PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

12 June 2001

(extract from Book 8)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

Lady SOUTHEY, AM

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
The Hon. D. V. NAPTHINE

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

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Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

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

CONTENTS

TUESDAY, 12 JUNE 2001

Tuesday, 12 June 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.07 p.m. and read the prayer.

DISTINGUISHED VISITORS

The SPEAKER — Order! It gives me great pleasure to welcome to the gallery today a very distinguished delegation from the People's Republic of China. The delegation is led by Mr Ren Keli, the Chairman of the People's Congress of the Province of Henan in the People's Republic of China.

Honourable members applauded.

QUESTIONS WITHOUT NOTICE

Workcover: premiums

Dr NAPTHINE (Leader of the Opposition) — My question is to the Minister for Workcover, more commonly known as Blow-out Bob.

The SPEAKER — Order! The Leader of the Opposition will address honourable members by their correct titles.

Dr NAPTHINE — I refer to the fact that despite the minister's claims that the average Workcover premium rate would not rise next year, 163 industry rates will in fact rise, including manufacturing industries such as clothing and knitwear, and I ask: is it not true that the vast majority of medium and large-scale employers in these industries will now face another savage increase in Workcover premiums next year?

Mr CAMERON (Minister for Workcover) — I thank the Leader of the Opposition, known as Dopey Denis, and I have to say very dopey indeed — —

Honourable members interjecting.

The SPEAKER — Order! Similarly, I caution the minister to refrain — —

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order. Similarly, I ask the Minister for Workcover to refer to honourable members by their correct titles.

Mr CAMERON — In the present financial year the premium rate is 2.2 per cent of wages, and next year it will be 2.2 per cent of wages. I want the Leader of the Opposition to get it clear. I want him to listen and to listen carefully — 2.2 per cent this year and 2.2 per cent next year. That means the average remains the same.

That premium rate covers the cost of the scheme, and it also helps pay back the massive Liberal liabilities which we inherited as a government — over $1 billion — and, of course, a quarter of a billion dollars relates to liabilities as a result of the beloved Liberal GST.

In terms of premiums in the next financial year, if a payroll is below $1 million the premium rate will be the same. That relates to 96 per cent of employees. For larger payrolls, experience rating applies. Where does experience rating come from? It comes from the former Liberal–National Party government. There must be a tiff going on over there, because in today's *Age* the honourable member for Box Hill has this to say:

> … there was 'no quarrel' with the principle of adjusting premiums based on work safety performance …

The Leader of the Opposition needs to go back and take a few more lessons.

Marine parks: establishment

Mr RYAN (Leader of the National Party) — I refer the Minister for Environment and Conservation to the 1997 annual report of the Fisheries Co-management Council, which states that bay and inlet fish stocks are more seriously threatened by habitat and environmental degradation than by commercial or recreational fishing. Given this information, why is the government attacking fishers with its marine parks plan and not tackling the real issues affecting our marine environment?

Ms GARBUTT (Minister for Environment and Conservation) — A wealth of scientific, social and economic information was available to the Environment Conservation Council (ECC) before it made its recommendations for marine national parks. However, before I go into that I would like to outline some of the other initiatives the government is taking to protect our marine environments.

I have recently announced around $10 million of projects — part of $22.5 million of the government's stormwater action program designed to clean up our waterways, which for the most part empty directly onto our beaches and into bays and our marine environment. The government has committed $22.5 million — it is all there in the budget — to provide other ways to clean up our marine environments.

The government is also strongly committed to catchment management authorities, which are also receiving funds to clean up our waterways that empty into our marine environments. So there is no doubt of the government's commitment to cleaning up our marine environments and to protecting them in many ways, not just in marine national parks.

But let us come back to some of the evidence that informed the ECC's recommendations and should inform the opposition's consideration of the bill. The Environment Conservation Council used some of the best marine habitat mapping in Australia, as well as detailed investigations and understanding of patterns of marine biodiversity in Victoria. The mapping used methodologies developed by scientists of the Commonwealth Scientific and Industrial Research Organisation and surveys by other Victorian marine scientists. The ECC commissioned further surveys that involved hydro-acoustic-sonar technology, underwater videos and dive surveys by scientists.

One has only to look at the Environment Conservation Council's report, which has 409 references to scientific, social and economic studies, to understand that the recommendations have very solid backing.

The real question is: what is the opposition going to do? Why is the opposition not supporting marine national parks for all the jobs that will be provided through them and the protection it will provide to our marine — —

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

Ms GARBUTT — The opposition needs to come clean and announce its support for marine national parks.

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster!

St Heliers site: redevelopment

Mr WYNNE (Richmond) — Will the Premier inform the house of the government's decision in respect of the proposed St Heliers site development?

Mr BRACKS (Premier) — I thank the honourable member for Richmond for his interest in this topic, because he has been working hard to get a satisfactory outcome for the proposed development of the Abbotsford convent on the St Heliers site.

As many honourable members would know, this site is historic in Victoria's and Australia's history. It is the site where the first recorded inland contact with Aboriginal people occurred in the Port Phillip district in 1802. Importantly in white history, it is also the place where Edward Curr, who is known as the Father of Separation because he campaigned for the separation of the two colonies of New South Wales and Victoria, had his residence and planted a separation tree — a second oak tree. It is where he set about achieving his goal of separating the two colonies of New South Wales and Victoria, but, regrettably, that was not achieved until two weeks after Edward Curr's death. His 10 years of work resulted significantly in separating those two colonies.

Subsequently, the Sisters of the Good Shepherd occupied the site — the lands, grounds and convent area, which it then became — for 100 years. During that time more than 1000 Sisters of the Good Shepherd have offered welfare services to the community right across Victoria, particularly in that region.

I am pleased to say that, contrary to the plans of the previous government for the site, which were for a residential and commercial development, this government has preserved the site forever for the people of Victoria. All the monastery areas and the grounds associated with the monastery have now been given back to the people of Victoria to be developed as a centre for arts, culture and tourism, as they should be.

Not only that, the government has already contributed some $4 million towards this development through the philanthropic trust, community effort and donations received from around Victoria. Some $2 million has already been raised, and the community expects to raise another $3 million towards the project.

That is a great outcome, which has been achieved in cooperation with the developer, Australand. The Minister for Planning and I can announce that the developer will have development rights over the northern part of the precinct, which was not under a controversial cloud. That will go ahead with residential development. Importantly, Australand will also be contributing through a donation to the Abbotsford Convent Coalition to the new Abbotsford convent at the St Heliers site. It is a great win for the people of Abbotsford, and it is a great win for the people of Victoria and Australia. The site has now been preserved for all time.

I congratulate the City of Yarra, the Abbotsford Convent Coalition and the honourable member for Richmond, who has worked tirelessly on this matter.

He has been pushing for this outcome. It is a long-term outcome that will benefit the people of Victoria, and it will now be held in perpetuity by Victorians.

Workcover: premiums

Mr CLARK (Box Hill) — I refer the Minister for Workcover to his statements that the average Workcover premium rate increase for the current financial year has been 17 per cent, and I ask: given that the Victorian Workcover Authority has now admitted that one-half of all employers have received a premium rate increase of 36 per cent or more, will the minister now admit that he failed to disclose the true effect on Victorian businesses of Labor's Workcover premium rate rises?

Mr CAMERON (Minister for Workcover) — Let us have another little lecture on experience rating, the scheme developed by the other side. What happens each year is that industries are categorised, and some go up and some go down. As a consequence last year there was a rise of 15 per cent in the total premium rate, together with an average of 2 per cent for ongoing and forward costs relating to the GST.

In stark contrast to the former coalition government, that covers the cost of the scheme. In 1994–95 the premium rate was 2.25 per cent. That rate was dropped, resulting in the scheme sinking deeper and deeper into the red. When the Labor Party came to government the unfunded liabilities were almost $800 million, and the federal Howard government has added almost $250 million as a result of its GST.

The Labor Party has put a premium in place to cover the cost of the scheme, which the actuaries have confirmed. That is something that has not happened for years. As the scheme has been stabilised, the government is keen to see it turn around. It does not want to see — —

Dr Napthine interjected.

Mr CAMERON — The Leader of the Opposition is boasting about the liabilities, boasting that his party has caused all those liabilities, and he wants the government to fix them. He should sit back and relax. The scheme is stabilised, and the government will turn it around.

SRO: relocation

Ms OVERINGTON (Ballarat West) — I ask the Minister for State and Regional Development to inform the house of the outcome of the feasibility study into the relocation of part of the State Revenue Office to Ballarat.

Mr BRUMBY (Minister for State and Regional Development) — I thank the honourable member for Ballarat West for her strong support — together with the honourable member for Ballarat East — of the proposed relocation of part of the functions of the State Revenue Office to Ballarat.

I am delighted to inform the house that having now considered the feasibility study into the relocation, the Bracks government has formally and officially decided, and announces today, that 40 per cent of the activities of the State Revenue Office will relocate to Ballarat. This is the biggest single relocation of government activity to a major provincial centre seen in Victoria for decades. It will bring $100 million of economic benefits to Ballarat over the next six years.

An honourable member interjected.

Mr BRUMBY — The honourable member interjects by asking, 'What did the opposition ever do?'. What the opposition did was two things: it stopped the former Labor government's relocation of the Department of Agriculture to Bendigo and it wound back the 1991 decision of the former Labor government to shift the state data centre to Ballarat. The only record the opposition parties have is to attack any relocation of activity.

The Ballarat *Courier* of 14 April, when the relocation decision was made, states at page 3:

> Louise Asher backs Bendigo one day, Ballarat the next.

That is called having a bob each way!

The government undertook a feasibility study and looked closely at the relocation. On the basis of that study and the clear and conclusive benefits not just to Ballarat but the state as a whole — together with the fact that on Friday a mass meeting of State Revenue Office staff voted to support the relocation — the government has decided that it will proceed.

The project will provide 50 jobs in the construction of the new premises at the Ballarat University park, and 200 jobs will be in place at the park by October 2002. I am also delighted to advise the house that today contracts will be signed between the State Revenue Office and the Ballarat University for the construction of the building. Not only have we made this great decision for Ballarat and for the state, but we are also getting on with the job — we are signing the

contracts — and the employees will be in place by October 2002.

I will conclude by officially and formally thanking the honourable members for Ballarat West and Ballarat East; the two upper house members for Ballarat, the Honourables John McQuilten and Dianne Hadden-Tregear, who both worked tirelessly on this project; the head of the State Revenue Office, David Pollard; and, of course, the Premier, for the leadership he has shown on this issue.

Opposition members interjecting.

Mr BRUMBY — Here they go again! Every bit of good news they get, they just whinge and whine. This is the biggest single new government investment in Ballarat for decades, and we have not heard one supportive word from the opposition today saying this is a good decision for Ballarat or for the state.

In seven years the former government did not relocate one single job out of Melbourne to a provincial area. In less than two years the Bracks government has made this decision, and before the next state election — by October 2002 — this facility will be in place with 200 new jobs and $16 million of economic activity. It is a great decision for Ballarat and a great decision for Victoria!

Bridges: Robinvale

Mr SAVAGE (Mildura) — In view of the failure by the federal government to offer more than $17 million for the Murray River crossing at Robinvale, will the Minister for Transport advise the house what impact this will have on the time frame for the construction of that new bridge?

Mr BATCHELOR (Minister for Transport) — I thank the honourable member for Mildura for his question.

Opposition members interjecting.

Mr BATCHELOR — I see that members of the opposition are attacking the honourable member for Mildura for wanting to improve communications across the Murray River.

Mr Steggall interjected.

Mr BATCHELOR — The honourable member for Swan Hill would not do that, but the Liberal Party does not know whose electorate it is in. It is not even in the electorate of the honourable member for Mildura. However, the honourable member for Mildura is concerned about what happens — —

Dr Napthine interjected.

Mr BATCHELOR — The Leader of the Opposition has been taking a bit of interest in it, has he? He might be looking for a new seat.

The SPEAKER — Order! I ask the Leader of the Opposition to cease interjecting and the minister to cease responding to interjections.

Mr BATCHELOR — Talk about the redistribution! Who is the first to interject — the Leader of the Opposition! He is terribly worried about his seat, Mr Speaker.

The Robinvale bridge is one of three bridges over the River Murray identified as bridges to be funded by the commonwealth government as part of the Federation Fund — but only partially funded.

Mr Doyle interjected.

Mr BATCHELOR — Are you still attacking? Do you want to attack the bridge at Corowa?

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Mordialloc!

Mr BATCHELOR — The Liberal Party is attacking the bridges at Corowa and Echuca. The Cobram bridge will be attacked next!

The federal government allocated only $17 million for this project, which will cost $40 million. The federal government has said, in effect, that the people of this area can have the bridge but that it would be prepared to only partially fund the project. One wonders whether that suggests the bridge will be built with only half a lane — or half, one way — or only to the middle of the river! The Bracks government can assure the honourable member for Mildura and the people of Robinvale that the bridge will be finished from funds provided by the New South Wales and Victorian Labor governments, because we care about the people of country Victoria — unlike the Liberal and National parties.

The shortfall of some $7 million, which is Victoria's share, is provided for in the recent state budget. The recent New South Wales budget allocated $5.7 million towards the bridge in the forthcoming financial year. I understand that government is fully committed to

funding its share of the shortfall, which on this occasion is some $16 million.

In the meantime, planning for the Robinvale bridge is proceeding. The New South Wales Road Traffic Authority is the lead agency in this planning process. The RTA has completed its route selection study. The Victorian government hopes that the planning process will be completed this calendar year, enabling detailed design and construction work to commence in 2002.

The bridge will be completed because of the commitment given by the Bracks government in its budget — where it counts — to country Victoria.

Workcover: management

Ms ASHER (Brighton) — I refer the Minister for Workcover to the fact that two board members of the Transport Accident Commission have already resigned and that at least one other has threatened to resign over plans by the government to appoint Workcover chairman and the Premier's mate, Mr James MacKenzie, as the chairman of the TAC. Given that the government intends to proceed with this appointment, will the minister guarantee that no TAC funds will be used to bail out his massive Workcover cost blow-outs?

Mr CAMERON (Minister for Workcover) — This is a very odd question. I think I had better give the Deputy Leader of the Opposition a few lessons. There are two separate pieces of legislation. Firstly, the Workcover scheme must be administered according to the Accident Compensation Act. Secondly, the transport accident scheme must be administered according to the Transport Accident Act. The two acts are not mixed up — they are separate.

Ms Asher interjected.

The SPEAKER — Order! The Deputy Leader of the Opposition!

Mr CAMERON — There are two separate acts and two separate schemes, and they are administered entirely separately.

Public transport: ticketing system

Mr LENDERS (Dandenong North) — Will the Minister for Transport inform the house about the latest actions the government is taking to improve the automatic ticketing system?

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Narracan!

Mr BATCHELOR (Minister for Transport) — On Sunday I released the results of an independent audit into Melbourne's automatic ticketing system, which, courtesy of the Kennett government, we have to live with until 2006.

Ms Asher interjected.

Mr BATCHELOR — Do you catch the train?

Ms Asher interjected.

Mr BATCHELOR — Good.

An honourable member interjected.

Mr BATCHELOR — Yes, I catch the train.

The SPEAKER — Order! The honourable Minister for Transport should cease inviting interjections.

Mr BATCHELOR — The audit that was commissioned looked at the ticketing system from the customer's, or commuter's, point of view. This is the first time that has been done.

It was a revealing audit. At its core its assessment was that the ticketing system fails to meet the expectations of the travelling public. It found that some 28 per cent of machines on the rail network were only partially functioning or not functioning at any one time and that around 12 per cent of the machines on the tram and bus networks were not functioning, either.

Perhaps the most bizarre finding was that under Mr Kennett's contract a ticketing machine could be considered machine operational, and Onelink could be considered to have met the terms of its contract, even without the customer being able to get a ticket! You would have thought the primary function of an automatic ticketing machine was to issue tickets, and that if it did not a service contract would regard it as not operational — but that is not the contract the Kennett government left for the state of Victoria.

This government and the private operators wish to grow public transport, increase patronage and provide a better service. You cannot achieve those objectives if you have an underperforming ticketing system that is set in contractual rigor mortis.

In response to the audit, I have commissioned a ticketing task force in the Department of Infrastructure to provide ongoing advice on improvements to the system. The government and the private operators have

also commenced discussions with Onelink about a range of issues to improve the current system. These include improving response times to vandalism, looking at the contractual issues that go to make up and support the ticketing system, and looking at the way faults are automatically reported back to central control. In addition the task force, working with the private operators, will look at what new technologies might be available for the eventual replacement of the existing ticketing system.

As an immediate priority, the government will be looking at issues surrounding the emptying and maintenance of ticketing machines, systems for the reporting of faults by members of the public and the staff of the transport operators, and improvements in off-system ticket sales to encourage the pre-purchase of tickets. The resolution of those and other issues associated with the automatic ticketing system and its contracting will not be easy to resolve. However, Onelink — the private operators — and the government have a commitment to try to bring about improvements. The Bracks government will work with all the stakeholders to try to do that, even if it takes 12 months to achieve.

The Bracks government, with the franchisees, will clean up the mess left by the former Kennett government.

Alfred hospital

Mr DOYLE (Malvern) — Will the Minister for Health explain why it took his department two months to make public the legionella outbreak at the Alfred hospital? Further, will he confirm that on 27 April, when three cases had been identified and two people had died, he addressed a business forum and issued a press release praising the government's actions on the prevention of legionella, without acknowledging that at that very time the public hospital system had a legionella health crisis?

Mr THWAITES (Minister for Health) — It is always good to see the honourable member for Malvern salivating at the chance to make political capital out of legionella — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Mordialloc!

Mr THWAITES — Honourable Speaker, in major — —

The SPEAKER — Order! I ask the honourable member for Mordialloc to cease interjecting.

Mr THWAITES — In major public health matters, like legionella, this government follows the advice of the Chief Health Officer of Victoria. It is totally appropriate that we do that. Indeed, it would be inappropriate not to follow the advice of the Chief Health Officer.

Opposition members interjecting.

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

Mr THWAITES — This government has followed the advice of the Chief Health Officer at all times. In addition to doing that, this government has put in place the best regime for legionella testing and maintenance in Australia, as has been recognised by experts around the country, including Mr Broadbent and other experts referred to by the opposition.

I might also say that the honourable member opposite and others have at times talked about having mandatory legionella testing. I inform the honourable member that in fact the Alfred hospital does have monthly legionella testing in place. It also has a strict regime of testing and maintenance. The Chief Health Officer of Victoria — —

An honourable member interjected.

Mr THWAITES — I will come to that. The Chief Health Officer has indicated they have taken some 94 samples at the Alfred hospital and in the vicinity — and not one yet has tested positive for legionella.

Two cases were notified in April. Those cases were both outpatients of the hospital. The Chief Health Officer investigated that. There was an indication that that was part of a group of cases at the time which may well have come from Frankston or the central business district. In fact, the advice of the Chief Health Officer was that at that time there was no identifiable source of the legionella. It would have been inappropriate according to the — —

Opposition members interjecting.

Mr THWAITES — They laugh! These great experts in medical science are questioning the advice of the Chief Health Officer of Victoria.

I am not sure of the qualifications of the honourable member for Malvern, but as far as I am aware he has no qualifications whatsoever in science or medicine. I

would prefer to rely on an expert with qualifications in science or medicine. I also indicate that the Chief Health Officer has indicated that it would not be appropriate to immediately advise or alert the public as soon as there is any case of legionella around this state.

There have been more than 60 cases of legionella already this year. Every one of those people would have been to 10 or 15 different sites. It is of no medical benefit at all to notify the public and cause anxiety among the public unless there is a source that is identifiable. I say quite clearly that I have been fully informed by the Chief Health Officer at all stages of what has occurred.

Dr Napthine interjected.

Mr THWAITES — Yes, I have been fully informed by the Chief Health Officer at all stages and I have fully followed his advice — and I will continue to do that.

Mrs Peulich interjected.

The SPEAKER — Order! The honourable member for Bentleigh!

Disability services: study travel grants

Ms ALLEN (Benalla) — Will the Minister for Community Services advise the house of the recently approved study travel grants for disability service workers?

Ms CAMPBELL (Minister for Community Services) — People with disabilities have overwhelmingly welcomed the Bracks government's initiatives in disability services, particularly the $50 million in new initiatives for disability service programs. But the government is not prepared to stop there. After years of neglect in the training of the disability work force, the government has decided to make it a commitment.

People with disabilities deserve the best trained work force the state can provide, and for this reason I have established a new series of study-based travel grants worth $71 000 to be available for workers in disability services in the 2001 academic year. These grants complement the $250 000 in new funding for technical and further education and university fee scholarships for disability services workers. The government is proud of investing in its disability service workers.

The study-based travel grants are to be known as the Ethel Temby Study Tour Award. Over many years Ms Ethel Temby, MBE, has taken a prominent role in promoting the needs and rights of people with disabilities. I am proud that the government has been able to implement a number of the recommendations she made some years ago. There has been a tremendous reception of the award, and over 400 people have made inquiries. Many have come from people who have worked in disability services for decades but never had the opportunity to go on study tours or to upgrade or even advance their personal skills or training.

This package signals that disability workers are valued by the Bracks government and by people with disabilities. Fourteen people have been selected to receive the Ethel Temby award. They will be given the opportunity to research projects, attend conferences or visit leading interstate and overseas organisations. When they come back they will have the opportunity to share with their co-workers what they have learnt, as well as having been able to upgrade their own skills.

The end result will be a better quality of service for people with disabilities. This exciting initiative is based on the government's commitment to improve training opportunities and provide lifelong learning opportunities for its workers. The aim of the scholarships and the travel package is to provide opportunities for workers to develop skills and knowledge to assist people with disabilities who require specialist or new skills. The government will encourage people to develop their skills related to acquired brain injury, behaviour management, dealing with complex communication needs, incontinence and swallowing problems.

People with disabilities face similar stresses of modern life to the rest of the community, and the government is going to ensure workers are encouraged to broaden their understanding of people with disabilities who are ageing or who have problems that are alcohol or drug related. In conclusion, it is important to recognise that, while the former government cut training to the disability work force, this government is righting the wrongs of the previous administration.

NOTICE OF MOTION

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

Ms GARBUTT (Minister for Environment and Conservation) — I desire to give notice that tomorrow I will move:

> That the following order of the day, government business, be read and discharged:

National Parks (Marine National Parks and Marine Sanctuaries) Bill, second reading, resumption of debate.

and that the bill be withdrawn.

The opposition has got 24 hours to find some commitment to the environment, or it goes!

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Bennettswood!

Honourable members interjecting.

The SPEAKER — Order! The house will come to order! I do not want to use sessional order 10!

PETITION

Laid on table by Clerk:

Infertility treatment

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

The humble petition of the Fertility Access Rights Lobby, Victoria, and the undersigned citizens of the state of Victoria sheweth support for equal access to all assisted reproductive services in Victoria by any woman, regardless of her sexual orientation or marital status.

Your petitioners therefore pray that the Infertility Treatment Act (1995) be amended in all relevant sections to remove restrictions to access on the basis of marital status.

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

By Ms BURKE (Prahran) (1445 signatures)

Laid on table.

Ordered that petition presented by honourable member for Prahran be considered next day on motion of Ms BURKE (Prahran).

PRIVILEGES COMMITTEE

Right of reply

Mr LONEY (Geelong North) presented report on procedures.

Laid on table.

Ordered to be printed.

COUNTY COURT JUDGES

Annual report

Mr HULLS (Attorney-General) presented, by command of the Governor, report for 1999–2000.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Forensic Leave Panel — Report for the year 2000

Melbourne Port Corporation — Report for the year 1999–2000 (in lieu of Report previously tabled on Tuesday 31 October 2000) (two papers)

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Bayside Planning Scheme — No. C16

Greater Geelong Planning Scheme — No. C21

Greater Shepparton Planning Scheme — No. C4 Part 2

Maribyrnong Planning Scheme — No. C4

Monash Planning Scheme — No. C1

Whitehorse Planning Scheme — Nos C3 Part 1, C13

Wyndham Planning Scheme — No. C23

Police Regulation Act 1958 — Report of the Ombudsman — Investigation of police action at the World Economic Forum demonstrations September 2000 — Ordered to be printed.

Subordinate Legislation Act 1994 — Minister's exemption certificate in relation to Statutory Rule No. 42.

ROYAL ASSENT

Message read advising royal assent to:

Statute Law Amendment (Relationships) Bill
Tobacco (Further Amendment) Bill
Urban Land Corporation (Amendment) Bill

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Drugs, Poisons and Controlled Substances (Amendment) Bill
Transport (Further Amendment) Bill

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Instruction to committee

Mr HULLS (Attorney-General) — By leave, I move:

> That it be an instruction to the committee that they have power to consider a new clause and an amendment to the Co-operative Schemes (Administrative Actions) Bill to provide for an additional function to the Scrutiny of Acts and Regulations Committee to be inserted in section 4D of the Parliamentary Committees Act 1968.

Motion agreed to.

BUSINESS OF THE HOUSE

Standing and sessional orders

Mr BATCHELOR (Minister for Transport) — By leave, I move:

> That so much of the standing orders and sessional orders be suspended today so as to allow general business order of the day no. 26 to be considered forthwith.

Motion agreed to.

BARLEY MARKETING (AMENDMENT) BILL

Second reading

Mr STEGGALL (Swan Hill) — I move:

> That this bill be now read a second time.

This private member's bill recognises that the maintenance of Victoria's single desk for barley exports is crucial for the successful marketing of barley on a heavily subsidised and distorted world grain market.

The bill is bolstered by the decision of every other Australian grain-trading state to grant export monopoly powers to their grains boards, in the best interests of their industries.

When the former government introduced the Barley Marketing (Amendment) Bill on 13 November 1998, it stated:

> It is the intention of the Victorian government that statutory marketing arrangements will end on 30 June 2001. However, prior to that date, the Minister for Agriculture and Resources will consult with the South Australian minister and the barley industry generally in managing the transition to a fully competitive market.

The present minister has simply not held those consultations. It is undeniable that the 1998 legislation was introduced and passed with the support of the industry. But that support no longer exists.

If the minister had consulted, he would have found that the South Australian government has changed its position and its legislation, and is continuing its single desk (of which we were a part).

Mr Speaker, I table a press release of 17 May from the South Australian Deputy Premier and Minister for Primary Industries and Resources, the Honourable Rob Kerin, calling on the Victorian government to extend the single desk to ensure the industry continues to work together to export barley to overseas markets.

If the Victorian Labor government had consulted with the barley growers and the maltsters in Victoria, the minister would know that both groups have withdrawn their support for deregulation.

Growers now overwhelmingly want the single desk maintained. With good reason. ABB Grain Export Ltd guarantees payment, pays in advance, delivers price premiums, guarantees quality, puts a floor in the market, provides research funding to enhance the quality of Australian barley and is a buyer of last resort.

In fact, the single export desk for barley provides a net benefit in price premiums for Australia conservatively calculated by Econtech at $15 million annually.

This is further supported by the Commonwealth Bank of Australia, which, in a letter to our Minister for Agriculture in November last year, stated among other things that:

> The absence of the single desk would have a severe impact on both access to funds, terms of credit and the cost of borrowings, which would necessarily be passed to growers by means of reduced returns.
>
> Single desk provides least-cost funding and retains the benefits of centralised export marketing for the domestic economy.

I table the letter for the information of honourable members.

Our international customers also want the single barley desk maintained. ABB Grain has well-earned credibility and status overseas; it offers a stable supply of high-quality grain; it can confidently enter forward contracts despite the vagaries of our climate; and it markets a branded product, rather than sells a vulnerable commodity.

Deregulating our export barley trade will allow the three big barley buyers — Saudi Arabia, China and Japan — to pick off individual growers and grain traders who can be exposed by their need for cash flow, their lack of storage or their lack of market power.

The world barley market is finite. Production generally exceeds demand. When multiple sellers choose to compromise quality and sell at reduced prices to gain market access, prices will be inevitably forced down.

The grain trader is driven by his own 'bottom line' need to maximise profit. He sells first and buys afterwards, purchasing at the lowest price possible.

Domestic market deregulation has delivered some benefits to growers, although it can be demonstrated that, for malting barley at least, total revenue to the grower population has fallen.

But suggesting that what works domestically will also work internationally is mischievous.

On the export market, large bulk deliveries are backed up by strong market promotion and long-term customer relationships, with food security the big issue.

Domestically, all sellers are on the same footing. They respond to a stable demand for malting barley or a highly volatile feed barley market and can directly deliver in small lots. Long-term security of supply is not an issue.

The government is quite inappropriately using the domestic market for comparison and is claiming that 'more export competition is needed' and that 'growers will benefit'.

When you are marketing a commodity on the export market, the true competition comes not from the farm next door but from the farmers and grain traders of Europe, Canada, Turkey, and other Australian states.

And bear in mind that the Seattle trade talks of December 1999 failed to revoke protection levels in agriculture that have now returned to the levels of 15 years ago.

Farmers in 30 of the world's leading industrialised nations now get about one-third of their income from government assistance.

To give you some idea of how these subsidies relate to barley, our competitors have huge World Trade Organisation entitlements to subsidise their coarse grains industries. Coarse grains include barley, oats, sorghum and corn.

If the US government wishes, it can legitimately subsidise its coarse grains industry to the tune of A$88 million a year. The European Union can pour the equivalent of A$1.6 billion into the coffers of its coarse grain traders without contravening GATT protocols. Canada can prop up its industry by A$93 million.

These subsidies show the extent to which governments can corrupt the world market if they so desire.

At the heart of the matter is the fact that the 'benefits' of competition really hinge on whether you are a seller or a buyer.

If you are buying an export commodity, then the more sellers to choose from, the better.

If you are selling an export commodity, then the fewer sellers, the better.

