PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 21 June 2007

(Extract from book 9)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

Premier, Minister for Multicultural Affairs and Minister for Veterans' Affairs	The Hon. S. P. Bracks, MP
Deputy Premier and Minister for Water, Environment and Climate Change	The Hon. J. W. Thwaites, MP
Minister for Education	The Hon. J. Lenders, MLC
Minister for Skills, Education Services and Employment and Minister for Women's Affairs	The Hon. J. M. Allan, MP
Minister for Gaming, Minister for Consumer Affairs and Minister assisting the Premier on Multicultural Affairs	The Hon. D. M. Andrews, MP
Minister for Victorian Communities and Minister for Energy and Resources	The Hon. P. Batchelor, MP
Treasurer, Minister for Regional and Rural Development and Minister for Innovation	The Hon. J. M. Brumby, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. R. G. Cameron, MP
Minister for Agriculture	The Hon. J. Helper, MP
Minister for Finance, WorkCover and the Transport Accident Commission, Minister for Tourism and Minister for Information and Communication Technology	The Hon. T. J. Holding, MP
Attorney-General, Minister for Industrial Relations and Minister for Racing	The Hon. R. J. Hulls, MP
Minister for Community Services and Minister for Aboriginal Affairs	The Hon. G. W. Jennings, MLC
Minister for Public Transport and Minister for the Arts	The Hon. L. J. Kosky, MP
Minister for Planning	The Hon. J. M. Madden, MLC
Minister for Sport, Recreation and Youth Affairs	The Hon. J. A. Merlino, MP
Minister for Mental Health, Minister for Children and Minister for Aged Care	The Hon. L. M. Neville, MP
Minister for Roads and Ports	The Hon. T. H. Pallas, MP
Minister for Health	The Hon. B. J. Pike, MP
Minister for Industry and State Development, Minister for Major Projects and Minister for Small Business	The Hon. T. C. Theophanous, MLC
Minister for Housing and Minister for Local Government	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Robinson, MP

Legislative Assembly committees

Privileges Committee — Mr Carli, Mr Clark, Mr Delahunty, Mr Lupton, Mrs Maddigan, Dr Napthine, Mr Nardella, Mr Stensholt and Mr Thompson.

Standing Orders Committee — The Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell.

Joint committees

Dispute Resolution Committee — (*Assembly*): Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr McIntosh, Mr Robinson and Mr Walsh. (*Council*): Mr P. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik.

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Delahunty, Mr Haermeyer, Mr McIntosh, Mrs Maddigan and Mr Morris. (*Council*): Mr Leane and Ms Mikakos.

Economic Development and Infrastructure Committee — (*Assembly*): Ms Campbell, Mr Crisp and Ms Thomson. (*Council*): Mr Atkinson, Mr D. Davis, Mr Tee and Mr Thornley.

Education and Training Committee — (*Assembly*): Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras. (*Council*): Mr Elasmar, Mr Finn and Mr Hall.

Electoral Matters Committee — (*Assembly*): Ms Campbell, Mr O'Brien, Mr Scott and Mr Thompson. (*Council*): Ms Broad, Mr Hall and Mr Somyurek.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh. (*Council*): Mrs Petrovich and Mr Viney.

Family and Community Development Committee — (*Assembly*): Ms Beattie, Mr Dixon, Mr Perera, Mrs Powell and Ms Wooldridge. (*Council*): Mr Scheffer and Mr Somyurek.

House Committee — (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Delahunty, Mr Howard, Mr Kotsiras, Mr Scott and Mr K. Smith. (*Council*): The President (*ex officio*), Mr Atkinson, Ms Darveniza, Mr Drum, Mr Eideh and Ms Hartland.

Law Reform Committee — (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mr Lupton. (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Tee.

Outer Suburban/Interface Services and Development Committee — (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith. (*Council*): Mr Elasmar, Mr Guy and Ms Hartland.

Public Accounts and Estimates Committee — (*Assembly*): Ms Graley, Ms Munt, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells. (*Council*): Mr Barber, Mr Dalla-Riva, Mr Pakula and Mr Rich-Phillips.

Road Safety Committee — (*Assembly*): Mr Eren, Mr Langdon, Mr Mulder, Mr Trezise and Mr Weller. (*Council*): Mr Koch and Mr Leane.

Rural and Regional Committee — (*Assembly*): Mr Eren and Mr Northe. (*Council*): Ms Darveniza, Mr Drum, Ms Lovell, Ms Tierney and Mr Vogels.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr Languiller and Mr R. Smith. (*Council*): Mr Eideh, Mr O'Donohue, Mrs Peulich and Ms Pulford.

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Mr Lupton, Ms Marshall, Ms Munt, Mr Nardella, Mrs Powell, Mr Seitz, Mr K. Smith, Mr Stensholt and Mr Thompson

Leader of the Parliamentary Labor Party and Premier:
The Hon. S. P. BRACKS

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:
Mr E. N. BAILLIEU

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

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Asher, Ms Louise	Brighton	LP	Lupton, Mr Anthony Gerard	Prahran	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	McIntosh, Mr Andrew John	Kew	LP
Barker, Ms Ann Patricia	Oakleigh	ALP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Batchelor, Mr Peter John	Thomastown	ALP	Marshall, Ms Kirstie	Forest Hill	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Merlino, Mr James Anthony	Monbulk	ALP
Blackwood, Mr Gary John	Narracan	LP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
Bracks, Mr Stephen Phillip	Williamstown	ALP	Morris, Mr David Charles	Mornington	LP
Brooks, Mr Colin William	Bundoora	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	Munt, Ms Janice Ruth	Mordialloc	ALP
Burgess, Mr Neale Ronald	Hastings	LP	Napthine, Dr Denis Vincent	South-West Coast	LP
Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Northe, Mr Russell John	Morwell	Nats
Clark, Mr Robert William	Box Hill	LP	O'Brien, Mr Michael Anthony	Malvern	LP
Crisp, Mr Peter Laurence	Mildura	Nats	Overington, Ms Karen Marie	Ballarat West	ALP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Pallas, Mr Timothy Hugh	Tarneit	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Pandazopoulos, Mr John	Dandenong	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Perera, Mr Jude	Cranbourne	ALP
Dixon, Mr Martin Francis	Nepean	LP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Duncan, Ms Joanne Therese	Macedon	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Eren, Mr John Hamdi	Lara	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
Graley, Ms Judith Ann	Narre Warren South	ALP	Scott, Mr Robin David	Preston	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Seitz, Mr George	Keilor	ALP
Haermeyer, Mr André	Kororoit	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Hardman, Mr Benedict Paul	Seymour	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Ryan	Warrandyte	LP
Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Tilley, Mr William John	Benambra	LP
Hudson, Mr Robert John	Bentleigh	ALP	Thwaites, Mr Johnstone William	Albert Park	ALP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kosky, Ms Lynne Janice	Altona	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Weller, Mr Paul	Rodney	Nats
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Lim, Mr Muy Hong	Clayton	ALP	Wynne, Mr Richard William	Richmond	ALP

CONTENTS

THURSDAY, 21 JUNE 2007

Thursday, 21 June 2007

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.33 a.m. and read the prayer.

NOTICES OF MOTION

Notices of motion given.

Mr CRISP commenced giving notice of motion:

The SPEAKER — Order! The clerks have not received a copy of the member for Mildura's notice of motion.

Further notices of motion given.

PETITION

Following petition presented to house:

Nuclear energy: federal policy

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the commonwealth government's promotion of a nuclear industry in Australia, and the strong likelihood that Victoria will be selected as a site for the construction of a nuclear power facility.

The petitioners therefore request that the Legislative Assembly of Victoria reaffirm the opposition of the Victorian government to the creation of a nuclear industry in Victoria, including the construction of a nuclear power plant.

By Dr HARKNESS (Frankston) (15 signatures)

Tabled.

Ordered that petition be considered next day on motion of Dr HARKNESS (Frankston).

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Victorian Auditor-General's Office: performance audit

Mr STENSHOLT (Burwood) presented report on appointment of person to conduct performance audit, together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Auditor-General:

Contracting and Tendering Practices in Selected Agencies — Ordered to be printed

Managing Risk Across the Public Sector: Toward Good Practice — Ordered to be printed

Members of Parliament (Register of Interests) Act 1978 — Summary of Variations Notified between 27 February 2007 and 20 June 2007 — Ordered to be printed

Parliamentary Committees Act 2003 — Government response to the Economic Development Committee's Inquiry into the Viability of the Victorian Thoroughbred and Standardbred Breeding Industries

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

Glenelg — C30

Manningham — C61

Melton — C54

Moorabool — C30

Moyne — C28

Pyrenees — C10

Subordinate Legislation Act 1994:

Minister's exception certificate in relation to Statutory Rule 47

Minister's exemption certificate in relation to Statutory Rule 50.

VICTORIAN AUDITOR-GENERAL'S OFFICE

Performance audit

Mr BATCHELOR (Minister for Victorian Communities) — I move:

That under section 19 of the Audit Act 1994 —

1. Mr John Phillips of Acumen Alliance be appointed to conduct the performance audit of the Victorian Auditor-General's Office;

2. The level of remuneration for the performance audit be $199 500, exclusive of GST, plus a 2 per cent administration levy; and

3. The terms and conditions of the appointment and payment of remuneration will be in accordance with appendix 2 of the report of the Public Accounts and Estimates Committee on the appointment of a person to conduct the performance audit of the Victorian

Auditor-General's Office (parliamentary paper no. 23, session 2006–07).

I understand that members of the Public Accounts and Estimates Committee will make contributions to the debate on the motion. I am assured by them that on this occasion the text of the motion meets the recommendation contained in the committee's report, which was just tabled. Having had just a few seconds to scrutinise the report, it clearly appears that it meets the general parameters of the recommendation on page 12. I am happy to move this motion on behalf of the Parliament.

Mr WELLS (Scoresby) — The Liberal Party supports the motion. I am sure I heard the Leader of the House say '$199 500, exclusive of GST'. That's great!

The committee has a number of statutory responsibilities in relation to the office of the Auditor-General. It is required to recommend the appointment of the Auditor-General and the independent performance and financial auditors to review the Victorian Auditor-General's Office. That is what we are doing this morning. Pursuant to section 19 of the Audit Act 1994 the performance audit is to take place once every three years.

The report of the performance audit should specify the performance measures and benchmarks, both qualitative and quantitative, against which the Victorian Auditor-General's Office has been measured and assessed. It should provide an opinion on the compliance of the Victorian Auditor-General's Office with Australian auditing and accounting standards; detail conclusions and include clear recommendations capable of implementation to effect improvement where deemed possible or desirable; and provide an overall opinion as to whether the Victorian Auditor-General's Office is achieving its objectives effectively, economically, efficiently and in compliance with the Audit Act 1994, as amended.

As the Leader of the House has outlined, in accordance with appendix 2, Mr John Phillips of Acumen Alliance will conduct the performance audit. The level of remuneration for the performance audit will be $199 500, exclusive of GST, plus a 2 per cent administration levy, and that administration levy and how it should be administered is outlined in appendix 2.

Dr SYKES (Benalla) — The Nationals are happy and keen to support the appointment of a performance auditor, because the work of the Auditor-General is an absolutely vital part of holding the government of the day accountable.

We have had a number of reports tabled in recent days in the Parliament. One that members may be aware of relates to the administration of non-judicial functions of the Magistrates Court in Victoria. Interestingly, particularly in light of the violence in the city earlier this week, there is a major issue about the detection of weapons on people attending the courts. Weapons are detected on something like 9 per cent of people searched. Unfortunately not all courts are adequately supervised. Particularly some of the country ones do not have adequate security, so the work of the Auditor-General is very important.

It is disappointing that members of this Parliament do not support the Auditor-General's office to the degree it should be supported. Over the last few days reports have been tabled, and yesterday when the reports were presented in the Parliament for discussion amongst members there were three members present: none from the government side, myself from The Nationals and members of the Liberal Party. There was no-one from the government paying attention to the excellent work being done by the Auditor-General's office. If we look at the audits to come from the Auditor-General's office, we see an excellent audit relating to maintaining the state regional arterial road network, which the Minister for Roads and Ports would be interested in, because if you fix country roads, you save country lives. There will also be one on the Southern Cross station, which again is of vital interest to country Victorians.

Another one of particular interest to country Victorians, and very topical this week, is an audit of the renewal and extension of water infrastructure. I have to say that country Victorians are just a fraction concerned that the recent announcements are going to see a north–south pipeline constructed, the first 75 gigalitres being taken to Melbourne and then the government doing a runner and breaking yet another promise.

Honourable members interjecting.

Dr SYKES — It is possible. It does have a track record.

The SPEAKER — Order! The member for Benalla needs to address his comments to the appointment of the performance auditor for the Auditor-General's office.

Dr SYKES — Thank you, Speaker, for the guidance. As I have said, we need to have the performance of the Auditor-General monitored, because the Auditor-General monitors the performance of the government, and we certainly need the

performance of the government monitored, and we need to ensure that — —

The SPEAKER — Order! I remind the member that we are talking about the appointment of the performance auditor for the Auditor-General's office, not the role of the Auditor-General's office. I ask the member to come back to the point.

Dr SYKES — It is absolutely vital that we have a capable performance auditor to ensure that the role of the Auditor-General is carried out correctly. With those few remarks, and thanking you for your guidance, Speaker, I indicate that The Nationals strongly support this appointment.

Mr STENSHOLT (Burwood) — I rise to support the motion by the Leader of the House to appoint an auditor to conduct a performance audit of the Victorian Auditor-General's office. Performance audits of the Auditor-General's office occur every three years under the act. The last audit was a comprehensive one undertaken by John Phillips of Acumen Alliance. This independent report was well regarded by the Public Accounts and Estimates Committee (PAEC) when it examined the report last year. That audit raised some serious issues about the operation of the Auditor-General's office. The then committee produced its own report, which made some significant recommendations.

The Public Accounts and Estimates Committee decided that given the nature of the last report it would once again seek a comprehensive performance audit. The terms of reference for this audit are similar to those in 2004, with the addition of a requirement set out at page 9 under section 2.4 of the report headed 'Directions'. Section 2.4.2.(b) deals with the adequacy of corporate and business plans in promoting internal effectiveness and efficiency over the next three to five years.

Submissions were sought via tender, and five tenders were received, as can be seen in the report of the committee. I thank those involved in the assessment of the tenders — Mr Peter Lochert, director, organisation development and finance, Department of Parliamentary Services, and Mr Mark Roberts, manager of the joint committee administration office, who assisted me in analysing the tenders. I also thank members of the audit subcommittee of PAEC.

I commend the motion to the house.

Motion agreed to.

Ordered that message be sent to Council seeking agreement with resolution.

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Victorian Communities) — I move:

> That the house, at its rising, adjourn until Tuesday, 17 July 2007.

Motion agreed to.

MEMBERS STATEMENTS

Glen Orden Primary School: reading challenge

Mr PALLAS (Minister for Roads and Ports) — I recently had the privilege of visiting students at Glen Orden Primary School who have taken up the Premier's reading challenge. It was with great pleasure that I met year 3 students at the school alongside respected western suburbs resident and children's author, Andy Griffiths. The students spoke about the exciting stories they were reading and how literature can help to inspire everyday activities while providing fun and excitement. The challenge asks students from prep to year 2 to read or experience over 30 books, and students from year 3 to year 9 are asked to read 15 books by 31 August.

Andy Griffiths is one of 18 ambassadors supporting and lending their names to this challenge. I donated five of this author's timeless classics to the school's library, including my personal favourite, *Zombie Bums from Uranus*. I was amazed at Mr Griffiths's skill in relating to the students, the animation and excitement he generated with his jokes and his ability to inspire the students' imagination so they can construct their own stories.

The program is now in its third year, with more than 183 000 students and 1367 schools having registered for this year's challenge. The Premier's reading challenge is an excellent opportunity for parents and teachers to encourage children to discover literature and find enjoyment in reading. I hope the students will get great pleasure from reading their books and the amusement of reading will continue throughout their lives. I thank Glen Orden Primary School for providing an entertaining afternoon.

Water: desalination plant

Mr K. SMITH (Bass) — I am appalled at how the Bracks Labor government, which promised to be open and accountable, could have stuffed up such a great opportunity to put a major infrastructure project in an

area with a minimum of fuss and a maximum of support.

The $3.1 billion desalination project was dropped on the people of Wonthaggi on Tuesday morning this week with absolutely no — I repeat, no — consultation with the local community, the local council, the local member or local landowners. On Tuesday morning, before the official announcement, the chairman and senior officers from Melbourne Water visited a number of farms in the proposed area and gave to a group of landowners the bad news that their land may be used for the desalination plant. Their lives, their investments, their futures have been thrown into utter turmoil by this announcement.

These people needed information and certainty, and they got nothing. It is okay for the Premier and the snow bunny to be down in Wonthaggi yesterday and in previous months for them to prepare television and newspaper propaganda hoping to pick up a few cheap votes, but now that the government has made this announcement in Wonthaggi it has backfired on the Premier and he will rue the day he decided not to consult with the local community in Bass Coast.

National Celtic Festival

Ms NEVILLE (Minister for Mental Health) — Once again this year Portarlington has hosted the increasingly popular National Celtic Festival. This is the fifth time the festival has been held in Portarlington, and it is an event that provides a weekend of entertainment and an opportunity for people to celebrate and enjoy Celtic culture. Once again it was a great pleasure for me to be involved as a volunteer, welcoming visitors and catching up with lots of Bellarine residents.

The festival has become one of the fastest growing arts festivals in Victoria. This year performers included local, interstate and overseas artists and musicians. There is strong support in Bellarine for the festival with many local residents attending and volunteering their time. The local wineries, hotels, cafes and restaurants provide excellent venues for visitors to enjoy the region's finest produce and warm hospitality. Visitors come from across Victoria and interstate to enjoy the music, dancing, theatre and the literary program, and, of course, the beauty of the Bellarine Peninsula.

The festival attracts people of all ages and children are well catered for with a special kids program. This year it included ukulele workshops, kids concerts, Celtic dancing for kids, and a family Irish dance workshop. Congratulations to the festival director, Una McAlinden, the festival executive committee, the support teams and general committee for their hard work and commitment. Their efforts, the support of the sponsors, including the Bracks government, and the quality of the performances resulted in another wonderfully successful and enjoyable National Celtic festival.

Water: north–south pipeline

Mr RYAN (Leader of The Nationals) — The Labor government should abandon its flawed proposal to build the north–south pipeline to take water from the Goulburn Valley to Melbourne. It should make the improvements in the Goulburn system, but it should do them for the right reasons, and the right reason does not include taking 75 gigalitres of water — even more water — away from country Victoria to feed Melbourne's insatiable thirst. Apart from anything else the minister driving this, the Minister for Regional and Rural Development, promised the people of country Victoria, particularly the Victorian Farmers Federation, that there would be no progress on this announcement without the federation giving it a tick prior to giving its approval. And yet within about 30 minutes of having telephoned the VFF hierarchy the Premier and the minister had gone out and made the announcement that this proposal would take place.

This has been a disgraceful process. The fact is that irrigators in the Goulburn system do not want this to happen. As we speak, they are at the VFF conference. I will tell you now, Speaker, if that debate reflects the commentary that I have heard from members over the last two days of the conference, there will be a strong point of view taken against what the government plans to do in relation to the Goulburn Valley. These people understand that the future of their region is bound up with that great asset and access to its water, and the fact of the matter is that what this government wants to do is take that water and flush it down Melbourne's toilets.

Schools: Mordialloc debutante ball

Ms MUNT (Mordialloc) — On Saturday, 9 June, I was very pleased to attend the School Deb Company's debutante ball, and I would like to congratulate the debutantes and their partners for making their debut. They include Laura Soding, Rachael Evans, Stephanie Mitchell, Matilda Coppard, Kristin Lagos, Belinda Gilmore, Jennifer Taranto, Sarsha Peck, Tahlia Greenwood, Jade Vidotto, Lauren Armes, Nikkie Beard, Hayley Dearie, Elyshia Evans-Holt, Pru Taylor, Cassandra Jakubowska, Sophie McGuiness, Katie Amott, Elise Lindley, Sam Podnar, Stephanie Milburn, Holly Matterson, Caitlin Prosser, Alice Mackinnon,

Steph Downie, Yen Hoang, Jessica Edwards, Eliza Rugg, Kate Burns, Georgia Goodchild, Tegan Willis, Hannah Power, Megan Sands, Kim Whitfield, Rebecca Downie, Brianna Robinson, Melissa Wallace, Mikaela Park, Catherine Carvalho, Stephanie Doran, Sophie Tant, Krystyna Dudek, Toni Louise, Kristie Meyer, Kimberley Boeing and Rebecca Macinnes, and their partners.

The debutantes wore beautiful gowns and they danced beautifully. Congratulations to their parents and to all who taught them to dance and put them together so beautifully. It was a wonderful evening. I always attend those evenings, and I was privileged to be part of their wonderful debutante ball. They did a wonderful job and I hope they had a lovely time.

Housing: disruptive tenants

Mr WAKELING (Ferntree Gully) — I wish to raise a matter of grave concern with the Minister for Housing. I call upon the minister to act to ensure that the Office of Housing responds to the concerns of my constituents. On 26 April R & R Body Corporate, which manages a four-unit complex in my electorate, phoned and wrote to the Ringwood Office of Housing to raise concerns about the antisocial behaviour of the Office of Housing tenants in unit 1. Allegedly these residents leave discarded furniture and garbage in the common driveway, regularly consume alcohol and argue into the evening, and are allegedly involved in drug activity. Despite the request of the body corporate, nearly two months later the Office of Housing has not responded to its concerns. I call upon the minister to intervene and resolve this issue.

Youth: Ferntree Gully electorate facilities

Mr WAKELING — I raise a matter of concern with the Minister for Sport, Recreation and Youth Affairs regarding the accessibility of youth facilities in the Rowville and Lysterfield communities. Many parents throughout these communities complain about a lack of easily accessible facilities for their children. The Rowville Salvation Army has established a mobile youth facility which provides a range of leisure and sporting activities for young people in my electorate.

However, the Salvation Army has identified a need to establish a larger mobile facility, such as a bus, that would meet a greater range of community needs. Such a facility would be able to travel around and therefore provide services to many more young people in my electorate, not just a geographically smaller group as it would if a building were constructed. The Salvation Army has developed a similar project in inner Melbourne, and I call upon the government to work with the Salvation Army to deliver improved youth facilities in my electorate.

Hospitals: rural enhancement package

Mr INGRAM (Gippsland East) — I rise to raise an issue of great concern to my constituents and to people across rural Victoria. I have received information that the rural enhancement package which funds GPs on call at a number of regional hospitals will be cut back in places like Bairnsdale, Echuca, Swan Hill and Horsham. This package assists hospitals to fund those on-call doctors. This is on top of the failure of the government to address ambulance transfer costs for hospitals like Bairnsdale, which were well over $1 million for that hospital. If you combine this with the issues raised in the Auditor-General's report entitled *Public Hospital Financial Performance and Sustainability*, which highlights that several significant indicators of continuing financial challenge remain in many hospitals, it is clear that this issue must be addressed.

The government must make sure that sufficient funds are available to these hospitals to ensure that on-call doctors are available for general anaesthetics and operations. The GPs significantly enhance the performance of these hospitals, and the hospitals must be able to maintain funding in those areas. The government must address these issues when it conducts its review later this year and provide funding.

Rail: Geelong–Melbourne line anniversary

Mr EREN (Lara) — This weekend marks the 150th anniversary of the official opening of the Geelong–Melbourne railway on 25 June 1857. This is not only a significant event for train enthusiasts but also marks an event which ensured the economic viability of colonial Geelong as a regional centre through an important transport project. This is something the Bracks government continues to do today with projects such as the ring-road and the works at Avalon Airport. Back in 1857 the original railway was built and operated by a private enterprise, the Geelong and Melbourne Railway Company. At 64 kilometres it was the first long-distance country railway in Australia and equalled the combined length of all other railways in the country.

There are several events happening over the weekend to commemorate the event, thanks to the hard work of the Geelong Rail 150 committee, which includes Michael Menzies and Ferg Hamilton. A special steam train ride from Newport to Geelong will take place this Sunday. I

look forward to travelling on this train with the Minister for Public Transport, and I urge others who are interested to get along to some of the events, including a special exhibition at the Geelong Gallery. They will definitely be worth a look.

Schools: Free Fruit Friday program

Mr R. SMITH (Warrandyte) — I rise to speak on the government's much-trumpeted program, Free Fruit Friday. This initiative was part of the government's pre-election policy. It was launched by the Premier in December last year, announced by the Treasurer in the budget, announced again by the Minister for Education in another place and further announced by the Minister for Skills, Education Services and Employment. This government certainly does not like missing an opportunity to make an announcement: everyone wants to have a go! I have visited most of the primary schools in my electorate over the past month. Many of the school principals are not even aware of when this program will be implemented, let alone further details of the program.

You would think that while making 101 announcements to the general public about this program, the government would at least make sure that the principals of our schools are aware of the program's details. Even the few principals who are aware of the start date are under the impression that the government will coordinate and administer the program. Imagine their surprise to discover that, according to Labor's election policy documents, it will be up to the principal to order, pick up and distribute the fruit. As if our principals do not have enough to do because of the severe lack of funding they receive from this government, on top of the ad hoc plumbing, mowing lawns and painting they will now have to get themselves down to the local greengrocer with a shopping bag first thing on Friday mornings and buy fruit for 50-odd children.

This government loves announcements but hates taking on responsibility. It is about time this government stopped loading up our principals with endless tasks and actually lent them a hand.

Sport: Moreland soccer clubs

Mr CARLI (Brunswick) — In periods of adversity communities pull together, and that is exactly what has been happening in Moreland amongst the 12 soccer clubs in the area. Those clubs have now established the Moreland football forum. Over the summer only four soccer pitches were being watered, and basically a number of clubs did not have any facilities, any grounds or any training areas. The teams and the clubs came together and started to share grounds and support each other in a period of adversity. They are also providing a unified voice to deal with the council to ensure that next season there is a contingency plan for watering that will sustain the various clubs.

The clubs are numerous: there are 12 in the Moreland area. I did a little estimate and found that there are 149 teams, with something around 2500 players; the vast majority are juniors; women and girls are the fastest growing component, which is growing at an exponential rate; and there is also all the growth that followed the World Cup and the success of the Socceroos. The 12 clubs have set aside their sporting rivalries to work together in a common cause. They are working together in a time of adversity to ensure the viability and sustainability of world football in the Moreland area. I congratulate all 12 clubs for their willingness to work together.

Kaye Gauci, Gordon Nolte and Maybelle Briggs

Ms CAMPBELL (Pascoe Vale) — I pay tribute to three outstanding teachers from schools in my electorate of Pascoe Vale. Kaye Gauci, after 47 years of service as a teacher, is to retire at the end of this school term. Kaye, the principal of Glenroy West Primary School, will leave there after 24 years. Her outstanding commitment and dedication are to be loudly applauded.

Also from Glenroy West Primary School, Gordon Nolte, the assistant principal, will retire on 29 June. Gordon has been an educator for 35 years, teaching at Glenroy West for the past 14 years and acclaimed around the school community for his work in the maintenance and infrastructure of the school. Gordon and Kaye have made a great leadership team, not just contributing in the classroom but leading the whole school community, their families and wonderful students.

Maybelle Briggs, a teacher of 36 years, has also retired. Maybelle taught at Pascoe Vale Primary School for the last 16 years and will be missed immensely. An inspiring teacher and a great organiser, Maybelle also taught soccer, softball, T-ball and rounders. She also coordinated the swimming program. Maybelle's positive attitude and belief in every student's ability to achieve has impacted on the many hundreds of students in her care. In a letter to parents the principal, Philip Elliott, described Maybelle as a great role model for other staff at Pascoe Vale.

To them all I say, 'Congratulations and thanks'.

Rail: service standards

Mr HODGETT (Kilsyth) — All members of this place will recall what can only be remembered as the train-braking crisis in January. The Minister for Public Transport had been moved into the portfolio and, like a damsel in distress tied to the train tracks, she managed only by the skin of her teeth not to derail the entire metropolitan public transport network. Then in February the minister, hell-bent on destroying herself, decided she was no longer worried about the genuine concerns of the Victorian public and sent out a message instructing her Labor colleagues to cease and desist from sending her complaints about our train, tram and bus network. But the minister should have read one of the emails that appeared in her inbox — a message that was carbon-copied to both myself and the minister's boss, the Premier.

