it recorded. I ask the house to settle down.

Hon. M. M. GOULD — I know the honourable member is a qualified lawyer, but I also know he did not practise in industrial law, so he does not necessarily understand the facts. The federal minister has said that he may be looking at referring a matter to the Office of the Employment Advocate. This is just another political stunt of the minister on his training wheels. The opposition is well aware that referring powers to the commonwealth with respect to union registration and the workings of unions is the responsibility of the federal government under the Workplace Relations Act, and that situation has occurred as a result of the opposition. If the federal minister refers a matter to the Office of the Employment Advocate that is his choice. He is trying to pull a stunt and really does not care about promoting the building industry in Victoria or Australia.

Electricity: generation investment

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Energy and Resources advise — —

Hon. G. R. Craige — And ports.

Hon. KAYE DARVENIZA — Will the minister advise on further progress on the proposals for new electricity generation capacity in Victoria?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank Mr Craige for the reminder about my also being the Minister for Ports.

I am pleased to advise the house that on Friday AGL made a further announcement concerning the proposed 150-megawatt gas-fired power plant at Somerton. As honourable members may be aware, AGL has been in consultation with the Office of the Regulator-General on a number of regulatory matters relating to this announcement. AGL has announced that the company has now received the approval from the Regulator-General that will allow it to proceed with construction of the plant immediately. In its announcement AGL stated that the plant has been sourced and the site has been secured. This will allow construction and commissioning of the plant for the coming summer.

Besides the benefits that the new generation capacity will provide to Victoria through increasing the available electricity supply, the new plant will mean that a proposed terminal station at Tullamarine will not now have to proceed, which is excellent news for local residents — who happen to be part of my electorate — who have raised concerns about the proposed terminal station. It is also particularly good news for the lower house member for Tullamarine, Liz Beattie, who has actively represented the interests of her constituents.

I look forward to being able to report to Parliament on similar announcements by Origin Energy, AES Transpower and Edison Mission Energy to add to Victoria's generation capacity. The interest shown by these companies in such projects shows that the Bracks government has been successful in creating an investment climate that is conducive to further investment in the electricity generation sector.

HIH Insurance: government assistance

Hon. BILL FORWOOD (Templestowe) — My question today is to the Minister for Consumer Affairs. Members of the house would be well aware of the widely published ads by the Building Control Commission on HIH Insurance last week, which contain the following statement:

> Long-term cover as well as interim job-specific cover is available, the latter generally within 48 hours … Contact any of the following companies offering new insurance cover to arrange your application.

The advertisement then lists the Housing Industry Association, Dexta Corporation and Australian Home Warranty.

Is it not true that despite those advertisements Australian Home Warranty was not writing insurance last week because its paperwork was held up by the incompetence of the minister's department?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I do not have responsibility for the Building Control Commission, which is the responsibility of the Minister for Planning, and as has already been stated in this place, the Minister for Finance has been dealing with the ongoing problems surrounding the collapse of HIH Insurance.

It has been said in this house before and I will say it again: if the federal government had shown some leadership and responded to the calls of state governments — in Victoria's case, from the Minister for Finance — for a meeting to look at how we could deal with the HIH collapse, which is the direct responsibility of the federal government for not ensuring that tight regulations were applied to the insurance industry, perhaps a package would have been delivered to the people of Australia that all governments could have signed up to. But no, due to its neglect, the federal government again led from behind and waited for two state governments — New South Wales and Victoria — to respond to the needs of their citizenry on those parts of the legislation that require direct warranty insurance for the building industry. Victoria has responded to that need.

The Building Control Commission is working with builders, speaking to them about how they can get access to insurance and attempting to work through that mechanism. That information is available to builders by their contacting the commission.

Let me reiterate that this is not an easy time for anyone who has been insured by HIH, and no-one is suggesting it is. It is unfortunate the federal government had to wait so long to respond to the needs of Australians.

Better Business Taxes package

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Small Business to inform the house what feedback the government has received from Victorian small businesses regarding the Better Business Taxes package.

Hon. M. R. THOMSON (Minister for Small Business) — As has been said in this house, the Better Business Taxes package of $774 million to businesses over the next four years is a good package for small business. I am pleased to say that the small business community agrees with the Victorian government and business organisations that it is a good package for business and a particularly good package for small business.

The Victorian Business Line has had staff available to talk to businesses about the business package and to outline what it contains. It has received over 800 calls, all of which have been overwhelmingly positive about the package — roughly 70 calls on payroll queries, over 370 calls on land tax queries, over 230 calls on stamp duty queries and over 130 calls on the general tax package — and is still receiving calls today.

In particular, the callers have been enthusiastic about the abolition of stamp duty on non-residential leases and the raising of the threshold, which will release approximately 46 000 current land tax payers from the net. I will enlighten the house on what some of the callers have actually said about the better business tax package. They said:

> Congratulations on the quality of the information the government provided.
>
> A really good package on the land tax issue.
>
> Thanks, it seems I'm going to be better off.
>
> What a great bonus the abolition of the stamp duty — saved me $12 000.
>
> Concessions sounded positive.
>
> I'm ecstatic. I'm $10 500 better off with the abolition of stamp duty.

I also thank the staff of the Victorian Business Line, who undertook a very professional and responsible — —

Honourable members interjecting.

The PRESIDENT — Order! I cannot hear the minister's response. I ask the house to settle down and the minister to finish her answer.

Hon. M. R. THOMSON — The staff at the business line have been conducting themselves professionally. They have made themselves aware of the tax package that has been delivered to small business and are ensuring that the information they give is accurate. I congratulate them on the way they have handled and prepared themselves for the immediate calls for information from businesses so they understood the Better Business Taxes package. This demonstrates that the Bracks government is delivering for small business.

QUESTIONS ON NOTICE

Answer

Hon. C. A. FURLETTI (Templestowe) — I seek an explanation on question on notice 1492 which was directed to the Minister for Industrial Relations and which is now almost 30 days outstanding. I would be very grateful for a response. I have written to the minister, and I hope she does not suggest this is a matter for the federal government!

Hon. M. M. GOULD (Minister for Industrial Relations) — Mr Furletti has written to me. My advice is that the answer is ready. I give an undertaking that it will be in the house tomorrow.

BUSINESS OF THE HOUSE

Sessional orders

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

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

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 5

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 5 of 2001, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Budget Sector — Quarterly Financial Report No. 3 for the period ended 31 March 2001.

Drugs, Poisons and Controlled Substances Act 1981 — Standard for the Uniform Scheduling of Drugs and Poisons, No. 15 — Amendment No. 4.

Freedom of Information Act 1982 — Department of Treasury and Finance's Statement of reasons for seeking leave to appeal an order of the Victorian Civil and Administrative Tribunal, pursuant to section 65AB of the Act.

Lake Mountain Alpine Resort Management Board — Report, 2000.

Mt Buller Alpine Resort Management Board — Report, 2000.

Mt Hotham Alpine Resort Management Board — Report, 2000.

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

> Banyule Planning Scheme — Amendment C1.
>
> Bayside Planning Scheme — Amendment C5.
>
> Bendigo — Greater Bendigo Planning Scheme — Amendment C3.
>
> Brimbank Planning Scheme — Amendment C28.
>
> Cardinia Planning Scheme — Amendment C9 Part 1.
>
> Geelong — Greater Geelong Planning Scheme — Amendments C8 and C12.
>
> Knox Planning Scheme — Amendment C11.
>
> Macedon Ranges Planning Scheme — Amendment C3.
>
> Mornington Peninsula Planning Scheme — Amendment C19.
>
> Nillumbik Planning Scheme — Amendment C4.
>
> Warrnambool Planning Scheme — Amendment C13.
>
> Whitehorse Planning Scheme — Amendments C10 and C17.
>
> Yarra Ranges Planning Scheme — Amendment C17.

A Statutory Rule under the First Home Owner Grant Act 2000 — No. 37.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 37.

Surveillance Devices Act 1999 — Reports, 2000 from the Chief Commissioner of Police, Chairperson, National Crime

Authority and Secretary, Department of Natural Resources and Environment, pursuant to section 37 of the Act.

Wildlife Act 1975 — Notice of control of hunting, No. 6/2001, 1 May 2001.

Ordered that Wildlife (Control of Hunting) notice no. 6/2001 be considered next day on motion of Hon. P. R. HALL (Gippsland).

STATE OWNED ENTERPRISES (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The current Victorian state equivalent tax regime operates under section 88 of the State Owned Enterprises Act 1992 (SOE act) and is administered by the Treasurer or delegate. The Treasurer has the power to direct entities to comply with this section and tax equivalent is payable to the Treasurer in a manner and at times determined by the Treasurer in accordance with the Treasurer's instructions.

More recently, all Australian jurisdictions have undertaken to establish a national tax equivalent regime (NTER) under the Intergovernmental Agreement on the Reform of Commonwealth–State Financial Relations (IGA). The NTER will largely replace the current state and territory regimes, which are generally based on commonwealth tax laws. Whilst the Bracks government is opposed to the commonwealth government's GST the Victorian government is committed to honouring its obligations under the IGA, agreed by the previous government.

Consistent with national competition policy principles, the NTER will introduce a more standard and uniform income tax framework for government business enterprises (GBEs) by more closely approximating commonwealth tax laws faced by the private sector. The NTER will over time remove tax law inconsistencies applying to entities within and between jurisdictions and assist in business decisions being made on a more consistent basis.

The major principles of the NTER may be described as follows:

Each jurisdiction will be responsible for determining which of their entities will be included in the NTER and, under the proposed coverage, there will be broad consistency across major contestable industries such as electricity, water, urban transport, ports and rail.

It is based on commonwealth income tax laws but remains an equivalent tax regime. GBEs in NTER will remain exempt from actual commonwealth income tax.

The Australian Taxation Office will administer the NTER on a cost-recovery basis.

All tax equivalent revenues of entities participating in the NTER will continue to be paid to their owner governments.

The NTER is scheduled to commence operation from 1 July 2001.

Legislative amendments are required for Victoria to fully meet its commitments under the NTER.

I now turn to the particulars of the bill.

Commonwealth sales tax

The bill repeals references to sales tax in the SOE act; as from 1 July 2000 it no longer applies under commonwealth law.

Power of direction

The bill provides the Treasurer with the power to direct state-owned enterprises to comply with and withdraw from the NTER.

Delegation

The bill allows the Treasurer to delegate certain powers, under section 88 of the SOE act in relation to state-owned enterprises that have entered the NTER, to persons employed in the administration of the NTER.

Review

The Treasurer's review mechanism under the SOE act will not apply to state-owned enterprises directed to enter the NTER as the NTER will contain its own review mechanism.

This bill is a consequence of national taxation changes and is necessary to complete one of Victoria's commitments under the IGA.

I commend the bill to the house.

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

Debate adjourned until later this day.

HEALTH SERVICES (HEALTH PURCHASING VICTORIA) BILL

Second reading

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

That this bill be now read a second time.

This bill concerns changes to the way that public hospitals purchase goods and supplies so that best value is obtained for the use of public funds. It is designed to assist in implementing a key commitment in the government's health policy; that is, to implement a new approach to managing public hospitals to achieve long-term responsible financial management.

In order to determine the best way of achieving its objectives, the government established the ministerial review of health care networks, chaired by one of Australia's foremost health policy experts, Professor Stephen Duckett. The review's principal task was to advise the government on the optimal future configuration, governance and management arrangements for metropolitan public hospitals, and mechanisms to ensure coordination of health services, promotion of consumer involvement and accountability for quality of care. The ministerial review also made a number of recommendations relating to better purchasing of goods and supplies by hospitals.

The review's principal recommendations relating to hospital purchasing were:

> that the government should require all public hospitals to purchase a specified range of pharmaceuticals and general medical supplies according to approved contracts from 1 July 2001; and
>
> that a task force involving broad health sector representation be established to examine the best possible model for establishing centralised public hospital purchasing.

In August 2000, a procurement reference group was established to identify the optimal arrangements for supply of goods and services to all Victorian public hospitals (both metropolitan health services and rural public hospitals). Jennifer Williams, chief executive officer of the Austin and Repatriation Medical Centre, chaired the reference group, which included representatives from each metropolitan health service and rural public hospitals. Experts in supply and logistics, pharmacy and clinical areas, and a representative of the Victorian Government Purchasing Board were also included within the membership.

The reference group identified and evaluated options for the implementation of central purchasing. It undertook a wide-ranging consultation process and circulated a consultation paper containing 10 recommendations to public hospital chief executive officers, hospital suppliers, industry associations, unions and other interested parties for comment. A copy of the consultation paper was also placed on the Department of Human Services Internet site. The reference group received advice from senior executives of the New South Wales health department and Queensland Health where central purchasing arrangements for public hospitals and area health services have been in place for many years.

The procurement reference group considered that the most appropriate method to undertake central purchasing would be to establish a small body to coordinate and manage the procurement process, with tenders and contract management generally being undertaken by third parties such as public hospitals. It envisaged that such a body would have the flexibility to collaborate and work with other states' health purchasing units and organisations, and would establish strong links with the Victorian Government Purchasing Board. Given the highly specialised nature of purchasing for items such as pharmaceuticals, medical supplies and hospital equipment, the reference group determined that an expert body is needed to carry out this task.

I would like to thank all of the members of the reference group for the substantial time and effort that they expended in the process.

Health Purchasing Victoria

The bill implements the recommendations of the reference group. It will insert a new part 6 into the Health Services Act 1988 in order to create a new public statutory authority known as Health Purchasing Victoria, and to set out the governance arrangements, functions and powers of Health Purchasing Victoria.

The bill has been modelled, to some extent, on part 7 of the Financial Management Act 1994, which establishes the Victorian Government Purchasing Board, but has been tailored to meet the specialised requirements relating to the purchase of medical goods, services and equipment in the hospital sector.

It enables the Governor in Council to make appointments to Health Purchasing Victoria on the

recommendation of the Minister for Health. Appointments will be made on the basis of the appointee's capacity to fulfil a governance role and understanding of the issues involved in central purchasing in the hospital sector.

Health Purchasing Victoria will comprise the following appointments:

a chairperson with expertise in the health care industry;

three people currently employed by a metropolitan health service one of whom will be a chief executive officer of a metropolitan health service;

two people currently employed by a rural hospital one of whom will be a chief executive officer of a rural (public) hospital; and,

an officer of the Department of Human Services and an officer of the Department of Treasury and Finance.

The bill also enables up to two further appointments to be made of people who have expertise relevant to the functions of Health Purchasing Victoria. This provides additional flexibility to ensure that Health Purchasing Victoria has access to clinical and other expertise, relevant to its functions.

The functions outlined in the bill for Health Purchasing Victoria include:

facilitating the supply of goods and services to hospitals;

the development, implementation and review of policies and practices relating to the supply of goods and services which promote best value and probity; and

monitoring compliance by public hospitals with purchasing policies and directions issued by Health Purchasing Victoria.

These functions reflect the government's vision that Health Purchasing Victoria will work with metropolitan health services and public hospitals to:

ensure that the needs of patients and clients are met in a responsive manner;

provide high quality care and continually strive to improve quality and foster innovation;

collaborate with each other and a range of other health and welfare agencies and local government; and

minimise unnecessary duplication of public health services and work to maximise system-wide efficiencies.

Where appropriate, Health Purchasing Victoria will put in place central contracts for specialised goods for use in public hospitals. It is also expected that Health Purchasing Victoria will work closely with the Victorian Government Purchasing Board in developing policies and putting in place purchasing arrangements. It is expected that cooperation with the Victorian Government Purchasing Board, health authorities in other states and other health and related services, will provide significant purchasing efficiencies to Victorian public hospitals.

As I have indicated, the ministerial review of health care networks recommended that the government should require all public hospitals to purchase a specified range of pharmaceuticals and general medical supplies according to approved contracts. Public hospitals and metropolitan health services are incorporated public statutory bodies and, as such, have the capacity to negotiate and enter into contracts in their own right to fulfil their objects and functions. However, actions taken by individual public hospitals may not always result in an optimal outcome for the public hospital system as a whole.

Recognising this, section 42 of the Health Services Act currently empowers the Secretary of the Department of Human Services to issue directions to some or all public or denominational hospitals with respect to specified matters, for the purposes of carrying out the objectives of the act. The act's objectives include ensuring that public funds are used effectively and that health services provided by health care agencies are of a high quality. One of the purposes of the section 42 directions power is to ensure that public hospitals can be directed to act in a coordinated fashion, where such coordination is necessary in the wider public interest.

In order to give effect to the recommendation to require public hospitals to purchase supplies according to approved contracts, the bill will amend section 42 in order to empower the secretary to issue a direction to a public hospital or metropolitan health service requiring it to appoint Health Purchasing Victoria as its agent for the purposes of obtaining or purchasing goods and services. Such directions may specify the conditions attaching to the appointment of an agent. For instance, the secretary may impose a condition requiring public

hospitals to appoint Health Purchasing Victoria as their sole agent for the purposes of obtaining specified goods and services. Conditions may be imposed with respect to the scope of authority of the principal (a public hospital) and the agent (Health Purchasing Victoria).

As the agent of public hospitals, Health Purchasing Victoria will have the ability to enter into contracts directly on behalf of public hospitals, where appropriate. The power to direct public hospitals to appoint Health Purchasing Victoria as their agent is considered essential in order to minimise the transaction costs associated with hospitals contracting individually for goods and services, and therefore maximise the savings available to the health system as a whole.

Health Purchasing Victoria will also be able to collaborate with other health care agencies and organisations to put in place common purchasing arrangements. For instance, bodies such as community health centres or ambulance services may also wish to become parties to contracts negotiated by Health Purchasing Victoria, in order to benefit from the expected savings. The bill enables Health Purchasing Victoria to enter contracts on behalf of other organisations that provide, fund or facilitate access to health or related services with their authority.

The bill requires Health Purchasing Victoria to have regard to specified matters in undertaking its functions and exercising its powers. Clearly any central purchasing arrangements must ensure that the clinical needs of patients are the primary driver of any decision to contract for a particular product or category of products. Other factors that Health Purchasing Victoria will be required to have regard to include the:

ability of suppliers to meet the requirements of central contracts;

individual conditions and requirements of hospitals; and,

effect that tendering and contracting activities may have on small and medium enterprises and regional and industry development issues.

The bill enables Health Purchasing Victoria to develop and implement purchasing policies relating to the supply of goods and services to public hospitals and the management and disposal of goods by public hospitals. It sets out a procedure for the making of purchasing policies. Health Purchasing Victoria will be required to give notice of its intention to make, amend or revoke a purchasing policy to each affected public hospital and any other person that Health Purchasing Victoria considers will be affected, and to consider comments received within the specified time frame. It is expected that one of the first areas that will be addressed will be the development of probity in purchasing policies for public hospitals. The development of these policies will assist in ensuring that the conduct of government business is fair, open and above board.

The bill provides for an exception process to ensure that where the application of a particular purchasing policy is inappropriate for clinical or other reasons, such as the locality of the hospital, then Health Purchasing Victoria can exempt it from the application of the whole, or part, of that policy.

To enable effective communication with hospitals and to ensure that Health Purchasing Victoria has access to expertise, particularly of a clinical nature, the bill enables Health Purchasing Victoria to establish advisory committees. These committees will enable Health Purchasing Victoria to receive expert advice in relation to purchasing arrangements and product evaluations, and will facilitate effective linkages with hospital staff who use the products purchased under Health Purchasing Victoria arrangements. These committees will facilitate the involvement of the hospital staff in decision making and will allow Health Purchasing Victoria to effectively target supplies that can be purchased more effectively. It is expected that clinicians, supply experts and other hospital staff will make up these advisory committees and develop recommendations on what products should be centrally purchased and how this should occur.

Conclusion

This bill is designed to improve the effectiveness of Victoria's hospital system by:

facilitating the collaboration of public hospitals to achieve best value in their purchasing;

reducing inefficient or inappropriate duplication of functions and, in particular, tendering activities; and,

improving purchasing practices through the implementation of improvements in supply chain management and the development of purchasing policies and practices that ensure probity in purchasing.

It is vital to ensure that the Victorian health system operates in the most effective and efficient manner and continues to provide high quality care. The establishment of Health Purchasing Victoria will provide a significant contribution towards that end.

I commend the bill to the house.

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

Debate adjourned until next day.

ROAD SAFETY (ALCOHOL AND DRUGS ENFORCEMENT MEASURES) BILL

Second reading

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

That this bill be now read a second time.

The main purpose of this bill is to address five matters that have been identified as inconsistencies or deficiencies in the alcohol and drugs provisions of the Road Safety Act.

The amendments on these five matters will provide consistency of blood alcohol concentration offences and penalties.

Under the provisions of this bill, the police will be allowed to administer evidential breath tests in all suspected drug-driving cases and courts will be able to admit certificate evidence for blood and urine samples taken more than 3 hours from the time of driving.

The bill will also introduce a .05 blood alcohol concentration limit for licence-holders accompanying learner drivers and will limit all licensed motorcycle riders to a zero blood alcohol concentration in their first year of driving.

As a whole, the measures included in this bill will benefit learner drivers, motorcyclists and other road users by improving safety and reducing accidents involving alcohol or other drugs.

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

The alteration of the expression of the proscribed alcohol concentration limit provided in this bill will bring Victoria into line with the rest of the country. Most other states and territories have adopted a .05 grams of alcohol per 100 millilitres of blood as the point at which a fully licensed car driver commits a drink-driving offence. Victorian legislation has always specified the offence as exceeding .05, whereas in most other states the offence is committed at .05.

This will end the anomaly that has, in the past, seen the courts accept the argument that a reading above .05 to the third decimal place is not in excess of the legislated limit. This interpretation has arisen because the present legislation states two decimal points only.

This situation has been replicated in cases of readings over .10, which should incur a mandatory loss of licence. An interpretation of this nature defeats the principle that a driver who is more than twice the legal blood alcohol concentration poses a significant risk to the community and should have his or her licence cancelled.

This bill will remove the anomaly about decimal places. It will restore the original intention of the legislation, which is that any blood alcohol reading of .05 or more is an offence, and any reading of .10 or more will incur a mandatory loss of licence.

The bill also addresses an anomaly in relation to the permitted blood alcohol concentration for persons who obtain a motorcycle endorsement on an existing licence.

These amendments are in line with the recommendations of the parliamentary Road Safety Committee. This committee recommended that a zero blood alcohol concentration requirement be introduced for such riders in the first year of their motorbike licence.

Riding a motorcycle requires different skills from that of driving a car. Studies of motorcycle accidents have found that a blood alcohol concentration of more than zero and lack of on-road riding experience are both factors which are associated with significantly increased crash risk.

The bill also introduces alcohol restrictions for licence-holders who accompany learner drivers as non-professional driving instructors. At present, only persons providing paid tuition to learner drivers — that is professional driving instructors — are subject to blood alcohol concentration restrictions. The bill does not change the zero blood alcohol requirement for professional driving instructors.

However, for other accompanying drivers — namely, instructors who are not being paid — the bill proposes to create a new offence, called an 'accompanying driver offence'. This will set a legal blood alcohol concentration limit of .05. The bill will also require an accompanying driver to produce his or her licence and submit to testing, in the same way as if the person were driving the vehicle.

An accompanying driver offence will not be penalised as heavily as a drink-driving offence because it does not pose as serious a threat to safety. The offence will incur a lesser fine, and it will not lead to a mandatory loss of licence.

The bill also seeks to amend the provisions relating to driving while impaired by drugs.

Part of the procedure involved in enforcing the new driving while impaired by drugs legislation includes the police being able to administer an evidential breath alcohol test as a preliminary step in the drug-driving assessment process. The bill will make it clear that the police can do this in all cases.

The bill also makes amendments permitting certificates of blood alcohol concentration taken outside the 3-hour period to be admitted in evidence.

These amendments will enable certificates relating to blood and urine samples to be admitted as evidence of their contents whether or not the samples were taken within 3 hours of driving. Defendants still have the right to challenge the evidence contained in the certificate in court after giving due notice of their intention to do so.

Consequential amendments will be made to the Marine Act relating to blood alcohol limits for boat operators. This will maintain consistency with the Road Safety Act provisions relating to blood alcohol.

Section 85 statement

I desire to make a statement for the purposes of section 85(5) of the Constitution Act 1975 in relation to an alteration or variation of the jurisdiction of the Supreme Court proposed by the bill.

The background to the proposed variation is as follows.

Under section 55(9A) of the Road Safety Act 1986, a person may be required to provide a sample of blood for analysis for its alcohol content if that person could not provide a sufficient breath sample or because the machine malfunctioned. This bill proposes to insert a new section 55(2AA), which will allow police to require a breath sample from a person undergoing drug assessment. Consequently, the bill also extends the scope of section 55(9A) to apply to the taking of a blood sample from a person who has been required to provide a breath sample under new subsection (2AA) if that breath sample cannot be tested. The circumstances in which such a blood sample may be taken, and the procedures which govern the taking of the blood sample, will otherwise be identical with those relating to persons who are being assessed under section 55.

Section 55(9E) presently provides that no action lies against a registered medical practitioner or an approved health professional in respect of anything properly and necessarily done in the course of taking a blood sample in accordance with section 55(9A). The scope of this immunity from action is effectively extended by this bill because blood samples may be taken in an additional class of cases.

Clause 15 of the bill proposes to insert a new section 94A(3) into the Road Safety Act 1986. That new section declares that it is the intention of section 55(9E) of the act to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the bringing of an action of the kind referred to in section 55(9E).

The reason for this proposed alteration or variation is as follows.

It is in the interests of road safety and the general public to prevent or deter persons who are impaired by alcohol or drugs from driving motor vehicles. The enforcement system in relation to alcohol and drug impairment of motorists depends in part on the cooperation of health professionals in taking and analysing blood samples in accordance with the legislation. For these reasons, health professionals should be immune from legal action in relation to things properly and necessarily done in taking blood samples. The proposed alteration or variation to the Supreme Court's jurisdiction is necessary to ensure that the immunity conferred by section 55(9E) is effective.

In this context, it should also be noted that the bill proposes to prohibit a second blood sample being required under section 55B if a sample has already been obtained under section 55. The taking of blood samples is invasive and should be minimised. There should be no need to take a second sample. The first sample can be tested for both alcohol and drugs and the existing section 57(2) enables such test results to be used in evidence in relevant legal proceedings.

The measures included in this bill are for the benefit of all Victorian road users. They seek to remove anomalies which impede efforts to combat the dangers posed by drivers impaired by alcohol or drugs. The measures are part of the continuing effort to encourage Victorian motorists to recognise the responsibility that they have to themselves and their fellow road users.

I commend the bill to the house.

Debate adjourned for Hon. G. B. ASHMAN (Koonung) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

CONSTITUTION (SUPREME COURT) BILL

Second reading

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

Hon. C. A. FURLETTI (Templestowe) — I am pleased to address the house on what can be described only as an extraordinary piece of legislation. The form in which it comes before the house and the second-reading speech are unique in my experience in this place. The Liberal opposition will not oppose the bill, but intends to make clear that it strenuously opposes certain provisions.

The bill deals with two substantive amendments. Firstly, amendments are made to the Constitution Act and the Supreme Court Act, which together affect the operation of the Court of Appeal and its relationship with the trial division of the Supreme Court. Secondly, the bill deals with amendments to the Magistrates' Court (Infringements) Act. Part 4 of the bill amends certain regulation-making powers, which is not overly significant.

The bill is extraordinary in the sense that it makes fundamental changes to the functions of Supreme Court judges who have been appointed to the Court of Appeal division of the Supreme Court. Briefly, it provides that on the motion of the chief justice of the Supreme Court of Victoria, Court of Appeal judges can be requested to sit in the trial division of the Supreme Court. The process involves the chief justice requesting the concurrence of the President of the Court of Appeal to the allocation of certain appellant judges to work in the trial division, and if an appellant judge is willing that judge being available to sit as a trial judge of the Supreme Court.

The allocation of Court of Appeal judges to the trial division is dealt with in proposed section 80C of the Constitution Act. Under subclause (1) a nominated appellant judge can be allocated to the Supreme Court trial division for a fixed term of up to six months. Under subclause (2), the chief justice is empowered to request a specified judge of appeal to be allocated for specified proceedings before the trial division. It is interesting that in that enabling provision no time limit is set for that allocation or secondment. Subclause (3) makes provision for a judge of appeal who has been allocated to the trial division to return to that division to do mop-up work, such as completing proceedings that had been initiated, delivering judgments and the like.

Clause 5 in part 3 of the bill makes what I regard as a commonsense provision by inserting in the Supreme Court Act proposed section 13A, which states:

> A Judge of Appeal acting as an additional Judge of the Trial Division must not sit on the hearing of a new trial ordered by the Court if the Judge was one of the Judges that constituted the Court of Appeal …

I would have thought a provision of that nature was not necessary because it is so sensible. However, it is interesting that the reverse has not been provided for in the sense that there is no provision stating that if a judge has sat as a trial judge in the trial division of the Supreme Court he is not allowed to sit as an appeal judge from his own judgment. It is a brief bill and I do not believe I could have missed that point. Although that provision makes good sense, given the rigid and strict statutory interpretation rules — one that comes to mind is inclusio unius est exclusio alterius, which means that the inclusion of one excludes the other — the inclusion of proposed section 13A raises the question of the reverse scenario.

I shall briefly address the amendments to the Magistrates' Court (Infringements) Act. Honourable members will recall that the house passed the act late last year. It relates to the enforcement of remedies, the provision of enforcement orders, the provision for imprisonment for non-payment of fines and the like. The situation today is that before relevant parts of the principal legislation have come into operation amendments to it have come before the house, again indicating the flawed way this government presents legislation. For example, clause 11 replaces in toto proposed clause 24 of schedule 8 of the Magistrates' Court Act. Clause 9 replaces in toto proposed clauses 14A and 14B of schedule 7 of the same act because of the manner in which the bill was presented. Before parts of the bill come into operation the commencement date is being amended because some of the matters that were referred to in the earlier legislation have not been completed.

To avoid the operation of the Magistrates' Court (Infringements) Act being deferred, amendments have been put forward so that some provisions will come into operation while others will be held in abeyance until the software for the computers, or whatever is needed, is ready. It is an awkward and totally unacceptable way to introduce legislation when one considers in totality the two diverse areas addressed by the bill.