The key issue is how effectively we sell an export commodity on the world market, and the single desk is quite clearly giving our growers the best advantage.

Worryingly, the proponents of export deregulation have not provided any model of how a deregulated export market would work and who would be the winners and losers. Government owes this to farmers before setting out to dismantle their single export desk.

In fact, no traders have shown that they can capture one new market for Victorian barley if the single desk goes.

No traders have demonstrated that they can squeeze a single extra dollar for the grower out of any of the markets our single desk currently occupies.

The National Party supports the majority of Victorian barley growers who want a single desk.

While growers choose to keep the single desk, government is duty bound to maintain it.

This amended bill proposes to extend the sunset clause to 2004.

The National Party would have preferred the bill in its original form, but is pleased to support this amended bill to extend the single desk until 2004.

Today, all parties in governments and oppositions in Australia where barley is grown support the continuation of the single desk.

I trust that this government and this Parliament will also continue to support the single desk for barley.

I commend the bill to the house.

Debate adjourned on motion of Mr BATCHELOR (Minister for Transport).

Debate adjourned until next day.

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

Concurrent debate

Mr BATCHELOR (Minister for Transport) — I move:

> That this house authorises and requires the Speaker to permit the second reading and subsequent stages of the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill, the Co-operative Schemes (Administrative Actions) Bill, the Corporations (Administrative Actions) Bill, the Corporations (Ancillary Provisions) Bill and the Corporations (Consequential Amendments) Bill to be moved and debated concurrently.

Motion agreed to.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

> That, pursuant to sessional order 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 14 June 2001:
>
> Corporations (Ancillary Provisions) Bill
>
> Corporations (Consequential Amendments) Bill
>
> Corporations (Administrative Actions) Bill
>
> Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill
>
> Co-operative Schemes (Administrative Actions) Bill
>
> Constitution (Parliamentary Privilege) Bill
>
> Appropriation (2001/2002) Bill
>
> Appropriation (Parliament 2001/2002) Bill

Mr McARTHUR (Monbulk) — It is interesting to note that this motion on the government business program is more memorable for its omissions than for the things it contains.

Honourable members interjecting.

Mr McARTHUR — It is notable. In the past two or three weeks I have been discussing the remaining business program for these sittings with the Leader of the House, and we have discussed the major pieces of legislation before the house each week. We have had significant legislation like the Racial and Religious Tolerance Bill last week. This week the big item was going to be the marine parks bill. Look as I might — and I have read it three times now — I cannot find marine parks listed in this government business program.

Honourable members interjecting.

Mr McARTHUR — It might be on the back, but lo and behold, no, there is no marine parks bill on the back. It does not look as though the marine parks bill is any longer legislation that is required by the government for these sittings, yet only a few days ago it was absolutely necessary that this bill passed both houses by the end of the autumn sittings. I am a little puzzled as to why we have now seen the government drop it off the wanted list. Then a couple of minutes ago honourable members were faced with the extraordinary spectacle of the minister in charge of this proposed legislation, the Minister for Environment and Conservation, giving notice of a procedural motion to read and discharge the motion for the second reading of the National Parks (Marine National Parks and Marine Sanctuaries) Bill.

Clearly the government has problems with this legislation. It seems as though the minister, from her interjection across the house when she gave notice of the motion, is attempting in some way to threaten the opposition by saying we have 24 hours to make up our minds on this legislation.

Honourable members interjecting.

Mr McARTHUR — And that is confirmed by the Leader of the House. It is a threat, and there are 24 hours to make up our minds on this legislation.

Honourable members interjecting.

Mr McARTHUR — If that is the case, if we have 24 hours to make up our minds on this legislation, why

is it not on the business program? If we are supposed to make up our minds in 24 hours, why can't we get it through the house? It is not on the business program. It is not scheduled for the guillotine. It will not be pushed through by 4.00 p.m. on Thursday.

The government seems to have something of a dilemma with this legislation. It either wants it through or it doesn't want it through or it wants to withdraw it or it doesn't want to withdraw it. What on earth is the government doing with this legislation? Is this just another stuff-up, which I think is the way the Minister for Energy and Resources in the other place described it last week. Is this another one of Sherryl's — —

An honourable member interjected.

Mr McARTHUR — I think she said a stuff-up.

An honourable member interjected.

Mr McARTHUR — They say all sorts of things in the upper house — things far worse than that.

Ms Kosky — Only the opposition.

Mr McARTHUR — No, it was actually the Honourable Theo Theophanous who said something far worse than stuff-up in the upper house, but we will leave that aside.

The government seems to be at sixes and sevens with the marine parks legislation. It does not really know whether it wants to proceed or not; it does not really know whether it has got it right or not; and it does not really know whether it is important that it go through in these sittings or not.

The remainder of the legislation that is before us, apart from the appropriation bills, is quite simple and can be dealt with speedily by the house. We have already had before us a motion, agreed to by the house, that the first five items be dealt with concurrently, and I would expect that they will proceed very quickly to a conclusion.

As I understand it, the government has a significant number of amendments to the Constitution (Parliamentary Privileges) Bill that will reduce its scope by a very large factor. If those amendments hold to what the informal advice has been, that bill should also proceed through the house fairly quickly. The appropriation legislation will then, this time at least, be debated fully and completely by honourable members on all sides of the house. I seem to recall that a few years ago the Labor Party when in opposition complained long and hard about guillotining the debate on the appropriation bill, and then, the first chance it got, it guillotined that debate itself. At least the guillotine it intends to apply to the appropriation debate this year will not cut honourable members off if the progress of the legislation on the notice paper is as it appears from the government business program.

We wait with bated breath this afternoon to see whether the government intends to actually proceed with the debate on the marine parks bill. It could, I understand, still notionally begin the debate some time later today and withdraw the bill tomorrow — a novel concept, I am sure many honourable members would agree.

Mr RYAN (Leader of the National Party) — Confusion reigns over all of this. The government has a business program to which reference has been made by the Leader of the House. That business program stands in absolutely stark contrast to the advice the National Party received in the latter part of last week and indeed as late as Sunday, when I believe among the bills listed to be disposed of was the marine parks legislation. I am not certain where that legislation now lies in the context of the government's intentions. We have had it removed from the program, which the government has now published and which is the subject of the motion before the house, so therefore debate on the bill will not be concluded by the end of this week's program, which in turn means it will not be concluded by the end of this sessional period.

That must mean that the options are that the debate on it resumes some time this week, is adjourned and then goes over to the next sittings or, alternatively — —

Mr Batchelor interjected.

Mr RYAN — Or it could be dealt with. The Leader of the House is offering another option. He says it could be dealt with. I take him to mean that, although there is supposed to be cooperation between the parties on the business program — and on the whole I think there is good cooperation between the parties in organising it — debate on the legislation, even though it is not part of the government business program, could in fact be concluded. It would be an unfortunate state of affairs if the government was trying something of that ilk with legislation of this significance. In light of the minister's comments, the other alternative is that the legislation is likely to be withdrawn tomorrow.

I call on the government to clarify the issue as quickly as possible, not only from the perspective of this week's business program but because it is imperative for the people on whom the legislation will have an enormous

impact. As a matter of courtesy they need to know what is happening.

So far as the rest of the business program is concerned, there are five bills that will be part of a cognate debate, so I would not have thought they would not take too long. They are by nature — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Melton!

Mr RYAN — I would not have thought there would be a lot in the Constitution (Parliamentary Privilege) Bill. The house will also hear the concluding contributions to the appropriation legislation. In the last week of the session the government has managed to botch the arrangements in circumstances where the crucial issue is the fate of the marine parks bill.

I finish with this point: two weeks ago in the course of my budget response I told the government that we would inevitably come to the point we have now reached. For the government to deal with the legislation in this way at 5 minutes to midnight demonstrates its ineptitude. It should clarify the position and tell the house and the people affected by the marine parks bill what is happening. It should do so as a matter of courtesy to all honourable members and for the sake of proper organisation.

Mr BATCHELOR (Minister for Transport) — The government's intention in moving its legislative program is clear. The business program, which lists the bills that will be dealt with before the 4 o'clock guillotine on Thursday, is the normal and traditional course of dealing with legislation.

Much of the week will be spent debating the general and parliamentary appropriations. The first five bills, which relate to new arrangements for a national corporations law that have been made at the request of the federal government, will be dealt with by combined debate. Later this day, presumably, the second-reading debate on the National Parks (Marine National Parks and Marine Sanctuaries) Bill will commence.

Mr Honeywood interjected.

Mr BATCHELOR — Yes, it was always scheduled — —

Mr Honeywood — She ruled it out!

Mr BATCHELOR — The minister has not ruled it out. In response to the Liberal Party threatening to wreck the bill and act against the best interests of the environment, the minister has indicated that it is time for the Liberal Party to put its green credentials on the table. Opposition members cannot hide behind the vacillations in the party room, with the honourable member for Doncaster saying one thing, the leader of the party saying another and the party machine saying it wants it. The government is giving the opposition — and in particular the Liberal Party — an ideal opportunity to show whether it supports the environment or opposes it. The mechanism for that has been outlined by the minister. If the opposition intends to oppose the bill in part or in whole, the government will simply withdraw it.

The legislation will come on for debate today, and the opposition has until tomorrow to fall into line. If opposition members do not want to do that, they understand the consequences. It is clear and straightforward, and I have amplified it in my explanation.

The government is sincere in wanting to see the establishment of marine national parks. The bill is before the Parliament, and it will come on for debate today. There will be lengthy debate, but the government will not accept the opposition ripping parts out of it or changing parts. Opposition members need to know that now. The government is giving them all the notice in the world so they will be held accountable for their actions — and we want everybody to know that!

Mr HONEYWOOD (Warrandyte) — Mr Speaker, I am sure we would both agree that in our more than 12 years in this chamber the national parks legislation is among the most significant any Parliament has debated. It is unacceptable to have this confusion of messages from the government this week, with a minister of the Crown telling the opposition on the spur of the moment, under duress, 'You've got 24 hours', and then the Leader of the House saying, 'No, it is going to come on today'. That throws the whole government business program — indeed, the whole debating program for the week — into total chaos. Who is right and who is wrong?

Is the Minister for Environment and Conservation, the minister responsible for the marine parks legislation, to be deemed correct in saying we have to wait until tomorrow? If she is correct in arguing that we have to wait 24 hours, I put to you, Sir, that that is inadequate time given that after 24 hours have elapsed we will have only 24 hours left in the session to debate one of the most crucial pieces of legislation that any government could bring in to this place — namely, the

creation of not one but a whole network of marine parks.

The minister was rolled a moment ago when the Leader of the House said, 'No, it will be brought on today', which showed him defying his own minister and taking charge of her program. The government will either debate this legislation today or it will not debate it in this session at all.

Opposition members have the right to make an informed contribution. Unlike government members, many opposition members have coastline areas in their electorates and consult with their constituent groups. They have the right to make a major contribution to the debate on this bill. Perhaps we need to bring in the Premier to override both the Leader of the House and the relevant minister and to take a leadership role, for a change, by informing Parliament when the bill will be brought on. If the bill is to be shot off as a result of the minister venting her spleen and spitting the dummy over the fact that the opposition has worked out that she has not consulted properly on the bill, it is not satisfactory for it to be brought on during this session. Therefore, the opposition has every right to argue that this significant bill should be brought back for debate in the spring session.

Ms KOSKY (Minister for Post Compulsory Education, Training and Employment) — That was the most extraordinary speech I have heard in this house for some time. We have heard the honourable member for Warrandyte, who has no coastal areas around his electorate, claiming that it is very important for other honourable members to get a chance to speak on this bill. I believe I witnessed him elbow the shadow minister for conservation and environment out of the way so that he could jump in front of him — —

An honourable member interjected.

Ms KOSKY — He did — he invaded his space. He stepped in before the shadow minister for conservation and environment could speak. The reality is that the position taken by the opposition is just a joke. The Liberal Party is not committed to marine parks at all. It is playing a game with what is a very significant bill, the National Parks (Marine National Parks and Marine Sanctuaries) Bill. The government will not allow it to be used as a political football, as the opposition is trying to do.

The minister was correct when she said earlier today that the opposition has 24 hours. It has 24 hours to work out whether it is committed to marine national parks around Victoria or whether it is using the bill for a political exercise. The opposition is not sure what it wants to do about the bill. As was said earlier, the Leader of the Opposition is trying to roll the bill. The shadow minister for conservation and environment is pretending he is greener than anyone else. The opposition cannot get its act together to work out what it wants to do about the bill.

This government is absolutely committed to marine national parks around Victoria, and it does not want the issue to be turned into a joke before this Parliament.

Mr PERTON (Doncaster) — We have just seen one of the most outrageous acts in this Parliament. The marine parks issue is absolutely central to the environmental debate in Victoria.

In August 2000 the Environment Conservation Council completed its report. Month after month people waited for the government to deal with the bill, an appropriate process for community consultation and the development of an open and transparent system. What happened instead of that? The government introduced a bill into this chamber that took out from the report one of the major marine parks, Cape Howe. As the honourable member for Sandringham rightly said publicly, 'Cape Why'. We then found out that the government had done a deal with the Independent member for Gippsland East to remove that park to prop up his political support and that of the government.

Ms Davies — On a point of order, Mr Speaker, I seek clarification on whether I am allowed to suggest that the honourable member for Doncaster is impugning the name of the honourable member for Gippsland East by implying that he has made a deal when in fact everyone in this house knows there was no deal.

The SPEAKER — Order! I do not uphold the point of order raised by the honourable member for Gippsland West. However, I caution the honourable member for Doncaster that he, like all honourable members, must refrain from impugning other honourable members.

Mr PERTON — We then found out that the government had removed Ricketts Point from the list of recommendations. Ricketts Point was supported as a recommendation not just by the Environment Conservation Council and the peak organisations but by every bayside environment group, local council and local community. Why did the government do it? Why did the government make a series of other amendments? It is quite clear that the government turned what had been an objective process for the

creation of national parks in Victoria — a system that the community had supported and one which had safeguarded Liberal and Labor governments and oppositions — into a politicised process. It brought in amendments that politicised the bill.

I turn to the section 85 provisions and the no compensation clauses.

The SPEAKER — Order! I have been very lenient with contributions to the debate thus far, including that of the honourable member for Doncaster, but the motion before the Chair relates to the government business program. I ask the honourable member for Doncaster to ensure that his remarks relate to the motion before the Chair.

Mr PERTON — This motion is an abuse of process. The understanding between the parties was that this bill would be debated today. You, Mr Speaker, will recall that the earlier discussion in the house on this bill was concluded by an agreement between the parties that it would be the first bill brought on for debate today.

Let us look at why the government says it is withdrawing the bill. The government in its public statement said that the section 85 provision was inserted only to protect the creation of marine parks. As people pointed out the flaws in the bill time and again, the Minister for Energy and Resources acknowledged in the upper house that the bill was flawed and that it expropriated property rights from fishing families and businesses — intergenerational businesses — along the coast. The government itself showed that the section 85 provision was flawed. Almost every marine conservation group that studied the issue, every business group, every community group and the general public all said it was wrong.

If your house were taken for a freeway, Mr Speaker, you would expect compensation. If people's businesses were taken away for a government purpose they would expect compensation. The Bracks government has not offered one dollar or one objective process on this issue. The opposition says it wants a fair and objective process for the section 85 provision, yet in a childish and dummy-spitting act it withdraws the bill.

Mr Howard — On a point of order, Mr Speaker, I refer to your recent comments asking the honourable member for Doncaster to speak only on the matter before the Chair. He is entering into debate on the bill — —

The SPEAKER — Order! I have heard enough on the point of order. I ask the honourable member for Doncaster to relate his comments to the matter before the Chair.

Mr PERTON — The government is so embarrassed it is engaging in time wasting. The matter is a disgrace. The government has no commitment to the environment. The fact that it is not prepared to negotiate with other parties in the Parliament nor with the fishing communities shows that its members are a bunch of hypocrites — —

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

Mr LANGDON (Ivanhoe) — I refer to the issue raised by the honourable member for Monbulk — that is, the question of the guillotining of the appropriation bill. I have figures in front of me showing that over the past five years the average number of speakers on the bill was 45. Last year 52 honourable members spoke on the bill, which was above average.

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster shall refrain from interjecting as he walks from the chamber.

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster shall cease interjecting.

Mr Batchelor interjected.

The SPEAKER — Order! The Minister for Transport and the honourable member for Bendigo East!

Mr LANGDON — Clearly there are some tensions in the house! On the issue of the guillotining of the appropriation bill, I was pointing out that the house heard more than its fair share of speakers on the last appropriation bill. It is true that this year the house is slightly down on the amount of time allocated, and the appropriation bill is yet to be finalised. By 4 o'clock on Thursday the house will have had more than enough time to hear, I suspect, higher than average number of speakers in the approximate 20 hours spent debating the bill.

The honourable member for Monbulk is incorrect when he says that the government is trying to railroad the bill through the house. The government is allowing enough time. After 4 o'clock last Thursday honourable members spoke for 2 further hours. The debate was beautifully adjourned by the honourable member for

Tullamarine, who will have the next call. The government is endeavouring to have as many members as possible speak by 4 o'clock on Thursday. With the concurrence of the house — —

An honourable member interjected.

Mr LANGDON — That may be so. The government will get as many members up as it can.

Mr RICHARDSON (Forest Hill) — We have before us a government in complete and total disarray. There are contradictions between ministers. The responsible Minister for Environment and Conservation gives notice that tomorrow she will move for the withdrawal of item 7 on the notice paper — the National Parks (Marine National Parks and Marine Sanctuaries) Bill. The Minister for Transport, as Leader of the House, says the matter will be brought on tonight. Who is telling honourable members what?

The National Parks (Marine National Parks and Marine Sanctuaries) Bill is not listed among the bills that the government wishes to get through this week. How serious is the government? Clearly, it is not a bit serious. It does not know what to do; it has the wind up because it knows it is being abandoned by its Independent allies on this issue and is in trouble. The interjections — —

Ms Davies interjected.

Mr RICHARDSON — Hello, it is the fishwife's voice again. It really gets to me.

Ms Davies interjected.

Mr RICHARDSON — She keeps it up, Mr Speaker, and it is disconcerting. The interjections by the Labor Party backbench say, 'Tell us your position'. The position of the opposition will be known when the bill is debated. Bring it on!

I turn to further examples of the disarray of the government. What is the significance of the Drugs, Poisons and Controlled Substances (Amendment) Bill? Surely that is important. What about the — —

The SPEAKER — Order! I must interrupt the honourable member for Forest Hill. The time set down for this debate as governed by sessional orders has expired.

Motion agreed to.

MEMBERS STATEMENTS

Natural Resources and Environment: staff

Mr VOGELS (Warrnambool) — Wildlife is currently being left to die as a result of huge cuts by the Department of Natural Resources and Environment. Native animals are being left to die all over Victoria because the DNRE has taken officers away from wildlife areas and put them into the new fisheries area.

Given that we have just seen the government shelve the marine parks bill, I do not know what those officers will be doing in the future, so I ask the minister to get some of them back into the wildlife area as soon as possible to look after our native fauna. Illegal trapping of native fauna is now proceeding unhindered. It is getting to the stage where police and local government have to take up the call.

While the personnel at the department's regional offices regret this change, it is almost impossible to get an answer from the Minister for Environment and Conservation, or the executive officers at the department. They will not answer any calls or questions about this.

I ask the minister to have another look at the restructure of the department and to put some of the wildlife officers who have been placed in the fisheries area back where they belong — that is, looking after our native flora and fauna. It seems the marine parks bill has been shelved by the government, so those officers will not be needed in that area.

Wimmera–Mallee: water pipeline

Mr DELAHUNTY (Wimmera) — Water is a finite resource and the current water evaporation and seepage from the Wimmera–Mallee channel system is unacceptable. Last week the Wimmera–Mallee Rural Water Board endorsed a community steering committee's recommendation to pipe the rest of the open channel system. The board endorsed the committee's recommendations, which focused on achieving maximum water savings of about 83 000 megalitres. Those savings could be used for improved security of supply, agriculture and other new industries, tourism and recreation, and for environmental purposes.

The study was funded by 13 councils, the state and federal governments, Powercor, four catchment authorities and the water board. Those supporters of the project and others believe this would be the biggest infrastructure project in the region, costing about $300 million. It comes at a very important time when

our reservoirs are languishing at about 11 per cent capacity.

This project must be supported by all governments and will build on the success of the northern Mallee pipeline project. That project has been a model for Australian water management and has brought major benefits to our region.

Water is a major economic generator in the region, and government support is vital to this project, which will bring environmental, economic and social benefits to the Wimmera–Mallee area.

Emu Bottom Wetlands

Ms BEATTIE (Tullamarine) — The Friends of Emu Bottom Wetlands last month opened their platypus-viewing platform to the general public. I was pleased to be present at that opening with the federal member for Burke, Neil O'Keefe, who obtained the funding under the national Federation Fund. Key players who drove the project are Dr Geoff Williams, the director of Australian Platypus Conservation; Paul Williams, an engineering geologist; and the City of Hume Greening Team.

However, the people who are the most passionate about the platypus ponds are the volunteers who belong to the Friends of Emu Bottom Wetlands. With the guiding hand of Ian Sutherland, the president, and the passion and commitment of the secretary, Martin Ryan, the group's work to ensure a safe haven for platypus has been guaranteed of success. It is a tribute to the Friends of Emu Bottom Wetlands that a platypus saw fit to grace us with its presence on the day of the opening, confirming that the right spot for the platform had been chosen. These people are committed to the environment — not like opposition members, who shillyshally around and pretend they are committed.

Camperdown: soup kitchen

Mr MULDER (Polwarth) — This week in my electorate I received a request from a community organisation that set alarm bells ringing. Members of the organisation are seeking donations to help them in their fight to establish a facility to assist the unemployed in their town. What alarms me most about this matter is that the community group is in the township of Camperdown — a township with a youth program which the Minister for Youth Affairs in another place, the Honourable Justin Madden, has just refused to re-fund, having launched it just after coming into government. This comes on top of the Minister for State and Regional Development raising the township's hopes for a new industry for the town and then dumping on the township when he failed to follow the related sale through to its final conclusion.

The community organisation is asking for personal donations to establish a soup kitchen — a soup kitchen! — for the town's unemployed. This Labor government is presiding over the development of a soup kitchen, which is something you would normally see in New York, not a township oozing with potential. If the government is not prepared to assist Camperdown, perhaps the Treasurer would be prepared to make a personal donation — or even the Premier or the Minister for Finance, who is at the table, or the Minister for Transport. I would be happy to pass on to this community organisation any donations handed to me for the establishment of its soup kitchen.

However, the answer to economic development in Camperdown is not a soup kitchen for the unemployed but support for the township in developing the old Bonlac site into a dairy food processing site. The framework is in place; all that is required is the vision and the will from this government to support a sound economic proposal.

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

Justice Frank Vincent

Mr LANGUILLER (Sunshine) — On behalf of the electorate I so proudly represent I place on record and welcome the appointment by the Victoria University of Technology of His Honour Justice Frank Vincent to the position of chancellor.

Justice Frank Vincent graduated in law from the University of Melbourne in 1959. Thereafter he commenced a legal career characterised by his dedication to achieving social justice. A passionate commitment to human rights impelled Justice Vincent to take up the cause of Aboriginal defendants in both Victoria and the Northern Territory. Between 1974 and 1985 he appeared in a number of landmark criminal trials, briefed by both the Victorian and Central Australian Aboriginal legal aid services. Indeed, he would spend a significant part of the legal year in the Northern Territory.

In 1980 Justice Vincent was appointed a Queen's Counsel. During his career as a barrister he appeared in almost 200 murder trials, a forensic achievement unlikely ever to be equalled. In 1985 Justice Vincent became a judge of the Supreme Court of Victoria, a position he has held for the past 16 years.

Justice Vincent has written about and spoken extensively upon all aspects of the criminal law and has contributed to legal education as a lecturer on the administration of the criminal justice system at both Melbourne and Monash universities.

Throughout his career Justice Vincent has had the support of his wife, Dawn, and their two daughters, Kerry and Lisa.

The university and the people of the western suburbs welcome Justice Frank Vincent.

Volunteers: Gippsland

Ms DAVIES (Gippsland West) — In this International Year of Volunteers I offer particular and special congratulations and thanks to some of the elder statesmen and stateswomen in our community. Their volunteer efforts and the wisdom, compassion and support they offer is absolutely invaluable.

I thank people like Liz and John Williams from Inverloch, who have worked for many years as members of the South Gippsland Conservation Society, friends of the local library and members of the Inverloch projects committee.

I thank Bill Smith from San Remo, one of the architects of the George Bass walking track and an active member of the San Remo Progress Association.

I thank Rosa Stewart, the treasurer of the Lang Lang Township Committee, who is active on the show society and the doctors' committee and is a member of the Church of England community.

I thank Mrs Ray Nugent from Drouin, who has done Meals on Wheels for 20 years and spent many years as a friendly visitor to isolated citizens.

I thank Lyn Chambers, who, with her late husband Joe, was part of a formidable partnership actively detailing local history and working for the Combined Pensioners Association and the Conservation Society.

Then there is Fred Gration. The Coronet Bay recreation centre is named after him because of his work for that centre. He is also active on the foreshore committee.

There are no Queen's Birthday or other awards for these and many other long-term volunteers, but they have our greatest respect and warmest thanks. They are truly distinguished role models for all of us to look up to, and I thank them.

Schools: funding

Mr HONEYWOOD (Warrandyte) — The report by the Victorian Auditor-General has confirmed the concerns raised by the opposition last year when the Minister for Education launched — and claimed entire credit for — a whole new funding formula for school global budgets. The Auditor-General's report has revealed that as a result of the minister's new formula there has been a $28 million blow-out in the cost of transitional top-up funding provided to schools. The Minister for Education promised only last year that her new budget formula would cost the taxpayer only $140 million extra, including the top-up transitional funding promised to schools that would be disadvantaged by the formula.

The Auditor-General has confirmed that this new package, rushed in by the Minister for Education, has now blown out to $176 million — that is 176 million additional dollars that could have been spent on new schools right across Victoria.

Victorians remember the unprecedented vote of no confidence in this minister by secondary school principals in November last year. The opposition at that time also raised grave concerns about the implementation of the minister's new school funding formula. The Auditor-General has vindicated the opposition's concerns in his report, which reveals that 78 per cent of secondary schools required top-up transitional funding. While the minister promised that her new formula would benefit country schools, the Auditor-General's report has revealed that more than half the schools in our regional towns required top-up transitional funding as a result of the new formula.

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

Brunswick East Primary School

Mr CARLI (Coburg) — I wish to congratulate the teachers and the school community at Brunswick East Primary School for their Walk to School Day. The school tried to break the incredible dependence of parents on the use of cars to take their children the very short distances to and from school. They organised a day when children would either walk, cycle or travel by public transport to school and, if appropriate, be accompanied by a parent. It was an important day as it demonstrated the improvements that can result through less congestion around the school because of fewer cars and the benefits to health through children and parents walking, cycling or taking public transport.

This issue is of particular interest in local communities such as Brunswick where a large number of short trips are taken by car. Indeed, the Moreland City Council has demonstrated leadership in this area to try to at least increase the diversity of those trips and encourage people — whether they be schoolchildren, parents or the general community — to walk or cycle and get out of their dependence on the machine. It has been well taken up by the community, which obviously recognises the importance of environment and health issues. I believe this sort of initiative will take a greater hold in my local community.

Tertiary education and training: funding

Mr BAILLIEU (Hawthorn) — The ministerial council on post-compulsory education met in Brisbane on Friday and Victoria's Minister for Post Compulsory Education, Training and Employment finally admitted that her huff and bluster for the last few months has been just that — she agreed to the federal government's new funding formula for training. However, what the minister did not agree to do — and I ask her now to urge the government to do this — is to lift the damaging freeze on traineeships in Victoria.

The freeze was introduced in November 1999 without warning or consultation but with discrimination because it affects only private providers. The freeze was extended after 12 months and is still in place. Originally, the minister said that the freeze was a matter of quality, but her own consultant, Professor Kay Schofield, said quite the contrary and urged the removal of the freeze. However, no action was taken. The minister then said that the freeze was to do with money — originally with a demand on the federal government of some $10 million, then $12 million followed by $15 million, and more recently $27 million. Since then, the federal government offered $230 million extra in training money but the minister is still playing politics with training and training businesses.

I urge the minister to respond to the Australian Council for Private Education and Training, the Victorian Employers Chamber of Commerce and Industry, and the Private Training Providers Association and lift this discriminatory freeze, which is standing in the way of training organisations and young trainees.

Joan Lindros

Mr LONEY (Geelong North) — I wish to give recognition today to the well-known Geelong identity, Joan Lindros, who last week on World Environment Day received the Alcoa award for outstanding service to the environment from the United Nations Associations of Australia. Joan Lindros could well be called the environmental conscience of the Geelong region. She has carried out that role for well over 20 years. I cannot recall an occasion during that time where an environmental issue has arisen in Geelong and Joan Lindros has not been in its lead. She has combined a fierce passion for the environment with a well-researched and reasoned approach to the issues around those fights. She has certainly won respect from the overwhelming majority of the Geelong community.

I have had the fortune to work with Joan on the Geelong Regional Commission when we were both commissioners and on many environmental issues, including the very long seven-year battle to save Point Lillias. On all of the issues I have noted the way in which Joan goes about her work, without seeking reward or personal glory; there is no ego, it is simply the — —

The SPEAKER — Order! The honourable member's time has expired. The time set down for members statements has also expired.

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

Second reading

Debate resumed from 17 May; motions of Mr HULLS (Attorney-General) and Mr HAMILTON (Minister for Agriculture).

Government amendments circulated by Ms KOSKY (Minister for Finance) pursuant to sessional orders.