Mr Adrian Tobin, an engineer from Mooroolbark, wrote to the minister on 23 February raising his concerns about Connex disabling the computerised braking system on its trains and suggesting how the Siemens trains could be fixed. He received no response. Mr Tobin had been hired by Labor as a consultant to the then Public Transport Corporation in the late 1980s when the Comeng trains were introduced. Back then he spent hours underneath those trains trying to work out why the trains were breaking down in the loop — a problem later found to be a failure of the traction control system, a system introduced on the cheap by the same party in power today. I forwarded Mr Tobin's concerns to Minister Kosky on 23 April. I received no response. Mr Tobin wrote again to the minister on 22 May. He did not receive a response.

What does the minister do if she cannot even respond to letters? We all know she has no hope of trying to fix the transport system and has obviously only been put there to warm the bench for someone the Premier may feel is more capable of the task closer to the next election. If the minister cannot run the public transport network and cannot respond to letters, then she is not up to the job and should resign.

Ashwood Secondary College: community garden

Mr STENSHOLT (Burwood) — The chooks are coming home to roost at Ashwood Secondary College, as I am delighted to announce a $10 000 grant towards the establishment of a community garden. This grant is part of a neighbourhood renewal community development program in Ashwood, Ashburton and Chadstone.

The proposed community garden at Ashwood Secondary College is the brainchild of local parent and horticulturalist Mariette Tuohey, of Ashburton. Her plan for a large-scale community permaculture garden at the college was adopted earlier this year by the school council. The proposed garden will include chooks to be housed in movable chook domes, vegie gardens and fruit trees. The community is indeed looking forward to getting out there, putting up the fence and building the chook domes. The produce will be used in the school canteen and classrooms, and school waste will be used to feed the chooks, which in turn will provide the manure for the gardens. The school stormwater will be mined and collected to water the garden. I think they are getting four tanks to save the water for the garden.

The whole concept is to involve the kids and the community in educational, environmental and nutritional outcomes. Along with the school community I look forward very much to seeing Mariette's dream realised in this permaculture garden over the next six months as they develop it, get the chooks in there and build the domes. I am sure it will be a great community project.

Water: north–south pipeline

Mrs POWELL (Shepparton) — On Tuesday, 19 June, the Bracks government broke yet another election promise. It had said that government policy was not to take water from north of the Great Dividing Range. Melbourne Labor now wants to build a pipeline to take 75 billion litres of water out of the Goulburn River to water parks and gardens in city homes. The Premier said that water should go where it is most needed. What does the government think will happen to the Goulburn Valley, the food bowl of Australia, when it has to rely on a reduced amount of water? When the pipeline to Melbourne is in place, Melbourne will have complete access to Goulburn Valley water.

The government has sat on its hands for years, doing very little during the worst drought on record to upgrade the Goulburn Valley's ageing, inefficient water infrastructure, and it is doing so now only because it wants our water for Melbourne. There are other options for Melbourne's water savings, such as recycling, harvesting stormwater and desalination. It does not need to take water from the Goulburn Valley but sees this is the easiest option.

The Bracks government has treated country people with contempt, saying it would consult and not make a final decision until there was more community support for the pipeline while all the time it was preparing a

million-dollar campaign of television advertisements, glossy brochures and costly newspaper advertising. This pipeline does not have the support of The Nationals or the Victorian Farmers Federation. I ask the government to upgrade our water infrastructure without taking our water in return.

Thornbury High School: achievements

Ms RICHARDSON (Northcote) — Each year the Victorian education excellence awards acknowledge outstanding achievements by teachers in our state schools. This year Paul Van Eeden, a media and English teacher at Thornbury High School, was awarded the prize for outstanding secondary teacher. Paul's ability to foster talent and embrace new mediums for student learning has seen him develop a variety of student-instigated projects. In particular, Paul has been recognised for his work in developing *ClassTV*, which appears on Channel 31.

ClassTV was established in September 2005 and has won many awards since. It runs for half an hour, with commercial ozTAM ratings of between 25 000 and 40 000 viewers weekly. Paul has set up a publication platform through *ClassTV* airing content made in schools across Melbourne. Seventy-two programs have aired, with the involvement of over 30 schools. The shows are hosted and edited by students in a year 9 and 10 media elective at Thornbury High School. *ClassTV* also provides special interest documentaries for Channel 31. It is also on the net at www.c31.org.au under the banner TV NOW! In terms of leading innovation, this means students potentially have a worldwide audience. *ClassTV* is a product of Thornbury High school, but it belongs to the whole Victorian school community.

For this work, Paul has won worthy recognition of his contribution to the Victorian school community and in particular to the students at Thornbury High School. I would like to congratulate him and the Thornbury High School students who have been integral to this success.

Preston South Primary School: artworks

Ms RICHARDSON — I would also like to thank grade 3 students at Preston South Primary School, whose artworks are currently proudly on display in my office window in Northcote. Working to the theme of 'Getting along with our friends', these students have created a street-stopper for passers-by and a reminder to all of the insight our children have on life.

Thomson River: flooding

Mr BLACKWOOD (Narracan) — Once again rural Victorians are suffering the consequences of a lack of regard by this Bracks Labor government. With the welcome rainfall in the Thomson catchment in the last 24 hours, farmers and communities along the Thomson River have been put at risk.

Not only have they had to deal with bushfire and drought; now they are at risk of flooding. It is six months since the fires devastated this part of my electorate in Gippsland. The weather bureau failed to issue a minor flood warning for the Thomson River despite the trigger level for minor flooding upstream of Cowwarr Weir being exceeded this week. It was significantly hampered by what I understand is a blockage at the flood warning gauge on the river at Coopers Creek of ash-laden silt from the bushfires. Additionally, I understand that Melbourne Water has been made well aware of this blockage and no action has been taken, placing farmers at risk of not being warned of flooding.

The Bracks government has been very quick to lay its hands on Gippsland's water for Melbourne, but when it comes to protecting rural communities against natural disaster Gippsland does not hit the radar.

Kate Freeman

Ms MORAND (Mount Waverley) — I recently received a letter from a very committed and enterprising grade 4 student at Mount Waverley North Primary School. Kate Freeman wrote to me about the use of unnecessary cleaning products in the home. Kate's letter was prompted by a visit to CERES, the Centre for Education and Research in Environmental Strategies in Brunswick. As a result of that visit and learning about the dangers of cleaning products and the pollutant effects of cleaning products, Kate is keen to spread the word about cleaning alternatives such as bicarbonate of soda, vinegar and lemon juice. Kate has asked me to raise and discuss the issue with colleagues and, in raising the issue today, I hope other members will join me in encouraging awareness of non-polluting alternatives for cleaning around the home.

Organisations such as CERES provide a great educational role and example in encouraging sustainable practice around the home. CERES is a very well-known and loved institution in Melbourne and is a great community environment project which fosters awareness on environmental and social issues. CERES plays an important role in environmental education through school programs for students of all ages, which

is evidenced by the recent visit by Mount Waverley North Primary School. The Bracks government provides a range of programs and information on sustainable practices around the home, including grey-water recycling. Kate Freeman's visit has obviously created a new young environmental warrior. I congratulate Kate for taking the time to write to me in her effort to raise awareness of this important issue.

Drugs: government performance

Ms WOOLDRIDGE (Doncaster) — I rise to condemn the government in this Drug Action Week for being missing in action on drugs. Let us look at the government's record.

In February Labor said it was acting on ice, but the announcement was six years late. It took $14 million from some still-needed heroin programs, and in the budget only $1 million worth of actual programs were announced. On alcohol, in 2002 the then Minister for Health, now the Minister for Water, Environment and Climate Change, said there was an action plan being developed. In 2004 the current Minister for Health said the plan was nearly complete. Then in 2006 the government said, 'We are nearly there'. Yet here we are in the middle of 2007, five years on, and there is still no alcohol action plan. On marijuana, ice pipes are banned, cocaine kits are banned, but Labor holds the backward view that cannabis is soft and lets bongs be sold freely on our streets.

The Premier's Drug Prevention Council has now been moribund for nearly three months. There is no action on ice, no action on alcohol, no action on cannabis and no expert committee to advise the government. Finally, in this year's budget, to show that Labor is not serious about acting on drug abuse, it decreased the budget for drugs by 8 per cent. Labor says in its drugs blueprint that there is more demand. Labor says there is more complexity. And Labor's solution? Less money and no action. Labor needs to get the hint. It is Drug Action Week, so let us finally see some action from the government on drugs.

Belmont: business awards

Mr CRUTCHFIELD (South Barwon) — On Monday, 4 June, at the Grovedale Hotel I attended the Belmont business awards run by the Rotary Club of Belmont. These awards, sponsored by the *Geelong Independent*, focus on businesses in Belmont and was started last year by the Belmont Rotary club. The awards this year attracted nearly 100 nominations from the public for employees in over 300 businesses in Belmont. Representatives of the 13 short-listed businesses attended these awards. These business were: Belmont Hardware, Blu Living, Bus Stop Cafe, Coffee by Design, Insight Nutrition, Kala Wellness, Kalkee Op Shop, Kayser Cafe, On Stage, Panache, Patsy's Place, Village Tattslotto and Yummy Mummy.

There were two major awards. The personality award, named after the late Brian 'Tarz' Taylor, presented by the mayor of Greater Geelong City Council, Bruce Harwood, was won by Claire Barnes, who runs Insight Nutrition. The customer service award presented by me was won by Natalie Faulmann, the proprietor of the giftware shop Blu Living. Belmont Hardware, Coffee by Design, Kala Wellness, Patsy's Place and Yummy Mummy were all short-listed and received presentations from the president of the Belmont Rotary club, Cam Cuthbertson. I congratulate Belmont Rotary, the *Geelong Independent*, the Belmont Business Association and the organiser of the night, Bill Hall. May these awards continue to grow in reputation.

King Street and Templestowe Road, Templestowe: upgrade

Mr KOTSIRAS (Bulleen) — I condemn this lazy, inept and incompetent Labor government for doing nothing for the electorate of Bulleen. I have raised this issue on numerous occasions. I have asked this government to provide some funding for King Street and for Templestowe Road. Apart from the member for Doncaster, who is very supportive of this project, government members, the Labor upper house members and the minister are refusing to support the provision of a single cent for the complete upgrade of King Street and Templestowe Road. After eight dark years it is a shame, and it is about time this work was done.

It does not matter how many times we raise the issue, it does not matter how many times the council speaks to the government and it does not matter how many times the residents talk to the government, Labor refuses to listen and is unable to provide any money. It is appalling that the government just looks after its mates — Labor mates and Labor hacks — and refuses to look after the interests of residents in Manningham. If it were not for my good work and the good work of the very good member for Doncaster, the residents would continue to receive nothing at all under this lazy government.

Casey: community volunteer awards

Ms GRALEY (Narre Warren South) — Too often acts of kindness are not acknowledged, so two special acts of appreciation that I was glad to be present at deserve to be praised. The Casey community volunteer

awards for 2007 formally recognise the value that the local community places on volunteering and celebrates some of the outstanding efforts of individuals and organisations. This year there was a record number of nominations.

In the innovation category 20 groups were nominated, with the award being won by two of my favourite groups, the Casey North Community Information and Support Service and the Cranbourne Information and Support Service and its project, the Casey no-interest loan scheme. The no-interest loan scheme is run by trained volunteer loan officers, who provide an accessible source of credit to low-income earners to buy household goods. Stanley Birkett, Helen Jones, Una McGuire and Julie Jones all help out under the enthusiastic guidance of Sue Naden Magee and Leanne Petrides. They thoroughly deserve their award, as they do a demanding job.

The ACTING SPEAKER (Mr Ingram) — Order! The member's time has expired, and the time for statements by members has expired.

PLANNING AND ENVIRONMENT AMENDMENT BILL

Statement of compatibility

Ms NEVILLE (Minister for Mental Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Planning and Environment Amendment Bill 2007.

In my opinion, the Planning and Environment Amendment Bill 2007 as introduced in the Legislative Assembly is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill makes procedural changes to facilitate operation of the Planning and Environment Act 1987, Transfer of Land Act 1958 and the Subdivision Act 1988.

Human rights issues

1. ***Human rights protected by the charter that are relevant to the bill***

Privacy

The bill changes the Planning and Environment Act 1987 requirement that the planning register be kept in a prescribed form to a requirement that it include prescribed information.

The existing form of the register includes the name and address of the applicant for a permit. The change to the act facilitates a review of the content of the register to take account of current privacy standards. This will be done in developing the new regulations prescribing the content of the register. The bill does not authorise any recording or publication of private information, beyond what is already authorised under the act.

Other human rights

Other human rights are not affected by the provisions of this bill.

2. ***Consideration of reasonable limitations — section 7(2)***

No provisions of the bill limit or restrict human rights.

Conclusion

The bill does not adversely affect human rights.

JOHN THWAITES, MP
Minister for Water, Environment and Climate Change

Second reading

Ms NEVILLE (Minister for Mental Health) — I move:

That this bill be now read a second time.

In 2006, the then Parliamentary Secretary for Environment, Elaine Carbines, conducted wide-ranging consultation to improve the operation of the planning system. Ms Carbines produced an excellent report, *Cutting Red Tape in Planning*, making recommendations for a program to improve the operation of the planning system. Many of these are procedural, while the implementation of others requires legislative change.

Good progress has been made implementing the procedural changes, with 15 major milestones completed. I will outline a few of the highlights so far.

The government has introduced a faster process for planning scheme amendments that removes unnecessary controls and has imposed tough performance targets on the Department of Sustainability and Environment for processing planning scheme amendments. These are 15 days for authorisation and 30 days for approval of planning scheme amendments. At the same time the authority of DSE regional directors has been increased to assist them in achieving these targets. The certainty provided by this initiative has been welcomed by all users of the planning system.

Municipal councils have taken up the offer to strengthen and clarify their local planning policies. A council can now ask an expert team to assist it in

improving existing local policies so that they are clear, concise and unambiguous. This is a service the government is providing at no cost to councils.

The government previously amended planning schemes to take about 4000 planning permit applications each year out of the system by removing the need for planning approvals for a range of minor matters. The government is looking at further changes this year to take more applications out of the system — 3000 has been suggested, but the precise number will depend on the nature of the changes. The Department of Sustainability and Environment will shortly be testing some of the proposed exemptions with local government.

Trials have been completed of a simpler process for assessing straightforward planning applications. This new approach will save time and resources for both applicants and councils. We are working on the detailed processes to implement this new approach in the system.

An expert working group has been appointed to examine ways to improve the effectiveness of local policy. It is pleasing that local government has made a positive contribution to this project, both through the working group and through submissions.

Cutting Red Tape in Planning recommended an update of planning fees. Background research to provide the foundation for a revised system of planning application and amendment fees is under way, and advice on the information requirements to support a new fees system to be implemented through new regulations is expected to be available shortly.

This legislation is another step in the government's ongoing program to improve and streamline the operation of the planning system. This bill implements specific changes which can be made without delay.

That is the big picture. I turn now to the detail of the bill before the house.

Clauses 1 and 2 are the usual bill machinery provisions. Most provisions can commence immediately, but the provision about the form of the planning register needs to be linked to the development of appropriate regulations.

Clause 3 updates provisions of the act to reflect current administrative arrangements.

Clauses 4, 5 and 6 work together to clarify the general responsibilities of a municipal council as a planning authority within its district. It is appropriate that each municipal council has the role of a planning authority in relation to a planning scheme for its own municipal district. Municipal councils and other authorities will continue to require the minister's authorisation before preparing a planning scheme amendment. This bill clarifies and confirms the ongoing, general role of a council as a planning authority within its municipal district.

Clauses 7 and 8 change the planning scheme review cycle from three to four years. This aligns with the four-year review cycle for council plans required by the Local Government Act 1989. The requirement for consistency between the municipal strategic statement in the planning scheme, and the council plan are also updated. This is a common-sense amendment that will assist councils in coordinating these important local government functions.

Clause 9 facilitates the use of current technology to keep the planning register — the prescribed form assumes a register book. The review of the regulations to implement this will be made in consultation with the privacy commissioner, to ensure that any personal information is handled in a way that is consistent with privacy principles.

Clause 10 repeals a redundant power for the liquor licensing commission to apply to the tribunal for review of decisions relating to liquor outlets. The section relates to legislative provisions that have since been repealed, and the principle of the power is no longer required.

Clauses 11, 12, 13 and 14 provide for a straightforward procedure to ensure that those with permits issued at the direction of the Victorian Civil and Administrative Tribunal are able to amend or cancel those permits. Existing act provisions for the tribunal to cancel or amend permits are subject to restrictions and safeguards designed to protect the interests of the owner, occupier or developer of the land affected. These are inappropriate if the person requesting the amendment or cancellation is the permit-holder. These provisions create a new mechanism for people to seek amendments or cancellation of permits authorising their own projects, in a way that is sensible and straightforward.

Clause 15 relates to the costs and expenses of panels appointed under the act. The act now provides to the effect that a planning authority must pay the fees and allowances of panel members unless the minister otherwise directs. The department provides the essential basic administrative system for arranging panels, but also incurs costs specific to particular panels. Clause 15

provides a head of power to enable these amounts to be charged to planning authorities. The result will be a cost-recovery mechanism similar to that applying to advisory committees established under part 7 of the act, and to inquiries under the Environmental Effects Act 1978.

Clause 16 updates and clarifies regulation-making powers under the Planning and Environment Act 1987.

Clause 17 inserts a transitional provision to clarify that an authorisation to a municipal council to prepare an amendment to a planning scheme, given under the existing act provisions, will apply under the new provisions as inserted by clause 4.

Clauses 18 and 19 facilitate operation of another part of the land administration system. It amends the Transfer of Land Act 1958 to authorise electronic provision of the forms for registering land transactions. Forms will now be available electronically via the internet.

Clauses 20, 21 and 22 provide for minor changes to the Subdivision Act 1988 — to clarify that rights of review of plans include review of an engineering plan associated with land development, and to update appeal and review terminology in the act.

Clause 23 provides that the amending act is repealed on 1 September 2009. As suggested by the Scrutiny of Acts and Regulations Committee, all amending acts now contain an automatic repeal provision, which will save the time and expense of having to repeal amending acts in statute law revision bills. This repeal will not affect in any way the operation of the amendments made by this bill.

The changes proposed in this bill are technical in nature. However these changes form part of an ongoing improvement program, and as such are important to the efficient operation of the planning system.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 5 July.

SUMMARY OFFENCES AMENDMENT (UPSKIRTING) BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, I make this statement of compatibility with respect to the Summary Offences Amendment (Upskirting) Bill 2007.

In my opinion, the Summary Offences Amendment (Upskirting) Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

Clause 3 of the bill inserts a new division 4A in part 1 of the Summary Offences Act 1966. In summary, the bill:

makes it an offence to use an aid or device (such as a mirror or drilling a hole in a wall) to deliberately observe another person's genital or anal region (intimate body parts) in circumstances where it is reasonable for the other person to expect such observation could not otherwise be undertaken;

makes it an offence to visually capture (such as photograph or film) another person's intimate body parts in circumstances where it is reasonable for the other person to expect such a visual image could not be made;

makes it an offence to distribute (for example by sending, supplying or transmitting) a visual image made of another person's intimate body parts, without their consent to any distribution;

provides that where the subject of the visual image is incapable of giving consent, or is a child, that visual image can only be distributed in circumstances in which a reasonable person would regard the distribution as acceptable. However, the bill does not purport to interfere or replace current child pornography laws. A note is contained in the bill that the Crimes Act 1958 sets out current child pornography laws;

confers power to issue a search warrant in respect of an alleged visual capture or distribution offence.

Human rights issues

There are four human rights protected by the charter that are relevant to the bill. Each of the four rights together with the relevant new section(s) are outlined below.

1. Section 13(a) — right to privacy

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

There are four new sections that arguably engage this charter right. Two of these new sections actually enhance, and do not

limit, the right. The third and fourth new sections engage the right to privacy and the right to correspond. However, the rights are not unlawfully or arbitrarily interfered with, and the sections do not limit these rights. These are explained below.

New sections 41B and 41C

New sections 41B and 41C prohibit the observation or visual capturing of another person's intimate body parts, in circumstances in which there is a reasonable expectation this region could not be observed and where there is no express or implied consent to do so. These provisions arguably enhance (and do not limit) the right of an individual not to have their privacy interfered with.

New section 41D

This new section prohibits the distribution of any visual images made of another person's intimate body parts, where the subject of the visual image has not consented to any distribution. This provision arguably engages and limits a person's right to correspond.

This aspect of the charter right provides a person has the right not to have correspondence arbitrarily or unlawfully interfered with.

Unlawful interference

The bill defines distribution to include communicating, sending or supplying. The bill prohibits the distribution of visual images of another person's intimate body parts. There are certain listed exceptions, such as with consent of the person being visually captured. Any 'interference' with correspondence is therefore permitted by the bill and the interference with correspondence is precise and circumscribed and in accordance with law.

Arbitrary interference

In providing clear parameters around the prohibition on distribution of visual images, with suitable safeguards in the form of exceptions to the offence where there is implied or express consent by the subject to any form of distribution, the bill ensures that any interference with correspondence will be reasonable in the particular circumstances. Any 'interference' with correspondence under this bill is therefore not arbitrary.

New section 41E

This new section confers power for the issuing of a search warrant in respect of a visual image or distribution of an image. This provision arguably engages the right to privacy because it allows for power of entry into a person's home. However, to comply with the protection afforded by section 13(a), the charter requires that a person's privacy or correspondence must not be unlawfully or arbitrarily interfered with.

Unlawful interference

The power of entry can only be exercised if a warrant has been issued by the court. Importantly, this warrant will only be issued in accordance with the rules relating to search warrants under the Magistrates' Court Act 1989. As such, any interference is precise and circumscribed and in accordance with law.

Arbitrary interference

The lawful grant of a power of entry is only available pursuant to rules in the Magistrates' Court Act 1989, namely a discrete and defined circumstance, where there are reasonable grounds for the granting of the power. As such, any interference is reasonable and not arbitrary.

2. Section 15 — freedom of expression

Section 15 of the charter provides that:

(1) Every person has the right to hold an opinion without interference.

(2) Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether —

(a) orally; or

(b) in writing; or

(c) in print; or

(d) by way of art; or

(e) in another medium chosen by him or her.

(3) Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions necessary —

(a) to respect the rights and reputations of other persons; or

(b) for the protection of national security, public order, public health or public morality.

New section 41D

This new section prohibits the distribution of any visual images made of another person's intimate body parts, where the subject of the image has not consented to any distribution. This provision arguably engages a person's (namely the distributor's) right to seek, receive or impart information and ideas of all kinds. However, section 15 of the charter specifies that the right to freedom of expression may be subject to lawful restrictions to respect the rights of other persons, and for the protection of public morality.

Lawful restriction

The purpose of the whole bill, and particularly the new section 41D, is to protect the rights of individuals' privacy in relation to their intimate body parts, including when they are in a public place. It is arguable that this new section is reasonably necessary to respect the rights of others, in accordance with section 15(3)(b) of the charter.

Similarly, the bill is designed to prohibit the unauthorised distribution of visual images that are of intimate body parts. It is arguable that this section of the bill is also reasonably necessary for the protection of public morality. Accordingly, any restrictions on freedom of expression under this bill are therefore lawful, pursuant to section 15(3)(a) of the charter.

3. Section 17 — protection of families and children

Section 17 of the charter provides that:

(1) Families are the fundamental group unit of society and are entitled to be protected by society and the state.

(2) Every child has the right, without discrimination, to such protection as is in his or her best interests as is needed by him or her by reason of being a child.

New section 41D

This new section provides that visual images of a child's intimate body parts can only be distributed in circumstances that reasonable persons would regard as acceptable. It is arguable that this section enhances (but does not limit) the right of a child to such protection as is in their best interests, and the standard is as determined by a reasonable person.

4. Section 20 — property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

New sections 41E and 41F

These new sections arguably engage this right, because they provide for seizure of things pursuant to a warrant, or in addition to the warrant in limited circumstances. The charter right, however, is not absolute and does not apply to property seized in accordance with law.

The new sections clearly set out the circumstances in which a warrant can be granted by a court (enabling seizure pursuant to it), and circumstances in which things not listed in a warrant can be seized, namely if there are reasonable grounds for believing the items could have been included in a warrant, will afford evidence relevant to one of the offences or it is necessary to seize the thing in order to prevent its loss or use in commission of an offence. The seizure of property is in accordance with this right, which is not limited.

Consideration of reasonable limitations — section 7(2)

The bill does not limit any human rights, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

The Summary Offences Amendment (Upskirting) Bill 2007 is compatible with the Charter of Human Rights and Responsibilities on the basis that it raises four human rights issues, but does not limit and indeed enhances some of these human rights.

ROB HULLS, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Victoria recently experienced a spate of incidents where police arrested men who were caught secretly filming up the skirts of women on public transport and at public events, such as the Australian tennis open. The unfortunate prevalence of this behaviour, and the increasingly sophisticated means of carrying out such activities, warrants the introduction of new and specific offences.

This bill will make it clear that taking unauthorised photos of a person's intimate body parts will be prohibited. Such behaviour is unacceptable to the community and will not be tolerated.

The bill creates specific and unique offences that ban 'upskirting' and related behaviour. Although this behaviour may already be prohibited by existing offences, such as indecent behaviour and stalking, this bill creates offences directly targeting such behaviour.

The bill also recognises the need to keep pace with technological changes. The small size of many cameras, and the advent of mobile phone cameras, means it is easier than ever before to take photos or make or transmit visual images without the subject's knowledge. Technological advances also facilitate the relatively easy transmission and distribution of visual images by mobile phones or the internet, in some cases without an actual recording being made, such as 'live streaming'.

Not only will it be an offence to take unauthorised photographs or film a person's intimate body parts when they are in public, it will be a separate offence to distribute such images. The invasion of privacy experienced by victims who have been surreptitiously recorded is compounded if the images are made public, such as sent via email or mobile phone to others.

This issue has been considered by the Standing Committee of Attorneys-General. There is widespread national support for ensuring this behaviour is prohibited. Each jurisdiction either has an offence against this behaviour or is considering introducing such an offence.

There is currently no prohibition on making visual recordings of other people in public places in a broader sense, and the bill does not purport to create such a prohibition. The bill is not aimed at unnecessarily restricting the taking or distributing of visual images. Rather, the bill is designed to strike a balance between the rights of individuals to privacy and protecting social, artistic or journalistic freedoms to take photos or other visual images in public places.

Specific restrictions are legitimate where the visual image in question is of another person's intimate body

parts. The bill is necessary to protect individuals, especially women, when they are in the public arena.

In summary, the bill:

makes it an offence to use an aid or device (such as a mirror or drilling a hole in a wall) to deliberately observe another person's genital or anal region (intimate body parts) in circumstances where it is reasonable for the other person to expect such observation could not otherwise be undertaken;

makes it an offence to visually capture (such as photograph or film) another person's intimate body parts in circumstances where it is reasonable for the other person to expect such a visual image could not be made;

makes it an offence to distribute (for example by sending, supplying or transmitting) a visual image made of another person's intimate body parts, without their consent to any distribution;

provides that where the subject of the visual image is incapable of giving consent, or is a child, that visual image can only be distributed in circumstances in which a reasonable person would regard the distribution as acceptable. However, the bill does not purport to interfere or replace current child pornography laws. A note is contained in the bill that the Crimes Act 1958 sets out current child pornography laws;

confers power to issue a search warrant in respect of an alleged visual capture or distribution offence.

The bill prohibits the making of unauthorised visual images of a person's intimate body parts. It makes illegal the behaviour known as 'upskirting'. The bill also prohibits the distribution or publication of intimate visual images of another person, without the consent of the subject (or where a reasonable person would not consider distribution acceptable).

The bill complements existing offences such as using an optical device illegally, stalking and child pornography laws. By establishing specific offences in Victoria, this bill provides an important additional protection for people, especially women, in the public arena.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 5 July.

MAGISTRATES' COURT AND CORONERS ACTS AMENDMENT BILL

Second reading

Debate resumed from 7 June; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Magistrates' Court and Coroners Acts Amendment Bill makes a number of miscellaneous amendments to the Magistrates' Court Act 1989, as well as to the Magistrates' Court (Family Violence) Act 2004 and the Coroners Act 1985.

In introducing this bill the Attorney-General claimed that it would promote efficiency across the Magistrates Court system, promote modernisation of the court's processes and promote the need for flexibilities. However, the bill needs to be assessed in relation to those claims. In making that assessment the conclusion has to be that the bill will have very little impact on a number of crucial issues that are facing the Magistrates Court system at present. The Magistrates Court, like other levels of the court system, is suffering from serious delays that threaten to deny justice to accused persons, to defendants, to plaintiffs and to other interested parties.

Some of those delays are a result of the courts struggling to cope with the cases that are coming before them, given the amount of support that they get from the government. Others of those delays result from shortages in other parts of the legal and judicial system, such as the processing of DNA samples or other aspects of the preparation of cases for trial. However, the Magistrates Court system is struggling under a large number of difficulties that are mainly a result of the actions or inactions of government.