One area is of great significance in that it deals with the personnel in the pinnacle court in the state; at the other end is that which deals with some relatively innocuous procedural matters on enforcement of Magistrates Court orders. How and why these two matters come together in one bill is seriously quite beyond me, particularly in view of the controversy that surrounds the provisions to amend the Constitution Act and the Supreme Court Act.

The minister's second-reading speech is one of the shortest I have seen in my time. It is probably more interesting for what it does not say than for what it says. It is a fascinating document, in that in substance it states:

> This bill increases the options available to the Supreme Court for judicial resourcing of the court, while continuing to respect the division between the Court of Appeal and the trial division.

What nonsense! The bill makes trial judges of Supreme Court judges, who have been appointed specifically to the appeal division of the Supreme Court for specific reason. The minister's speech continues:

> The bill will also provide the opportunity for judges of appeal to broaden their judicial experience by conducting trials.

What a fascinating statement. As I said, the second-reading speech is more significant for what it does not say than for what it says. It does not say with whom the government consulted before introducing this piece of legislation, which is strongly opposed by the Liberal opposition, or whether, after such consultation, the bill was supported by those with whom the government consulted. This is the open government which was supposed to be consultative all the way through and which was introducing transparent processes to ensure that all Victorians — over whom it governs — were aware that it was acting fair-handedly, appropriately and in their best interests.

The reality is that everyone remotely affected by this bill strongly opposes it. They oppose it because it is a political device introduced by the government to avoid having to make the decision to appoint two more judges to the Supreme Court. That is the most obvious reason. One must also consider whether there is not a hidden agenda to the introduction of the Constitution (Supreme Court) Bill.

It appears that the bill has been introduced for no other practical purpose than the government's desire to undermine and deplete the respect and integrity of the Court of Appeal and its role in the court hierarchy in Victoria.

Shortly I will refer to the comments of the chief justice of the Supreme Court in opposing and rejecting the Attorney-General's comments on the introduction of this bill. The Victorian Bar Council opposed the introduction of this bill. The Law Institute of Victoria said that the bill was not necessary and that more judges needed to be appointed to the Supreme Court. The opposition parties vehemently oppose this piece of legislation as it is nothing more than a further attempt by the government to undermine a creation of the previous government.

Hon. Jenny Mikakos — I thought you said you are supporting it?

Hon. C. A. FURLETTI — The opposition opposes this part of the bill. It does not support the bill. Indeed, it does not oppose the bill, but it opposes this part of it very strongly. I urge the honourable member to read my introductory remarks on the bill which outlined the Liberal Party's attitude and position on it.

This part of the bill was the subject of a proposed amendment in the other place. Had the honourable member read *Hansard* and informed herself of the procedures in the other house she would have seen that the opposition in the other place introduced an amendment to delete parts 2 and 3. Although the opposition does not support this part of the bill, to allow it to proceed and not to interfere with the course of justice, it is not opposing it and will allow it to pass through this house.

The Liberal opposition very much condemns this act of desperation by a government seeking to reduce the crisis in the trial division of the Supreme Court. It will impose more work on already overworked judges of the Court of Appeal. As I said, it will have no purpose other than to undermine a court that has over the past seven or eight years established a very sound reputation for presenting judgments of clarity and consistency not only in Victoria but throughout Australia.

The Court of Appeal was established in 1994 by the previous Kennett government. In its lifetime its reputation has been enviable. Its judges are of the highest calibre and inspire confidence among the legal fraternity.

Recently in consultation on another matter one of Victoria's leading Queen's Counsel made the unsolicited comment that the Court of Appeal was now recognised throughout Australia as one of the most competent and capable courts in the land. When senior counsel make that sort of comment about the court one can rest assured that the court is working well.

Honourable members should recall that the Court of Appeal is not a trial court; its function is predominantly to resolve complex questions of law. Apart from the High Court, the Court of Appeal is the pinnacle court. It is not the court one sometimes sees in early night timeslots on television. The judges are appointed to the court because they have been barristers of long standing; they are generally Queen's Counsel or senior counsel. They are appointed because of their experience in the area of appeals. To have such judges transferring from one division to the other would constitute a logistical nightmare.

I refer the house to an editorial of 23 February in the *Age* — the newspaper that is the print supporter of the government. With the house's indulgence I will quote from it extensively because, as I said, the chief justice was not happy with the government's proposal, so much so that he took the unprecedented step of writing to the *Age*.

Yet in his comments the Attorney-General said that he had spoken to and consulted with the chief justice and that the chief justice was happy. The Attorney-General also said he had a good rapport and relationship with the chief justice. The reality is that when the Chief Justice of Victoria needs to write to the *Age* to attract some attention there is a failing at some level. The *Age* editorial states:

> Chief Justice Phillips essentially repudiated a proposal for members of the Court of Appeal to sit on Supreme Court trials when clear of work in their usual jurisdiction.
>
> According to the judge, because of the volume and nature of the work conducted by the Court of Appeal, the proposal would provide 'at most, minimal assistance' to the Supreme Court's trial division.

The editorial further states:

> Indeed, Chief Justice Phillips was probably understating the difficulties. It is hard to imagine, in the real world of drawn-out and complex cases, and adjournments and the other complications that are part of the judicial process, how judges from one court could at any time reasonably claim to have so little work to do that they could put up their hand and volunteer to sit on a trial.

I assure honourable members that of the Court of Appeal judges I know, I do not know of any who are so light on for work that they would be in a position to accept the role. The telling comment in the editorial is:

> Appeal court judges should not be seen as members of some sort of judicial interchange bench who can be called on to fill in when fatigue or overwork hampers the functioning of the Supreme Court.

The article continues:

> … it would better serve the interests of the state if the government appointed the new judges —

referring to the new judges sought by Chief Justice Phillips —

> rather than merely not ruling them out.

That is certainly an indictment of the government's position that would have Victorians believe it is appropriate to transfer judges from the Court of Appeal to the Supreme Court as and when the Supreme Court needed them.

It should be put on record also that the bill comes before the house not in its originally proposed form. The originally proposed form did not require the concurrence of the President of the Court of Appeal to the allocation of judges to the trial division. I imagine that would have put a real cat among the pigeons in the Court of Appeal. If I close my eyes I can hear the gravelly voice of the President of the Court of Appeal and his possible comments about that sort of thing.

Hon. R. M. Hallam — I am not sure that you have to close your eyes to hear it, Mr Furletti.

Hon. C. A. FURLETTI — I may not, but I can also imagine, if I think about it for a short time, what hopes the President would give to the legislation ever having effect. I imagine he would say, 'My concurrence — not likely. My judges have their own work to do in my court without having to vacate the Court of Appeal to conduct trials'. Given that within the next year or so a couple of Court of Appeal judges are due to retire, I suspect he, as the Chief Justice of Victoria and the Chief Judge of the County Court have done, will soon be calling on the government to appoint more judges to the Court of Appeal to allow it to continue its good work.

It was not only the Chief Justice of Victoria calling for the appointment of more judges to deal with the backlog and the delays experienced by the Supreme Court. The problem goes back to last October when His Honour Mr Justice Vincent was reported in the *Australian* and the *Herald Sun* of 10 October as having been critical of the government for failing to appoint more judges because he, as the judge in charge of the criminal trial division of the Supreme Court, was adjourning cases that had been ongoing for over a year and actually removing cases from the list. If the adage 'Justice delayed is justice denied' has ever held — —

Hon. D. G. Hadden — The Honourable Justice Bongiorno.

Hon. C. A. FURLETTI — The Honourable Justice Bongiorno was a capable barrister and is a capable and able judge, and I am happy to say that he is a good friend of mine. Nevertheless, the problem is there are insufficient members of the judiciary to handle the backlog of cases that come before the courts. That is what the senior judges of the Supreme Court, the Chief Judge of the County Court and some of the magistrates are saying. Yes, there was an appointment, I am pleased to have been reminded of that fact. The difficulty is that it is a case of too little, too late. We are talking about October 2000. As I recall, the government took reign in October 1999. What did it do for a year? Silence, was the stern reply. The Attorney-General said there were superannuation problems. I do not believe the government blames its inability and incompetence on superannuation problems.

One purpose of the bill's introduction as cited in the second-reading speech is to allow judges of the Court of Appeal to benefit through experience in sitting on trials. I think of what is involved in being appointed to the Court of Appeal: the long and hard grind at the bar as a junior barrister conducting trials; firstly, appearances in the Magistrates Court, and I am sure most honourable members who have qualified as lawyers and practised for any length of time appeared in the Magistrates Court and worked their way through that jurisdiction with all sorts of interesting cases.

Hon. D. G. Hadden — There is nothing wrong with the Magistrates Court.

Hon. C. A. FURLETTI — It is a fantastic jurisdiction, certainly one to cut one's teeth on.

Hon. D. G. Hadden — At the coalface.

Hon. C. A. FURLETTI — I agree entirely. It is a great place to start one's career and it brings people back to reality. We are all better off for it. I am happy to talk to Ms Hadden about it over a cup of tea.

It is the starting point, and some barristers graduate from there. In fact, some names and faces come to mind of very senior practitioners who still practise in the Magistrates Court and still enjoy it because they feel a strong commitment to their clients and to the judicial system in which we engage.

I have been diverted from the argument, which was that the practice of the law is an honourable profession and one where, if one decides to take the route of the bar, one starts at the bottom.

There can be few higher accolades to a barrister's ability and experience than to end his or her career in the law as a judge of the Court of Appeal, or indeed of the High Court. That experience has been gained in the long journey from the signing of the bar roll and spending a term of apprenticeship as a reader, through to receiving a commission to the Supreme Court, and the suggestion that this proposal will be good for Court of Appeal judges because it will give them more experience as trial judges is an extraordinary statement.

At the briefings, proposed section 80C was compared with section 80B of the Constitution Act of 1975, which provides that trial judges can be elevated to the appellate division if the need arises. Although I am appreciative of the briefings provided to us by the Department of Justice and its very competent staff — seeing we are all complimenting staff today — I left that briefing considering almost identical sections in reverse. It appears to me that in reality, section 80B is restrictive in that it refers in subsection (1) to the ability of Supreme Court judges to sit as appellate court judges only in those circumstances where an appellate judge 'is absent on leave or in consequence of sickness or for any other reason is temporarily unable to perform the duties of the office', when a replacement judge can be appointed. That section is not quite the carte blanche we may have been led to believe. However, the proposal before the house is quite different. The proposed section operates in reverse — that is, it gives carte blanche if the various parties agree.

Irrespective of the particular motives of those the opposition has consulted, it is fair to say that that consultation suggests — and logic demands — the appointment of more judges to the trial division of the Supreme Court. I hark back to the interjection of honourable members on the other side: if there were more trial judges, perhaps the government could be looking at an amendment to open the door so that trial judges could gain the experience of sitting as Court of Appeal judges as and when necessary, while still having a larger pool of trial judges for the overall work of both divisions of the Supreme Court.

What concerns members of the Liberal opposition very much is that in the past 18 months we have seen this government dramatically interfere with the direction and leadership of the Magistrates Court; we have seen this government dramatically interfere with the role of the Queen's representative in the state of Victoria in the untimely removal of former Governor Sir James Gobbo; we have seen dramatic movements by this government in seeking to eliminate anything that had a relationship with the former government; we have seen what has happened throughout the public service; and we saw late last year the government's dramatic move

to seek to change this house through the Constitution (Amendment) Bill.

I hesitate to say that the bill appears to me to be nothing more than another effort on the part of this government to eliminate a further institution of the previous government in the form of the Court of Appeal. I sincerely hope the government's next step will not be to seek to interfere with another very effective institution, the Victorian Civil and Administrative Tribunal. That institution could be in the firing line as well.

I hope the house is aware of the real motive behind the bill — that is, to demean the standing and minimise the integrity of the Court of Appeal with a view to avoiding the appointment of further judges to the Supreme Court, which has been called for by senior judges in that jurisdiction for almost a year.

I will conclude by saying that the work done by members of the judiciary throughout the whole gamut of our court system is to be applauded. They often carry out their duties under severe duress and great hardship, and I register my thanks on behalf of the people of Victoria for the efforts they make.

Hon. R. M. HALLAM (Western) — The Constitution (Supreme Court) Bill has two quite separate legs to it. The first leg delivers administrative and technical amendments to the operation of Victoria's Magistrates Court system. The National Party acknowledges those changes as purely procedural, and on that basis it is happy to register its support and to quickly dispatch that component of the bill currently before the chamber.

The second leg enables judges of the Court of Appeal to temporarily act as judges of the trial division of the Supreme Court of Victoria. Again, that is a relatively simple proposition that goes to the day-to-day operation of our courts, and again the National Party has resolved to support the thrust of the bill. However, I am moved to report that the National Party found it much more difficult to support the second leg than the first.

National Party members took a great deal more persuasion, primarily on the basis that when the bill became publicly available it prompted a very strong and mixed reaction not just from the judiciary of the state but from the entire legal profession. The concept of appeal court judges sitting as trial judges led to some public commentary and, as the Honourable Carlo Furletti noted, prompted a most unusual outcome in the form of a public comment from the Chief Justice of Victoria.

Chief Justice John H. Phillips was moved to write to the *Age*, not just responding to some editorial comment but in fact challenging much of that editorial comment. I believe that to be most unusual, but I defer to the experience of my learned colleague, who described it as absolutely unprecedented. In any event, the National Party recognised that this was no simple bill.

This bill had some very complicated and controversial ramifications. I make the point at the outset that I personally found this bill very difficult. As I have said in the past, I have no pretensions when it comes to expertise on issues of jurisprudence or the operation of the courts. For the record, I am happy to state that I relied extremely heavily on the advice of the Leader of the National Party, Peter Ryan, who — fortunately for me — is expert in such matters.

I make a point, to protect some poor soul who at some future time might find it necessary for some bizarre reason to plough through my contribution to this debate and who would find it interspersed with some disclaimers, such as 'I am advised' and 'As I understand it'. I put that on the record to explain to the chamber that it is not there as padding. I particularly put it there for the purpose of Hansard, so that it is not all edited out.

One thing I do understand is the background to the bill because I had the good fortune to be part of the Kennett coalition cabinet when the then Attorney-General, the Honourable Jan Wade, came forward with the proposition that we should establish an appeal court as a separate division of the Supreme Court of Victoria. I remember extremely well the logic that she brought to that case. I remember even better the passion with which she argued that case. I also remember — this seems to me to be very important — the extent to which the Honourable Jan Wade relied not just on the precedent of New South Wales but the extent to which that precedent had proven to be very successful. Indeed, there was recognition not just in New South Wales but around our nation that the New South Wales Court of Appeal was a good precedent.

The rationale for establishing the Court of Appeal in the first place and shifting away from the previous system — where an appeal panel became a full bench and was drawn from all the judges serving at that time, apart from the judges that presided at trial of course — was that of consistency. The notion and the argument was that having an established panel of appeal judges, particularly having that panel established from those with acknowledged expertise in the appeal process as distinct from the conduct of the trial, would bring, among other things, greater consistency of judgment

and a greater predictability of direction by the court and would instil confidence and credibility in our legal system generally.

I remember at the time — I think it was 1994 — there was some argument that ran in exactly the opposite direction, and ironically relied on exactly the same factors. Some argued that there was merit to be derived from the concept of pot luck — from having the appeal panel drawn from a wider range of judges sitting in the Supreme Court. I also remember that there was some argument about the merit of establishing one court as somehow superior to another and whether that would foster elitism and so on.

In any event, despite all that, it seems to me to be appropriate in this context to note that we do not get that debate today: it is now generally accepted and acknowledged that the decision to establish an appeal court as a separate court within the Supreme Court of Victoria was a good one. Like my colleague the Honourable Carlo Furletti I acknowledge we have been well served by the judges on that appeal panel. I note in particular the presidency of Mr Justice Winneke. I, too, have noted that that court has established a reputation for credibility in the few short years of its operation.

It seemed to the National Party to be important to start from the point that the concept of separation and the creation of a separate court of appeal have been established as a good thing. That leads me to refer to the government's motivation. If this bill is a sign the government was not convinced about the merit of the policy decision made in 1994, this becomes a very sneaky bill indeed. From my point of view it would be much better for the government to be prepared to be up front and say — if that was the government's position — it was a bad decision. I would prefer the government say so than for it to try to torpedo or hijack the concept from behind.

It is absolutely indisputable that this bill eats away and erodes the concept that underpinned the establishment of the appeal court as a separate court of the Supreme Court of Victoria. That concept determined the stance of National Party members and their response to this bill. We acknowledge that the extent of that erosion is only at the edge, that it is done in a limited way and that it will be only temporary. But it is very clear that the nervousness the bill evoked throughout the judiciary and the legal profession can be traced to the extent to which the purpose of the bill erodes the operation of the appeal court. Even if this bill is more symbolic than realistic, in the opinion of National Party members, that of itself might make the changes not less unpalatable but perhaps even more so. We believe that if the government has some nefarious motive it would be much better for it to spit it out and let us deal with it.

One very important issue is involved here of which we should take account: there is already a provision and there is already room in the rule book to have trial judges temporarily sit in the Court of Appeal and have them seconded to the appeal process. It is significant indeed that that concept is generally supported. I do not think anybody here would argue against the notion that we should be providing for trial judges to temporarily take part in appeal cases. However, with this bill the Labor government wants to have that principle apply in reverse. It wants to have a rule book that allows the seconding of appeal judges to the trial court. The question we need to consider is: why is it appropriate for trial judges to be elevated to the appeal process but inappropriate for appeal judges to step down to take part in trial courts? To members of the National Party that was the heart of the debate.

Hon. W. R. Baxter — The conundrum.

Hon. R. M. HALLAM — Yes, Mr Baxter, the conundrum. I shall now refer to the legal arguments, as I understand them, for the bill.

Hon. C. A. Furletti — As you are advised!

Hon. R. M. HALLAM — Yes, as I am advised. Thank you, Mr Furletti. The first of those is that even if we acknowledge that the appeal court is the superior appointment — I shall come back to that, because it also raises hackles in some quarters — it is argued that it is useful for an appeal judge to gain experience in the conduct of trials, that that somehow gives the appeal judge a better understanding of the background and better enables him or her to assess the appeals. As Mr Furletti pointed out, that is so nonsensical that it is insulting in its application. But that is the argument.

The second point is that we are told the bill would allow the 'resources' to be directed at peak demands. Indeed, when the famous editorial appeared in the *Age* the Attorney-General was moved to respond. He said the purpose of the bill was to address a backlog in the court panel. So this bill is somehow to make up for the fact that the trial court and the trial judges were under enormous pressure. They are the arguments, as I understand them. I shall now deal with the arguments against the bill.

The arguments against are that a separate appeal court is a well-known concept not just in New South Wales, but around the nation, and that it is working. There is general acknowledgment across the profession that the appeal process is working. Since the commencement of

its operations in 1994 the appeal court has developed a sound reputation. The rationale of a separate appeal process with judges particularly skilled in dealing with appeals is too important to allow it to be eroded by some short-term resourcing issue. That is the rebuttal we hear again and again: that the ground gained as a result of a separate appeals court being established is just too important to muck about with.

We also learnt about the practicalities of the operation of the court and acknowledge there would be severe disruption in some cases. It is not hard to imagine a case heard by a judge seconded from the appeal court as some sort of 19th or 20th man becoming subject to appeal. Mr Furletti described it as a logistical nightmare. In any event, the National Party's position is that the appeal court is heavily committed and the best way to overcome the backlog in the trial division, if there is one, must surely be to appoint more judges to that division. That is the best way I can sum up the technical and professional debate.

I turn now to what I believe is a fair summation of the issue from the layman's perspective, because it is slightly different. My conclusion is that the appeal court must be the superior or senior bench. Mr Furletti described it as the pinnacle of the judiciary. In my humble opinion, if it is not the most senior or superior bench it should be because the system of appeal depends upon the concept of superiority. In my view the notion that we would send a decision for review means it should go upstairs rather than downstairs. We should be looking for a higher authority. I am not sure why the judiciary seems to be coy about this concept of superiority. It should be a fundamental aspect of the process. It is a cat that should be belled. I do not understand why we skate around the issue.

We want the best judges sitting on the appeal court and we need to attract the best people to it. On that basis two simple points emerge. Firstly, it will be harder to get the best people to accept appointment to the appeal bench if we say, 'By the way, if we get run over with the workload downstairs we want you to slip down to the trial division and help them out'. We are not talking about status. The jobs are different. The trial division revolves around the determination of facts, guilt or innocence, and penalty, whereas the appeals division goes to sophisticated issues of law — the so-called black-letter division of the legal process. More importantly, it involves different skills. From my perspective I think it calls upon people with different interests. It is illogical to deny or, worse still, to smudge the boundaries.

The second point that emerges in this context is that it is not the same thing going up the ladder as it is going down the ladder — it appears to the National Party to be like chalk and cheese. For a trial judge to be invited to sit on the appeal bench in certain circumstances is a logical progression: it is a promotion. But to ask a judge who accepted a position as an appeal judge to slip downstairs and fix up a problem in the trial division is nothing short of an insult. That is not why he or she accepted appointment.

I understand why the President of the Court of Appeal and the judges are loath to agree to the concept that underpins the bill because we are talking about the virtual demotion of judges. That would apply particularly to those judges who are already serving in the appeal capacity. Introducing this measure is like changing the goalposts after their appointment. It is retrospective and it may be retributive. It will have an impact on those we want to entice to take up the position in the future. I am concerned not just about judges who are currently serving on the appeal court but about the ability to entice the best qualified people to that position in the future. We need to attract the best people we can locate to serve in that capacity.

In my layman's view, what the bill offers in respect of its demotion of appeal judges is demeaning. I cannot believe there is not some ulterior motive. I have thought about this carefully. I cannot understand what it is that drives the government and motivates the Attorney-General in proceeding with the bill. There is no logic to it, particularly if we heed the comments of the Attorney-General. Whenever the need arises the Attorney-General speaks about the importance of the separation of powers and the extent to which the judiciary and the government should recognise the boundaries.

The Attorney-General goes to some pains to demonstrate that there should not be an erosion of the boundaries and that Parliament should be careful before it interferes with the operation of the courts. This bill is a classic example of the Attorney-General clearly doing the reverse of what he speaks about. We are entitled to conclude that the Attorney-General is employing spoiling tactics. There can be no logic for it unless it comes down to personalities. I have come to the conclusion that the Attorney-General is upset because he did not get to institute the concept of the appeal court and therefore is acting as a spoilsport. It makes the bill petty and pointless, and his action petulant. It makes those around the Attorney-General sycophantic wallflowers. Why didn't they bell the cat if this proposal is so important to them?

I invite government members speaking on the bill, particularly the honourables Jenny Mikakos and Dianne Hadden, who are experts in this field, to explain to the chamber why it is the same thing having people go up the ladder as it is having them come down the ladder. I ask them to explain why they have not been able to persuade the judiciary that the two concepts are the same.

I should like to hear an explanation that this goes beyond some petulant payback on the part of the Attorney-General. If we judge the fate of this bill on those issues alone, the National Party would have given it the thumbs down because it goes to some big issues about the operation of our courts. Beyond that, there is an interesting overlay in that the bill provides that no secondment can take place from the appeal court to the trial court without the agreement of the judge involved. Not only that, the Chief Justice of Victoria must agree and so must the president of the appeal court.

Hon. W. R. Baxter — I cannot see that ever happening.

Hon. R. M. HALLAM — I cannot see it ever happening either, Mr Baxter. It effectively gives all the key players the right of veto. I understand the original bill did not go quite that far. The government was constrained to introduce that veto, but based upon the vibes I have picked up, any agreement to a judge going from the appeal court to the trial court is most unlikely.

I shall not go into the detail of how I came to that conclusion, but make the point that the unprecedented action taken by Justice Phillips in writing to a newspaper to register his concern means that there is some real misgivings and unease across the judiciary, and I for one do not think there will be a massive juggling of judges. This whole issue becomes hypothetical. You do not have to be Einstein to work out that it will not happen. That raises the next question: if it does not happen, why did the government adopt this cloak-and-dagger approach?

Members of the National Party consider that the power of veto held by the judge involved, the Chief Justice of Victoria and the president of the appeal court, is an adequate safeguard. We think that of itself will protect the rationale which underpins the establishment of the Court of Appeal as a separate court in the first place.

My final comment is that I am personally bemused by this whole process. I am certain that I am not the only one picking up the vibes. One does not have to be too smart to work out that the judiciary and the legal profession are unhappy about the effects of this bill. Not a single judge will come down from the Court of Appeal to serve in the trial court particularly while the existing personnel are involved. They are not convinced by the Attorney-General's comments that it was appropriate to broaden their judicial experience by conducting trials.

The whole issue becomes something of a sideshow. I note that the judiciary is not convinced that this is an appropriate way to address a backlog in the workload of the trial court. Again I make the point, as Mr Furletti did, the appropriate response on the part of government must surely be to simply appoint more judges to that court. That leaves one fundamental question unanswered: what possible purpose or objective has motivated the government and the Attorney-General to persist? I should be interested to hear the government's defence and the response from the two honourable members speaking on behalf of the government. The house is entitled to something more than a five-paragraph second-reading speech that glanced across issues, quite glibly in my view. However, the National Party will not oppose the bill.

Hon. JENNY MIKAKOS (Jika Jika) — It is with pleasure that I speak on behalf of the government in support of the Constitution (Supreme Court) Bill. I also rise with trepidation, given the level of anticipation on the part of the Honourable Roger Hallam as he awaits the government's response. As previous speakers have said, the bill is largely in two parts, the most important being part 2, which relates to changes to the Constitution Act 1975. It also contains a range of statute revision changes to the Constitution Act and the Supreme Court Act and makes a number of miscellaneous amendments to the Magistrates' Court Act and the Magistrates' Court (Infringements) Act.

Given the degree of emphasis by the previous speakers on part 2, I shall focus most of my remarks on that part. The bill seeks to introduce flexible resourcing of the Victorian Supreme Court by allowing judges of the Court of Appeal to sit from time to time in the Supreme Court trial division to assist with the disposal of that division's workload.

Clause 3 seeks to amend the Constitution Act to allow judges who are members of the Court of Appeal to act as trial judges for a period not exceeding six months, or for the purposes of a specified proceeding. The reason for the second limb to the clause is obvious. When the six-month period is exceeded the judge is obviously allowed to continue to hear a matter to its logical conclusion.

Clause 3 includes a number of important checks. It requires both the Chief Justice of Victoria and the President of the Court of Appeal to agree to an appeal judge hearing trial litigation and also requires the appeal judge to consent to such a shift. The Honourable Roger Hallam said in his contribution that he was aware, unlike Mr Furletti, of the existence of section 80B of the Constitution Act which currently allows judges of the trial division to act as additional judges of appeal in similar circumstances. Section 80B, which replicates clause 3, was introduced by the previous government in 1994. I note that when the previous Attorney-General introduced the Constitution (Court of Appeal) Bill in 1994, which established the Court of Appeal, she stated that the bill retains the possibility for judges of appeal to exercise the jurisdiction of the trial division.

It is clear that when the Kennett government introduced section 80B into the constitution to create the Court of Appeal, it intended appeal judges to act as trial judges. That is what clause 3 seeks to do. Although it was intended by the Kennett government, unfortunately the absence of a provision similar to clause 3 meant that uncertainty and ambiguity arose about whether judges could do so. The government is merely seeking to put into place something that was the original intention of the Kennett government and a system that currently seems to be working well which allows trial judges to act as appeal judges from time to time.

I note that in 2000, four trial judges sat for limited periods in the Court of Appeal despite the fact that section 80B of the Constitution Act has the same powers of veto as contained in clause 3 of this bill.

Mr Hallam claims the proposed system will be unworkable because of the numerous powers of veto involved. The current system works quite well, with section 80B requiring that the chief justice, the President of the Court of Appeal and the judge involved consent to a shift of a trial judge to the Court of Appeal. Clause 3 merely seeks to replicate the system by allowing appeal judges to act as trial judges. I completely reject Mr Hallam's assertion that the system will be unworkable because of the checks and balances involved in seeking the consent of all parties to the process.

Mr Furletti and Mr Hallam made quite extensive claims that Chief Justice Phillips had indicated some opposition to the proposed legislation. I refute those assertions. It is important that I read into the public record key parts of the letter of the chief justice that was published in the *Age* of 22 February. It states:

> Because of the volume and nature of work in the Court of Appeal, the proposed scheme could provide, at most, minimal assistance to that division by appeal court judges. It cannot, and must not, be regarded as a substitute for the two additional appointments. It is the court's understanding that the Attorney-General intends to seek a special appropriation to fund them.
>
> As the recent report of the Productivity Commission shows, the trial division of the Supreme Court of Victoria is the most efficient superior court in Australia in its disposal of civil business and is among the leading courts in the criminal jurisdiction. These results have been achieved, to my own knowledge, at great personal cost to the judges who deserve, and must have, additional help.

I read the reference to the report of the Productivity Commission because it is important to publicly acknowledge the very hard work that Supreme Court judges and indeed all judges and other members of the judiciary perform on behalf of the people of Victoria in making the justice system work. As a member of the government I am very pleased with the efficient operation of the court system. The bill merely seeks to add to that efficiency by giving the Supreme Court greater flexibility in hearing trials.

It is clear that the letter from the chief justice was merely a bid on his part to seek to have the government appoint two additional Supreme Court judges. In no way can the letter be construed as an attack on or criticism of the government's proposed legislation. As the Attorney-General has clearly indicated, the bill is not intended as a substitute for the appointment of additional judges. In the *Age* of the same date he is reported as having said:

> The government has never ruled out appointing extra judges and we will always carefully consider any business case for extra judges proposed by any of the courts.

It is quite clear that, despite assertions by Mr Furletti and Mr Hallam, there is no dispute between the government and the chief justice on the matter. The Attorney-General proceeded with the legislation only with the consent and concurrence of both the President of the Court of Appeal and the Chief Justice of Victoria.

Currently other mechanisms allow the Supreme Court to deal with its workload difficulties, including the employment and deployment of reserve judges and acting judges. For example, County Court judges may step up to hear Supreme Court trial matters and, as I said, under section 80B of the Constitution Act, trial judges are allowed to sit as judges in the Court of Appeal. The current system gives the Supreme Court some flexibility in shifting judges around to deal with the workloads in its various lists. The bill, particularly clause 3, will give the Chief Justice of Victoria and the

President of the Court of Appeal greater flexibility in that it allows judges of the Court of Appeal to gain very useful trial experience.