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975 in regard to the Corporations (Consequential Amendments) Bill, the Corporations (Administrative Actions) Bill, the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill, and the Co-operative Schemes (Administrative Actions) Bill, I am of the opinion that

these bills need to be passed at second reading with the concurrence of an absolute majority of the house.

Dr DEAN (Berwick) — Marine parks, Berwick and Narre Warren North are all things the average Australian can understand; these are natural things and part of the everyday life of the average Australian. However, Corporations Law and combined bills are matters the average Australian finds very difficult to understand. It is a matter of concern to this Parliament that complex bills such as these receive the time and proper consideration to which they are entitled.

One of the ways of making such bills as understandable as the simple topics I have just mentioned is to say that the bills are to do with federation itself — that is, they are to do with the way we are growing up as a nation and the way the states and the federation cooperate and work together.

It is a sad thing that we have come to this wonderful celebration of 100 years of federation and, while we have taken our time to celebrate, enjoy the history and remember the characters involved, one thing we have omitted to do is sit down and say, 'Why don't we use this as an opportunity to see how the federation should go forward, how the states and the federal government should, as individual governments, joined together by a constitution and federation, approach the future?'.

It will not come as a surprise to you, Mr Speaker — because I have spoken about this many times in this house — to find me drifting into the topic of cooperative federalism as distinct from competitive federalism. These bills being discussed as a group, and the very nature of and reasons for them, place the topic of cooperative federation squarely on the table.

What are these bills about? They are about the fact that we have a written constitution. A written constitution uses words to limit. Since words are the accepted way we communicate, certainly in legal terms, when we write a constitution we are naturally going to limit ourselves. One of the great things about the state constitutions is that, although they are written documents, they are in no way limited by their words because they are limited only by the common law and history. All state constitutions have what we call plenary power — that is, they have absolute power. They are only limited by an agreement between the states and the commonwealth to give the commonwealth specific powers. By giving the commonwealth specific powers as distinct from the states' general powers, you immediately find that the commonwealth government is limited by the words.

When the founding fathers put section 51 of the federal constitution together they rightly decided that one of the areas upon which the federal government should have the right to legislate and make decisions was corporations. It comes as a surprise to some people, who ask why, if we have a specific power in the federal constitution with respect to corporations, we are having all this trouble. Why are the states having to give their corporations powers to the federal government? The federal government has a head of power called Corporations Law.

The reason is that when the High Court looked at that terminology in the constitution it said to the federal government, 'Yes, you do have the power with respect to corporations, but because of the history of the constitution and the nature and wording of that power you do not have power with respect to all activities of corporations, only some activities'.

As I suggested a moment ago, words are limiting the power of the commonwealth in relation to a certain area. Words have got in the way and the states, because they have plenary power, retain all the power with respect to corporations that was not encapsulated by the corporations power in the federal constitution. Those powers concern the incorporation of a corporation, non-trading corporations, foreign corporations and other areas that have been battled out over time immemorial in cases before the High Court.

What has this meant for federation? I go back to my original premise: we are on a path towards cooperative federalism, along which the federation is developing over time as life becomes faster and more sophisticated.

What has that meant in relation to controlling corporations? Corporations are now international institutions and are the very units by which commerce is conducted. Commerce has become more interrelated and more sophisticated. It does not taken an Einstein to realise that sooner or later it will not be possible for all the states to implement legislation with respect to certain specific parts of corporations and the federal government having legislation and control in respect to other parts of corporations. All that will be too clumsy for today's modern world.

The solution worked out to try and overcome that problem was: yes, cooperation! The fact that we had world markets and a development of commerce meant that cooperation between the states and the federal government was driven to a point where the states said, 'We will set up a national body that will have the responsibility of controlling corporations.

In my day that body was called the National Companies and Securities Commission (NCSC). It was set up with administrative officers in Canberra and what used to be corporations officers in the states to exercise control of corporations. But commerce became more sophisticated and the pace of life became faster. The use of corporations in commerce nationally and internationally was driven further, and the cooperative arrangement had to be upgraded. The body was upgraded to the Australian Securities and Investment Commission.

ASIC is a very sophisticated cooperative arrangement between the states and the federal government. Effectively the Australian Capital Territory enacted some model legislation, and the same legislation was enacted by each of the states and the federal government. They all accepted the identical legislation and agreed that the central body, ASIC, would have control, and that its officers — some federal, some state — would control corporations in Australia.

It would be nonsense to think that corporations in a country like ours should not have one controlling body. Imagine the chaos in today's commerce if corporations had to abide by controls that were different in each of the states and the commonwealth. Modern Australia drove towards cooperative federalism and towards this arrangement. Everything was going along fine. The ship of cooperation was sailing across the waters without a hitch. The commonwealth Director of Public Prosecutions had power to prosecute companies in all states. The Australian Federal Police had power with respect to corporations.

Mr Wynne interjected.

Dr DEAN — I hear the honourable member for Richmond calling out 'What happened?'. Well the ship hit the words in the constitution that I previously referred to. The ship of state cooperation, which was sailing so well, hit that very problem I referred to earlier in my speech — that is, that with a constitution limited by words come inflexibility and limitations.

What did the High Court hold under pressure? It held in the Wakim case that it is not possible to cross-vest state corporations power in the federal jurisdiction for the Federal Court. Under the federal constitution there is no capacity for federal courts to exercise anything other than federal law. No matter how much the states want to cross-vest and be cooperative, it is not possible. Even with the best will in the world on the part of the states and the commonwealth, cooperative federalism is brought up short by the constitution.

There was a flurry of activity. All the decisions that had been made by the Federal Court had to be verified after they had been made because there was a real prospect that they would be invalid. The High Court held that the Federal Court could not have made those decisions because there was no federal head of power that allowed cross-vesting. All the decisions made on matters where the states had the power over corporations were invalid. Legislation had to be enacted to patch up the situation and effectively to say that such decisions were made as if they had been made by state courts. But that was only a temporary bandaid, and challenges were immediately forthcoming from lawyers who wanted to strike down such decisions on behalf of their clients.

Then a decision was made. It was thought, 'Maybe all the corporations power in the states — that bit the federal Corporations Law and the constitution, where the words were limited, did not cover — should be handed over so the whole area is covered'. Of course, whenever the commonwealth government asks state governments to hand over power there is a bit of a problem because, cooperative as we are, we do not want to see ourselves going out of existence. I am the first to say that petty quibbles about handing over power only stand in the way of progress and the future. I am a great advocate of federation. I do not want to see unitary government, and I want to see federation continue. That is lucky, seeing I am a state member of Parliament. It would be very embarrassing if I did not. Federation is a fantastic institution and process. It decentralises power and ensures that one set of governments — governments that are implementing decisions, spending money, and so forth — is close to the people.

Many people to say to me, 'We have far too many politicians'. In return I say, 'What other country can you go to where, as a member of the public, you have access to a politician in your electorate?'. I now have about 40 000 people in my electorate, but on redistribution I will have about 35 000. That means 35 000 — —

Mr Batchelor interjected.

Dr DEAN — My electorate does not exist any more. I do not know what I have.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Berwick should discuss the bill.

Dr DEAN — Silly me to bring up redistribution. The point I am trying to make is that looking after 35 000 people is manageable for a state politician. People can go to see their state politicians. With federal electorates, which have 80 000 or 100 000 electors, people simply cannot get to see their politicians.

There are all sorts of reasons why I am in favour of federation and why I want to see it work. Handing over the corporations power was a hard thing to do. I believe there was another way, and I have said it before in this house. I believe we need only one superior court. I believe there is an administrative structure that would enable the state supreme courts and the federal superior court — both being superior courts — to merge into one court administratively, with the judges having commissions in either the state or the federal sphere. That would not only save a lot of money, it would be simpler for people who do not understand the distinction between the Federal Court and a state Supreme Court.

There was another way, and one day that idea will be taken up. I have absolutely no doubt that as federation ploughs into the future the notion of having separate superior courts will vanish and they will administratively be one. Putting that aside, when the decision was taken to hand over our corporations power it was absolutely necessary that we did so on the bases that we could get it back if we needed to, that there were all sorts of limitations, that if there were to be amendments to the corporations power we got to know about them, and that there was a council that would enable the states and the commonwealth, always, to discuss changes that needed to take place.

Yes, we have done that. But the point is, does it stop at the corporations power? The High Court decision in Hughes broadened the ruling that if the federal government does not have a head of power it is limited in what it can do administratively and how it can conduct its business in state areas. Basically in the Hughes case, which went down the same road as Wakim, it was determined that if federal officers are under other cooperative arrangements exercising power that is effectively state power and there is no head of federal power for them to act on, it is quite likely that the duties they are performing are invalid.

As there is a problem with the Federal Court and corporations, so there is a problem with other cooperatives, whether they be agricultural cooperatives, veterinary cooperatives, gas pipeline cooperatives — you name it. Can honourable members understand how incredibly serious this is? Even though we are a federation, if we cannot act uniformly and cooperatively as one country on such matters as gas, agriculture and commerce, we will be gravely limited in our ability to compete with other countries.

We will also be gravely limited in implementing important laws that protect people, because once there are two laws — one in one state and one in another — good lawyers will find a way through the gap time and again. I say ‘good lawyers’, because that is what their clients pay them to do. How should this important problem be solved?

Again, we have not hit the nail on the head, but Victoria and all the other states have done what they can as quickly as possible. All the states should congratulate themselves in this year of the centenary of Federation, because they have realised that cooperating on matters such as this is in their own interests and the interests of the country.

The state must validate the actions taken by people in cooperatives, whether they be agricultural or any other sort. The government must also validate the actions of officers, particularly commonwealth officers, who exercise powers and undertake duties where the federal government does not have jurisdiction. In such cases those officers are deemed to have acted as if they were state officers. The actions of the National Companies and Securities Commission, which goes back a long way, could cause chaos if they were undone. Similarly, the past actions of the Australian Securities and Investments Commission, the commonwealth Director of Public Prosecutions and others will be deemed valid because where necessary they will be deemed to have acted as state officers, not commonwealth officers. That is what the Corporations (Administrative Actions) Bill and the Co-operative Schemes (Administrative Actions) Bill do.

The next bill deals with existing state legislation that refers to corporations under the Australian Securities and Investments Commission and not under the new corporations law. I am not sure whether the corporations law legislation has been enacted, because I presume this bill probably has to be passed first. The commonwealth government is waiting to enact that legislation — and I am sure it is licking its lips, because the commonwealth has always wanted plenary corporations power.

I used to work for a judge called Sir Reginald Smithers, whose name my opponents have recently used a couple of times in vain in an attempt to wound me. It would be

very hard to wound me so far as Sir Reginald was concerned. He was a senior member of the Federal Court and I was his associate; he was a great man who was loved by everybody. His mind worked in a Dixonian way to get the right answers. He often said, 'I don't know why there aren't more challenges to the limitations on the corporations power. I am sure that if the High Court keeps being hit with cases, eventually it will expand the law and then the commonwealth will have it all'. Maybe that would have happened.

Perhaps it is in the states' interests to hand over this power and say they can take it back if they want to, without causing too much of a fuss. I am not sure how a battle in the High Court over the states' powers with respect to corporations would pan out in the long term.

The third bill of this quinella makes sure that the new corporations law fits in with state laws by referring to all the state laws that mention corporations in the old way. In my day it used to be called by the corporations name, and then it was called — —

Mr McIntosh — Companies Victoria.

Dr DEAN — The Companies (Victoria) Code, that is right. All that terminology will be fixed so that it fits in with the new corporations law.

The next bill, the Corporations (Ancillary Provisions) Bill, is a hard bill to understand, and I do not blame anyone for having difficulty with it. Every time I want to talk about it I have to sit down and think about it again! If the federal government is given full corporations powers, whenever because of section 109 there is a direct inconsistency, it will overrule state laws with respect to those powers. The commonwealth corporations legislation that is about to be enacted makes it clear that it is not intended to cover the field.

The usual test of whether a federal law sweeps aside state laws is: does the federal law intend to cover the field? If it intends to cover the field, and it has federal power, state laws fall. However, the federal legislation will not strike down all the laws that are remotely connected with corporations in the state. But even if it does not intend to cover the field, if there is a direct collision between a state and federal law, under section 109 the federal law will have preference and the state law will buckle.

There are state laws that the state government does not want to buckle. Although it is giving the federal government the power in the first place, the state does not want that power used against it in a situation of direct conflict. This bill has the capacity to create declaratory provisions that declare that in a situation where there is a direct inconsistency, the state law will not succumb. That leaves the state with the capacity to control the situation. It avoids the situation of the state finding that there are all sorts of ancillary legislative effects of handing over corporations power which it did not realise and which, as a consequence, it has lost forever. That is a sensible piece of legislation.

My colleague the shadow Minister for Agriculture, the honourable member for Monbulk, will probably talk more about the agricultural cooperative provisions. Although I will not do so, the same principles apply. It was a cooperative. There has to be a situation where those acts are now relevant.

One thing I have not worked out — and it may be that the honourable member for Richmond will help me out — concerns those other cooperatives where other heads of power exist. This legislation makes valid the actions of federal officers who are acting under cooperative arrangements. The power on each of those specific areas is not being given over to the commonwealth. To do so would effectively off-load all our state power. At this point I am not sure whether there is an intention to do that or how the future actions of people in cooperatives other than corporations will be dealt with. How will their actions be made valid? It may be the view of many that they will always be regarded as state officers. Maybe that is what is being done and maybe that is the way through. I am interested in that point. I admit to a little lack of understanding because of the different ways corporations and other cooperative arrangements are approached.

I conclude by pointing out that this is an opportunity being taken rather than a problem being fixed. In other words, it is a cloud with a silver lining. The cloud was that the federal constitution as interpreted by the High Court was more restrictive than we thought. We have had to pass all this legislation in a hurry-scurry to try to overcome that. The silver lining is that there was cooperation between the states and the commonwealth to do this.

This is the year of the centenary of Federation, and parliamentarians should look at ways in which cooperation between the states and the commonwealth can be enhanced. On both sides of the political fence the notion of having punch-ups at Council of Australian Governments (COAG) meetings with matters of national importance being raised and playing politics to the point where each of the states and the

commonwealth become competitive should be a thing of the past. I hope I have some political realism after having spent a few years around the place.

Mr Batchelor — You have, but you're a slow learner!

Dr DEAN — I may be a slow learner, but I have got there. Like all slow learners, I learn well. Some just skim over the top.

Politics will enter daily life in everything that happens. There is no doubt about that. People will want their own way, a way someone else will not want, and there will be politics. In this year of the centenary of Federation there is a wonderful opportunity to say that there are some national issues. How can parliamentarians possibly justify not agreeing and coming together cooperatively on national issues when our founding fathers 100 years ago not only came together on one of the most complex problems of all time but also gave up some of their own power to the federal government? What a huge success that was!

There is no way this country could be where it is if those founding fathers had not taken that action. A hundred years on it is not a great deal to ask why some issues cannot be isolated. There can be fights about tax, consumer laws and this and that, but there are some issues, such as drugs, health, defence and the like, that are without a shadow of a doubt national issues. In all of those cases the interests of each government should be secondary to the solving of the problems. That is why 100 years down the track I have been crying out about this for some time. Last year and the year before, when I was a parliamentary secretary, I wrote letters to the Premier, and I have done everything I possibly can.

To put it in Chinese terms, COAG should be seen as the crystallisation of a Great Leap Forward in cooperation between the states and the commonwealth. COAG has the bare bones and skeleton of an institution which, if properly looked after, nurtured and treated well by the premiers and the Prime Minister, could do unbelievably good things through cooperative federalism. My view is that COAG ought to have an administrative structure of its own so that when decisions are made by the Prime Minister and the premiers they are carried through in a unified way. Decisions cannot be carried through in a disruptive and disunited way with officers all over the place so that it takes ages to get any form of communication working. At least there should be an executive officer. Even if it is done separately by the states and the commonwealth, there should be an executive office that drives the decisions of the premiers and the Prime Minister on federal issues. Maybe corporations would be one of those issues.

COAG should be split into two parts. The first part should deal with issues of national importance. Already COAG is designed to deal with such issues, and not just matters such as Medicare and who is getting what. It should deal with the big issues. That should be all that happens with the first part of COAG. There should be rules for the operation of that first part of COAG, one of which should be that the state premiers and the Prime Minister do not go rushing off to the media. A day or two should be spent without media input, during which the premiers and the Prime Minister can act as statesmen and sit down without the glare of publicity. It should happen behind closed doors and it could work on solutions to national problems.

After that, the second part of COAG could deal with all the other items that are likely to cause conflict. Then there could be the usual punch-up and politics and all sorts of things happening.

That is just one suggestion. People have many other suggestions to drive the cooperative federalism process to the next step. It will take some imagination to do that. While we do not have that imagination and are constantly looking internally at our private political requirements, nothing will happen. But I always hark back to the people who say, 'Oh, that will never happen' and make two points. Firstly, it has happened by default because the world has driven us that way — hence all these cooperative schemes and what we are doing now. This was done through necessity.

Secondly, why not bound beyond necessity and do it of our own volition? When people say, 'That will never happen because people don't do that', I point out that the founding fathers did. There is the perfect example of a situation where, in that case, men — these days I hope it would be an equal mix of men and women — drove that process. And it was hard. It took years to do, but they did it. So for anyone to say it is not possible to drive cooperative federalism further, I say, 'Look at your own history. Get out your Australian history book and read it properly'. I remember something that Paul Keating once said — —

A government member interjected.

Dr DEAN — Let us not make this political, because this is important. Not everything that Paul Keating did was a disaster — but virtually everything! But during an interview with Phillip Adams he said, 'The thing about being the Prime Minister — and I think any

Prime Minister or Premier would want to say this — is you know it is not going to last, so you have an obligation to grab it and do with it what you can while you have got it'. What he was basically saying is that when you are given a position of leadership, however it comes about, you have a responsibility to grab it for what it is worth and put your heart and soul into it, even if it means taking risks and doing things your party does not accept. Because you have it only a short time, you owe it to the rest of the country to do that.

This is why I think every leader, no matter whether it is a Labor or a Liberal Premier, whoever it is, has that responsibility. They have that short time in the sun — that very short time in the sun — to do these things. Therefore, this is one thing that the leaders could do at this point. They could make the Council of Australian Governments a different sort of institution that drove cooperative federalism and took us into the next 100 years. It has been said that the proposed legislation is complicated, detailed and complex, but it is not really when you look at the basis of it, the reason it has happened, how it has happened through cooperation and what it could mean for the future, if we want to grasp this moment.

Mr RYAN (Leader of the National Party) — It is my pleasure to join this cognate debate. Gippsland South, marine parks, Sale, Wonthaggi — it may well be thought that those issues have nothing to do with the context of this debate, but in fact they are very pertinent. The issue in relation to those is that, to greater and lesser degrees, there is a separation between them, albeit that my electorate of Gippsland South includes the beautiful area of Sale, but the other areas in a sense are discrete, whereas with this legislation what we are talking about is a totally different thing. Both state and federal levels of government are in furious agreement about the bottom line they want to achieve, but unfortunately there has developed an outcome through the process of the constitution and the courts which means that, with the best of intentions, they have been unable to achieve what they have jointly set out to do.

This package of legislation is intended to overcome the shortcomings which have materialised through the operation of the courts and to bring about the result which is desired by both the states and the commonwealth, and to do it in a way that will ensure the survival of the current system of Corporations Law in Australia and enhance its operation.

There is another issue that comes out of the legislative package, bearing in mind that there are five bills involved in this cognate debate. I will touch on it briefly because I believe it is relevant not only to this debate but also to the operation of schemes of legislation in time to come. It concerns the notion of the scrutiny of national schemes of legislation.

In the last Parliament I chaired the Scrutiny of Acts and Regulations Committee, a committee that is now chaired by the honourable member for Werribee. During the period that I was the chair and the honourable member for Werribee was a member of that committee, we, together with the other members who were engaged in the work of the committee, went a long way towards developing a concept that would permit proper scrutiny of these national schemes of legislation. I fear that unless something is done to accommodate the need for that process there will be one of two outcomes. The first is that the notion of scrutiny of legislation at a national level will not be given effect. The alternative is that national schemes of legislation, if they are subject to scrutiny under the systems that operate at the moment, could well result in an outcome of bringing undone the best of intentions of commonwealth and state legislators.

The intrinsic difficulty is that at the moment there is no mechanism whereby a piece of legislation proposed on a national scheme basis is able to be subjected to scrutiny before it goes to all the jurisdictions where it is to individually apply. The current problem is that, to put it the other way around, each of the participating jurisdictions has a responsibility, which differs from state to state, for the scrutiny of the legislation as it is introduced into their respective chambers.

The process of scrutiny means that in each instance where that occurs the committees that have the responsibility in those respective jurisdictions are likely to find some fault in the form of the legislation that is being scrutinised by them and recommend change to be made in the reports that they table in their respective Parliaments. Those recommendations may therefore result in change being effected. We may then find that that undoes the whole foundation of having national scheme legislation, because if that happens as a result of one jurisdiction making a change, that changed mechanism has to be submitted to all the other jurisdictions for review to see if they respectively agree with it. It simply will not work.

We have got away with it up until now, but unless we develop something that will accommodate the problem, I fear that proposals such as the one before the house will fail.

The solution seems to be to develop a process for the scrutiny of legislation at a national level before it comes before the respective jurisdictions. In the time that I was chair of the committee in the last Parliament we moved to a stage of developing a model bill which would serve the purpose that I have described. It would enable the process of scrutiny to happen at a national level, outside the operation of the respective jurisdictions, and it would ensure, therefore, that the legislation, when it was then introduced to the respective chambers, would have been the subject of scrutiny in a manner that those respective parliaments accepted as being appropriate. Thereby we would have avoided the outcome of perhaps ad hoc changes being recommended or, even worse, adapted and bringing undone the national proposals.

It is a sensible way to go about it, because what we have before us is a window to the future. We are increasingly dealing with legislation that is based on some sort of national scheme that may have come from the Council of Australian Governments or from meetings of Attorneys-General or a variation on that theme. Whatever the point of origin, national schemes of legislation such as this are rampant and will continue to be so. Unless we have a mechanism for scrutinising them before they come to the floor of the participating parliaments, I fear the whole process will come undone.

In the course of his contribution the able honourable member for Berwick stated that a hundred years on these sorts of things will need to be accommodated. The issue I am raising is one that needs to be accommodated. If the principle of scrutinising legislation is to survive, it will need to be adopted with some urgency.

The package of bills is unusual in the sense that although there was furious agreement among all the participants when the initial structure was established, that agreement has been brought undone by determinations by the courts. The honourable member for Berwick referred to the decision in *re Wakim*, the facts and circumstances of which relate to the matters now before the house. However, the decision in *The Queen v. Hughes* concentrated everybody's attention on the fact that something had to be done, which is why we are debating these bills.

Although it is pretty dry stuff, there are some lovely provisions in the package, and I will refer to one of my favourites in a moment. The Corporations (Administrative Actions) Bill is one of a parcel of three bills, the other two being the Corporations (Consequential Amendments) Bill and the Corporations (Ancillary Provisions) Bill. This package of three is intended to overcome the shortcomings that have been described. The nub of the problem is that although both the federal and the state constitutions have powers regarding corporations, in circumstances where a state gives the commonwealth authority to undertake a function under state law, together with a duty to exercise that function, there must be a legislative power in the commonwealth constitution that founds the relevant authority and function.

When in the Hughes case this was put to the test, the power was found to be valid, so the problem did not arise. But in its deliberations the court flagged the fact that this sort of difficulty could well arise in thousands of instances, so you could have a circumstance similar to the one that was subject to the test involved in Hughes. The logic of that means that unless you went through every one of those circumstances on a case-by-case basis, you would never know. It also means that for the sake of maintaining the structure of Corporations Law in this country it is untenable that that should continue, so remedial action needs to be taken. When one considers *re Hughes*, the reality is that one may find there are innumerable powers and functions that are invalid, but the only way to test them is on a case-by-case basis.

The Corporations (Administrative Actions) Bill provides that every invalid administrative action taken under current or previous corporation schemes has the same force and effect as it would have if it had been taken at the relevant time by a duly authorised officer of the state. One of the marvellous provisions of this bill is clause 9. In an age when there is a drive to be precise to avoid legislation being open to challenge, clause 9 is a classic. The clause, which is headed 'Corresponding authorities or officers', is worth reading into the record:

> It is immaterial, for the purposes of this Act, that a Commonwealth authority or an officer of the Commonwealth does not have a counterpart in the State, or that the powers and functions of a counterpart State authority or a counterpart officer of the State do not correspond exactly or substantially with those of the Commonwealth authority or the officer of the Commonwealth.

I think that is delightful!

Dr Dean interjected.

Mr RYAN — Isn't it an absolute cracker! Given the many provisions that come before us for consideration, that is just delightful.

Dr Dean — Which bill is it?

Mr RYAN — This is clause 9 of the Corporations (Administrative Actions) Bill. Fundamentally it says we will do just about anything to save the day. It does not matter if the mechanism by which power was given by the state to the commonwealth authority or officer is invalid, because it will be fixed. It does not even matter if, when the power was given, there were no people in the respective jurisdictions who occupied corresponding positions, because that will be fixed, too. All we want, for heaven's sake, is to fix this up! Far be it from me to issue the challenge, but I cannot help but think that in time someone will have a go at clause 9, because it seems to have an extraordinarily wide compass. If it is the equivalent of a case like Hughes or Wakim, the whole thing may well be thrown back into the furnace.

The other two bills to which I have referred are aspects of the amending process that are part of the bottom line intent of trying to cure the problems that have arisen with the transfer of powers between the two jurisdictions. The honourable member for Berwick has summarised the issues well. The Co-operative Schemes (Administrative Actions) Bill and the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill will be the subject of individual comment, certainly in the latter case by the shadow Minister for Agriculture from the national party perspective.

It is complex legislation that has come out of a complex set of circumstances. It is redolent of the intent of both the federal and state jurisdictions to fix the problem come what may. The proposed legislation has been drawn in a fashion that I suspect will be the subject of further deliberation and consideration in time to come, and it will draw the attention of those who have an interest in scrutiny of legislation. For all that, I wish the legislation a speedy passage.

Mr WYNNE (Richmond) — I support the Corporations (Commonwealth Powers) Act 2001 and the subsequent bills that are the subject of the cognate debate we are having today. I will confine my comments briefly to the matters pertaining to the areas of the Attorney-General and will leave the matters pertaining to agriculture to the expertise of the honourable member for Ballarat East, who is amply qualified through his role as the parliamentary secretary and through the work he does on his farm in the limited time he has available in his private life.

The bills which are the subject of this cognate debate form part of a package of corporations bills that are necessary to support the new arrangements for national Corporations Law. In part, the new arrangements rely on the reference of corporations matters to the Parliament of the commonwealth by the parliaments of the states. As the honourable member for Berwick said, the Victorian government has made its reference under the recently enacted Corporations (Commonwealth Powers) Act. As honourable members would be aware, that act arose from the concerns raised by two matters that appeared before the High Court. A ruling was made in *The Queen v. Hughes* in May 2000 whereby serious doubts were raised about the powers of the commonwealth Director of Public Prosecutions (DPP) to prosecute cases under the current regime of Corporations Law. An earlier High Court case, known as the Wakim case, had also raised concerns about the Corporations Law. Effectively, the High Court in that case denied Federal Court jurisdiction over company law matters by ruling that the cross-vesting provisions between the commonwealth and the states were unconstitutional.

Corporations Law is an area that is not only obviously technical but also very important because of the nature of corporations in Australia; they are not only national but also transnational. We have to ensure that we have in place an appropriate legislative regime to manage the uncertainty that exists, certainly from the point of view of business. The Attorney-General acknowledged on a bipartisan basis that it is important for this government to move quickly to ensure that certainty was provided following those two cases.

As we know, although the Corporations Law is a national system it operated as a law of each state and territory rather than a law of the commonwealth. Each state had a separate but identical Corporations Law, and to ensure uniformity of prosecutions it was agreed that the commonwealth DPP could prosecute many of the cases.

In the Hughes case, although the court ruled that the commonwealth was able to bring prosecutions and unanimously rejected Mr Hughes's challenge to the DPP's authority to prosecute him, serious concerns were raised about the DPP's power to prosecute in a range of other matters. There have been many discussions between the commonwealth and state governments through the Standing Committee of Attorneys-General to try to wrestle with the best way to deal with the issue. Essentially, two solutions were developed. One solution is to have the states refer its powers to the commonwealth to create a genuine scheme. The other solution is to make a constitutional

amendment that would need to be approved by a referendum.

The Victorian government took the former path — that is, it referred matters to the commonwealth. Following months of difficult negotiations — they are difficult issues — between the states and the commonwealth, on 21 December 2000 the Prime Minister and the premiers and attorneys-general of Victoria and New South Wales reached a compromise to facilitate the referral of powers relating to the corporations legislation by the states to the commonwealth Parliament.

The bill debated in this house some months ago, the Corporations (Commonwealth Powers) Bill, was the outcome of those discussions. It set in place the parameters within which this cascading legislation follows. It is within that context that we are having this cognate debate today. It is a logical outcome of a sensible course of action taken by the commonwealth and the states to resolve difficult issues thrown up by both the Hughes and Wakim cases. Most importantly, some surety will be brought to the business community that both the commonwealth and the states could act in concert to bring surety to the national cooperative scheme processes.

The second aspect of the legislation is the enactment by the commonwealth Parliament of a new Corporations Act and Australian Securities and Investments Commission Act. The third aspect, following the doubts raised in the Hughes case of actions of the Australian Securities and Investments Commission and its officers or by other commonwealth authorities or officers under the Corporations Law dealt with by the Corporations (Administrative Actions) Bill, is the enactment by all of the states of supporting legislation providing for the validations. Consequential amendments follow the Corporations (Consequential Amendments) Bill and the transitional arrangements contained in the Corporations (Ancillary Provisions) Bill.