It is timely that yesterday an Auditor-General's report into the administration of non-judicial functions of the Magistrates Court of Victoria was tabled in the Parliament. In this report the Auditor-General reviewed, reported on and exposed a number of serious problems facing the Magistrates Court. As its title indicates, the Auditor-General's report deals with the non-judicial functions of the court, and it does not canvass the issue of delays within the court system. However, the Auditor-General has exposed some serious problems even with those non-judicial functions. He identified the need to upgrade the reporting regime that the court operates under to include better disclosure of time lines, more targeted performance measures and better disclosure of resource information that is linked to strategies. In relation to asset management the Auditor-General made it clear

that the court is struggling to obtain the resources to make important upgrades to the court system, including the replacement of information technology, because it is required to fund a large amount of its asset management and replacement needs out of very limited recurrent funding.

The Auditor-General has also pointed to the new bureaucratic requirements that have been imposed on the court system by the government, which are creating a very heavy workload. At page 50 he says:

> … importantly from the perspective of the administration of the courts, the new practice direction places a considerable, additional, administrative burden on senior registrars. They have primary responsibility for the management of the court fund and ensuring compliance with the required administrative and financial controls.

The new practice direction that the Auditor-General refers to was introduced by the government in recent times.

Perhaps most concerning of all is the Auditor-General's exposure of serious security shortfalls within the Magistrates Court system. The Auditor-General found that there have been 584 reported security incidents in the Victorian courts over the past two years. He reported that only two courts — the Melbourne Magistrates Court and the Children's Court — have a proper system of electronic weapons searches and that over the past two years at just those two courts there have been 1382 weapons seizures, with more than 1 in 12 searches resulting in a weapon being seized. There have been very high levels of security incidents, particularly in the metropolitan area — Frankston, Broadmeadows, Heidelberg and Ringwood.

Despite these security threats, not all courts have a continuous police presence during court sitting times. No country magistrates courts have protective services officers, 41 courts do not have security cameras, 43 courts do not have access to electronic hand wands for the screening of people entering the courts, and 3 isolated courts do not even have duress alarms. Despite the Frankston Magistrates Court having the highest number of security incidents of any court, it does not have security cameras at the front entrance or inside the building.

Particularly in the context of recent events that have shown how vulnerable Victorians are to unprovoked and violent attacks in public places, it is absolutely imperative, as the Auditor-General points out, that the government act to ensure that security risks to staff, court users and the general public are minimised. Despite that, the only response we have had from the government is the appointment of yet another consultant to look into the problem — issuing a tender for professional advice to assist the government in developing a safe and cost-effective solution, as the bureaucratic jargon puts it. These serious security risks are at the top of the list of the many problems that the Magistrates Court faces, and they require immediate action. The Attorney-General lauds this bill as promoting efficiency, modernisation and flexibility within the Magistrates Court system, but it goes nowhere near addressing a lot of the problems the court faces. Much more needs to be done than making miscellaneous administrative amendments such as those made by the bill.

Let us turn to the amendments made by the bill, which cover a range of topics. One of them changes the definition of 'magistrate' to include a reference to acting magistrates. That allows for some simplification of drafting in various places throughout the existing Magistrates' Court Act. The statement of compatibility under the Charter of Human Rights and Responsibilities also states that there will be amendments to allow magistrates who have been assigned to the Drug Court division, as well as magistrates who have not been assigned to that division, to make referrals from the criminal list to the Drug Court division of the court.

However, that statement does not fully explain the reasons for this second area of alteration being made by the bill, because quite frankly it is to correct an error that occurred when the original provisions were inserted in legislation in 2002 relating to the establishment of the Drug Court division. The error that occurred then was that where a magistrate had been assigned to the Drug Court division but was sitting to constitute a court outside the Drug Court division, the way the provision was worded meant that that magistrate was not able to refer a person to the Drug Court division. That oversight is now being corrected, and it is being made clear that whenever the court is constituted other than as the Drug Court, regardless of which magistrate is presiding, it will be possible for the court so sitting to refer a defendant to the Drug Court division, if the court sees fit.

The Drug Court division is able to deal only with persons who live within a postcode area as specified by the government — by the minister — and therefore the operation of the Drug Court is very geographically restricted. However, if the defendant lives within the relevant postcode, any court not sitting as a Drug Court is now able to make that referral of proceedings to the Drug Court.

The next area of amendment being made by the bill is to insert the express power for the Chief Magistrate to assign duties to judicial registrars, and clearly that ought to be the case. The bill also gives registrars greater powers to adjourn criminal proceedings and to extend bail. The bill achieves that by amending section 3 of the Magistrates' Court Act in relation to the mention system to make it clear that a registrar may, on application of a defendant, adjourn proceedings not only prior to the mention date, as applies at present, but on the mention date or on the return date. That is intended to give greater flexibility to allow bail to be extended where appropriate.

Opposition members were informed during the helpful briefing on this bill with which we were provided by officers of the Department of Justice that registrars would be empowered to make these decisions about extending bail only in circumstances where the prosecution did not object to the extension and that, if there was such an objection by the prosecution, the issue would be referred to a full hearing within the court and a decision would then be made.

We certainly hope there are administrative arrangements in place to make sure that the prosecution is properly and sufficiently alerted to applications for renewal and extensions of bail that are coming up, because clearly the granting of bail is a very sensitive matter in both directions — not only, of course, from the point of view of the person who has not been convicted of an offence and of wanting to minimise impositions on their liberty, but also, and very importantly, from the point of view of ensuring that people whom it would not be appropriate to have out in the community on bail pending their trial are not granted bail and that the potential for accused persons to abscond is minimised.

We have seen in recent times the difficulties that can be encountered when bail is granted to someone who then absconds, including in very high profile cases. That is not necessarily an error of judgement on the part of the judicial officer who makes that decision. A judge, magistrate or other judicial officer can often be placed in a very difficult position where there have been long delays in matters coming to trial because, for example, DNA samples have not been processed on time due to resource constraints within the forensics laboratories and a backlog of samples need to be tested, and in that situation a judge or magistrate may think it is unfair to keep a person in custody for such a long length of time.

That is a dilemma that the magistrate, judge or other judicial officer should not be faced with, because trials should be able to come on in a timely manner and it is the responsibility of the government to make sure the administrative services supporting the court and the prosecution process are able to function efficiently. But I emphasise that these greater powers to adjourn criminal proceedings and extend bail need to be exercised carefully, and we need to make sure that the administrative arrangements are in place so that the prosecution is notified in good time and has an opportunity to object and that in controversial and sensitive cases these decisions are made very carefully.

We have seen reports in the press in recent times of the practice of bail shopping, where people who get rejected on a bail application before one magistrate manage to go off and find another magistrate, make a fresh application and keep on trying until they succeed. It is said that there are administrative arrangements in place to prevent that happening and that the practice rules of the court should also prevent that happening by requiring that fresh bail applications come back, if at all possible, before the magistrate who heard the first application. But there was a well-publicised case in the media recently where that did not happen, and the person who was released on bail then went on to commit quite an horrific crime, or at least it is so alleged. This emphasises the importance of the way these bail applications are handled. There may well be a large number that are uncontroversial, but there are also some very sensitive ones, and they need to be handled extremely carefully.

The next provision being inserted by the bill is to increase the number of public sector officers in various organisations who are authorised to witness statements that are to be tendered in criminal proceedings. Many of the various entities that are listed in the bill are commonwealth bodies that have prosecutorial roles, and the opposition understands that these bodies have all made specific requests to be included on the list of those whose officers can authorise witness statements. It seems that the inclusion of these bodies will enable the more efficient and effective preparation of witness statements, and therefore this provision seems a sensible one.

Another provision of the bill extends until 30 October 2009 the operation of the Family Violence Court intervention project. As with the extension of the Koori Court provisions that we considered in another bill a short while ago, this is a project that has been set up on a trial basis. The government now wants to extend that trial to allow further evaluation, and that is something that seems worthwhile also.

The final matter to which I refer is the amendment to the Coroners Act 1985 that inserts provisions relating to

gaining access to coroners records into the Coroners Act, those being provisions that were previously contained in the Coroners Regulations 1996.

When one compares the 1996 provisions that were contained in regulation 24 with the provisions that are now being inserted into the bill, one sees they are substantially identical, save that there are a number of cross-references to other sections within the Coroners Act that qualify the general statement. Those cross-references seem to be reasonable ones. There are references to section 30E and to section 58 of the act. Section 58 refers to a general power of the coroner in relation to not releasing information if the coroner believes it would prejudice a fair trial or not be in the public interest, and section 30E refers to inquests relating to deceased children. New section 51(3) makes clear that a number of the powers the coroner has to make information available to relevant parties who may have a sufficient interest, to various public bodies or to the Attorney-General are not limited by the general principles that are set out in new section 51.

Public access to Coroners Court information is a very important part of our judicial system, as is public access to information about proceedings in other courts. It hardly needs to be said that one of the greatest strengths of the common-law system has been that, unless a particular case is made in particular circumstances to the contrary, proceedings of court and the production of relevant facts in relation to judicial and quasi-judicial proceedings should take place in open court — in other words, that people are not subject to secret trials or secret hearings and that any member of the public is able to observe what is going on and hear and be aware of the evidence. Of course that is particularly important in relation to coroners because coroners are investigating deaths, and there is a particular public policy interest in understanding why a death has occurred in any particular case and what can be done in future to prevent avoidable deaths.

Clearly there are some aspects relating to details of individuals that may or may not be relevant to that general public interest, but the overall principle should be that as far as possible, unless there is a good and specific reason to the contrary, the full facts and circumstances of cases that come before the coroner should be available for public access, and that is something that is being continued under the amendments that are contained in this bill.

In this context I want to make some comments about the statement of compatibility made under the Charter of Human Rights and Responsibilities that has been presented to this house by the Attorney-General. As with so many of these statements of compatibility, the language is tortured and convoluted, as public servants strive to fulfil the bureaucratic requirements that have been imposed on them by this legislation. The way in which the statement in respect of this bill is worded is particularly revealing of one of the serious problems that underlie the so-called Charter of Human Rights and Responsibilities Act, because the statement of compatibility identifies as a human rights issue to be considered in relation to this bill the charter provision about a person having a right not to have his or her privacy, family home or correspondence unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked. The statement goes through very convoluted language to reach the conclusion that this right is not being unlawfully or arbitrarily interfered with and that the provisions contained in the bill are reasonable.

We on this side of the house certainly do not disagree at all with the conclusion that is reached, but the point I make is the fact that the statement of compatibility goes to so much trouble to address the right of privacy and yet is totally silent on the other equally important principle that I referred to earlier — namely, the public interest in being able to access what is going on within the court system or, in other words, the longstanding common-law tradition that judicial proceedings take place in open court. That principle or that right is not even mentioned in the statement of compatibility.

In order to try to justify the provisions in the bill, the statement has to invoke references to freedom of expression and the right to seek, receive and impart information and ideas. In a sense that is a related right, but I would have thought the blindingly obvious point should be that there is a public interest in proceedings taking place in open court, and that is not even recognised in the statement of compatibility. Once again that demonstrates the point that the trouble with the Charter of Human Rights and Responsibilities is that it singles out a handful of rights for special statutory recognition but leaves aside a whole lot of other rights that are equally important to the proper functioning of our democratic system under the rule of law. Those rights go totally unmentioned, so we get a lopsided emphasis on those particular rights that are singled out in the charter. I think that demonstrates yet again the serious institutional and other ongoing problems that this Charter of Human Rights and Responsibilities Act is causing.

Notwithstanding that, as I have indicated, the opposition does support the bill's amendments relating to the continuation of the 1996 regime for access to records. We also support the other provisions in the

proposed legislation, subject to the caveat that I have mentioned about ensuring that the bail provisions are properly administered so that bail is not inappropriately extended.

However, as I said at the outset, the crucial and serious issues facing the Magistrates Court at the present time, particularly the issue of inadequate security, are not ones that are addressed by this bill, and the government needs to do a lot more than what is in this legislation to achieve the objectives it refers to of promoting efficiency, modernisation and flexibility in our Magistrates Court system.

Mr RYAN (Leader of The Nationals) — This is important and very timely legislation, but perhaps not for reasons the Attorney-General would choose. We had tabled before the house yesterday a report from the Auditor-General, being the *Administration of Non-judicial Functions of the Magistrates' Court of Victoria*. The document is very instructive in a number of ways as a benchmark, in a sense, as to where the operation of the Magistrates Court within the state of Victoria now sits, albeit that this report is founded around the basic principles of being related to the administration of non-judicial functions of the court. There are elements of this report that I think bear careful consideration.

Even the opening commentary in the foreword to the document is very direct about the extent to which the court is pertinent to Victorians. Without quoting the material, the foreword reflects the fact that the court sits in 52 locations, that it deals with some 250 000 criminal and civil cases each year and that it accounts for approximately 90 per cent of court appearances in the state. Those basic statistics are compelling when you have regard to the importance of the position which the court occupies in the life and times of country Victorians. As a legal practitioner having worked within the Magistrates Court in a country town, I can reflect completely upon those basic statistics with some experience, and I reiterate the fact that the operations of the Magistrates Court are extremely important in the life and times of country Victorians as well as Victorians in general.

That is so from two aspects. The first of those is that, as the foreword to the report recites, about 90 per cent of court appearances in Victoria occur in the Magistrates Court. By dint of those statistics it is blindingly obvious that for most people who have an association with the court system, it will be in this jurisdiction. Whereas the County Court, the Supreme Court and the appeal courts deal with other matters, 90 per cent of the instances where there is contact between the people of Victoria and the courts occur through the Magistrates Court. It is therefore imperative that that system functions well and is given every opportunity to function well.

In that context there is no doubt that the system is underfunded, that we do not have enough magistrates and that a lot of the administrative elements that are detailed in this report require attention — and in some instances they require attention as a matter of urgency. That is even more so as the jurisdiction of the court continues to expand. That jurisdictional limit has in a variety of respects, both in the civil and the criminal sphere, expanded exponentially over the course of the last one or two decades. That process continues. The areas in which the court operates and which increasingly affect the people of the state are many.

At page 12 of the Auditor-General's report there is a commentary on the jurisdiction of the Magistrates Court as it now stands. It tells us that the court deals with civil matters, family violence, family law, stalking and WorkCover disputes, and includes an industrial division, the Municipal Electoral Tribunal, the Victims of Crime Assistance Tribunal, the Children's Court and the State Coroner's Office. The Magistrates Court has a very broad compass. This is all the more reason why elements regarding its general administration need to be spot on. The report from the Auditor-General takes much of that into account, and I will return to a particular feature of that report in a moment.

I want to say in passing that the other important function of the Magistrates Court is training legal practitioners in the way they do their work. The Magistrates Court is a very important starting point, if you like, for those who appear before it to represent people in different guises. That is very much so in a country context. I well remember going there on what used to be the Tuesday sitting day. You would have a fair idea of what was in the files you took over to the court with you, but inevitably there would be others at the court who did not have representation. They were in need of representation, and often I and others who came along would represent those people.

We would do so at no cost to them, and we would sometimes do so when the magistrate came to the conclusion that the person who had come to court unrepresented really did require representation. I, along with others, would be asked to extend that assistance to people identified by the magistrate or the court staff as needing help. That assistance was invariably provided, and to this day it is an enormous tribute to the legal profession that the pro bono system in its various forms continues. That is particularly the case in country jurisdictions.

These days the operations of the Magistrates Court have been extended in accordance with its expanded jurisdiction, to which I have already referred. More often than not, particularly in the major centres, the Magistrates Court sits every day. Members would be aware that the County Court and the Supreme Court sit in country areas on a circuit basis. The County or Supreme Court might be in a town for a month at a time at intermittent stages during the course of any given year, and perhaps on more than one occasion; whereas with the Magistrates Court, there is a continuity of presence in performing its all-important functions.

The specific area that I want to return to in the report from the Auditor-General is the question of security. I do so because the findings of the Auditor-General are very troubling in the context of the world in which we now live. We had that context brutally demonstrated on the streets of Melbourne earlier this week, when tragedy struck in the form of offences which resulted in the death of one poor gentleman who, ironically and coincidentally in the context of this discussion, happened to be a solicitor. This poor fellow did no more than selflessly come to the aid of a lady who was apparently being assaulted. Tragically he lost his life when the perpetrator of that crime turned a gun on him and shot and fatally wounded him. Two other people were also wounded, and as I speak they are struggling to recover from the injuries they sustained. Suffice it to say, issues of security are very much in the minds of people. In the report from the Auditor-General that issue is highlighted with regard to the position that applies in the Magistrates Court.

The material in the Auditor-General's report on the topic of security in the Magistrates Court is very troubling indeed, and it is pertinent to have regard to some of the specifics that are referred to. At page 32 the document recites statistics on the searches that were undertaken at different courts and their outcomes. It tells us that the security data for 2005–06 shows that 8724 weapons searches were conducted at the Melbourne Magistrates Court and Children's Court, of which, almost unbelievably, 819, or 9.4 per cent resulted in weapons seizures. It states that 295 — that is 95 per cent — of reported security incidents occurred in 11 metropolitan courts, with 159 incidents at the Frankston court, 45 at Broadmeadows court, 39 at Heidelberg court and 19 at the Ringwood court.

These statistics are absolutely compelling and very alarming. It is a bit like drugs in prisons, in that the incidence of drugs in prisons is an ongoing problem and the occasions on which people are found to be in possession of drugs in prisons continues to present as a problem. But of course the very basic issue is why it is that we see the sorts of statistics that I have just referred to, and the answer is: because people think they can get away with it. When you think there is a large percentage — I think that is a fair way to regard these statistics — of people coming to the courts who are in possession of weapons, you cannot help but think that, if that is the proportion of people who are being apprehended, there is surely a significant proportion of people in the other courts where these sorts of searches are not being conducted where weaponry is actually making its way into the court. The document goes on further to recite at page 33:

> All courts have a Victoria Police presence at some times, but not continuously during court sitting times.

It continues:

> None of the country courts have a protective services officer presence.

The document makes the rather obvious observation, if I may say, that:

> Court users and staff are at greater potential risk when there is neither police nor PSO presence, particularly at isolated, single-person courts in country locations.

I note that in point 6.3 at page 34 of this document the Auditor-General recommends:

> That the Department of Justice and the Magistrates Court of Victoria ensure that the Hopetoun, Omeo and Ouyen magistrates courts are fitted with duress alarms.

These are troubling issues in the world in which we live today. I know from experience that in country court locations, particularly at the start of the day, invariably there is a police presence because in the come and go of the case-mention system — if it is a mention day — or on a formal hearing day, by definition police are involved in the processes of prosecuting cases or presenting cases to be prosecuted. But the key thing in the context of this Auditor-General's report is that those police are there, as it were, by accident and not by design. What the Auditor-General is observing is that by design there is not nearly a sufficient police presence or protective services officer presence in our court system, apart from in the Melbourne Magistrates Court and some of the suburban courts. Apart from those, really, the court system is left much to its own devices.

In the conclusion to that part of the report the Auditor-General refers to the fact that:

> The rate of weapons seizures for 2005–06 at the Melbourne Magistrates' Court and the Melbourne Children's Court exceeded 9 per cent of the searches conducted.

He concludes:

> It is likely that more exhaustive weapons searches across the remaining court locations would result in a greater volume of weapons seizures.

These are very troubling points, which I hope the Attorney-General will see fit to respond to in a manner that will give some comfort to what the Auditor-General has had to say. Right across the state people are going through the all-important process of accessing the courts for whatever the reason might be. There would be a sense of disquiet if the public at large was aware of the content of this Auditor-General's report as we now see it tabled before the house. These are issues which need to be addressed, and they need to be addressed with some urgency. I certainly look forward to the government's response to the issues that have been raised and highlighted by the Auditor-General, very specifically, though, on the critical issue of security at our magistrates courts.

The bill makes a series of amendments. There are six amendments to the acts which regulate the actual operation of the Magistrates Court, with a further amendment to the Coroners Act of 1985. We generally support what is being undertaken here, because when you go through the seven amendments you find they are not of enormous importance in a substantive sense. Rather they address a number of issues which have arisen and which have presented as requiring some refinement.

The first amendment relates to the fact that the Victorian Drug Court division was established in 2002. One of the amendments contained in the bill will allow acting magistrates to be assigned into this division. The member for Box Hill addressed that issue, and of course the second-reading speech gives the explanation, as does the explanatory memorandum to the bill itself. Consequent upon that first amendment the definition of 'magistrate' has had to be amended to clarify the use of the expressions 'acting magistrate' and 'judicial registrar' within the different provisions of the legislation. Thirdly, the bill enables all magistrates at the Dandenong Magistrates Court to refer appropriate cases to its Drug Court division, irrelevant of whether or not the magistrate is an assigned Drug Court magistrate. This is dealt with in the explanatory memorandum at page 5. With due respect to all concerned, it is worth a read. It highlights in the middle of the page that the limitation that now exists is that:

> … a magistrate who has been assigned to the Drug Court division has no power to adjourn a criminal proceeding into the Drug Court division.

I am not sure why that was originally the case. Perhaps it is just an oversight and the government had not contemplated that the problem would arise. I must say, again with the greatest respect to all concerned, the explanation that is then given in the explanatory memorandum is a classic, and I want to read it into the record. It says:

> Given that the magistrate who ordinarily sits in the Drug Court division at Dandenong may also sit in the criminal mention system at Dandenong in conjunction with the fact that other magistrates at Dandenong have been assigned to the Drug Court division, although they do not ordinarily sit in the Drug Court division but do regularly sit in the criminal mention system, it is likely that some defendants who might otherwise be eligible to be adjourned into the Drug Court division cannot have their proceedings adjourned into that division simply because the magistrate before whom they appear has been assigned to the Drug Court division.

Boom, boom! It is a straight-up one sentence with 105 words, and I recommend that people have a look at it, because when you go through it you find it encapsulates the position, but it is interesting to see the way in which it has been constructed. Nevertheless it is there for all to read.

The next of the amendments allows registrars of the Magistrates Court power to adjourn criminal proceedings and, where appropriate, to extend bail on the mention date and subsequent dates. As the member for Box Hill has observed, this in itself is a sensible amendment because it will allow more flexibility in the way the court system operates, and we commend the government for that. Presumably the desire to have this change came from the magistrates themselves. It touches upon the vexed issue of bail. Often in our communities people do not have a clear understanding of the notion of bail on the one hand as opposed to sentencing on the other; they often mix up the two.

People sometimes have a view that someone who has been released on bail has been accorded some sort of sentence from the court which is judgemental in relation to what they stand accused of, whereas in fact that is not the issue at all. Sentencing stands aside entirely from the bail process. But the basic principle is that, understandably, people are very concerned that there may be offenders out on the streets on bail who present an ongoing risk to the community. It is important therefore that this aspect of the system operate very carefully and efficiently.

The next amendment will allow nine additional commonwealth and state agencies to witness statements to be tendered in committal proceedings. There is an amendment that changes the Magistrates' Court (Family Violence) Act to enable an extension of the sunset date for the availability of counselling orders to 30 October 2009. That, coincidentally, will be my

birthday — but I am not prepared to say the year! Finally, the bill clarifies the capacity to gain access to the records and files of the coroner. This is also a very difficult and contentious area of judicial carriage in Victoria, but overall we do not oppose the legislation.

Mr LUPTON (Prahran) — I am pleased to make a contribution in support of the Magistrates' Court and Coroners Acts Amendment Bill. This is another piece of legislation which modernises our court system and makes our judicial system more efficient and more accessible to the people of our state.

The bill makes some important amendments to the way in which some of our problem-solving courts in this state operate, in particular the Drug Court and Family Violence Court divisions of the Magistrates Court. The bill deals with a number of technical amendments which will bring about these improvements. In the first instance, the magistrates currently assigned to the Drug Court where it sits in Dandenong are doing a very important job in assisting the rehabilitation and treatment of drug offenders. The Drug Court division has proved to be a very successful operation. It is an improvement to our judicial system.

The amendments in this bill will allow acting magistrates to be assigned to the Drug Court in addition to magistrates. This gives the Chief Magistrate the opportunity to assign to sit in the Drug Court the most appropriate individual of those who are available at any given time. This will mean that the work of the Drug Court can only improve as time goes on. It is a very sensible change to make. This is being done by amending the definition of 'magistrate' to include 'acting magistrate' wherever it occurs. This will have the consequential effect of allowing acting magistrates to sit in the family violence and neighbourhood justice divisions of the Magistrates Court. That will enhance their abilities and performance.

Under this legislation all magistrates at the Dandenong court will have the power to refer appropriate cases to the Drug Court division. Currently magistrates who are already assigned to the Drug Court division do not have the power to refer appropriate cases to the drug division when they are sitting outside that division. That matter came to the attention of the government. We regard it as an inappropriate restriction on the ability of magistrates to refer appropriate cases to the drug division. This legislation will attend to that anomaly.

This legislation also deals with the power of registrars to adjourn criminal proceedings and to extend bail on both mention dates and subsequent dates. Currently a number of these matters are only able to be dealt with by magistrates rather than by judicial registrars. We have seen in a number of pieces of legislation recently provisions whereby judicial registrars or masters of superior courts have been given some increased powers to deal with pretrial procedures and associated matters. It is important to extend that to the Magistrates Court. Where appropriate registrars will now have the ability to adjourn cases and extend bail. The provisions of the legislation impose appropriate restrictions on registrars in these circumstances. The Magistrates Court will issue practice guidelines in relation to the power of registrars in these circumstances so there is appropriate oversight of these matters, particularly bail matters, which are important considerations.

A number of other amendments deal with the tendering of witness statements in committal proceedings. It is a normal process in committal proceedings in Victoria for witness statements to be tendered to the court. In recent times there have been a number of changes in legislation as well as the creation of new agencies at both a state and commonwealth level in response to particular types of criminal behaviour and criminal developments. Some of these agencies currently do not have the legislative authority to tender witness statements in committal proceedings. The offices that will be able to tender witness statements in committals as a consequence of this legislation include the Office of Police Integrity, the Australian Commission for Law Enforcement Integrity, the Therapeutic Goods Administration and the Australian Crime Commission, as well as a number of other agencies. It is appropriate that the organisations and agencies that are dealing with and are integrally involved in the criminal justice process are able to tender witness statements in that manner, along with other, more longstanding agencies. That is an appropriate and sensible move.

Another aspect of this legislation is that it will extend Family Violence Court division counselling orders for two years beyond their current sunset date of 30 October 2007. That means the pilot program that is currently under way will be able to continue for another two years past its current expiry date of 30 October 2007. This will enable a full and complete evaluation of the counselling order process which is already under way to be thoroughly completed. Although the evaluations that have been carried out in the interim stage of the process make it clear that the counselling order process that is being used by the family violence division of the Magistrates Court is proving to be successful, we want it to continue for another two years so a full and complete evaluation can take place. I think that is a sensible and appropriate thing.

The final matter of substance dealt with by this legislation involves the ability of the coroner to have control over the records and files he holds, including whether they are to be released to the public at any given time. Previously the coroner's powers were contained in regulations under the Coroners Act. The government has made and will continue to make some changes in relation to the Coroners Act, and there is a review under way. Of course the Victorian parliamentary Law Reform Committee presented a comprehensive report on the Coroners Act to the Parliament late last year, and I served as a member of that committee.

In conducting the review of the Coroners Act the government has determined that it is more appropriate that the coroner's powers over records and files be contained in legislation rather than in regulations. This legislation does not in fact change the way in which files and records of the coroner will be released or held, it merely moves that power from the regulations into the statute itself. There is no substantive change, but it is an important indicator of the nature of those powers of the coroner, and it is important that it is in legislation rather than in regulations.

Before concluding my remarks I will make a couple of comments in relation to some of the issues raised by the Leader of The Nationals, because he referred to a number of issues in the report of the Auditor-General in relation to the administration of the courts outside the actual sitting of the courts. The member referred to the number of weapons that are seized at courts in Victoria. What the member did not mention is that there is no definition of the weapons that are confiscated at courts. I know from my appearances as a barrister in the courts for many years that the weapons confiscated at courts often include umbrellas, pocket knives, nail scissors and nail files. They are the sorts of things that are returned to people when they leave the court. They are regarded as inappropriate items to be taken into the court, but one needs to understand the nature of these things; they are not in fact weapons as weapons are commonly understood in the community. The Leader of The Nationals really should know that and have pointed it out. I commend the bill to the house.