I note, as did Mr Furletti, that not all judges of the Court of Appeal have come up through the ranks and had lots of litigation experience. For example, it is possible for an academic, a barrister or a solicitor to be appointed as a member of the Court of Appeal.

Hon. P. A. Katsambanis interjected.

Hon. JENNY MIKAKOS — Mr Katsambanis might be surprised to learn that not all barristers appear before the courts. Some, particularly in the tax area, only churn out lengthy briefs of advice and do not frequent the court as part of their usual work. I was speaking about hypothetical circumstances. It is possible for people who do not have considerable litigation experience to be appointed to the Court of Appeal.

As has been indicated, a judicial college will be established. The government is committed to ensuring that members of the judiciary have adequate professional development and education. Allowing members of the Court of Appeal — with their consent — to step down to the trial division, will result in their gaining useful experience that will assist them in conducting themselves as judges in the Court of Appeal. I dispute the assertion by Mr Hallam that the bill represents an attack on the Court of Appeal or its members.

Hon. M. R. Thomson interjected.

Hon. JENNY MIKAKOS — Members of the court will retain exactly the same salary and conditions of employment and, as I said, will have a power of veto on whether they wish to participate in trials.

As the Minister for Small Business pointed out, the proposed system exists in both New South Wales and Queensland, where from time to time judges of the Court of Appeal may sit as trial judges. The proposed system will go further than the systems in those states. The bill spells out the circumstances in which a judge of the Court of Appeal may act as a trial judge and provides the checks and balances which require all parties to consent to the process. The bill proposes a good process. It will give legal validity to the original intention of the previous Attorney-General in the former Kennett government.

It was amazing to hear Mr Furletti claim that the bill was an extraordinary measure while the shadow Attorney-General is making a number of extraordinary attacks on the independence of the state's judiciary. As all honourable members are aware, the independence of the state's judiciary is a fundamental tenet of our political and legal systems. It is sheer hypocrisy that the opposition is seeking to argue a position which would make it more difficult for trials in this state to be heard at the same time as it is seeking to remove one of our judges from hearing any trial.

Hon. M. A. Birrell — Our judges?

Hon. JENNY MIKAKOS — Victoria's judges.

I find it quite extraordinary that opposition members are seeking to put up an argument today that they are concerned about the independence of the judiciary when they are not prepared to respect longstanding conventions that require an Attorney-General to obtain proper advice about the possible removal of a member of the Victorian judiciary.

On *Stateline* on Friday night the shadow Attorney-General asserted that he was going to move a motion in the Parliament this week to seek to remove Judge Kent from his position. It was a disgraceful assertion to make without having gone to his own party to get its consent. I would be interested to know whether the shadow Attorney-General received support this morning or whether he got rolled yet again, as he should have done.

Government members find hypocritical the comments of honourable members opposite on their so-called protection of the independence of the judiciary. The bill seeks to enhance the independence of the judiciary. As is appropriate, the government has allowed the allocation of the court's workload to be made by the Chief Justice of Victoria and the President of the Court of Appeal without interference by the government or Parliament. This process has involved consultation with senior members of the Supreme Court, and I believe it is a system that will work well in the future.

I turn to other aspects of the bill. Clause 5 inserts a new provision in the Supreme Court Act to ensure that a judge of appeal temporarily sitting in the trial division will not sit on the hearing of a new trial if the judge constituted the Court of Appeal that ordered the new trial. It is a perfectly sensible provision that replicates the current provisions, which do not allow appeal judges to hear matters they have previously been involved in in the trial division and vice versa.

Clauses 4 and 6 of the bill contain a number of statute law revision provisions. Clause 4 merely seeks to remove a now redundant reference to part VIII of the Community Welfare Services Act. It specifically deals

with section 84 of the Constitution Act relating to judges of the Supreme Court not holding any other place of profit in Victoria, with certain exceptions. The now redundant exception relates to a judge being nominated to an office on the parole board.

Clause 6 amends section 33G of the Supreme Court Act by replacing the word 'representative' with the word 'group'. The clause is retrospective to 1 January 2000 because the statute law revision relates to amendments to that act to do with group proceedings that took effect on 1 January 2000 and the provision related specifically to the disallowance of group proceedings that arose solely out of cross-vesting legislation.

Clauses 7 to 11 make a number of minor changes to the Magistrates' Court Act and the Magistrates' Court (Infringements) Act. Clause 7 seeks to allow regulations made under the Magistrates' Court Act to include the charging of fees for warrants to seize property. Currently there is ambiguity as to whether such regulations can be made.

Clause 8 seeks to clarify the proclamation of the commencement of certain parts of the Magistrates' Court (Infringements) Act and will now allow part of that act to be proclaimed before the rest of the act. Clause 9 relates to the expiry of enforcement orders, and specifically replaces clauses 14A and 14B in section 11 of the Magistrates' Court (Infringements) Act, which deal with the expiry of enforcement orders. The substitution of those provisions is necessary to ensure there is a clear expiry date for all such enforcement orders in future.

Clause 10 relates to the imprisonment provisions of the Magistrates' Court (Infringements) Act and provides that an arrested person can be delivered to either a prison or a police jail as is required. Currently, when an infringement defaulter is arrested they are required to be taken into custody under the Corrections Act, and usually this involves being taken into custody and taken to a prison. If the person cannot be immediately assessed for a custodial community permit, or they do not qualify for such a permit, they need to be put into a police jail. Clause 10 seeks to amend the Magistrates' Court (Infringements) Act to ensure that a person arrested can be taken either to a police jail or to part of a police station designated as a police jail.

Clause 11 relates to the number of transitional provisions that came into effect in the Magistrates' Court (Infringements) Act and seeks to clarify that no enforcement orders are deemed to have expired in the past.

In concluding my remarks today I reiterate that the government is committed to having an efficient justice system — the justice system all Victorians expect to have when seeking to have matters dealt with as quickly as possible through the courts. Unfortunately, this is not always possible, and by including the part 2 provisions the government is seeking to reduce the current Supreme Court backlog by putting in place a process whereby appeal judges can sit in on trials. It is by no means a substitution for the appointment of additional judges to the Supreme Court, which I hope will occur as a matter of course through the budgetary process. However, this process gives the Chief Justice of Victoria and the President of the Court of Appeal greater flexibility in allocating judges across various divisions. I commend the bill to the house.

Hon. P. A. KATSAMBANIS (Monash) — This bill can only be described as a bizarre bill which is followed by an even more bizarre second-reading speech. In following the government lead speaker I must say that the whole process gets more bizarre by the minute.

The bill is bizarre because of what it attempts to do and the way it is put together. Its title, the Constitution (Supreme Court) Bill, clearly indicates that it is amending the Constitution Act as to the operation of the Supreme Court as it is constituted under Victoria's Constitution Act. However, it amends not only the Constitution Act but also the Supreme Court Act, the Magistrates' Court Act and the Magistrates' Court (Infringements) Act.

As a matter of construction and good legislative drafting this is not a constitution amendment bill, as it purports to be, but really an omnibus bill that makes changes, some of them relating to the constitution. Part 2 of the bill relates to the constitution; it could be said that part 3, the part that relates to the Supreme Court Act, is consequential upon the changes made in part 2; but certainly the changes in parts 4 and 5 have nothing to do with the constitution of Victoria — they are to do with various Magistrates Court acts and should properly be included in a separate piece of legislation, or alternatively, this bill should be classed as an omnibus bill amending various acts for various purposes; it does not have one unique and distinct purpose. The government has set a bad precedent for clarity in legislation, but it has chosen to go down this path, and the people of Victoria should see this as another example of the government trying to hide its real intent.

It is when we get to the specific provisions of the bill that we see the real dangers in legislation of this type. As Mr Furletti has highlighted, the Liberal Party does

not in any way support the provisions contained in parts 2 and 3 of the bill. It will allow the bill to go through, as is the government's clear intent, but it does not support the intent of the government and it wants to make that absolutely crystal clear to the Victorian public.

With parts 2 and 3 the bill interferes unduly with the operation of our justice system and our law courts, particularly the Supreme Court and the Court of Appeal. The bill is couched in innocuous terms — to simply allow judges of the Court of Appeal to hear trials in the trial division of the Supreme Court; as we know, judges of the Court of Appeal are in fact judges of the Supreme Court — but in practice it attempts to blur the distinction between the trial division and the Court of Appeal.

As Mr Hallam pointed out, if you sit back and work out why the Attorney-General wants to go down this path you are led to the inescapable conclusion that this is one more attempt by this government to erase the past, to rewrite history and to fiddle with our institutions for political gain — not for any gain to the people of Victoria, not for a better justice system, but purely for cosmetic political purposes. For that this government should be condemned. It is using the processes of this house to achieve blatant political objectives that have nothing to do with good government and certainly nothing to do with good justice in this state. It is pretty clear to most people in the legal profession to whom I have spoken that these changes will in fact be to the detriment of the delivery of good justice in this state.

The judges of the Court of Appeal — rightly — are given a special significance in our legal system. They are there to hear appeals on matters of law emanating from trials in the trial division of the Supreme Court. To give those same judges the ability to hear trials at first instance effectively disqualifies them from hearing appeals — their primary function.

In our justice system a judge should not be allowed to hear an appeal against his or her own decision. By being allowed to sit in the trial division the judges of the Court of Appeal would effectively be barred from properly executing their duties to the Court of Appeal. Moreover, part 3 clearly highlights that when a case goes back down to the trial division for a new trial it would be bizarre and wrong for the judge of the Court of Appeal who ordered the new trial to preside over it. So all sorts of legal gymnastics are being used to address the problems created by the bill itself.

I have great faith in our judges. I have great faith in all the judges of the Court of Appeal and the Supreme Court, the Chief Justice of Victoria and the President of the Court of Appeal. I know they will bend over backwards to ensure that, despite the provisions of this bill, in practice our legal system will continue to operate justly and fairly and will, importantly, be seen to do so. But, again, the Chief Justice of Victoria and the President of the Court of Appeal and all the judges of the Supreme Court will have to work extra hard to ensure that any real or perceived conflicts do not exist.

Mr Hallam and Mr Furletti before me have highlighted the dangers and errors incumbent in giving the judges of the Court of Appeal the ability to sit as trial judges. It has also been highlighted that this measure has been taken in a large part to deconstruct the Court of Appeal, simply because it was a creation of a previous government, and in another part to camouflage the fact that the Supreme Court, through the chief justice, has for months been calling for the appointment of two new judges to the Supreme Court. For whatever reason — we can speculate, but we cannot know the reason why — the Attorney-General has chosen not to appoint two new judges to the Supreme Court but instead to bring in this piece of legal trickery, which in his mind does two things.

For a few months it takes away the need to appoint those two judges — the political need, because the actual need of the court is still there — and it achieves the Attorney-General's other aim of stripping away the institutions that he does not like because they were created by a different government. The Attorney-General should not be allowed to get away with this cynical exercise. The Victorian public should see this exposed for what it is: a sham covering up for the Attorney-General's failings and petty political whims.

I thank Ms Mikakos for raising the findings of the Productivity Commission relating to the efficiency and effectiveness of the judges of the Supreme Court of Victoria. It is true they lead Australia in efficiency in the civil jurisdiction and rate among the best practice in Australia in the criminal jurisdiction. When the Supreme Court, through the chief justice, calls for two more judges it is clearly not because of any inefficiency in the court or of our judges; to the contrary, the Productivity Commission found that they are very efficient in both civil and criminal divisions.

It is clear there is increased demand, a consequent backlog of work and a real need for two more judges to be appointed. The government cannot and should not be allowed to run away from that, which is why I welcome Ms Mikakos's putting that on the record. It makes it categorically clear that the government is

failing to respond to a real need for two new Supreme Court judges, as called for by the Chief Justice of Victoria, and in many ways is compromising the ability of the Supreme Court judges to carry out their workload and fulfil their statutory and moral obligations to the Victorian public.

As I said at the outset, the opposition does not in any way support parts 2 and 3 of the bill. It will allow the bill to proceed because it is the intent of the government, but let it be known to the Victorian public that this is the government's action and let it stand condemned for what the bill introduces.

So far as parts 4 and 5 are concerned, I have already made the point that they have nothing to do with the amendment of the constitution and should not be included in a bill entitled the Constitution (Supreme Court) Bill. They are amendments to Magistrates Courts acts of various types and should be included in other legislation and not hidden away. One of the reasons they are hidden away is because part 5 simply camouflages the fact that last year, when introducing the Magistrates' Court (Infringements) Bill, the government got it wrong. The bill has to be amended before it can be proclaimed because the government got it wrong the first time. It is not the first time the government has made an error with legislation. Even after the effluxion of time since its election to government, it has not managed to get its house in order and produce legislation that is correct the first time it is introduced.

I now address what I call the bizarre second-reading speech. The bill not only amends the constitution of the state of Victoria, it also changes the role of the Supreme Court judges. It is an affront to this house and to the Victorian public that the second-reading speech, which is the Attorney-General's explanation to the public of the intent of the bill, is less than one page long and makes no real attempt to explain the provisions, the reasons behind them or the consultation undertaken by the Attorney-General and the Department of Justice before embarking on this course of legislative change.

There may as well not be a second-reading speech. It is nothing short of a disgrace and treats this house and the Victorian public with the utmost contempt. The minister may as well have walked into the house, moved that the bill be read a second time and then sat down. I am not blaming the Minister for Small Business — she but has the carriage of the bill in this house for the Attorney-General — but the speech is not acceptable in any way, shape or form. I do not need to labour this point; it is clear that the government is treating this place and the Victorian public with the utmost contempt.

In her contribution Ms Mikakos alluded to various other matters that have absolutely nothing to do with the bill. She discussed Judge Kent and the reaction in the past few days to the legal predicament in which he has found himself. She should know full well that they are matters that can be and rightfully should be contemplated by this place and the other place as allowed for in the Constitution Act and the County Court Act. Ideally they are matters for another time but Ms Mikakos chose to raise them in debate. I highlight that they are matters properly for the consideration of this house. Although I will not indulge myself by examining the comments of the honourable member today, I daresay we may get the opportunity to consider them in the future, at which time I intend to take them up fully. If we do not get the opportunity in the near future to consider them, her comments will simply sit on the record and will be viewed in the light in which they were made.

In closing I reiterate my personal opposition and that of the Liberal Party to parts 2 and 3 of the bill. We will not block the passage of the bill but do not in any way, shape, or form condone such provisions. Furthermore, I place on record once more the fact that I consider the second-reading speech to be in total and utter contempt of the Parliament and the Victorian people. For those reasons, the government and the Attorney-General once more stand condemned.

Hon. D. G. HADDEN (Ballarat) — I support the Constitution (Supreme Court) Bill. The purposes of the bill are set out in clause 1:

(a) to make provision for the temporary assignment of Judges of Appeal as additional Judges of the Trial Division of the Supreme Court; and

(b) to broaden the regulation-making powers under the Magistrates Court Act 1989 in respect of certain warrants; and

(c) to make miscellaneous amendments to the Magistrates' Court (Infringements) Act 2000.

It is a fact that the trial division of the Supreme Court was significantly affected by the resignation of Justice Hampel in September of last year. A number of trials had to be adjourned out of the criminal division and relisted. Statements made by Justice Vincent when adjourning trials that could not proceed due to the vacancy created by the resignation attracted much media coverage and adverse comment in the press, of which honourable members are aware.

I refer to an article that appeared in the *Age* of 10 October 2000 headed 'Shortage of judges leads to murder trial backlog'. It states:

> Victoria's Supreme Court is struggling with a growing backlog of murder trials because of state government delays in appointing a replacement for retired judge Justice George Hampel.
>
> Up to nine murder trials scheduled for this year may have to [be] delayed until 2001 because of the shortage of judges.
>
> Lawyers and judges have blamed the problem on recent tax changes affecting judicial superannuation, which they say are discouraging lawyers from accepting judicial appointments.

The article further states:

> Attorney-General Rob Hulls said yesterday he had spoken to Chief Justice John Harber Phillips about a potential replacement judge. Mr Hulls said he would be able to recommend an appointment in about four weeks.
>
> He —

the Attorney-General —

> said Justice Phillips had raised the issue of the federal government's superannuation surcharge as a problem for barristers approached to be Supreme Court judges.

The article further states:

> Victorian Bar Council chairman Mark Derham, QC, said at least two more judges were needed to handle the criminal workload.

The article quotes Mr Mark Derham, QC. It states:

> 'But I think the superannuation surcharge has a very significant impact on the willingness of appropriately qualified and experienced practitioners who might otherwise consider accepting an appointment'…
>
> Shadow Attorney-General Robert Dean said there was no shortage of 'excellent candidates' to replace Justice Hampel. …
>
> Mr Hulls said he would discuss the delays with the courts consultative committee — comprising the heads of the Victorian court jurisdictions — on Friday. One suggested option was that judges from the Court of Appeal could sit on trials.

It is a fact that Justice Bernard Bongiorno was appointed to the trial division of the Supreme Court in December last year by the Attorney-General. It is also a fact that the Attorney-General's suggested option that judges from the Court of Appeal could sit on trials as referred to in the *Age* article of 10 October is now contained in the bill before the house.

A number of options are currently available to the Supreme Court to assist it in the fixing of its criminal trials, including the rotation of judges between listings in the trial division, the appointment of reserve judges pursuant to section 80A of the Constitution Act and the appointment of County Court judges as acting trial judges of the Supreme Court pursuant to section 81 of the act. From time to time trial judges may also be temporarily assigned to the Court of Appeal to assist with that division's workload pursuant to section 80B of the act. Proposed section 80C in effect mirrors section 80B, which allows judges of the trial division to act as judges of appeal. A further option open to the Supreme Court to assist in its resourcing of judges to hear trials is for judges of appeal to sit from time to time in the trial division to assist with the disposal of the workload of that division.

Clause 3 of the bill amends the Constitution Act by inserting proposed section 80C, which provides for the circumstances in which a judge of appeal may act as an additional judge of the trial division of the Supreme Court. Subsection (1) states that a judge of appeal may act as an additional judge of the trial division for a period not exceeding six months when the Chief Justice of Victoria, with the concurrence of the President of the Court of Appeal, determines that the judge of appeal should so act and when the judge of appeal is willing to do so. Subsection (2) provides that a judge of appeal may act as an additional judge of the trial division in a specified proceeding when the chief justice, again with the concurrence of the President of the Court of Appeal, determines that it is expedient that the judge of appeal should so act and when the judge of appeal is willing to do so.

Clause 5 in part 3 of the bill inserts proposed section 13A into the Supreme Court Act. The proposed section states:

> A Judge of Appeal acting as an additional Judge of the Trial Division must not sit on the hearing of a new trial … if the Judge … constituted the Court of Appeal that ordered the new trial.

Clause 6 amends section 33G of the Supreme Court Act by replacing the word 'representative' with the word 'group'.

On 10 November 1994 the then Attorney-General, Mrs Jan Wade, made a second-reading speech on the Constitution (Court of Appeal) Bill, which established the Court of Appeal in this state. I will refer to some pertinent comments she made in that speech. It states:

> There has been no significant change to the exercise of appellate jurisdiction in this state since the passage in 1852 of an act … which … established the Supreme Court of Victoria.
>
> The purpose of this bill —

that is, the Constitution (Court of Appeal) Bill —

> is to … divide the Supreme Court into two divisions, namely: a Court of Appeal; and a Trial Division.
>
> The creation of a Court of Appeal division of the Supreme Court will equip Victoria with an appellate jurisdiction equal to, if not surpassing, other states — in particular, New South Wales and Queensland.

The speech further states:

> It is proposed that the initial Court of Appeal division will comprise eight members. Opportunity for the other judges of the court to sit on the Court of Appeal division will be retained … the bill retains the opportunity for the other judges of the court to gain experience in the exercise of appellate jurisdiction. Furthermore, and equally as important, it also ensures that the structure of the Court of Appeal is sufficiently flexible to enable it to quickly adapt to fluctuations in its workload.

The speech also states:

> Ordinarily, any three or more judges of appeal may constitute the Court of Appeal. However, the President of the Court of Appeal is empowered to determine that, in a particular case, only two judges of appeal constitute the Court of Appeal.

Under the heading 'Judges of appeal', the speech states:

> The bill provides for the appointment of judges of appeal … it enables the appointment of candidates possessing skills and knowledge especially suited to appellate work …
>
> …
>
> Coupled with, and as a consequence of, its capacity to achieve a higher level of consistency among its decisions, the Court of Appeal division will also provide a means for the coherent development of legal principle.

Under the heading 'Trial division', the speech states:

> The trial division will primarily consist of the chief justice and the other judges of the court. However, the bill retains the possibility for judges of appeal to exercise the jurisdiction of the trial division.
>
> The chief justice will have overall responsibility for the operation and constitution of the trial division … any temporary appointment of a judge of the court to the Court of Appeal, other than an appointment to fill a temporary absence of a judge of appeal, must be made with the concurrence of the chief justice.

Finally, the former Attorney-General states:

> The reforms before the house will have the effect of significantly improving our judicial system and thereby placing Victoria at the forefront of the Australian states in providing a first-class legal system.

The Court of Appeal did that. I certainly have had experience of the Court of Appeal in Ballarat, where it first sat in 1996. It sat there again earlier this year — in March — at a special sitting. I had the opportunity of being at that sitting, when the Court of Appeal bench comprised the president, Justice Winneke, and Justices Brooking and Charles. The Court of Appeal has recently been in Ballarat again — just last week, and it may well still be there this week.

There is certainly no criticism from the government as to the composition of the Supreme Court trial division or the Court of Appeal, nor should there be. I do not know what all the fuss is about from the opposition benches on a bill whose primary purpose is to assist the smooth running of the Supreme Court and allow it to be flexible — of course, while retaining the consent of the judges concerned and the consent and willingness of the chief justice and the President of the Court of Appeal.

The bill is not designed to solve all the Supreme Court's resourcing needs. It is a mechanism to give the Supreme Court an additional option it may choose to use where appropriate, and those circumstances are set out in clause 3.

The suggestion that the bill will create logistical difficulties is really stretching a long bow. Clause 5 inserts proposed section 13A, as I set out earlier, to avoid any conflict. The Supreme Court Act 1986 prohibits a judge of appeal from sitting on the hearing of an appeal from a judgment of the trial division constituted by that judge or on the hearing of an application for a new trial or proceeding tried before that judge.

Judges of the trial division are frequently rotated to the Court of Appeal pursuant to section 80B of the Constitution Act 1975. For example, last year some four trial judges sat for limited periods in the Court of Appeal. In addition, as I have said, clause 5 inserts proposed section 13A to ensure that a judge of appeal sitting temporarily in the trial division does not sit on the hearing of a new trial if the judge constituted the Court of Appeal that ordered the new trial.

There has been a suggestion that the bill will undermine the Court of Appeal and go some way towards reducing the status of our esteemed Supreme Court judges and judges of appeal. Nothing could be further from the truth. Before the establishment of the Court of Appeal in 1994 appeals were heard by a full court of the Supreme Court of Victoria. With the establishment of the Court of Appeal by the Constitution (Court of Appeal) Act 1994 a Court of Appeal was established as a separate division of the Supreme Court, comprising specially appointed appellate judges.

The bill will not alter the constitutional status of the Court of Appeal or the judges of appeal, who will remain senior judges to the trial division and will continue to receive the same remuneration. The bill will not affect the Court of Appeal continuing to sit as a separate division of the Supreme Court and it will allow a judge of appeal to sit in the trial division only for a period of up to six months or for a particular proceeding.

It cannot be said that allowing trial judges to sit in the Court of Appeal is undermining its authority in any way. Appeal judges in New South Wales and Queensland are able to sit as trial judges from time to time. That was referred to in the second-reading speech of the former Attorney-General, who introduced the bill that established the Court of Appeal back in 1994. In Queensland an appellate judge may sit in the trial division with the consent of the chief justice, and New South Wales legislation does not specify the circumstances in which an appeal judge may act as a trial judge.

Another criticism of the bill is that it does not give the chief justice power to direct a judge of appeal to sit in the trial division in circumstances where the President of the Court of Appeal does not concur and the judge of appeal does not consent to being transferred. The president is responsible for the orderly and expeditious exercise of his court — that is, the Court of Appeal's jurisdiction — and any temporary appointment of a judge of appeal to the trial division must be made with the concurrence of the President of the Court of Appeal.

There has been a suggestion that judges of appeal should not sit in the trial division because they are unsuited to trial work. From my 20 years experience in the practice of the law I find that very far from the truth. Although trial work requires particular skills of a trial advocate, the skills required of an appellate judge are similar, and it is useful for appeal judges in deciding appeals to have an understanding of the mechanics of presiding over trials.

A number of current judges of appeal — Justices Charles, Callaway and Buchanan — were appointed to the Court of Appeal from the bar rather than the trial division of the Supreme Court. This bill will enable these and any future appellate judges, if they are so inclined and wish to do so, to develop experience in conducting civil or criminal trials in the interests of ongoing judicial education and professional development. However, if a judge feels that he or she is unsuited to trial work, they need not agree to sit in the trial division.

I shall not go into discussion of parts 4 and 5 of the bill, which contain amendments to the Magistrates' Court Act 1989 and the Magistrates' Court (Infringements) Act 2000 because those were adequately and eloquently debated by an honourable member for Jika Jika, the Honourable Jenny Mikakos.

As the Attorney-General said in his second-reading speech on the bill, the government is committed to ensuring the independence of the Victorian judiciary and enabling the courts to provide effective services to the community. The purpose of the bill is to increase the options available to the Supreme Court for its flexibility and judicial resourcing, at the same time respecting the division between the Court of Appeal and the trial division. Certainly, it has been said since time immemorial that justice delayed is justice denied. This bill will go some way towards ensuring that justice is not delayed, so that justice is not denied to those within the court system. On that basis I commend the bill to the house.

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

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

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank the honourables Carlo Furletti, Roger Hallam, Jenny Mikakos, Peter Katsambanis and Dianne Hadden for their contributions.

The PRESIDENT — Order! I am of the opinion that the third reading of this bill is required to be passed by an absolute majority of the whole number of the members of this place. I again ask honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

FOOD (AMENDMENT) BILL

Second reading

Debate resumed from 3 May; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. M. T. LUCKINS (Waverley) — The Liberal Party supports the Food (Amendment) Bill, which further extends the provisions of food safety in Victoria.

In 1997 the Kennett government introduced amendments to the Food Act 1984 to protect public health with stringent regimes of standards to ensure the safety of consumers was protected through proper production, manufacture, handling and preparation of food from paddock to plate. Honourable members will be aware that food safety is a serious concern in this country and throughout the world. I refer honourable members to an article in the *Age* of 4 August 2000 entitled 'Food safety rules to cut poisoning', which states:

> Australia New Zealand Food Authority chairman, Michael MacKellar, released a draft code designed to prevent about 11 500 food poisoning cases that occur around the country every day.
>
> Mr MacKellar said this amounted to 4.2 million cases a year, resulting in an annual bill of $2.6 billion.

The extent of food poisoning in our community through listeria and salmonella has been at the forefront of public consciousness for many years, but particularly since 1996 and 1997, when there was a spate of serious outbreaks in which some Victorians died and others are still recovering from the illness they contracted at the time.

The Kennett government legislation amending the Food Act provided that food safety programs be developed by all food industry participants and lodged with local councils. The food safety program had to be audited and a food safety instructor nominated by each business defined as a food business. These were onerous obligations for food businesses and food premises proprietors, but given the serious nature of the responsibilities to consumers, they were necessary.

Some of the examples of food poisoning outbreaks in Victoria in recent years include the 1996 recall by Kraft of peanut butter products after salmonella was found in supplies of peanuts. I had a personal experience with that outbreak. I had only been in this place for three months and on the Friday sitting in May when the Legislative Council had a special sitting for the drugs debate I received a phone call to say that my 18-month-old son was extremely ill with food poisoning — he had been throwing up the previous night. He was ill for months after contracting that illness, as were thousands of people throughout the community.

Like many bacterial infections, food poisoning affects children and older people, the most vulnerable in our community, more than it affects average people in good health. In November 1996 Myer closed its Chadstone restaurant after about 24 people fell ill with salmonella poisoning. In March 1997 more than 700 people were taken ill after eating contaminated pork rolls bought from a Springvale bakery. Those two outbreaks occurred in premises in my electorate. A private function at the Springvale town hall, with food prepared in private homes, as is often the case, resulted in the death of some attendees that evening.

I refer to an article in the *Herald Sun* of 6 November 2000 which states:

> Nearly half of the 52 national food recalls last year were contaminations by salmonella or listeria.
>
> In Victoria this year, 29 outbreaks of gastrointestinal illness affected 260 people. Poorly cooked food and temperature problems have been blamed for the outbreaks.

The bill is the product of an agreement by the Council of Australian Governments to introduce a model bill that has consistent definitions, offences, penalties and emergency powers. This process was agreed to by COAG member states in November last year and will be enacted by jurisdictions by November this year. Victoria is the first jurisdiction to introduce this model bill, but many of the provisions are based on and consistent with the amendments introduced by the Kennett government in the 1997 bill, so the then government was at the forefront of public health policy.

Proposed section 4A(1) inserted by clause 5 states:

> In this Act, "food" includes —
>
> (a) any substance or thing of a kind used, or represented as being for use, for human consumption (whether it is alive, raw, prepared or partly prepared);

(b) any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a);

The provision extends the coverage of the bill to additives that may not even be consumed. For example, it may extend to bay leaves that are removed from a bolognaise sauce or herbs that are used for flavour or aroma but not consumed. Proposed section 4A(1) (d) refers to:

chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum;

Proposed section 4A(2) refers to:

A substance, thing, chewing gum or ingredient or additive in chewing gum described in sub-section (1) is food regardless of whether or not it is in a condition fit for human consumption.

It extends the coverage substantially. I could be difficult and ask whether it covers bubblegum.

Proposed section 4A(3) inserted by clause 5 states:

However, food does not include a therapeutic good.

That is curious in view of the resurgence in the community of herbal-based remedies for many illnesses. The practice of Chinese herbal medicine is now regulated — that provision was introduced by the Kennett government. Often there have been cases where people have been adversely affected by the herbal remedies and potions that they take.

Proposed section 4A(4) states:

To avoid doubt, "food" may include live animals and plants.

I found that curious and wondered whether it covered fish, but am reliably informed by the *Macquarie Dictionary* that 'animal' is defined as any living thing that is not a plant. The bill covers any food that will be consumed or, in the case of chewing gum, chewed. It covers everything except tap water, but covers bottled water.