Obviously, this is an outcome of a cooperative process between the commonwealth and the states with both Victoria and New South Wales leading the way. A couple of months ago I had the opportunity to attend a meeting of the Standing Committee of Attorneys-General in Adelaide where it was indicated that Victoria and New South Wales were well advanced in discussions with the commonwealth. It was recognised by the attorneys-general of both the commonwealth and the other states that Victoria and New South Wales were well advanced in their supporting legislation. In that context it is important that these subsequent bills are passed through the house.

I await with interest the comments of the honourable member for Ballarat East regarding his particular cooperative arrangements in this cognate debate. Although it is fairly technical, the legislation is relatively straightforward. It is important that a system that supports the national scheme is brought into place.

The matter raised by the shadow Attorney-General will be dealt with by the Attorney-General in his summary of the debate. I commend the bill to the house.

Mr McINTOSH (Kew) — I support the proposed legislation, but preface my remarks by saying that while the bills are complicated and arise out of substantial cooperation between the states and the commonwealth, in the end they are a bandaid solution to a complicated issue that has its genesis in the Australian constitution.

The founding fathers — and I use the phrase advisedly because they were all men — who drafted the constitution at the end of the 19th century had to grapple with several issues, including defence, industrial relations, marriage and banking. In the drafting of the constitution it was felt that those issues would be better placed in the hands of a central government — the commonwealth government.

We see that expression in section 51 of the constitution which contains a list of the powers of the commonwealth Parliament for which to legislate, such as defence; bankruptcy — which has not always been a commonwealth act; and marriage — which again was not always a commonwealth act. As a young law student I remember attending courts where divorce was still governed by the old state Matrimonial Causes Act, but marriage in this jurisdiction is now governed by the commonwealth Family Law Act. Banking is also governed at a central level.

Interestingly, certain powers have developed during the past 100 years, none of which the founding fathers would ever have turned their minds to, yet they have been adopted by common practice to the commonwealth. Examples include aircraft, the first of which flew in 1903, and also telecommunications and mass communications that have become common parlance and common practice in this country; although there is no expression regarding those matters in section 51 of the constitution, they have all necessarily been adopted and legislated for by the commonwealth.

The most important power the house is looking at today is the power relating to a trading corporation. Essentially the scheme of the constitution is that the commonwealth can exercise the power that is prescribed but it is limited to that power. All of the other powers — which is not technically correct but I use the expression — are residual power; health, education, the courts, law and order, and police and emergency services devolve and remain with the states. Unless there is an express power in the constitution, the default position is that the commonwealth does not have the power.

The commonwealth does have power in relation to trading corporations, and therein lies the rub. The full extent of what is a trading corporation has never been fully tested by the High Court. It has snapped around the edges but it has never clearly defined what is involved in a trading corporation. It could be like the Family Law Act in relation to divorce, which also has an ancillary power to interpret the distribution of property between married couples, notwithstanding that the law of property devolves to the states. The position still exists where real and personal property is controlled by state legislation.

The legislation before the house is a trading corporation. The traditional response by lawyers has always been that trading corporations may be incorporated associations, incorporated companies or other incorporated cooperative schemes but they must be trading.

Companies have beginnings and ends, and as we saw recently with some notable collapses — HIH Insurance and One.Tel — when a trading corporation is brought to an end it has major implications for investors, shareholders, creditors and employees. However, by no stretch of the imagination can anyone argue that HIH or One.Tel is still a trading corporation within a fairly limited interpretation of that term.

Equally, the creation of a public corporation involves the application of substantial rules relating to its incorporation. A corporation may ultimately become a trading corporation, but at the stage of its incorporation it may not necessarily be one. The drafting of prospectus rules and the raising of public finance are some of the complicated processes in which lawyers or accountants involve themselves in interpreting the Corporations Law.

It could be argued that neither the beginning nor the end of a trading corporation is governed by commonwealth law but that both are properly governed by state law, because there is no mention of anything but a trading corporation in commonwealth law. As I said, that has never been definitively tested in the High Court. It could be argued that the initial incorporation, prospectus publication and financing, and the ultimate winding up of a trading corporation could be included in the definition of 'trading corporation' for legal purposes in the same way that a Family Court deals with property between married couples, notwithstanding that the property settlement power is a residual power reserved to the states.

A trading corporation is something that in modern parlance — it may not have been as true in 1900 — has national exposure. Certainly large public companies such as BHP have extensive national exposure. Shares in all sorts of public companies are traded right around the country in the various state stock exchanges and the Australian Stock Exchange. Public moneys are raised through those entities that are then utilised, yet the companies concerned may ultimately go into liquidation.

Notwithstanding that One.Tel and HIH were based in Sydney, nobody could argue that their collapses have not had implications for shareholders, creditors and employees right around this country. To limit corporation powers to individual states and to therefore have state organisations governing corporations would not be practical. Accordingly, the cooperative corporations scheme is a practical reflection of the way companies operate in this country.

So far as I am aware, the search for a pure scheme commenced back in 1961, when each of the states passed uniform companies legislation. When I first studied company law at the Australian National University we examined, in Victoria's case, the uniform Companies Act. Although that act was the subject of the cooperative scheme, it was a Victorian act of Parliament.

By the early 1980s the system had broken down, essentially because different states had passed different pieces of legislation and there was no true correspondence between them. It became a minefield to raise money, trade, wind up companies or realise assets in different jurisdictions.

In the early 1980s there was a truly cooperative scheme, but it was felt that a single act should be passed in the Australian Capital Territory that would then become the exemplar act for adoption by the other states. The Companies (Victoria) Code was introduced

by an act passed by this place that adopted an exemplar ACT act.

The legislation also had a governing entity — a regulator, if you like — which was the old Office of Corporate Affairs. Its successor was the National Companies and Securities Commission. As a young lawyer, and certainly as a young barrister, I cut my teeth on the Companies (Victoria) Code through my involvement with the NCSC as the overall regulatory body. It was a commonwealth body that had branch offices in the states. Here in Victoria one effectively dealt with a state regulator, although it was operated as a commonwealth body.

There were flaws in enforcement that related to which courts or jurisdictions you could bring your case in. For example, a winding-up action could be dealt with in the Supreme Court but not in the Federal Court, which was bizarre in the extreme. Accordingly, in an effort to improve the situation the Corporations Law was passed, the regulator initially being the Australian Securities Commission, and ultimately the Australian Securities and Investments Commission.

Those regulatory bodies have demonstrated their worth, as we have seen following the collapse of HIH and One.Tel. Recently ASIC froze the assets of the directors of One.Tel with lightning speed, because, as we all know, one director proposed to sell the family home. I understand he was given permission to sell that asset for some $16 million, which will be held in trust pending a dispute about whether moneys have to be repaid.

The Corporations Law resulted in an important reform of the liquidation rules, in particular a 19th century rule that said that so long as a director of a corporation was not acting with mala fides or beyond the power of the law and was acting within the scope of his or her authority, you could not look behind the corporate veil. That protected directors from attack from disgruntled shareholders, disgruntled employees and, more particularly, disgruntled creditors.

However, a major reform of the Corporations Law came about when it was realised that the corporate veil was being lifted in cases of insolvent trading. Essentially it means that if at any stage the directors of a public or private company believe the company will not be able to pay its debts in the foreseeable future, they have no alternative but to place the company into liquidation or, more importantly, call in an administrator, who will determine whether or not the company is in a position to continue trading. According to the advice they are given, the directors may call in an independent auditor to determine the company's position and whether or not it should continue to operate.

Those requirements have a worthwhile social and public utility. Making directors more accountable for insolvent trading makes them more responsible to their shareholders, creditors and employees. The priority set for payments by an insolvent company to unsecured creditors, for example, ranks employees immediately below the tax man. That move, which has been created here in Australia, certainly has a public utility.

What cannot be ignored in all of this is that the legislation is essentially based on a cooperative scheme. Unfortunately, the High Court, in a series of decisions — in *re Wakim* in 1999 and *The Queen v. Hughes* — has cast real doubt on that cooperative scheme, and there has been a desperate attempt to resolve those issues in a satisfactory way. There can be only two watertight solutions to the problem.

One will be testing the extent of the trading corporation powers that exist in the commonwealth — that is, whether it can commence with the genesis of the company and through to its incorporation, promotion, raising of funds, trading period and up to the termination of its existence, either voluntarily or otherwise. Notwithstanding it may no longer be trading and may be in liquidation, that needs to be tested by the High Court of Australia.

The other alternative is to reform the constitution by way of referendum. As honourable members know, the ability to reform the constitution by referendum in this country has never been terribly satisfactory. Unless there is bipartisan support and an overwhelming public mood to change the constitution, traditional referendums in this country fail.

It would be an expensive and long, turgid process to go through either of those courses. You need a test case that would go to the High Court, or alternatively some form of referendum that would also go through the political process to be put to the Australian people. In neither case would you have any guarantee of success. However, if it came to that, ultimately that would be a solution.

What we have before us is the outcome of the best legal minds in the country — solicitors-general, including the Standing Committee of Attorneys-General — meeting to determine a solution to this cooperative scheme. The solutions were provided, and these five bills are

probably not the beginning or the end. They commenced with a bill that passed this place in relation to *re Wakim* that effectively validated all of the Federal Court of Australia decisions that were declared invalid by *re Wakim* and essentially validated all of those decisions of the Federal Court as if they were decisions of the Supreme Court. All of the corporations power was taken out of the Federal Court and referred back to the Supreme Court. In everybody's parlance it was unacceptable; that was not what the scheme was designed to do.

At the beginning of this year the house passed the Corporations (Commonwealth Powers) Bill, whereby again a specific reference was made to the corporations power by this Parliament to the commonwealth Parliament. That corporations power is now vested in the commonwealth Parliament. We have referred that pursuant to the provisions of the constitution. It is still, presumably, subject to an attack.

We now have a number of bills that deal with the individual requirements and the validation of existing and past acts that date back to the cooperative schemes when commonwealth officers applied the law as if it were valid — for example, in the case of *re Hughes* you had a prosecution commenced under Corporations Law by the commonwealth Director of Public Prosecutions. Although it was held to be valid in those circumstances, it was certainly a matter that challenged the intellectual capacity of almost every commercial lawyer in this country.

One matter I raise concerning the Co-operative Schemes (Administrative Actions) Bill relates to the cooperative scheme under the Agricultural and Veterinary Chemicals (Victoria) Act. No-one is suggesting it is an inappropriate remedy to have commonwealth uniformity in applying veterinary chemicals to a cooperative scheme, but I am concerned that that power will be given to the minister to approve further cooperative schemes, validate those acts and record them in the *Victoria Government Gazette*. I understand that the government has moved an amendment whereby at least the Scrutiny of Acts and Regulations Committee would be notified.

It is a fairly major procedure to validate past acts and cooperative schemes, but while it may be expedient to do so and within the tenor of the cooperative scheme, these administrative steps should be brought back to the house in some manner or form, at least involving notification to this house. While the essential merits of the bill are appropriate and will have the opposition's support I suggest the government should look at this aspect of the procedure in the future.

Apart from that, I have no hesitation in supporting the cooperative schemes and the cooperation that has existed between the states and the commonwealth in implementing this legislation, notwithstanding that it is a bandaid solution.

Mr HOWARD (Ballarat East) — It is my pleasure to contribute to the debate on this suite of bills, most particularly the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill. This bill will ensure the constitutional basis and the conferral of functions and powers upon which the national registration scheme for agricultural and veterinary chemicals is dependent.

As previous speakers have said, these bills have become necessary since the recent case of *The Queen v. Hughes*, which identified — —

Mr McArthur — Which year?

Mr HOWARD — Last year, I presume. That case identified problems with the existing state and federal legislative arrangements in a number of areas. In regard to the agricultural and veterinary chemicals legislation there was agreement between the federal government and the states in 1993, which was enacted in federal and state legislation in 1994 and established the national registration scheme for agricultural and veterinary chemicals based on the Agvet code, as set out in the commonwealth's Agricultural and Veterinary Chemicals Code Act 1994.

As a result of the High Court decision in *The Queen v. Hughes*, the government identified the need for changes to be made within the legislation to ensure that the national registration scheme for agricultural and veterinary chemicals can continue to act on a legal basis whereby the appropriate aspects of the powers can be conferred back to the federal authorities.

We want to ensure that the national registration scheme can continue to operate in a valid way. There is no plan to change the way the system works, whereby the registration authority acts with the assistance of the state. Under the Agvet code Victoria has five Department of Natural Resources and Environment employees who work with the commonwealth to carry out compliance duties in Victoria, and a federally employed person based in Canberra comes to Victoria regularly to investigate suspected breaches of the code. In addition, about 15 Victorian analysts service the work of the national registration authority.

Farmers should not be affected. As we know, when the legislation is passed on the back of this year's federal legislation, the national registration authority will again be able to operate with the full force of the law behind it. Farmers can continue to be confident that the chemicals they use will be appropriately registered and tested and that the balance of powers between the states and the federal government to ensure that it happens correctly will continue.

As a small farmer myself, mainly keeping cattle, I tend not to use agricultural chemicals to any great degree. I try to keep my use of chemicals down. However, on occasion I need to drench some of my cattle and use pour-on sprays for lice, and now and again I use appropriate herbicides around the property to control gorse and other weeds. I encourage all farmers across the state to do their part to comply with weed control legislation. I am pleased to see that the work farmers are doing to avoid using excessive quantities of chemicals will be able to continue with the passage of this bill.

Mr McARTHUR (Monbulk) — I am sure all Victoria's farmers will be relieved as a result of the last contribution to this debate, because now the matter is as clear as mud! I am glad the honourable member for Ballarat East is fully on side with his local farmers and that he sprays gorse. That is terrific! I hope he keeps it up.

I will confine my comments in this debate to just one of the bills, the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill. As the honourable member for Ballarat East pointed out, this amending legislation has been triggered by the High Court decision in Hughes. I do not intend to go into that case in any detail, as it has already been covered by the shadow Attorney-General and the honourable member for Kew. It is a complex issue, as they have said, and one that would bamboozle most people out there in the country earning an honest living. It is rapidly turning into yet another lawyers' picnic.

I am sure we will see more legislation flying into this and other houses around the nation as a result of further decisions on the issue of cross-vesting of powers between the states and the commonwealth. That does not interest too many people carrying on agricultural or agricultural supplies businesses. What they want to know is whether the systems that are in place actually work.

The cross-vesting arrangements entered into by the states and the commonwealth over recent years were eminently sensible and were aimed at reducing duplication by increasing bureaucratic efficiency and developing management programs that would allow people across the length and breadth of the land to get on with their businesses with a minimal amount of fuss and red tape. The cross-vesting arrangements involved in the Agvet legislation were developed to allow the national registration scheme to operate across Australia.

The former coalition government brought in the principal act that this bill amends in 1994. That act provided for commonwealth officers to use certain Victorian powers in relation to administering and managing the national registration system for agricultural and veterinary chemicals. It was a very sensible arrangement, but it has been thrown into question by the High Court decision in the Hughes case. It is now necessary to try to remove the doubt, so that we can be assured that future decisions on the national registration system are supportable in law and cannot be undermined by court challenge, because it would cause major disruption if the registration system Victoria relies on for the use of agricultural and veterinary chemicals could somehow be successfully challenged, either by an aggrieved party or by an angry lobby group that seeks to strike down the use of a chemical or pesticide for some reason or other. It is therefore necessary to make sure the system stands up.

The legislation does that in three ways. Firstly, it validates past actions taken by commonwealth officers who were relying on the initial 1994 act and the cross-vesting arrangements entered into as a result of it and who were firmly of the belief that the actions they took were both legitimate and legal, as well as being in the best interests of the community they served. The people who made those decisions in good faith in the past can now relax, confident in the fact that Parliament has acted to validate those decisions.

Secondly, Parliament has acted to prevent any Supreme Court action that would bring into question any of the decisions that were taken under those arrangements. The other provision that I would imagine commonwealth officers would be pleased about is that future actions taken by commonwealth officers using powers under Victorian legislation in support of the national registration scheme will also be deemed legitimate and will not be challengeable in the way past actions might be if this legislation were not to pass.

This is fine for the lawyers and law-makers to discuss. However, what interests the farmers and those who supply agricultural and veterinary chemicals is whether

the national registration system is effective and can be relied on — and in particular, whether they can rely on the advice they get from a manufacturer that a particular chemical or veterinary treatment is available and legal for use in Victoria.

It is important that farmers can rely on the information on the labels and on the advice they receive from their suppliers, because in many cases they are simply practical people who do not have the technical expertise to check such things for themselves. They go to their stock and station agents or their local vets, describe their problems, and ask for advice about solutions. They are entitled to rely on the advice they get from their suppliers, just as they are entitled to rely on the information on the labels on the chemicals they use for weed and pest control. They are entitled to be confident that if they use the chemical according to the instructions they will be protected from any adverse action in the courts.

It is because practical farmers need to be able to rely on these things that the government has introduced this legislation, which should have the support of all honourable members.

A farmer needing to drench his sheep or cattle, which the honourable member for Ballarat East was talking about — I hope he has drenched a few in his life — must be able to rely on the pour-on drench or down-the-mouth drench he is using being legitimate in Victoria. If he is using a five-in-one vaccine for lambs he needs to rely on it being legitimate in Victoria. If he is using some of the pre-emergent or post-emergent crop chemicals that farmers regularly use, he needs to know that the label instructions are nationally approved and that those approvals are recognised in Victoria and will stand up in Victorian courts. Similarly, a farmer must be confident that if he uses chemicals correctly he cannot be brought before a court by some lobby group seeking to undermine the national registration scheme.

The legislation is very sensible, and in supporting it all honourable members will see the benefits for agriculture right across the state.

As I mentioned, this bill contains a section 85 statement. Unlike the section 85 statement in the marine parks legislation, this is limited, sensible and reasonable. It simply limits anyone taking action in the Supreme Court of Victoria based on the decision in *re Hughes* against a commonwealth officer who used Victorian powers under the previous arrangements. As I said, the bill retrospectively validates their actions. It is perfectly sensible, because those officers were acting in good faith based on advice they had from their department heads and under the powers they legitimately believed were conferred on them by both the commonwealth Parliament and the Victorian Parliament. It is therefore reasonable that those actions be not brought into question.

Ms GILLETT (Werribee) — It is with pleasure that I make a brief contribution to the collection of bills before the house. Other members have explained why the three pieces of legislation dealing with the Corporations Law are necessary, but I will discuss some of the issues about the bills that have been raised by the members of the Scrutiny of Acts and Regulations Committee, which it is my pleasure to chair.

The committee noted that clause 4 of the Cooperative Schemes (Administrative Actions) Bill says that it is to apply to relevant state acts and that the definition of relevant state acts includes any act specified in a proclamation published in the *Government Gazette*.

That means the bill effectively validates past acts and omissions, referred to in clauses 4 and 6, by means of proclamation. In the process those acts which are proclaimed are provided with an automatic amendment to section 85 of the constitution, which gives a statutory immunity from liability and from proceedings in the Supreme Court. That is provided for in clauses 13 and 14.

The committee also noted that it has a statutory responsibility in accordance with section 4D(a)(v) of the Parliamentary Committees Act 1968 to report on any bill introduced in the Parliament that it considers may insufficiently subject the exercise of legislative power to parliamentary scrutiny. In addition, it is required to report on any bill, pursuant to section 4D(b) of the same act, which repeals, alters or varies section 85 of the Constitution Act.

In a nutshell, the committee considers it may be problematic for it to meet its statutory obligations to scrutinise and report on acts proclaimed under clause 4. The committee doubted that it would have jurisdiction to report on such acts, given that they would not be bills introduced into the Parliament but rather acts identified by proclamation. In this respect the committee also noted that other than acts introduced between 3 November 1999 and 31 December 1999 it had otherwise no jurisdiction to report on acts.

In *Alert Digest* No. 6, which was tabled in this house on 29 May, the committee goes into some detail about its

concerns. Suffice it to say that the committee resolved to write to the Attorney-General to seek further information concerning the matters. Knowing as I do the Attorney-General's demonstrated commitment to parliamentary scrutiny, I am confident that he will address the issues of concern that the committee has raised.

Mr PLOWMAN (Benambra) — It is a pleasure to follow the honourable member for Werribee. Having served on the Scrutiny of Acts and Regulations Committee with her, I recognise that she takes her role very seriously. Despite having found it a little hard to understand some of the logic of why the Scrutiny of Acts and Regulations Committee had difficulty with clause 4 of that bill, I realise that there could be legitimate reasons for doing so.

Comprehending constitutional law is almost impossible. As I understand it, in this case the High Court has decreed that even where a state constitution was designed to enable a member of a federal government department to enforce Victorian legislation, it is deemed to be invalid. It is incredibly difficult for a layperson to understand exactly why that has happened.

Certainly the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill makes it doubly difficult to understand the reasons why the practice which has now been totally accepted has been deemed to be invalid, why the court has come to that decision and the outcome of that decision. Clearly, the decision has been made and so we have to see how it can be overcome, hence the five bills before the house being debated conjointly.

I cannot comment on the other bills, but I certainly can on the agricultural and veterinary chemicals bill because it impacts directly on constituents of mine who are farmers and who have to use veterinary or agricultural chemicals on a regular basis. They need the security of knowing where they stand. They need to know if the chemicals they are using are, for any reason — particularly a reason brought in by the High Court — deemed to be invalid or that some federal government department's actions are deemed to be invalid. They need to know about anything that might be seen to make their actions invalid.

The honourable member for Monbulk made some points about the regular use of pre-emergent or post-emergent pesticides, selected weedicides or fungicides. Having farmed for 38 years, I know that from a cropping point of view it is an essential part of farming to know not only what chemicals should be used and when and how they should be used but also with what degree of safety they can be used. Therefore it is essential to meet the provisions of the federal legislation and the national registration scheme.

It always surprises me to find people who are explosive in their damnation of the use of chemicals, particularly from an agricultural point of view. It seems to be one of those things that is damned by those people who know little about it, yet the same people will often watch gardening programs on the television and have no hesitation about getting a bit of Round-up to spray their paths to keep the weeds out. The broadscale use of chemicals in agriculture seems to be totally and utterly unacceptable. If people are prepared to use chemicals in and around their own homes they should at least keep an open mind about farmers using chemicals responsibly for agricultural produce.

Having spent most of my life farming, I know the responsible use of chemicals is an essential ingredient for good farming. One area I have been involved in for many years is soil conservation, and one of the breakthroughs in soil conservation has been the wise use of chemicals to minimise cultivation, the opportunity for soil loss, compaction and the loss of many of the ingredients that make soil less productive. There is no way that spraying chemicals, particularly pre-emergent crops, can have any deleterious effect on the product that is grown, and yet there seems to be an enormous amount of subjective criticism about the use of such chemicals.

The honourable member for Monbulk also talked about the use of chemicals in livestock operations. Again this is an important part of the national registration scheme. Any use of chemicals for livestock has to comply with that scheme either by way of advice on the can or container of the chemicals, advice from veterinarians or advice from the people supplying the chemicals. It is essential that people in all parts of the industry are confident that what they are doing is not only correct but also legal. Obviously the High Court decision has brought about a degree of uncertainty and therefore the legislation before the house is very sensible.

Cross-border implications are a further area of concern. Having an electorate on the border, I know suppliers, veterinarians, agricultural and pastoral advisers or advisers on animal health need to be able to give advice that they can be quite sure is effective on both sides of the border. The introduction of the national registration scheme overcomes the difficulty that advisers have in

ensuring that the cross-border advice is correct. In the past the states have had different legislation on chemicals and pesticides, and that has made it difficult for suppliers to ensure that the labelling is correct and that correct advice is given when a product is sold legitimately on either side of the state borders. I am delighted the scheme has overcome much of the concern of the industry.

The complexity of the High Court decision and the cross-vesting arrangements which are important to allow the national registration scheme to be introduced certainly need to be clarified to ensure that the commonwealth officers who administer the use of chemicals are legally responsible.

The bill does give that certainty, and the thought that their actions could well be undermined by court action is totally untenable. The fact that the bill validates the past actions of commonwealth officers is sensible and necessary. Everyone would agree that preventing further Supreme Court action is sensible. The national registration scheme is supported by this legislation, and I add my support to it.

Mr STENSHOLT (Burwood) — In this concurrent debate I shall refer particularly to the three corporations bills and the Corporations (Commonwealth Powers) Act, which has already been passed. With these three bills we get a package of legislation on administrative actions, ancillary actions and consequential amendments.

In taking these together I am reminded of the observation by Justice Mason in *R v. Duncan*, when he said:

> A federal constitution which divides legislative powers between the central legislature and the constituent legislatures necessarily contemplates that there will be joint cooperative legislative action to deal with matters that lie beyond the powers of any single legislature.

These bills complement federal legislation and the legislation of other states to ensure the integrity of the Corporations Law. The uniting of Corporations Law stems from an agreement made in Alice Springs in 1990. Made between the states, the commonwealth and the Northern Territory, the agreement for a national scheme was implemented by legislation in the legislatures of all the polities that were party to the agreement. In Victoria we had the Corporations (Victoria) Act of 1990, and the new scheme came into force on 1 January 1991. There was also a supplementary agreement made between the states, the commonwealth and the Northern Territory in 1997.

As other speakers have pointed out, the origin of this legislation stems from the High Court judgment handed down in June last year in *The Queen v. Hughes*. One of the judges, Mr Justice Kirby, commented:

> Without enforceability, the Corporations Law would be no more than a pious aspiration.

The High Court held that the conferral of a power coupled with the duty on a commonwealth officer or an authority by a state law must be backed up by a commonwealth head of power. Obviously this casts into doubt many administrative actions taken by the commonwealth under the powers vested in it by the states through the complementary legislation.

In respect of corporations, the Corporations (Administrative Actions) Bill serves to deal with this issue insofar as it provides that every administrative action taken under the current or previous scheme, which is understood to be invalid, is deemed always to have had the same force and effect as it would have had if it were taken by a duly authorised state officer or state authority. This ensures the integrity of the Corporations Law implementation process.

The other two corporation bills provide a number of consequential and transitional amendments so that the new national corporations scheme can commence — for example, the Corporations (Consequential Amendments) Bill amends over 120 acts that contain references to the Corporations Law.

The overall aim of these bills is to place our national system of corporate regulation on a sound constitutional foundation. This is not only good law and good governance, but also serves to reinforce Australia's standing and leadership as a strong commercial centre that provides legal certainty within the Asia–Pacific region. This is what corporations require from governments: certainty in regulation and the implementation of such legislation and regulation. Having uncertainty before the courts or in any implementation is anathema to good governance and good commercial process. These bills provide certainty, and therefore I commend them to the house.

Mr SMITH (Glen Waverley) — I add my contribution on this matrix of bills that validate commonwealth–state cooperative schemes. As the erudite speeches of the honourable member for Berwick and the Leader of the National Party have given a great deal of the complex law that is behind these five bills, I shall add just a few thoughts.

Because the commonwealth has the heads of power, it can make laws in respect of trading corporations. A scheme often mooted by the former federal minister for industrial relations, the Honourable Peter Reith, is the extension of these heads of power to form another commonwealth industrial relations court. That is interesting, because the commonwealth is able to make laws covering trading corporations. Therefore, if there are disputes between employees and trading corporations — which are either companies or the bosses — perhaps a system could well be set up under the Corporations Law. As I say, I am just expanding on another thought to add another perspective to what we are looking at.

As we seek to ensure that the past actions of commonwealth officers under the national registration scheme for agricultural and veterinary chemicals are deemed to be valid, we must ensure that the types of actions carried out are indeed lawful. All states are enacting legislation that deems all past actions of state officers acting under the relevant schemes to be valid, so that there is no doubt in anybody's mind about the actions of people acting for the commonwealth where the commonwealth has power to make law about corporations. Unfortunately until now that power has not extended to all the activities of state officers carrying out functions under state Corporations Law. The High Court has held that the commonwealth officers acting under the schemes cannot operate validly by reference to state powers conferred by the states. They have to be able to point to a commonwealth head of power, otherwise their actions are invalid — that is, they are without power.

The Liberal Party is supporting this sensible legislation, which has been supported by other states, so as to ensure that the regulations of the corporations are not invalid. I wish the bills a speedy passage.

Ms ALLAN (Bendigo East) — I am pleased to join with my colleagues in the debate on this package of bills. As honourable members have heard, the passage of the bills is necessary because of arrangements concerning the national Corporations Law and also, importantly, because of issues arising from last year's High Court decision in *The Queen v. Hughes*.

Given that there are a number of bills in the package, I will focus on the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill. The bill will secure the constitutional basis, functions and powers of the national registration scheme for agricultural and veterinary chemicals, known as the NRS. As I said, the High Court's decision in *The Queen v. Hughes* impacted on the operation of the NRS.

The bill is required to prevent the threat of a legal challenge to actions and decisions taken by commonwealth authorities and their staff and in particular staff of the NRS. It is timely to note that the bill does not make any changes to the administration of the NRS; instead it is seeking to secure the constitutional basis of the intergovernmental scheme on which the NRS is dependent for its operation. At this stage, other than the NRS no other commonwealth authorities and officers in the portfolio of agriculture are affected by the case of *The Queen v. Hughes*. However, if that should be so in the future, legislative changes in the area will be necessary.

A number of staff who will be impacted on by the legislation are employed by the National Registration Authority for Agricultural and Veterinary Chemicals for and by the Department of Natural Resources and Environment. Those inspectors and analysts of the national registration authority carry out their duties in both Canberra and Victoria. The NRA has an important role in administering the national registration scheme. The honourable member for Benambra referred to the importance of that component of its operation.