Ms ASHER (Brighton) — I too wish to make a couple of comments about the Magistrates' Court and Coroners Acts Amendment Bill. As previous speakers have indicated, this bill covers a number of areas. It covers acting magistrates in the Drug Court division, it covers powers of chief magistrates in relation to judicial registrars and it has got some clauses relating to bail and so on. But I will confine my comments particularly to clause 8, which extends the sunsetting provision of a component of the Magistrates' Court (Family Violence) Act.

The background to this is that the Victorian Law Reform Commission's report *Sexual Offences — Final Report* recommended a number of changes in the treatment of family violence, and this government responded in 2004 with the Magistrates' Court (Family Violence) Act. That was, of itself, a pilot program to handle family violence, and it established then two new Family Violence Court divisions in Ballarat and Heidelberg. I have a very clear recollection of speaking on that bill in 2004. I have a longstanding policy interest in this area, having completed a report which I hope was a significant report, for a previous Attorney-General, Jan Wade, which examined a whole range of service extensions in this area and resulted in an expansion of outreach services and some other changes.

It is in that context that I was particularly interested in the government's changes in 2004. I make the observation that a key element of those changes — and this is what the clause 8 sunsetting provision applies to — was to, within the new pilot program of the Family Violence Court, establish a compulsory or direct form of perpetrator counselling. Indeed in a press release announcing this particular matter the Attorney-General claimed on 26 August 2004 that the Family Violence Court intervention program, which is the court-directed counselling program whereby prior to conviction alleged perpetrators can be sent to counselling programs, was:

> … a first for Australia and a key aspect of the Family Violence Court's problem-solving approach.

The Attorney-General is always quick to put out a press release and claim all sorts of credit for things. At the time I supported this, and I still do. I thought it was a very good way to deal with a particularly problematic area. Of course this was not the first perpetrator program — there are plenty of examples of programs prior to that; however, this was the first one that was a court-directed program. At the time the pilot program for the court had four-year funding — it was a four-year pilot program — and the perpetrator-directed counselling was a two-year pilot program. Originally it was to sunset on 30 October 2007.

I refer to the Attorney-General's second-reading speech on 26 August 2004, when he announced the Family Violence Court intervention program. Clause 8 in this bill extends the pilot program for another two years, and the Attorney-General made reference to experience in both New Zealand and the United States of America. He maintained that the Victorian program, which he

said was a first, actually drew extensively on a New Zealand program, and he also referred to some figures out of the United States which looked at behaviour-changing counselling programs. Albeit on a small sample, he provided the house with the result that 80 per cent of men under this US analysis had not reoffended as a consequence of the perpetrator program.

However, at the time of making the second-reading speech in August 2004 the Attorney-General referred to the program running as a pilot for two years and referred to a careful evaluation of the program in order to see how it was working and indeed whether it could be, as he put it, 'transferred to other courts and regions'. A very clear timetable was articulated in the Attorney-General's second-reading speech: the sunset on 30 October 2007 would obviously be clearly linked to the evaluation program.

While I completely support the overall pilot and the perpetrator program within the pilot, the problem for the government is that, although it is very quick to put out a press release, it has not completed the evaluation. You will appreciate, Acting Speaker, that programs like this, where the court directs someone to a program in advance, or possibly in advance, of conviction are something that require evaluation. I hope, quite frankly, that the US results do translate here, but government is about doing the work. Pilot programs are fine, but government actually needs to do the work. In the second-reading speech on this amendment bill the Attorney-General clearly said that the evaluation program has not been done. He actually said it 'is currently under way'.

The evaluation should have been completed by this sunset date. What we are now seeing is a two-year extension of the sunset date. The sunset date under clause 8 is extended from 30 October 2007 to 30 October 2009 because we are awaiting the outcome of the evaluation program. The Attorney-General in his second-reading speech said:

> A complete evaluation will enable a fully informed decision to be made about the future of the pilot.

But the problem for the Attorney-General is that that is what he told us in 2004. Again I make the point that this government is so slick at putting out press releases and talking about its achievements and so on. On the face of it I think this is an excellent program and it is a program I supported in the Parliament in 2004. But the government also needs to get its act together and ensure that when it actually says there will be a proper evaluation that it should actually happen. I also make the observation that when I spoke on this bill in 2004 I actually made reference to that fact. I clearly had doubts as to whether the government had the capacity to do the work to do an evaluation. I said that I wished the government well in its pilot program. I actually made the observation that it was very important that this evaluation be conducted.

Again I make the point — and the Attorney-General I am sure will come in here in his summing up and make some observations about me — that I support the pilot. I support it very, very strongly. I am able to give credit where credit is due. If you look at the whole range of reform in terms of family violence from my time in the Parliament in 1992 until now, you would see a very clear commitment from the previous Attorney-General, Jan Wade, and from this Attorney-General to actually improve things. But when you set up a pilot, a new program, and you say you are going to do an evaluation, it is incumbent on government to actually deliver on the evaluation. This is a part of the process that should have been done.

Whilst I support the program, it is a shame that we have had to extend the sunset date for it in advance of the evaluation. I for one am interested to see whether this court-directed perpetrator program is as successful as the New Zealand and United States models. I would like to compare it with other perpetrator programs, which albeit I admit were voluntary, and to see which ones work better. Whilst the Liberal Party supports this amending bill before the house, I would urge the Attorney-General to not only get on with the job of evaluation — it is a 2004 bill here — but make sure the evaluation is made public so that those of us with a longstanding policy interest in this area can actually read the results of his program.

Mr ROBINSON (Mitcham) — It is with some pleasure I make some brief comments on the Magistrates' Court and Coroners Acts Amendment Bill. Unlike some of the previous speakers, I do not claim to have a thorough knowledge of the workings of the Magistrates Court and its proceedings. I have not made a habit of frequenting magistrates courts in any capacity.

I was thinking while listening to the debate that the last occasion on which I was in a Magistrates Court was at Ringwood, I think two years ago, when I was sworn in as a justice of the peace. Prior to that it was probably 20 years earlier when I was a Monash University law student and I was required, along with other students in the class, to attend a series of magistrates courts to learn a little about the basics of our legal system. That was at Oakleigh and it was a wonderful experience. You get to see a great cross-section of Melbourne life. Even a brief

time in the Magistrates Court gallery allows you an insight into the trials — literally and figuratively — and tribulations of people who end up there for all manner of reasons and in all circumstances.

It is the case and will remain so that the majority of legal proceedings that are carried out in Victoria are within the Magistrates Court system. I think the statistic earlier was that 70 to 90 per cent of the legal proceedings are currently conducted in magistrates courts and there is every expectation that will continue. It stands to reason that in the course of their lives many people and their families in the Mitcham electorate — and I expect it is the same elsewhere — will have some exposure to magistrates courts. It is for that reason that the common-sense measures in the bill are to be welcomed. I will not go into all the detail — I think the measures have been explained very well up to this point in time. But I note that the motivation within the bill is largely to save time and effort in the way the Magistrates Court system operates. That is a very good thing.

I have no doubt that one of the anxieties that people experience when they are required to be involved in the proceedings of magistrates courts and the legal proceedings that are a precursor to the actual appearance in court is the time that those proceedings consume and the anxiety that parallels that wait. Anything that can reduce the time required for proceedings and getting matters sorted through the courts is to be welcomed. As I say, the bill contains a number of common-sense measures that will improve the efficiency of the magistrates courts and it is for that reason I will be supporting the bill.

Ms WOOLDRIDGE (Doncaster) — I am very pleased to be speaking today to support this bill. It makes a number of miscellaneous amendments to the Magistrates' Court Act and also to the Coroners Act. As the shadow minister for drug abuse, I find the changes to the functioning of the Drug Court of particular interest.

I want to particularly focus on that area. The Liberal Party has always been proactive about the importance of the establishment of a drug court. The one Drug Court we have places serial offenders on drug treatment orders as a substitute to jail time, which is a very good approach to take. It appears that the small amendments made in clause 3 of the bill allowing an acting magistrate to be assigned to the Drug Court division, and in clause 4 allowing all magistrates sitting at the Dandenong Magistrates Court to refer cases to the Drug Court division will help the more effective running and administration of the court.

The government committed to the Drug Court in 1999 and it began its operations in 2002. At the time Labor said it would initiate a trial of the Drug Court in Dandenong with a view to expanding it to other areas if it proved successful. The evaluation actually came down in 2005. The Attorney-General embraced that evaluation glowingly, because what it showed is that this really is working. There are fewer victims of crime and reduced judicial costs as a result; less welfare dependency among the people who are on drug treatment orders; lower drug costs related to health care; less reoffending; greater employment prospects; and less homelessness. They are fabulous outcomes in relation to the evaluation of their operations, which is exceptionally positive.

But despite the promise otherwise, the Drug Court has not been extended to other sites, which was the original plan. In 2002 the Liberal Party pledged to take the Drug Court statewide, so while these amendments in section 4 will contribute to its improved functioning, more needs to be done. And more should be done, because we have a good program and we have great evaluation, yet there is the failure to expand as originally promised and committed to.

The initial target was that there would be 450 drug treatment orders made over a three-year period. That was basically 150 per court over three courts, so right from the first days there was a plan to have more than one. I have been informed that so far not many more than 200 drug treatment orders have been made in the life of the court over this five-year period. The evaluation that was conducted in 2005 said that the Drug Court had not been staffed or resourced to fulfil the objective of 450 drug treatment orders, and those numbers have been modified downwards again and again. What we have is a good system that has not been expanded and has not necessarily been resourced to undertake and deal with the number of offenders who could be diverted through a drug treatment program — if we had the resources and the courts to deal with that.

We have a current prison population of over 4000. What we hear from the Department of Justice is that approximately two-thirds of all new prisoners report their offence as drug related. This goes up to 80 to 90 per cent for second and third-time offenders, so drug-related crime is a very prevalent feature of our prisons. The more we can do to divert people to programs that the evaluation shows are effective, the better it is for the individual, the better it is for their family and the better it is for the community. It is an important step that needs to be taken.

One of the things we have seen in the legislation in section 4 is that it is limited to people who live within a local postcode area. Some interesting data was released earlier this week by the Australian government on drug use monitoring in Australia. For the first time ever this national report includes sites in Footscray and Sunshine. It looks at the drug use of people detained at police stations, which is the step before people go through the justice system and get into the prison system.

Interestingly what it says about the people detained in Footscray is that, compared to other detainees across the eight other sites around Australia, there were a number of significant differences in relation to their illicit drug use. It shows that the percentage of adult detainees testing positive to benzodiazepine, to heroin, to codeine and to a couple of other drugs was higher in Footscray than it was at any of the other sites, so there are clear issues in relation to the Footscray police station and the detention of offenders compared with the rest of the country. Secondly, the detainees at the Footscray police station were more likely to attribute at least some of their offending to illegal drugs compared to offenders at the other sites. Almost half of all the detainees at Footscray attributed some of their offending to illicit drug use. So while we see a very good program at Dandenong, there are other areas that are desperately crying out for this sort of service for people who are committing crimes.

While I am supportive of the amendments that are being made in this bill, I think the ramifications of not effectively dealing with drug use in our justice system are very serious. Some national data shows that we have significant areas of need in this state. It is important that the government goes back to its view of expanding this pilot program, which has proved to be successful. It really is important that this be undertaken. While I support this bill, I think much more needs to be done in the area of the Drug Court and the drug use of people in our criminal justice system.

Mrs MADDIGAN (Essendon) — I rise to support the Magistrates' Court and Coroners Acts Amendment Bill. I must say I have been interested to listen to the comments by opposition members in relation to this bill. They have said they support it, but they have made some rather strange comments in relation to it, and I would like to refer to them first.

The member for Brighton is very concerned that the pilot period for Family Violence Court counselling program will be extended beyond the previous date. This of course is pending the outcome of an evaluation program. What she does not seem to realise is that, if it is not extended and the evaluation date comes, then it will stop straightaway and people will not be eligible for counselling at all. So the intent of this provision is to ensure that people can still go through that counselling program even if the evaluation is not completed by 30 October 2007. I cannot imagine that the member for Brighton would be encouraging that that date be kept if it meant that people would not be getting counselling services.

I, like the member for Doncaster, wish to discuss the Drug Court, because I think that has been a great success. However, I was a little surprised that when discussing drug use in Footscray she spoke about offenders using benzodiazepines and codeine. I would point out to the member for Doncaster that these are legal drugs and that therefore people are quite entitled to get prescriptions and take them. The fact that someone might end up in a police station with a drug in their system does not necessarily mean that the drug has been used illicitly. I am sure that there are many people out there who would be very concerned if they were immediately put on a drug order because they were found to have benzodiazepine or codeine in their blood system. I am sure she would not mean that to happen.

Ms Wooldridge interjected.

Mrs MADDIGAN — Or heroin, as well as other drugs in the opioid group which can of course be given to people on prescription.

This bill contains a number of provisions to improve the efficiency of the Magistrates Court in Victoria and makes a further amendment to the Coroners Court, which is currently going under a further and more vigorous assessment.

The aim that I think we all support is to make the court system more efficient by making it more flexible and modernising some of its procedures. I would particularly like to address my comments to the operations of the Drug Court, because I think the establishment of the court was a very good initiative of the Attorney-General and one that I think enables us to look at drug offences in a very different way from the way they were looked at before. It was established to be responsible for the sentencing, supervision and treatment of offenders with a drug or alcohol dependency who have committed offences under the influence of drugs or alcohol or to support a drug or alcohol habit.

Drug courts have been trialled in a number of states as well as being introduced in Canada, Ireland, Scotland and England. In America they are much further down

the track than we are. They already have nearly 600 drug courts operating across the country, and in fact they have done considerable research into the efficiency and outcomes of the courts. They take a very different approach to the treatment of offenders affected by drugs and alcohol. The emphasis is not just on punishment but focuses in particular on rehabilitation. The focus is on rehabilitating offenders, introducing them to a more rational way of life and integrating them back into the mainstream community.

Drug courts are not adversarial courts. Where an offender in the Drug Court is put on a one or two-year drug treatment order, the order has a custodial part, which is deferred, and a treatment and supervision part. There is a team set-up at the Drug Court. The team includes a number of people who assist with the treatment of offenders. It includes clinical advisers as well as specialist community correction officers and legal advisers. There is intense monitoring and supervision of offenders who are put on drug treatment orders. There are sanctions and rewards, and finally there is graduation and final sentencing, if that is still necessary. This bill contributes in two ways to further improve this system.

Firstly, it enables acting magistrates to be appointed. Secondly, it enables all magistrates sitting at the Dandenong court to refer appropriate cases to the Drug Court division regardless of whether the magistrate is an assigned Drug Court magistrate or not. That means that there will be greater access for magistrates to become involved. I was a little surprised when the member for Doncaster suggested that the court was not being given enough support and said that the courts were not necessarily well resourced. I do not think there is any evidence for this claim. There is no huge waiting list for people to seek treatment at the drug courts, and the evaluation has had many positive things to say about it.

The Turning Point Alcohol and Drug Centre was very involved in it, and if you look at the many documents that Turning Point has put out — Turning Point is a respected drug and alcohol agency — you can see that there were very strong and important benefits that it saw for the program. The benefits identified by Turning Point in the assessment were that it saves lives, that there is a recovery of the decision-making capacity of the individuals concerned, that they then acknowledge they have an alcohol or drug dependency problem, that they get a great deal of information about treatment and that there is time out for individuals and families who are affected by the offender.

Drug courts are for serious offenders who are likely to be facing imprisonment. To go on a drug order offenders must plead guilty, they must be dependent on drugs, and their dependence must have contributed to an offence. We are talking about a fairly select area of people who are brought before the courts. The assessments of drug courts have generally been positive. There is less recidivism, reduced and less harmful drug use and increased employment rates among the participants.

In America, where drug courts have been established for a much longer period and are much more widespread, research has shown very positive results, particularly in relation to decreasing drug use and decreasing crime rates. The changes in this bill will allow the Drug Court to operate more effectively in allowing people severely affected by drug abuse to become once again valuable members of the community. The bill also seeks to assist magistrates in the proper and efficient management of such cases in the Drug Court.

The other amendments to the Magistrates Court system and the Coroners Court are to be commended. In particular they refer to a further specialist court set up under the Magistrates Court, namely the Family Violence Court division, which I was glad to hear the member for Brighton speak very highly of. This was established in 2004 as a response to the quite alarming levels of domestic violence in our community. As I mentioned before, the bill extends the sunset clause to ensure that those counselling provisions continue to be available for those in need of them, even if the evaluation is not completed by 30 October this year. Everybody in the community will strongly support that proposal. The purpose is to allow a full evaluation to see if it should continue in the long run. Overall these provisions will ensure that the justice system continues to work efficiently and fairly. The courts and the police are in support of the changes, and I am very pleased to commend the bill to the house.

Mrs POWELL (Shepparton) — I am pleased to speak on the Magistrates' Court and Coroners Acts Amendment Bill. There are some important provisions in the bill, and The Nationals will not be opposing the legislation. The purpose of the bill is to amend the Magistrates' Court Act 1989, the Magistrates' Court (Family Violence) Act 2004 and the Coroners Act 1985, and the bill brings forward a number of other purposes.

One of the areas that I would like to speak about is the amendment to the Magistrates' Court (Family Violence) Act, which is to provide for the continuation

of counselling order provisions to October 2009. My understanding is that the project was set up originally as a pilot program and is scheduled to finish on 30 October 2007. The bill will extend the project to October 2009. It will require defendants who are subject to intervention orders to attend family violence counselling. We are hearing some information that this project is working well, and the independent evaluation is currently under way.

As The Nationals spokesperson for women's affairs, I understand firsthand the importance of counselling for people who are perpetrators of family violence, but also for the victims of family violence. What I have learnt through my role and from speaking to a number of women who have been victims of family violence is the very important issue of people learning behaviour and that it is often learnt at a very early age. When you talk to some of the mums of the children you learn that it actually can be an ongoing issue: young boys in a very violent family watch their fathers commit violence on the mothers and think that that behaviour is acceptable and normal. That is certainly not the case. We also have instances of young girls who live in violent situations and watch their fathers commit crimes and violence on the mothers. Then the girls, in later life, marry people like that because they are used to that sort of behaviour, and because it is in the home they think it is normal behaviour.

That is where counselling is so important. Those children have to learn that it is not appropriate behaviour. More importantly when they become adults, those boys — if they are the ones perpetrating the violence — need to know that this is not acceptable and the broader community will not allow it. It is not normal, it is not acceptable and it is not lawful. We have to get that message out to our young people particularly: that even if the violence is happening in the home and their mother or father is a victim, it is not something that we should condone.

With the families of people living with violence I know that one of the biggest issues is that of living in fear. Some offenders who are on court orders are still continuing to stalk their victim, to intimidate the victim, to threaten the victim, and the worst case scenario is that the person can be killed — whether it be a husband who kills his wife, whether it be the other way around, or whether it be some relative. When the evaluation is completed it needs to discover what counselling is actually working and whether it needs to be modified or extended, or, if the counselling is not working, what needs to dropped from the counselling services. At the outset we have to change offenders' behaviour so families can live in the knowledge that they do not have to live in fear and children can grow up in the knowledge that that behaviour is not appropriate and neither should we condone it.

I refer also to the Koori Court, which is a division of the Magistrates Court and which The Nationals also supported. The Koori courts established in Shepparton in August 2002 and in Broadmeadows as pilot programs were evaluated. As part of the evaluation of the Shepparton Koori Court, I was interviewed, and I supported the Koori Court. In 2003 Sergeant Porter, the police prosecutor, invited me to come along and see how the Koori Court actually worked. I pay tribute to Kate Auty, who was the magistrate when the court was established, Gordon Porter, the police prosecutor, and Daniel Briggs, the Aboriginal justice officer, as well as the Aboriginal elders and respected persons who are also part of that court system.

When the Koori Court was originally mooted I think a lot of people thought it would be a soft option for Aboriginal offenders, but it certainly is not. I have sat around the round table that has all the people there — the prosecutors, the magistrate, the Aboriginal elder, the Aboriginal respected person and even the victim and maybe the family of the victim or the family of the offender.

The Aboriginal person has had to acknowledge that they are guilty and they go to the Koori Court only for sentencing. It is a very confronting situation. At the end of the evidence, the Aboriginal elder and Aboriginal respected person may make a suggestion to the prosecutor about a sentence. They really do not hold back but tell the person that what they did was wrong. The person cannot say it is a racial issue or a white person's law, because their own people are part of the system. During the evaluation of the Shepparton Koori Court we found that the level of reoffending had decreased drastically and the level of people turning up for hearings had increased. We think it has been a great model and we hope it will continue.

In 2005 the member for Benalla and I nominated Sergeant Porter, Magistrate Kate Auty and Daniel Briggs for a crime prevention award, which they received. We were very proud to see that the people who had established the first Koori Court in regional Victoria were recipients of the award and that they have been acknowledged for the great work they did and their outstanding efforts in reducing criminal activity in and by the Aboriginal community.

I was disappointed that the children's Koori Court was not established in Shepparton. I hope the metropolitan division of that court is going well, but I know that a

number of people in Shepparton, particularly those in the criminal justice system, were hoping that a division of the court would be established in Shepparton because the benchmarks, supporting staff and officers were already there. It would have been a good opportunity for us to have had the children's Koori Court as well as the adult Koori Court.

The bill also makes changes to a number of other areas, including magistrates' roles in referrals. The powers of registrars will include the power to adjourn criminal proceedings and to extend bail dates, if required. Another speaker said that the power to extend a bail date should be used responsibly, and it is hoped that an extension of a bail date will not mean that the person involved will be a risk to the community. I hope due consideration will be given to making sure that the community is not put at risk and that an offender is not on the streets when they should be incarcerated.

The bill provides for more efficiency and flexibility in the Magistrates Court system. One of the issues raised by the Leader of The Nationals was that in some courts in country Victoria there are no protective officers. That needs to be addressed, because it is important that when people go to court — whether they be the judicial officers, the police or others attending the court — they are protected and put at least risk. We do not want people going into court with some sort of weapon that they are able to use in the court. The media has reported a number of instances of somebody having produced a weapon and caused death or injury to somebody attending the court. Members have had that happen in electorate offices. We have had some safety measures put in place because it was considered necessary to protect our staff and others from some people who come into our offices. While many of us resisted this happening, we have to make sure that those who come into our offices are protected. The Nationals do not oppose this bill.

Mr HUDSON (Bentleigh) — It is a pleasure to speak on the Magistrates' Court and Coroners Acts Amendment Bill. Most members know that the Magistrates Court is the first tier in our criminal justice system. It is the court that deals with relatively less serious criminal matters and the vast bulk of the criminal offences that come before our courts. If members look at the statistics for any year, they will see that approximately 95 000 to 100 000 cases are dealt with through the Magistrates Court and that in contrast only about 1500 cases are dealt with through the Supreme Court and the County Court. The Magistrates Court is really the workhorse court. It is the jurisdiction that each year accounts for around 98 per cent of the sentences imposed in criminal proceedings in Victoria. As it is the court with which people have most contact, it is quite important that this court is as responsive as possible to the community and the needs of both victims of crime and offenders.

The government has recognised the critical role that the Magistrates Court plays in our criminal justice system, and it has sought to strengthen and expand the role of the court. This bill continues the fine work that the Attorney-General has been undertaking in modernising our justice system and giving an expanded role to the court.

The government has also introduced a wide range of measures to recognise the reality of drug use and drug offences in our community. That includes the Drug Court at the Dandenong Magistrates Court. Members of the government have recognised that we have to look at not only the offending behaviour of people caught up in the cycle of drug dependency but also the causes that contribute to that behaviour. The fact of the matter is that around two-thirds of our offenders have either committed their crimes to obtain money for drugs or while intoxicated or after having used drugs. We know that most offenders we are incarcerating in our prisons have committed their crimes while involved with drugs, and we know that in a short time — in most cases, less than 12 months — those people will be released into the community and will have to again be responsible, law-abiding members of that community. That is why members of the government regard drug treatment programs as critical and a specialist Drug Court as essential to dealing with those problems.

One of the defining features of this government has been that since we were elected we have placed a focus on not only law enforcement but also prevention, treatment, saving lives and rehabilitation. That is why we have ensured that we have an effective drug education program in every school, we have doubled the number of drug treatment and rehabilitation beds to more than 800, we have cut the waiting time for withdrawal and detoxification services to less than 10 days and we have ensured that wherever possible serious heroin-dependent drug users are linked into drug treatment programs. That is also why we have ensured that, wherever possible, when drug offenders come before the courts — whether it is the Drug Court at Dandenong or other magistrates courts — they are referred for drug assessment and treatment. I think it is important to point out that when we came to office there was only one withdrawal service in the whole of Victoria. We have expanded the number of drug treatment and withdrawal services to more than seven regionally, including in Geelong and Ballarat.

It is important to note that things like the Drug Court do not work if these sorts of services are not available. That is why the Dandenong Drug Court has been so successful. It has been a great success in dealing with offenders with a drug or alcohol dependency because it takes a very different approach to dealing with offenders. It does not only punish the behaviour of offenders but also deals with the underlying causes that led to the offending behaviour. Its success is very much tied up with the fact that extensive drug treatment, counselling and rehabilitation services are available to the offender. They are linked to the court and in many cases operate on site.

The Dandenong Drug Court has led to less offending and a reduction in recidivist behaviour where offenders have either been sentenced or placed on probation or bonds. It has also led to a reduction in unemployment and homelessness. This is important, because we know that for many people the cycle of drug dependency is tied up with the terrible circumstances in which they find themselves. The court has also led to a reduction in welfare dependency.

The changes made by this bill allow acting magistrates to be assigned to the Drug Court. The bill also allows magistrates sitting at the Dandenong Magistrates Court to refer appropriate cases to its Drug Court division. It reinforces our view that courts have to be problem solvers, particularly at the Magistrates Court level. Just sentencing people to terms of imprisonment will not deal with these problems in the community; we need a more holistic approach. Part of that has to be breaking the cycle of offending by continually finding new ways to address the underlying causes of crime. That is what the Drug Court does. The expansion of the way in which the Drug Court operates at the Dandenong Magistrates Court will be very welcome.

Other provisions in the bill put into legislation what were previously regulations about the discretion of the coroner to release coronial and medical records. This follows work done by the Law Reform Committee on this issue when I was the chair. I place on record that there are some very important and sensitive issues relating to the privacy of medical records and information provided to the coroner, and they need to be dealt with in terms of further changes to the Coroners Act. Let us look at what happened in 2001, when coroner Graeme Johnstone released to Senator Julian McGauran the hospital medical records of a woman who had a late-term pregnancy termination.

That raised a whole lot of issues about whether the release of the information was in the public interest, whether the woman was entitled — irrespective of the public interest — to a certain level of privacy and confidentiality in relation to the records that were provided to the coroners office and whether it was appropriate for the coroner to release those records to a public figure like a member of Parliament in any event. I look forward to further changes to the Coroners Act that will deal with this issue and give confidence to people who make records available to the coroners office that those records will be treated in an appropriate and confidential manner that complies with the requirements of Victoria's privacy act.

This is a good bill. It continues the work the government has undertaken over the last eight years in modernising our criminal justice system. It reinforces the approach we take in creating specialist components of the court to deal with issues of drug use and family violence so as to ensure that not only offenders but also victims are dealt with in the most appropriate environment. Most importantly, it ensures that those who are found guilty of offences are given appropriate treatment and rehabilitation so that they can be reintegrated into society. I commend the bill to the house.

Mr WAKELING (Ferntree Gully) — It gives me pleasure to make my contribution to the debate on the Magistrates' Court and Coroners Acts Amendment Bill. As was said by the member for Box Hill and other members on this side of the house, the Liberal Party will not be opposing this legislation. I start by saying that the business program of this government has been rather lacklustre. We would have expected the government to be dealing with a whole host of issues, but it has not. We can only hope that in future sittings the government business program is greatly enhanced.

The bill before the house has five principal purposes: to clarify the application of the Magistrates' Court Act to acting magistrates; to clarify the capacity of the chief magistrate to assign duties to judicial registrars and to require them to carry out duties as assigned; to streamline the adjournment of criminal proceedings into the Drug Court division of the Magistrates Court; to extend the powers of registrars of the Magistrates Court to adjourn criminal proceedings that are in the mention system; and to expand the range of commonwealth and state officials who may witness statements to be tendered at committal proceedings.

The bill will provide a definition of 'magistrate' for the first time. This will enable acting magistrates to be assigned to the Drug Court. Many members have commented on the Drug Court, which has been operating out of the Dandenong division of the Magistrates Court for some period of time. As someone

who has resided in that area for many years, I understand firsthand the impact that drugs have had in that part of the world. Any measures to take offenders out of the criminal justice system and move them to a system that will assist them to recover, to not reoffend and to stay out of the court system have to be supported.