Proposed section 4B inserted by clause 5 refers to the meaning of 'food business' and specifically excludes a business, enterprise or activity that is primary food production. Subsection (b) refers to:

the sale of food, regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

That is curious. When the opposition was in government the current Minister for Health, John Thwaites, was critical of the government introducing the legislation because it would pick up all community events such as the traditional lamington drives and sausage sizzles held by community organisations and schools throughout Victoria. The fact is, as was said at the time, that the current act does not apply to one-off community events or sausage sizzles. Basically all a community organisation has to do to run a sausage sizzle under the current provisions is to advise the council of what it is offering for sale. It does not cover food that is given away for charitable purposes; it covers only food that is for sale. Nonetheless, the current Minister for Health knowingly misled the public in 1997 when criticising the Liberal Party legislation, but now in government he has extended the cover of the Food Act to the traditional sausage sizzle.

Hon. W. R. Baxter — Breathtaking hypocrisy!

Hon. M. T. LUCKINS — Breathtaking hypocrisy, indeed. Proposed new section 4D inserted by the bill covers the meaning of 'unsafe' food, and proposed section 4D(2) provides that food is not unsafe merely:

… because its inherent nutritional or chemical properties cause, or its inherent major causes, adverse reactions only in persons with allergies or sensitivities that are not common to the majority of persons.

That ensures that food is considered safe if it meets the requirements of the act regardless of individual sensitivities, but persons with allergies or sensitivities to food such as shellfish, peanuts or MSG often order meals and seek assurances from food proprietors that the food they are ordering does not include traces of those foods to which they may have an allergy and which may threaten their lives if consumed.

Proposed section 13 inserted by clause 8 deals with misleading conduct relating to the sale of food, and provides hefty penalties of $40 000 in the case of an individual and $200 000 in the case of a corporation. The misleading conduct in proposed section 14 also includes the sale of food that does not comply with purchaser's demand, and states:

A person must not, in the course of carrying on a food business, supply food by way of sale if the food is not of the nature or substance demanded by the purchaser.

The penalty for that offence is $40 000 in the case of an individual and $200 000 in the case of a corporation. That would cover an individual with sensitivities making a specific inquiry to ensure that the food they are ordering would not harm them because of their allergies or sensitivities.

Proposed section 13 also deals with food substitution and will make it an offence, for example, to use the old

adage, to dress mutton up as lamb or sell gemfish as barramundi.

Proposed section 4E in clause 5 defines 'unsuitable' food. I challenge anybody who is not a parliamentary draftsperson to digest what that clause means. It refers to food that:

> (a) is damaged, deteriorated or perished to an extent that affects its reasonable intended use; or
>
> (b) contains any damaged, deteriorated or perished substance that affects its reasonable intended use; or
>
> (c) is the product of a diseased animal, or an animal that has died otherwise than by slaughter …
>
> (d) contains a biological or chemical agent, or other matter or substance, that is foreign to the nature of the food.

Proposed section 4E(1)(d) could also pick up genetically modified foods or pesticides, but it is unclear.

The offences I have already mentioned beef up the current provisions. For example, the offence of knowingly handling food in an unsafe manner in proposed section 8 also picks up food tampering and provides penalties for an individual of $100 000 or imprisonment for two years, or both, and in the case of a corporation $500 000. It states:

> A person must not handle food intended for sale in a manner that the person knows will render, or is likely to render, the food unsafe.

That is an appropriate safeguard for the community.

Proposed section 8A refers to the handling of food in an unsafe manner in other circumstances, and subsection (1) states that:

> A person must not handle food intended for sale in a manner that the person ought reasonably to know is likely to render the food unsafe.

That is subjective, given the penalty ascribed to that offence, which in the case of an individual is $75 000 and in the case of a corporation, $375 000. Who will define whether the person ought to have reasonably known that the action of the individual would render the food unsafe, and who would be liable in the case of an employee if that were to occur?

Proposed section 9 inserted by clause 8 of the bill refers to knowingly selling unsafe food. In the case of an individual the penalty is $100 000 or imprisonment for two years, or both. Proposed section 9A deals with the sale of unsafe food in other circumstances.

Proposed new section 10 deals with knowingly falsely describing food, and again very steep penalties are provided for that offence. Proposed new section 10A(1), headed 'Falsely describing food in other circumstances', provides:

> A person must not cause food intended for sale to be falsely described if the person ought reasonably to know that a consumer of the food who relies on the description is likely to suffer physical harm.

It refers to examples in proposed new section 17 A, which deals with a number of issues. Paragraph (b) of proposed new subsection (1) refers to a substance that diminishes the food value or nutritive properties of food, paragraph (c) refers to lowering commercial value and paragraph (d) refers to food of which the substance or a constituent has been removed so that its properties are diminished. An example of that would be the milk content of chocolate being different from that advertised or described. Paragraph (e) refers to creating a false impression regarding the nature or substance of food in the mind of a reasonable person. That is again subjective: who will define who is a reasonable person?

It is very important to protect consumers' rights to purchase food as it is represented — for example, anyone who purchased premium-grade strawberries at a supermarket would be horrified to find inferior quality strawberries at the bottom of the punnet. Another example is that anyone paying top price for premium quality organic beef stir fry would want to be sure that they got what was advertised and that it was not mixed with, say, inferior gravy beef. The provisions also cover labelling, packaging and how the food is presented for sale.

Proposed new division 3 deals with defences. Proposed new section 17C is convoluted. As one colleague put it to me this morning when we were trying to unravel what it meant, it is gobbledygook. Some of the drafting of the bill leaves a bit to be desired.

Proposed new section 17D provides that in not meeting the food standards code it is a defence to prove the food is intended for export to another country where the food in question complies with the requirements of that country. It provides that the food must not be marketed in Australia if it does not meet the food standards code. Proposed new section 17E deals with the defence of due diligence.

Clause 9, which makes consequential amendments, repeals the sections of the current act that deal with vehicles. Currently vehicles are picked up as a food premises. Section 18 of the Food Act provides:

> Duty to maintain food premises etc. in clean and sanitary condition
>
> The proprietor of any food premises, food vehicle, food vending machine or other appliance must ensure that the premises are or the vehicle, machine or appliance is at all times maintained in a clean and sanitary condition.

I have concerns about repealing provisions covering vehicles because it will mean vehicles will not be required to be registered unless food is sold from them — for example, a hot dog stand operating from a van. That is difficult to accept, particularly when talking about vehicles that are transporting meat and other perishable food items, including frozen food, that require refrigeration.

I refer to an article in the *Sunday Herald Sun* of 16 November 1997, which states:

> … a snap survey by the *Sunday Herald Sun* found that only one in 12 food trucks had its refrigeration equipment operational.

The article includes photographs with descriptions under them. The first is of a truck in Springvale, which is in my electorate. It has the following comment:

> Metal-lined truck carrying carcasses. Refrigeration unit turned off and door left open.

The next is of a truck in Glen Waverley, which again is in my electorate, with this description:

> Plastic strips keep out the flies — but the temperature inside this truck, transporting fresh and frozen meat and seafood, was 18 degrees.

Another photograph is of a truck in Clayton, which is also in my electorate, with the comment:

> Butcher's van, carrying fresh meat, had no refrigeration.

I am surprised that the government has chosen to lower the standard of requirements for food transport vehicles. It argues that the person who handles the food must be registered because that person is responsible for the vehicle. As a consumer, I am horrified by the prospect of food that I or members of my family may eat being transported in vans with no refrigeration and with no requirement for cleanliness.

Hon. M. M. Gould — That's not true.

Hon. M. T. LUCKINS — It is true.

Hon. M. M. Gould — Meat transport is covered by the Meat Industry Act.

Hon. M. T. LUCKINS — The consequential amendments contained in clause 9 at page 31 of the bill repeal section 18 of the Food Act, which I have just read into *Hansard*. Paragraph (c) provides:

> in section 19(1) —
>
> (i) in paragraph (a), omit 'or a food vehicle …
>
> …
>
> (iv) in paragraph (c), omit 'or food vehicle'.

The same words are omitted from paragraph (d) of section 19(1).

Hon. M. M. Gould — Meat trucks are covered by the Meat Industry Act.

Hon. M. T. LUCKINS — I am not talking about just meat but also frozen vegetable matter that is required to be kept at a certain temperature before it is transported to the point of sale and ultimately passed on to the consumer. The Minister for Industrial Relations may not be aware that if frozen food is defrosted and frozen again it becomes putrid when it is defrosted a second time. Unwitting consumers may go home from the supermarket or local shop with food that is unsafe because it has not been transported properly.

Proposed section 19BA refers to food safety programs. It lessens the burden on small businesses by allowing proprietors to choose an appropriate standard or template. Proprietors are not required to have the template independently audited but will have to comply with the local guidelines — with the requirements of the local council — and their compliance will be checked periodically by the registration authority, which the bill provides is the council — that is, the environmental health officer.

After the introduction of amendments in 1997 the then government was in constant contact with food business proprietors to ensure they knew what their obligations were and to continue to improve the standard of food preparation and safety. A letter of 30 November 1998 from Professor John Catford of the Department of Human Services to all food businesses in Victoria states:

> Dear Food Business Proprietor
>
> Food Safety Program Starter Pack: A Guideline for Victorian Food Businesses
>
> …
>
> Between 1 January 1999 and 31 December 2000, every food business in Victoria will be required to have an approved Food Safety Program as a condition of their registration to operate as a food premises.

It goes on to outline some of the information about the classification of food businesses into classes A to D.

I turn to an article in the *Herald Sun* of 6 November 2000, which states:

> Mr Thwaites has ordered the compliance dates for Victoria's small food businesses be deferred until 2002.

While in government the Labor Party, through the Minister for Health, has relaxed the requirement for food businesses to have food safety programs implemented. As I said earlier, all food businesses in Victoria were to have a food safety program approved between 1 January 1999 and 31 December 2000, yet in his wisdom the minister has extended the requirement until 2002.

The Liberal Party accepts that these changes will simplify compliance for small businesses and reduce costs. Although it does not have a problem with that, it considers it crucial to ensure that simplification does not lead to non-compliance or to a perceived relaxation of the law.

Local government is the registration authority as defined in proposed new section 35 of the act, which is inserted by clause 22. On the issue of local government, in debates in the other place in 1997 and 1999 the then opposition health spokesperson, the current Minister for Health, was very vocal — I mentioned earlier the scare campaign he ran about sausage sizzles — and *Hansard* of 26 May 1999 records his comments about registration fees that were being charged by councils, including a reference to one of the councils in my electorate, the City of Kingston, which in 1999 had a registration fee of $120.

In his contribution on that date the then opposition spokesman said that the City of Kingston would raise the registration fee from $120 to $345. The reality is that two years later the registration fee is still $120. Not only did he choose to play partisan politics with health and food safety issues affecting Victorians, in 1997 he knowingly misled the community about the provisions of the act relating to community functions such as sausage sizzles, and also ran an unsuccessful scare campaign — perhaps it was successful because the former government lost the election — on the raising by councils of registration fees for all food businesses.

Proposed new section 19HA relates to the power of entry for local council environmental health officers (EHOs) so that they can inspect a premises at any time to monitor the operation of a food business in accordance with a food safety program. The current practice is that most councils have their EHOs inspect a premises once a year on registration or after a complaint. The new power of entry will ensure that EHOs can properly monitor the implementation and compliance of the food safety programs for businesses in their council areas, which should also act as a deterrent to businesses to ensure they do not lower their standards or relax their diligence in ensuring the food they prepare and sell is safe.

Proposed new section 19HB provides that if concerns arise from an inspection, or if the food safety plan has not been implemented or complied with, the proprietor of the food business concerned must be advised in writing of the reasons for the concerns, what is required to be remedied and that the matter must be remedied as soon as possible or at a date to be set, which could be within 21 days or more. That is vague. If the food business does not comply with the requirements as set down by the local registration authority — in this case the councils — it could have its registration refused, revoked or suspended or a renewal of registration refused. There are no penalties but basically the food business proprietor would be unable to trade, which could cause significant financial loss.

Proposed new section 35 provides that food businesses must be registered with local councils and that food premises without registration must not operate. The penalty is 50 penalty units for a first offence and 100 penalty units for a second or subsequent offence. Subsection (2) exempts the Crown from council registration but provides that any food business operated by the Crown must be registered with the Secretary of the Department of Human Services.

Clause 27 of the bill amends part VII of the principal act dealing with emergency powers. I have some concerns about those onerous provisions for businesses, in particular proposed new section 44, which deals with the making of an order, and states:

> An order may be made under this Part by the Secretary if the Secretary has reasonable grounds to believe that the making of the order is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health.

I have no problem with that provision. The secretary must ensure that he or she has reasonable grounds to institute proceedings and invoke those emergency powers. The secretary will have the power to prohibit advertisement or sales of food; to recall, impound, destroy or dispose of foods; and also to impose conditions or require the scientific analysis and sampling of the food, or even of water, soil or any other substance in the environment that may have adulterated the food.

Proposed new section 44B deals with recall orders that can be issued by the secretary. Subsection (1) states:

A recall order may require the person, or the persons of a class, that is bound by the order to disclose to the public or to a class of persons specified in the order, in a manner so specified, any one or more of the following —

(a) the particular food or type of food to be recalled or disposed of;

(b) the reasons why the food is considered to be unsafe;

(c) the circumstances in which the consumption of the food is unsafe;

(d) procedures for disposing of the food.

Under subsection (2) a person subject to a recall order is required to notify the secretary in writing as soon as possible after the completion of any recall. Under subsection (3) a person who is bound by a recall order is liable for any reasonable costs incurred and is required to reimburse the secretary the amount stated on the certificate signed by the secretary.

The Scrutiny of Acts and Regulations Committee, of which I am a member, made comments about proposed new section 44F, which deals specifically with a person's right to be heard before an order is made. It states:

In making an order under this Part, it is not necessary for the Secretary to give any person who may be affected by the order a chance to be heard before the order is made.

I turn to *Alert Digest* No. 4 of 2001 of the Scrutiny of Acts and Regulations Committee, which states:

The committee notes that by section 44F the Secretary is not bound to give a person who may be affected by an emergency order a chance to be heard before the order is made, but has a discretion to do so. On the face of the provision this may be considered to breach the principles of natural justice and may therefore be in breach of section 4D(a)(i) of the Parliamentary Committees Act 1968.

The committee notes that emergency nature of such orders affecting important matters concerning public health and also the existence of compensation provisions for cases where orders are made on insufficient grounds.

The committee is of the opinion that in legislation of this nature there must be a balance struck between public health and safety and individual rights. Balancing these two objectives the committee believes that the provision is not an undue trespass to rights and freedoms.

An Honourable Member — What about compensation?

Hon. M. T. LUCKINS — I now turn to compensation; thank you very much. Compensation is outlined in proposed new section 44D, which states in part:

(1) A person bound by an order under this Part who suffers loss as a result of the making of the order may apply to the Secretary for compensation if the person considers that there were insufficient grounds for the making of the order.

(2) If there were insufficient grounds for the making of the order, the secretary is to pay just and reasonable compensation to the applicant.

The bill then goes through some of the procedures to access the compensation. If the department is found to have not complied with the act or insufficient grounds are established, the business affected is eligible to seek compensation through the secretary. That is a good safeguard for individuals and business operators who may suffer financial loss when their products are recalled and their business and brand reputations may never recover. I am pleased at the inclusion of those provisions within the bill; they will ensure that adequate compensation is available to those who have been adversely or wrongly affected by its provisions.

Proposed new section 44E provides for penalties for failing to comply with an emergency order as issued by the secretary. Those penalties are $40 000 for an individual and $200 000 for a corporation.

Proposed section 52A deals with offences by employers. Subsection (1) provides that employers are responsible for contravention of the act or regulations by an employee. It states:

If an employee contravenes any provision of this act or the regulations, the employer is taken to have contravened the same provision.

That is important. It will encourage all proprietors of food businesses to ensure that their staff are properly trained and have adequate protective items such as gloves, to ensure that food is not contaminated, adulterated or treated in an unsafe manner.

Hon. R. A. Best — Unsafely.

Hon. M. T. LUCKINS — Unsafely; thank you very much.

Hon. R. A. Best — Not adulterated, but unsafe food.

Hon. M. T. LUCKINS — Unsafe food; thank you very much. I was very interested to note in the departmental briefing that there is no requirement that individuals preparing food in commercial settings wear gloves. Since 1997 I have noted that at most restaurants and sandwich shops I frequent the individuals preparing the food behind the counters wear gloves. It gives you some peace of mind — until you see them taking money with the gloved hand with which they are about

to prepare your sandwich. But under the act and regulations as they stand wearing gloves is not a requirement — and that is not enhanced by this bill.

Making an employer responsible for the acts of employees will encourage due diligence and a commitment by proprietors of food businesses — from small businesses to corporations.

Proposed section 56 deals with protection against liability and provides for a council to be liable for an act or omission by an employee, which is only fair and just. It is important, because it will encourage councils to properly train and monitor their environmental health and other officers who conduct inspections and audits of food premises within their council areas. That will ensure that, even if an employee makes a mistake, the council — and not the employee — will be ultimately liable.

In closing I repeat that the Liberal Party supports the bill but, as I have outlined, has a number of concerns with some aspects. It could certainly be enhanced and made somewhat clearer. I commend the Department of Human Services for its commitment to ensure that so far as practicable food in Victoria is safe and that consumers are protected from the paddock to the plate. I have always been very impressed by the individuals employed in the sections of the department — —

Hon. R. A. Best — You are not going to do a Justin Madden, are you?

Hon. M. T. LUCKINS — No; there is no camera rolling. It was not coincidental that during question time today all the ministers thanked their staff when being filmed for a departmental staff video.

I have always been impressed by the professionalism and commitment of individuals in the Department of Human Services, whom we often hear of at times of distress, such as when there is a major outbreak of salmonella or listeria poisoning. I commend them for their efforts. I also commend them for their professionalism and care in drafting regulations in this area. The Scrutiny of Acts and Regulations Committee, of which I am a member, assesses all new regulations. The committee has always found this division of the department to be extremely cooperative and to provide all the information needed. On that note I commend the bill to the house.

Hon. R. A. BEST (North Western) — I congratulate the Honourable Maree Luckins on her extensive contribution on the Food (Amendment) Bill and advise that the National Party will not oppose it. Victoria has been at the forefront of addressing issues associated with the food industry since the early 1980s, particularly in the areas of food handling and the preparation, serving and selling of food. Some honourable members would be aware that before entering Parliament I was a joint owner of a butcher shop. Together with a few friends I started a fresh salad processing business and owned a wholesale food distribution company covering the whole of north central Victoria. My association with the food industry goes back a long time.

As the owner and operator of a wholesale food company I am aware of the issues associated with the storage, preparation and transport of food. One of the things that annoyed me most of all was the cavalier way in which those I will refer to as backyarders competed against me, entered the food industry and distributed their food.

Sometimes food was distributed from unrefrigerated vans and sometimes from the boots of cars. Regardless of whether the product was fresh chicken, fish or seafood or was delivered to restaurants, cafes, or hospitals it was always a source of annoyance that while I was required — and willingly undertook — to provide the best equipment, to have refrigeration at the right temperature, and to have a storage facility appropriate for the conditions in which the food should be stored, many backyarders were able to get away with undermining the food industry with their food-handling practices.

Hon. W. R. Baxter — Is that why from time to time I got a crook oyster?

Hon. R. A. BEST — It may very well be why you received a crook oyster from time to time!

Sometimes people are unaware how fragile food handling is and the importance of handling food correctly. For instance, the temperature variance of seafood — particularly prawns, oysters and crayfish — can have a detrimental effect on the purchaser and particularly the consumer of such food.

In 1992 the former coalition government established Food Victoria. My parliamentary colleague the Honourable Barry Steggall, the National Party member for Swan Hill in another place, brought together all the players in the food industry to maximise Victoria's potential. Unquestionably the bill we are debating today, the bill introduced in 1997 and the amendments made in 1999 are a product of the work undertaken by Barry Steggall. I congratulate him not only on the work he did within the industry to bring the players together, but also on his work in driving changes to the water

industry and in helping the horticultural industry maximise its export potential.

One of the benefits enjoyed by Victorians and Australians is the country's image as a clean, green producer. A couple of years ago, as a member of the Public Accounts and Estimates Subcommittee, I accompanied the Honourables Theo Theophanous and Neil Lucas on a trip overseas to investigate the environmental accounting and reporting associated with the food industry. The subcommittee examined the accounting in dollar terms of environmental impacts in the annual reports of companies in the United Kingdom and Europe. The environmental problems encountered by the food industries in those countries is one of the reasons I have often said that Australia's isolation as an island continent protects it from many diseases inherent in other countries. That is one of the important things we enjoy.

It is important to recognise that we cannot afford to let our guard down. The quality of inspection and food handling and quality assurance programs must be maintained so that Australia continues to enjoy the increased export income from many of its horticultural and agricultural producers.

It is interesting to note that when travelling overseas Australians have their eyes opened by the way many street vendors sell food. It is not difficult to understand why we end up with Bali belly, or why in India so many of our cricketing tourists end up quite ill.

Hon. Kaye Darveniza — Is that why our cricketers take their baked beans with them?

Hon. R. A. BEST — Ms Darveniza, I think you follow me. I do not need help.

Hon. Kaye Darveniza — I like to help.

Hon. R. A. BEST — That is the trouble; I know you like to help me.

When one sees the conditions in which food is prepared and sold overseas it is understandable that many people prefer to stick to some of the more traditional hotels and motels to ensure they do not come down with illnesses.

On the other hand, tourists visiting Australia are amazed at the quality of our food, the standard of restaurant food and particularly the standard of food served in hotels and cafes. I recently met a tourist who could not get over the prices paid here compared with those at home. Given all the problems occurring overseas, food safety is now the biggest issue in the food industry throughout the world.

Although I do not want to go over the history of the bill, it evolved in 1992–93 when many of the old prescriptive food regulations were running out. Many archaic standards were completely impractical to enforce. The then government identified a need for legislation that reflected a food safety regime that could be understood by all Victorians to limit the incidence of food poisoning. That applied not only to commercial operators, but also to private householders.

Between 1993 and 1997 the Victorian government operated under the regulations of the Food Act 1984 which stated that it was against the law to sell adulterated food. While that was a small section of the act, it was the foundation on which to move forward. After working with the National Food Authority and then the Australian and New Zealand Food Authority, Victoria convinced the other states that it was appropriate to work with the commonwealth to create Australian food standards.

Most honourable members are aware that the Australian food industry is diverse. In times past a whole range of different standards operated across different states. A number of manufacturers and people in the food industry had operations in other states and they had difficulty complying with the differing food standards. As outlined by the Honourable Maree Luckins, it was not until a series of food poisoning outbreaks in Victoria — which was driving the legislation and had convinced the other states to participate — that this state decided it was time to go it alone. It could not wait for the other states and the commonwealth, through negotiation, to complete the model bill we are debating today. Victoria decided it needed to pursue its own legislation and to phase it in over four or five years. That is when the 1999 amendments were made to the Food Act.

It is particularly interesting to compare the stance taken in 1999 by the then shadow Minister for Health, who unashamedly went on a scaremongering campaign, with his presentation of this food bill today. The Honourable John Thwaites, in his capacity as shadow Minister for Health, tried to scare the pants off the whole of Victoria over those 1999 amendments. He cast aspersions on the school barbecue, small shops, the new enforcement role of local environmental officers and said costs would increase. Surprise, surprise! Today the model bill being debated, which was created through the Council of Australian Governments and the food safety programs, is basically the same as the bill introduced in 1997 and amended in 1999.

While it is opportunistic for honourable members in opposition to make political point scoring a highlight of

their parliamentary contributions, the bill is important to Victoria. As the National Party health spokesman I do not suggest there are elements of the bill that will be detrimental to the whole community. This is an important bill for Victoria and Australia. The food safety plans that were part of the legislation we put in place in 1997 remain part of the model bill. It is important that the government acknowledge that as the National Party spokesman in this house I am prepared to support its model bill. I believe it is the way we should go in the future.

The bill will give effect to the model food bill endorsed by the Council of Australian Governments in 2000. It will make changes to food safety program requirements and improve the enforcement provisions of the act.

Victoria has led the way in food safety, and the bill simply replaces what was fundamentally the 1997 bill with some amendments. The introduction of the template food safety plans, which will be known as the standard food safety plans, is acceptable to the National Party.

The bill replaces third-party auditing with local government monitoring of the standards of food safety plans; that raises an interesting point which I will come to in a moment.

The enforcement provisions will make councils more liable under the Food Act. It seems that enforcement will be weakened by the introduction of monitoring of standards of food safety plans and council liability. It is interesting that in 1997, local government — whipped up by the media and the opposition — was complaining about the cost of changes to the legislation and the extra workload that was going to apply. What do we hear now? Not a whimper from local government and not a word from the Municipal Association of Victoria or from anybody! Local government now has to accept more liability, and greater accountability will be applied to its environmental health officers.

Finally, I will refer to the important provisions relating to packing sheds. In the other house my colleague Mr Barry Steggall, the honourable member for Swan Hill, raised with the Minister for Health the issue of the relationship that packing sheds now have with supermarkets and the fact that some of those packing sheds sell directly to supermarkets. On 19 April Mr Steggall wrote to Fred Siciliano, firstly passing on his condolences on the recent death of Mr Siciliano's father and then going on to say — and this is important:

> This note is just to inform you that I researched your concerns about the requirement under the Food Act 1984 for your premises to be registered. I had hoped that the Food (Amendment) Bill 2001 which is soon to come before the Parliament, might have rectified the situation you are in, but unfortunately it does not.
>
> However, there is light at the end of the tunnel. In the extract from the minister's second-reading speech which I quote below, he explains that it is the government's intention for the future, to recommend an exemption for packing sheds …

The letter goes on to quote from the second-reading speech:

> The definition of 'primary food production' includes the packing, treating or storing of food on the premises where that food is grown, raised, cultivated, picked, harvested, collected or caught.
>
> However, the effect is that packing sheds which store food produced or grown on other premises fall within the definition of a registrable premises.
>
> It is intended that this limitation be examined with a view to recommending an exemption from registration for these packing sheds. It is not intended that this exemption extend to those premises where food is processed or offered for retail sale.

Mr Steggall went on to say:

> I will be raising this matter in the Parliament next week and will keep you informed of any progress.

I have picked the government up on this issue previously, and I am delighted to say that the Minister for Health and Mr Steggall had a conversation after the debate and that Mr Steggall provided a briefing note to the minister that stated:

> As discussed with you following the debate on the Food (Amendment) Bill, I recommend that you advise the secretary to exempt from the requirement to have a food safety plan, all packing sheds which utilise a recognised, audited QA food program and which do not sell food direct to the public.

I am delighted to say that the second-reading speech has been changed between the two houses, and that the new second-reading speech read in this house reflects the changes that have been made.

I have previously picked the government up when amendments to bills have been made between houses and changes have not been made to the second-reading speeches, so I congratulate the government, first of all, on being aware of the special needs and the quality assurance programs associated with packing sheds, and secondly on accepting the suggestion made by my colleague the honourable member for Swan Hill in the other place that changes be made to the second-reading speech in this house to reflect the government's intent.

I will not read the second-reading speech from the other house but I will read part of the second-reading speech

made in this house which is relevant to this aspect of the bill. It says:

> The bill introduces a definition of 'primary food production' and excludes primary food production from the definition of 'food business' and the requirement to be registered. This means that premises on which primary food production takes place will not be required to register under Victoria's legislation.

That passage reflects the issue of quality assurance programs being recognised by local government as qualified food safety plans. I welcome that commonsense approach taken by the government and the acceptance by the minister of the suggestion made by the National Party about packing sheds.

Finally, as I have said previously, Australia and Victoria enjoy an image as clean green producers of food. It is important that the handling, serving and preparation of food is done in a way that ensures that consumers are safe and that the incidence of food poisoning is reduced to a minimum. We will never entirely remove outbreaks of food poisoning from within our community, but we need to establish a regime and a set of rules that people understand and can comply with.

Everybody now knows the rules. Victoria is leading the way, and the rest of Australia is required to have the legislation in place by November. I congratulate all those who have worked on the preparation of this appropriate model bill. On behalf of the National Party, I wish it a speedy passage through the house.

Sitting suspended 6.28 p.m. until 8.03 p.m.

Hon. G. D. ROMANES (Melbourne) — The Food (Amendment) Bill is important because it deals with the safe handling of food, which is critically important for both consumers and the food industry in this state. I remember vividly sitting in the Moreland council chamber as a councillor back in 1997 considering the implementation of the then Kennett government's amendments to the Food Act. The intentions of that bill were worthy, but the 1997 amendments had enormous implications for thousands of food businesses that were required to develop food safety programs within a very tight time frame. It had enormous implications for the cost to business and it had enormous implications in terms of workload and resources for municipal councils. It was my assessment at the time that the bill's objectives were unrealistic and impossible to achieve because they represented an herculean task. In fact, time has proved that to be the case.

Although the 1997 amendments have been implemented for class A premises — that is, premises or vehicles supplying food to vulnerable groups, such as aged care and children's facilities — and class B1 premises — that is, high-risk food producers with more than 20 employees — both the previous and the current governments have deferred implementation of the 1997 provisions for many small businesses. The reason is that what the 1997 amendments set out to achieve was too costly and too complicated and reflected a lack of consultation at the time with many of the stakeholders, particularly local government.

In the second half of last year the Bracks Labor government undertook consultations with various interested groups and stakeholders and reviewed the way the act was operating. After those consultations a number of key recommendations were made to improve the operation of the Food Act. They specifically seek to address concerns about the burdens on business created by the current legislation and also to incorporate the core components of the national model food bill to facilitate national consistency on food regulation. Last year, through an intergovernmental agreement, the Council of Australian Governments approved national standards of food regulation, and Victoria was part of that process.

A key feature of the bill relates to the food safety programs that were introduced in 1997. Such programs identify hazards, monitor controls to address those hazards, deal with corrective action, put in place regular reviews and provide for keeping of the appropriate records of actions taken to protect the community through food safety provisions. Except in the case of declared high-risk businesses, under this bill it will be possible to deal with food safety programs in two different ways: businesses can elect to use either an independently developed and audited food safety program or a food safety program developed from a template and checked by local government on a regular basis, particularly during an annual registration inspection.