The history of the NRS is that in 1994 it replaced pre-existing state schemes to put in place a uniform nationwide scheme for the evaluation and regulation of chemicals. The honourable member for Benambra made the interesting point of considering cross-border issues, which come to light more and more as we move to a much more federated commonwealth. The need for the NRS to overcome any differences in advice on areas close to state borders is important, particularly in applying a consistent approach to the use of agricultural and veterinary chemicals.

As an aside, it is interesting to note that the package of bills gives rise to discussion and debate of commonwealth–state relations, the roles and responsibilities of federal and state governments and the need for complementary federal and state schemes. As I said, the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill is a good example of the need to have a scheme that is operated on a federal basis to deal with the many cross-border issues that arise in that area. I commend the bills to the house.

Mr BAILLIEU (Hawthorn) — I support the matrix of bills, the Corporations (Ancillary Provisions) Bill, the Corporations (Consequential Amendments) Bill, the Corporations (Administrative Actions) Bill, the

Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill and the Co-operative Schemes (Administrative Actions) Bill.

As a newer member of Parliament, it is interesting to take part in a concurrent debate on so many bills. Over the past 18 months we have had some concurrent debates, but to have five bills wrapped into one debate is both interesting and challenging. It makes for an interesting digestion of the complexities and technicalities in each of the bills, because they are full of complexities and technicalities. Nevertheless, the opposition is supporting the bills and understands the need for them. That necessity has not been driven by anticipation of any failing of legislation around the nation, either state or federal. Nor has it been driven by a particular failing drawn to the attention of the people at the time of the failing. Nor is the legislation likely to change any behaviour or act of any of the corporations or bodies subject to the change. If it were to have that effect, honourable members might be debating the bills in a great more detail than we are.

Essentially, peace and harmony have reigned in the areas for as long as the legislative sources that have driven the changes have been in place and no-one has been crying out for changes. That peace and harmony has been disturbed only by determination of the High Court in the cases of Wakim and Hughes. It has not been disturbed by the intent or any actions of any of the participants or anyone else to whom the legislative provisions apply. In large part the determination of the High Court has been a function of the interpretation of the corporations power in the constitution. The constitution is an extraordinary document and it covers a range of areas.

In recent years matters of excise have come to prominence. Were honourable members discussing the merits of excise on wine, be it red or white, I am sure there would be a range of views on whether there should be excise, how much it should be and when it should be applied. Were honourable members discussing new agricultural products or the potential taxing of new products — for instance, were we to be farming and processing cranberries, which we do not, we might be discussing taxation regimes for cranberry products. We do not manufacture any cranberry products in this country, despite some advertising to the contrary. All our cranberries come from international sources.

Ms Pike interjected.

Mr BAILLIEU — The minister is right — cranberries are grown in swamps, which may lead to a fascinating debate but perhaps at some other time. As a great proponent of cranberries, I would be happy to have that discussion at some other time. I would also be happy to have the discussion about taxation of such products if they were developed nationally.

The High Court has determined that the federal Corporations Law obviously needs a head of power, and that is understandable. The states presumed — and we all thought — that they had that head of power and that the states and the commonwealth were operating appropriately. But the High Court in its wisdom — and there is no doubt there is a great collective wisdom in the High Court, despite the merits of particular decisions — decided differently. However, when it comes to the constitution, I am happy to declare myself a committed constitutionalist, and when it comes to the federation, I am a happy to declare myself a committed federalist as well.

I believe we should change our constitution only after the most serious consideration, and I suspect most Australians think likewise. The constitution has served us extremely well for just over 100 years, given that this year we are in the joyful situation of celebrating the centenary of Federation. I note that the constitution was some 15 years in the making. It was not a constitution bred of the whim of a few, nor was it bred of a desire to become the founding fathers of our federation. It was bred in the minds of those who earnestly, quietly and consistently argued that there was room for the commonwealth to be the beneficiary of actions in its legislative realm and for the states to be beneficiaries of actions in their legislative realms, for the benefit of the Australian people.

I believe that constitution has served us extremely well, and the fact that few changes of a constitutional nature have been approved in the past 100 years demonstrates that the Australian people agree with that proposition. I suspect that there will be very few changes to the constitution in the future. There may be some significant changes in terms of the legislative realm, if I can use that term, in which our constitution finds itself, but I suspect that that will happen only when those who propose such changes commit themselves to a federation and to setting the high-jump bar at a level higher than just a 50-per-cent-plus-one majority.

Although the federal constitution has served us well, it is always open to interpretation. Our federation thrives on a constructive balance of tension and cooperation

between the states. Where we do not have that tension, we do not have competitive federalism; and where we do not have that cooperation, national ambitions are not realised. There is room for both, and both are essential.

That balance has been tested from time to time. It was perhaps tested most memorably in the Franklin River issue back in the early 1980s. The propositions that drove the then federal coalition government to advance a solution to the Tasmanian dams issue that would have enabled the states to make the decision while allowing commonwealth to promote it would have realised a much better outcome than the eventual outcome whereby an international treaty was used to lock the states in. Nevertheless, the outcome — rather than the process — was satisfactory for the supporters of the Franklin. I am certainly delighted that the Franklin River still flows free.

But as the honourable member for Kew reminded us, the default position is that where there is no specific provision the commonwealth does not have the power and instead the power lies with the states, whether it be health, education, police, emergency services or a division of those. In my own portfolio area there is a division in the tertiary education sector. As the member for Hawthorn and with Swinburne University and the Swinburne Institute of TAFE in my electorate, I know that division is pertinent. We always have to remind ourselves of the balance between cooperation and tension.

Recently we have seen that balance operating in the industrial relations sphere, when in a move which was heralded by industry and by legislatures around Australia as a breakthrough, industrial relations powers were shifted back substantially to the commonwealth. That was greeted with applause from the then opposition — now the government. Ironically, and to its own surprise — and perhaps to the surprise of many people — now that it is in office it has decided to turn turtle. In a rebalancing of the tension and cooperation that exists between the state and the commonwealth, the Labor government has decided it wants some, if not all, of those powers back, so we will again run the risk of a duplication of industrial relations powers in those two spheres.

The commonwealth government is responsible for defence, marriage, banking, taxation issues and the like, and in those areas there are obviously situations in which commonwealth employees take action on behalf of the states. In that respect it is more than reasonable that those employees have a head of power that allows them to do so. As I said, the commonwealth had assumed, the states had assumed and most Australians had assumed that all the i's had been dotted and the t's had been crossed and that those powers were there.

These days we have a High Court that, although it is full of wisdom, tends to more activist positions than it has in the past. That has been the cause of considerable discussion around the nation for a number of years now — although I imagine we will not see the High Court receding from any of the positions it has assumed. In the process it has set itself up — allow me to declare myself a non-lawyer — as almost a common law unto itself, because it is being more activist than many people would appreciate.

In considering these bills I point out that out in the real world beyond legislators and state and commonwealth employees are the people and the corporations who operate in a world determined by the legislatures and our constitution. As somebody who has had dealings with national companies and national bodies and been a director of a national company, I know about the frustration of dealing with cross-border issues. I also know about the frustration corporations experience on a daily basis in having to deal with not only cross-border issues but commonwealth-versus-state issues. Those frustrations can run to the most extraordinary lengths and impose huge costs on those involved. Anything that seeks to ease the burden that such legislative provisions place not only on corporations but on individuals should be strongly applauded.

As a shadow minister I can see that tension in other areas. I had an example of that just last Friday, when the ministerial council on post-compulsory education met in Brisbane. The Minister for Post Compulsory Education, Training and Employment eventually agreed to the commonwealth offer on growth funding for training without any change, despite having attacked it for many months beforehand. Therein is a classic example of the tensions between the states and the commonwealth. That does not run to the issues here, but we have commonwealth employees making decisions in the tertiary education sector that have an impact on Victorian employees. As I said before, if there is anything we can do to sort these issues out, we should do it — and all five of these bills go to assisting in that process.

Frustrating as it might be that it took a disturbing decision of the High Court to cause this to occur, I am sure that lawyers all over Australia are celebrating

because of the complexities and technicalities that have arisen and consequently given them employment.

I note the matter raised by the honourable member for Gippsland South about clause 9 of the Co-operative Schemes (Administrative Actions) Bill. He reasonably put the point of view that it is a significant clause in that it deems the actions of one group of employees to be the actions of another group of employees, which would certainly lead to a legal minefield and a range of fees for lawyers.

In addition, a range of amendments have been circulated by the Attorney-General. Their number and dimension are too great to go through in any detail, but anyone observing the debate or reading it in *Hansard* will find it challenging enough to deal with the bills, let alone with the amendments that have been circulated.

No doubt there will be other challenges ahead. Earlier I mentioned the Franklin Dam issue. National marine parks will also become an issue on a national basis. As a consequence it behoves us to tread carefully through the legislation and to ensure that when we take these steps to clean up legislative provisions, particularly as we had all assumed an outcome existed but the High Court has deemed otherwise, we do it with care and from an understanding of the real users of our legislative framework — the individuals and corporations who maintain our economy — and from the point of view of a balance in the tension between states and the commonwealth and in a cooperative spirit. I support the bills.

Mr ROBINSON (Mitcham) — It is a significant debate. The numerous bills before the house represent the gradual evolution of a comprehensive Corporations Law in this country. It has been a slow evolution due to the unique nature of the constitutional arrangements in this nation, split as they are between the states and the commonwealth. We are here because the High Court in *The Queen v. Hughes* cast doubt upon the way in which transfers of power had been made under the various heads of power under the federal constitution. We can reflect at this point on the character of the constitutional arrangements in this country, split between the commonwealth and the states.

Last year I had the opportunity for this character to be demonstrated clearly to me by a visiting Singaporean businessman from the food industry. Like a lot of visiting Singaporean food retailers he was shown the best of what is on offer around the state. He said that he was greatly impressed with the food and processed food produced in Victoria but he would be journeying to New South Wales the next day and expected to be equally impressed with what was on offer there. A few days later he would be in other parts of the country and similarly impressed. He commented that the states in Australia seemed to go to inordinate lengths to impress buyers such as himself when in fact all his customers wanted was Australian-made product rather than products specifically from Victoria or New South Wales. That comment reflects that it is easy in other parts of the world, especially in nation states, to view the Corporations Law and the constitutional and administrative arrangements in this country as overly cumbersome. In comparison with nation states such as Singapore and New Zealand one could come to that conclusion.

However, Australia has — and I think everyone in the chamber would agree — a unique arrangement which means that when we seek greater conformity with the Corporations Law we have to work harder at it than some of our neighbours. This debate presents an opportunity to congratulate the Attorney-General for his introduction of amendments particularly to the Co-operative Schemes (Administrative Actions) Bill. Only two weeks ago the Scrutiny of Acts and Regulations Committee identified a technical issue with regard to the bill and, in quick fashion, the Attorney-General organised an amendment, which has since been circulated in his name. Effectively the Attorney-General's amendment allows the Scrutiny of Acts and Regulations Committee to perform the job it is set up to perform — that is, to report on legislation.

The decision of *The Queen v. Hughes* has necessitated a response by the state of Victoria to ensure that validation of legislation is made where deficiencies under the heads of power are identified and the Co-operative Schemes (Administrative Actions) Bill provides for that validation through a proclamation by the Governor in Council. However, at the same time the Scrutiny of Acts and Regulations Committee is required to report at all times and in all circumstances on any legislation that attracts the protection of a section 85 amendment.

The Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill, which is part of this package, does so. The Scrutiny of Acts and Regulations Committee was keen to have the opportunity to comment on the bills nominated prior to their being proclaimed by the Governor in Council, and the Attorney-General has made the amendment to give it that opportunity. That amendment is significant, and the Attorney-General is to be congratulated. It will allow the Scrutiny of Acts

and Regulations Committee to perform the job it was set up to do. I congratulate the Attorney-General, the honourable member for Werribee on her leadership and stewardship of the committee — she does a great job — and the staff of the committee. I have no difficulty in commending this legislation to the house.

Mr PATERSON (South Barwon) — It is a pleasure to contribute to this debate. We could have been considering the marine parks issue, but it seems the government has spat the dummy on that and we are now debating a number of bills that are to be dealt with concurrently — namely, the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill, the Co-operative Schemes (Administrative Actions) Bill, the Corporations (Administrative Actions) Bill, the Corporations (Ancillary Provisions) Bill and the Corporations (Consequential Amendments) Bill.

The Scrutiny of Acts and Regulations Committee has considered that range of bills and has made an interesting observation about one of them, the Co-operative Schemes (Administrative Actions) Bill, particularly clause 4. The committee is concerned that clause 4, which defines the relevant state acts to which the bill applies — namely, the Agricultural and Veterinary Chemicals (Victoria) Act 1994 and any other state act declared by proclamation of the Governor in Council — will enable the commencement time for validation under a proposed relevant state act to be declared by proclamation and may constitute what it refers to colourfully as a Henry VIII clause. Perhaps students of history may have a greater grasp on that than some honourable members.

Mr Thompson interjected.

The DEPUTY SPEAKER — Order! The honourable member for Sandringham!

Mr PATERSON — It permits legislative acts to occur by means of subordinate instruments without parliamentary authority being given other than the authority to legislate by means of proclamation. We should at all times be very mindful to preserve the sovereignty of the Victorian Parliament whenever possible. It is with great pleasure that the opposition supports the bills.

Mr HARDMAN (Seymour) — It is a pleasure to speak on the bills. I will concentrate on the Agricultural and Veterinary Chemicals (Victoria) (Amendment) Bill. It was made necessary by the High Court case, *The Queen v. Hughes*, which highlighted the need for the commonwealth Parliament to authorise the conferral of duties, powers or functions by a state on commonwealth authorities and officers.

I refer to an important issue in my electorate. Many people will remember the devastation caused by dieldrin in the Kinglake area, which is in my electorate of Seymour. That sort of situation highlights the need for a national registration system. The cooperation of the states and the commonwealth, along with their combined knowledge, experience and expertise, will mean that we will not need to reinvent the wheel. As well, the responsibilities of officers of the commonwealth can be undertaken without their actions being threatened by legal challenge. It reinforces the government's continuing commitment to have an effective uniform national registration system. I commend the bill to the house.

Mr HULLS (Attorney-General) — I thank all honourable members for their contributions to the debate on these important pieces of legislation.

A couple of issues have been raised in the debate. The shadow Attorney-General raised the issue of future actions of officers under individual cooperative schemes. The legislation does not refer the individual subject matter of a specific cooperative scheme to the commonwealth; the government is merely providing that future actions of officers under cooperative schemes are deemed to be actions of state officers.

The Leader of the National Party suggested that there should be a more formal process for legislation being developed on a national basis — for instance, either by the Council of Australian Governments or the Standing Committee of Attorneys-General. He said there is no basis on which they can be scrutinised by a national equivalent of the Scrutiny of Acts and Regulations Committee (SARC).

I remind him that the national legislation has been developed with all solicitors-general and chief parliamentary counsel being involved. Further consideration could be given to his suggestion that a national equivalent of SARC could be established for the sake of convenience and expedience in raising any issues that may be of concern in the future.

Having said that, the bills currently before the house have undergone rigorous scrutiny in their development from the respective solicitors-general and senior legal officers of all the states of the commonwealth, and they have also undergone scrutiny by Victoria's own SARC, the contribution of which has been highly valued in the process. I thank all honourable members who

contributed to these very important pieces of legislation.

CORPORATIONS (ANCILLARY PROVISIONS) BILL

Second reading

Motion agreed to.

Read second time.

CORPORATIONS (CONSEQUENTIAL AMENDMENTS) BILL

Second reading

The DEPUTY SPEAKER — Order! As the required statement of intent has been made pursuant to section 85(5)(c) of the Constitution Act 1975 and as there are fewer than 45 members present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read second time.

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

Second reading

Motion agreed to by absolute majority.

Read second time.

AGRICULTURAL AND VETERINARY CHEMICALS (VICTORIA) (AMENDMENT) BILL

Second reading

Motion agreed to by absolute majority.

Read second time.

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Second reading

Motion agreed to by absolute majority.

Read second time.

Sitting suspended 6.30 p.m. until 8.03 p.m.

CORPORATIONS (ANCILLARY PROVISIONS) BILL

Committed.

Committee

Clauses 1 to 21 agreed to.

Clause 22

Mr HULLS (Attorney-General) — I move:

1. Clause 22, lines 12 and 13, omit "the new Corporations Act or the new ASIC Act." and insert —

"—

(a) the Australian Securities and Investments Commission Act 1989; or

(b) the Corporations Act 1989; or

(c) an Act amending an Act referred to in paragraph (a) or (b); or

(d) the new ASIC Act; or

(e) the new Corporations Act.".

Amendment agreed to; amended clause agreed to; clauses 23 to 29 agreed to.

Clause 30

Mr HULLS (Attorney-General) — I move:

2. Clause 30, page 39, after line 25 insert —

'( ) In the headings to Part 11, and to Divisions 1 and 2 of Part 11, of the **Corporations (Victoria) Act 1990**, for "ASC" (wherever occurring) **substitute** "ASIC".'.

Amendment agreed to; amended clause agreed to; clause 31 agreed to.

Schedule

Mr HULLS (Attorney-General) — I move:

3. Schedule, page 43, in the entry in column 2 opposite the entry relating to the old ASIC Regulations, omit "Part 3 of that Act" and insert "Part 3 of the new ASIC Act".

4. Schedule, page 43, in the entry in column 2 opposite the entry relating to the ASC Regulations of Victoria, omit "Part 3 of that Act" and insert "Part 3 of the new ASIC Act".

5. Schedule, page 43, in the entry in column 2 opposite the entry relating to the ASIC Regulations, omit "Part 3 of that Act" and insert "Part 3 of the new ASIC Act".

6. Schedule, page 43, in the entry in column 2 opposite the entry relating to the ASC Regulations, omit "Part 3 of that Act" and insert "Part 3 of the new ASIC Act".

7. Schedule, page 44, in the entry in column 2 opposite the entry relating to the ASIC Regulations of a jurisdiction other than Victoria that is a referring State, omit "Part 3 of that Act" and insert "Part 3 of the new ASIC Act".

8. Schedule, page 44, in the entry in column 2 opposite the entry relating to the ASC Regulations of a jurisdiction other than Victoria that is a referring State, omit "Part 3 of that Act" and insert "Part 3 of the new ASIC Act".

Dr DEAN (Berwick) — I presume that these amendments are simply amendments that, while the bill was being looked at a second time, were found necessary to ensure it was accurate. On that basis we agree with the amendments.

Amendments agreed to; amended schedule agreed to.

Reported to house with amendments.

CORPORATIONS (CONSEQUENTIAL AMENDMENTS) BILL

Committed.

Committee

Clause 1 agreed to.

Clause 2

Mr HULLS (Attorney-General) — I move:

1. Clause 2, lines 2 and 3, omit "on a day or days to be proclaimed" and insert "when the Corporations Act 2001 of the Commonwealth, as originally enacted, comes into operation".

Amendment agreed to; amended clause agreed to; clauses 3 and 4 agreed to.

Schedule

Mr HULLS (Attorney-General) — I move:

2. Schedule, page 4, line 35, omit "voluntary".

3. Schedule, page 5, after line 7 insert —

'(b) in the case of a winding up under Division 3, the provisions of Part 5.6 of the Corporations Act apply as if —

(i) section 513B were omitted;

(ii) after paragraph (b) of section 532(1) there were inserted —

"or

(c) a person appointed by the Registrar as a liquidator of an incorporated association.";

(iii) paragraph (c) of section 532(2) were omitted;

(iv) in section 542(3), for paragraphs (b) and (c) there were substituted —

"(b) in the case of a winding up on the certificate of the Registrar — as the Registrar directs."; and'.

4. Schedule, page 5, line 8, omit "(b)" and insert "(c)".

5. Schedule, page 6, line 17, omit "association."." and insert "association;".

6. Schedule, page 6, after line 17 insert —

'(e) a reference to a company carrying on business or having a place of business is to be read as a reference to an incorporated association pursuing its objects;

(f) a reference to ASIC is to be read as a reference to the Registrar;

(g) a reference to a document in the prescribed form is to be read as a reference to a document in the corresponding form prescribed under the Corporations Act with all necessary modifications;

(h) a reference to the Court is to be read as a reference to the Supreme Court;

(i) a reference to the lodgment of a document is to be read as a reference to lodgment of that document with the Registrar;

(j) a reference to a company's constitution is to be read as a reference to an incorporated association's rules;

(k) a reference to a special resolution is to be read as a reference to a special resolution within the meaning of this Act;

(l) a reference to an officer of a company is to be read as a reference to a member of the committee of an incorporated association and, where applicable, a reference to a past officer is a reference to a past member of the committee of an incorporated association;

(m) a reference in sections 495, 542(1), 547 and 548 to a contributory of a company is to be read as a reference to a member of an incorporated association.".'.

7. Schedule, page 10, after line 20 insert —

'( ) insert the following definitions —

'**"financial records"** includes —

(a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and

(b) documents of prime entry; and

(c) working papers and other documents needed to explain —

(i) the methods by which financial statements are made up; and

(ii) adjustments to be made in preparing financial statements;

"financial statements" means —

(a) a profit and loss statement; and

(b) a balance sheet; and

(c) a statement of cash flows; and

(d) if required by the accounting standards under the Corporations Act applying under this Act — a consolidated profit and loss statement, balance sheet and statement of cash flows;';

( ) the definitions of "accounting records" and "accounts" are **repealed**;'.

8. Schedule, page 10, after line 28 insert —

'( ) in the definition of "records", for "accounts, accounting records" **substitute** "financial records, financial statements";'.

9. Schedule, page 12, line 29, omit "accounts" and insert "financial statements".

10. Schedule, page 17, after line 13 insert —

'(c) section 592(1)(a) of the Corporations Act applies as if "before 23 June 1993" were omitted;'.

11. Schedule, page 17, line 14, omit "(c)" and insert "(d)".

12. Schedule, page 17, after line 18 insert —

'. In the heading to Division 5 of Part 9, for "**Accounts**" **substitute** "**Financial statements, reports**".'.

13. Schedule, page 17, lines 19 to 27, omit all words and expressions on these lines and insert —

'. For section 238 **substitute** —

'**238.** ***Requirements for financial records, statements and reports***

(1) A co-operative is declared to be an applied Corporations legislation matter for the purposes of Part 3 of the **Corporations (Ancillary Provisions) Act 2001** in relation to Part 2F.3, sections 249K and 249V and Chapter 2M of the Corporations Act, subject to the following modifications —

(a) a reference in those provisions to a company or to a public company is to be read as a reference to a co-operative;

(b) a reference in those provisions to the Court is to be read as a reference to the Supreme Court;

(c) a reference in those provisions to "prescribed" is to be read as a reference to "approved by the Registrar";

(d) a reference in those provisions to securities is to be read as a reference to debentures;

(e) any offence created in respect of those provisions is the offence set out in sub-section (2);

(f) any penalty for the offence referred to in paragraph (e) is the penalty set out in sub-section (2);

(g) those provisions apply as if sections 293, 294, 300(8), 300(9), 301(2), 340, 341 and 342 of the Corporations Act were omitted;

(h) any other modifications (within the meaning of Part 3 of the **Corporations (Ancillary Provisions) Act 2001**) that are prescribed by the regulations.

Note: See note under section 10(1).

(2) A co-operative must —

(a) keep financial records and prepare financial statements and financial reports as required by this Act and the regulations; and

(b) ensure that those financial statements and financial reports are audited in

accordance with this Act and the regulations.

Penalty: 20 penalty units.

(3) Without limiting the matters for which regulations under this section may make provisions, the regulations may make provisions for or with respect to the following —

(a) requiring the submission of financial statements and financial reports to the Australian Accounting Standards Board;

(b) requiring the adoption by a co-operative of the same financial year for each entity that the co-operative controls.'.'.

14. Schedule, page 17, after line 29 insert —

'. In section 242(1)(b), for "accounts, consolidated accounts" **substitute** "financial statements, financial reports".

. In section 249(1), for "accounts" (wherever occurring) **substitute** "financial statements".'.

15. Schedule, page 19, after line 36 insert —

'(c) section 461(1)(h) is to be considered to be amended by substituting for "ASIC has stated in a report prepared under Division 1 of Part 3 of the ASIC Act that, in its opinion:", "the Registrar has, as a result of an inquiry conducted under Division 2 or Division 4 of Part 15 of the **Co-operatives Act 1996**, stated that — ";

(d) section 464(1) is to be considered to be amended by substituting for "Where ASIC is investigating, or has investigated, under Division 1 of Part 3 of the ASIC Act:", "Where the Registrar is holding or has held an inquiry under Division 2 or Division 4 of Part 15 of the **Co-operatives Act 1996** in relation to — ";'.

16. Schedule, page 20, line 1, omit "(c)" and insert "(e)".

17. Schedule, page 20, line 7, omit "(d)" and insert "(f)".

18. Schedule, page 20, after line 11 insert —

'(g) section 542(3) is to be considered to be amended by inserting after paragraph (c) —

"and

(d) in the case of a winding up on a certificate of the Registrar under section 314 of the **Co-operatives Act 1996** — with the consent of the Registrar.".'.

19. Schedule, page 20, line 12, omit "(e)" and insert "(h)".

20. Schedule, page 20, line 16, omit "(f)" and insert "(i)".

21. Schedule, page 20, line 21, omit "(g)" and insert "(j)".

22. Schedule, page 20. line 28, omit "(h)" and insert "(k)".

23. Schedule, page 20, line 36, omit "(i)" and insert "(1)".

24. Schedule, page 23, after line 32 insert —

'. In section 415(a), for "accounts or accounting records" **substitute** "financial records or financial statements".'.

25. Schedule, page 23, after line 35 insert —

'. In Schedule 1, in item 18 of clause 1, for "accounts" **substitute** "financial statements".'.

26. Schedule, page 24, after line 20 insert —

'( ) in clause 11(1)(d), for "accounting records" **substitute** "financial records";'.

27. Schedule, page 24, after line 27 insert —

'. In Schedule 5, at the end of clause 18 **insert** —

"(2) A reference in any other Act, or regulation or any other document to a foreign society registered under Part XI of the **Co-operation Act 1981** is deemed on and from the commencement of clause 18 of this Schedule to be and always to have been on and from that commencement a reference to a foreign co-operative registered under Part 14 of this Act.".'.

28. Schedule, page 50, after line 4 insert —

'**"ASC Law"** has the same meaning as "ASIC Law";

"ASC Regulations" has the same meaning as "ASIC Regulations" has when ASIC Regulations is used in relation to the ASIC Law;'.

29. Schedule, page 50, line 5, omit "and **"ASIC Regulations"** have" and insert "has".

30. Schedule, page 50, lines 11 to 13, omit all words and expressions on these lines and insert —

'**"ASIC Regulations"** —

(a) when used in relation to the ASIC Law, has the meaning provided for by Part 11 of the **Corporations (Victoria) Act 1990**;

(b) when used in relation to the ASIC Act, means regulations made, or that have effect as if they were made, under the ASIC Act;'.

31. Schedule, page 50, lines 14 to 16, omit all words and expressions on these lines.

32. Schedule, page 50, lines 25 to 27, omit all words and expressions on these lines and insert —

'**"Corporations Regulations"** —

(a) when used in relation to the Corporations Law, has the meaning provided for by Part 3 of the **Corporations (Victoria) Act 1990**;

(b) when used in relation to the Corporations Act, means regulations made, or that have effect as if they were made, under the Corporations Act.'.'.

33. Schedule, page 71, line 29, omit "***Institute***" and insert "***University***".

Dr DEAN (Berwick) — I presume these amendments to the schedule are also as a consequence of various matters that have come to light since the bill was introduced. I note there is an enormous number of these amendments, particularly in relation to financial records and financial statements. It is of some concern that so many amendments are required after a bill has been introduced into the chamber.

However, on the basis that they are amendments that have come to light after the introduction of the bill as a consequence of further discussions and after those in the drafting office and those advising the Attorney-General have taken another look at the bill, the opposition will agree to them.

Amendments agreed to; amended schedule agreed to.

Reported to house with amendments.

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

Committed.

Committee

Clauses 1 to 11 agreed to.

Reported to house without amendment.

AGRICULTURAL AND VETERINARY CHEMICALS (VICTORIA) (AMENDMENT) BILL

Committed.

Committee

Clauses 1 to 8 agreed to.

Reported to house without amendment.

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Mr HULLS (Attorney-General) — I move:

1. Clause 4, page 5, after line 2 insert —

"( ) Before submitting a draft proclamation under sub-section (2) to the Governor in Council for making, the Minister must refer the draft to the Scrutiny of Acts and Regulations Committee for consideration and report to the Minister and the Parliament as to whether the proposed declaration, as a relevant State Act for the purposes of this Act, of an Act specified in the draft proclamation is in all the circumstances appropriate and desirable.

( ) Before submitting a draft proclamation under sub-section (4) to the Governor in Council for making, the Minister must refer the draft to the Scrutiny of Acts and Regulations Committee for consideration and report to the Minister and the Parliament as to whether the proposed declaration, in relation to a relevant State Act, of the commencement time specified in the draft proclamation is in all the circumstances appropriate and desirable.

( ) On submitting a draft proclamation to the Scrutiny of Acts and Regulations Committee under sub-section (5) or (6), the Minister must specify a date by which a report must be given to him or her. The specified date must be not less than 1 month after the date on which the draft proclamation is submitted to the Committee.

( ) A draft proclamation, when submitted to the Scrutiny of Acts and Regulations Committee under sub-section (5) or (6), must be accompanied by a statement of the reasons for the proposal to make the proclamation.

( ) The Minister must consider any report given to him or her by the Scrutiny of Acts and Regulations Committee under this section on or before the date specified by him or her under sub-section (7) in relation to that report and, after considering that report, may decide to submit, or not to submit, the draft proclamation to the Governor in Council for making.".