As the member for Doncaster has rightly pointed out, it was members on this side of the house who called for that system to be expanded not just into the south-eastern suburbs of Melbourne but throughout Melbourne proper and Victoria. That is something the Liberal Party has called for in the past, and we at this juncture would — —

Honourable members interjecting.

Mr WAKELING — This government has had eight years to fix the problem, and after eight years it has done nothing to expand the program. I am pleased that the members for Yan Yean and Macedon are listening, because I hope they will go back to the responsible minister and call upon him to listen to their concerns, to listen to the concerns of this side of the house and to actually take on board those concerns.

I recently had the pleasure of visiting the Salvation Army's rehabilitation facility for drug and alcohol dependent residents at The Basin in the eastern suburbs of Melbourne. That facility takes people from throughout the state of Victoria and is providing a great service. I must take issue with some of the points that have been made, with particular reference to the member for Bentleigh, who said that this government is fixing the problems of those who are drug dependent. What I saw at that facility, not from the officers but from the drug users and the alcohol-dependent residents, demonstrates that this government has a long way to go.

Those people, who are dependent on drugs and alcohol, told me that little is done to provide help and assistance to them when they leave a facility such as a drug and alcohol rehabilitation centre. I spoke to someone who has been an alcoholic for 43 years. He has been in and out of these types of facilities over the last eight years, and he made it very clear to me that the problem with the current system is that as soon as he leaves a facility there is no help or assistance provided to him. He is discarded.

I am glad that the Minister for Housing is at the table, because I am sure he is greatly concerned about this matter. Not only do people leaving this facility have to deal with the temptation to return to their drug of choice, but many have no accommodation and are living on the streets. For 16 weeks they are in a locked-in program, but as soon as they leave the program they are out on the streets, because this uncaring government — this government that claims to govern for all — in fact provides very little help and support with respect to housing. I call on those opposite to listen to the concerns of members on this side of the house and ensure that the government provides the help and services that this community needs.

The range of organisations that can witness statements tendered in committal proceedings will include the Office of Police Integrity, the Department of Employment and Workplace Relations, the Department of Defence, the Australian Commission for Law Enforcement Integrity, the Australian Communications and Media Authority, the Department of Agriculture, Fisheries and Forestry, the Therapeutic Goods Administration, the National Offshore Petroleum Safety Authority and the Australian Crime Commission. We support and welcome the inclusion of those organisations, which volunteered to witness statements prepared for criminal proceedings.

I just want to touch on the extension of the sunset provision for the Family Violence Court division of the Magistrates Court. I found it quite interesting that in the month of June we are talking about an extension from October 2007 to October 2009. I am pleased to see that the government has finally learnt its lesson from the expansion of the Koori Court. As members would be aware, earlier in June we dealt with the extension of the Koori Court, which is due to expire at the end of this month. This government has been aware for two years of the requirement for an extension, but it has left it until the 11th hour — 11 hours and 59 minutes to be precise. In fact if the bill does not go through the upper house, the Koori Court could be all over. But I am pleased to see that this government has learnt from its mistakes and is trying to provide a period of at least four months in which it can to try to deal with this extension.

Finally, the amendment to the Coroners Act is a rather technical variation which does not have any net effect in terms of the operation of the act. What it does is build on the regulations that were varied earlier this year. The 1996 regulations expired on 5 May and were replaced by the Coroners Regulations 2007. What this amendment does is draw regulation 24 from the 1996 regulations into new section 51 of the Coroners Act.

We on this side of the house will be supporting the government in making these changes. We are obviously supportive of the Drug Court, but we call on the

government and we call on the Minister for Housing to listen to the concerns of our community. It is pleasing to see that he is now listening to my contribution, because it is important that the minister provide adequate housing and support services for people in our community who are leaving a drug rehabilitation facility. Many that I spoke to told me that when they leave a drug rehabilitation facility they go out onto the streets without any housing provided for them and without any help or support. Then what happens? Six or 12 months later they are back in the system. I call on the minister to listen. I call on the government backbenchers to have the courage of their convictions and to talk to their ministers, tell them the problems with the system and ensure our community gets the services it needs.

Ms GREEN (Yan Yean) — I think I am in a parallel universe right now, following that contribution by the member for Ferntree Gully. It gives me great pleasure to again join a debate on yet another progressive piece of legislation in reforming, improving and modernising our justice system. The bill proposes six distinct sets of amendments regarding two operational components of the Magistrates Court and also one amendment to the coronial jurisdiction. It extends the operation of the Drug Court division of the Magistrates Court. That has indeed been very successful, with lower rates of recidivism, which is something that should be welcomed. I could not believe what I heard from the member for Ferntree Gully when he was talking about his sympathy for drug offenders. Opposition members during their time on the Treasury benches — —

An honourable member interjected.

Ms GREEN — You brought it up. During that time the heroin trade flourished. Drug-related crime was never higher in this state than under the Kennett government. In terms of those who were the victims of that, what was the response of the Kennett government? Ten per cent cuts across the board to every community sector agency in this state. Not one cent was spent on capital for public housing. The cries of the unfortunates — anyone who found themselves in a spot of bother, whether it was drug related, whether it involved a need for housing or whether it involved access to justice — fell on deaf ears under the Kennett government. I know because I worked in the public sector at that time. I was in the invidious position of administering a funding program in the housing tenancy area and had to apply those across-the-board cuts, and some of them were even retrospective in affecting struggling community sector agencies. That was across the board. If you were disadvantaged in this state, you stayed that way.

No-one cared, but we still have to hear the nonsense. Opposition members have stood up in here and said they are supporting this bill, and the member for Ferntree Gully made snide remarks about the lack of quality in the government business program. But did they put forward any progressive legislation in relation to the operation of our courts? No, they did not. They closed courts. They let police stations fall into disrepair. We had falling police numbers. They committed to additional police, but in fact we had fewer police everywhere across the state. None of the police stations was upgraded, unlike what has happened under this government with two-thirds of police stations in this state being new or having been significantly upgraded. You only have to look at the crime statistics to see that we are the safest jurisdiction in this country, and that has happened under this government.

That lot on the other side would talk down this state. Opposition members would say, 'Do not do as we do'. They say, 'Backbenchers should talk to their ministers about this'. Actually we do talk to our ministers about which progressive legislation is needed in this state, and then we see the results. The bill before us today is one of a long line. The establishment of the Koori courts did not happen under their watch, it happened under our watch. The establishment of the Family Violence Court division of the Magistrates Court happened under our watch. Overall we have strengthened our courts, and we are ensuring that they are places to which all Victorians have access.

This bill will enable acting magistrates to be assigned to the Drug Court and enable all magistrates sitting at the Dandenong Magistrates Court to be able to refer appropriate cases to its Drug Court division. It emphasises our commitment to therapeutic jurisprudence and to our view that problem-solving courts are the way of the future. That is why, as I said, we have similarly established the Koori courts and also the Family Violence Court division of the Magistrates Court. That is because we are committed to breaking the cycle of reoffending by continually finding new ways to address the underlying causes of crimes and not just punish the victims.

We know that drugs can play a significant part in the culture of offending, and that is why we must continue to address the causes of crime in innovative ways, and that is what this bill is doing. Similarly in the Family Violence Court division they will be able to make an intervention order that a defendant must attend counselling. This is an important step in encouraging defendants to come to grips with their often violent and abusive behaviour in a manner which may lead to

personal and systemic change in the future. This is a really good way for families.

While we are talking about family violence I take this opportunity to commend the Chief Commissioner of Police, Christine Nixon, for her leadership in the way the police respond to these matters and for the fact that family violence is treated as the crime that it is. The pilot date for the Family Violence Court intervention project will be extended to 30 October 2009 under this bill. It is still a pilot program, and it will have a full and independent evaluation, which is currently under way.

The clause in the bill that relates to the amendments to the Coroners Act refers to access to the coroner's records both before and after a case is finalised. The member for Bentleigh gave a good outline of why this is necessary and why ensuring people's records remain private should be paramount.

This legislation promotes the government's 2006 *Access to Justice* policy statement and is consistent with the Attorney-General's 2004 justice statement. The bill constitutes another very significant step forward in creating a more modern and efficient justice system for the benefit of all Victorians. As I said earlier, it is in distinct contrast to what those opposite did on their watch. With those words I firmly put my support of the bill on the public record. I commend the bill to the house and wish it a speedy passage.

Ms DUNCAN (Macedon) — I rise this afternoon to support the Magistrates' Court and Coroners Acts Amendment Bill. It is always interesting to listen to the debate from the other side of the house and to hear the feigned newfound interest in things like public housing and specialist courts.

Ms Green interjected.

Ms DUNCAN — Yes, it is difficult to sit here and listen to it when those opposite did nothing when in government. In fact, as we have heard, they did the absolute opposite by cutting police numbers, closing courts and sacking judges. They sit opposite and dictate to us what we should do in government. But, of course, their interest only ever applies when they are in opposition; when in government they usually do either the opposite or nothing at all. I suspect that some of those new members who contributed this morning may not be aware of some of the things that occurred under the previous government, and we can only forgive them for saying some of the things they did. They have not learnt from the actions that were taken by the last Liberal government in this state.

I would like to talk about a couple of the things in this bill. It does a variety things, but in particular it makes some changes to the Family Violence Court division of the Magistrates Court by extending the sunset date to allow for continued referral to drug and family violence counselling.

We know that this counselling can be incredibly effective in making personal and systemic changes to people's behaviour. For example, I have seen firsthand the work that is done in the Sunbury community health centre, which runs a fabulous program and gets lots of referrals from the Magistrates Court for people who have been involved in family violence.

The crux, I suppose, of what this government has been trying to do through our courts is to make behavioural and systemic changes, with the emphasis being on how we reduce the chances of people reoffending. That is behind the changes we have introduced to the Family Violence Court division of the Magistrates Court and the introduction of specialist courts such as the Drug Court in Dandenong. Part of what this bill does is to allow acting magistrates to be assigned to this court. This is because we are keen to ensure that we have the best people to sit on these courts. We are looking for the magistrates who are most appropriate to sit on these courts, regardless of whether they are acting magistrates or magistrates. This bill attempts to make those courts more efficient — for example, by allowing the Drug Court to attack the underlying issues that contribute to the criminal behaviour it deals with and improve the outcomes, which is what it is all about, for individuals who appear before the court, and of course for the broader community.

Evaluations of the Drug Court indicate that we are seeing some fairly impressive improvements as a result of the introduction of that court. We are seeing less recidivism, reduced rates of drug use and less harmful drug use as well as increased employment rates among the participants. This bill makes our courts more efficient by enabling acting magistrates to be assigned to this division, and we want the most experienced people, regardless of whether they are acting magistrates or magistrates.

The bill also enables magistrates sitting at the Dandenong court to refer cases to the Drug Court division and provides for a more streamlined approach for referrals. The bill also gives registrars of the Magistrates Court the power to adjourn criminal proceedings and in appropriate instances to extend bail on the mention date and subsequent dates. This confirms a longstanding practice of the Magistrates

Court and, again, is intended to make our courts more efficient.

The bill will also enable officers of an additional nine agencies to witness statements that can be tendered in committal proceedings. These agencies are the Office of Police Integrity, the Department of Employment and Workplace Relations, the Department of Defence, the Australian Commission for Law Enforcement Integrity, the Australian Communications and Media Authority, the Department of Agriculture, Fisheries and Forestry, the Therapeutic Goods Administration, the National Offshore Petroleum Safety Authority and the Australian Crime Commission. This seems to be quite a disparate range of agencies, but they are all involved at various times in criminal investigations which require witnessing statements in the committal process.

This bill is intended to overcome some of the administrative delays experienced by these agencies in furthering their investigations. The bill also addresses the inconvenience that arises for witnesses, many of whom have to travel and sit around courts waiting for evidence to be presented, which can often be time-consuming and probably expensive, in the sense that it is taking them away from their other duties. This is consistent with the listing of other commonwealth and state agencies in the existing Magistrates' Court Act 1989, and again it is designed to make our courts more efficient and effective.

Going back to the Family Violence Court division of the Magistrates Court, this bill extends the sunset date for the availability of counselling orders to 30 October 2009. As I said, the Family Violence Court division of the Magistrates Court plays a critical role, and it refers many people to the counselling agencies. Counselling is provided through the intervention project, which was established as a pilot project to operate until 30 October 2007. It remains a pilot project, but the bill extends by two years the period in which cases can be referred to the Family Violence Court intervention project. As I said earlier, the anger management and other courses that are run from a variety of places have been extremely effective and have actually changed the behaviour of many perpetrators.

One of the things about family violence is that when you speak to the women — it is mostly women — who are affected, they generally say they want the family to remain intact. They just want the violence to end; they want that behaviour to stop. This court is really designed to try to achieve that outcome in recognition of what it is that people really need out of the justice system. A lot of people may criticise — I hear this criticism frequently — and suggest that this approach could be soft on crime, but it is really about applying therapeutic jurisprudence, which we know is really the way to go. It is about trying to change behaviour. It is about courts problem solving and ultimately changing people's behaviour and so reducing the chances of their reoffending. That is what this bill does.

It also makes some changes to the coronial jurisdiction, as well as a number of other amendments that arise out of the fundamental changes contained in the bill. It is further testimony to this government's commitment to making sure our court systems are accessible and meaningful, and it actually goes about changing the way in which we deal with criminal behaviour.

It is in stark contrast to the way in which, for example, the American justice system operates. I am very proud of the justice system we have in this country and particularly in this state. The work that the Attorney-General has done over the last seven and a half years has been exemplary. This bill contributes in an ongoing way to our commitment to therapeutic jurisprudence. Thankfully we are not following the American way of dealing with criminal behaviour by increasingly incarcerating people. We know that is not the way to go. I commend this bill and the work of this government to the house.

Ms THOMSON (Footscray) — It is a pleasure to rise to support the Magistrates' Court and Coroners Acts Amendment Bill. I note that the member for Macedon has spoken at some length in relation to the family violence division of the Magistrates Court, and I will address other matters within the bill before the house today.

Can I say how wonderful it is that we actually have a community safety strategy that takes into account and embraces all aspects of community safety, from prevention through to dealing with some of the fundamental reasons why people confront the courts in the first place, as well as dealing with those who really do need punishment. We have a fully comprehensive policy that deals with all aspects of community safety, and it is about trying to ensure that people who offend once do not repeat offend and do not become part of that continual cycle of going in and out of our prisons and our courts.

The member for Macedon talked about family violence and about people often offending and then reoffending, each time getting a little bit more violent. We need to break that cycle of violence, and this initiative is a great way of doing that and enabling people to properly seek treatment that will be monitored and adhered to and that

will ensure the safety of the people in the family who may be the victims of that form of violence. It is a great initiative.

The area I want to concentrate on, however, relates to drugs. We all know — there is no doubt about it — that the book should be thrown at those who traffic heavily in drugs and that the full weight of the law should be felt by those who do. But we also know that there are the victims of drugs who commit offences because they are addicted, and there has to be some mechanism in place that actually breaks that cycle. I want to address the operation of the Drug Court. In my electorate of Footscray there is an awareness and acceptance that drugs are a problem that needs to be dealt with. We are looking at innovative ways of assisting those who have been addicted to various forms of drugs to help them get out of the drug cycle and to prevent them from getting into the cycle of committing crimes in order to pay for those drugs.

The Drug Court enables that process to proceed, and it enables us to deal with the issue. We know that the majority of people within our prison system are there because of a dependency on drugs. If we can break that dependency, maybe we can break that criminal behaviour. We are not expecting that everyone who fronts the Drug Court and undergoes a treatment program through the Drug Court will actually come off drugs and be a huge success, but to have any success is a great result. Putting this initiative in place is, I think, highly commendable. The innovative way in which the Attorney-General has tackled his portfolio is exemplary, and it is good to see that we are leading the country in a number of these initiatives and, in that sense, leading the world. The Drug Court is just one of those initiatives where, in dealing with those who have a drug problem and find their way into the criminal system, we are world leaders.

The thing about the drug courts is that they are non-adversarial, which means that instead there are highly structured drug treatment orders, there is intensive monitoring and supervision for those who undertake the treatment program, and there are sanctions and rewards. If offenders succeed, there is a reward for their succeeding: they will not have to serve a prison sentence or a custodial sentence, and after undergoing the treatment they will be rehabilitated back into the community. However, if they reoffend or if they go off the program or do not continue to commit themselves to the program, they will be required to serve their custodial sentence.

The Drug Court program accepts that there is no short-term answer. It is a program of between one and two years duration, and it therefore acknowledges that once people become addicted, it takes time to change those behavioural patterns. The program actually reflects the person's capacity to change. It is a program that deals with the individual and the problems they face. Imposing a blanket sentencing regime and saying, 'Into the prison system you go', only to have those prisoners become hardened and come out worse than they were when they went in, is no solution. It is important that we continually rethink the way in which we use our judicial system to ensure that we prevent people from falling into the trap of reoffending, that we marry that with a program of prevention, which we are doing, and that we have adequate enforcement measures to capture those who deserve to be captured and face incarceration.

There are those who criticise this as being soft on crime. It is not soft on crime. What it is saying, however, is that there are people who offend who are as much victims as they are people who deserve to be part of our prison system for the crimes they have committed. We need to be compassionate, and we need to understand what drives people to committing crimes. If we can actually deal with the problem and provide a solution that means they will not reoffend and they will be able to fully participate in our society, then our society will be better off. It will mean that their families, in the case of offences of family violence, will be able to live a peaceful life and stay together. For those who are on drugs it will mean they will be able to play an active and constructive role in their community and lead meaningful lives. They will not have to continually recommit crimes and then find themselves back in the prison system, continuing that unbroken cycle forever.

It is important that we look at these innovative measures, that we monitor them and that we are prepared to modify them from time to time so we can ensure they meet the needs of those who are offending, either because of their drug addiction or because, as is often the case with family violence, violence has been committed against them.

I do not like to use the economic argument in relation to what I believe are socially responsible actions, but there is an economic context to this. Keeping people in prison is costly; it is not cheap. It also means that you lose out on their economic activity as well, because their ability to hold down a job and perform that job well is interrupted. We will not get the full economic value out of those individuals if we do not deal with the problems they confront. Whilst I think this is socially responsible legislation and is about making this community a safer place in which to live, it also has an

economic benefit. It will also make people more capable of actually contributing to both the social and the economic fabric of this community.

It is very important that we are an inclusive community. The measures that we have seen put in place, along with the Koori Court system, are all about inclusiveness. They are all about understanding the problems within our communities and trying to address the real problem, not just dealing with the symptoms. I commend the Attorney-General and the government for taking these innovative measures to make our community a safer place. They are part of a great strategy for ensuring that our community safety policies are very comprehensive. I commend the bill to the house.

Mr SEITZ (Keilor) — I rise to support the Magistrates' Court and Coroners Acts Amendment Bill. It contains amendments to the Magistrates' Court Act 1989, the Magistrates' Court (Family Violence) Act 2004 and the Coroners Act 1985. It amends the Magistrates' Court Act to enable an acting magistrate to be assigned to the Drug Court division of the Magistrates Court by amending the definition of 'magistrate' and clarifying the expression 'acting magistrate'. The bill also contains certain necessary and appropriate consequential amendments. These include the omission of the term 'acting magistrate' where that term will become redundant, and the insertion of the term 'judicial registrar' where appropriate. That is an important step.

The Attorney-General has been trying to streamline the legal procedure, and in particular the court procedure. It is important for registrars to be able to give direction on court dates rather than having to wait for a magistrate in the Magistrates Court. The amendment will ensure a smoother operation of our legal system. We all know there are long waiting times right through the court system. This legislation will go towards speeding up the process and removing some of the unnecessary clog-ups and lock-ups that take place for people who are caught up in the system, and that is very important.

The bill makes provision for a registrar of the Magistrates Court to have the power to adjourn criminal proceedings and, where appropriate, to extend bail on the mention date and subsequent dates. All of those issues are very important in continuing legislative reform. It also brings Victoria into line with the national process, with most attorneys-general agreeing to a uniform standard across Australia in legal proceedings, particularly in court proceedings. Since our Attorney-General has held his position he has been at the forefront in streamlining the proceedings. Again, when we look at the proceedings in the family law court, this is a step in the right direction.

The ACTING SPEAKER (Ms Munt) — Order! I think the time has come to break for lunch.

Mr SEITZ — I was about to commend the bill and wish it a speedy passage through the house.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Water: Victorian plan

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the new water tax — a Bracks tax on inaction and failure — and I ask: can the Premier guarantee that no Victorian family whose consumption remains the same will pay any more than double their current water bill?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. I indicated yesterday and when we made the announcement that on average we expect bills — —

Honourable members interjecting.

Mr BRACKS — Just listen.

Honourable members interjecting.

Mr BRACKS — The feigned interjections again. They rehearse this. I have indicated over the last few days —

Mr R. Smith interjected.

The SPEAKER — Order! The member for Warrandyte!

Mr BRACKS — that the infrastructure costs would be paid for by users. We expect that that would double prices. The details on the particular prices will be part of the Essential Services Commission's determinations.

The opposition leader has asked me a question on this today, and he asked me a question on this yesterday. I know he was answering a question on this matter on the Neil Mitchell program last year, when he said — and he does not want to know this — —

Honourable members interjecting.

The SPEAKER — Order! Government members will cease that level of interjection. The Leader of the Opposition will have his point of order taken in silence.

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question. It is a simple question, and families want that guarantee.

The SPEAKER — Order! The Premier, to continue.

Mr BRACKS — On the matter of water prices, there seems to be a great consensus between the government and the opposition. That great consensus was confirmed in an answer the opposition leader gave when he indicated to Neil Mitchell:

> I imagine that will be the case —

in response to water prices going up.

> I think the government have already indicated that they see water prices increasing as well —

'as us', of course. The desalination plant proposed by the — —

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question. Families want a guarantee about the future of their water bills. The Premier will not give it.

The SPEAKER — Order! The Premier, to continue to answer the question.

Mr BRACKS — As I have indicated, we expect prices to increase and to increase by about double over the next five years. The Essential Services Commission will determine that. It is interesting to note that the desalination plant proposed by the Liberals was to be funded by an increase in water prices also.

Water: food bowl modernisation project

Ms D'AMBROSIO (Mill Park) — My question is to the Premier. I refer the Premier to the next stage in the Victorian government's water plan and ask him to detail for the house how upgrading the Goulburn-Murray food bowl will help secure water for Victorians.

Honourable members interjecting.

The SPEAKER — Order! The member for South-West Coast! That ridicule is just not necessary.

Mr BRACKS (Premier) — I thank the member for Mill Park for her question. I was very pleased today, with the Minister for Water, Environment and Climate Change, to meet with representatives of the Food Bowl Alliance, the Victorian Farmers Federation, the water authorities and the irrigators and farmers in the Shepparton area to discuss our proposal to invest $1 billion in the upgrade of the irrigation system in the state. I was at the East Goulburn main channel today, where effectively we saw trialled one of the new electronic channel systems, the new gates for the channel system. They are flume gates which will be effectively monitored centrally but operated remotely by a control centre outside Shepparton.

These flume gates will assess water loss. By assessing water loss they will be able to indicate where the improvements are required and where the spending of the $1 billion will be in the food bowl area and the irrigation system. It will include channel lining, in some cases piping, and certainly much better monitoring of what the water does and where it goes. For example, being able to supply water only as required without a large volume coming down will mean that we will save water by effective monitoring through the electronic system which is being proposed and which we saw trialled today.

This is a once-in-a-generation opportunity to fix the food bowl and to ensure that we have a long-term future for our irrigation sector in Victoria. Many comments were made to me today about how this will improve our economy more broadly. For example, by providing 75 gigalitres of extra water to our irrigation sector, in dairying alone, which makes about a $2.1 billion contribution to our export income in this state, it would mean an increase of about $200 million a year to exports in this state — about $1 billion over five years.

If you add to that the horticultural industry, you have a significant boost to our economy. Also, of course, the investment that the government is making in the irrigation sector is assisting on-farm in economic security for those farmers, because they can go to banks and seek finance in the knowledge that their core infrastructure is being improved and there is certainty and security for the future. It is bankable. It is an extra source of water — a secure extra source of water — which is not there now but which will be saved and distributed equally between Melbourne, the irrigation sector with farmers, and also the environment.

I believe that if we missed this opportunity — if we look forward some 20 to 30 years and we say we had an opportunity to invest $1 billion into our irrigation system and we did not do it — we would be neglecting a whole generation of irrigators in this state. There is a clear choice here. You can take up the proposals of The Nationals. Do we know what their proposals are? They

are to let the system run down and do nothing, and to let water be bought on the market in a national system and go down to Adelaide's water supply. That is The Nationals solution to the water problem.

Our solution is to increase the amount of water available, to distribute that to the key users, to increase our export orientation and to ensure we can secure our water future. I believe the logic is inescapable. The Nationals will clearly play short-term politics, but long term they will regret their decision to go for short-term politics against the long-term restructuring of this industry.

Minister for Regional and Rural Development: conduct

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Regional and Rural Development. I refer to a phone call made by the minister to the Moira Shire Council on Monday this week when a senior officer was verbally abused and told to gag his mayor for not supporting the north–south pipeline. I further refer to a motion passed at the Victorian Farmers Federation's state conference this morning, when delegates from throughout the state condemned this state government for 'deceptive and deceitful conduct' and restated their opposition to the piping of water from northern Victoria, and I ask: has the minister got the phone numbers of all the VFF delegates so that he can ring them up as well and abuse them for not supporting his plan?

Mr BRUMBY (Minister for Regional and Rural Development) — On this side of the house we remember Moira shire and we remember all of the shires amalgamated by the former Kennett government. We remember compulsory competitive tendering, and I remember that when we won government in 1999 that shire was bankrupt. All of the big initiatives that have taken place in that shire, with the help and cooperation of the CEO (chief executive officer), Gavin Cator, have taken place under the Bracks government.

Mr R. Smith interjected.

The SPEAKER — Order! The member for Warrandyte!

Mr Ryan — On a point of order, Speaker, the minister is clearly debating the issue. Erroneous though his factual history is, that is not the subject of this question. The minister should answer the question he has been asked.

The SPEAKER — Order! The taking of a point of order does not give the Leader of The Nationals the opportunity to enter into debate. The minister was debating the question. I ask him to come back to the question as it relates to government business.

Mr BRUMBY — With respect, Speaker, I was asked about a phone call to the CEO of the Moira shire. My recollection of what I said 30 seconds ago was talking about the CEO of the Moira shire. That is exactly the question I was asked about. The Nationals hate being reminded of the shocking legacy they left regional Victoria. They hate being reminded of their rank hypocrisy. They hate being reminded of their policy that says — —

Honourable members interjecting.

Mr BRUMBY — Here we go — I will blast yours back!

The SPEAKER — Order! The minister knows that is not the way to behave, and I ask him not to do so again.

Mr Ryan — On a point of order, Speaker, I renew the point of order.

The SPEAKER — Order! I ask the minister to answer the question.

Mr Eren interjected.

The SPEAKER — Order! The member for Lara is warned.

Mr BRUMBY — The plans that we announced earlier this week, as the Premier has said, are forward-looking plans, and they are designed to see $1 billion of investment in this region which would otherwise not take place. In many parts of the Moira shire the irrigation infrastructure is out of date. It needs improvement, and it dramatically needs new investment. That is why groups like the northern irrigators group, which has many members in the Moira shire, are 100 per cent behind this proposal of the Bracks government. They can see past the lies and deceit of The Nationals in seven years in government in this state in the 1990s.

Mr Ryan — On a point of order, Speaker, the term used by the Treasurer in relation to The Nationals is inappropriate parliamentary language, and I ask that it be withdrawn.

Mr Batchelor — On the point of order, Speaker, the Leader of The Nationals has misconstrued the practices of the house. There was no personal reference directed to the Leader of The Nationals. The rules of the house

relate to unparliamentary language being directed towards individuals. It does not relate to other parties, bodies and organisations. This is clearly an attempt by the Leader of The Nationals to get himself out of an embarrassing situation, and it is a point of order that should not be tolerated.

The SPEAKER — Order! My understanding is that remarks that are specifically directed at individuals can be asked to be withdrawn. It is not my understanding of the standing orders that general remarks about political parties can be asked to be withdrawn. I do not uphold the point of order.

Honourable members interjecting.

The SPEAKER — Order! I understand that members can either agree or disagree with the rulings of the Chair, but I have made my ruling and that is the end of it. The minister, to conclude his answer.

Mr BRUMBY — I have a very good relationship with the CEO of the Moira Shire Council. I have known the CEO of the Moira Shire Council since the 1990s. I worked with the CEO of the Moira Shire Council in opposition, and I have worked closely with him in government. I have a very positive and constructive relationship, and the claims made by the Leader of The Nationals are not true.