Another important feature of the bill is that it removes the requirement for municipal councils to assess or approve an independently developed food safety program. However, it also provides for an enhanced inspection role for local government. This means that environmental health officers at municipal councils will spend less time sitting at their desks assessing food safety programs and more time on the ground, at the premises of food businesses, inspecting the elected food safety program and assessing whether it is suitable for that business and to what degree there is adherence to the processes involved in that program.

A further key feature of the bill is that it provides for consistency with the national model food bill on issues such as definitions, offences, emergency procedures and penalties.

Penalties contained in the bill are generally higher than those currently in place. They reflect how seriously Australian governments at the national and state levels take the need to protect consumers and an industry worth billions of dollars to the Victorian and Australian economies.

As I mentioned earlier, the Food (Amendment) Bill has new definitions that will be consistent in legislation with other jurisdictions. For example, the definition of 'premises' picks up the point made by the Honourable Maree Luckins and it includes vehicles that sell food. The definition applies to persons who sell or handle foods for sale. It includes any person who handles food during transport. It does not include food transport vehicles and as a result it is not necessary to register food transport vehicles, but it will continue to be necessary to register vehicles from which food such as hot dogs or ice-cream is sold. They will be required to have food safety programs. A person who transports food that is to be sold will be guilty of an offence if he or she damages or mishandles food. Meat trucks are covered by the Meat Industry Act.

Proposed section 4B inserted by clause 5 covers the meaning of 'food business'. It includes charitable and community activities as well as commercial enterprises. This is nothing new, because community activities were caught in the provisions relating to selling food in the principal act. Proposed section 4B is consistent with the standards agreed on in the intergovernmental agreement.

The bill removes the requirement for each food premises to nominate food safety instructors. The original concept of train the trainer has proved too onerous to be effective. The bill provides that food premises nominate an appropriately skilled person as a food safety supervisor and that those people nominated as food safety supervisors meet competency standards developed by the National Food Industry Training Council. However, it is intended that currently registered food businesses be exempted from the requirement for a formally trained food supervisor for the next five years.

The bill contains many important provisions. It seeks to improve the current food regulatory system. It follows the intergovernmental agreement in spirit, which introduces a consultative and inclusive model where local government, industry, consumers and a whole-of-government approach is provided in the development of food standards and policy.

As previous speakers have said, this is an important area. Foodborne illnesses broke out in Springvale in 1997 and such disasters that have occurred in the community require this ongoing development of and adherence to standards and policy.

The emphasis in the intergovernmental agreement on consultation and building an inclusive model is a reminder of what happened in 1997 when the Kennett government attempted to shift costs and an enormous responsibility on to local government without adequate consultation. It reminds us that we must work closely with local government — the level of government responsible for the implementation and following up of the provisions of the act.

The Municipal Association of Victoria and many other bodies support the bill. It is committed to a partnership with the state government to make sure there is an effective and efficient food regulatory system. A pilot group of councils is modelling the fees system and looking at the cost and requirements of resourcing the system. The results of that modelling will be available soon.

The development of a more effective food safety system that will work at all levels of government — local, state and federal — to improve food regulation to make sure we keep our community safe and protect the future of our vitally important food industry in this state and country is an important step forward. I commend the bill to the house.

Hon. J. W. G. ROSS (Higinbotham) — The opposition supports the Food (Amendment) Bill. Victorian governments have been in the business of regulating food since the 19th century. The process of food control has continuously improved as has the evolution of the legislative framework on which food standards are based. However, the watershed legislation in this state recently was the Food Act, which is the principal act this bill seeks to amend. It set the scene for all subsequent advances. Its principal objective was to ensure that food manufactured in Victoria was safe for human consumption.

Honourable members may recall a number of serious episodes of foodborne diseases that have demonstrated there is a lot of room for improvement. I need do no more than remind the house of the outbreaks of food poisoning a number of years ago — for example, the pork rolls in Springvale that gave more than 500 people salmonella poisoning. In the same year 30 people fell

ill and 13 were hospitalised after eating chicken curry at the Indonesian food festival. The enormous public health significance of foodborne disease is shown by the fact that food poisoning contributes to up to 2 million cases of illness across Australia each year and as a consequence generates costs that run into the millions of dollars in health care, loss of income and productivity. As an important exporting nation of pure food products the legislation has clear implications for Australia's reputation as a source of high quality food for export from a clean and green environment. The bill is another step along the long road that has been unwinding in Victoria. The previous government set the ball rolling with the Food (Amendment) Bill debated in this house on 2 December 1997.

This bill is to some extent a response to that legislation. It is designed to correct some of the practical issues highlighted by local government and environmental health officers. To some extent the bill responds to the practical concerns that were apparent to professional people working in the field as the legislation was implemented. The bill also pushes out the implementation schedule on the basis of practicality as the Minister for Health sees it.

The bill has evolved from an official Australian government working group that was established and given the task of developing a national whole-of-government approach to food safety in Australia. That groundbreaking work formed the foundation of this bill that was first developed and trialled in Victoria. It was the first legislation to implement the so-called hazard analysis at critical control points, or HACCP, and introduced a genuinely scientific process in the safe preparation and sale of food products. That trial, which occurred virtually only in Victoria, put the state at the cutting edge of food standards in Australia.

In implementing a national model the bill is simply a further step in a process of refinement that has been working for the best part of a decade in this state. The overall process includes registration of food premises, assigning specific roles and obligations to local government, providing the necessary powers to enforce the provisions of legislation for local government environmental health officers and making provision for the punishment of individuals who transgress their legal obligations.

Since 1997 it has been reassuring to see the alacrity with which local councils have picked up the new concept of a more formal and scientific process of quality assurance for food. I have seen this at the local government level, and I make particular reference to the City of Glen Eira, which has been proactive in developing a system of guaranteeing safe food for its residents. Early on it implemented a five-star system of accreditation, which is displayed in restaurants and food premises throughout the municipality and which has been a real boon in safe food preparation and quality assurance.

Not wanting to be too parochial, I shall return to the more general question of what this bill attempts to achieve. It seeks to amend the principal act in three ways. Firstly, it picks up the main provisions of the model food bill developed under the auspices of the Council of Australian Governments (COAG) and drafted by the Australian health working group. Secondly, it makes provision for the development of template food safety programs, and the registration of such templates. This removes the previous obligation on proprietors to have their food safety programs audited by independent auditors, which has proved in practice to be a fairly cumbersome process. Thirdly, it makes specific provisions with respect to registration procedures and makes local government the relevant registration authority.

The bill is also pointed in respect of the provision of emergency powers to the Secretary of the Department of Human Services. The nature of food poisoning in particular is such that it often arises without warning. People fall ill in quick succession and hospital emergency services can become quickly clogged. We saw that practically demonstrated at the time of the Springvale food poisoning outbreak when the Monash Medical Centre had great difficulty in dealing with the workload of emergency cases. By any measure there is a need for health authorities to have the capacity for a prompt response in such serious circumstances. For that reason the bill provides the Secretary to the Department of Human Services with wide-ranging emergency powers, such as powers to recall contaminated food and to publicise a presumption that certain brands of food or certain food preparations are unsafe.

Such emergency powers can sometimes be based on incorrect advice and have the capacity to inflict severe commercial consequences on particular corporations or products. I am pleased to say that these emergency powers have been tempered by providing an avenue for claims for compensation to be heard in a Magistrates Court or the Supreme Court, as the case warrants. If the secretary, on the basis of advice provided to him or her, misappraises a particular situation there is an opportunity for compensation to be made available to the aggrieved individuals.

I make the point in considering this bill that to some extent there is a gulf between the black-letter law and the practicalities involved in the implementation of the programs. Honourable members may be aware that my first entry into the health area was as an environmental health officer. I quickly learnt of that often huge gulf between the law in its written form — what it attempted to achieve — and what could be achieved in a practical way. I will use some of the time available this evening to examine a few examples of such issues.

The first is the written food safety program. Clause 12 provides that every food premises must have a written food safety program that systematically examines potential hazards that might reasonably be expected to occur in each food-handling operation, and goes on to make provision for the definition of good food-handling templates. For that process to translate rapidly into actual practice it is important for the secretary to move quickly to register food safety program templates. It is extremely important that these templates are registered and released immediately in order to maintain the momentum and intent of this legislation. Unless this is done there will be a rapid loss of interest in the implementation of the national program.

I also make the point in passing that the frequency of independent audits for proprietors who choose to create their own food safety programs should also be specified by the state government. I again refer to the resource implications of environmental health officers and other officers in local government being able to take to their councils, their political masters if you like, a careful costing of the resource implications in implementing this legislation. Unless there are clear guidelines for the frequency of independent audits specified by the state government the whole process becomes subjective and will be liable to falter. I shall refer to that issue later. Suffice it to say now that unless proprietors of premises where food is prepared and the relevant registration authorities know exactly where they stand and what is expected of them it is extremely difficult for field officers to implement an acceptable food inspection regime.

Clauses 14, 15 and 16 relate to the appointment of food safety supervisors and place an obligation on local councils to assess food safety competency standards. Once again a practical issue arises — that is, exactly what criteria should be applied in assessing the competency of food safety supervisors. Often it is extremely difficult for environmental health officers in particular to assess the competency of such supervisors without some form of objective criteria being available. The simplest way of moving towards establishing such objective criteria would be to have more mandatory training requirements prescribed by the government and to make training facilities available.

The next point I mention briefly is prosecution. The opposition is very pleased with the seriousness with which the government views the need to ensure that the provisions of the bill are observed and that it has specified a number of offences such as selling food which is unsafe, falsely describing food, and other forms of deceptive conduct that in many ways impinge on fair trading issues to ensure that products offered for sale are what they purport to be. Those provisions of the bill are welcome and reflect the seriousness with which the government and the opposition regard food safety issues.

I also refer to the very large penalties that the bill provides. The bill increases penalties for individuals to $100 000 and for corporations to $500 000. These penalties apply to indictable offences such as handling food in a way that the person knows will render it unsuitable for human consumption, selling food that is unsafe, and falsely describing food known to be unsafe. The bill also provides for a number of less serious summary offences. Nevertheless substantial appropriate penalties still apply, such as $40 000 for individuals and $200 000 for corporations.

However, one of the problems to environmental health officers in particular has been the enforcement of health legislation and the complicated issue of statutory provisions for defence. Another of the great challenges to environmental health officers when they detect breaches of legislation has been the difficulty of securing convictions. The relatively low number of convictions, as seen from the Department of Human Services and local government statistics, reveals that environmental health officers are much more likely to pursue a process of education and facilitation of the development of safe food-handling processes rather than resorting to the courts. In most cases that is an appropriate way to proceed, and I make no criticism of environmental health officers who seek to gain improvement of food-handling practices through a process of education, facilitation and training.

Nevertheless there are always intransigent individuals who take comfort from the fact that it is often very difficult to secure a conviction. Over the years many prosecutions have failed on the basis of operators being readily able to resort to the defence of having taken reasonable precautions to prevent whatever incident they might have been accused of.

The concept introduced by proposed section 8 of the defence of due diligence does not do a great deal to

alleviate that problem. Once again, that provision will be found to militate against many successful prosecutions and will do little to strengthen the hands of prosecuting officers. Suffice to say that it does not matter how heavy the penalty, if there is some severe impediment to the securing of a conviction it is all for nothing.

The bill also provides for the regular review of food safety programs. Once again, the bill is very short on detail — that is, on how often such reviews should take place. One would imagine that at least an annual review would be necessary. Again, the practical and resourcing implications cannot be quantified unless the legislation specifies how often reviews of safety programs should occur. It is difficult for local government officers to convey to their political masters what resources are required for the implementation of a program if it is all based on a subjective foundation. Once again, an unnecessary burden of judgment is inflicted on local government in general and environmental health officers in particular.

The same question could be asked about the regular reviews of food safety programs by proprietors. Again, so far as practicable the requirements should have been specified in the legislation.

The proposed implementation of the measure on 2 January 2002 will present some practical difficulties. I recognise that Victoria has been in the vanguard of addressing food safety issues. We are the first jurisdiction that has acted to implement the model act. All other jurisdictions across Australia are obliged under the COAG agreement to enact the legislation by November. I accept that the obvious intention of government is to fully implement the provisions of the bill first up next year. However, the practical difficulties that will devolve upon local government have been grossly underestimated. It is simply not reasonable to expect all local councils to approve food safety programs on such a tight time schedule, especially for problem operators operating in problem premises. To some extent that has occurred because of the slippage that has been allowed to happen during the past 18 months of Labor government.

As I said, the opposition recognises that the intent of the bill is to implement the provisions of the model food safety bill agreed to by COAG and that all jurisdictions in Australia have agreed to implement the template legislation by November. We also recognise that Victoria has been the main driving force, firstly, in virtually conceptualising and trialling what has now become national template legislation. We recognise that the legislation has hardly progressed at all in other jurisdictions. On this side of the house we are pleased to see that the government has continued the groundbreaking work begun by the previous government.

However, in supporting the bill, it would be irresponsible for the opposition not to recognise or to trivialise the practical problems that may be associated with making the bill work in the real world.

I wish local government in general and environmental health officers in particular well in turning this black-letter law into a practical program and making a real contribution to improving public health for all Victorians. I am pleased to support the bill and wish the government well in its endeavours.

Hon. KAYE DARVENIZA (Melbourne West) — I am pleased to have the opportunity to speak on the bill, which has the support of Liberal and National Party members in this house. The bill delivers yet again another promise and commitment made by the Bracks Labor government during the last election campaign, and that promise was to amend the Food Act to ensure Victoria's food legislation is both workable and enforceable. The government intends to maintain and protect the viability and reputation of Victoria's food industry and at the same time ensure that Victorians can enjoy safe food.

There are a large number of market gardens in my electorate in Werribee. Although those primary producers will not be directly affected by the bill they certainly have a very real and active interest in how their produce will be handled and marketed during the various processes it follows from the time it is grown to the time it is consumed.

I grew up in Shepparton, and no doubt some of my colleagues from the National Party who represent the area are aware of the large canneries that preserve the fruit that is grown in the region. Shepparton is a very productive area and a great deal of the produce is exported. I know those honourable members will also have a very real interest in the bill.

I am a member of the Economic Development Committee, which has a reference to look at export opportunities for agricultural products in Victoria. Preliminary work has been done and discussions have been held with a range of producers and handlers of food, from the primary stages through to tertiary stages. I know that they too, right across Victoria, have a very real interest in the passage of the bill and the protection and safety it affords food handling.

The purpose of the bill is to amend the Food Act and to give effect to the national model food bill and the provisions of the food safety programs. Previous speakers have gone into some detail on those points, and I will provide a brief background. The previous government amended the Food Act in 1997, and those amendments have been too costly and too complicated for many Victorian businesses. Both the previous and the current governments have deferred the implementation of many of those provisions to small business. However, in November 2000 the Council of Australian Governments agreed to a number of national initiatives on food safety under an intergovernmental agreement. The previous speaker went into some detail on that. One of the initiatives agreed to was the implementation of a model food bill within 12 months of signing that agreement.

In December 2000 the Bracks Labor cabinet approved in principle amending the Food Act in response to the industry and community concerns and to incorporate the necessary components of the model food bill. Victoria is the first state to implement these changes in line with the agreement. Again, Victoria is setting the trend.

Consultation was a very important part of putting the bill together, and an extensive process was gone through prior to the bill's introduction in the house. Because of the level of industry and community concern over previous reforms, the bill was prepared as a draft proposal that went to industry bodies, local government and professional organisations for their consideration. Over the past year as part of the extensive consultation process food businesses — including manufacturers, retailers and services — training institutions, community groups and organisations, local government and food industry professionals were asked about their concerns with the existing food legislation. I am pleased to inform the house that the food industry and local government have very much welcomed the proposed amendments and expressed their support for the bill.

I turn to the bill, and firstly to the model food bill provisions that are dealt with from clauses 4 to 9 and again from clauses 21 to 34. Amendments in the bill give effect to provisions of the model food bill, which aim to provide a nationally uniform approach to food regulation and to reduce the regulatory burden on the food sector. The amendments address the model food bill provisions on definition, offences, penalties and emergency powers.

The bill adopts definitions in clauses 4 and 5 that will provide clarity and consistency across the food industry and across the nation. Clause 8 deals with offences, defences and penalties, which are a critical part of a consistent framework under which the food industry can operate. The bill outlines those uniform provisions so that a prosecution can be pursued if necessary.

The bill also develops a hierarchy of offences and sets penalties to fit them. It provides an opportunity to deal appropriately with offences ranging from serious breaches, which could place public safety at significant risk, to minor breaches of a more technical nature.

Clause 27 sets out provisions modelled on those in Victorian legislation. They allow the secretary to enforce action in response to a threat to public health and safety. Once again, previous speakers, including the Honourable Glenyys Romanes, have spoken at some length about that provision, so I will not go to it in detail.

Clauses 11 to 17 deal with amendments to the food safety program requirements of Victorian legislation. Those amendments are aimed at making Victoria's food regulatory system more workable and affordable, as well as effective. Clause 11 removes the requirement for local government to assess the adequacy of food safety programs. Again that provision has been dealt with by reference to the burden that rests on local government in that area. The change addresses a range of concerns raised by a number of councils over a long period. Those concerns go to workload and liability issues that have been created by previous provisions.

Clause 12 introduces the concept of a template, which is a set of guidelines and advice on food safety procedures that should be applied to a specific type of food business to enable the proprietor and owner of the business to develop a standard of food safety programs.

The template will identify a range of food-handling activities that may be present in a particular type of business and will set out the food safety process that should be followed by that business to reduce the risk of having unsafe or unsuitable food. In essence, the template provides a much simpler and more cost-effective way for a business proprietor to develop a food safety program for the enterprise.

Clause 15 changes the requirement for a proprietor to nominate a food safety instructor to a requirement that a proprietor nominate a food safety supervisor. The amendment will ensure that there is on each premises a person who has supervisory authority and a range of skills in and knowledge of the hazards that exist and the safe food-handling practices that are appropriate for the particular business.

Clause 17 provides for the removal for many businesses of the cost of a third-party audit. It provides the ability for local government to check that a business is using a template to develop its food safety program and is complying with that program, rather than the proprietor having to use a third party to conduct the audit. The amendments provide a much simpler and more cost-effective framework for management to work under, and importantly, it does not compromise food handling or food safety in any way.

Those are some of the main features of the bill. In conclusion, it is a very good bill. It will make Victoria's regulatory system workable, affordable and effective, will keep our community much safer and will ensure that our food industry maintains its very high standards and is highly regarded, both here and overseas. I commend the bill to the house.

Hon. E. J. POWELL (North Eastern) — I am happy to speak on the Food (Amendment) Bill and to put on record that the National Party will not oppose it.

In her presentation the Honourable Kaye Darveniza stated that not just in my electorate of Shepparton but across the north-east there are many food processing and packaging companies. This bill will strengthen some of those areas.

The bill makes only minor changes to the legislation brought in by the former government in 1997. It amends the Food Act to implement the model food bill agreed to by the Council of Australian Governments on 3 November 2000 and apply national food safety standards.

In 1997 the Kennett coalition government amended the principal act — the Food Act 1984 — to require the proprietor of a food premises or food vehicle registered in Victoria to prepare and lodge a food safety program with the local council when applying for registration or the renewal of registration of such premises or vehicle. There was a requirement that the food safety program be audited by a third party and that each registered food premises nominate a food safety instructor. That was the model food bill introduced back in 1997, and it was always going to evolve over time. It has now been amended twice — in 1999 and again now.

As honourable members who were around at the time will remember, the reason for the introduction of the legislation was the outbreaks in Victoria of food poisoning — the salmonella outbreaks involving Garibaldi metwurst, Kraft peanut butter, Wallis Lake oysters, Lago ham and corned beef and the World Hot Bread pork rolls. The 1997 legislation was introduced because the community needed to have confidence when buying and eating food in Victoria. It was a model bill — the only one in Australia — and there was always an understanding that it would evolve over years. This evening it is being amended again.

Among the areas we look at when considering food poisoning are supermarkets, cafes and restaurants, but it is interesting to note that 25 per cent of such poisoning happens in the home. Our food laws and safety programs have been changing the culture of food handling, not just in cafes, restaurants and supermarkets but also in our homes. In April 1997 before introducing the model bill, the former Kennett government launched its food hygiene strategy to provide a framework to ensure that all food grown, processed, manufactured, prepared and sold in Victoria was as safe as it could possibly be. Some of the issues that arose then are still issues now: to maximise consumer knowledge of safe food-handling practices, particularly with raw food; to ensure confidence in the Victorian food supply; to minimise contamination of food and cases of foodborne and waterborne disease; and to locate the source of any failures in the system as quickly as possible and minimise the number of people affected. The 1997 legislation went a long way to addressing all those things and certainly alerted the public to the risks of contamination by foodborne or waterborne food diseases.

After enacting the 1997 legislation the former government introduced an extensive education program, not just for the food industry but for consumers and members of the public. During my research I went to a number of web sites and picked out some of the education programs that were put out in 1997. A number of very accessible pamphlets issued by the Department of Human Services under the banner of Food Safety Victoria referred to packing and serving prepared food, thawing food in the home, and preparing and handling food.

Now when we go into cafes in particular we see that all the food handlers wear gloves. I think most people comply with those regulations. One pamphlet states that gloves should be changed at least every hour, and only clean, disposable gloves should be used. Gloves should be changed when switching between raw and ready-to-eat foods and when changing jobs or if the gloves become contaminated or tear. That shows the importance of going forward and introducing regulations so that when buying, serving or eating food Victorians will feel confident that the food is not contaminated in any way.

It is interesting to see people who are working in cafes for the first time who have obviously been told to handle the food with the hand with the glove and to handle the money with the hand without the glove. Obviously when they are very busy they get confused because they put their hand with the glove out to take the money and they have to immediately change it. The culture of handling, preparing and serving food is changing, and I think that has a lot to do with the Department of Human Services, particularly Food Safety Victoria.

During the period following the introduction of the legislation by the former government there were a number of areas from which members of the community were able to get information to ensure they were well up on food-handling issues. There was a free hotline to enable people in the industry to find out what were the regulations and the proper practices to ensure they were doing things properly. There was also a web site. I am pleased about the Labor government's continuation of the education process and congratulate it on that. The campaign continues with a Food Safety Victoria web site which refers to keeping food safe and the Victorian food law and also provides various links. The hotline also gives people who work with food tips on the safe buying, storing and preparing of food and preventing food poisoning, and gives examples of food safety programs. Small businesses can use the web site to modify the templates of similar businesses to suit their own needs. It is good to see that education is still available out there.

As I said, the community knows about food safety, food preparation and food handling. If we go into a cafe where those rules and regulations are not being followed, we can ring the council and advise that some of the safe practices the community has been pushing for are not being adhered to.

Some concern was expressed about the 1997 legislation when it came before the Parliament. As I said, it was a model bill and was always going to evolve over time. A lot of that concern was fuelled, as honourable members heard, by the Labor Party, which wanted to peddle misinformation. It said the legislation was too onerous and went too far. The government of the day was reacting to the food poisoning incidents and was trying to regain people's confidence. Not much confidence is inspired if people think that when they visit Victoria they will get food poisoning. That had to be stamped out quickly.

There was also some concern about the category into which small businesses would be put. I remember one small business, the Wunghnu Nursery, wanted to offer cups of tea and coffee to people as they walked around the nursery. However, it found that its category was one of the highest because it was serving tea and coffee. After speaking to government members of Parliament and looking at the web site, it discovered that if it used packaged sugar rather than open sugar bowls and packaged milk only the person making the tea was handling it so the business entered a lower category where the restrictions were not quite as onerous.

Some small businesses believed they were in a high category. Therefore the registration fees were large, as were some of the regulations and restrictions put on them. The Wunghnu Nursery was one of many small businesses where changes made to the ways it supplied tea and coffee led to a lessening of its status and a change in category.

Local government was also concerned about the legislation. It felt that the 1997 bill placed a greater burden and cost on local government. I believe that it was more in the interpretation of the bill than in the actual bill. The government listened to what local government was saying, and in May 1999 amended section 19C(3), which was interpreted as placing a greater burden on local government than was intended. Section 19C(3) required the council to be satisfied as to the adequacy of the food safety program prior to its registering the food business. Local government believed this placed the burden of the responsibility of the food safety program and its implementation on it rather than the business. That was not the intention. In May 1999 the government removed that section altogether to end the confusion. That made the principal bill much easier for local government to accept.

Local government will be required to ensure that food safety programs comply with the relevant requirements. Because I was in local government for six years as a councillor and commissioner I understand the responsibility of local government as a referral authority. Local government is responsible for a number of regulations in the planning and building industries, and it takes on extra responsibilities.

Environmental health officers visit businesses and monitor food that is not just stored but displayed at the premises and also sold to consumers. Every now and again they test the food that is stored and sold for public consumption. After their investigations they forward to the council any reports on food that is contaminated or unfit for human consumption. Councils make sure the restaurants, cafeterias and food stores that serve their municipalities comply with the regulations so that the public can have confidence that the food sold is totally non-contaminated and is fit for human consumption.

The bill will change the definition of those words. The words 'contaminated' and 'unfit for human consumption' will no longer be used. The bill adopts the terms 'unsafe' and 'unsuitable' food. I do not have a problem with that. It is probably more appropriate to use those words. As I said, the former bill was brought in and a number of changes had to be made. It was always the intention to make those changes. The National Party is happy with those words being replaced.

I was pleased to see that the bill introduces a definition of 'primary food production' but more importantly it excludes primary food production from the definition of 'food business' and therefore the requirement of the business to be registered. The definition of 'primary food production' includes the packing, treating or storing of food on the premises where that food is grown, raised, cultivated, picked, harvested, collected or caught. The exemption is not intended to include premises where food is processed or offered for sale. That is quite appropriate.

Barry Steggall, the honourable member for Swan Hill in the other place, raised the issue of packing sheds with the minister. My electorate contains many packing sheds because it is a huge fruit growing area. An anomaly was raised in the other place. If producers from other fruit growing areas take their fruit to packing sheds not on their premises those sheds might be caught under the act and have to be registered. There has been some discussion with the minister and the minister says he will examine the issue with a view to exempting those sheds from registration. That is good news for our area because many orchards have packing sheds attached to them. They have cool stores and sheds so they have their own pickers and packers and are able to store the food until they sell it to markets or supermarkets.

A huge packing company in Shepparton, Geoffrey Thomson Fruit Packing, provides cool store packing and marketing facilities for apple and pear growers across the region who do not have facilities themselves. It supplies the Sydney and Brisbane markets. It employs 50 permanent staff and in the season 65 seasonal workers.

Food processing in my area is a huge business and I am pleased to see that this part of the bill will help packing shed owners by not requiring them to comply with the onerous conditions of having to register their sheds when they already have a food quality proviso. The standards that apply to their sheds are checked by the local council.

North Eastern Province contains some of the major food processing and packaging companies in Australia. Many honourable members know the sorts of companies I am talking about. They comprise organisations such as Kraft Foods, Campbell's Soups, Heinz, Nestlé, Rosella — two of the largest companies in the southern hemisphere — the largest processing company, SPC Limited, and Ardmona Foods, Cedenco, Simplot, Bonlac, Murray-Goulburn, Snowbrand, Tatura Dairies, Ducats Food Products and Uncle Ben's.

Food processing constitutes nearly 59 per cent of my region's economic output, with 50 per cent of all jobs associated with food processing. More than 25 per cent of Victoria's agricultural output comes from the Shepparton region alone and food-processing industries have invested more than $500 million in infrastructure in the Shepparton irrigation region. It is important that food regulations, food preparation and standards and manufacturing of food are not diluted and weakened.

My electorate is known as the food bowl of Australia. It is known for its clean, green image and it has worked hard to maintain that. The National Party is pleased to support a bill that strengthens food production and safety. It is an important issue for country Victoria and I commend the bill to the house.

Hon. S. M. NGUYEN (Melbourne West) — I support the Food (Amendment) Bill, which is important for the food industry in Victoria. It is the way to promote and give confidence back to the community. That was one of the commitments of the Bracks government during the election. It will help Victoria's food industry.

In September 1999 when Labor was elected to government it wanted to tackle three aspects of the food legislation: the first was to amend the Food Act to ensure that there were enforceable regulations to prevent unsafe food practices that could lead to contamination; the second was to work in partnership with local government and the food industry to ensure food safety; and the third was to encourage culturally appropriate training schemes in the food industry, including accredited technical and further education programs.

I have listened to contributions to the debate by honourable members from both sides. All have supported the bill, which will provide better food in Victoria. We have learnt in the past that there were many problems within the food industry, especially in restaurants and companies that manufacture food. In 1997, in particular, there were problems with bakeries in Springvale that were selling food products that had

not been stored carefully, resulting in many people who ate the food having to go to hospital.

The community reacts strongly to those sorts of events, and as a government we have to do something about them. Firstly, we have to train people working in restaurants or takeaway food outlets about how to handle and store food. Secondly, we have to educate the consumers to choose which shops and restaurants are doing the right things to comply with the law.

We cannot operate a good food safety scheme without working with local councils. They play a very important role in the community, in particular by inspecting restaurants and takeaway food outlets and checking all premises storing food.

When I was a member of the local council one of its major roles was to look after the health of the community. The council had a health inspector whose job it was to grant permits to restaurants and takeaway food outlets. However, local councils need support from the state government in that regard. Health is a statewide issue and it should not be left up to individual councils to have their own regulations and programs. Local government health programs have to be conducted in conjunction with the state government to ensure that all councils are addressing problems in the same way.

I remember that in the old days every council had different standards; some councils would allow certain food practices but other councils were more strict and would not. The state government has to coordinate all the health regulations with local councils to ensure that every council meets the same standards. The government also has to provide educational programs to food shops, restaurants and takeaway food outlets.

Some shops sell hot food, some sell cold food, and some sell both, and they all have to be handled and stored in different ways. The difference in health standards between local councils has been an issue in Victoria. The state government is very keen to ensure that the food in Victoria is clean, safe and fresh.

Because the food industry creates a lot of jobs, Victoria cannot afford to lose it. Many tourists come to Australia and to Victoria in particular, and they want to enjoy our hospitality and our good food and have a good time; they do not want to have to worry about catching diseases from something they ate in Australia. We cannot afford to lose that tourism.

The manufacturing sector of the food industry in Victoria employs about 40 000 people, and Victorian food exports have a value of nearly $5 billion per annum. Our food is not only used for domestic consumption, it is also exported. Given that everyone around the world is scared of contracting foot-and-mouth disease from meat products and that many places cannot produce clean food, Australia is in a position to provide among the best fresh, clean and safe foods in the world.