Amendment 1 amends clause 4 of the bill by inserting new provisions to require the minister to refer to the Scrutiny of Acts and Regulations Committee for consideration and report a draft proclamation under clause 4(2). The amendments require the committee to consider and report to the minister and the Parliament

as to whether the proposed declaration, in relation to a relevant state act, is in all the circumstances appropriate and desirable.

The amendments require the minister to consider any report given to him or her by the Scrutiny of Acts and Regulations Committee on the draft proclamation, and after considering any report the minister may decide to submit or not submit the draft proclamation to the Governor in Council.

This amendment arises as a result of the efforts of the Scrutiny of Acts and Regulations Committee, which has done an enormous amount of work on this bill, and I thank it for that work.

Dr DEAN (Berwick) — It was of concern to the opposition that amendments to the overall scheme of acts may occur without Parliament being fully aware of them. While the preference would be for any amendments to be tabled in the chamber, this is a good halfway measure. I am sure the Scrutiny of Acts and Regulations Committee will be in a position to alert members of Parliament to any difficulties and problems. We believe it is a step in the right direction and we support it.

Amendment agreed to; amended clause agreed to; clauses 5 to 15 agreed to.

New clause

Mr HULLS (Attorney-General) — I move:

2. Insert the following new clause to follow clause 15 —

'**AA.** ***Amendment of Parliamentary Committees Act 1968***

In section 4D of the **Parliamentary Committees Act 1968**, after paragraph (ca) **insert** —

"(cb) such functions as are conferred on the Committee by the **Co-operative Schemes (Administrative Actions) Act 2001**; and".'.

This amendment inserts a new provision into the Parliamentary Committees Act 1968 to enable the Scrutiny of Acts and Regulations Committee to carry out the functions conferred on it by amendment 1.

New clause agreed to.

Long title

Mr HULLS (Attorney-General) — I move:

3. Long Title, after "laws" insert ", to amend the **Parliamentary Committees Act 1968**".

This amendment alters the long title of the bill to make clear that it also amends the Parliamentary Committees Act of 1968.

Amendment agreed to; amended long title agreed to.

Reported to house with amendments, including amended long title.

CORPORATIONS (ANCILLARY PROVISIONS) BILL

Remaining stages

Passed remaining stages.

CORPORATIONS (CONSEQUENTIAL AMENDMENTS) BILL

Third reading

The SPEAKER — Order! As the required statement of intent has been made pursuant to section 85(5)(c) of the Constitution Act 1975 and there appear to be fewer than 45 members present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

AGRICULTURAL AND VETERINARY CHEMICALS (VICTORIA) (AMENDMENT) BILL

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

NATIONAL PARKS (MARINE NATIONAL PARKS AND MARINE SANCTUARIES) BILL

Second reading

Debate resumed from 17 May; motion of Ms GARBUTT (Minister for Environment and Conservation).

Opposition amendments circulated by Mr PERTON (Doncaster) pursuant to sessional orders.

National Party amendments circulated by Mr RYAN (Leader of the National Party) pursuant to sessional orders.

Mr Perton — On a point of order, Mr Speaker, according to the Legislative Council *Daily Hansard* of 5 June the Minister for Energy and Resources is recorded as having said:

> In response to public comment on this matter the government has also said that its intentions have not been translated in accordance with its drafting instructions and that it is the government's intention to ensure that that matter is corrected as soon as is practicable to ensure the bill clearly reflects the government's intentions.

Clearly this is a practical time for the minister to circulate her amendments. Through you, Mr Speaker, I ask where those amendments are.

The SPEAKER — Order! I do not uphold the point of order. The Chair has not been notified that there are government amendments.

Mr PERTON (Doncaster) — We have had an extraordinary performance here today from the government. At 3 o'clock this afternoon the Minister for Environment and Conservation gave notice that tomorrow she will move that order of the day no. 7, National Parks (Marine National Parks and Marine Sanctuaries) Bill be read a second time and discharged. That is a motion before the house for tomorrow morning. That a government should bring on debate on a bill at 8.30 p.m. with the intention of withdrawing the bill the following morning is extraordinary behaviour.

It is also extraordinary behaviour by the government that, while the Liberal and National parties have circulated their amendments, the government has not. The reason that situation is particularly deserving of mention at the beginning of my contribution is contained in the quote I read to the house from *Daily Hansard* of the other place and in coverage the minister received in the *Herald Sun* of 6 June in an article with the heading 'Tangled line in bill' and with the subheading 'Marine laws back to drawing board' which states:

> A major bungle in the planned new marine parks laws has forced the Bracks government into an embarrassing backdown.
>
> Energy and resources minister Candy Broad admitted to Parliament yesterday the government had got it wrong on the crucial issue of compensation.
>
> After a week telling hundreds of thousands of fishermen compensation restrictions would only apply in marine parks, the government admitted the restrictions mistakenly apply throughout Victoria.

The article goes on to quote the minister as indicating the government would alter the bill. It is extremely odd that the Minister for Environment and Conservation, dressed appropriately today in yellow, as one of my colleagues pointed out this morning, is not sitting at the table. By sitting in the chamber but not at the table, and by not moving the amendments referred to in both the *Herald Sun* article and Minister Broad's statement in the other house, she shows her discourtesy to the environment movement and to this house and the government's gross abuse of the parliamentary process.

In the time available to me this evening I will cover the two main points that need to be made in this debate, which will probably be cut short by the minister's motion foreshadowing events of tomorrow. My two points go to the heart of the response of my party to this legislation. The Liberal Party believes in marine

national parks, in the protection of our marine environment, in biodiversity and in the best environmental outcomes for the state.

At the same time, in accordance with the Liberal tradition of Australian politics, which has normally been upheld by Labor governments, the Liberal Party also believes someone who loses out for a public good ought to have access to appropriate compensation.

The opposition has said that it supports this bill and supports marine national parks but that it will move to delete the two no-compensation clauses. Its amendments seek to delete clause 19, with the exception of the native title provisions, and clause 26.

Why does the Liberal Party support the concept of marine national parks? Its support is based in part on trusting in a bipartisan approach. The process took nine years and involved 4500 submissions, many public meetings and a great deal of hard work. That applies not only to the members and officers of the Land Conservation Council (LCC) and the Environment Conservation Council — some of whom are in the chamber and whom I congratulate on producing the fine report I hold in my hand, the ECC's final report entitled *Marine Coastal and Estuarine Investigation* — but also to the many groups in the environment movement, such as the Victoria National Parks Association, the marine coastal action network and a range of conservation groups up and down the coast of Victoria, and to groups involved in commercial fisheries, such as Seafood Industries Victoria, the various abalone organisations and cooperatives — —

Mr Spry — The charter boat operators.

Mr PERTON — That includes the charter boat operators, as my friend the honourable member for Bellarine rightly points out. Many professional fishing groups have been involved in the process, as have many recreational fisherpeople, both through their organisations and individually. Nine years, millions of dollars in state funds, hundreds of thousands of dollars in funds from non-government organisations, and tens of thousands of hours of voluntary labour have gone into this process. Where did it all go this afternoon, when the minister threatened to withdraw the bill?

In what parliamentary chamber in any Westminster Parliament could you imagine a government suggesting that an opposition is not allowed to move amendments and that if it does the government will withdraw the bill? This government has a majority in this house as a result of its charter agreement with the Independents. Why will it not test the legislation and the amendments on the floor of this house? Again I refer to the statement by the honourable member for Bentleigh earlier in the day, that the minister is appropriately dressed in yellow. She is not acting on her own charge. It is clear that either the Premier or the Treasurer walked into her office this afternoon and said, 'Sherryl, pull the bill'.

At 1.40 p.m. I rang the minister to tell her of the Liberal Party's decision. We had a pleasant conversation about where we would progress from there in terms of discussions and deliberations. But what courtesy did she offer this Parliament or me after that? At 3.00 p.m. she slapped not only this Parliament but everyone who believes in good environment policy in this state in the face by saying, 'Be dammed. The work you have done can all go to naught. I will treat this politically. I will withdraw this bill and pursue the instructions of the Premier. We will let this go until the next election campaign'. Where is her commitment to the process? She has none at all.

I recall another conversation with the minister on the day before she introduced the bill when she said to me, 'Gosh, that Environment Conservation Council is a good organisation'. She mentioned the staff, including people such as Shane Dwyer. She also mentioned Professor John Lovering, the chairman of the ECC, who is a figure of international renown. He is a doctor of philosophy, has two honorary doctorates, was dean of the faculty of science at the University of Melbourne, was vice-chancellor of Flinders University and has held many distinguished national and international posts. The minister said he is a 'damn good chairman'.

The minister also mentioned Eda Ritchie, who is chairman of the Western Regional Coastal Board, chairman of the Committee of Management for Rural Ambulance Victoria, a member of the Rural Finance Board, a trustee of the Ross Trust and a board member of the Howard Florey Institute for Medical Research. The minister said she is a 'damn good member'. She also mentioned Ms Jane Cutler, who has a masters degree in environmental science, who works in the finance sector and who has served on many boards and trusts, including a term as a director of Landcare Australia.

One would have thought after a conversation like that on the night before the introduction of the bill that it would reflect the recommendations of the Environment Conservation Council. What happened the next day when the minister brought the bill into the house? What was missing? Do we remember?

Opposition members interjecting.

Mr PERTON — Cape Howe, as the honourable member for Warrnambool rightly points out — otherwise referred to as Cape Why by the honourable member for Sandringham. We still ask, 'Why Cape Howe?'. Last Thursday I asked this minister to table the files in the library, in accordance with the traditions of this house. She has not done so. This minister could not be found in the house last Thursday.

As an aside, we were hoping to have a committee stage on the Land Surveying Bill. Do honourable members know why the amendment to the Land Surveying Bill is to be moved in the upper house? The reason is that the Minister for Environment and Conservation could not be found by us, by her staff or by the Leader of the House. Where were you, Minister?

When the minister introduced this bill Cape Howe was missing. Mention of Ricketts Point was also missing. Why was that? The ECC report supported the designation of Ricketts Point as a marine sanctuary. The inter-tidal zone of Ricketts Point was regarded as one of the most important sites in Port Phillip Bay. Parking is available; it has some of the most important areas in Victoria for studying invertebrates; and schoolchildren can snorkel there and observe the marine environment. The designation is supported by the local council, the local conservation groups and the local community. The only person who does not support it is Minister Garbutt. From whom did she take her instructions? Why did she withdraw it?

Ms Duncan interjected.

Mr PERTON — I can hear some screeching in my right ear. That may be from the traitorous honourable member for Gisborne, who was, as I recall, elected on a platform opposed to woodchipping.

An Opposition Member — The woodchipper!

Mr PERTON — Exactly. I think the honourable member for Gisborne may have even gone out to get signatures against woodchipping. Such is the great success of this minister that she has incited the members of her local community — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! Members on the government side will come to order. The honourable member for Doncaster, without assistance.

Mr PERTON — They dumped a pile of woodchips outside her office. In memoriam to her, woodchipping in Victoria has increased from 1 million tonnes last year to 1.6 million tonnes this year. Who is the guilty party? It is the honourable member for Gisborne.

Ms Duncan interjected.

Mr PERTON — When the electorate boundaries change and there is a seat of Macedon, I will take great pleasure in campaigning every week to remind your constituency of your traitorous behaviour on the environment.

The report by the ECC was not only considered to be excellent by this side of the house and by conservation groups, and vouched for by the minister, it was also considered excellent by people in the community. I received a letter from Joyce and David Barkley of Box Hill North in the electorate of the honourable member for Box Hill, which states:

> For the preservation of the species, we consider Parliament should adopt at least the full ECC recommendations for marine national parks. We look forward to your positive response.

We had a positive response to them. Who did not have a positive response? The minister and her government!

A letter from Anne Boyd of St Kilda states:

> I am contacting you to urge your support for the full implementation of the Environment Conservation Council's recommendations on Victorian marine national parks and sanctuaries.
>
> For the past 20 years I have been a keen snorkeller in many areas of Victoria's — —

Ms Duncan interjected.

An Honourable Member — Be quiet!

Mr PERTON — Mr Acting Speaker, may I suggest that the honourable member for Gisborne — —

The ACTING SPEAKER (Mr Seitz) — Order! Interjections are disorderly, and the honourable member for Doncaster will ignore them.

Mr PERTON — I hope she runs out of voice, perhaps halfway through the debate!

Honourable members interjecting.

Mr PERTON — Mr Acting Speaker, I am trying to read a letter from an ordinary citizen of Victoria — Anne Boyd of St Kilda. I will read it again. Anne Boyd of St Kilda states:

Dear Victor,

I am contacting you to urge your support for the full implementation of the Environment Conservation Council's recommendations on Victorian marine national parks and sanctuaries.

For the past 20 years I have been a keen snorkeller in many areas of Victoria's coastal waters, and during this time I have noticed a depletion of marine life, especially fish, from beach reefs. The reefs around Queenscliff and Point Lonsdale have been particularly devoid of marine life — it is difficult to find fish of any size at all. I am concerned that this fate will befall the rest of our inshore reefs if the ECC's recommendations are not supported. Your vote is therefore crucial for the preservation of what is left of our marine environment, for all Victorians (and the fishes!). Please support the full implementation of the ECC's recommendations.

Thanking you,

Anne Boyd, St Kilda

I think the honourable member for Bellarine, who I know goes diving — —

Government members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! I ask the honourable member for Doncaster to pause for a moment until the house comes to order. Interjections are disorderly, and I ask honourable members to refrain. It is discourteous to the honourable member on his feet. If honourable members cannot behave themselves, I ask them to vacate the chamber and give the honourable member the honour of being heard in silence.

Mr PERTON — I can understand why members of the Labor Party have been interjecting. When I look around the chamber I realise that the very decent honourable member for Ballarat East must be writhing in shame at having to support this bill. He is the parliamentary secretary to the minister. He knows the government is not doing the right thing. Maybe he will enlighten us about why the bill is being pulled tomorrow.

The honourable member for Carrum represents a bayside electorate. She is not the most charming of opponents, but nevertheless someone — —

Honourable members interjecting.

Ms Delahunty — On a point of order, Mr Acting Speaker, I am rather disappointed at the level of some of the interjections. From the opposition benches there was a rather rude comment about my colleagues and their needing support from the boys, which was offensive, and now the honourable member for Doncaster has implicitly criticised the honourable member for Carrum. I ask you to draw the honourable member back to the bill and ask him to desist from diminishing the honourable member for Carrum and other women in this chamber.

Mr PERTON — Was that a point of order or a declaration for the defence?

The ACTING SPEAKER (Mr Seitz) — Order! The Minister for Education raised a point of order. If the honourable member for Doncaster is not speaking on it, I ask him to sit down while I make a ruling.

I do not uphold the point of order. However, I remind all honourable members of the decorum of the house. Honourable members have been in this place long enough to know the rules and what is expected of them. It is expected that they will behave in an appropriate fashion and not denigrate other honourable members. I ask for the cooperation of both sides of the house.

Mr PERTON — Mr Acting — —

The ACTING SPEAKER (Mr Seitz) — Order! Will the honourable member sit down! I have not finished ruling on the point of order. I understand that the honourable member for Doncaster is enthusiastic in the cut and thrust of debate. He has liberty to speak on the bill but not to denigrate other honourable members, no matter from what side or of which sex they are. I ask him to keep that in mind.

Mr PERTON — I think that was a fairly pathetic performance.

Government members interjecting.

Mr PERTON — I have been trying to talk about a bill that is of concern to the people of Victoria and I have been subject to a barrage of abuse from the Labor side of the house. I was indicating that the honourable members I referred to must be writhing in embarrassment.

Ms Delahunty interjected.

Mr PERTON — No, Minister, you have got nothing to say about the environment. Why don't you get out of the chamber and — —

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Doncaster should return to the bill and address his remarks through the Chair!

Mr PERTON — Why does the opposition support the bill? Firstly, it has the support of the ordinary people of Victoria who have written to the opposition. I have received over 1000 letters from people in support

of the bill. I know that each of my colleagues has received many letters in support of the full recommendations of the Environment Conservation Council report, but we know that the government will not support them.

Some people have suggested that the science is not there for the support of marine national parks. The ECC has set out in some detail its refutation of that argument. I do not need to refer to that report because, subsequent to that, in February there was a meeting of the American Association for the Advancement of Science (AAAS) and a scientific consensus statement was signed by 161 leading marine scientists and experts on marine reserves. The signatories to that letter all hold PhD degrees and are employed by academic institutions. For those who wish to read the document, it can be found online at www.nceas.ucsb. edu/consensus/consensus_statement.doc. It states:

> The first formal marine reserves were established more than two decades ago. Recent analyses of the changes occurring within these MRVs allow us to make the following conclusions:
>
> Ecological effects within reserve boundaries:
>
> 1. Reserves result in longstanding and often rapid increases in the abundance, diversity and productivity of marine organisms.
>
> 2. These changes are due to decreased mortality, decreased habitat destruction and to indirect ecosystem effects.
>
> 3. Reserves reduce the probability of extinction for marine species resident within them.
>
> 4. Increased reserve size results in increased benefits, but even small reserves have positive effects.
>
> 5. Full protection (which usually requires adequate enforcement and public involvement) is critical to achieve this full range of benefits. Marine protected areas do not provide the same benefits as marine reserves.
>
> Ecological effects outside reserve boundaries:
>
> 1. In the few studies that have examined spillover effects, the size and abundance of exploited species increase in areas adjacent to reserves.
>
> 2. There is increasing evidence that reserves replenish populations regionally via larval export.

The statement describes the ecological effects of reserve networks:

> 1. There is increasing evidence that a network of reserves buffers against the vagaries of environmental variability and provides significantly greater protection for marine communities than a single reserve.

The ACTING SPEAKER (Mr Seitz) — Order! There is too much audible conversation in the chamber. I cannot hear the honourable member for Doncaster.

Mr PERTON — The statement continues:

> 2. An effective network needs to span large geographic distances and encompass a substantial area to protect against catastrophes and provide a stable platform for long-term assistance of marine communities.

The conclusions of those 161 marine scientists at the meeting of the American Association for the Advancement of Science are:

> Analyses of the best available evidence lead us to conclude that:
>
> Reserves conserve both fisheries and biodiversity.
>
> To meet goals for fisheries and biodiversity conservation, reserves must encompass the diversity of marine habitat.
>
> Reserves are the best way to protect resident species and provide heritage protection to important habitats.
>
> Reserves must be established and operated in the context of other management tools.
>
> Reserves need a dedicated program to monitor and evaluate their impact both within and outside their boundaries.
>
> Reserves provide a critical benchmark for the evaluation of threats to ocean communities.
>
> Networks of reserves will be necessary for long-term fishery and conservation benefits.
>
> Existing scientific information justifies the immediate application of fully protected marine reserves as a central management tool.

In the press release that accompanies that statement the researchers say that the results are startling and that, on average, populations in the reserves were 91 per cent higher than in unprotected areas, the size of species was 31 per cent greater and species diversity was 23 per cent higher. For instance, for lovers of scallops, it refers to a reserve covering 17 000 square kilometres in the Gulf of Maine and says that scallop populations there have rebounded to 9 to 14 times their density in fished areas.

Dr Jane Lubchenco, the former head of the AAAS, was the chairman of that working group and supported it enthusiastically. Dr Robert Warner of the University of California in Santa Barbara is quoted as saying:

> The results are startling and consistent. We now have strong evidence that reserves work. Within and around marine parks, fish population doubles, fish size grows by 30 per cent and

reproduction triples. Furthermore, it all happens within two to four years and lasts for decades.

It is no small wonder that Liberals support the concept of marine national parks, and we do so with both passion and scientific rigour. We appreciate that in this year a group of marine scientists led by the president of the Australian Marine Sciences Association, Associate Professor John Sherwood, also made a statement in support of marine parks. The comments were in part based on the American study. I shall not read the full statement, but suffice it to say that 117 supporting Australian marine scientists, comprising 13 professors, 11 associate professors and 93 marine scientists with PhDs backed proposals for marine national parks in Victorian coastal waters. The statement adds that there is compelling scientific evidence that the fully protected areas will conserve marine life, plant and animal species, and fish populations and could help replenish marine life in coastal waters.

When Professor Bellamy visited from England some of us had the great benefit of his advice. Professor Ballantyne from New Zealand is my friend, and the honourable member for Bellarine refers to — —

The ACTING SPEAKER (Mr Seitz) — Order! I ask the honourable member for Doncaster to speak into the microphone. It is difficult for Hansard to hear him, especially when he turns around and talks to the public gallery.

Mr PERTON — Thank you, Mr Acting Speaker.

It is clear that the weight of opinion among scientists and people who have done the research, including members of the Environment Conservation Council, have concluded that marine national parks in Victoria are appropriate.

Honourable members will all know the history of the Land Conservation Council and the Environment Conservation Council. What I find remarkable is the extent to which it was a bipartisan process until the present minister assumed responsibility.

If one goes back to 1970 and reads the speeches setting up the LCC, one notes that its members were extraordinarily courteous. Our friends from the National Party voted against the proposal, representing their constituencies, but Liberal and Labor members made fine speeches in favour of the protection of our environment. As the LCC continued with its work and was ultimately replaced by the ECC, the reports of the council achieved extraordinary weight. There is no doubt that that work was regarded with great respect by both sides of the house, and the implementation of the recommendations of those reports by governments from both sides of the house has enabled us to build a fine system of representative national parks across the state that are the envy of other states and countries, as well as a national parks service that was rejuvenated during the term of the Kennett government. By the end of that government it was regarded as a model for parks management around the world.

Previously I have pointed out to the house that people from American and European parks services came to Australia to learn. They invited Victorian park rangers to visit them and to give them advice. As the issues raised by the establishment of national parks, including alpine national parks and others, proceeded there were tests and difficulties. However, through goodwill, good spirit, harmony and bipartisanship most of the problems were dealt with. All of Victoria's national parks that were born in controversy, whether they be in the Grampians, in alpine areas, in the Big Desert or in the Little Desert, are now a source of pride to Victorians.

When I became the shadow minister I read through the debates that led to the creation of the Land Conservation Council and the Environment Conservation Council and the numerous national parks debates. There was only one jarring note in the debate on the Environment Conservation Council. One person stood out as politicising the process. One member of the Parliament stood out.

Honourable members interjecting.

Mr PERTON — One shadow minister stood out for her hypocrisy — it was the honourable member for Bundoora. This member, for her own personal gain, decided to politicise the process.

The ACTING SPEAKER (Mr Seitz) — Order! I ask the honourable member for Doncaster to use the proper titles when referring to other honourable members. The honourable member has been here long enough to know the protocol required in this house.

Mr PERTON — I am grateful to you, Mr Acting Speaker. At that time she was the honourable member for Bundoora. She is now the Minister for Environment and Conservation, to the regret of the environment movement. Whether it is her accepting the destruction of the habitat of the red-tailed black cockatoo, the destruction of the habitat of the swift parrot, the destruction of habitat trees and Aboriginal scar trees in the Cobboboonee State Forest, the breaking of the agreement with the Otway Ranges Environment Network about logging in the Otways — as the honourable member for Polwarth will remind us — her

permission for the destruction of the habitat of the powerful owl in the Trentham area, and the continued destruction of the Wombat State Forest, aided and abetted by the now missing honourable member for Gisborne, it is no small wonder — —

The ACTING SPEAKER (Mr Seitz) — Order! I am waiting for the honourable member for Doncaster to come back to the bill. I do not know what the Wombat State Forest has to do with marine parks.

Mr PERTON — When one looks at the minister's behaviour as shadow minister and her attitude to the Environment Conservation Council, it should come as no small surprise that when she got this report she tossed it away. She pulled in the political advisers, the Premier's media unit and the negotiators from the Premier's negotiating unit, and they pulled in — he is missing now — the honourable member for Gippsland East.

An Honourable Member — He's back.

Mr PERTON — The honourable member for Gippsland East says, 'Gosh, the government was stupid. It was caught with its hands in the bickie tin'. But the honourable member for Gippsland East was one who actively campaigned to have Cape Howe removed from the marine park list. Now he is embarrassed. Now he wants to say, 'Oh, gosh, I thought it was stupid they only took one out', but that is what he wanted. Minister, tell us who wanted Ricketts Point taken out? Who was Ricketts Point taken out to satisfy? It should be no surprise to Parliament that this report, which the minister has said was such a good report, was not the basis of this legislation.

This legislation is nothing but a dirty political document dressed up as an environmental initiative. It is a dirty document because every fishing community along the coast other than Mallacoota has to say why it has problems with the bill. Why is it that one community was singled out? Why was it that one member of Parliament was favoured? One has to say that this is a dirty deal, and the honourable member for Gisborne, while aiding and abetting it and screaming out in her frustration now is very much a part of it.

It was not just the ordinary people or the scientists who were looking forward to it. The Victorian National Parks Association, in a letter in May, which I think most of my colleagues will have received, states:

> Dear marine national parks supporter,
>
> Marine national parks are coming to Victoria. In fact, with your support they could be only weeks away. The Bracks government has just introduced legislation into state Parliament that will create 12 marine national parks and 10 marine sanctuaries in our coastal waters.

What will the VNPA write to its members tomorrow after 9.30 a.m.? What will it write when the minister moves her motion that the National Parks (Marine National Parks and Marine Sanctuaries) Bill be withdrawn? What will it say?

Honourable members interjecting.

Mr PERTON — What will the minister write?

The ACTING SPEAKER (Mr Lupton) — Order! Perhaps government members who do not have national parks in their areas could be quiet so the house can listen to the honourable member.

Mr PERTON — I have an undated letter here from the Minister for Environment and Conservation saying:

> Dear marine national parks supporter
>
> I am writing to thank you for your support of marine national parks and to inform you of the Bracks government's intention to establish a world-class system of marine national parks.

Do you think the minister will write a letter to these people tomorrow telling them the truth?

Honourable members interjecting.

Ms Duncan interjected.

Mr PERTON — I thank the honourable member for Gisborne for her interjection because I can tell the honourable member that I have already written to them.

Ms Duncan interjected.

Mr PERTON — I have told them what you are up to! I have gone through the arguments in support of these parks, and there are many other arguments. For instance, were we to reflect on the hundreds of scientific documents that were utilised — —

Ms Duncan interjected.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Gisborne will refer to the honourable member for Doncaster by his correct title.

Ms Duncan interjected.

The ACTING SPEAKER (Mr Lupton) — Order! And she will also desist from interjecting because she is becoming rather loud.

Ms Duncan interjected.

The ACTING SPEAKER (Mr Lupton) — Order! Is the honourable member going to be quiet, or is she going to keep on interjecting?

Mr PERTON — Given that it is after dinner, perhaps the use of standing order 10 might be appropriate in respect of the honourable member for Gisborne.

In considering this bill, let us pass by its actual contents and look at yet another area in which the government has failed to comply with the recommendations of the ECC. Recommendation 1 of the ECC is that the government establish a process to evaluate the requirement for possible mechanisms and level of adjustment that may be required where individuals or local communities are disproportionately affected as a result of the implementation of recommendations for marine national parks and marine sanctuaries. One would expect that. What did we get instead? We got clauses 19 and 26. What do those clauses do? Clauses 19 and 26 take away the rights of Victorians to access the courts.

Ms Duncan interjected.

Mr PERTON — The government says in its defence that it has already used it — —

Honourable members interjecting.

Mr PERTON — Two hundred times.

Honourable members interjecting.

Mr PERTON — Labor Party members who, when in opposition, condemned the use of section 85, have already used it about 200 times in government. But I understand it. I was chairman of the Scrutiny of Acts and Regulations Committee (SARC). I understand that the use of section 85 in essence says to the Supreme Court that a piece of legislation the government is proposing is legislation that will take effect regardless of the jurisdiction of the Supreme Court. In the case of a tenant it might be that reference to a tenancy tribunal is more appropriate than reference to the Supreme Court.

Honourable members interjecting.

Mr PERTON — It is a bit early for the honourable member for Benalla to be claiming that she is a hypocrite, but should she want to do so, I welcome her taking that opportunity.

What is really abhorrent about clauses 19 and 26 is that they utterly take away the rights of people who have been involved in fishing communities and fishing businesses not just for their lifetime but as part of an intergenerational business. Many of these businesses have been working in fisheries for four and five generations.

What has the government done? It does not just bring in no-compensation provisions to protect and defend its introduction of national parks. It brings in clause 26, which inserts section 144A in the Fisheries Act. I believe it is the worst piece of socialist legislation since 1949!

Honourable members interjecting.

The ACTING SPEAKER (Mr Lupton) — Order! Have we all settled down?

Mr PERTON — Proposed section 144A of the Fisheries Act states:

> (1) No compensation is payable by the Crown to any person for any loss or damage as a result of —
>
> (a) any alteration to the force or effect of or to any rights conferred or otherwise arising under —
>
> (i) a licence, permit or other authority (however described); or
>
> (ii) an Order in Council, order, notice, direction or plan (however described) —
>
> under this Act or regulations made under this Act;

To my mind — and any person capable of reading a statute would consider it a reasonable interpretation — it allows the government to take away a right to fish at any time without paying compensation.

The honourable member for Gisborne might say, 'You miserable capitalist Liberal', as she continues her abuse. However, she needs to reserve her special abuse for the honourable member for Werribee, who is the chair of the Scrutiny of Acts and Regulations Committee.

My friend the honourable member for Sandringham will examine the findings of SARC in greater detail, for that committee has found that the no-compensation clauses are unjustifiable. The honourable member for Werribee, unlike the honourable member for Gisborne, is an honest and straightforward individual who is doing her job. She and the other four members of the Labor Party who comprise the majority of that committee are embarrassed. They have found the inclusion of these no-compensation provisions to be unjustified, as I said, and to be a violation of each of the terms of reference of SARC.