Water: food bowl modernisation project

Ms BARKER (Oakleigh) — My question is to the Minister for Water, Environment and Climate Change. I refer the minister to the next stage of the Victorian government's water plan, and I ask the minister to inform the house of the environmental benefits this water plan will have.

Mr Burgess — The Treasurer!

The SPEAKER — Order! The member for Hastings will cease the interjections. Interjections in the middle of an answer we can tolerate, but before the minister has an opportunity to open his mouth is not the time to interject — and my previous comment was not an open invitation!

Mr THWAITES (Minister for Water, Environment and Climate Change) — I will start to give the other side an opportunity. The next stage of the Our Water Our Future plan will have many environmental benefits. It will have benefits for our rivers, it will have benefits in terms of the new renewable energy we are going to be providing, and it will also boost our conservation and recycling programs.

Firstly on the rivers, I was with the Premier today in the Shepparton region talking not only with farmers but also with the catchment management authority about the great opportunity that the food bowl modernisation program provides not just for farmers and not just for Melbourne but for the environment as well. Already our state is the first state to have made our full commitment to the Living Murray — the full commitment — of more than 200 gigalitres. This project delivers another 75 billion litres for the environment on top of that. This will provide extra water for the Goulburn River, which is one of our most stressed rivers. It will allow Victoria to lead the nation in the next stage of the Living Murray, and it will also provide opportunities for more flows for the Snowy as well, which is absolutely critical.

There is another environmental advantage. Currently we are seeing a lot spills out of farms and into rivers, which leads to more nutrients in the rivers, and that leads to algae blooms. By using total channel control we can more precisely identify the amount of water that is used. That will reduce those spills and reduce the potential for algal blooms and provide a much more efficient system.

As well as that, there is another important advantage. This will also help reduce salinity, because the current system means that at times there is overwatering, which uses more water than is needed and which rushes the water through the farm into the river, which also increases salinity in the river. So there is really a triple benefit for the environment as a result of the food bowl proposal.

I am pleased to read to the house from a press release by the catchment management authority. I will just read it, because it is important.

Dr Napthine interjected.

Mr THWAITES — You might be interested.

Dr Napthine interjected.

The SPEAKER — Order! The member for South-West Coast does not need to go on with that continual repetition. I ask for some quiet so that the minister can continue to answer the question.

Mr THWAITES — It says:

> The Goulburn River will be a major winner of the Victorian government's decision to spend $1 billion on rejuvenating the irrigation system.
>
> …

> This week's announcement is really big news for the region, which puts us in a new league when it comes to water use efficiency …
>
> Shepparton irrigation region farms will enter a modern era once state-of-the-art infrastructure is built.

It concludes:

> Projects such as this portray immense foresight and help meet objectives to achieve sustainable use of natural resources.

Let us look at what Environment Victoria has said about the north–south pipeline:

> If the north–south pipeline secures water for Melbourne and improves the environmental flows of the Goulburn River, then it is a real win-win proposal.

As the *Shepparton News* says, 'Grand ideas flow'. That is just what this is — —

Ms Asher interjected.

Mr THWAITES — No, it is yesterday's. What we see with this proposal is a benefit for irrigators, a benefit for Melbourne and also a benefit for the environment.

Can I conclude by stressing, though, that we will still need to continue to emphasise conservation. Conservation is critical both on the farm and in the city. In Melbourne we have led the country in conservation, saving more than 100 billion litres of water a year. We need to continue that, but we will be doing it at the same time as we know we have this visionary proposal delivering for Melbourne, delivering for farms and delivering for the environment.

Water: Victorian plan

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the Bracks tax on inaction and failure, and I ask: will the Premier guarantee that the government's water bill doubling will not apply to water authority charges for connection to water, sewerage and stormwater on new home sites?

Mr BRACKS (Premier) — As I have indicated previously, and I will reiterate it, the government has indicated what we expect water prices to do, and — —

Mr Wells interjected.

The SPEAKER — Order! The member for Scoresby!

Mr BRACKS — It is part of their plan. We were upfront in saying how we would pay for the infrastructure. In relation to the particular determinations, that is a role for the Essential Services Commission.

Climate change: national emissions trading scheme

Mr CARLI (Brunswick) — My question is to the Minister for Energy and Resources. I refer the minister to recent calls to the Prime Minister for the abolition of state-based abatement schemes under a national emissions trading scheme. Can the minister inform the house of the government's intentions regarding the future of Victoria's renewable energy target?

Mr BATCHELOR (Minister for Energy and Resources) — The Victorian renewable energy target (VRET) was introduced on 1 January this year. It is a scheme this government has put in place to ensure and encourage investment and the production of renewable energy here in Victoria. It is a scheme that was available to ensure that the desalination plant, as part of the Victorian water plan, would be carbon neutral.

But notwithstanding the success of VRET in encouraging and bringing investments to Victoria and providing the policy framework and setting that would enable the desalination plant to be carbon neutral, there are lots of carbon sceptics around, at both a national and a state level, who would want to put both our VRET and the desalination proposal at risk. We have even heard some ill-informed sceptics who seem to think that unless you build the wind farm on the farmland adjoining the desalination plant, you are not having renewable energy. They have even suggested that if you do not have a big, long wire coming from the exact renewable energy plant — the wind farm — direct to the desalination plant, then it is not renewable energy.

There are some people, like the Leader of the Opposition, who clearly do not know how the VRET scheme works and what the fundamentals of our electricity grid or the renewable energy scheme are. But the Leader of the Opposition is not the biggest risk to our renewable energy scheme here. The biggest risk comes from the Prime Minister and the Prime Minister's task group, who have recommended the abolition of the VRET scheme — a recommendation that would put at risk investment here and a recommendation that would have meant that any desalination plant would have added to greenhouse gas emissions, unlike our proposal, which is going to be carbon neutral.

In fact the VRET scheme has led to undertakings of over $2 billion worth of investment in renewable projects in Victoria. This is likely to create over 2000 jobs, mostly

in regional Victoria, where wind farms and other forms of renewable energy are welcomed and eagerly sought. What we need to do — —

Mr Ryan — You ought to go with him and do some skiing and get out into country Victoria!

Mr BATCHELOR — You are hopeless.

The SPEAKER — Order! The Leader of The Nationals! The minister knows better than to respond to interjections.

Mr BATCHELOR — The Leader of The Nationals ought to listen to what Mr Andrew Richards from Pacific Hydro had to say about this. Pacific Hydro is an Australian renewable energy company that operates here in Victoria and in countries around the world, so it is one of our home-grown Australian companies that operates here. This is what he had to say on 5 June this year on ABC radio's *PM* program:

> … if federal and state renewable targets were abolished, then certainly that would have a profound impact on our investment profile here in Australia. We'd probably take that $1.5 to $2 billion worth of investment and take it offshore to places like Chile, Brazil and certain jurisdictions in North America like California and make those investments in those countries instead of Australia. So that would be very disappointing for us and our shareholders.

That is what Mr Richards from Pacific Hydro has said. You can see that if our VRET scheme, our renewable energy scheme, were put at risk, it would not only put at risk our water plan, because of the importance of the VRET scheme to the Victorian water plan, but would also do damage to investment. We believe not only Australia but also Victoria need a strong renewable industry. That will be supported by a national emissions trading scheme, and it will be in line with our desire and the environment's need to cut emissions of greenhouse gas — and the VRET scheme will go a long way towards achieving that.

Water: Victorian plan

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the Bracks tax on inaction and failure and the $1.5 billion the government will raise — —

Honourable members interjecting.

The SPEAKER — Order!

Mr BAILLIEU — Thank you, Speaker; I will start again.

Ms Beattie interjected.

The SPEAKER — Order! The member for Yuroke is warned.

Mr BAILLIEU — I refer to the Bracks tax on inaction and failure and the $1.5 billion the government will raise from water authorities this term in dividends, tax equivalent payments and the 5 per cent water levy, and I ask: will the Premier suspend the gouging of these payments from water authorities and reduce the need for massive increases in Victorian families' water bills?

Mr BRACKS (Premier) — I thank the opposition leader for his question. As I have indicated, we spend much more than we collect from water authorities. We spend that right around the state. You only have to look at the budget. You only have to look at the commitments we made this week in relation to the $600 million in the irrigation sector. We will continue to spend more than we collect, and that will go to the benefit of communities right around Victoria.

Education: On Track survey

Mr SEITZ (Keilor) — My question is to the Minister for Skills, Education Services and Employment. I ask the minister to detail to the house the results of the government's recently published On Track survey.

Ms ALLAN (Minister for Skills, Education Services and Employment) — I thank the member for Keilor for his question. As this house knows very well and has heard many times, education is the Bracks government's no. 1 priority. We have certainly backed up this commitment by investing an additional $7.3 billion in our schools and in our TAFEs right around Victoria. Just this week we have seen further evidence that this investment is paying real dividends — dividends for our young Victorians and dividends for the future of this state.

The latest details of the Bracks government's On Track survey, which the member asked about — it is of course conducted for the government by Melbourne University — reveal some great news for the more than 34 000 Victorian students it tracked from the year 12 class of 2006. The data shows us that the overall percentage of Victorian students from all our Victorian schools who are continuing on with their education and training after year 12 is a very strong 74.5 per cent.

In addition to those young people ongoing in training and education, we are seeing good news for Victorian industry and the Victorian economy more broadly, with an increase in the number of year 12 students who are taking up an apprenticeship or a traineeship. It has

jumped from 2003, when the figure was 5.7 per cent, to 8.1 per cent as part of the 2007 survey.

Also we have seen since 2003 a continuing increase in the number of government school students who are attending university, up 6.5 per cent to 38.9 per cent. Certainly it is very pleasing to see that these great results are being recognised right across the state. As we have seen this week, the *Herald Sun* showed that Victorian students were 'On track to succeed'. We also saw the *Diamond Valley Leader* trumpet that 'Diamond Valley students go on to higher learning', which I am sure is great news for the member for Bundoora and for the member for Yan Yean. For the member for Keilor and the member for Kororoit, we have from the *Brimbank Leader* the heading 'Brimbank TAFE rate higher'. That is particularly pleasing when you consider the ongoing success rate in that region from our investment in vocational education and training.

However, unfortunately the On Track survey has highlighted one particular area of grave concern for Victoria. The survey shows us that an alarming number of our talented young people from rural and regional Victoria — these are talented young students who have qualified for tertiary education — have either not applied or deferred because they cannot afford it. We have seen that 45 per cent of students from rural and regional Victoria who are not continuing with their studies have identified the cost of study as the major barrier. This is a matter of grave concern for the Victorian government, particularly given that the federal Howard government has created a system that keeps country kids out of tertiary study because they cannot afford it. I call on the members opposite, particularly our friends in The Nationals, to join us in urging Canberra to properly fund — —

Honourable members interjecting.

Ms ALLAN — We would love The Nationals to be friends with us on this issue. We would love them to be friends with us and to join us in urging Canberra to properly fund our rural and regional universities and to provide the adequate income support that country kids need so they can go on with further study and so country kids can get a fair go.

Minister for Water, Environment and Climate Change: conduct

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer the Premier to his 1999 policy entitled 'Integrity in public life', in which he promised to ensure that all MPs 'properly use public resources and not abuse the benefits of office'. He further said:

> These are the standards by which I would want to be judged; they are the standards to which I will hold my government.

I ask: given the number of undisclosed taxpayer-funded free holidays taken by the Deputy Premier, why is the Premier not enforcing these standards, and how should the Premier be judged?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. I reject the second part of the question and the innuendos that were raised by the Leader of the Opposition. The second part of the question — —

Honourable members interjecting.

The SPEAKER — Order! I recognise that this is very late in question time on Thursday and that Thursdays tend to be much rowdier than other days, but I would seek every member's assistance to allow the house to continue with question time and to finish in an orderly manner. A question has been asked of the Premier, and he must be given the opportunity to respond to that question.

Mr BRACKS — I have indicated before — —

Mr R. Smith interjected.

The SPEAKER — Order! The member for Warrandyte must learn that in this place the Speaker is the person who has the last word. I am sick of the constant interjections and the constant comments that come from the member for Warrandyte when I have finished stating a ruling or providing some assistance to the house so we can all continue with the business at hand. I ask for his cooperation.

Mr BRACKS — As I have indicated previously, I believe that the environment minister should visit the parks and reserves around the state. When he does, the government should be able to provide support for those visits.

Honourable members interjecting.

The SPEAKER — Order! The member for Polwarth is warned.

WorkChoices: effects

Mr ROBINSON (Mitcham) — My question is to the Minister for Industrial Relations. I refer the minister to research undertaken by the Victorian workplace rights advocate and ask the minister to outline to the

house whether that research demonstrates how WorkChoices has impacted on Victorian workers and their families.

Mr HULLS (Minister for Industrial Relations) — I thank the honourable member for his question. As members of this house would know, since WorkChoices — if we are allowed to call it that — was introduced by the federal government, the Bracks government has done everything it can to mitigate its damage, passing more than 12 pieces of legislation to lessen the devastating effects that WorkChoices has had on Victorian working families. Why have we done this? We have done this because we know — and I think in their heart of hearts those opposite also know — that WorkChoices is indeed harming working families.

Today I bring to the attention of this house yet another piece of damning evidence in relation to WorkChoices. Today the workplace rights advocate released a report by Monash University entitled *Employer Greenfields Agreements Under WorkChoices*.

Honourable members interjecting.

Mr HULLS — I have to say that it certainly does paint a very grim picture for employees working under employer greenfields agreements. I note the member for Bass interjecting, saying, 'What is an employer greenfields agreement?'. I am about to tell him.

The SPEAKER — Order! The Minister for Industrial Relations knows he should ignore interjections.

Mr HULLS — For the benefit of the member for Bass and other members of this place, employer greenfields agreements are indeed a creature of WorkChoices. They allow an employer who is starting up a new business, project or undertaking to unilaterally determine the terms and conditions of employment. There is no involvement at all from employees, there is no involvement at all from unions and there is absolutely no obligation to negotiate or even discuss the terms of that agreement with anybody. That is right, Speaker: the employer just looks in the mirror and makes an agreement with themselves. The fact is that the report released today details the shocking losses experienced by workers under employer greenfields agreements in Victoria.

Honourable members interjecting.

The SPEAKER — Order! The member for Bass!

Mr HULLS — I note the interjection, 'What do they show?'. I will tell you what they show. They show that 56 per cent of these agreements exclude or reduce meal break entitlements; 67 per cent of these agreements remove or reduce entitlements to annual leave loading; 75 per cent of these agreements exclude or reduce public holiday or weekend penalties; 79 per cent of these agreements exclude or reduce overtime penalty rates; and almost 80 per cent of employer greenfields agreements based in Victoria seek to exclude all protected award conditions.

Can I say to the house that these inequities will certainly not be fixed by any Clayton's fairness test that the federal Minister for Employment and Workplace Relations, Joe Hockey, has concocted. Can I also say that members know that the federal coalition is about to spend millions and millions of dollars of taxpayers funding on rebadging WorkChoices in a blatant propaganda campaign with a slogan entitled 'Know where you stand'. The fact is that Victorians know exactly where they stand under WorkChoices — and that is on an industrial relations scrap heap!

Honourable members interjecting.

The SPEAKER — Order! I would like the member for Bass to withdraw the last statement.

Mr K. Smith — I withdraw saying that the minister is a whacker.

The SPEAKER — Order! The member for Bass should not test my patience on a Thursday afternoon. The member for Bass has been here long enough to know that one needs to simply withdraw the comment, not repeat the comment.

Mr K. Smith — I really meant to call him a wanker. I withdraw.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! I believe the member for Bass has contradicted and ignored the Speaker. Under standing order 124, I ask him to remove himself from the chamber for half an hour.

Honourable member for Bass withdrew from chamber.

The SPEAKER — Order! The time set down for questions has expired.

MAGISTRATES' COURT AND CORONERS ACTS AMENDMENT BILL

Second reading

Debate resumed.

Mr BURGESS (Hastings) — I rise to speak on the Magistrates' Court and Coroners Acts Amendment Bill. The purpose of this bill is to make miscellaneous amendments to the administration of the Magistrates Court and to include in legislation provisions allowing access to Coroners Court records that were previously contained in regulations. The main provisions are that 'magistrate' is defined to include an acting magistrate, acting magistrates will be assigned to the Drug Court division and all magistrates will be allowed to make referrals from the criminal list to the Drug Court division.

The bill also inserts a power for the Chief Magistrate to assign duties to judicial registrars; gives registrars greater powers, including the power to adjourn criminal proceedings and extend bail; adds various public sector officers to the list of persons who can witness statements that are to be tendered for committal proceedings; extends until 30 October 2009 the operation of the Family Violence Court intervention project; and amends the Coroners Act 1985 by, as I said, inserting provisions relating to access to coroners records that were previously contained in coroners regulations.

Many people in my community access the services of the Melbourne Magistrates Court and the Melbourne Children's Court. It would appear, from looking at the Auditor-General's report into the administration of the non-judicial functions of the Magistrates Court of Victoria, which was released earlier this week, that the Bracks government considers that two classes of citizens attend at courts. Referring to the relevant section in the Auditor-General's report, it shows that in 2005–06, 8724 weapons searches were conducted at the Melbourne Magistrates Court and the Children's Court. Of those, 819, or 9.4 per cent, resulted in weapons seizures. For the period 1 July 2006 to 11 May 2007, 7437 weapons searches were conducted, of which 563, or 7.6 per cent, resulted in weapons seizures. These are amazing statistics.

The Melbourne Magistrates Court and the Children's Court have advanced electronic security devices. However, 50 other metropolitan and country courts have very limited security infrastructure. Of the 41 country-based courts, there were 14 security incidents in 2005–06 but no weapons searches or seizures. There were 295 security incidents reported in 11 metropolitan courts.

The amazing statistic, and the one that I believe is the most damning, is that of those security incidents, 159 occurred at the Frankston Magistrates Court. That is almost twice the number of incidents that occurred at the Broadmeadows, Ringwood and Heidelberg courts put together. There are no security cameras outside the entrance to the Frankston Magistrates Court or inside the building, and there are no weapons detectors. The Auditor-General's report stated at point 6.2.1 on page 33 that:

> The rate of weapons seizures for 2005–06 at the Melbourne Magistrates Court and the Melbourne Children's Court exceeded 9 per cent of searches conducted. It is likely that more exhaustive weapons searches across the remaining court locations would result in a greater volume of weapons seizures.

The conclusion to be drawn from that may seem obvious, but it warrants elucidation.

A reported security incident constitutes any occurrence or incident that breaches or threatens to breach the integrity or security of court users, staff, the judiciary or buildings. A very high number of security incidents at Frankston Magistrates Court — 159 in 12 months — were reported. More than 9 per cent of weapon detection searches at the Melbourne Magistrates Court resulted in the seizure of a weapon. Therefore we know that over a 12-month period the security of court users, staff, the judiciary or buildings at the Frankston Magistrates Court was threatened 159 times and that in all likelihood a very high percentage of the people who caused those breaches were carrying weapons.

The Bracks government has failed and is failing the people who access the Frankston Magistrates Court. It has failed and is failing the people of my community who access that court by exposing them to unwarranted and unreasonable risk, both from security incidents and from unresolved issues regarding weapons that could be carried into that environment. It is incumbent on this government to ensure that the people who attend these facilities have a reasonable — in fact, a good — level of protection. At this point in time the Bracks government is failing the community at the Frankston Magistrates Court.

Mr PERERA (Cranbourne) — I rise to speak in favour of the Magistrates' Court and Coroners Acts Amendment Bill, which is about modernising the justice system. It is very pleasing to see both sides of the house supporting this bill, which makes six amendments to the operational components of the Magistrates Court and one amendment to the

jurisdiction of the coroner. I will restrict my contribution to some of the amendments.

Firstly, the bill amends the Magistrates' Court Act 1989 to enable all magistrates sitting at the Dandenong Magistrates Court to refer appropriate cases to its Drug Court division. At present the magistrates do not have the legislative basis to refer cases to the Drug Court division even when the defendants appearing before them meet the criteria.

The Drug Court at Dandenong was established in 2002. An independent evaluation of the program shows that it reduces recidivism and drug use and improves the health and wellbeing of participants. Offenders participating in the Drug Court program are mandated to attend specialist alcohol and drug treatment services. Two alcohol and drug treatment agencies in the Dandenong area are funded to engage Drug Court participants in alcohol and drug counselling. Participants residing outside the Dandenong area are able to access local alcohol and drug treatment services. Once a participant engages with those services they are able to access a suite of other services, including community residential drug withdrawal services if required.

The Drug Court stringently monitors the drug use of all offenders on the program and addresses the specific circumstances of each offender, including their drug use and the underlying reasons for it, in order to reduce crime. Many crimes are committed by people with significant drug problems. Drug courts are a way to help break the cycle of substance abuse and offending by providing offenders with access to suitable treatment programs as part of the court process.

Western Australia has one adult Drug Court operating in the Perth Magistrates Court. It also accepts referrals from the Perth District and Supreme courts. In WA people referred to the Drug Court are subject to specific bail conditions that encourage rehabilitation and abstinence from drug use. In June 2000 some south-east Queensland magistrates courts began trialling the new way of dealing with drug offenders — that is, a specialist Drug Court. In November 2002 the trial was extended to north Queensland. Legislation was passed in 2006 to make the Drug Court a permanent sentencing option for participating courts.

An independent report by the Australian Institute of Criminology on the Queensland experience showed that the Drug Court works for those offenders who complete the program. The report looked at about 300 people who had taken part in the Queensland program up until 2002. It found that offenders who completed the program had low reoffending rates and that those who reoffended took longer to do so than those who did not participate in the program. In another report on this topic one of the participating magistrates said that the Drug Court is helping lawyers, magistrates, counsellors and others involved in the court to work better together to help program participants overcome their drug dependency. We need to break the cycle of reoffending by continually finding new ways to address the underlying causes of crime.

The bill also amends the Magistrates' Court (Family Violence) Act 2004 to provide for the continuation of counselling orders for a further two years. This is being done by changing the repeal date for the counselling order provisions from 30 October 2007 to 30 October 2009. The risks for men in not getting help quickly when it is needed are very real. They are at real risk of doing further violence to their partners, to themselves or to others in the general community. The violent behaviour of these men also exposes them to an increased risk of experiencing violence from others, particularly other men. It was felt that it was important to take some bold steps to address the causes of violent behaviour rather than simply dealing with the outcomes and counting the cost.

The Bracks government has more than doubled funding for family violence services and recruited more family violence workers in every part of Victoria. The number of intervention orders applied for by Victoria Police increased by 34 per cent in 2005–06, on top of the 81 per cent increase in 2004–05. The number of family violence charges laid increased by 73 per cent in the first year and a further 30 per cent in the second year following the introduction of the new police code of conduct, with over 1200 women being supported and more women and children receiving financial assistance to access private rental accommodation.

An innovative early intervention program has been developed to help 157 young men deemed at risk of using violence in future relationships. A new unit aimed at combating the high number of domestic violence incidents in Casey has started up at Cranbourne police station, in my electorate. The Casey family violence unit, to be staffed by seven Casey police members, was launched last week to reduce the alarming rate of family violence in the area, especially in Cranbourne. Police figures show that last year Casey recorded more than 1700 incidents of family violence, with that figure set to grow to more than 2000 incidents this year, in line with the rapidly increasing population.

But family violence is a problem across the whole area, not just in Cranbourne, and it is ever increasing as more

and more families move in. Cranbourne is a rapidly growing area, and the domestic violence figures are keeping pace with the growth. We are now also seeing a high number of referrals, because police are doing the right thing and families are becoming more aware that family violence is a crime and should not be hidden. The unit is the third of its kind in the state, with other family violence units being in Frankston and Brimbank. Police at the Casey family violence unit will provide referrals to support agencies for all persons involved in family violence incidents.

Funding from this year's budget was allocated to continue the family violence courts at Heidelberg and Ballarat. Family violence courts were established to provide a more responsive, integrated and supportive justice system for women and children who experience family violence. These courts require all court staff, including police, prosecutors, defence lawyers, magistrates and support agencies, to change the way they respond to the serious and widespread problem of family violence. All court and support staff have undergone intensive education and training designed to help them tackle the physical, psychological, financial and social effects of family violence. Applicants and defendants each have a family violence worker assigned to them to help explain the court process and provide referrals for services such as housing, community care, Centrelink, counselling and children's support programs.

Key features of the court include: ordering a defendant to undergo a counselling program to help stop their violent behaviour; alternative arrangements for giving evidence, such as via video link; and allowing children to not be present or called as witnesses in Family Violence Court hearings or intervention order proceedings across Victoria, unless ordered by the court. An independent evaluation of this project is under way. Early indications show that the program is doing well, and the evaluation will be completed by the proposed new sunset date.

The bill also amends the Magistrates' Court Act 1989 to allow an acting magistrate to be assigned to the Drug Court. There are acting magistrates who would be particularly suited to handling the matters dealt with in the Drug Court division. However, at present the Chief Magistrate does not have a legislative basis for assigning duties to or requiring duties to be performed by acting magistrates. This is a legislative impediment and a waste of valuable resources, as some acting magistrates could be excellent in dealing with drug addicts. This is good legislation, and I commend it to the house.

Mr HULLS (Attorney-General) — I thank all members for their contributions in relation to this important piece of legislation. As we know, the bill does a number of things, but it includes continuing the family violence counselling program that operates in the Family Violence Court division of the Magistrates Court for an additional two years beyond the current repeal date of 30 October 2007.

I noted in particular the contribution from the member for Brighton, who said on the one hand that she supports the legislation but on the other hand that the evaluation should have been done by now. Can I advise her that this program in the family violence division was established as a two-year pilot, and it is currently being independently evaluated. I might also advise her that that evaluation is due towards the end of the year. But in addition, in 2006, as members would remember, three specialist family violence services were also established at the Melbourne, Sunshine and Frankston magistrates courts. These are separate from the family violence courts and provide dedicated support workers and additional registrar, magistrate and police prosecutor resources. Both these models are about trying to find the best way for our courts to tackle family violence. It is all about thinking outside the square, and the government has taken the view that they both need to be evaluated and comparisons drawn.

This evaluation needs to look at what happens to defendants in particular after they have been to court to see if their behaviour has actually changed as a result of some of the programs that exist at the court — for example, has the counselling offered to perpetrators of family violence actually made a difference? This naturally requires time to elapse, and it cannot be rushed. We want to have a proper analysis of these programs, and my department has advised that the best way to do this is to leave a longer period than was first envisaged when this legislation was introduced. If I am to take criticism for that, I will wear that.

I think it is important that we get the most appropriate evaluation of what are very important changes to the way our justice system deals with family violence. So I am more than happy to take that criticism, if the criticism is merely that the evaluation is going to take longer than was first thought. I think it is important that we have that proper independent valuation. Might I advise the house that more than 350 men have had access to behavioural change programs as a result of this very important project, and it would be unacceptable to just stop this whilst the evaluation is being conducted. I certainly look forward to a full evaluation.

I am also pleased that in the debate many members of this house said they welcomed the Drug Court and believe the Drug Court project ought be extended to other parts of the state. That will, of course, depend on the evaluation. Again it is about thinking outside the square. We know that locking people up and throwing away the key simply does not work. We know that we have to think smarter when it comes to addressing crimes that are being perpetrated as a result of drug addiction, and the signs so far are that the Drug Court is working. That is why, for instance, we have had other innovative programs like the neighbourhood justice centre. The neighbourhood justice centre, for those who have not been down there, is really a great place to visit and a great place to be educated about what therapeutic justice is all about. I would urge members of this place who were a bit dubious in the first instance about the neighbourhood justice centre and about therapeutic justice to go down and have a look at how well it is working.

I know that when the Koori Court initiative was first mooted in this place some people were quite sceptical about it. I remember in particular an article that was written by somebody who is known to me and has been for a long time. David Galbally, a well-known lawyer in Melbourne, wrote an article when the Koori Court was first set up saying that it was inappropriate and that it was an inappropriate form of justice delivery. I wrote an article and urged him to go down and have a look, and to his credit he did. After visiting the Koori Court at Broadmeadows he wrote another article admitting that he had got it wrong. He admitted that the Koori courts are working and making a difference.

Mr Delahunty — It is a big man who does that.

Mr HULLS — Indeed. I would hope that the member for South-West Coast would actually take the time to go down to the neighbourhood justice centre and have a look. I recall that during the debate in this place he said that the neighbourhood justice centre was inappropriate and described it as nothing more than apartheid justice.

I take up the interjection that it takes a big person to admit they were wrong. I hope the member for South-West Coast takes the time to go down to the neighbourhood justice centre and have a look, because I think he would be quite surprised at how effective it is and the community involvement and community engagement in the justice system in an area that certainly needs community involvement. I think he could take some real solace from the fact that the community has absolutely embraced the neighbourhood justice centre. It has taken ownership of it, and that is a great thing for this state. I know that people from around the world are looking at it as a model. People from other states and from New Zealand were at the opening, and they are looking at it as a model for their jurisdictions.