The government needs to encourage confidence among the local domestic users of our food products, but at the same time it has to encourage the confidence of our potential buyers from oversees. Given the low Australian dollar compared with the American dollar, now is a good time to sell Australian products overseas, which is good for our primary producers as well as our exporters.

The bill is an attempt by the government to tidy up the food regulations and make them more simple, because they have been so complicated in the past. Under the bill, the food safety programs will be more clear and controlled and they will be monitored by local councils.

According to the second-reading speech, the purposes of the model bill are, firstly, to protect public health and safety; secondly, to ensure and enable the provision of adequate information to consumers to enable them to make informed choices about food and to protect them against fraud and deception; thirdly, to enable fair trade and the enhancement of trade and commerce in the food industry; and lastly, to facilitate proactive, accountable and consistent enforcement and administration of the Food Act. They are the key things the government wants to achieve.

We are talking about protecting public health and safety. Members of the public are very important consumers. They want to make sure they get good products for the money they spend. It is very important that consumers have adequate information to enable them to make the right choices about what food to buy and where and from whom to buy it. The government wants consumers to feel confident about what they are buying and it wants the people supplying and selling the food to supply clean and safe products to the community.

The bill enables the consumer to report to the authorities or local government on people who are breaching the law and not complying with the regulations.

Another purpose of the model bill is to enable fair trade and the enhancement of trade and commerce in the food industry. That will enable people to know how to be fair when they are selling and to provide information

and opportunities to the people who want to do business in the industry.

The government wants to ensure the administrative framework exists to enable the coordination and supervision of everything we are talking about in this debate, so that there is authority to carry out the work. This legislation provides a great opportunity for Australia to tidy up regulations and also to return confidence to the community that the Australian product is the best in the world. It also presents an opportunity to market Australian product overseas, where there is a great demand for clean, safe food. We can provide the best.

I believe the food safety programs will be provided to the restaurants and other food businesses, and the municipal councils will have the opportunity to work with the state government to provide the best services to their own communities. Every council will be working together with one standard program rather than — as occurred in the old days — every council having its own health and safety program and the state government undertaking the major role of coordinating local government health services. I support the bill.

Hon. B. W. BISHOP (North Western) — I am delighted to speak tonight on this bill. Coming from the National Party, I welcome the opportunity to talk about food in general. It is interesting to note how Australian food has changed over the years. That is reflected by our immigration policy, and it is a delight when in Melbourne to walk down Lygon Street and enjoy food from all over the world. That is possible not only in Melbourne but in virtually any town in country Australia. Certainly in the electorate that I share with the Honourable Ron Best it is possible to get food from virtually any part of the world, and we are truly blessed with that opportunity.

Country Victoria is where the huge food bowls are, and in the North Western Province we have the lot. I suppose the Honourable Jeanette Powell would say that North Eastern Province has the lot as well, and we would graciously agree with that. Certainly those areas have horticulture, viticulture, pastoral pursuits and dairying, and most of them are great producers of wheat and barley of good quality, the product of which we can all enjoy on a hot day.

There is no doubt that the need for high food quality is supported by all parties in Parliament, and particularly food hygiene. I considered why all that is important. Certainly it is because the health of our communities is extremely important, but it is also important that we realise the investment opportunities available to Victoria. That is done through the food and tourism industries and by ensuring that not only the local Victorian and Australian communities but also the tourists have confidence in the food hygiene processes that the Victorian and Australian governments put in place.

It is important that we add value to that food, retain the profits here and maximise the returns. In fact, the National Party looks at the food industry from the productive sector, right from the paddock to the plate, which is an important way we can manage food hygiene in this state.

When we talk about regulatory systems involved in the food industry we must all understand that food is a big business. My colleague Ron Best gave a snapshot of his past life in running supply areas of food into the central Victorian area. I have collected some figures — I know they are for 1996–97, but they are big — that show the existence of 132 000 food businesses in Australia that in retail terms turn over $52 billion per annum. That is an enormous amount of business.

I dug up some other figures as well. It is estimated that about 11 000 consumers contract some sort of food upset each day, and the estimated cost of that is $2.6 million a year. On the positive side of that, 20 billion meals are served each year in Australia, so only a very small percentage of people in Australia have suffered food-related upsets along the way.

But that does not mean we should not keep improving in Victoria and Australia for the sake of the community's health and to maintain our reputation among visitors. Some figures suggest that if we can reduce foodborne illnesses by 20 per cent we can save $500 million per annum. So food is big business.

Most of us have had the opportunity to travel overseas, and most of us have probably been ill overseas as well. I used to travel a lot in the Middle East years ago when I was with the Australian Wheat Board. I was very lucky, but a couple of times I did get ill, and there is nothing worse than being sick like that when you are away from home. It is our very strong responsibility to ensure the food hygiene in this country is as good as we can make it to enable us to retain our reputation, which is already very good, but which we can make better. I note from doing some research that our major market competitors, such as the United States, Canada, New Zealand and Europe, are all working on safe food systems similar to those we are proposing to put in place in Australia.

I know I have talked a lot about Australia, and I realise this is a Victorian bill, but it is very important that we have a national perspective in relation to food hygiene. I note that it is stated in the second-reading speech that a national approach to food regulation is regarded as very important, and indeed the extensive consultation process that grew from that found that the most effective form of regulation of the industry was at a national level. That is most important.

The bill amends the current act in three ways. It puts in place the core provisions of the national model food bill that was agreed to by the Council of Australian Governments in November last year. It contains a couple of parts. Annex A sets out the nationally agreed definitions, offences and penalties, and also the powers that are available in an emergency, which are the most important we have seen in Australia. It ensures that primary producers are not subject to all the provisions of the Food Act. That in fact clarifies the legal position in a number of areas.

Annex B sets out provisions that can be adopted by each state jurisdiction. The purpose of the model food bill — I think the four points in the second-reading speech bear reading into my contribution to the debate — is to:

> protect public health and safety;
>
> ensure and enable provision of adequate information to consumers to enable them to make informed choices about food and to protect them against fraud and deception;
>
> enable fair trade and the enhancement of trade and commerce in the food industry;
>
> facilitate proactive, accountable and consistent enforcement and administration of the food acts.

They are very good points that we should all strive to achieve. I note — this was also mentioned by my colleagues Ron Best and Jeanette Powell — that our colleague in another place, the honourable member for Swan Hill, Barry Steggall, who is quite an expert on food hygiene and safety, picked up some real concerns relating to packing houses and their lack of flexibility if in fact the intent of the bill as outlined in the second-reading speech that was read in the lower house had been strictly adhered to.

I am happy to report that the issues were addressed while the bill was between here and the other place. I understand that packing shed owners will have the flexibility they obviously require which will be supported by the development of their quality assurance programs developed over many years.

Any bill dealing with food hygiene is important and at times difficult. When these issues were debated in 1997 I can remember the hubbub about charitable organisations or football clubs holding barbecues and their perceived liabilities. As the Honourable Ron Best said they were fired up by the then opposition, particularly the shadow minister for health, now the Minister for Health. I understand nothing has changed. Charitable organisations holding barbecues can apply to the environmental health officers in their municipalities. They are given a guide to the safe handling of food. That has occurred over many years, which is fair enough. They are simple, practical rules to protect the health of the community.

Recently I visited Kerang to look at a local football match. Everyone appreciated the barbecue held on that brisk morning. They had terrific bacon and egg toasted sandwiches. I took particular notice of it and I am sure the community's health was well protected. Country communities and farmers are well aware of food safety because they have had to address the issue through the quality assurance programs they have developed over a number of years across all sectors of agricultural industries.

I have observed over time that the farming community has maintained food hygiene and safety requirements better than most to ensure it meets market demands. It does not matter whether one talks of the domestic or international markets, Victorian and Australian producers are market driven. They have no problem meeting the standards required of them. In fact, their reputation worldwide is extremely high and well recognised, which gives them a break on their competitors in the tough international and difficult domestic markets.

I am pleased at the national approach to food safety and hygiene which will lead to a more practical approach to an important issue. The National Party does not oppose the bill.

Motion agreed to.

Read second time.

Third reading

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

> That this bill be now read a third time.

I thank all honourable members who contributed to the debate. I thank the Liberal and National parties for their support of the legislation.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

RACING AND BETTING ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 20 March; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. I. J. COVER (Geelong) — At the outset I indicate that the Liberal Party will not oppose the Racing and Betting Acts (Amendment) Bill. I have a few remarks to make about the bill. However, before speaking directly to a number of the issues raised, as the shadow minister for racing I take this opportunity, which is the first time this year the house has debated legislation on the racing industry, to pay tribute to two people closely involved with the racing industry who tragically died this year. Both people left a void in the industry. The first racing identity to whom I pay tribute is the young jockey Andrew Gilbert, who was killed when thrown from his mount El Banko at a race meeting in Benalla on 25 February. Andrew was just 19 years of age and had ridden only 25 races in his short career. His death brought to everyone's attention the dangers that confront jockeys daily as they pursue their careers and play their part in the vibrant racing industry in Victoria.

Andrew Gilbert had ridden El Banko, which was tipped to win the race at Benalla in February, to fourth place in Traralgon, just two weeks earlier. The accident shocked the racing community and there was a great deal of sadness and mourning surrounding the loss of this most talented apprentice. Apart from his skills as a jockey he showed talents in other sports such as motocross riding and junior cricket and football with Somerville. He had developed a keen interest in boxing. Legislation about that sport will come before this house shortly and I will not pre-empt that debate. I extend my sympathies to Andrew Gilbert's family and to all the people who worked with and knew him in the racing industry.

If that were not enough of a setback for the racing industry and a great sadness, a couple of weeks later one of Australia's greatest horse trainers, Peter Hayes, tragically lost his life in a plane crash. Peter Hayes was a member of the famous Hayes family, a name synonymous with racing, not just in Victoria but throughout Australia and indeed the world, given the performances of Peter's brother David in Hong Kong in recent years.

Peter Hayes won the trainers premiership in Melbourne three times, in the 1995–96 season, the 1998–99 season and the 1999–2000 season. Just as I have expressed sympathy to the family of Andrew Gilbert, I do so to the family of Peter Hayes, but particularly to his wife, Paula Jean. Many of the tributes that appeared in the newspapers in the days following Peter Hayes's death said what a wonderful person he was and spoke glowingly of his contribution to the racing industry.

A fellow trainer, Lee Freedman, was among those people who paid tributes, pointing out that Peter Hayes had earned the respect of all of his peers. Lee Freedman said in one newspaper article:

> You had to have a lot of time and respect for him the way he went about his business. He was a really good guy.

Jockey Damien Oliver said Hayes's death was a huge loss for racing:

> He was one of those guys that no one ever had a bad word about and you don't often get that in racing.

That is a good tribute to Peter Hayes. The chairman of stewards at the Victoria Racing Club, Des Gleeson, described Peter Hayes as:

> The consummate professional, a most successful trainer in his own right. He was a great promoter of racing, a terrific personality. He will be sadly missed, his contributions to racing are outstanding.

When instances such as these occur it gives you time to reflect on the racing industry and the people who make up the industry, and also on the responsibility that the people who run racing have to see that the industry is governed in the best manner possible. It is incumbent on the people who are the guardians, administrators and promoters of the industry to see that it is administered well not only for those people who participate in it but also as a tribute to the people such as Andrew Gilbert and Peter Hayes who have already made a contribution but who have sadly left us. I am pleased to have had the opportunity to say a few words about both men as we discuss the Racing and Betting (Amendment) Bill, which has been before the Parliament for some time.

Hon. R. A. Best — Gestation of an elephant.

Hon. I. J. COVER — My friend and colleague the Honourable Ron Best, points out that it has had the gestation period of an elephant. I am not sure what that is exactly, but the bill has been with us since late last

year. It first saw the light of day last year and finally we now have the opportunity to speak on it.

There is plenty going on in the racing industry concerning another bill, which has had a similar lengthy period of preparation, and we will be hearing more about that shortly. It is a tribute to the racing industry that all forms of racing in Victoria — thoroughbred, harness or greyhound — have been able to go about their business and move forward while waiting for legislation such as this to be introduced and passed. At the same time the government should heed the message with future legislation relating to the racing industry it might be in the best interests of both the government and the industry to be a tad more speedy in not only its preparation but also its passage through Parliament.

I make those comments as a suggestion to the government and in no way want it to be seen as a reflection on the hardworking people in the public service who do a great job in advancing the causes of racing and sport in general. We heard earlier today the minister paying tribute to his staff and thanking them. Perhaps today we have all been imbued with the atmosphere of goodwill and kindness to all men, so I take this opportunity at the outset to thank Mark Close of the Office of Racing, who has provided not only good advice to the government but has always been keen and helpful when the opposition has sought advice, as it did last year on the Racing and Betting Acts (Amendment) Bill.

As well as its downside, such as the sadness that surrounded the deaths of Andrew Gilbert and Peter Hayes, racing is a pastime that also has an upside — it has many high points and highlights. Anybody who has been involved in racing knows about the joys as well as the disappointments. I have had some of those first-hand experiences going back some years now to the 1980s when I was fortunate to have had a small interest in a racehorse, establishing my bona fides to speak on this bill and be the opposition spokesperson on this area.

Hon. R. A. Best interjected.

Hon. I. J. COVER — The one experience I had was enough for me, so I am not about to take up any offers from you, Mr Best.

Hon. R. A. Best interjected.

Hon. I. J. COVER — That is one good thing about it.

Hon. R. A. Best — I can tell you that Geelong is not going too well.

Hon. I. J. COVER — I am certain Mr Best will give us more about the horse trained by Mark Bairstow, who I understand has been contemplating a comeback to football at the age of 38.

Hon. G. R. Craige — You probably need him at the moment!

Hon. I. J. COVER — Apparently he has been scared off making a comeback because he knows that if he gets hurt playing football he will not be available to train Mr Best's horse.

Hon. R. A. Best — We might have to sack him.

Hon. I. J. COVER — You may say it is not in his best interest to make a comeback to football. As I was saying, before I was happily rather than sadly interrupted by Mr Best, I had an interest in a horse called Brave Pearl, which ran and won on two occasions at Moonee Valley in the 1980s. I learned from that experience in that year of being involved in a small syndicate that in racing that horse I probably only broke even on the exercise, despite the fact that it had two wins at city meetings. Someone pointed out to me at that early stage of my involvement in racing that this was a good outcome and that I should perhaps quit while I was even, which was regarded as being ahead.

I remember when entering the syndicate to race the horse the principal partner said to me about this filly called Brave Pearl, which was by a well-known horse called Brave Show, 'We are going to have a bit of fun with her'. I wondered whether that was racing-speak for 'It will win'. As I said, although it won on two occasions, sadly I was not at the course on either occasion to have the joy of leading it back to scale. I did attend on one occasion when it led into the straight at Moonee Valley and then was run down and came second. I did not have the excitement of seeing it win.

It has been an interesting, challenging and rewarding experience to have the role of opposition spokesperson on racing. When I was appointed to that position last July my first outing in that role was to attend a race meeting in Geelong, where I had the pleasure and honour of opening the Colts and Fillies Bar at the Geelong Racing Club. It is one of the objectives of the racing industry to attract younger people to the sport. That is in line with much of Racing Victoria's approach to marketing and promoting racing in recent years, which has been successful in not only attracting younger people but also in giving them a range of activities for involvement with racing clubs and at racing tracks. The Colts and Fillies Bar at the Geelong Racing Club is a welcome addition to facilities

providing such activities and I was pleased to open it on that occasion.

While talking about the Geelong Racing Club, I take the opportunity to inform the house that the chief executive of the club, Doug Hall, has just finished in that position. He is going back to South Australia, from whence he came, to the Balaclava Racing Club. I acknowledge the contribution that Doug Hall made to the Geelong Racing Club during his time there. He has seen a range of improvements and developments at the club, including the re-laying of the track, the installation of a pool for the horses and an increase in marketing and sponsorship support that has seen the extension of the corporate hospitality area, including tents and marquees in the members car park increasing from half a dozen tents to something approaching 90 at the most recent Geelong Cup Carnival. Doug Hall leaves having unveiled plans for a major multimillion-dollar redevelopment of the racing club, involving the grandstand and spectator and members facilities.

In October last year I was pleased to attend the Geelong Cup in the company of my very good friend and colleague the Honourable Cameron Boardman. Sadly the cup was washed out and was run on the following Sunday rather than mid-week. One of the marketing initiatives for the spring carnival was evident: the Olympic silver medallist Tatiana Grigorieva was there with her husband Victor. We were very pleased to meet her and if any honourable members want proof that we were there, I have photographs that I am prepared to table. I am sure they could be incorporated to brighten the pages of *Hansard* with pictorial contributions rather than just words!

Country racing is a feature of racing in Victoria and it deserves great support and promotion. In many country towns the racing club and the meetings provide a highlight during the year. I speak from experience, having attended the Colac Cup meeting on a magnificent Friday early in March with the honourable member for Polwarth in the other place, Terry Mulder. Following his election to Parliament he has retained his involvement with the Colac Racing Club; he still assists the club with its marketing and promotion.

It was a tremendous experience not only to attend the cup meeting and meet the people and mix with the bookmakers, but particularly to meet the owners of Condie's Fair. It was not highly fancied but John Molesworth and his father, Bob, who bred the horse and own and race it were there and they told me how well the horse was going at the time, having won the Terang and Penshurst cups. I thought that winning form is good form and despite their not wanting me to jinx their horse by backing it, I am pleased to say I did so. Although it was last on the turn, it swooped around and came home to win the Colac Cup.

Hon. N. B. Lucas — And got you chocolates.

Hon. I. J. COVER — It provided me with some chocolates on the day. In recent times I have also had the opportunity to meet with racing club officials at places such as Wangaratta, Camperdown, Ballan and Werribee. I pay tribute to those involved in country racing, as well as the people at the metropolitan clubs who do a first-class job in administering racing in Victoria.

The Racing and Betting Acts (Amendment) Bill makes changes in five main areas. They are to increase the size of the Harness Racing Board from five to seven members; to allow the Victorian Civil and Administrative Tribunal to hear certain appeals; to amend the jurisdiction of the Racing Appeals Tribunal; to transfer the registering of greyhounds from the National Coursing Association to the Greyhound Racing Control Board; and to extend the application of betting offences. The changes have all been acknowledged and embraced by the various areas of racing in the state: thoroughbred racing, harness racing and greyhound racing. It is considered that the changes will improve the conduct and administration of racing in the state which, as I pointed out, is an integral part of the state not only in sporting terms but also in economic and employment terms.

Some 30 000 people are employed in thoroughbred racing and the Spring Racing Carnival, for example, is worth more than $230 million to Victoria. As was pointed out in the second-reading speech, it is important that good governance and regulations underpin racing in the state.

As I said, the increase of the Harness Racing Board from five to seven members is supported by the people in that particular area of racing. It will bring in extra people with expertise in different areas, including business and marketing and harness racing. Neil Busse, the former head of the Australian Football League tribunal, is now the chairman of the Harness Racing Board. Some views that have been expressed to me by owners in particular include that while harness racing is a very popular and well-supported sport, it also has some challenges. Given the reputation that Neil Busse developed in his role as chairman of the football tribunal, his skills might be well used in his role as chairman of the Harness Racing Board.

Coincidentally only today, while I was preparing to debate the bill — although the opposition has been prepared since last November — a concern was expressed to me by a harness racing owner. Mr Best may have some more comments to make about the matter, but it is worth noting that while the members of the Harness Racing Board have done a good job and their number will be increased to seven, they will need to use all their skills and expertise to tackle some of the challenges facing the industry and the concerns expressed by owners and others involved in harness racing.

I mention also that the transfer of the registration of greyhounds from the National Coursing Association to the Greyhound Racing Control Board does not come without some regrets for the people who have been involved with the National Coursing Association for many years and have looked after the registration of greyhounds. I understand that people who have been employed in that role will continue with that work but under the jurisdiction of the Greyhound Racing Control Board. That work has been conducted by the National Coursing Association for many years, and its members have had particular interest and involvement in it. In 1999–2000, 3764 greyhounds were registered in Victoria, so they had a fair bit of work to do. Should the registration of greyhounds continue at that level, those who register greyhounds will continue to have plenty to do.

A range of other provisions in the bill repeal restrictions on minor race meetings, increase the maximum penalty at the disposal of the Bookmakers and Bookmakers Clerks Registration Committee, provide immunity for members of that committee in certain areas, repeal restrictions on advertisements relating to betting information, vary the process for the approval of changes in racing club rules of constitution and clarify consultation between the minister and the Victorian Casino and Gaming Authority.

Importantly, it changes the names of the Harness Racing Board and the Greyhound Racing Control Board to Harness Racing Victoria and Greyhound Racing Victoria, which are the names by which both entities are best known these days. I imagine that most people would have gained the impression that those names were officially in place, but they have not been so until the introduction of the bill.

Another important provision enables action to be taken to ensure that betting with offshore betting operators who conduct administration bases in Victoria will no longer take place. That is a significant step, despite the fact that representations have been made by the operator of one of those offshore operations in Vanuatu to the minister seeking to operate in a quasi-bookmaker fashion by making an offer to the minister and the government to pay a fee to continue doing so. I note the minister is having none of that, and I suppose the overall outcome is that it provides the opportunity for bookmakers in Victoria who pay their taxes and the licensing fees to have people bet with them rather than have the money go offshore.

The difficulty is in policing and enforcement, and the challenge is ahead for the police, if they want to carry out the intent of the legislation. I suppose the police have ways of doing their job, and the situation can be monitored to see what eventuates.

In conclusion I say that the opposition does not oppose the bill. A number of changes have been sought by various parts of the racing industry over a long time, and some of those aspects were in train under the previous government, which gives a further indication of how long these amendments and changes have been under consideration. They are now getting the opportunity to greet the judge and be weighed in, and I hope they get correct weight.

Hon. R. F. SMITH (Chelsea) — It is a pleasure to contribute to the debate on the Racing and Betting Acts (Amendment) Bill and refer to racing by its time-honoured name of the sport of kings. The name goes back to a time when only kings, landed gentry and the like had the privilege of enjoying the benefits of racing in a way that would be unacceptable today. Today it is a sport for the top end of town at Toorak as well as for Footscray. The syndication and raffling of horses has led to many ordinary people enjoying the sport and the rewards it has to offer, particularly in Victoria. It is fair to say that the Victorian racing industry is without doubt the healthiest in the country and of the highest standard in every respect.

The bill amends the Racing Act and the Lotteries Gaming and Betting Act, and its purpose is to improve the governance and administration of racing in Victoria. The value of racing in Victoria cannot be overestimated. The economic impact of racing to Victoria has already been mentioned by the previous speaker, and without putting an exact figure on it in a total annual sense, I can say that the Spring Racing Carnival alone is worth approximately $317 million to the coffers of Victoria. The racing industry generates approximately $140 million of tax per annum to the Treasury, and it employs approximately 30 000 people. It is clearly a very important industry to Victoria.

Racing is also one of the fairest industries in Victoria. By 'fair', I refer to the pay and conditions that apply to workers in the industry, be they jockeys, strappers, stablehands or track maintenance people, and trainers as well. It is fair in the sense that it pays better in Victoria than in any other state.

It would be remiss of me not to inform the house of the reasons for that situation. Some four years ago the relevant union at that time, the Australian Workers Union, the representative of most workers in that industry, embarked on a strategy to recruit jockeys into the union for the first time in more than 100 years, and we succeeded in a significant way. I must give full credit to the organiser at the time who, under my direction, went out and recruited and organised the jockeys. It was none other than young Bill Shorten, who did a marvellous job. He was assisted quite manfully by Pumper, also known as R. J. Hall.

I attended a meeting of the hoops at the Victoria Racing Club headquarters to discuss whether they would join the union. To cut to the heart of the chase, we convinced them to join, and as a result of that they got a 30 per cent increase in their riding fees. It was not a bad jump when one considers that now many of them are out there driving Mercedes! It was a significant jump for some jockeys. However, when we looked at the bottom end of the scale for jockeys we estimated that the worst of them, with ordinary track work and the like, were going to make in the order of $50 000 a year. It sounds like a lot of money, but considering that a jockey is in control of a 1500-kilogram racehorse racing at breakneck speed, I am not sure whether that would be enough money for me. As I said, the jockeys and strappers did very well. Mr Katsambanis may be aware that Crisp was a great carrier of weight and might have been an option for me.

The strappers had been an extremely disadvantaged group of workers and were principally girls. I say 'girls' because most of them at that time were only 14 or 16 years old, and strappers are still about that age today. For nothing other than the love of horses they allowed themselves to be exploited in terms of their earning capacity. There are horrendous stories about some of the things that were done to young strappers in the industry for a long time. There are too many stories to go into tonight, but I will relate just one.

It is a story of a young strapper who travelled to Adelaide in the back of a float with the trainer. They stopped overnight halfway across. The trainer stayed at a motel and told the strapper she had to sleep with the horse, which she did. Having succeeded on the Adelaide trip, on her return to Melbourne the strapper was paid the princely sum of $40 and told not to tell anyone else because they would all want it. That is unbelievable — and it was about four years ago! One of the principal reasons it has been possible to clean all that up is the privatisation of Tabcorp. It allowed a lot more money to go back into the industry and enabled the Victoria Racing Club to negotiate a fair and equitable outcome for the hoops, strappers, et cetera, as a result of the negotiating skills of the then leadership of the Australian Workers Union.

Racing, be it quarter horse racing, harness racing, racing in general or greyhound racing — it does not matter — is vital to rural and regional Victoria. If anyone wants to question that statement they should consider that an estimated 30 000 visitors will be at Warrnambool for its May carnival. That is incredible. I was stunned when I rang and the racing people at Warrnambool told me that. Nevertheless, it gives some idea of the importance and cultural value of racing in Victoria. Anyone who has been to the spring carnival — Derby Day, the Melbourne Cup, Oaks Day — —

Hon. G. R. Craige — Warrnambool was on last week, mate.

Hon. R. F. SMITH — Is this May?

Hon. G. R. Craige — It was on last week.

Hon. R. F. SMITH — The spring carnival makes a huge contribution to culture in Victoria. I go to the races once a year, on Derby Day, which has without question the best race card on the Australian racing calendar and arguably the best staged race — —

Hon. S. M. Nguyen — In the world.

Hon. R. F. SMITH — In the world. The card consists of the William Inglis Carbine Club Stakes for three-year-olds; the Chivas Regal for three-year-olds at set weights; the Saab Quality over 2500 metres; the Hardy Brothers Classic; the Qantas Wakeful Stakes for three-year-old fillies; the AAMI Victoria Derby for three-year-old colts and fillies; and the Louis Vuitton Mackinnon Stakes, a great weight-for-age race over 2000 metres. They are some of the exciting races we have seen over the years. There were great results and some of the horses went on to win the cup, et cetera.

Hon. A. P. Olexander — Did the AWU support a race?

Hon. R. F. SMITH — I take up that interjection. For the information of Mr Olexander, the AWU does sponsor races in the country. There was also the

Salinger Stakes, the 1200-metre sprint down the straight, and the Yallambee Stud Stakes.

What can be said about the Melbourne Cup that has not already been said? However, I suppose all punters have a tale to tell. I remember years ago taking what was known as a long-range feature double. I put $10 on a horse called How Now to win the Caulfield Cup, coupled with another by the same sire in the purple called Gold and Black. Being a Richmond man, naturally I had an attraction to the horse. It was trained by Bart Cummings and I thought to myself, 'This could be a bit of a stayer next year'. It was 4000 to 1 — $40 000 to $10 in the double. It is history now that How Now went on to win the Caulfield Cup.

It was in the year when there was an almost unbelievable storm during the Melbourne Cup and Bert Bryant could not call the horses it was so black with pouring rain and so much mud was thrown up. I have to be careful what I say here, but a horse from New Zealand called Van Der Hum with feet like frypans ploughed through the mud to get up to beat Gold and Black, which I might add went on to win the cup the next year at odds of 9 to 2. I suppose it was punters lament, 'Almost, close, maybe next time'.

An Honourable Member — What about 1976?

Hon. R. F. SMITH — Don't remind me. Oaks Day is ladies day with the fashion stakes and makes a great contribution to our culture. It is a brilliant day and I could not estimate how much it contributes to the Victorian economy through fashion alone. As a father of two young women who love going to the races on Oaks Day I can tell honourable members that it costs a pretty penny to get them there — and there are plenty of them!

I mentioned earlier that this bill is about good governance and is vital for public confidence. When we look at the importance to the economy of confidence in the industry we think about the Fine Cotton substitution affair involving Mr Waterhouse in Sydney and the damage it did to the industry or the doping of Big Philou on the eve of the cup.

Hon. I. J. Cover — Robby Waterhouse is coming back apparently. Got a view on that, Bob?

Hon. R. F. SMITH — Not that I'm going to voice here.

There was Big Philou, the Bart Cummings-trained stayer that was the hot favourite and all the drama associated with its withdrawal and its becoming public knowledge that it was doped. Subsequently we heard from the man who claimed he did dope the horse and who I think has now passed away. I think in his dying days he decided to come clean. Those events did enormous damage to the industry. It is extremely important that the public have confidence in the way racing is run in Victoria. I have to say that they should have confidence in the current administration of the Victoria Racing Club. It is extremely well run. I have a great deal of confidence in racing administration today. I have no doubt that this bill will help racing administrators.

I turn to talk about the Harness Racing Board. This bill will provide for an extension of the representation on that board from five to seven and will allow for a broader representation. As has been mentioned by the previous speaker, the board can appoint people with marketing expertise, business acumen and so on. That is desperately needed because harness racing is facing significant competition from other forms of gambling. While I wish the members of the board well, I have to say that they are like the boy with the barrow — they have a job ahead of them to attract racegoers. Providing the necessary glamour and so on will not be easy. I do not think anyone would disagree that harness racing does not have the same impact as racing in general.

One of the other significant changes is that the bill will allow jockeys, trainers and bookmakers a right of appeal against licensing decisions of the three controlling bodies — the Victoria Racing Club, the Harness Racing Board and the Greyhound Racing Control Board. Presently there is no right of appeal, and the bill will ensure that natural justice is not only seen to be done but is actually done. Stewards will also have a right of appeal against the controlling bodies. There will be a direct right of appeal to the Racing Appeals Tribunal in the case of any penalty involving a drug offence under the VRC's rules. Currently that does not exist.