The Liberal Party has raised the issue publicly. It has also been raised by journalists such as Neil Mitchell on 3AW, and Jon Faine and Peter Clark on the ABC. A range of journalists put the question to the Minister for Environment and Conservation and the Minister for Energy and Resources, both of whom said the clauses were perfectly justified. What happened on 6 June, just two weeks later? Finally there was an admission from the Minister for Energy and Resources that the piece of legislation is not the one the government intended.

One of the drafting officers is sitting in the briefing box. He is a decent human being; honourable members believe he has done his job sincerely and honestly. How can the minister have the temerity to blame the drafting officers for this incredible piece of socialist legislation? What a failure in ministerial responsibility!

Mr Spry — It was deliberate.

Mr PERTON — There is no doubt that it was deliberate. The government was caught out. It made its admission, but there was no amendment put before the house to rectify the fault.

These no-compensation clauses are wrong, and the Liberal Party and the National Party find them to be a complete violation of people's rights. I understand that although the honourable member for Gippsland East is not voting, he has declared this to be a violation of rights, as has the honourable member for Gippsland West. I understand the honourable member for Mildura has promised his community that he will violently oppose the section 85 clause. Who supports the section 85 clause? Where is the necessity for it? That is an interesting question.

Is it because there is a huge liability on the state's part, which the section 85 clause is designed to protect the state against? I think not, but I am prepared to be open minded. I have asked the minister on three occasions. Once in the briefing I asked the ministerial advisers for copies of the legal advice. They looked a bit confused but nevertheless promised to take the request back to the minister. In a face-to-face meeting I again asked the minister to provide me with the advice. on Thursday of last week I asked the government to table the documents in the library. Those documents are not available to us, so we do not know — —

Mr Ingram interjected.

Mr PERTON — Has the honourable member for Gippsland East read them? Have you read them?

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Doncaster should direct his remarks through the Chair.

Mr PERTON — Mr Acting Speaker, perhaps you could ask the honourable member for Gippsland East whether he has asked for that legal advice.

We have not seen it, so we do not know what sorts of legal actions could or would be brought, and we do not know what merit they would have if they were. We do not know what estimates the government has been given of the possible quantum of damages. What we do know is that last week on Radio 774 and in the newspapers the Minister for Energy and Resources said the package the government has established — that is, increased enforcement and a $1.2 million transition fund — ought to be enough. She said there will be no losses. If there will be no losses, why do we need a no-compensation clause? If, as the minister says, we will get more fish and bigger fish, who will have to sue? It is a falsehood.

This is a fundamental principle. I am grateful to the president of the Victorian National Parks Association, who has made available to me the report of the World Commission on Dams, entitled *Dams and Development — A New Framework for Decision Making*.

Mr Steggall interjected.

Mr PERTON — I thank the honourable member for Swan Hill; it is an interesting document. In the case of dams, for instance, it states clearly that while they provide a definite benefit for the community those who will be disadvantaged need to be engaged in the process, and compensation needs to be made available to them.

I have received letter after letter from people involved in the environmental movement and ordinary citizens who have written to me — —

Ms Duncan interjected.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Gisborne has been interjecting continually for about 10 minutes. I ask her to try to tone it down a little so the Chair can hear the debate.

Mr PERTON — People understand innately that if you take away someone's livelihood or business for a public good, you have to provide them with compensation. I have many other documents, but given that my friend — —

Honourable members interjecting.

Mr Mulder — On a point of order, Mr Acting Speaker, you have clearly given the golden girls on the government benches far too much latitude. I cannot hear what the honourable member for Doncaster is saying.

The ACTING SPEAKER (Mr Lupton) — Order! I do not believe it is a point of order. However, it is quite obvious to the Chair that the honourable member for Bendigo East is interjecting from out of her place, and, as I said before, the honourable member for Gisborne has continually interjected for the past 10 minutes. I ask them to refrain from interjecting so the Chair can hear what is going on.

Mr PERTON — In the words of the minister, there is no justification for a no-compensation clause. No argument is being put forward by the National Party or the Independents, who are trying to hold the government to its charter, against the Liberal opposition moving to delete the clause. I find it extraordinary that there is a feeling of threat in the air. It started this morning with the pretty seamy article in which the Premier made threats about the bill, and it got worse at about 3.00 p.m. when the minister gave notice of her motion.

Honourable members interjecting.

Mr PERTON — The line taken by the Labor members who are sitting in this place and shouting at a speaker for the Liberal Party is unusual. I suspect they are embarrassed. According to the papers office the last time a motion was before the house seeking leave for a bill to be withdrawn and discharged was in 1988 during the term of the previous Labor government. The process occurs once every 20 years and is normally reserved for bills that have got it seriously wrong and have to be withdrawn by the government for redrafting. In this case the government is holding a gun to the heads of the environment movement, the Liberal Party and other members of Parliament.

It may be that the government and the opposition are not that far apart. If the ministers are truthful when they say no-one will be a loser, there are procedures that can be put in place to make sure people get their rightful compensation. It may be that fishers will get compensation under the government's transition scheme, but what about the bloke who built the lobster storage facility at Port Campbell? Will he receive funds under the government's scheme? I think not. The honourable member for Warrnambool and other honourable members representing coastal areas will give other examples in their contributions to the debate, if it proceeds. It is important not only that fishers receive compensation for their losses but also that operators of enterprises associated with fishing are covered.

It has been a nine-year process involving 4500 submissions. In theory the matter could be debated for 40 or 50 hours just by reading from the submissions and the heartfelt thoughts of Victorians and people overseas. It is clear that marine national parks are right for Victoria and that they will make it an environmental leader.

Mr Spry interjected.

Mr PERTON — As the honourable member for Bellarine said, their time has come. In providing for that great public good we have to make sure that everyone will be a winner — that people who enjoy parks for their innate beauty will be winners; that the fisher communities will be winners; and that coastal communities will be winners. We know that with most areas of human progress and change some people lose out. The honourable member for Warrnambool has rightly pointed out that people in the Port Campbell area are likely to lose income as a result of the establishment of a marine national park.

Mr Spry interjected.

Mr PERTON — The honourable member for Bellarine will be able to point to other examples, as will other honourable members. Those in the community who are genuinely committed to the environment and having strong coastal societies and communities must make sure that no-one suffers when marine national parks are created. If we are to make up the losses to the people who are affected — not just in money; the Labor Party seems to think a few coins are sufficient — it will require a genuine commitment to the social and economic development of those communities.

Each community of Corner Inlet, Queenscliff, Apollo Bay, Lorne, Port Campbell, Portland or Port Fairy is made up of a deep, rich culture. The fishermen form a central part of those communities.

Mr Mulder — Hardworking people.

Mr PERTON — Hardworking people, as the honourable member for Polwarth said. Historically their industry is focused around fishing. Victoria now has tourism and other sources of funds, but those people who make their living from the sea are the salt of the earth — people about whom films are made, books are written, visions are drawn. In setting up marine national

parks we, as a community understanding our culture and our history, should not allow those people to be destroyed or allow their families to lose their incomes or places in society.

The opposition does not ask for much. It is asking the Labor government to take away its threat; to say it will not move its motion tomorrow and is prepared to sit down with the fishing communities, the fishermen and the Liberal and National parties and come to an accommodation to enable marine national parks to be implemented and implemented with dignity.

Ms Duncan — Author, author!

The ACTING SPEAKER (Mr Lupton) — Order! I have requested the honourable member for Gisborne to remain silent on three occasions. Her interjections have been non-stop, and I do not appreciate her clapping in the house.

Mr RYAN (Leader of the National Party) — It is my dubious pleasure to join the debate on the National Parks (Marine National Parks and Marine Sanctuaries) Bill. I say 'dubious' because I join a farcical debate. The Parliament is being abused by the Labor government. This open, honest and accountable Labor government has gone through the introduction stages of this bill, but all that was rendered meaningless today when the Minister for Environment and Conservation announced that tomorrow she will withdraw the bill. It is tragic for the people upon whom the legislation impacts. It is also tragic because the aims and ideals of the creation of marine parks are supported by the National Party. I will go through the terms of the legislation shortly. For the Minister for Environment and Conservation to treat the Parliament in this way — where honourable members are going through this process knowing that tomorrow it will amount to nothing — is reprehensible.

The well-publicised perspective of the National Party differs somewhat from that of its colleagues in the Liberal Party. It opposes the bill on two bases.

Ms Allen interjected.

Mr RYAN — You are out of your place and out of your depth, and you ought to get up in your seat or be quiet!

The ACTING SPEAKER (Mr Lupton) — Order! I support the Leader of the National Party. The honourable member for Benalla is out of her place and is being disorderly. I have requested government members to refrain from interjecting.

Mr RYAN — The National Party is opposed to the legislation on two bases. Firstly, the bill is flawed because it should not contain no-take zones; secondly, it is flawed because of the section 85 provisions. On both counts the legislation should not proceed. As I have said for some months, the National Party will oppose the bill. If the legislation proceeded to a vote the National Party would pursue the course I have outlined. Unfortunately, that is now doomed and will not happen. Nevertheless, the procedures of this place require me to participate in this farce.

The National Party does not accept the validity of the Environment Conservation Council (ECC) report. It believes it is flawed in various respects that I will refer to shortly. The National Party promised the public that it would amend the legislation. Its amendments have been distributed, and I will speak to them in the course of my contribution. I also intend to move a reasoned amendment, the purpose of which is to have the legislation withdrawn and redrafted so that appropriate account may be taken of people's rights and the matter can proceed on a basis that gives due regard to the fact that the section 85 provisions are not needed.

If it is timely, Mr Acting Speaker, I will move:

> That all the words after 'That' be omitted with the view of inserting in place thereof the words 'this bill be withdrawn and redrafted so as to:
>
> (a) provide for a state-funded scheme to compensate any person who suffers loss or damage as a result of the provisions of the bill in relation to:
>
> (i) any alteration to the force of effect of, or to any rights conferred or arising under, the Fisheries Act 1955 or regulations made under it, or any authority or instrument under such act or regulations; or
>
> (ii) the creation or existence of a marine national park or a marine sanctuary under the National Parks Act 1975; and
>
> (b) ensure that the Supreme Court's powers are retained in relation to such scheme'.

That process would enable the retention of rights on the part of those who suffer as a consequence of the introduction of the legislation and would remove the necessity for the imposition of the section 85 provisions.

The government has patently misled the people of Victoria about this legislation. Over the past few days, and particularly since the National Party issued a release in my name about a fortnight ago, it has become obvious that the government was not going to get the section 85 statements through the house because it

could not get the 45 votes representing an absolute majority. That was absolutely plain.

Subsequent to my announcement, the minister publicly conceded that at least one of those section 85 statements was a mistake. The Minister for Energy and Resources in another place gave an indication to the Parliament — if not an undertaking — that the government would move amendments to ensure that at least one of the section 85 provisions was deleted.

Yet what do we have? We are now well and truly into this debate. The honourable member for Doncaster, as shadow minister, has made his contribution for the Liberal Party and I am now making my contribution on behalf of the National Party, yet we are still without the amendments that were promised by the government and flagged to the public at large.

If you wanted an indicator of the absolute chicanery of this government, not only in relation to this bill but generally, you would not find it better exemplified than it is here. Once again the government has deliberately misled the public of Victoria. It has lied to the people of Victoria by saying that at least one of the section 85 statements came into the bill by mistake. Talk about shooting the messenger! I will return to that point in a moment.

Then to compound the sin, the government told Victorians that it would move amendments to accommodate that mistake, and yet here we are in the course of the debate and absolutely nothing has happened. That is a commentary on this legislation and on this government.

If circumstances were different, this legislation would have all the makings of a good book. It has all the elements of a bestseller: there is plenty of fact and a lot of fiction, and there is history, romance, pathos, irony and treachery. I will talk about those various elements, starting with the element of treachery. This Labor government in Victoria is at its very best when dealing with the issue of treachery.

I will turn to the section 85 provisions and trace their history. In the course of the second-reading speech the minister referred to the section 85 statements, and she actually read them into *Hansard*. Those of us who have been in the Parliament for more than 5 minutes know that there is a detailed process by which section 85 provisions make their way into a bill. They do not get there by accident; they get there by absolute design and with the full knowledge of the minister and the government of the day. It is a protracted process. When the coalition was in government, if you wanted to bring in a piece of legislation containing a section 85 provision that precluded people from being able to claim their rights, you had to go through about seven or eight different stages to enable that to happen, including reporting it to the party room and referring to it in the second-reading speech, as required under the Constitution Act.

There is no mistake about the section 85 provisions appearing in this bill. This is a constructive endeavour on the part of the government to destroy the rights of people in two ways. It did it constructively by setting it out in the course of the proposed legislation in two places, and it did so on the basis of what the minister read into *Hansard* in the course of her second-reading speech. Where in the bill did she do so?

The minister did so in clause 19. I will not read it in detail, but clause 19 refers to proposed section 48B, which specifies that no compensation will be payable. The construction of that section is interesting. Proposed section 48B(1)(a) provides that there is a general prohibition on being able to claim compensation for any alteration to the force or effect of or to any rights conferred or otherwise arising under a licence, permit or other authority issued under the act. That in itself is instructive, because in the first of the section 85 provisions a blanket prohibition has been incorporated. That blanket prohibition is way outside the ambit of what the bill is considering, and funnily enough it is inserted after section 48 of the Fisheries Act, which deals in sections 44 to 48 inclusive with a range of provisions, all of which relate to recreational fishing.

This blanket prohibition has been inserted after the recreational fishing provisions in the principal act. It says in general that no compensation will be payable if there is an amendment to any licence issued under the terms of this legislation or a permit or an authority — that is, no-one will be able to claim compensation! In addition, even if there is an order in council changing an order, a notice, a direction or a plan — changing anything under the Fisheries Act — no-one can claim compensation.

I ask, rhetorically of course, why would a government put that in this bill? What does that have to do with this legislation? How did it get into this legislation by accident, as we are told? However did that happen, I ask rhetorically.

The bill then refers to, firstly, having application in the event of a loss being sustained because of the creation of a marine national park, and secondly, the existence of such a marine national park. Inserted after the recreational provisions of the Fisheries Act is a

prohibition upon anybody being able to claim losses arising from the implementation of this legislation.

Mr Acting Speaker, if you were a cynic you might well be forgiven for thinking that what the government wanted to do here was to get at a range of people — not only the people in the fishing industry but anybody and everybody who was associated with the provision of facilities or services to the fishing industry at large. I think of my own electorate and the people I represent in this debate. Corner Inlet is in my electorate, and that is the focus of my contribution because I can talk about it from personal experience. I think of all the people in the towns around the area who in various ways, shapes and forms provide services, facilities and goods to the recreational as well as the commercial fishing industry. They are shut out by the terms of that provision, and I cannot help but wonder why it is so.

Clause 26 of the bill inserts another section 85 provision after section 144 of the Fisheries Act. Proposed section 144 refers to the limitation of jurisdiction of the Supreme Court. Clause 26 contains almost exactly the same provision as referred to in clause 19. The wording is all but identical. The government has inserted the same wording in two places in this bill — a bill which is supposed to relate to marine parks.

This is conduct of the worst kind, because it is treachery and stealth directed at not only people directly employed in the industry but also those who benefit from being able to fish in the marine waters of Victoria where they choose, currently subject only to the small qualifications in our general legislative base. Is it any wonder that the people of Victoria are concerned about the way these provisions have made their way into the bill? Is it any wonder that when the minister comes to the public forums and says, 'We made a mistake, but it was the solicitors who did it. Heavens to Betsy, we all know what they are like! They make mistakes all the time. They didn't comply with the drafting instructions, but don't panic, we are going to fix it', there is silence?

Is it any wonder that people view this bill with such absolute disdain? It cuts to the heart of this whole process. That is probably its worst feature because it sends a message that this government has deliberately and constructively set out to mislead Victorians, to achieve outcomes that are unfair and unjust to them, and to do it by trying to pull the wool over their eyes. That is the first example of the treachery provisions.

Then we have such little gems as the correspondence which the Minister for Environment and Conservation indulges in. Indeed, I have with me from my electorate part of an edition of the *Yarram Standard News* of 6 June, in which she has written a letter to the editor headed '95 per cent business as usual in Corner Inlet'. In the course of that letter, the minister sets out a series of facts which she purports to be the facts justifying the government's position. Leaving all the preamble aside, she says, first:

> Marine national parks would provide a high level of protection to some of the state's most valuable fish nurseries, generating more and bigger fish for everyone.

What a joy that is!

Where is this in the material presented in the report? Where is the justification for this supposition, which is put so fluently by the minister? In the article she says:

> Just 5 per cent of Victoria's coastal waters would be included, leaving nearly 95 per cent still available for all forms of fishing …

That is another furphy that government members have been trotting out and is constructed on the basis that this issue is all about the amount of coastline being reserved for the purpose. As I have said to the minister many times in different forums, 'If all we're talking about is 5 per cent' — and that is the important part — 'I'll give you 5 per cent. I'll give you 10 per cent! I'll give you a good chunk of the Ninety Mile Beach down in Gippsland, and that'll give you much more than 5 per cent. That'll give you nearer 10 per cent!'. Of course, the government's answer would be, 'We don't want to do that. It doesn't contain the areas we want to attack. That's the wrong area for our purpose'.

Additional chicanery is highlighted when the minister and government members talk about 5 per cent being of any relevance. It is absolute nonsense, because as honourable members know, the location of the 5 per cent is the issue, not the 5 per cent in itself. The 5 per cent does not matter two damns.

The minister goes on to say:

> Not one pier, jetty, wharf or boat-launching ramp has been included in the plan.

Mr Acting Speaker, I have got news for her about Corner Inlet. I do not think it has a pier or a jetty, but there might be a wharf and couple of boat-launching ramps. She makes a wonderful assertion to the effect of, 'Don't worry about it. All those assets are going to be protected'. Her comments do not even apply to the Corner Inlet area, to which this letter is devoted. She says:

> The process of reaching a decision on marine national parks took nearly 10 years and 4500 submissions were considered.

The government has to make the decision. This process started in 1991 under the previous Labor government, and it has gone on ever since. The report has come to the government and it has to make the call. The article continues:

> In response to concerns by the Corner Inlet commercial fishers, the Bracks government has reduced the size of the proposed park there by 40 per cent compared to the original proposal, while providing a high level of protection to precious fish-breeding grounds.
>
> So, for the Corner Inlet community, it's business as usual in 95 per cent of the area.

And this is the part that is the final rub for the people down there: originally 2100 hectares was proposed to be the subject of the reserve, so the fishermen put together a sum of money — some $13 000-odd — and constructed an excellent submission. They put a case to the government saying that what it was wanting to do was simply unnecessary and that there were preferable options that could be relied upon.

But what was the fishermen's reward for spending $13 000-odd and putting in the detailed submission, a copy of which I have in my hand? When the interim report came out the area had been enlarged to 4000 hectares! That was the reward. Those fishermen had the temerity to spend their hard-earned money and put a well-argued case to the government, so the government enlarged the area to about 4000 hectares.

Now I will tell you the last bit, Mr Acting Speaker, and this is the terrific bit. When the Environment Conservation Council report was released, what did the government do? It brought the area back to 2100 hectares, where it had started originally — and that is what the minister talks about as being a reduction of 40 per cent. That is what these people are dealing with. It is an absolutely disgraceful performance for the government to talk about that as being representative of the requirements for the purpose of being able to do what is contained in this legislation.

Just in passing, clause 16 contains another little pearl. Proposed section 45A(4) provides that a person in a marine national park in a boat must not possess fish that are no longer allowed to be caught. The penalty is $10 000 or six months jail. The difficulty with this is that there is a reverse onus of proof. Although the legislation accepts that you are entitled to move to and from the shortest points outside the marine area, if you are inside that area you bear the onus of establishing that that was why you were doing that. It is not a question of that having to be proven against you; you have to prove your innocence. Again, it is the sort of thing people are absolutely appalled about.

I compare this to the approach taken by the former government in relation to the scallop fishermen — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Lupton) — Order! Honourable members will calm down so that we may all listen to the Leader of the National Party.

Mr RYAN — Years ago, the scallop fishermen in Port Phillip Bay were told that they would have to go, and they accepted that. As the government of the day we went to the industry and said, 'Now, that's the fact of it. You'll have to go'. We negotiated with the industry. Discussions continued back and forth. We were going to buy their licences from them. As I recall, the original offer was $80 000 for each licence; there were about 70 or 80 licences. In the end we negotiated with them, and I was involved in the negotiations, and arrived at a price of $125 000 per licence. Eventually it came to about $10 million, or something of that order, and they were paid out for the licences.

With all of that in place we introduced legislation with a section 85 provision in it because the whole process had been based on working through the industry. The industry negotiated with the government — not necessarily happily, but it did so and accepted that what was going to happen was inevitable — and reached an outcome that was tested in the courts and found by the courts to be reasonable. That is the way the process should operate. But that is not what is happening here.

Ms Duncan interjected.

Mr RYAN — Oh no, that is not happening. The government wants to inflict upon these people the death of a thousand cuts. It wants to push the fishermen out of their established areas where they have been able to demonstrate, particularly in Corner Inlet, that they fish responsibly: they have not damaged the resource; they have a code of practice. I will talk about that in a few minutes. They have done all of those things and done so responsibly over the past 15 years, since Corner Inlet became a marine reserve, which it is today.

In effect, today Corner Inlet is a marine park. It will quarantine 2100 hectares of that corner and say the fishermen cannot fish in it, so they will inevitably be forced out. That is like death by a thousand cuts. The government knows the fishermen cannot get replacement catches elsewhere. They will simply lose by not being able to access those waters. It is commonsense; it is as plain as a pikestaff. In time those people will be forced out, and that should not happen. It is unfair and unjust.

Ms Duncan — It is a financial package.

Mr RYAN — The honourable member for Gisborne says by interjection that it is a financial package. The government has allowed for $1.2 million in transitional funding in a total package of $40 million. Isn't that a joke? Honest to God! One abalone licence is now worth about $6 million on the open market.

Mr Ingram interjected.

Mr RYAN — I should ask others in the chamber for confirmation of that figure. They might be able to tell me more accurately.

Mr Ingram — It is $5.5 million.

Honourable members interjecting.

Mr RYAN — Thank you! Any advance on five and a half?

Honourable members interjecting.

Mr RYAN — No, I will accept the judgment of the honourable member for Gippsland East, who says it is $5.5 million. Do I need to go any further? The proposal is to pay $1.2 million in total, whereas one abalone licence, of which there are about 73 in Victoria, costs $5.5 million. Let's not spend more time on the matter, because it is a joke.

I spoke earlier about the history of these areas. Corner Inlet is steeped in history, and its waters have been fished for about 120 years. Some of its fishers, both commercial and recreational, are fourth, fifth and six-generation members of the industry.

In its excellent document entitled *A Counterproposal to Protect Mangroves and Saltmarsh — Fish and Nursery Grounds*, the Corner Inlet Fisheries Habitat Association has included a quantity of commercial data to demonstrate the significance of the local waters. For example, of the total Victorian commercial catch, the following proportions are taken from Corner Inlet: King George whiting, 49 per cent; sea garfish, 36 per cent; rock flathead, 71 per cent; southern calamari, 21 per cent; flounder, 38 per cent; gummy shark, a virtually negligible proportion; and silver trevally, 23 per cent. Another table shows the proportion of the total Australian catch of various species taken from Corner Inlet. The bottom line is that Corner Inlet is a significant contributor to Victoria's fishery industry.

A code of practice has been in place since 1992. The code is set out on page 19 of this excellent submission to which I have been referring. Time being against me, I cannot read it into *Hansard*, but it is there for all to see. In essence, the fishermen organise themselves to make sure the areas are not overfished — and they have complied faithfully with that. The takes from Corner Inlet since 1992 demonstrate without doubt the contention I have made on the fishermen's behalf — namely, that a management plan that incorporates the stakeholders and ensures that all those with an acute interest in the resource are involved in its management produces the desired outcome. There is no need for the actions proposed in the legislation.

On page 3 of their submission the authors offer a counterproposal to the ECC report. As I have already said, their reward for doing so was a thoroughgoing whack, because the proposed 2100 hectares was increased to 4000!

As I said, the bill proposes to take out about 2100 hectares of Corner Inlet, which represents about 30 per cent of the catch for most of the fishermen. That will cause a problem. The history of Corner Inlet, including the way it has been fished over the years and current practices, shows there is no need to include the no-take zone in the bill, let alone a section 85 provision.

The bill produces bucketloads of pathos. It has caused real grief to the people affected. By way of example, Wayne and Linda Cripps, who live in Port Franklin, have four sons. I was down there a couple of Fridays ago, looking over Port Franklin while we sat and talked about the legislation. I have also met a number of others who fish there, including Joe Pinzone and Neville Clarke and his family. There are about 15 to 18 commercial fishers there, as well as an enormous number of people who fish the area on a recreational basis.

They are all good people, and they are all under siege because of this legislation. They are suffering a death of a thousand cuts, as I said before. What will Wayne Cripps say to his four boys in time to come when they want to fish? Because of the government's actions they will not be able to fish on Corner Inlet.

As a government member said by interjection a short while ago, the $40 million package includes $1.2 million as a transitional payment. That is nothing but a vicious joke. Is it any wonder that people are horrified by the implications of the legislation, let alone the paucity of the payments it envisages? A big point to keep in mind is that the government never intended, and still does not intend, to compensate anyone for anything under this legislation. Rather, it intends to make transitional payments.

Another feature of this matter produces more pathos, because the people concerned are wonderful environmentalists. Recently four other parliamentarians and I went out onto Corner Inlet with Wayne Cripps in response to an invitation extended to all parliamentarians. Three of us were members of the National Party and two were members of the Liberal Party. There was no-one from the Labor Party or from the Independents. As we travelled across Corner Inlet we came to understand that the fishing areas are a small part of the inlet as a whole, because as it empties with the ebbing tide much of the inlet becomes dry. The water disappears out to sea, leaving only the channel areas. The local people know those areas well, respect them, fish them carefully and care for them.

For them to be cast in the mould of people doing damage, as seems to be the popular theory in this place, is fiction and an injustice. In the counterproposal the local people presented to the government, it is clear that they have an absolute and genuine love of the sea.

The much-vaunted ECC final report entitled *Marine Coastal and Estuarine Investigation* raises the question of adverse impacts. At page 14 the report states that the anticipated impact on commercial fishing may result in employment losses of around 0.3 per cent in some coastal communities. I went through this document to find where this information comes from and where 0.3 per cent comes in. At appendix 4, which is buried at the back of the document, you find the source with the figures on how this conclusion was reached.

Interestingly this report, which was commissioned by the ECC and prepared by an organisation called Essential Economics Pty Ltd, talks about basing its calculations on Australian Bureau of Statistics figures for 1992, which were updated in 1996, and about all sorts of assumptions about the work force and about the people employed in the fishing industry. It finally makes a cost-benefit analysis on an area encompassing Foster, Port Franklin, Port Welshpool and Toora, all being in the immediate area around Corner Inlet.

At page 24 the report states:

> The proposed changes to marine reserves in proximity to Foster, Port Franklin, Port Welshpool and Toora do not present any adverse implications for the industry structure of the towns.

That is just an absolute and utter unmitigated joke. I hesitate to use the word ‘lie’, but it is a joke. Anybody who knows those areas would be appalled to see that statement, and quite rightly so. But worse is to follow. At page 30, where it talks about potential employment impacts, the report states:

> There may or may not be job losses in fishing, depending on whether or not the catch can be secured from other areas outside parks and sanctuaries.

Pausing there, of course it cannot be secured outside parks and sanctuaries. Firstly, they have to go one way to the open ocean, and they will not do that because it is not where they fish and they are not licensed to do it. Secondly, by its very nature, effectively taking away 30 per cent of the catch area from these fishermen essentially means you are trying to cramp the rest of them into the remaining space, and that cannot be done. The report continues:

> In the unlikely event that none of the lost catch is sourced from other areas, the possible loss of employment for fishers could involve up to 39 jobs …

That is what the document says: it says that Victoria wide potentially 39 jobs could be lost in the commercial fishing industry through the application of what this report proposes. There are a few other bits in brackets, and the report goes on:

> … but we do not believe this would be the case. In any event, this (unlikely) potential for some 39 lost jobs in fishing is equivalent to just 0.3 per cent of all employment in the towns that are located near to the proposed marine parks and sanctuaries.

I could go on. What an absolute farce! I am taking only one isolated and narrow aspect of this report, and it is replete with many more, which is why I say the document cannot be accepted. With due respect to my colleague the honourable member for Doncaster, that document is false in many of its assertions, because the bases of those assertions is factually wrong. It is an issue that has consistently been put by the people whom I represent in my electorate, and indeed right across Victoria.

I have spoken about the irony in this. One of the greatest and saddest ironies is that we all want the same end result in the sense of the preservation and protection of our marine waters, but what we are arguing about and what we defer on is the mechanics of doing it. The National Party has said, ‘Don’t turn your backs on these people, and don’t dismiss them, patronise them and insult them; they want to work with the government to get an outcome that suits everybody, and it can be done’. That is why National Party members have advanced options over these past few days, and are renewing them today. In doing so we are conscious of places such as the Great Barrier Reef: people can fish recreationally on 96 per cent of the reef and commercially on up to 50 per cent of it.

That is why the National Party has put an alternative today. Basically it is this: it is prepared to accept the

marine parks but not on the basis of blanket bans. It is prepared to retain the no-take zones at Bunurong, but suggests that research be undertaken by the Marine and Freshwater Resources Institute under terms to be agreed upon over a period of five years, and that that research benefit Victorian waters and relate to Victorian conditions.

The National Party does not accept the section 85 provisions for the reasons I have outlined. It says strongly that there should be management of these marine park areas, if they are created, on a basis of fishery management plans. It should be ensured that licence conditions are complied with, that marine park management plans are in place, and that those plans involve all the stakeholders who are engaged in the use of these magnificent corners, not only at Corner Inlet but also those around the coast.