I think everybody would agree that we have to do everything we can to break the cycle of reoffending. As other members have said, we have to look at finding new ways to address the underlying causes of crime. It is not about being soft on crime, as some have said. It is about being tough on crime and tough on the causes of crime and thinking outside the square. That is what these initiatives are all about. The domestic violence divisions of our Koori courts, the neighbourhood justice centre, the sex offenders list — there is a whole range of initiatives that take a new approach to justice. Some people do not like change. They think the old way of doing things is the only way, but that is not the way this government operates.

The question that has been asked is: is it working? Independent evaluation has shown that rates of recidivism have dropped dramatically as a result of Koori courts. Not only that, the rates of failure appear to have dropped dramatically, and the ownership by the Koori community of the justice system where Koori courts exist has been quite extraordinary. I know that those who have been to Koori courts, whether at Shepparton, Mildura or elsewhere, would agree that they are really working, and that is something this government is certainly proud of.

I am glad that members support this legislation. It will extend the family violence courts, and there will be an ongoing evaluation to ensure that the community is getting value for money. As we know, domestic violence is a huge problem right around the world, particularly in Australia. Something like one in four women is subjected to domestic violence, and many women are afraid to report it. Why? Because in the past they have thought they were not going to get the assistance they need. They have thought that the court system is not going to treat them appropriately. But with the change to police protocols and the Family Violence Court divisions we are seeing more instances of domestic violence being reported, and I think that is a good thing. It is good that women believe they can now have faith in the justice system and that the justice system will treat them fairly and with dignity and respect. I am glad all members support this piece of legislation.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

VICTORIAN AUDITOR-GENERAL'S OFFICE

Performance audit

The DEPUTY SPEAKER — Order! I have received the following message, addressed to the Speaker, from the Legislative Council:

> That the Legislative Council acquaint the Legislative Assembly that they have concurred with the Assembly in the appointment of Mr John Phillips of Acumen Alliance to conduct the performance audit of the Victorian Auditor-General's Office.

DRUGS AND CRIME PREVENTION COMMITTEE

Membership

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

> That Mr Haermeyer be appointed a member of the Drugs and Crime Prevention Committee.

Mr DELAHUNTY (Lowan) — I want to make a couple of quick comments. I am a member of the Drugs and Crime Prevention Committee. It is unfortunate to lose a member, but it is pleasing to see that we have appointed a new member quickly so that we can get on with our work — we have public hearings for two days next week. Not only that, he is an Essendon supporter, so he will be a welcome addition to the committee.

Motion agreed to.

BUSINESS OF THE HOUSE

Postponement

Mr BATCHELOR (Minister for Victorian Communities) — As a consequence of that last contribution, I move:

> That remaining business be postponed.

Mr WALSH (Swan Hill) — I move:

> That all the words after 'remaining' be omitted with the view of inserting in their place the words 'government business, orders of the day, and general business, notices of motion nos 1 to 312 inclusive, be postponed'.

I also want to move notice of motion 313 standing in the name of the Leader of The Nationals.

The DEPUTY SPEAKER — Order! The member can speak on the amendment to the motion.

Mr WALSH — I have moved that amendment to the motion. It is only 3.15 p.m., and this house has another 45 minutes to sit before the normal adjournment time. I believe we have a lot of important issues we should be discussing under the government business program.

Mr Andrews interjected.

Mr WALSH — I take up the interjection from the minister at the table. The Nationals are here to look after the interests of country Victoria. Mindful of what the government has done in the way of announcements on water in this last week, we would like to spend the last 45 minutes of this business program actually discussing some of those water issues, rather than being shut down by this government.

Mr BATCHELOR (Minister for Victorian Communities) — I rise to speak in opposition to the motion. If it is carried we will continue with the government business program and go on to the next item on the notice paper. Of course, as members would know, we do not need to sit until 4.00 p.m. Under standing orders we can adjourn either before that time or later. The government business program relates to 4.00 p.m. on Thursday as the time when that procedural motion known as the guillotine is put, but there are plenty of other items of government business that we are in a position to proceed with, and at this stage that would be my intention.

I will listen intently to the debate that unfolds in relation to this motion, but the point about the 4.00 p.m. time for the guillotine is that if there is insufficient time available to discuss all of the bills by that time then that is when the guillotine motion is put. This week the government business program has provided an opportunity for any member of Parliament to speak on six bills, and they have concluded their desire to do that before 4.00 p.m. Therefore I moved the motion that remaining business be postponed, which suggests that because we have concluded the government business program we will not be going onto the next item of government business. However, if there is a desire to spend the remaining three-quarters of an hour until 4.00 p.m., or perhaps until 5.00 p.m., debating the subsequent item, or subsequent items, on the notice paper, I am more than happy to accommodate that. I

will listen to the debate that follows, but I do not think it is appropriate at this time.

The notice of motion proposed to be moved stands in the name of the Leader of The Nationals, as I understand it. He wants to have a discussion on the water strategy. There have been plenty of opportunities for that to occur this week. In fact this parliamentary week the government provided the matter of public importance to talk about the water strategy. There was a full debating team from the government to make its views known. We have no intention of supporting this procedural motion which has been moved by the member for Swan Hill. It is just a cute trick at the end of the parliamentary week to try to catch people off guard, but it will not be successful. It is an interesting manoeuvre by The Nationals.

Hitherto we have always tried to have cordial relations with the other parties about procedural matters, and this is a very disappointing act by The Nationals. They were not prepared to foreshadow this. Members of The Nationals were keen to go home; they are always keen to go home on Thursday. We will take that into account in our dealings with The Nationals in the future.

Honourable members interjecting.

Mr BATCHELOR — I am just saying that you cannot have your cake and eat it too! Week after week The Nationals bleat about the fact that they are not told weeks in advance about what is coming up on the government business program — —

The DEPUTY SPEAKER — Order! On the amendment!

Mr BATCHELOR — We bend over backwards to meet the needs of The Nationals. If they carry on trying to spring this on the government late in a parliamentary week then we say that we do not appreciate that duplicity. We do not appreciate it, and we will remember it and act accordingly.

Mr RYAN (Leader of The Nationals) — I note the threat from the Leader of the House, and of course that is in keeping with what brings me to my feet because I want to move this notice of motion. We are within what is now regarded as the normal debating time of the Parliament. The guillotine applies at 4 o'clock and has done so for some years. In wishing to move this motion it is our intention that we stay here until the normal allocated time to debate the issues that are important for the Parliament's consideration.

By way of clarification of the minister's comments of a moment ago, I want to move a motion which is specifically devoted to debate in relation to notice of motion 313 on the notice paper. It is a very specific motion, so there is no need for him to worry about what we otherwise might be talking about, or what I am asking us to talk about. I am asking us to talk about notice of motion 313. The Leader of the House also says there has been some discussion this week in relation to water, and he is quite right. The government provided the matter of public importance in relation to water, but since that time numerous developments have occurred which have further clarified the situation as it is viewed by the different parties and the many relevant stakeholders when considering the government's plans that were announced earlier this week. That is why we want this motion debated. That is why we want to talk about the things that are imperatives for country Victorians.

It is unfortunate that I am met with this commentary from the Leader of the House with whom — I say on the record — I regard myself as having a constructive association in relation to the organisation of government business. Be that as it may, I am not going to be threatened by him or by anybody else in relation to this issue. It is a reasonable proposition to put, and I do not think we deserve to be threatened in this manner in response to it. But it is not a surprise in many senses because, of course, this goes to the nub of what needs to be debated. Today I put to the Minister for Regional and Rural Development a further threat which was made to another Victorian citizen in relation to issues which are very pertinent to the matters under consideration.

The DEPUTY SPEAKER — Order! I have allowed a comment on the matter that the member wishes to debate, but I remind him that we are debating the amendment that has been put, and not the actual issue that he wishes to debate if the motion is passed.

Mr RYAN — Thank you for your guidance, Deputy Speaker. This all relates back to the fact that the reason underpinning the amendment to the motion is that we want to talk about a matter, within the normal debating time of the Parliament, which is of absolutely critical importance to Victorians at large and to country Victorians in particular. The various matters surrounding the announcements that have been made by the government this week are utterly vital to all Victorians and, most particularly, if I may say, to those of us who live in the country. They go to matters which are relevant to the very fabric of the country parts of the state and to the future generations of those who live in country Victoria. These are matters that I believe are without peer in terms of importance.

The fact is that the last great natural asset we have available to us in country Victoria is water. The last great natural asset that gives us at least a measure of a competitive edge in relation to our life in country Victoria is the question of access to water. It is why we harbour this issue — pardon the pun — with such gusto, because the government is now looking to directly threaten the importance to us — —

The DEPUTY SPEAKER — Order! I remind the Leader of The Nationals again that he should speak on the amendment, not on the actual issue that he wishes to debate.

Mr RYAN — I am making the case, Deputy Speaker, as to why it is so important to debate the issues which are outlined in the amendment. With respect, I am not referring to them, I am simply highlighting how important they are to country Victorians and the rationale that underpins the amendment to the motion before the house. It is as a result of the fact that I — like other members of The Nationals, and I am sure other parliamentarians — have received an enormous amount of comment this week, particularly from country Victorians who are very concerned to see the issues which are referred to in the motion being debated on the floor of this Parliament. That is where they should be debated.

We have to do it now. The time is within the normal sitting hours of the Parliament, and the fact is that we should be occupying ourselves in a way that I think Victorians at large reasonably expect of us, and that is by debating things that are of critical importance, and doing it in a way that reflects the enormous responsibility which is cast upon us by those who sent us here.

Mr LANGDON (Ivanhoe) — I would like to contribute to this debate and basically accuse The Nationals of pulling a stunt. The Nationals Whip came over to me prior to the conclusion of question time today and asked what we were doing. He had heard that we might be adjourning early and he had no objection to that. He came over to me and I confirmed that and said we could possibly have one or two speakers on bills later. At no time did The Nationals Whip suggest to me or to any other member that he wanted to raise general business, notice of motion 313.

As Government Whip I have tried to work as much as I possibly can with all the whips in the house and with the predecessors to the current whips for the Liberal Party and The Nationals. At no time has that trust been so betrayed as it has today, in my opinion. The Leader of The Nationals may well be chuckling over there, but on many occasions we have moved bills from various times to accommodate him.

The DEPUTY SPEAKER — Order! I remind the member for Ivanhoe to speak on the motion that is before the house.

Mr LANGDON — Certainly, Deputy Speaker. Obviously the situation here is that The Nationals have pulled this stunt without advising the government in advance and without advising me. Therefore we should go on and debate the bills.

Dr NAPTHINE (South-West Coast) — What we have in the house at the moment is a motion from the Leader of the House for the house to adjourn and for remaining business to be postponed. To that the member for Swan Hill, the Deputy Leader of The Nationals, moved an amendment to the effect that the house should not adjourn at this time but should postpone the business of the house so that general business, notice of motion 313, can be debated. Notice of motion 313 is a notice of motion given by the Leader of The Nationals concerning water issues in the state of Victoria.

The point I wish to make on behalf of the Liberal Party is that there is time available to the house. The normal time for the house to move the adjournment motion on a Thursday is 4.00 p.m. Members expect the house will be in operation until then. The people of Victoria — the constituents of each of us as members of Parliament — fully expect the Parliament to operate in the hours it is set to operate and to debate issues of importance to them. In general terms the government sets the agenda for the house in its business program and determines what items are to be debated. As I understand it, in this case in consultation with the Government Whip the Liberal Party Whip, acting also as the manager of opposition business in the absence of the member for Kew who has a family illness, made it clear that if the six bills that were listed ran out of speakers then the house could adjourn early. As a result of that The Nationals have noted the opportunity to use the remaining time the house has to sit to debate the very important issue of water.

Having listened to the debate today, I concur with The Nationals that this is an issue of vital importance. I note that the Leader of the House said there was a debate on water yesterday morning in the matter of public importance (MPI). I did speak on the MPI, but I think the house and the people of Victoria were disappointed that the Premier, the Minister for Water, Environment and Climate Change and the Treasurer refused to speak on the MPI. They chose to go off and do media stunts

rather than participate in parliamentary debate on water. I think the people of Victoria expect better of their government leaders.

Water is the most significant issue facing Victoria today. The security of supply of water and how that supply is managed for the future is of vital importance to the people of Victoria, and that should be reflected in the debate in the Parliament. That debate should involve the leaders of the government, the opposition and The Nationals, and the Independent member. This will provide such an opportunity. Reluctant as I am and reluctant as the Liberal Party is to support The Nationals, I think it is important to say that we do support them in this case because there is time available. It is not extending the normal sitting time of the house. The house's normal sitting time is available. Water is the single most important issue. This notice of motion goes to the nub of that important issue. Members of Parliament from both sides of the house are here, they are available and the people of Victoria, quite rightly, should expect them to use their time in the Parliament debating vital, important issues. This will provide that opportunity.

Therefore I think all members of the house need to examine their conscience, examine what their electorates expect of them and ask themselves whether their electorates expect them to spend their time when Parliament is allocated to sit debating important issues for Victoria or whether their electorates expect them to go home early. I would suggest that the electorate of every one of the 88 members of this house would say it is appropriate to use this time in valuable, constructive debate on water. That is what this is about. The Nationals have provided a very good suggestion. Having listened to the debate, we support The Nationals.

Mr LUPTON (Prahran) — I rise this afternoon to support the motion moved by the Leader of the House and to oppose the amendment moved by the Deputy Leader of The Nationals. This house has operated for many years on the basis of cooperation and understanding between the parties and the Independent member. The whips of the respective parties had an understanding and agreement about the way the matters before the house were to be dealt with this afternoon. If speakers on bills ran out before 4 o'clock — the time that the question that remaining business be postponed would normally be put — the understanding and agreement between the whips of the various parties was that the house would adjourn. The Nationals and the Liberal Party have effectively ratted on the agreement they came to with the Government Whip.

This is nothing more than a rather pathetic stunt being pulled by The Nationals and the Liberal Party. What we are doing here is seeing The Nationals breaking the agreement they reached with the Liberal Party. We are seeing a complete division of agreement and a complete breakdown of understanding between the Liberals and The Nationals. Now they are putting together some kind of cobbled-together de facto coalition on this argument. The Parliament should not and will not be fooled by that kind of approach.

If the motion moved by the Leader of the House is not agreed to, I suggest we should go back to government business and orders of the day and to the next bill on the notice paper which is the Wills Amendment Bill. I wonder whether the member for Box Hill is in a position to come into this house now and debate the next matter that ought to be debated. He is the lead speaker for the Liberal Party on this bill. I wonder whether the Leader of The Nationals, who would ordinarily be the lead speaker for The Nationals, is prepared, willing and able to debate the Wills Amendment Bill. He often puts himself forward in this house as a folksy country solicitor who is able to talk about his legal experience with great volubility. We might get an opportunity to talk about an important piece of legislation, the Wills Amendment Bill, this afternoon. We have worked our way through a number of important bills this week and that bill has now got to the top of the order of government business and it should be debated if it is the will of the house that we do that this afternoon.

We had an opportunity this week in the discussion of the matter of public importance, as the member for South-West Coast has indicated, for a number of members to raise issues in relation to water. They have also been raised a number of times during question time, during members statements and during the other opportunities members have in the course of a parliamentary sitting week to raise issues that are of importance to them and their electorates. I remember the member for Bass plumbed the depths in relation to the plumbing bill!

There have been a number of opportunities for members to debate these matters, and as they are ongoing issues of substance and importance, there will be ample opportunities for members to raise them and continue to raise them. But criticising the Premier and other ministers for being out in the community talking to the locals, talking to councils, talking to catchment management authorities and talking to a variety of other people who have an important role to play in this process is an absolute disgrace.

The member for South-West Coast, in raising this sort of matter, should stand condemned by this house. It is appalling that the Leader of The Nationals and the member for South-West Coast have joined together in a de facto coalition of this sort. It is a disgrace, and the house should reject it.

The DEPUTY SPEAKER — Order! The member's time has expired. The standing orders allow for a maximum six speakers or 30 minutes, whichever is the shorter, so I will put the question. To the motion moved by the Leader of the House, the Deputy Leader of The Nationals has moved an amendment:

> That all the words after 'remaining' be omitted with the view of inserting in their place the words 'government business, orders of the day, and general business, notices of motion nos 1 to 312 inclusive, be postponed'.

The question is that the words proposed to be omitted stand part of the question. Members supporting the Deputy Leader of The Nationals amendment should vote no.

House divided on omission (members in favour vote no):

Ayes, 49

Andrews, Mr	Languiller, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lobato, Ms
Bracks, Mr	Lupton, Mr
Brooks, Mr	Maddigan, Mrs
Brumby, Mr	Marshall, Ms
Cameron, Mr	Morand, Ms
Campbell, Ms	Munt, Ms
Carli, Mr	Nardella, Mr
Crutchfield, Mr	Neville, Ms
D'Ambrosio, Ms	Overington, Ms
Donnellan, Mr	Pallas, Mr
Duncan, Ms	Pandazopoulos, Mr
Eren, Mr	Perera, Mr
Graley, Ms	Pike, Ms
Green, Ms	Richardson, Ms
Haermeyer, Mr	Robinson, Mr
Hardman, Mr	Scott, Mr
Harkness, Dr	Seitz, Mr
Helper, Mr	Stensholt, Mr
Holding, Mr	Thomson, Ms
Howard, Mr	Thwaites, Mr
Hudson, Mr	Trezise, Mr
Kosky, Ms	Wynne, Mr
Langdon, Mr	

Noes, 31

Asher, Ms	Northe, Mr
Baillieu, Mr	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Burgess, Mr	Ryan, Mr
Clark, Mr	Shardey, Mrs
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Ingram, Mr	Victoria, Mrs
Jasper, Mr	Wakeling, Mr
Kotsiras, Mr	Walsh, Mr
Morris, Mr	Wells, Mr
Mulder, Mr	Wooldridge, Ms
Napthine, Dr	

Amendment defeated.

Motion defeated.

WILLS AMENDMENT BILL

Second reading

Debate resumed from 23 May; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Wills Amendment Bill makes a small but important alteration to the Wills Act 1997. It relates to the very difficult area where there is a person with a disability or some other form of incapacity which means that they are not able to make a will for themselves.

There has been provision in the Wills Act for some time that deals particularly with the situation where a person has at some stage had the legal capacity to make a will but at some later stage has ceased to have that capacity. The act as it stands makes provision for an application to be made to the court for a person to have leave to make a will on behalf of the person who is suffering from that disability. That is clearly considered to be preferable to the situation where no will is made at all and therefore the person concerned may die intestate and their estate is distributed in accordance with the rules relating to intestacy.

The bill before the house proposes to redraft and substitute the relevant provisions in the Wills Act so it will cover the situation of a person who has never had the legal capacity to make a will. The intention is also that in those circumstances an application can be made to the court for permission for another person to make a will on behalf of and in the name of the person who suffers from that incapacity.

Of course there is a real difficulty with these provisions even though they are advantageous in comparison to the situation of somebody dying intestate. The difficulty, of course, is that there need to be criteria by which the will that is proposed to be made on behalf of the person with the disability is to be made. The wording that is in the legislation at present is drafted on the assumption that the person concerned at some stage

was of full legal capacity and therefore it makes sense to try to anticipate having regard to what was known about that person at the time they had legal capacity as to what they would have wanted to be included in their will.

If you are dealing with someone who has never had legal capacity, then you cannot apply that test because you do not know what that person would have wanted had they been a person of full legal capacity. In fact it raises quite profound conceptual questions in relation to various forms of disability as to what extent you can form a hypothetical construct about what that person might have wanted had they not been subject to that disability.

The amendment that is being made by the bill replaces the existing form of words in the act as it stands with an alternative form of words that is broad enough to cover a person who has never had legal capacity. The key provision is that contained in clause 3 of the bill. What it is going to do is substitute, in section 26(b) of the Wills Act, a revised form of words which says:

> the proposed will or revocation reflects what the intentions of the person would be likely to be, or what the intentions of the person might reasonably be expected to be, if he or she had testamentary capacity.

In other words, the test is going to be based either on what it is thought those intentions were likely to have been or what they might reasonably have been expected to be. As a form of wording, that now covers the situation of a person who has never had legal capacity. However, that does not really resolve the matter in practise because while in form the wording of the legislation is broad enough to cover that situation, we are still faced with the practical dilemma that there have to be third-party judgements about what are in the best interests of the person concerned, or what the intentions of the person concerned might reasonably be expected to be.

This is a problem not only in this context but in many other contexts where decisions are being made on behalf of a person who does not have full legal capacity, and I have to say that I think in some respects the law creates a legal fiction, because you are trying to substitute a decision on behalf of the person with the disability when in fact there is only a limited amount of knowledge about what that person would have wanted, and there can be a real risk that decisions are made based not so much on the best interests of the person concerned but on the basis of what some third party believes ought to be done on their — —

Mr Lupton — On a point of order, Deputy Speaker, I draw your attention to the fact that a member is engaging in a lengthy conversation with people in the visitors gallery — certainly someone who is not a member of this house. I draw your attention to that matter and wonder whether it is appropriate for a member to be conversing with people in the visitors gallery during debate in the house.

The DEPUTY SPEAKER — Order! It is not appropriate for members from the chamber to speak to anyone in the gallery. I did not observe that, so I do not uphold the point of order.

Mr CLARK — Deputy Speaker, at the time the member for Prahran raised that point of order I was addressing the issue that in fact it is very difficult to make decisions on behalf of other persons, on behalf of persons with disabilities, and there is a real risk that in those circumstances the decisions that are being argued for are not so much what are in the best interests of the person with the disability but what is in fact wanted by the person who is making the application or advancing a proposition before some other tribunal.

This issue comes up quite frequently in the guardianship division of the Victorian Civil and Administrative Tribunal (VCAT). It is a very difficult issue because there is a real problem with elder abuse in our community. Members will be aware of that difficulty, as will members in the other place — I refer in particular to Andrea Coote, a member for Southern Metropolitan Region in the other place, who has done a great deal of work on that issue — and my understanding is that the commonwealth Parliament is also conducting an inquiry into elder abuse.

Of course it is not just the elderly who are vulnerable; it is also people with disabilities. Unfortunately there is a somewhat naive view which prevails in some circumstances, that family members and others connected with an elderly person or someone with a disability are always going to act altruistically in the best interests of the person concerned. Probably in 95 cases out of 100 that is so but there is that serious difficulty with the remaining 5 per cent of cases in the community, where there is abuse going on.

Some aspects of elder abuse and the abuse of people with disabilities relate to how they are treated in a family context, such as being subject to physical violence, being subject to deprivations or being subject to unreasonable constraints on their liberty. It is a very difficult balancing act on the one hand to protect against those very real threats and on the other hand to avoid

unreasonable bureaucratic intrusion into people's lives and into family arrangements.

I fear that in some contexts we are perhaps getting the worst of all worlds, in that on the one hand we are not adequately intervening in cases of real and serious abuse of elderly people or of people with disabilities but on the other hand we are suffering from a great deal of unnecessary intrusion into what are fair and legitimate and beneficial family arrangements. I am sure many of us in this place have been approached by constituents who are suffering or experiencing or involved with these sorts of dilemmas. I have certainly raised these matters in this place on previous occasions and have given advice to constituents about what they can do to secure the best interests of people with disabilities in those circumstances. It is a very difficult issue that we as a community need to address.

It is important that we maintain a sense of reality in assessing these propositions in terms of objectively looking at what is in the best interests of the person concerned as well as what various third parties might argue the person concerned might have wanted had they been in a position to make a decision for themselves.

Clearly, to the extent to which there are clear views as to lifestyle or as to how a person would want their assets to be disposed of upon their death, that should be given a great deal of weight. But that needs to be tempered by running a reality check, as it were, on whether what is being asserted is actually in the person's best interests. Unfortunately in situations of family stress, conflicts can arise amongst different family members, and those conflicts can arise in good faith. Unfortunately also there is a minority of cases — and I know cases have been drawn to the attention of colleagues of mine in recent times — where it appears that at least one family member who has been appointed as an executor of a will, for example, has outrageously abused that position and has in effect stolen or misappropriated the assets of the deceased person.

Then you can get involved in a very heated conflict within the family about trying to get some resolution of the matter. It is very difficult for external parties to resolve these issues fairly and to ensure that justice is done, because they do not have the firsthand knowledge either of the factual situation within the family or of the true wishes and circumstances of the testator — and large amounts of family assets can be consumed in the course of such disputes. What this means in relation to the bill before the house is that a great deal of care needs to be exercised as to how these provisions are implemented in practice.

As I said earlier, in the vast majority of cases there are significant advantages in having a will prepared on behalf of a person who does not have legal capacity. That will can, with goodwill and proper supervision, be sculpted and drafted so that it better reflects the circumstances and the intentions of the person than would the rules of intestacy.

To that extent what is being proposed is a step forward; however, it is going to put an enormous responsibility and burden on the court in hearing the application. I will certainly be keen to hear what various members of the government have to say on this point as to how they envisage the legislation operating in practice, because what the bill and the existing legislation provide is that there is to be an application made under section 21 of the Wills Act to have leave to authorise a will to be made or revoked on behalf of a person who does not have testamentary capacity. Then there is an obligation on the court to be satisfied about various things, including what is being proposed in the bill.

I understand from the briefing that was provided to the opposition by officers of the Department of Justice, for which I express the opposition's appreciation, that in practice what happens is that both the application for leave and the consideration of the substantive merits of the issue by the court occur in the same hearing, so that there is not a requirement for two applications — one for leave, with the applicant then going away, drafting the will and coming back and seeking approval. It is all dealt with in the one hearing.

It is going to be important that the court is able to probe carefully into what is being put before it. Clearly if ex parte applications are being made — that is, applications made simply by one family member or other interested person in respect of someone with a disability — there need to be mechanisms to ensure that the widest possible range of family members, friends and others who may have a legitimate interest and something to contribute to the issue are notified and have an opportunity to appear. There also need to be adequate mechanisms to ensure that the various propositions that may be advanced in the course of the hearing are properly tested and properly evidenced.

I have to say that one criticism I receive repeatedly of hearings in the guardianship division of VCAT is that the quality of those hearings can be variable — that is, some are very good, but in others the presiding VCAT member is inclined to make decisions without proper consideration of all points of view, is biased in favour

of particular witnesses, has a propensity to be biased in favour of the Office of the Public Advocate ahead of family members or has a bias in favour of committing the assets of the person concerned to the care or control of State Trustees or of the public advocate ahead of family arrangements.

It may be said that those are simply the views of dissatisfied litigants, and without having sat in the tribunal oneself it is hard to be uncategorical about it, but I do have to say that, based on the persistent range of similar complaints that are raised with me by people with whom I have had long discussions and who seem to be very credible and cogent and indeed compelling in what they say, there seems to be an issue there. Certainly I have raised in this house cases where I believe the response of the Office of the Public Advocate in the exercise of that office's responsibilities has left something to be desired.

When an application like this comes before the court it is going to be very important that the court ensure that all competing arguments are put and that there is a proper and fair probing of the evidence. Clearly different family members can assert different things about what the person with the disability would have wanted, or in the case of someone who has never had legal capacity, what their lifestyle had been and what their interests have been and therefore what their wishes might reasonably be expected to have been if they had had testamentary capacity.

In conclusion, although this bill is a very short bill, it is nonetheless very important. I should say that what has struck me and Andrea Coote, a member for Southern Metropolitan Region in another place, is the lack of consultation that the government appears to have had with groups that are involved with those with disabilities. Mrs Coote circulated copies of the bill to a large number of groups that have regular dealings with and provide assistance to those with disabilities, and most of them were not even aware that the bill had been introduced into the Parliament. Therefore they found it difficult on short notice to express a view on behalf of those with whom they work. It is very striking that this bill has clearly not been the subject of consultation with those whom it could be expected could have a very useful and profound interest on behalf of those they represent.

The responses we have received reflect concerns about how governmental institutions relating to people with disabilities operate and that this will become part of a bureaucratic system that will not pay proper regard either to people with disabilities or to their families, and this is something about which we have concern. As I said at the outset, it is particularly in relation to elder abuse, and it is something that my colleague Mrs Coote has given a great deal of attention to. Her work and the work of others, and the evidence that is coming forward from the commonwealth inquiry and others, indicates that the practical implementation of this bill is something that is going to require very careful attention to ensure that it works in a beneficial manner and is not open to abuse and misuse by a small minority.

On that basis the opposition does not oppose the bill, but it will be very keen to hear from government members during the course of this debate what practical measures the government has in mind for the implementation of this legislation to ensure that the various concerns I have raised are protected against.