Offshore betting is clearly an important issue for the industry, not just in Victoria but in Australia. Obviously it is not in our best interests if people are punting offshore, particularly in areas such as Vanuatu, because of the obvious tax implications. When people bet offshore Victoria does not get the benefits that flow from taxation of racing. They drain money and resources from the pool that is available here and avoid that tax. Generally speaking, that disadvantages racing in Victoria. Offshore operators use Victoria as an administrative base for their operations and gain a huge advantage over the local operators. The bill will prevent that unfair advantage.

Another objective of the bill is to alter the rules that govern the racing of quarter horses. It may or may not be understood within this chamber or by the general public that quarter horse racing cannot operate within 25 kilometres of the Melbourne General Post Office. The bill alters that and allows them to operate wherever it is convenient. I suggest we ought to expect an upsurge in the popularity of quarter horse racing as it gains access to metropolitan and other attractive venues.

The rest of the bill contains housekeeping changes to improve the regulation and management of racing. I am aware of the time, and those changes have already been stated, but I wish to mention the increase in penalties the relevant control boards are able to impose. They will increase from 20 to 60 penalty units for the breaching of regulations. For those who do not know, a unit is worth $100. Therefore, the penalties have gone from $2000 to $6000 for an infringement but, as I said, a right of appeal now exists.

The bill also provides statutory immunity for the committees of the relevant boards for anything they do in good faith within the bounds of their responsibilities. The bill also deregulates the operations of betting information services to bring them into line with the rest of Australia and will allow bookmakers to operate on events on which they were not previously able to operate, including events such as the Brownlow Medal or the Academy Awards. They will now be able to operate on any event on which their competition can operate.

For all the aforementioned reasons, and the fact that the Bracks government has strongly supported the bill in line with its election commitments of 1999, I support the bill and commend it to the house.

Hon. R. A. BEST (North Western) — I am pleased to contribute to the debate and advise that the National Party will not oppose the bill, the effect of which is to provide a wide range of government and regulatory framework for the racing industry. The bill proposes to expand the Harness Racing Board from five members to seven members. It also proposes to protect the fair right of appeals against licensing decisions for jockeys, trainers, and bookmakers by the Victoria Racing Club (VRC), the Harness Racing Board (HRB) and the Greyhound Racing Control Board. It also proposes changes in respect of the jurisdiction of the Racing Appeals Tribunal and transfers the function of registering greyhounds.

The following restrictions are to be repealed as a result of national competition policy: mixed sports gatherings may not be conducted within 25 kilometres of the Melbourne General Post Office; VRC-licensed personnel and HRB drivers may not participate in mixed sports gatherings; prize money may not be paid at picnic race meetings; only VRC-approved amateur and picnic race riders may participate in picnic races; and prize money at restricted harness racing meetings may not exceed $500 per race with a maximum of $5000 per meeting. The application of betting offences will be extended to ensure they apply to persons in Victoria knowingly conducting activities which promote or facilitate betting with persons outside Australia. The perfect example of that is the operations that exist in Vanuatu, on which I will contribute extensive discussion later in my contribution.

A number of measures are contained in the bill, most of which have been supported by the racing industry. However, the National Party questions the government's position on gaming, particularly as it is making it an offence to promote and advertise gaming in offshore locations such as Vanuatu. However, it is not putting in place any restrictions on people ringing Vanuatu to have a bet. One of the anomalies that I am concerned about relates to the provisions the government is putting in place in Victoria compared with those that apply in the New South Wales jurisdiction, where it is illegal to ring an offshore betting operator to place a bet. As I said, I will refer to that later.

There are also some measures relating to Workcover, particularly covering licensed people participating in mixed sports gatherings. We are aware of picnic race meetings and the importance they have within our country communities. However, it is important that we find out who is deemed to be the employer at such gatherings. Some years ago I was involved with horse trainers, race clubs and the VRC in approaching the minister responsible for Workcover at the time to sort out the problem of who was the employer when a rider was engaged to ride at a race meeting should the unfortunate circumstance occur where somebody was injured. I am pleased to say my colleague Mr Hallam, who was then the minister responsible for Workcover — —

An Opposition Member — A good minister.

Hon. R. A. BEST — He was a very good minister. That issue was resolved, and jockeys and track riders were covered by Workcover in their workplace.

The National Party will not oppose the bill because it makes approximately 14 changes to the Racing Act including, as I said, the expansion of the Harness

Racing Board, the right of appeal to the Victorian Civil and Administrative Tribunal (VCAT), changes to the jurisdiction of the Racing Appeals Tribunal and the method of registering greyhounds. It also makes it an offence to conduct and promote administrative activities in connection with offshore betting. Other changes include the deregulation of minor race meetings; new penalty provisions for bookmakers, bookmakers' clerks and the registration committee; statutory immunity for members of the Bookmakers and Bookmakers' Clerks Committee; and deregulation of the operation of betting information services. The bill changes the name of the Harness Racing Board to Harness Racing Victoria and also changes the name of the Greyhound Racing Control Board to Greyhound Racing Victoria.

The bill provides for changes to the constitutions of racing clubs. If constitutional changes are made, they must be advised to the minister. The bill also provides for consultation on racing club licences and approval for bookmakers to bet on non-sporting events, which relates to mixed sports gatherings. There are also new statute law revisions to correct drafting errors, requiring the minister to make panel appointments and to hear appeals at Harness Racing Victoria and Greyhound Racing Victoria.

To the delight of many honourable members, I do not intend to refer to every clause in the bill. However, I wish to raise some issues, the first of which relates to Harness Racing Victoria. Previously the Harness Racing Board had five members; Harness Racing Victoria will now have seven members, including a chairperson, three members with business experience or marketing expertise and three members experienced in harness racing. The input of people with harness racing experience is particularly important, given the different levels of people within the community who are involved in the harness racing industry. On the one hand there are the professional trainers and owners who are able to purchase quite expensive horses at yearling sales, and on the other there are those involved in the harness racing industry all the way down to the hobby owners and breeders.

It is important to have people with expertise and an understanding of the needs of all people involved in the harness racing industry. The three appointees to Harness Racing Victoria who have that experience will bring vital interest and information to the board that will help in creating policy for management to implement.

The bill also requires a quorum of four people for meetings of the board. One of the problems that occurred late last year in that regard followed the unfortunate and untimely death of Ron Casey. I put on the record my respect and admiration for Ron Casey and my intense gratitude for the assistance he provided to me when we tackled issues together at the Victorian Health Promotion Foundation.

I had the opportunity to serve with Ron Casey on the board of Vichealth for eight or nine years. He was an outstanding person who provided a range of services across the sporting field. Boxing, harness racing and football have all been the beneficiaries of the service Ron Casey gave. I pass on to his wife, Pauline, and his family my greatest respect and sincere condolences on his untimely death late last year.

However, that event brings to the fore one of the great challenges Harness Racing Victoria faces. As I said, it is one of the unusual sporting bodies in Victoria. In a way harness racing is very similar to greyhound racing, but it attracts the higher profile and more professional type of businessmen because of the prize money it offers. It is different from greyhound racing, and it is certainly different from thoroughbred racing.

Unfortunately over recent years we have experienced a loss of funds from the TAB in comparison with other racing codes. The new board faces enormous challenges to set a policy direction for Harness Racing Victoria. Unless its management demonstrates a level of professionalism that is able to compete with both the greyhound racing industry, which is emerging very well, and the thoroughbred racing industry, I fear Harness Racing Victoria will suffer enormously, as will its ability to deliver to its industry appropriate levels of stake money. That may threaten the viability of this industry. I admit that I have owned trotters, pacers and thoroughbreds.

Hon. R. M. Hallam — You didn't have a trotter!

Hon. R. A. BEST — I did have a trotter.

An Honourable Member — What were their names?

Hon. R. A. BEST — The trotter's name was Earl's Folly, and he was a unique animal because he was dual gaited. When he was in the care of Graeme Morgan, who was a harness racing trainer at Kilmore, he won races as a pacer. One day Graeme summoned me from Bendigo and said 'Bestie, I think you have a trotter here'. Carl O'Dwyer, who was a prominent trotting trainer at the time and who had some very good trotters, had seen the horse and suggested it would make a fine trotter.

Graeme Morgan trialled the horse one morning with one of his city-class pacers. It galloped once, and I said, 'No, it's not going to be a trotter. Throw the hobbles back over it', and the horse went on to continue as a pacer.

Some two or three years later, after it had matured a bit more, a very good friend of mine, George Symons, whose funeral I attended on a Thursday but a couple of weeks ago and with whom I was associated at Golden Square, wanted to buy into the horse because he saw that it had ability. We needed to agist the horse, so he hitched it up to his milk cart and it trotted through the streets of Bendigo. George said, 'This horse is a trotter', so we trotted it. I am pleased to say that in the early 1980s it won three races in the month of January at Moonee Valley. It ran in the Dullard Cup and was an outstanding trotter and a source of enormous enjoyment to us.

Hon. W. R. Baxter — But did it win?

Hon. R. A. BEST — It did win. It won three times in the month of January at Moonee Valley, which is the home of harness racing.

An Honourable Member — As a trotter?

Hon. R. A. BEST — As a trotter. That horse was able to both trot and pace, and sometimes it was clever enough to do both in the one race, which meant unfortunately that the driver had to pull it up, break its gait and then get it back to trotting.

However, I digress. I want to get back to the professionalism in the harness racing industry, because it is a concern to me. I have had occasion over recent months to be involved in two cases where the professionalism in the harness racing industry has been questioned. That is a very serious accusation. I have spoken to Neil Busse, the new chairman of Harness Racing Victoria, to express my concerns about the two issues that have been raised with me.

To be fair, the board is new and the problems I am about to raise are not meant as a criticism of Harness Racing Victoria. The issues need to be addressed, as does the professionalism of the management of Harness Racing Victoria, which is something I have passed on to Mr Busse.

The first issue relates to the Vicbred series. I have written to the minister on the issue because to me it strikes at the heart of the strength of the harness racing industry in Victoria — that is, its size, its standing, its progeny, and the fees associated with the stud masters contributing to the sires series, which is a most successful series, the finals of which are held at Bendigo and Moonee Valley.

It goes back to 1996, when changes were proposed to the Vicbred series. People employed by Harness Racing Victoria have had an agenda for some time. With the indulgence of the house I shall provide some background information. I have recently spoken to the chairman of the Victorian Standardbred Breeders and Studmasters Association, who informed me that 49 out of the 50 studmasters in Victoria are opposed to the changes that are implemented in the Vicbred series. I should place on the record that John Campbell is a friend of mine. I have known John since he was secretary of the Charlton Football Club. His father was a prominent breeder in the harness racing industry and actually leased me my first horse when I went to play with Charlton.

Mr Campbell is the new chairman of the Victorian studmasters association and he has some major concerns. In November 2000 the breeders were asked to respond to the changes in the Vicbred series. The Harness Racing Board, as it was called at the time — now Harness Racing Victoria — said that if there were any problems it would have time to respond to those changes. However, no action was taken to allow the studmasters to register their concerns. A series of press statements were released and there was a bit of toing and froing, but the reality is that the Harness Racing Board had not taken any action to obtain feedback on the proposals to change the Vicbred series.

As I said, there were people who since 1996 have promoted the creation of a super sires series. In fact, in 1996 it was suggested that New Zealand sires could stand in Victoria and their semen could be sent back to New Zealand to allow the foals to be eligible to race in the Vicbred series. However, one of the leading studs in Victoria — Alabar — backflipped on its position, and it was agreed that no New Zealand foals should be eligible for the Vicbred series.

Nevertheless the agenda continued, and people were not satisfied that the studmasters were negatively disposed to any proposed changes to alter the series from a stallion-based series to a mare-based series. So there was another dust-up in November 2000 over that issue.

One of the major reasons for the concerns was that the owners of external sires from New South Wales, New Zealand or other Australian states were not paying to be eligible for the series. That is very discriminatory to the masters and stallions based in Victoria. As part of their service fee they are required to contribute to this series.

Although a vote was taken to alert people to the changes to the Vicbred series, many of the people, particularly the breeders, did not understand the fine print associated with it. Even the industry advisory council — which has 12 representative groups that advised the former Harness Racing Board — did not understand all the changes. There were still enormous concerns in the industry about the lack of ability to get its message back to the board.

I had a call from Mr Campbell on 4 April in which he said that only 10 days before 4 April he had been advised that another futurity meeting was to be held, and that was the first meeting in nine months. The industry advisory council, which covers all the groups associated with the harness racing industry, did not have a meeting to advise the board of its position on a range of changes that were occurring in its industry. There was concern in the industry that there were people who had been recruited to industry bodies who were sympathetic to the changes and that the futurity meeting may actually be bypassed and that these changes could go directly to the board and the board could implement them.

One of the issues the breeders have impressed upon me over recent days is that they must meet with the board to provide it with industry advice. I seek an undertaking from the Minister for Sport and Recreation that the breeders who have stallions standing in Victoria will be able to meet with the new board of Harness Racing Victoria to express their concerns over the changes being proposed to the Vicbred series. As I said, 49 out of the 50 studmasters oppose the changes. That is overwhelming evidence that a Victorian industry which has a vested financial interest in harness racing and in this series as a financial contributor is not being heard. I impress upon and implore the minister to assist me in making sure that access is provided to those studmasters to seek an audience with Harness Racing Victoria.

The second issue I raise about Harness Racing Victoria relates to the Fosters Gold series. That is a sale of yearling trotters and pacers that occurs annually. People attend the sales with the intention of either continuing their association with the harness racing industry or becoming new participants. Although I accept that the Fosters Gold series is run by a company out of Sydney, the board of Harness Racing Victoria still has a responsibility because the sale has its imprimatur and support. As I said, harness racing has to lift its game and improve its act in a professional manner. It needs to make sure its management is professional and meets all the standards of competition from greyhound racing and the thoroughbred racing industry.

I was approached by Mr Peter Mase, a prominent business operator in the food industry, who was a first-time entrant into harness racing. He attended the Fosters Gold series and purchased a yearling which, in the book that was provided for the information of people attending the sale, was said to be eligible to compete in the sires series — the Vicbred series to which I referred earlier.

I wrote to the Minister for Sport and Recreation because I was very unhappy with the way Mr Mase had been treated. Mr Mase paid for his foal, which he believed was eligible for harness racing, and the then Harness Racing Board accepted the fee for the eligibility period. The board has different times of the year for fees to be paid to ensure foals are eligible for the series of racing events in the years ahead. When Mr Mase went to make his final payment for registration of his foal some six to nine months later he was told by the board that his horse was not eligible.

Mr Mase was extremely disturbed when he approached me. He is a professional operator in the food industry and he expected the harness racing industry to be just as professional in the way it conducts itself. Following my representations on behalf of Mr Mase I was disappointed to be told by the chairman of the Harness Racing Board, Mr Neil Busse, that the responsibility went back to the Fosters Gold people who were running the sale. The whole issue is unsatisfactory. People who present their horses for sale are expected to meet all the payments and eligibility criteria set out by Harness Racing Victoria. It is poor management not to tick off all the horses entered for the sale to ensure that breeders who said their horses were eligible were in fact right.

The foal Mr Mase bought was presented by John Campbell, a good friend of mine, who is the studmaster I referred to. The former Harness Racing Board passed the buck and was unable to resolve the issue. That was enormously disappointing to me and to Mr Mase. I took it on myself to ring John Campbell to tell him of the events that had occurred. The issue is the subject of a stewards inquiry and the stewards have made recommendations to the board. Even though I sought an explanation through the minister's office and through the board I am still unaware of the recommendations of the stewards regarding the eligibility process. The issue was resolved because I got on the phone to John Campbell. I told him it was an oversight and that a person who is a first-time entrant into the industry should not be treated that way. He said, 'Ron, I will give Mr Mase's mare a free service from a stallion of the appropriate sire to resolve the issue'. John Campbell gave the same undertaking to the stewards inquiry, but the Harness Racing Board was not prepared to be

vigilant or professional to ensure a resolution of the issue, not just for the first-time entrant into the industry, but to protect the integrity of the industry by getting a proper outcome.

I am enormously disappointed at the implication of the lack of integrity and professionalism of a first-time entrant into the industry. I have said to Neil Busse, 'You have enormous challenges because I am not happy with the standard of management within the industry'. If the industry is to compete for the racing dollar with Tattslotto and the gaming industry it needs to be very professional in its approach. The handling of Peter Mase's case is appalling. He would have got no satisfaction without my intervention and the good grace of Mr Campbell to ensure he received an appropriate outcome. Even to this day my representations to the board, referred to it by the office of the minister, have been fobbed off. It is imperative that all sectors of the racing industry act professionally.

As I said previously, I am not questioning the new board, because it comes to the table with goodwill. I was particularly impressed with Mr Busse, who has a number of issues on his plate, by the fact that he was prepared to come to Parliament to talk with me about the issue. I believe it is extraordinary that the new chairman of Harness Racing Victoria was prepared to meet with a member of Parliament about management issues. What is the management of Harness Racing Victoria doing about these issues? Is it hiding in its office? I am pleased Mr Busse came to see me. I am pleased that he has visited country Victoria, because the industry has developed a five-year strategic plan. Many people are dissatisfied with the operation of the industry because of what they see as a detachment of the managers of the industry.

There has been no greater contributor to the industry in Victoria than Frank Ryan. I do not think Frank Ryan would mind my saying that he can be a crusty person at times, but he is genuine and his heart revolves around the industry. I wrote to Frank in relation to the bill. On 7 March he wrote to me, and I will quote from his letter because it refers to the new racing administration and it is important to put some of his remarks on the record. The letter states:

> Further to my telephone conversation on Friday last, regarding matters pertaining to changes to the harness racing industry currently being discussed, I wish to confirm some points which I made during our discussion.
>
> I attended the launch of the five-year plan at Shepparton on Monday of last week, and I was quite impressed with the proposed plan and its presentation. I gained the impression that the chairman and the board member Peter Bourke were open and honest in their discussions and they would make every effort to keep the industry informed of their actions and seek the cooperation of all industry participants in a genuine effort to unite all sections of our sport; such has not been the case in the past and I, like most, will observe their progress or otherwise in the coming months.

That is a fair assessment from a man with enormous experience and respect throughout the industry. He is prepared to acknowledge the future direction of the harness racing industry and the commitment of the new board members.

I also received a letter dated 20 March from Barry Edwards, the secretary-manager of the Bendigo Harness Racing Club, which states:

> I refer to your letter of 28 February regarding the draft strategic plan release.
>
> The BHRC committee supports the concept of a strategic plan and looks forward to the introduction of a business plan which will implement the important issues raised in the strategic plan document.

I also received a letter from Les Chapman, the secretary of the Maryborough Harness Racing Club, which states:

> Thank you for your letter dated 28 February 2001.
>
> I wish to advise that I did attend a consultative forum held at Lords raceway on Wednesday, 28 February 2001, and was pleased with the presentation and, in particular the attendance of chairman Neil Busse, board member Peter Bourke, chief executive officer Bernard Saundry who made themselves available for a productive question and answer session which followed the presentation.
>
> It is evident from the presentation that concerns noted from meetings conducted around the state have been taken on board and attempts made to remedy shortcomings.

A range of people are prepared to give the new board a go, which is important. However, the board is there to implement policy and it is up to the board's management to ensure that it implements that policy in a way that gives not only harness racing industry participants but also people who bet on harness racing total confidence in the professionalism of the industry.

The next issue relates to the impact of changes to picnic race meetings, mixed sports gatherings, the proliferation of bookmaking, the rules of racing for amateur events and the involvement of professionals at those events. Country racing is the very fabric of many of our communities. After writing to the Victorian Country Racing Council I received a response on 15 November 2000 from the group general manager, Mark O'Sullivan, to the questions I posed. He raised with me in his four-page letter a number of concerns which should be put on the record. He states:

> Thank you for your letter dated 1 November 2000 enclosing the Racing and Betting Acts (Amendment) Bill and inviting the comments of the Victorian Country Racing Council (the 'VCRC') regarding the impact of the legislation on Victorian country thoroughbred racing …
>
> Although the VCRC does have some concerns regarding some of the provisions of the bill, those concerns are not major provided that control of the supervision of racing remains in the hands of the racing industry as provided for in Racing Victoria's proposal for the establishment of a new governing body for Victorian thoroughbred racing.

That is a bill that will be debated in the coming months. The letter continues:

> Most particularly, those provisions of the bill which will remove certain legislative restrictions relevant to race meetings conducted pursuant to a permit issued by the minister ('mixed sports gatherings' and picnic race meetings) are acceptable only if the minister does not assume control, directly or indirectly, of the supervision and application of the rules of racing.

He is clearly saying that the racing industry controls racing and does not need a minister to interfere with the rules of racing, the control of racing or the jurisdiction of racing. He also goes on to address issues regarding appeals of decisions of Racing Victoria and the grant and revocation of licences, permits and registration. That is pertinent when one considers who is responsible for Workcover and who can appeal now to the Victorian Civil and Administrative Tribunal for the granting of licences and for the registration and participation in the racing industry.

Under this bill there will be an opportunity for people to go directly to VCAT and bypass the racing authority which, I suggest, has a range of skills to assess the qualifications of a person to participate in the industry and receive a licence. That is an anomaly and questions the role of stewards in assessing the appropriate qualifications of a person who, for example, may be a jockey, as to whether he can or cannot ride. If a jockey is not happy about stewards refusing his licence to ride, he will be able to go to VCAT, provide a well submitted case and be given a permit to ride. Despite the stewards having already considered his qualifications and questioned his ability to ride a horse, VCAT will have the determining right to grant registration. However, the Victorian Country Racing Council is prepared to give it a go, which is fair and reasonable. I hope there are not circumstances where an inappropriate person is licensed or registered in the racing industry.

Another issue that was raised with me is the proliferation of bookmaking at any event. This is a government that says it does not rely on the gambling dollar and is doing everything it can to introduce responsible gaming policy and restrict people, particularly problem gamblers, from taking up gambling opportunities.

Under the heading 'Conduct of mixed sports gatherings (clauses 3(2) and 6)' the letter states:

> The VCRC does have concerns regarding the proposed removal of the legislative restriction which prohibits the minister from approving the conduct of 'mixed sports gatherings' within 25 kilometres of the Melbourne general post office.
>
> The real effect of the removal of that prohibition is to empower the minister to permit the conduct of offcourse betting by bookmakers in the metropolitan area. 'Mixed sports gatherings' permits are not necessary to conduct a sporting event (other than horse races), but are necessary to permit the conduct of bookmaking activities at the sporting event.
>
> For example, one effect of the proposed amendment will be to allow the minister to grant a 'mixed sports gatherings' permit in respect of AFL football matches played in the Melbourne metropolitan area, the effect of which will be to allow bookmakers to conduct betting at the football games.

I do not know whether the minister understands that particular issue, but it increases the problem of the proliferation of gaming within the state.

The final issue I wish to raise is the role of offshore betting, which I referred to earlier in my contribution. I express concern that while we are making legislative changes to restrict the conduct of promotional and administrative provisions in connection with betting we are not following the New South Wales example. Every member who has contributed to the debate, including Mr Cover in an excellent contribution which set the groundwork for the debate, followed up by Mr Bob Smith who demonstrated his experience and involvement in the racing industry, has put forward a view on that model.

One of the major concerns I have — every speaker has addressed it tonight — follows the success of the Victorian racing industry which has been exemplary. The administrators who have driven racing in Victoria have made it the envy of other states. I am concerned that, without amending the legislation in the same way as the New South Wales Parliament has amended its racing legislation, we are continuing to allow offshore betting shops to ride on the back of the Victorian industry. We will continue to allow people in Victoria to telephone Vanuatu where there are special arrangements to place bets and basically deprive Tabcorp and the race clubs of income generated from their betting.

Hon. I. J. Cover — And bookmakers.

Hon. R. A. BEST — And bookmakers. That is not sensible governance of the racing industry. I have told the minister that I intend to raise this in my contribution tonight because I have an interest in the industry: I race a horse with Mark Bairstow, a trainer from Geelong. I also have friends in the racing industry who have accounts in Vanuatu and I know that they receive a rebate for the cost of the telephone call and get the opportunity of the best betting odds. Those suffering are the Victorian racing industry, the race clubs and Tabcorp. Victoria is missing out on getting a percentage of revenue that is going through the TAB.

Hon. S. M. Nguyen — And jobs.

Hon. R. A. BEST — As Mr Nguyen says, Victoria is also missing out on jobs. It is incumbent on the minister to consider the New South Wales legislation. I have the New South Wales racing and betting legislation issues paper, which is part of the national competition policy review on racing and betting. It called for submissions, and the opportunity to comment closed on 4 June 1999. After distributing the issues paper and considering the matter, the New South Wales government enacted a law that makes it illegal for people in New South Wales to bet offshore. Along with many people in the country, I have Austar in Bendigo. Part of that package is that I receive Sky Channel racing. The New South Wales TAB advertises on Sky that it is illegal for people in New South Wales to bet offshore.

At this late hour I do not intend to go through all the provisions of the New South Wales legislation. I will read into *Hansard* parts of section 8, headed 'Offences relating to unlawful betting', of the Unlawful Gambling Act 1998. Subsection (3) provides:

> A person must not make a bet on any horse race, harness race or greyhound race that is to be held anywhere in Australia, if:
>
> (a) the bet is made by telephone or electronically by means of the Internet, subscription TV or other online communications system, and
>
> (b) the bet is made with another person whom the person making the bet knows (or would be reasonably expected to know):
>
> (i) is not a legal bookmaker, or
>
> (ii) is not a person who is authorised under the law of any State or Territory to conduct totalisator betting.
>
> …
>
> (4) For the purposes of subsection (3):
>
> legal bookmaker means:
>
> (a) a licensed bookmaker, or
>
> (b) a person who is authorised under the law of any other State or Territory to carry on bookmaking activities.
>
> (4A) Subsection 3 extends to a bet that is made by a person while in the State even though the other person with whom the bet is made is outside the State (including outside Australia).
>
> (5) To remove any doubt, subsection (3) does not operate to impose any criminal liability on any person other than the person making the bet as referred to in that subsection.

That clearly outlines what the New South Wales government has done. I am very disappointed that the minister has not taken the opportunity to include in the amendments to the Racing Act provisions that reflect the New South Wales legislation.

I question the commitment of the minister to the racing industry. If he had the best interests of the racing industry at heart, he would be ensuring that any bet made in Victoria and placed in Vanuatu was illegal and that money could not be siphoned away from Victorian racing clubs and the TAB.

In conclusion, there are many challenges for the racing industry and I look forward to legislation coming before the house to address them. There are also many challenges for the harness racing industry in Victoria, including maintaining professionalism among its members, the emerging competition for the racing dollar, the gambling industry and particularly the success of the thoroughbred industry.

Unquestionably the greyhound racing industry is gaining strength and the advent of Sky Channel television in many homes is providing an opportunity for more and more people to bet through telephone accounts.

Every honourable member would agree that the racing industry in Victoria is the envy of every other state in Australia. However, as I said, each of the codes faces its challenges. The governance issues relating to racing will be debated in future. I urge the members of the various racing codes to ensure that they act professionally. Their industry is under constant scrutiny, and professionalism in management is imperative.

The National Party does not oppose the bill but I urge all sectors of the racing industry to be vigilant given the competition that exists and is emerging for the racing dollar.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank those honourable members who made contributions to the debate: the Honourables Ian Cover, Bob Smith and Ron Best. I will refer the issues raised by Mr Best relating to breeders of stallions and his request for them to meet with Harness Racing Victoria about surrounding issues to the minister.

I understand that the New South Wales law enacted in 1998 has been subject to review by a number of states and particularly by the Australian Racing Ministers Conference. To date no other jurisdiction has supported the New South Wales position, mainly on the ground that the law is practically unenforceable and could result in foreign jurisdictions imposing a similar ban against Australian wagering operations.

However, I believe the government is interested in reviewing the matter further and will continue to keep a close eye on the New South Wales framework. I will convey the member's request to the Minister for Racing in the other house. I thank honourable members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

BENEFIT ASSOCIATIONS (REPEAL) BILL

Introduction and first reading

Received from Assembly.

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

ADJOURNMENT

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

That the house do now adjourn.

Drugs: Croydon–Mooroolbark counselling service

Hon. W. I. SMITH (Silvan) — I wish to raise a matter for the Minister for Health in another place through the Leader of the Government. It relates to a constituent of mine, Michael Herrett, who raised this matter with me because he has tried to contact various government departments and cannot get an answer. Mr Herrett is a qualified youth worker and counsellor with 18 years experience, particularly in drug and alcohol counselling. He wishes to set up a counselling service in the Croydon–Mooroolbark area for people on low incomes who cannot afford to pay for the service.

I suspect there is no money available for him to set up the service, but, as I said, he has tried a range of government departments and cannot even get his calls returned. He is well qualified, he has been in the area of counselling for 18 years and he is part of the Australian Guidance and Counselling Association. I will give the minister his name and address. I ask the department to get back to Mr Herrett with an answer on whether funding is available and if so how to get it.

Rural Victoria: body corporate seminars

Hon. E. J. POWELL (North Eastern) — I raise with the Minister for Sport and Recreation, as the representative of the Minister for Planning in another place, a matter concerning body corporate seminars. On 23 April I received a notice from the Department of Infrastructure advising of seminars to be held throughout Victoria during April and May. The information I received said that the new regulations affecting how bodies corporate function across Victoria would come into effect on 17 April 2001. There were to be six free seminars to educate interested parties on the new regulations. The seminars were to be held in Melbourne, Ballarat, Frankston, Geelong, Dandenong and Preston.

My concern is that there were no seminars in the major parts of country Victoria and none in north-eastern Victoria. In my position of being the National Party member who is responsible for planning matters I wrote to the Minister for Planning on 3 May asking him to look at holding some additional seminars in country Victoria. At this stage I have not received a response. I ask the Minister for Planning to organise some seminars in country Victoria for those interested in learning about body corporate matters, about what the new regulations do, about the penalty interest provisions and the other issues they need to know about. It is important that country Victorians also have

access to such information, and I ask the minister to organise free seminars in country Victoria.