The National Party has put a proposition to the government. Its members implore the government to give it serious consideration, because it is put on a serious basis on behalf of a party with an established commitment to the environment through all the work it historically has done on the land, and which it is happy to have happen in respect of the sea as well.

I spoke before of the romance involved in the book I am going to write. Honourable members should go down there, talk to Wayne Cripps and his wife, Linda, and see their commitment to and desire to contribute to, not detract from, Corner Inlet and the marine environment there. I believe honourable members would then have a different point of view about the legislation before us.

Finally I want to refer to a letter I received today from Wayne Cripps. It states:

> Insofar as the proposed marine park in Corner Inlet is concerned, despite numerous requests and queries, no reasons or explanations for its positioning have ever been forthcoming.

It goes on:

> In this inlet, the only effective way of protecting fish numbers, or indeed increasing them, is to protect breeding grounds and their environs.
>
> As clearly outlined in the Victorian coastal strategy report recently published by the NRE the danger to fish and to the seagrass, in particular, within Corner Inlet, comes not from fishing but from land-based pollution and contaminants.

It goes on to indicate some of the other problems. After putting a proposal by way of an option it concludes as follows:

> This alternative proposal is based upon logic and addresses the concerns, real or imagined, that relate to this particular inlet.
>
> There is no scientific basis for a no-take zone in the area presently proposed and accordingly none has ever been provided by its proponents.

Wayne Cripps is right. Honourable members ought to give this a chance, because if they do we will get a win-win for all people and the bipartisan approach we so desperately want to bring this home for the benefit of all Victorians.

Debate interrupted pursuant to sessional orders.

ADJOURNMENT

The ACTING SPEAKER (Mr Savage) — Order! Under sessional orders the time has arrived to interrupt the business of the house. The question is that the house do now adjourn.

Alfred hospital

Ms McCALL (Frankston) — The issue I raise for the attention of the Minister for Health, whom I would very much like to be in the chamber to answer my question, relates to a constituent of mine, Mrs Carol Jackson, and the death seven weeks ago of her husband, Neil.

Mr Neil Jackson was diagnosed with lymphoma and attended the Alfred hospital over a period of some months. Some five or six weeks after his first visit he was diagnosed as suffering from legionnaire's disease. While in the midst of some fairly tricky surgery and chemotherapy for his lymphoma he was seen to be very greatly suffering from legionnaire's disease, and I regret to inform the house that seven weeks ago he died of the disease.

To date Mrs Carol Jackson has received no death certificate from the Alfred hospital. She understands, through her solicitor, that the Alfred has signed the death certificate but has left the cause of death open, and that the current death certificate is sitting with the coroner, who wishes to conduct some further tests.

Mrs Jackson is, quite rightly, very deeply distressed about this issue. Her husband's body has been cremated. She has been informed by the local crematorium that she cannot deal with his ashes without the production of a death certificate. Mrs Jackson, again quite rightly, has gone back to her solicitor and said, 'This cannot continue. I wish to end the issue and begin my grieving process for my husband. But more than

that, without a death certificate I cannot even file for probate, so I cannot even begin to put my husband's things in order and begin to grieve for my husband, and above all, to gain access to his money'. Mrs Jackson is fortunate that she has a very supportive family. She also has an extremely proactive member of Parliament!

I am standing in this chamber tonight saying it is a disgrace that the Alfred hospital has failed to deal with this matter and that the Minister for Health in his cover-up of the legionnaire's disease affair has clearly extended unnecessary grief and trauma to Mrs Carol Jackson, a very worthy member of my electorate. Where is the minister? I demand an answer and I demand some action!

Disability services: Reservoir

Mr LEIGHTON (Preston) — I raise a matter for the Minister for Community Services concerning respite care for people with disabilities. I request that the minister makes funding available for a respite care facility in Reservoir. My background is in the care of people with disabilities, particularly intellectual disabilities, and I understand how critical it is to provide families and primary carers of people with disabilities living at home with respite care. Often that can be the difference between making and breaking the family. Increasingly very elderly people are caring at home day and night for adult children with disabilities. As somebody who has worked in facilities with the backup of a lot of staff, it never ceases to amaze me how people provide care at home. Often the ability to go away for a weekend or a short holiday can mean the difference between the carers collapsing altogether and being able to go on and provide support.

Ultimately it is preferable that the person with disabilities is able to stay in a family environment rather than ending up in some form of institution. I understand that the Great Break program has funds available in the northern metropolitan region. It has been identified that a respite care facility would be an appropriate way to spend those funds. There is a need in my region because once upon a time there were training centres such as Kingsbury and Janefield. As well as having long-term residents they were able to assist families with a short-term break by providing respite care. With the closure of those institutions and more community-based care it is critical to provide respite care facilities that not only provide a roof over the heads of people with disabilities but are also able to provide them with activities in the process.

There is a need for such a facility in my electorate, particularly for adolescents and young people aged 15 to 24 with mild intellectual disabilities or physical disabilities. There are a number of excellent voluntary organisations that would be able to manage such a facility. I call on the Minister for Community Services to commit funds to establish a respite care facility in Reservoir.

Bridges: Murray River

Mr JASPER (Murray Valley) — I bring to the attention of the Minister for Transport the continuing confusion about funding for bridges over the Murray River between Victoria and New South Wales. I acknowledge that the minister visited the township of Cobram a couple of months ago and confirmed that the Victorian and New South Wales governments would fund the new bridge across the Murray River between Cobram and Barooga at a cost of $11 million, and certainly that statement was welcomed in the Cobram–Barooga area because the bridge is in a totally dilapidated condition.

However, it is of great concern that there is no indication in the budget papers of the funding being provided for bridges between Victoria and New South Wales. Everyone is aware that over two years ago the commonwealth government provided $44 million for three bridges to be built over the Murray River at Corowa, Echuca and Robinvale. If one looks at the budget papers, one finds that $700 000 has been allocated in the next financial year for Murray River bridges. The budget papers also indicate that over the next three years $40.5 million is being allocated for main arterial roads in country areas and link bridges. Further there is a mention of the bridges at Corowa, Echuca, Robinvale and Cobram, but no break-up of the funding being provided. The concern is to know when the funding for the bridges will be provided and at what cost.

The budget papers presented to the New South Wales Parliament show a totally different picture. For instance, the bridge at Howlong is totally funded by the two state governments at a total estimated cost of $13.5 million; $12.7 million has been spent to date and $800 000 is to be spent in the next financial year to complete the bridge. Presumably that is with funding from the two state governments. The estimated cost of the Corowa bridge is $15 million; $1.4 million has been spent to date and $6.35 million is to be spent in the next financial year. The New South Wales budget provides funding for the bridges at Robinvale and Echuca and indicates when it will be spent.

The people of north-eastern Victoria and along the Murray River want to know what is being provided to

fund the Victorian government's commitment to build the bridges. They also want to be assured that the federal funding which was allocated over two years ago will not be jeopardised so that a situation arises where the federal government will not provide any more money — —

The ACTING SPEAKER (Mr Savage) — Order! The honourable member's time has expired.

Geelong Business and Trade Centre, Southbank

Mr LONEY (Geelong North) — I raise a matter for the consideration of the Minister for Local Government concerning the failed Geelong Business and Trade Centre at Southbank, otherwise known as the Geelong Embassy. This particular company, as it is, was established in June 1999 under the then mayor Ken Jarvis in a blaze of publicity about how great it was going to be. It has since failed, leaving a trail of creditors, severe embarrassment to the council and a potential $500 000 liability for Geelong ratepayers.

My understanding is that Mayor Jarvis not only established the so-called embassy but also drove the project as a pet icon of his mayoralty. It was established in mid-1999, when the council resolved to set up the embassy. By February 2000 the council had agreed to give a $200 000 line of credit to the company operating outside of the council — at arm's length, as they say. I am advised that when the resolution was put to the council Mayor Jarvis did not advise that it required the approval of the Minister for Local Government to be sought and received. The council voted on it without knowing that. An arrangement was entered into with the Bendigo Bank for some $200 000, as I said.

I understand that both actions of the mayor — that is, having the council enter into an arrangement with a company and being involved with a company with council staff as directors and then the offering of a line of credit through that entrepreneurial activity — required that the approval of the minister be sought and given. I am advised that that was never done, that the mayor had no discussion with the then minister, Minister Maclellan, and that before the February 2000 vote no discussions were held with the current Minister for Local Government. The actions of the mayor are possibly illegal.

I ask that the minister investigate the circumstances surrounding the City of Greater Geelong's entry into this company and the offer of the line of credit, and further I ask him to advise the house if the council acted illegally.

Knox hospital

Mr WELLS (Wantirna) — The matter of concern I raise for the attention of the Minister for Health relates to the Knox public hospital. I urge the minister to take immediate action to have that facility built. I raise the concern because comments made by the Premier are reported in last week's *Knox Leader* in an article headed 'New hospital ruled out', which states:

> Premier Steve Bracks has again ruled out a new hospital for Knox, confirming the state government was looking for another use for the former Wantirna drive-in cinema site.
>
> Mr Bracks said at last month's community cabinet meeting that the government owned the site, which had been earmarked for a hospital by the previous government.

The situation with the hospital is that the Labor government has once again forgotten the outer east. This attack on the health needs of the people of Knox and the outer east is reprehensible and a sad indictment of the Bracks Labor government that shows how out of touch it really is. The people of Knox have been dealt a bitter blow by the government's decision to axe the Knox public hospital.

That is in direct contrast to what was promised by the previous coalition government, which in acquiring the land promised a 300-bed, world-class tertiary education hospital that would alleviate waiting lists and address a number of other health issues confronting the people of Knox.

This is a very important matter for the people in Wantirna, Knox and Bayswater, and in particular the voters in the by-election for the federal seat of Aston. When they cast their votes on 14 July they will have seen a clear contrast between Liberal and Labor. The previous government was prepared to build a new hospital and meet the health requirements of the outer east, and Labor will leave the people of Aston out in the cold.

I ask the Minister for Health to address this concern immediately, so the people of Aston know exactly where the minister stands in regard to the Knox public hospital.

Kids Under Cover

Mr CARLI (Coburg) — I seek the assistance of the Minister for Community Services in supporting the work of a great volunteer organisation called Kids Under Cover, which was set up by private businesses to assist kids under protective care to be given housing or bungalows. It is a fantastic organisation. I am seeking

the minister's support for the organisation to extend its work into the northern suburbs.

Recently I had passed on to me a letter from one child who received a bungalow from Kids Under Cover. He explains how wonderful that was. Previously he had to share a room with his big sister and her little son. He was not able to study, missed school and was not able to work. He was in a situation where he could not get organised and he could not get on. Since Kids Under Cover provided the bungalow he has been able to resume his studies and get a part-time job, and his big sister and her son are able to have a room for themselves. He says what a wonderful organisation Kids Under Cover is and what a big difference it has made in his life.

The organisation was set up in 1998 by individuals and private companies. It was basically an effort to help homeless children and those under protective care. Over time it has sought and received various levels of government assistance. Clearly, the government's assistance is multiplied by the voluntary work and the private funds generated through its networks. It is trying to extend its activities, and part of that is to provide help in the northern suburbs of Melbourne.

Having looked at the work of Kids Under Cover, all I can say is it is a praiseworthy community organisation that provides a valuable service. Certainly the response from children who have received bungalows or rooms has been extremely positive. It has made an enormous difference in their lives. The organisation needs both the support it has received from the community and further support. As I said, the support given to it is multiplied because it gets private funds and a helluva lot of assistance from volunteers.

Local government: rates

Ms BURKE (Prahran) — The matter I raise for the attention of the Minister for Local Government concerns the funding nightmare that has engulfed local government in Victoria. I ask the minister to take action on the amount of unpaid rates that is burdening Victorian councils — it is currently more than $65 million. That figure represents only the metropolitan areas; it does not include shires and is likely to be much higher when the unpaid rates of rural and regional councils are taken into account.

The mismanagement of the revaluation process by the government has been apparent through its lack of concern about the largely unjustifiable rate rises that have created a funding nightmare for local government. It was clear to everybody that a new system was coming in, with the card system being removed and councils going to the computer system. Everyone was well aware of the change and knew there would be difficulties. The government has shown a complete lack of compassion about the impact on ratepayers of its flawed introduction of rating changes. On 14 November last year I tabled a petition with 3000 signatures from the people of Yarraville and the surrounding area, and on 29 November I tabled another petition with almost 3000 signatures on it.

The massive rate rises have been unexpected. Many people are asset rich and income poor and are finding it absolutely impossible to pay the rates. While the problem arises in part because of High Court decisions and a new system, it can be solved, but councils need assistance to do so. Councils are finding it harder to find funds and to provide a reasonable level of services. The funding shortfall has also caused rates to be increased to solve the problem for the time being — it is a never-ending circle.

I ask the minister to take the matter seriously and to help councils solve the problem and improve ratepayers' bills this year.

Disability services: Wyndham

Ms GILLETT (Werribee) — I raise a matter for the attention of the Minister for Community Services. I ask her to advise me of the support she is able to provide for the hardworking and largely volunteer staff who make up the wide variety of disability self-help groups in my electorate and in the broader community. I know the minister is aware of the outstanding work done by these wonderful support groups. Some of the groups in the Werribee and Wyndham areas include People with Multiple Sclerosis, the Wyndham Acquired Brain Injuries Support Group, the Wyndham Disability Advocacy Group and, of particular importance to me and my family, the Autism Spectrum Support Group, which is located in Hoppers Crossing.

Many members in this place have had a loved one or a dear friend who has been affected by some disability or injury. Some of us who have looked for support know how precious these organisations and the people involved in them are.

The Bracks Labor government and the minister are committed to rebuilding a sense of community in Victoria and to helping people help themselves and others. This is a critical way to restore both individual and community self-esteem. I know how committed the minister is to achieving this objective for all our community.

Biased as I am in these matters, I would say that Wyndham has some of the finest individuals and organisations in the disability services self-help area. I ask the minister if she will look positively on supporting disability self-help groups in the community of Wyndham.

Building industry: indemnity insurance

Mr CLARK (Box Hill) — I raise with the Minister for Planning the continuing difficulties builders around Victoria face in obtaining the insurance cover they need to commence new building projects following the collapse of the HIH Insurance group. I ask the minister to work with the Building Control Commission to review the administration of the state's building industry and to look for ways to reduce the risk of a minority of builders defaulting on their contractual obligations to consumers. This raises both the cost of insurance and the requirements and limitations that insurers are placing on builders.

Increasingly I am receiving reports from builders that state not only that they cannot obtain insurance but also that the insurance cover they are being offered requires so much in bank guarantees or the pledging of personal assets — or offers cover for an annual value of work so far below their annual turnover to date — that it is virtually impossible for them to continue in business.

So far the government has argued that the insurance market should sort out these issues by setting prices and conditions to match the risks and that if the market forces some builders out of the industry it is probably a good thing. The minister might be content that the big end of town has been looked after, but this approach shows a remarkable contempt for the hundreds of honest and hardworking small builders around the state, many from country Victoria, who are in fear of losing their livelihoods.

It also shows an extraordinary lack of understanding of the role of governments and markets. The market will price insurance to meet the risks, but the risks are largely determined by the legal and enforcement regime the government administers. The government should be looking to reduce the risks by seeking further ways to remove dishonest and incompetent builders from the industry while ensuring that consumers do not pay for work that has not been done.

The situation was summed up for me most graphically in a letter from a builder in Euroa. He said that no matter how good a carpenter you are or how well you manage your business, in future it will be extraordinarily hard if not impossible to obtain the insurance level required to build a $200 000 residence for a client. His concern is being echoed by many other builders around the state.

Disability services: funding

Ms BARKER (Oakleigh) — I ask the Minister for Community Services what action she will take to ensure that funds are continually made available for services that provide disability services programs. This minister is very aware of the need to provide funds to ensure that minor works are done and equipment is upgraded. Such minor works and equipment upgrades will ensure that people with disabilities can access quality programs at a range of venues across the state.

Although in many instances the requirements these services and venues have may seem minor, they are important. I am aware that a lot of the services in and around the southern and eastern regions have issues that need to be addressed, such as upgrading access ramps, making roof repairs, reglazing, flooring renewal and painting. That work is vital in ensuring that disability services are continually upgraded and improved.

As the minister is aware, I am fortunate to have the Oakleigh Centre for Intellectually Disabled Citizens in my electorate. It provides an extensive range of programs and services that include supported employment and day programs and residential and recreational services. The minister visited the centre last year when it celebrated its 50th anniversary, which is quite a milestone for a provider of disability services. The centre opened in 1950 as a play group for preschool-aged children, but it has extended its services through the years and adapted itself to the needs of the people in the area. It was one of the first non-government agencies to become involved in providing day services.

As I said, the centre runs an extensive supported employment program that employs about 90 people. Another innovative thing the centre has done is set up and run a retail garden nursery, which is quite a focal point on Warrigal Road. It is a nice nursery, and as well as providing employment opportunity it also sells some great plants!

I ask the minister to ensure that the minor works and equipment upgrades that are desperately needed in some areas are done. I refer in particular to the building of access ramps, reglazing and re-flooring. These are the sorts of things that are required by similar services and venues throughout Victoria, not only those in the Oakleigh area. I am sure this minister, who has shown a great commitment — —

The ACTING SPEAKER (Mr Savage) — Order! The honourable member's time has expired.

Police: Sandringham station

Mr THOMPSON (Sandringham) — The matter I raise for the attention of the Minister for Police and Emergency Services concerns the plans which I hope are in progress for the redevelopment of a new Sandringham police station under the local priority policing program. Simon Russell, the mayor of the City of Bayside, and Graeme Disney, the former mayor of the City of Bayside, have both had a keen interest in ensuring that there is a strong, active and viable police presence in the Sandringham area.

The honourable member for Oakleigh would recall the decision making that led to the development of the Moorabbin police complex on the Nepean Highway, which was part of a private sector-funded program to improve police infrastructure in the overall area, and at the same time there were plans afoot to incorporate a number of local district stations in this larger police complex. However, under recent reviews of policing practices I understand that local priority policing is to be organised through municipal districts to ensure that local communities have a strong input into community policing issues, as the role of community safety through the work of the police is just one aspect of an overarching range of roles. Activities and programs such as Neighbourhood Watch also form a very important adjunct. Community safety committees, police liaison committees and road safety committees all have a role to play in ensuring that there are appropriate levels of safety and services on the ground.

A number of years ago the Labor Party promised to build a new police station in Sandringham in 1998. Although that has not eventuated, there is a prospect under this new local priority policing program to enable good infrastructure to be set in place. The honourable member for Glen Waverley is one member of this chamber who has always maintained a very keen interest in law-and-order issues, looking at both legislative reforms which have assisted local communities and working on innovative policy developments. Under the former government a range of measures relating to the interviewing of suspects, to the taking of DNA samples or to prison terms all had a law-and-order emphasis in the wider community. But the immediate matter of concern, which is now in the hands of government, is how the government will respond to the local priority policing program. I ask the minister to make available to local members and to councillors of the City of Bayside the plans that Victoria Police has to ensure that the Sandringham area is properly serviced.

Responses

Mr CAMERON (Minister for Local Government) — The honourable member for Geelong North raised a matter concerning the failure of what he called the Geelong Embassy at Southbank. The honourable member said that it was set up in mid-1999 when Cr Ken Jarvis was the mayor of the City of Greater Geelong. Under section 193 of the Local Government Act a council is able to participate in the formation of a corporation. In addition, the act sets out that the council may obtain temporary financial accommodation by way of overdraft. But that section of the act makes it very clear that approval must be sought by the council from both the Minister for Local Government and the Treasurer.

As I cannot recall having received a request from the City of Greater Geelong about the matter, I will have inquiries made of my department, although the honourable member also indicated that that request may have been made in mid-1999 when the embassy was originally established. I will cause inquiries to be made of my department as to whether that procedure was adopted at that time. The honourable member asked whether, as a consequence of not seeking approval, if approval is required, the actions of the council, which was led by Cr Ken Jarvis at the time, were illegal. Section 193 very much sets out the law, and if that section has not been complied with, then the actions of the council would have been illegal.

The honourable member for Prahran raised a matter concerning unpaid municipal rates, which are always an issue for local councils. She also referred to property revaluation. Honourable members will recall that the revaluation came about as a result of legislation in 1997, and councils subsequently entering into contract with valuers in about mid-1999. As a result, some councils found themselves in difficulties as the revaluation was conducted well in some parts of the state but in other parts there were problems. Obviously, we hope we do not have a repetition of that when the revaluation is conducted again by councils which has to be completed by next year.

One difficulty was that the revaluation had not occurred for so long and as a consequence some councils found themselves in a situation where some areas of a municipality had a relatively large increase in property values vis-a-vis other areas of the municipality. Certainly my understanding is that in some municipalities the issue of differential rating will be

considered. That is certainly one of the things that councils have to consider in these particular circumstances.

The revaluation, as I said, did have problems in some municipalities. Certainly, the *Bendigo Advertiser* of 11 November 2000 reports the opposition admitting responsibility for setting up the system used to revalue property throughout Victoria. The article is headed 'Libs admit rates fiasco'. Certainly we do not want to see the fiasco that was experienced in some parts of the state occur again. We hope councils will take into account whether there needs to be differential rating.

Ms CAMPBELL (Minister for Community Services) — The honourable member for Preston raised the need for a respite facility in the northern suburbs, particularly in the Reservoir area. I join the honourable member for Preston in absolutely endorsing the wonderful work of families who have children with a disability. I recognise their fantastic contribution to not only the enhancement of the lives of their sons and daughters but also to family life in the community generally.

The Great Break program, which was an initiative of the Bracks government, provides a range of respite opportunities for families throughout this state. In Melbourne's north we have allocated over $600 000 to the respite Great Break program. I understand the honourable member's concern for the need to have an actual respite facility. I am happy to say that half of the allocated funds in Melbourne's north will be allocated to a respite facility in Reservoir that will cover the 15-to-24-year age groups. A consultation project was undertaken by Melbourne's northern metropolitan region of the disability services division with both respite providers and respite users. It aimed to identify critical issues for the development of services in the region. The consultation determined that there was a need to expand the capacity of facility-based respite. To that end families who have a child aged between 15 and 24 years with an intellectual or mild physical disability will have access to a respite house.

The objective of the house will be to provide planned, interesting respite opportunities that are age appropriate and to encourage a range of developmental opportunities for the men and women who use it. The particular focus will be on recreation and community access. The department has recommended that the Yooralla Society of Victoria be allocated $370 000 to ensure an innovative and flexible service model that is well designed for the target group. I am pleased to inform the honourable member for Preston that his representations on the important issue of respite facilities and respite care generally have been heeded, and I trust that his constituents in the northern area and surrounds will benefit.

The honourable member for Coburg raised the important issue of providing families with bungalow accommodation, particularly when children need extra space but the family cannot afford it. I have previously come across the wonderful organisation called Kids Under Cover that was started by a range of committed business people and community-minded citizens. As a result of fundraising over a number of years the group has provided bungalows, primarily to children under protection who will be able to stay in their family environments with the help of bungalows funded and built through Kids Under Cover.

Kids Under Cover has spoken to me on a number of occasions about the importance of early intervention work and making sure families do not have to come to the attention of child protection before they receive their bungalows. That preventive approach is absolutely outstanding. I am pleased to inform the honourable member for Coburg that a grant of $200 000 will allow the provision of bungalows to 10 families across the state in addition to the initiatives intended to resolve family issues post notification to child protection. So, as well as the child protection work, 10 families will be provided with early intervention work.

I too read the note from the boy whose life has improved dramatically as a result of Kids Under Cover, and I can only compliment those involved in the organisation: their founding patron, Ken Morgan; other patrons, Athol Guy, Charles Billich, Tommy Emmanuel and Daryl Somers; the honorary treasurer, David Lee; the honorary solicitors, Woodhams O'Keefe and Company; and their fabulous executive officer, Ms Dorrington. Their honorary auditors should also be mentioned, and they are Draper Dillon.

Congratulations to Kids Under Cover. It does a fabulous job and is working with volunteers in the corporate world. In relation to the northern suburbs, which were a particular concern of the honourable member for Coburg, $9000 will be allocated to Kids Under Cover for relocation costs for two of its bungalows that are not being used where they are currently located.

The honourable member for Werribee — who could never be accused of being a one-eyed supporter for her electorate — raised the important work of disability self-help groups within our community. The Labor government, with the honourable member for Werribee, has recognised that self-help groups make a vital contribution to our Victorian community. That has been demonstrated by our ongoing commitment to

assist eligible disability self-help groups across the community services portfolio.

This year the government has had a disability self-help funding round, and I am pleased to report that 207 disability self-help groups have been allocated funding. The government has built on the previous government's funding and increased by 11 per cent the number of groups funded over last year's funding round. I am pleased to inform the honourable member for Werribee that the Autism Spectrum Support Group based at Hoppers Crossing has been allocated $1200 for its work; People with Multiple Sclerosis has been allocated $700 ; the Wyndham Acquired Brain Injury Support Group, $600; and the Wyndham Disability Advocacy Group, $1155. So the honourable member for Werribee can pass that on to her constituents.

The honourable member for Oakleigh raised the need to ensure minor works and capital upgrades for a range of quality programs and venues. She particularly spoke about the Oakleigh Centre, and I endorse her comments about the centre. I am pleased to say that our government is absolutely committed to ensuring that the day programs at a range of different venues around the state are right up to standard, just as they should be. A funding round has ensured that the Oakleigh Centre will be the recipient of $11 440, which it requested to upgrade glazing throughout the building.

A range of organisations around the state have had the opportunity to upgrade, for example, their central heating systems, switchboards and access ramps, redo their sewer connections, replace vinyl floor coverings, and so on. People who live and work in these places will have better facilities from which to operate their day programs.

The honourable member for Murray Valley raised for the Minister for Transport an issue regarding the bridges over the Murray River, and I will pass that on to the Minister for Transport.

The honourable member for Sandringham raised for the Minister for Police and Emergency Services an issue concerning the development of a new police facility in Sandringham, particularly focusing on local-priority policing. I will pass on that matter to the minister.

Mr THWAITES (Minister for Health) — The honourable member for Frankston raised the particularly tragic case of a constituent who died of legionella and a concern about the death certificate. If the honourable member would give me details of that, I will do what I can to assist. It may be that it is within the responsibilities of the coroner, over which I do not have control, but if I can assist I will.

The honourable member for Wantirna raised the issue of the proposed privatised hospital at Knox and the health services in the outer eastern suburbs. In case the honourable member is not aware of it, I point out to him that the previous government did not intend to build the proposed privatised hospital at Knox unless there was either a closure or a massive downgrading of the Maroondah and Angliss hospitals.

The documentation I saw on coming into government clearly shows that the Department of Human Services stopped all work on that project between December 1998 and January 1999, some 9 or 10 months before the Kennett government lost office. The documentation also indicates that the previous government was not prepared to provide the funding needed to open a new hospital in the area and that the only way that such a hospital would be built was if that amount of money was taken out of existing hospitals. The proposals put forward to achieve the building of the hospital basically meant closing or massively downgrading the Maroondah and Angliss hospitals and major cuts to other hospitals.

I also point out to the honourable member that he was the local member of Parliament when his party was in government for some seven years, and throughout that period the previous government spent nothing on building up the acute services at the Maroondah or Angliss hospitals. By comparison, within 18 months the Bracks government has already committed $18.5 million towards developing the health services at the Maroondah and Angliss hospitals.

I am pleased to advise the honourable member that as a result of that funding a new emergency department will be built at Maroondah Hospital. It will replace the existing unsatisfactory emergency department, and I am amazed that he allowed that circumstance to continue for so long.

One of the reasons for the delays at Maroondah Hospital and ambulance bypasses is the deficient physical nature of the emergency department. I advise the honourable member that he should get on board and support the very positive approach the Bracks government is taking to develop the Maroondah and Angliss hospitals through that funding of $18.5 million.

Unfortunately I did not hear the contribution of the honourable member for Box Hill, but I understand he raised the issue of insurance for builders following the HIH collapse. The honourable member would be aware that the Minister for Finance is overseeing a very good program to support builders warranty insurance. A program costing some $35 million is being supported by the government. Of course, the honourable member

for Box Hill would not have put any money whatsoever towards that, but this government has worked with the industry to support it. The honourable member would also be aware that the legislation recently passed through the house and supported by both sides contains a provision for an extension of time for the obtaining of insurance by builders.

Finally, I advise the honourable member that with the new insurance policies there will be tighter prudential requirements on builders. In the past one of the reasons for there being a problem with insurance was that some of the builders did not have sufficient prudential support, which led to greater risk. All the players in the industry, including the building organisations, such as the Housing Industry Association, the Master Builders Association and others, agree that there will be tougher prudential — —

Mr Thompson — On a point of order, Mr Acting Speaker, under the standing orders, or indirectly under standing orders, this is the first time in my eight and a half years in Parliament that I have seen only one person from the other side of the house in the chamber. It is unfortunate for the Deputy Premier that he does not have stronger support.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member knows that is not a point of order.

Mr THWAITES — Honourable members on the other side complain when ministers do not appear during the adjournment debate. I will take the comments of the honourable member for Sandringham seriously. It may be that honourable members opposite are not interested when ministers make an attempt to come into the house. I will be happy to adopt that approach in the future. Given that the honourable members opposite are not interested in these issues — —

Mr Leigh interjected.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Mordialloc will cease interjecting across the table.

Mr THWAITES — If honourable members opposite are not interested in listening, I suggest they read the second-reading speech on the bill so they will be better educated.

The ACTING SPEAKER (Mr Savage) — Order! The house stands adjourned until next day.

House adjourned 10.52 p.m.