Member for East Yarra Province: parliamentary title

Hon. T. C. THEOPHANOUS (Jika Jika) — I wish to raise a matter with the Leader of the Government representing the Premier, who is responsible for appointing parliamentary secretaries to government departments and ministers. It has come to my attention that a member of the opposition continues to use the title 'parliamentary secretary' on his official letterhead, despite the fact that in April the matter was referred by the honourable member for Burwood in another place to the Speaker and the President. The honourable member for Burwood received assurances that the honourable member concerned had undertaken to desist from using that title. In a letter to the honourable member for Burwood the Speaker said he had asked the President to take action to prevent Mr David Davis from using the terminology 'parliamentary secretary' and to use the more appropriate terminology 'shadow parliamentary secretary'.

I have a copy of a media release from the Honourable David Davis dated 15 May — today — in which he describes himself as 'Parliamentary secretary, scrutiny of government'. As far as I know the Premier has not appointed Mr Davis as parliamentary secretary, and the continued use of this title is likely to mislead the community.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — I know he is desperate to get into government.

Hon. M. A. Birrell — On a point of order, Mr President — —

Hon. T. C. THEOPHANOUS — You couldn't help yourself!

Hon. M. A. Birrell — You are such an idiot that you invite a point of order — don't blame me! The Premier has no jurisdiction over anyone other than his own ministers and his own parliamentary secretary. The Premier is not a taste judge on titles, nor has he any right to pass any comment at all — —

Hon. T. C. Theophanous interjected.

Hon. M. A. Birrell — You have no right to raise a matter that has nothing to do with the Premier. It is a legitimate point of order because this matter has nothing to do with the Premier. It is a rather childish action of sleaze by the honourable member. Mr President, I ask you to rule it out of order on the basis that the Premier has no jurisdiction over this matter.

Hon. T. C. THEOPHANOUS — On the point of order, Mr President, the Premier is responsible for appointing the parliamentary secretary.

Hon. M. A. Birrell interjected.

Hon. T. C. THEOPHANOUS — He has appointed a number of parliamentary secretaries, of whom Mr Davis is not one. My intention in raising the matter is to ask the Premier to intervene in this matter and contact the Leader of the Opposition to ask him to stop Mr Davis from fraudulently representing himself as a parliamentary secretary when he is not!

Hon. D. McL. Davis — I request that Mr Theophanous withdraw the words he just used.

Hon. T. C. THEOPHANOUS — I am happy to withdraw, notwithstanding the deception undertaken.

The PRESIDENT — Order! I ask the honourable member to withdraw.

Hon. T. C. THEOPHANOUS — I withdraw.

The PRESIDENT — Order! On the point of order, the house is guided by the guidelines on speeches on the adjournment debate, and matters must be within the administrative competence of the Victorian government. I do not believe this is a matter within the administrative competence of the Victorian government, and therefore I uphold the point of order.

McKillop Family Services

Hon. E. C. CARBINES (Geelong) — I raise a matter with the Minister for Sport and Recreation in his capacity as representative of the Minister for Education in the other place. I draw the minister's attention to the fine work that McKillop Family Services offers the community of Geelong, and in particular I refer to the education service that is undertaken by McKillop in Geelong in support of primary schools in the region. McKillop runs a program at St Helen's Primary School in Whittington which offers places to some of Geelong's most disengaged primary school children — that is, those in danger of being alienated at a very young age from school and therefore from the opportunity to learn. Importantly, I commend the fine work of the people at McKillop in Geelong, including Brother Russell Peters, Anne Condon and the excellent staff at St Helen's.

I understand from meeting with the families of the children who have completed the program at St Helen's that they hold St Helen's and its program in very high regard. In fact, several of the children who have been to St Helen's have been successfully integrated back into primary schools.

I am aware that McKillop has been seeking additional Department of Education, Employment and Training funding for St Helen's, and I ask the minister if she can provide details of any additional funding assistance she can offer.

Women Shaping the Nation: celebration

Hon. M. T. LUCKINS (Waverley) — I raise a matter for the Minister for Industrial Relations representing the Minister for Women's Affairs in the other place. At the centenary of Federation commemoration last week the contribution of women was acknowledged by the first official event held in both chambers of the Parliament. I was dismayed by the partisan approach taken by the organisers of Women Shaping the Nation. This Labor-centric approach to the commemoration has been raised in the media over the past week.

Although I enjoyed the harmony in the performance of the Italian choir, which highlighted the contribution of migrant women to our great nation, I was dismayed by the singing of communist songs in the chamber, which I considered to be inappropriate. The honour roll of outstanding women and women who had achieved firsts in our community was also regrettably Labor-centric. There were some startling omissions from the honour roll, and I would like to nominate four for the consideration of the minister when she next looks at making additions to the roll. The former member for Boronia Province, Gracia Baylor, and the former member for Melbourne West Province, Joan Coxsedge, were the first women elected to the upper house in Victoria in 1979. I am taking a bipartisan approach because one former member was a member of the Liberal Party and one was a member of the Labor Party.

If we can include as a first the Deputy Speaker in the other place, surely we should be noting contributions of the first two women elected in 1979 to this chamber, Gracia Baylor and Joan Coxsedge.

It is also important for this chamber and the community to reflect on the fact that it took until 1979 for any women to be elected to this place. Gracia Baylor was elected as a member for Boronia Province in 1979 and held her seat until 1985, when she contested the Legislative Assembly seat of Warrandyte and lost by 87 votes. Prior to her election to Parliament she was an executive member of the Local Government Women's Association from 1967, Victorian president in 1973 and 1974 and national vice-president in 1974 and 1975. Since leaving Parliament she has been the national president of the National Council of Women and the chair of the Queen Victoria Women's Centre Trust.

Joan Coxsedge was the Labor member for Melbourne West from 1979 until 1992. She calls herself a radical feminist but she was also — —

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

Ballarat: trout hatchery

Hon. D. G. HADDEN (Ballarat) — I raise with the Minister for Energy and Resources a matter to do with the Ballarat Fish Acclimatisation Society trout hatchery. Last May I raised this matter with the minister and asked her to give urgent consideration to providing assistance to secure the ongoing viability of the hatchery, especially as a sodium hydrochloride leak into Lake Wendouree killed thousands of trout when the water was pumped into the hatchery ponds. At the time the Ballarat hatchery was in need of funding for an urgent capital works upgrade to its heritage buildings, the pump and the dredging plant. I ask the minister what progress has occurred to assist the Ballarat Fish Acclimatisation Society

Police: Belgrave station

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Sport and Recreation, as the representative of the Minister for Police and Emergency Services in the other place, on the issue of the location of the Belgrave police station. Last May the government pledged $3 million to upgrade the existing Belgrave station, with a scheduled completion date of June or July 2002. Shortly afterwards Victoria Police and the Department of Justice announced their intention to extend the present station, which is sited in Bayview Road, Belgrave. Since that time the Belgrave community has given much thought to where the new station should be sited.

A leading community organisation, the Belgrave Traders Association, led by its dedicated and very hardworking president, Mr Andrew Rayment, has called on the government to use the allocated moneys to build the station on vacant land on the corner of Terry's Avenue and Main Street in Belgrave. The Yarra Ranges Shire Council strongly supports the traders' call for the

relocation of the station to the Main Street site and has pledged to support it by creating a community park next to the police station, providing a civic focus to the area of vacant land. On 9 May the council and the traders organised a public meeting of community members in Belgrave to discuss the potential relocation, at which support for the relocation idea was very strong indeed.

Given that the idea to relocate the proposed station to a new site in Belgrave has the strong and vocal support of local business, the local council and the local residents of Belgrave, will the minister immediately respond to their requests in a positive manner and agree that the $3 million allocated for the planned upgrade be used to build a new station on their preferred site?

Mallee Family Care

Hon. B. W. BISHOP (North Western) — I direct to the attention of the Minister for Small Business, as the representative of the Minister for Community Services in the other place, the matter of funding for the organisation known as Mallee Family Care, which is based in Mildura. It is a wonderful organisation that delivers a huge range of community services — foster care, legal services, counselling, housing, volunteers — across the Mallee.

I report to the house that Vernon Knight, the executive director, and the board, have not stopped trying to raise funds since the former government was in office, which was working hard at getting the state's finances back in shape. Given the amount of money now available it is fair to say that regardless of which party is in power Mallee Family Care should receive a lift in funding. Currently it is dismayed at the lack of funding coming from the Bracks government despite numerous approaches, such as its submission to the Victorian economic development review committee.

Some services are already under pressure due to a lack of funding, and I ask the minister to immediately address the funding shortfall before this excellent organisation is forced to further reduce services.

Sidney Myer Music Bowl

Hon. ANDREA COOTE (Monash) — I raise a matter for the Minister for Industrial Relations, as the representative of the Minister for the Arts in another place. As a member for Monash Province I am very aware of the benefits of Melbourne's spectacular arts industry and its venues, many of which are in Monash Province. On the weekend while walking past the Sidney Myer Music Bowl I was particularly interested to read a large billboard that explains how the music bowl was to be refurbished at a cost of $18.5 million and was to be completed by November 2000. It looks to me to have a considerably long way to go and I am very concerned that the completion date is not anywhere near. I would like to know whether there is a union problem on this site or some other concern.

I ask the minister what explanation she has for this delay. It was supposed to have been completed in November 2000 and it is still a long way off. Will the minister please ask the minister in the other place for an explanation?

Towong land

Hon. W. R. BAXTER (North Eastern) — I ask the Leader of the Government, as the representative of the Premier in another place, to recall the much-heralded community cabinet meeting held in Wodonga in March at which a number of deputations were received. I particularly refer to a deputation led by Mr John Mitchell of Bethanga, which was seeking some small amount of assistance to purchase a piece of land on the Mitta Mitta River known as The Walnuts. The land has been used by two or three generations of people for picnics and the like on the basis that everyone assumed it was public land. It turns out to be privately owned and the owners, not surprisingly, desire to sell it. Mr Mitchell's group has an option on the land — of course it will not last much longer — and put a case for some assistance. It was given an undertaking it would get an answer reasonably expeditiously.

My office has endeavoured to get an answer for Mr Mitchell ever since that date, first by telephone, and when that drew no response, by email. After my office emailed the Department of Premier and Cabinet on 12 April it received a reply, which stated:

> We have asked Minister Brumby's chief of staff to have a close look at the proposal …

A fortnight went by with absolutely no response. My office emailed the department again and the next day the reply came:

> I have asked the Treasurer's chief of staff to follow up ASAP.

Another fortnight went by. On 11 May someone from my office again emailed the department asking whether the matter could be followed up or whether they could speak to someone directly, and asking for a contact. The reply came back:

> I have forwarded your email to Craig and asked for a response ASAP.

That is all the answer we get. Clearly the Treasurer's office is either totally incompetent or is not interested in helping this group at all. As the option is about to expire, I invite the minister to have the matter attended to and invite the Premier to instruct his ministers to be more responsive to representations, particularly when they build up such high expectations.

ME/Chronic Fatigue Syndrome Society of Victoria

Hon. ANDREW BRIDESON (Waverley) — I raise an issue for the Minister for Industrial Relations, as the representative of the Minister for Health in another place, on behalf of the ME/Chronic Fatigue Syndrome Society of Victoria, which is located at 23 Livingstone Close, Burwood. The voluntary charitable organisation is dedicated to helping everyone affected by chronic fatigue syndrome, which is also known as myalgic encephalopathy.

The association's 1000 members and carers not only work to help each other but more importantly support thousands of other sufferers. The work is carried out entirely by volunteers. The burden is becoming extremely great and the society is in desperate need of a paid work force to help it meet the growing demand for assistance.

This evening I checked its web site, and I recommend that all other honourable members look at the site to familiarise themselves with the society and the work it does. It also has a good teleconferencing project, which has been operating for the past three years but which because of the lack of funding must close at the end of this month unless desperately needed funds are found.

I ask the Minister for Health to meet a deputation from the society with a view to giving it the minimum funds it needs to keep its head above water.

Ararat: speed limits

Hon. R. M. HALLAM (Western) — I raise an issue for the Minister for Energy and Resources, who represents the Minister for Transport in the other place. The issue has become a bit more relevant, perhaps even ironic, because of today's announcement regarding the Bracks government's determination to reduce speed limits throughout the state as part of its attack on the road toll.

The Rural City of Ararat has written to me saying that it wants to reduce the speed limit to 50 kilometres per hour on two particular sections of declared main road — one happens to traverse the Ararat shopping centre and the other is adjacent to the P12 school in Lake Bolac. The city has been told by Vicroads that because in both cases the particular sections of road are part of the declared road network the policy is that the speed limit cannot be reduced to below 60 kilometres per hour. The chief executive of the city, Mr Braithwaite, has written to the Minister for Transport claiming that this is bureaucracy at its best or worst — take your choice. He is too polite to say what he really thinks. He describes it as incongruous; I suggest he might be tempted to use terms more earthy.

I seek from the minister a circuit breaker. This is madness. We need intervention to ensure that the policy to reduce the speed limit to 50 kilometres per hour in built-up areas is implemented in a practical way. On behalf the Rural City of Ararat I seek the urgent intervention of the minister.

VOICE of Australia

Hon. B. C. BOARDMAN (Chelsea) — I raise for the attention of the Attorney-General, through the Minister for Small Business, the activities of an activist — which I think is the best way of describing him — Malcolm McClure. Some honourable members might be aware that Mr McClure promotes himself as the commonwealth coordinator of an organisation that uses the acronym VOICE, which stands for voting organisation for individual and collective empowerment.

Mr McClure and his associates have established marquees at various locations around Victoria, one of which was at the Shannon Mall at Frankston in my electorate. On top of the marquee are large signs carrying the heading 'Victorians go to the polls — Referendum — GST and City Link tolls'. The sign also states:

> Yes! The result of this referendum is binding on our Parliament.

The sign also says that any Victorian voter can vote in any of these locations and that polling shall continue in all provinces.

Given the freedom of speech our democracy promotes people are no doubt entitled to their views and can promote them at any forum. However, Mr McClure has illegally purchased electoral rolls, crosses people's names off the electoral rolls after they have filled in a ballot sheet, gives them a sheet to say that they have voted and informs them that their vote is legal and that the result is binding on the Parliament. I am happy to make the correspondence available to the minister.

Unfortunately the Constitution Act Amendment Act contains no provision relating to this type of misleading nature unless it occurs during an election period. Equally, considering the organisation is not an incorporated association, I suggest that a number of offences are being committed under the Associations Incorporation Act. Mr McClure distributes a form that asks, 'Would you like to participate?', and then asks people whether they would like to become a member of VOICE of Australia and whether they would like to give donations.

I request that the Attorney-General take this matter very seriously, examine the legalities of Mr McClure's operations and initiate some action that could prevent this misleading organisation from carrying out its activities.

Prom Meats

Hon. P. R. HALL (Gippsland) — I raise a matter for the attention of the Minister for Energy and Resources in her capacity as representative in this place of the Minister for State and Regional Development. I seek the assistance of the minister in respect to the unfortunate circumstances in which a business located in Foster in South Gippsland and trading under the name of Prom Meats finds itself.

Prom Meats is a major employer in the Foster area. It directly employs some 52 people and has a further 34 contracted staff. I understand that on Sunday an administrator was appointed to operate the business and that as a consequence the jobs of some 86 people in this area of South Gippsland are now in serious jeopardy.

In a small township such as Foster 86 jobs is probably the equivalent of about 5000 or 10 000 jobs in Melbourne. The company is a significant employer in a small community, and if it folds it will have dire economic consequences for the township and surrounding community.

I call on the Minister for State and Regional Development to request that officers of his department work closely with the administrator of this firm to see whether Prom Meats can trade out of its present difficult circumstances or assist in finding another company to take over and operate the business. It is an urgent matter, and I ask that the Minister for State and Regional Development direct his attention to it as an absolute priority.

Rail: regional links

Hon. N. B. LUCAS (Eumemmerring) — I refer the Minister for Energy and Resources, as the representative of the Minister for Transport in another place, to the government's proposed fast train services to Geelong, Ballarat, Bendigo and Traralgon. My understanding is that the trains will travel at speeds of up to 180 kilometres per hour. Having been a passenger on trains that travel at a higher speed than that in Europe and having seen them operate in the United Kingdom and the United States of America, I am aware of the tremendous noise they make, particularly if they are not using modern technology. The vibration and noise caused by the movement of the trains past an urban area is significant.

The other issue is level crossings. As these trains are to proceed through to Traralgon, I have a real concern for the urban areas in my electorate involving the adequacy and appropriateness of the present level crossings along the line and the time the crossings need to be closed for an approaching train. Yesterday evening I was advised by the Shire of Cardinia that it has sought from the fast train project team the standards of noise attenuation or buffering treatment that would be required in a new subdivision to reduce the noise of trains going past an urban area.

I ask the minister, firstly, to provide me with details of the proposed requirements or recommendations for noise attenuation treatment along the four fast train routes, and secondly, what arrangements are to be put in place to upgrade road–rail level crossings in urban areas or proposed urban areas along the routes prior to commencement of the new fast train services?

Princes Pier

Hon. P. A. KATSAMBANIS (Monash) — I refer the Minister for Ports to a proposed development on Princes Pier in Port Melbourne. Honourable members may be aware that a residential development has been proposed on the existing pier structure as well as adjacent to the pier. A number of groups have lodged objections to this proposed development, including local residents, the local council and the Central Coastal Board. Interestingly one of the groups that has objected to the development is the Melbourne Port Corporation (MPC). In an article in the *Emerald Hill Times* of 9 May the acting chief executive of the Melbourne Port Corporation, Mark Dale, is reported as having said:

> The future operation and long-term sustainability of the port of Melbourne and Webb Dock is of major significance to the state.
>
> The MPC does not support the proposed development on the basis that it will compromise existing and future port operations.

For this development the responsible planning authority is the Minister for Planning. Given the view of the Melbourne Port Corporation that this development is likely to have a detrimental impact on the existing and future operations of the port of Melbourne, and given the importance of the port of Melbourne to industry and economic growth in Melbourne and the whole of Victoria, will the minister support the position of the Melbourne Port Corporation and make her own submission to the Minister for Planning to ensure that no inappropriate development takes place on Princes Pier that will in any way compromise the future use of the port of Melbourne?

Spotted tree frog conservation project

Hon. G. R. CRAIGE (Central Highlands) — I refer the Minister for Energy and Resources, representing the Minister for Environment and Conservation in another place, to an important project being undertaken in Victoria concerning the spotted tree frog. It is a joint project between the Department of Natural Resources and Environment (DNRE) and Parks Victoria and is basically designed to conserve the spotted tree frog in Victoria.

The project involves a trial of electrofishing techniques to remove trout from the upper reaches of White Creek, which is in the Lake Eildon National Park. White Creek is a tributary of the Taponga River. It also involves the construction of a permanent concrete barrier across the creek to prevent trout moving upstream. Trout above the barrier will be removed by electrofishing and released further downstream.

A letter from DNRE and Parks Victoria states:

> The removal of trout from this stream is likely to have benefits not only for the spotted tree frog but also for native fish, platypus and native stream invertebrates.

I particularly refer to the platypus. I can find no evidence, nor can anyone I have spoken to, that trout have any impact on platypus. I ask the minister to provide any information she has or evidence that trout have an impact on platypus.

Gas: Portarlington, Indented Head and St Leonards supply

Hon. I. J. COVER (Geelong) — I direct a matter to the attention of the Minister for Energy and Resources. I assure the house I have left the spotted tree frog matter to Mr Craige!

The matter I raise concerns the gas company TXU and the connection of natural gas to the north Bellarine townships of Portarlington, Indented Head and St Leonards. Drawings I have seen indicate that a pocket of land to the south of St Leonards referred to as the lower bluff will miss out on gas supplies. From the drawings it appears that at least a dozen streets would miss out.

The pre-election promise in the literature of the ALP has blown out from ‘in the first 12 months’ to ‘in the first term’ in recent material. Now it looks as though a section of the township has also been blown away. I call on the minister to give an undertaking that she will use the powers of her good office to see that all the township of St Leonards is connected to natural gas in keeping with the expectation of residents created by the Labor Party prior to the 1999 election and subsequently by the minister.

Consumer Affairs: Queensland land

Hon. BILL FORWOOD (Templestowe) — The matter I draw to the attention of the Minister for Consumer Affairs relates to a letter written by Kevin Rielly to the minister on 5 March last, and I am happy to make it available. It refers to a:

> … representative of my local electorate (Mr Gurkam Capar) …

I think that person works for the honourable member for Sunshine in the other house.

The story is sad because Mr Rielly has been seriously ripped off in a Queensland land scam. He understands that this is not a matter that falls within the Victorian jurisdiction but he raised a number of pertinent points. Apparently an electorate officer of the honourable member for Sunshine suggested Mr Rielly write to the minister.

Mr Rielly has been charged rates of $800 a year on a block of land valued at $3700, which seems a bit rich in the circumstances. Mr Rielly has spent more than $40 000 on land that is virtually worthless, with no prospects of development. My staff has checked the facts with him. He has yet to receive a response from the minister. This matter has been on foot for more than two months. He is keen to have somebody go in to bat not just for him but also for other people in a group called the Moreton Bay action group that is trying to prevent that sort of scam recurring.

Kew Cottages

Hon. D. McL. DAVIS (East Yarra) — The matter I raise is for the attention of the Minister for Small Business, as the representative of the Minister for

Community Services in the other place. It concerns Kew Cottages in my electorate and the government's announcement of a $100 million redevelopment of the site. The opposition supports and, in fact, foreshadowed the announcement. I agree that the announcement is important.

Honourable members interjecting.

Hon. D. McL. DAVIS — It is not my intention to make a political point tonight. The opposition supports the principles and understands the importance of the redevelopment of Kew Cottages.

The matter I raise concerns the use and redevelopment of the land and a number of local factors concerning it. Many local people are concerned that sufficient public open space be reserved in that 27-hectare site, consistent with the values of the City of Boroondara that open space be treated as a high priority. There is much enthusiasm for that. In particular, there are important areas of parkland in the Studley Park area that are contiguous with that redevelopment.

It is important that the future management of the area be treated in light of the operation of the Studley Park Trust that manages the whole of Studley Park. There needs to be consistency of management in whatever land is publicly reserved. I urge the minister to ensure that an appropriate amount of public open space is reserved, consistent with the values and ideas of people in and around that area, and an amount consistent with the council's wishes and ideas in that context. I ask that the management of that public open space be consistent with the vegetation management of the Studley Park Trust and the important area of public space that exists along the Yarra River.

Roads: Nunawading traffic management

Hon. B. N. ATKINSON (Koonung) — I direct a matter to the attention of the Minister for Energy and Resources, representing the Minister for Transport in the other place. Constituents who live in Laughlin Avenue, Nunawading, which is located near the railway line, have approached me with concerns about their ability to get in and out of their street due to traffic on Springvale Road that is frequently stopped by the rail crossing boom barriers.

Vicroads and the City of Whitehorse have undertaken a number of traffic management measures in the vicinity of Laughlin Avenue to try to control traffic movement, and particularly to cope with the boom gate operation. However, the results of those measures is that people in Laughlin Avenue, many of whom are elderly and quite a number of whom need access to the medical centre on the corner of Laughlin Avenue and Springvale Road, are unable to use their vehicles to exit that road safely.

They have suggested that one measure taken — a U-turn installed south of the railway line — should have time limitations imposed on it so that at times in peak hour when traffic imposes a burden on the boom gates, creating a build-up of traffic in the area, U-turns could be banned so that residents could exit their street and use the keep-clear area on Springvale Road.

Pedestrian traffic lights have been installed in the area. I wonder whether traffic lights at that and other locations around Melbourne could be coordinated to create a vacuum between the lights and rail crossings so people could manoeuvre in such areas when boom gates are down. That is done in some other areas, in particular to allow pedestrian movements across major intersections. That traffic measure might be considered by Vicroads in this instance, but certainly in other locations where problems arise with peak-hour traffic.

Rail: Leongatha service

Hon. K. M. SMITH (South Eastern) — I ask the Minister for Energy and Resources to refer the Minister for Transport in another place to the upgrading of the Leongatha railway line and the reinstating of the train service to Leongatha. I hope more than the handful of people who used the service in previous years use it this time around, otherwise it will not be viable, which is the reason — —

Hon. M. M. Gould — You will shut it down if you ever get back into government!

Hon. K. M. SMITH — As I said before honourable members opposite started carrying on, I hope more people will use the service than previously did.

I am most concerned about the effect the reinstating of the service will have on the existing agreement with the South Gippsland Tourist Railway, which runs tourist trains between Nyora and Leongatha, but mainly to Korumburra, on weekdays as well as on weekends. What will happen with that group, which has spent large amounts of money upgrading the track, the railway stations and the rolling stock? It has offered to put further large amounts of money into upgrading the track.

I have grave concerns that by making all these promises about reinstating the railway track, the government will force this group of good local people out of business. They provide a very reasonably priced tourist service to large numbers of senior citizens groups and contribute their own time and money.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Wendy Smith gave me information and details about a constituent of hers to forward to the Minister for Health in another place. I will pass that on to the minister and ask him to respond.

The Honourable Maree Luckins raised a matter with me that should have been raised with the Minister for Small Business, who will respond.

The Honourable Andrea Coote raised a matter for the Minister for the Arts. I will ask the minister to respond in the usual manner.

The Honourable Bill Baxter raised a matter for the Premier, and I will ask him to respond in the usual manner.

The Honourable Andrew Brideson raised a matter for the Minister for Health relating to a chronic fatigue syndrome organisation. I will ask the minister to respond in the usual manner.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Dianne Hadden raised the matter of the Ballarat Fish Acclimatisation Society. I thank her for her ongoing interest in the matter. Through my visits at the society's invitation, I am aware of the trials and tribulations it has had to face.

In response to the honourable member's inquiry about progress, I am very pleased to advise that the government has provided some $12 000 to significantly upgrade this historic trout hatchery at Ballarat's Lake Wendouree. The funds will be used to build two additional raceways at the hatchery so the society can maintain its production capacity for trout. I am advised that those new works will be undertaken relatively quickly and should be completed in time for the coming spawning and hatchery season for trout, as was mentioned earlier.

The Honourable Roger Hallam, on behalf of the Rural City of Ararat, requested the Minister for Transport in another place to resolve an issue regarding speed limits. I will refer that matter to the Minister for Transport.

The Honourable Peter Hall asked the Minister for State and Regional Development in another place to request officers from his department to work closely as a matter of urgency with the administrator of a business called Prom Meats at Foster to assist that company. I will pass that request to the minister.

The Honourable Neil Lucas asked the Minister for Transport in another place to provide details of noise attenuation and treatment of level crossings proposed for the fast train routes. I will pass that matter on to the minister.

The Honourable Peter Katsambanis raised issues to do with the proposed development of Princes Pier and correctly stated that these are ultimately matters for the Minister for Planning in another place. I have every confidence that the Melbourne Port Corporation has raised the matters in relation to the Port of Melbourne for the attention of the Minister for Planning.

The Honourable Geoff Craige raised a matter for the Minister for Environment and Conservation requesting information and advice about the impact of trout on platypus. I will pass that matter on to the minister.

The Honourable Ian Cover raised the matter of the government's gas network extension commitments to St Leonards and other towns on the Bellarine Peninsula and asked that the government restate its commitments. There is no question about the government's commitments to those extensions, and it stands by them. The government continues to assist the resolution of that issue, including through the Department of State and Regional Development.

The Honourable Bruce Atkinson asked the Minister for Transport to request Vicroads to investigate traffic management measures at Laughlin Avenue, Nunawading. I shall refer that request to the minister.

The Honourable Ken Smith raised a matter for the attention of the Minister for Transport about Leongatha train services, and I shall refer that matter to him.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Maree Luckins raised a matter for the attention of the Minister for Women's Affairs in the other place about the inclusion of former members Baylor and Coxsedge on the Victorian women's honours roll. As I understand it the minister said it would be a growing list, and I shall refer the matter for her consideration on the basis of those former members being the first women elected to the upper house in 1979.

The Honourable Barry Bishop raised for the attention of the Minister for Community Services a matter concerning Mallee Family Care and funding shortfalls. I shall refer the matter to the minister for her consideration and ask her to report back on it.

The Honourable Cameron Boardman raised a very serious matter for the attention of the Attorney-General

about leaflets being distributed and marquees being erected not only in Frankston but in other areas as well suggesting that a referendum was occurring and misleading Victorians about the status of what he was undertaking and doing. I shall certainly refer that matter to the Attorney-General for his examination in relation to electoral matters or other matters that may be necessary. We should also be looking at it in Consumer and Business Affairs Victoria in the context of misleading information. I make the commitment that if we can take action, we will undertake to look at the matter and ensure that we do.

The Honourable Bill Forwood raised the matter of Kevin Rielly and the Queensland land scam. This is an issue in Queensland. I assume the delay in response has been because it has been followed up with the Queensland fair trading office. This is not the first time the issue has been raised and it is being looked at seriously in Queensland. As Mr Forwood would be aware, it is in Queensland's jurisdiction, but we will certainly follow it up to see what is occurring at that end and get back to the constituent concerned.

The Honourable David Davis raised a matter for the attention of the Minister for Community Services about the use of Kew Cottages land, asked whether sufficient land will be set aside for public open space and suggested there be consistent management of that open space area in line with the Studley Park Trust management. I shall refer that matter to the minister for her response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Jeanette Powell raised a matter concerning seminars held about the functioning of body corporate regulations. I shall refer the matter to the Minister for Planning in the other place.

In relation to the question raised by the Honourable Elaine Carbines relating to McKillop Family Services, I am informed by the minister's office that the Department of Education, Employment and Training (DEET) currently funds the agency with just over $130 000 for St Helen's Primary School and just over $304 000 for St Augustine's. In addition, out of its regional alternative programs money, Barwon South Western Region provides an additional $180 000 to supplement funding. That is used for the St Augustine's education mobile unit program.

I am also advised that DEET has supported the efforts of McKillop Family Services to obtain additional funding, for example, in approaches to the education trust for a one-off grant. I also understand that the regional director of the Barwon-south western region has discussed the issue of pressure on the program with local schools and that schools are developing other options to support this group of young people, thus limiting referrals to McKillop services to those students with the greatest need.

DEET recognises the value of McKillop services to schools in the Geelong area. Therefore, to assist McKillop Family Services to adjust its services to the funding available, McKillop has been offered a one-off restructuring allocation grant of $30 000 to assist it through these transitional arrangements.

In relation to the matter raised by the Honourable Andrew Olexander about the Belgrave police station upgrade, I shall refer the matter to the Minister for Police and Emergency Services in the other place.

Motion agreed to.

House adjourned 12.16 a.m. (Wednesday).