Mr RYAN (Leader of The Nationals) — I welcome the opportunity to join the debate on the Wills Amendment Bill. This is absolutely vital legislation, and it touches upon an issue that goes to the very heart, in many senses, of all of us as members of the broad church of the Victorian community. One of the things that people at large cherish is the notion of being able to develop their own backgrounds as individuals, to be able to work through their careers, whatever form they might take, and in the course of doing that to accumulate various forms of what might loosely be termed an asset base. That in turn might take many forms these days, starting with one's own home, and progress through a vast array of other entitlements that people accumulate in their lifetime.

One of the very important things that we quite rightly cherish in society is being able to fashion a means whereby upon our passing the various elements of our asset base are able to be distributed in a way which is in accord with our wishes. It is something that people quite rightly cherish and, if I may say, is one of the things I found when I was practising in country Victoria. The member for Prahran referred to it as a folksy environment in country Victoria, but one of the things that I always urged upon people was to make sure that they made a will. It is a very important thing to do.

There are all sorts of endeavours to try and entice people these days to have home-grown jobs and to go through do-it-yourself processes, but the importance of making a will and doing it properly cannot be overstated. It must also be said that to make a will which has proper legal standing is not a simple matter. I think all too often people are drawn into the notion that they can pick up one of these packs — a bit like a $2 packet down at the local store — and waltz their way through it, expecting that at the end of the day it

will take effect. Unfortunately and sometimes tragically, that is not the case. The better way by far — at the risk of sounding as though I am urging business for those of whom I was originally one — is to spend a bit of money upfront and get it right.

Mr Cameron interjected.

Mr RYAN — The Minister for Police and Emergency Services is with me!

Dr Napthine interjected.

Mr RYAN — It is going to be said that he has a vested interest too, and I suppose he has.

Mr Cameron — Where there's a will, there's a probate!

Mr RYAN — 'Where there's a will, there's a probate' — he said it, I didn't!

This is an important point, however, because the reverse situation is just as important. For people who do not make a will, or more particularly for those who make a will which turns out not to be of a proper legal form and therefore not enforceable and unable to have effect at law, the complications are potentially enormous. The amounts of money that can be expended in trying to sort out a will which was thought to be of the correct form but which turns out not to be so can be utterly enormous. I am simply using the opportunity of this debate to exhort people to recognise what an important thing it is to do in life to make a will. It is a privilege, and everybody ought ensure that they take advantage of the law as it stands and give effect to that privilege.

In country Victoria this was an issue that all too often came into the practice in which I was involved in circumstances that were most regrettable. Unfortunately, with the time constraints upon me, and unless the members opposite are prepared to grant me an extension, I cannot take the house through too many of those examples. I would be very happy to, of course — —

Honourable members interjecting.

Mr RYAN — No, at the end of the 20 minutes I will seek an extension, and if my colleagues opposite are prepared to grant it, then I can continue to talk about those examples. But without going into too many of them — because there are dozens and dozens — and only to recite some of them, I can think of numerous instances where we had what years ago was known as the classic situation that developed with farming property and that more latterly developed with water that was held by farming families. It is important that I talk not only about the land interests of those families but about the water interests of those families — —

The DEPUTY SPEAKER — Order! As lead speaker the member will be given some leeway, but I remind him about the content of the bill.

Mr RYAN — Indeed, Deputy Speaker. There were numerous instances where the man of the house, as it was colloquially termed, had made a will in favour of his wife, who, in the instances that often came to my attention, happened to be the gentleman's second wife. Where the gentleman had children of his first marriage and where in his will he had left substantial benefit to his second wife to the exclusion of the children of his first marriage you had a recipe for absolute disaster, because unfortunately and tragically — and all too often I saw this happen — there would be challenges, often as part 4 applications under the Supreme Court Act, about the way in which such wills should be given effect.

They led invariably to highly emotive, extraordinarily wasteful and contentious court proceedings which in many instances and, all too tragically, I saw destroy families. That is something that under the terms of the principal act, which is now being amended by the bill before the house, I again say people need be very careful about — namely, exercising the right available to them under the legislation and doing it having regard to the realities of what can happen if it goes wrong.

This legislation, of course, touches upon a position which I also saw occur all too often over the years. The legislation as it prevailed when I was practising did not go to the points which are accommodated by the terms of this bill. I saw many instances where a person who had testamentary capacity but unfortunately lost that testamentary capacity purported to make a will and then, after the passing of that individual, an enormous dispute developed between the potential beneficiaries — family members or others — as to whether that person had testamentary capacity at the time the will was actually made.

The member for Box Hill has referred to some instances where that situation can be said to have arisen. Often the ones in which I was involved were where elderly people had been admitted to care in different forms and wills had been made. It was often said in the course of these proceedings that the will was made under duress. Then there were arguments about this question of testamentary capacity. But invariably we had in play that most awful of situations of a

dreadful court conflict, more often than not between family members, regarding the distribution of the asset base of a loved one, all happening in an environment where the focus of the issue was the question of testamentary capacity. They truly were tragic circumstances.

What the law eventually worked around to was a process whereby there could be developed what is called a statutory will. This is the means by which an application could be made to the Supreme Court by an individual for the purpose of effectively having the court accept that, had the person whose matters were then under consideration had testamentary capacity, this would be the style of outcome which such an individual would have anticipated as appropriate in his or her will.

Just stopping there for a moment, before we get to the clauses in this bill, one can see, of course, how being engaged in these sorts of applications is extraordinarily difficult. Judges by nature do not like stepping into the shoes of the person who is the testator — and understandably so. There is a vast body of law which reflects the fact that the court has enormous regard for and pays due respect to the wishes of a person as expressed in the course of his or her will — and quite rightly so. By law, and indeed by nature, judges are very reluctant to interfere with the intent which is carried in the verbiage of a will. Therefore in my experience it is in only the most singular of circumstances that a court would actually interfere with what a testator had laid out in the course of his or her will.

So imagine how more difficult the situation is in circumstances where there are issues to do with testamentary capacity and a judge is trying to step into the position of hearing evidence to decide how, if this person were making the will and had the testamentary capacity to do it, they would have gone about it. Needless to say, that is a very difficult task. As the second-reading speech recites, the law already provides general bases upon which the court can rely for at least some measure of guidance as to how the final determination should be made. Up until now, though, the court has not had sufficient capacity to deal with the position which is even once removed from that already very difficult circumstance — that is, how does a court deal with an application for a statutory will on behalf of a person who has never ever had legal capacity?

It verges upon, one would think as a matter of logic, the almost impossible. It brings into play this question: what are the criteria that properly ought be applied to enable a court to make this sort of judgement? What sort of evidence should a court reasonably expect to hear in order to make a judgement? It can be found in clause 3 of the bill, where the clause's heading specifically says:

> Matters of which Court —

presumably 'the court' —

> must be satisfied before granting application for leave

The clause states:

> For section 26(b) of the Wills Act 1997 substitute —
>
> "(b) the proposed will or revocation reflects what the intentions of the person would be likely to be, or what the intentions of the person might reasonably be expected to be, if he or she had testamentary capacity; and".

Needless to say, when you listen to these express definitions it is very difficult to determine how they are to be interpreted. In saying that, I appreciate there is a body of law at the moment which gives assistance in this regard. But I will be particularly interested to hear from members opposite when they make their contributions this evening about what the government says will be the appropriate interpretation to be provided to this particular piece of legislation.

When you break the clause into its component parts, you find that each part is a challenge in its own right. Let me take into consideration the opening aspects of this clause, for example, which states:

> the proposed will or revocation reflects what the intentions of the person would be likely to be …

One can see that in the case of an individual who has never had testamentary capacity, this will be a challenge. Again by definition this poor individual has perhaps never had the opportunity to give expression to their wishes, desires, aims or life aspirations. One wonders how evidence will be produced before a court that will enable a judgement to be made.

How can it be said that these critical criteria can be satisfied? For example, are we going to hear from other family members who have known the individual for the whole of his or her life? What about a circumstance where, for whatever reason, the person whose affairs are under consideration has never had testamentary capacity and yet has been a beneficiary perhaps under someone else's will of a significant asset base? How are judgements to be made by the court in the case of such an individual?

What conceivable forms of evidence will be able to be produced to the court to enable a judge, who is having to determine these difficult issues, to assess whether the

matters that have been put before the court are appropriate in all the prevailing circumstances? The judges have the credibility and the efficacy which ought properly go to this critical issue of constituting enough to satisfy what is, as the clause says, likely to be the intentions of the person concerned.

The next part of the clause says:

> … or what the intentions of the person might reasonably be expected to be ….

This again brings into play issues for consideration that in a sense entail gazing into a crystal ball to try to envisage what the person might have had in mind had they been able to achieve testamentary capacity and therefore, had that person been able to give effect to what they wanted to do with their assets. One can immediately see how difficult that is going to be. This brings us specifically to this question: what are the evidentiary requirements that the government anticipates will be sufficient for the consideration of the court? In so saying, I respect the fact that there will be periods of interpretation of what these clauses mean, as is inevitable with any legislation.

One of the criticisms that is often levelled at us as legislators is that we do not seem able to be precise about what is proposed by legislation that passes through this place, but the very nature of the legal process is that it deals with that 1 in 100 or 1 in 1 million case of exceptional circumstances where there needs to be a close examination of the legislation to consider what the original import and intent of it might have been and then apply it according to the law as it then stands. These are thus very difficult cases anyway, but even more so when you have the circumstances under discussion here — when the people whose wishes and intentions you are attempting to interpret through the court system have never in the eyes of the law had a testamentary capacity which would have enabled them to directly indicate what they see as the proper outcome.

The court system has historically felt itself to be in a difficult position when interpreting what might be seen as the easiest forms of contest with regard to the cases that occur under the principal act. In such cases there is at least an indication of the intent of the testator. It is hard enough then in the face of all the competing issues. How much harder is it when you are dealing with a person who has had testamentary capacity but has unfortunately and tragically lost it or, one step further removed, when you are trying to interpret the wishes and intentions of a person who has never had testamentary capacity? Members can see immediately how difficult it will be to give effect to this legislation. The legislation is an attempt to resolve these difficult issues, but it does not, on the face of it, resolve the evidentiary issues. It is to that issue that I would like to move, if I could be granted an extension of time.

Dr NAPTHINE (South-West Coast) — By leave, I move:

> That there be an extension of time.

Leave refused.

Mr LUPTON (Prahran) — I am very pleased to have the opportunity to speak on the Wills Amendment Bill. I am speaking somewhat earlier than we were anticipating, but it is an important piece of legislation — in that regard I agree with the Leader of The Nationals — so it is good that we are able to debate it today. I am pleased that the house has given us an opportunity to do that. The people who will benefit by this important change in the wills legislation will access those advantages at an earlier date than they would otherwise have done, which is an important consideration.

The bill amends the Wills Act regarding the way in which a statutory will is to be created, in particular for people who have never had testamentary capacity. It is important that the house understand the way in which wills and what are known as statutory wills are created. A will may only be created by someone who is capable of understanding the nature and effect of the act of executing a will — that is what is meant in law by the term ‘testamentary capacity’. Some people are unable to understand the nature and effect of the act of creating a will because of illness or disease, a lack of mental capacity or other factors. They are incapable of making a will. People who have not reached a testamentary age are not able to make a will. The law does provide for certain circumstances where a will can effectively be made on that person’s behalf. That is known as a statutory will, and the particular provisions that enable that to be done in Victoria have existed since 1997.

The way in which this legislation comes before the house really arises from a decision in a case before the Court of Appeal that was decided back in 2004. As a result of that case, it has become apparent in Victoria that, particularly in cases where the person involved has never had a testamentary capacity, it has become too difficult to meet the standard required for a statutory will to be made on behalf of a person in those circumstances. Other people who do not have testamentary capacity for one reason or another, although they once did, are able to still make a statutory will in this state. A person who never had testamentary

capacity is effectively precluded from the ability to make a statutory will.

A number of processes and discussions have been held over a period of time in order to seek to overcome that particular problem. The really substantive amendment to section 26(b) of the act that would be made by the passage of this legislation was recommended by an organisation known as the Probate Users Committee, which is a committee chaired by Justice Harper, a judge of the Supreme Court of Victoria, and is also composed of the registrar and deputy registrar of probates, representatives from the Law Institute of Victoria, the Victorian Bar Association, trustee companies, which obviously have an interest in wills and estates, and non-legal probate service providers that exist in Victoria. That committee resolved to support the legislation that has been proposed by the government.

The government has agreed with the propositions put to it by that committee and has also consulted with appropriate other bodies that have an interest in this form of legislation, such as the Law Institute of Victoria, the Victorian bar, State Trustees, the public advocate and the Trustee Corporations Association of Australia and the like. This legislation is in fact supported by those bodies.

The way in which this legislation will be administered has been raised by previous speakers. I do want to make some mention of that during the debate. The particular clause of the bill, clause 3, that is relevant to this issue is headed 'Matters of which the court must be satisfied before granting application for leave'. In his remarks as lead speaker for the opposition the honourable member for Box Hill seemed to exhibit some doubt or difficulty about how this process would take place and whether or not people would be properly protected. Those comments seemed to indicate a degree of either misunderstanding or ignorance about the way in which applications for statutory wills are made in Victoria. They are not in fact wills that are written by judges, but they are made as applications to a court for leave to have approval to make a statutory will.

The relevant people acting on behalf of individuals draw up a proposed will on behalf of an individual and evidence is provided to the court about the nature of the circumstances and why a particular disposition of somebody's estate would be in that person's interests and should be given leave to proceed. That in fact will be the same sort of process that is undertaken when the new process envisaged by this legislation is put in place. There is every protection for people that exists under the current law, but with the additional benefit that people who are unable to make a statutory will, in effect because of that Court of Appeal decision, will be reintroduced into the system, and that is an important benefit. New section 26(b) states:

> the proposed will or revocation reflects what the intentions of the person would be likely to be, or what the intentions of the person might reasonably be expected to be, if he or she had testamentary capacity …

The type of evidence that would be expected to be led in front of the Supreme Court in relation to those matters would include things like the circumstances of any person for whom provision might reasonably be expected to be made under the will, and that obviously would include people such as the children of the person on whose behalf the will might be made, and any persons who might be able to claim on intestacy — that is, if the person did not have a will, those who would most likely be the recipients of the person's estate in those circumstances.

I would also include the likelihood of an application being made under the family maintenance provisions of the Administration and Probate Act, because where people have a claim on an estate, even if they are not mentioned in a person's will, the Administration and Probate Act makes provision for family maintenance and a court would take those into account as a matter of course, and any gift for a charitable or other purpose that the person might reasonably be expected to give or to make. That really is just a provision that would mean that people who were making a statutory will would be in the same sorts of circumstances as a person making a will in ordinary circumstances.

Before granting leave for an application the Supreme Court must also be satisfied that the person on whose behalf the will is to be made does not have testamentary capacity and that it is reasonable in all the circumstances for the court to authorise the making of the will. That is the foundation of the power that the Supreme Court has in these circumstances to make a will on behalf of someone who does not have the testamentary capacity to do it for themselves.

We have a situation in Victoria where people who do not have the capacity themselves to make a will need to have the ability to go before the Supreme Court of Victoria, represented by their legal representatives, and have the court take into account proper and appropriate evidence in relation to what the best testamentary disposition would be on behalf of that person and to make an appropriate statutory will in those circumstances. These are very important considerations, because the way in which somebody's estate is distributed upon their death has very important ramifications for that person's family, that person's

friends, that person's associates and any other interests that might legitimately be pursued in the disposition of their estate. This is good legislation, and I commend it to the house.

Dr NAPTHINE (South-West Coast) — This is a relatively small bill in terms of pages and the number of amendments, but it poses some very vexed and challenging issues for the Parliament, for the community and particularly for the courts.

The presentations given in the chamber by the member for Box Hill and the Leader of The Nationals were simply outstanding in their explanation of the issues and some of the challenges here. To put it in context, the Wills Act 1997 sets out the law regarding wills in Victoria. Amongst other things it allows the Supreme Court to authorise the making of a statutory will on behalf of a person who does not have testamentary capacity, and it allows the revocation of such a will. It allows a person who does not have the mental capacity to make their own will to have a will made on their behalf through the court, and it allows the revoking of that will.

Section 26 of the Wills Act — that is, the act being amended by the Wills Amendment Bill — makes further provision for matters of which a court must be satisfied before granting leave to somebody to apply for an order authorising a statutory will to be made or revoked. That is the essential entree into this whole vexed area. Section 26(b) of the Wills Act 1997 says:

> the proposed will or revocation accurately reflects the likely intentions of the person, if he or she had testamentary capacity …

When you look the current legislation, it identifies where some of the issues lie and some of the reasons why changes are needed. It is almost impossible to make a determination or for a court to make a determination of accurately reflecting the likely intentions. How can any court or any judge make what is described as an accurate reflection of likely intentions, particularly when dealing with the likely intentions of a person who is unable to reflect their own intentions through a lack of testamentary capacity? Clearly section 26(b) in the current legislation is deficient.

What is proposed in the bill is the replacement of 26(b) with new wording. I think this new wording improves the situation, and hence the Liberal Party is not opposing this legislation, but it still poses some significant challenges for the court and the community. The proposed new wording for section 26(b) is as follows:

> the proposed will or revocation reflects what the intentions of the person would be likely to be, or what the intentions of the person might reasonably be expected to be, if he or she had testamentary capacity …

That immediately poses some significant issues. Who does the court listen to in determining what the intentions of a person would likely be?

In the case of a person who previously had had capacity to make the decisions and reflect their own choices about their will and the future distribution of their assets, it is perhaps possible. It is for the court to look at the person's history, the previous comments, the previous behaviour and the previous decisions made and use that perhaps as well as evidence from family, friends and other people in their circle of interest to form a view about what their intentions were likely to have been.

The challenge in this legislation is that it applies to people who have never had a capacity to make such decisions. These are people with intellectual disability or brain injury to the point where they have never been able to make their own decisions regarding their life choices and in particular have not been able to make their own decisions with respect to the distribution of assets on the event of the death. In this circumstance the challenge that this legislation poses for the courts is how the courts might reasonably be expected to make a decision as to what that person's decisions would be with regard to distribution of the assets if that person had testamentary capacity. So new section 26(b) provides that the court would be able to reflect on what the intentions of the person might reasonably be expected to be if he or she had had testamentary capacity.

I would suggest that the court would need the wisdom of Solomon to deal with this issue. The questions raised are: what criteria are used; what evidence is used; what circumstances are evaluated; would it depend significantly on the value judgements of the court; and who would be listened to?

I heard the member for Box Hill talk about the guardianship and administration board of the Victorian Civil and Administrative Tribunal. We have had cases where there have been significant differences of view with regard to people without capacity to make their own decisions about who should be responsible for decisions on behalf of the person, whether it be the family, family friends or the Office of the Public Advocate. There has been many a Victorian Civil and Administrative Tribunal case which has caused angst and concern, and similar concerns would be reflected in this circumstance.

My understanding is that prior to this legislation, if someone who had been unable to make a decision with regard to their assets died without making a will, those assets would have been distributed according to the formulas contained in the Wills Act. In his second-reading speech the minister says there may be circumstances where that would be unfair or inappropriate, and he gives examples such as a child who has been abandoned by their parents or a family where one parent has had no contact with or involvement with the care of the child since childhood, and I can understand those circumstances. Having served as the Minister for Community Services in a former government and having worked for several years as a houseparent to a child with an intellectual disability and being involved with long-term foster care for a child with a disability, I can understand the circumstances where this could apply.

I believe that what is put forward in this legislation is a step forward, but it certainly provides some problems, challenges and conundrums for the court that is administering this because it is absolutely impossible — and we are asking the courts to do the impossible — to put yourself in the shoes of somebody who has never had testamentary capacity and determine from other evidence what decisions that person would reasonably have made had they had at some stage the capacity to make those decisions. That is a real challenge.

As I said, this is a step forward from previous legislation, but it still leaves the courts with that fundamental dilemma. It is an important issue and one that we as parliamentarians and the Parliament needs to monitor. We need to consult with the legal profession, the courts, the people involved in the disability sector, the community sector dealing with persons with acquired brain injuries, and with the families and people involved as carers of those people to ensure that this legislation, when it is enacted and before the courts — and I believe there were only going to be a few cases that might involve this circumstance — would have those cases monitored; and if further improvements can be made, Parliament should be ready to make those improvements.

This is an important area; it is a challenging area, and it is a vexed area. The Liberal Party does not oppose this legislation, and it supports the view that this legislation is a change for the better, but it does need continuing monitoring.

Mr STENSHOLT (Burwood) — I rise to support the Wills Amendment Bill. As other speakers have mentioned, it deals with a statutory will. In general, a will may only be made by a person who is capable of understanding the nature and effect of the act of executing a will. In other words, they must have testamentary capacity. This has most recently been dealt with in the Wills Act 1997.

A statutory will is a will authorised by the Supreme Court on behalf of somebody who is unable to make a will — in other words, a person who does not have testamentary capacity. The Wills Act 1997 provides for statutory will-making for people who have made a valid will while they are living but subsequently lose their testamentary capacity, or where they have had testamentary capacity but never made a will and then subsequently lose that capacity, or — in terms of what we are looking at today — who never have had testamentary capacity and never made a valid will.

The court, of course, does not write wills. Instead it approves specific terms of a proposed will put forward in an application on behalf of the person without testamentary capacity. The current act, the Wills Act 1997, deals with this in part 3, division 2 — namely, 'Court authorised wills for persons who do not have testamentary capacity'. Under section 21 it says:

> (1) The Court may make an order authorising a will to be made in specific terms approved by the Court or revoked on behalf of a person who does not have testamentary capacity.

As I have just mentioned, any person may make an application for an order. They make an application in terms of a draft will for the court to consider. Interestingly enough, the court first of all has to give that person leave to make an application. The court is very reluctant to simply jump in in this particular case. It has to be convinced of the need for an application to be made on behalf of somebody who does not have testamentary capacity, and it then actually has to hear the matter and make sure it can be satisfied.

Proposed section 26(b) in this amendment bill concerns the matters of which the court must be satisfied before an application for leave to make an application may be made. First of all, the court has to determine that the person on whose behalf the will is to be made or revoked does not have testamentary capacity — in other words, it is a preliminary hurdle that has to be jumped. The act currently says:

> … the proposed will or revocation accurately reflects the likely intentions of the person, if he or she had testamentary capacity;

It is proposed in this bill to change that to:

> … the proposed will or revocation reflects what the intentions of the person would be likely to be, or what the intentions of the person might reasonably be expected to be, if he or she had testamentary capacity;

That is the sole change to the principal act which is recommended in this amendment bill.

It relates very much to a 2004 Court of Appeal decision where it was argued that the current provisions of the Wills Act made it too difficult for an application to be brought on behalf of someone who never had testamentary capacity, because the likely intentions of the person cannot be established with the degree of precision and exactitude required by a court. As others have mentioned, there could be a particular case of somebody who has had a severe intellectual disability from birth or who has suffered a brain injury as a young child, perhaps in an unfortunate road accident or a fall. The intention of the amendment to section 26(b) is to clarify that to make it easier for an application — and obviously we hope there are very rare examples of this — to be brought on behalf of someone who has never had testamentary application.

There has been some discussion of how the court can determine these matters. The current act, for members who may not have read the current act, provides a lot of guidance to the court in this regard — for example, section 27 of the act states that, in hearing an application for leave to make an order, the court is not bound by the rules of evidence. Under section 28, which I will refer to in a second, it says that a court may inform itself of any matter it sees fit. Section 28 has been the subject of discussion — the member for Box Hill and others have referred to the difficulty of the task the court undertakes in this regard.

Section 28 of the act details the information which a court may require in support of an application for leave — for example, it may require a written statement of the general nature of the application; a reasonable estimate; any evidence available to the applicant of the wishes of the person; and any evidence available to the applicant of the likelihood of the person acquiring or regaining testamentary capacity; any evidence available to the applicant of the circumstance of any person for whom provision might reasonably be expected to be made under the will; and any evidence available to the applicant of any persons who might be entitled to claim on intestacy.

Section 29 details — and this is one of the issues which has been raised by other speakers — the people who are entitled to appear at an application for leave. Firstly, it refers to the person on whose behalf the will is to be made, because if they lack capacity it is very difficult for them to appear and to be heard. It also provides that people entitled to appear include a legal practitioner representing the person or an attorney appointed by that person under an enduring power of attorney. However, if they have always lacked testamentary capacity they are unlikely to have signed an enduring power of attorney. Any guardian or administrator of the person within the meaning of the Guardianship and Administration Act 1986 is also entitled to appear, as well as any other person who has, in the opinion of the court, a genuine interest in the matter.

Other members have referred to problems in this area. There can be cases where there has been a divorce or a member of a family has become quite distant — for example, if a child was hit by a car and left profoundly intellectually and physically disabled and their parents were divorced the child may not have had any more contact with one of the parents. That child might receive an award for compensation for the injury and following that a new family unit is created, perhaps with stepchildren, and the money helps to buy a house. Obviously the child has no capacity to make a will. What happens if the child then predeceases the parent who is the primary carer and there is no contact with the other parent? If the money was divided up then the other parent would have to receive one-half, or a share according to a formula determined under the Wills Act. This could cause a lot of trouble. This bill attempts to make the situation clearer because of the problems with the Court of Appeal decision. I commend the bill to the house.

Mr BURGESS (Hastings) — This bill amends section 26(b) of the Wills Act to provide that before granting leave under section 21 of the act to someone to apply for an order authorising a will to be made or revoked on behalf of a person who does not have testamentary capacity, a court must be satisfied that the proposed will or revocation reflects what the intention of the person on whose behalf the will is to be made or revoked would be likely to be, or what the intention of the person might reasonably be expected to be, of course, with the emphasis being on what it would be expected to be. The amendment also applies to applications that were in train before its implementation.

The making of a will requires testamentary capacity which includes the need for a sound mind, memory and an understanding by the testator of what they are doing. The most common challenge to the validity of a will is that the testator did not possess testamentary capacity at the time of making their will. As always with these things, wills are always challenged after the death of the testator so it is very difficult to obtain his or her true

intentions. It is always retrospective at this point and very difficult for a court.

What we are dealing with here, of course, is something completely different. What you would be dealing with in the normal case is the testator's capacity at the time. What this bill deals with and what we are referring to at the moment is a testator who never had testamentary capacity. In a normal case you would be able to call upon a witness to the will. One of the requirements of a will is that it is witnessed correctly, which leaves available to the court the calling of a witness in order to obtain some knowledge of what the intention of that testator was at the time. With this particular circumstance dealt with by the bill there are no witnesses, because at that point there was no testamentary capacity.

From my previous life as a lawyer, having experienced the angst of helping clients write wills, I know it can be an enormous struggle for them. It is a struggle for the lawyer, and it is a struggle for the court when it becomes necessary to interpret a will. What we as lawyers try to do is put down what the testamentary intention of the testator is at the time. Talking from experience, I know it can be very difficult for the testator. They often have difficulty putting into words exactly what their intention is. For a lawyer to then translate that onto paper and reflect that intention accurately is a challenge in itself.

A lawyer tries to draft a will that reflects as closely as possible what the intention of the testator is and, more importantly — or at least as importantly — that the court will be able to interpret as having that intention. You are always trying to anticipate what the court will interpret is the intention of the testator. What we are now asking is that the court interprets the intention of the testator without any of that background.

Many people misunderstand the areas that can interfere with the validity of a will. One area that is interesting to contemplate is that of marriage. When somebody marries there is the automatic revocation of a will. What the court is really saying there is that it suspects that the intention of the testator has changed through the act of marriage. When you bear that in mind and look at what this bill is trying to achieve, you realise again just how difficult it is for a court to look at the intention of a testator who it is recognised never had testamentary capacity. It is one of those areas of law that tends to be understood by most but certainly not spoken about enough. What in fact happens is that the court is often instructed by the legislator to create a legal fiction, to say that even though the testator did not have testamentary capacity in this circumstance, we are going to imagine that the testator did have testamentary capacity and assume what the testator's intention would be. Clearly it is a difficult task to undertake at the best of times.

The intention of this bill is to amend the Wills Act 1997 to make further provision for matters which the court must be satisfied with under section 26 of the Wills Act. Going back to my experience as a lawyer, the variety of things that can be brought to your attention that need to then be reflected in a will are very involved. They can involve all sorts of relationships with children, foster children and other people who are reliant on a testator in one way or another; all sorts of benefactors can be involved in the outcome of a will. From the court's perspective — obviously without the evidence of the testator — to then interpret what the testator has assumed would be a valid will, often involves scratching to find evidence which a court can take seriously as a true indication of what the testator's intention was.

While both sides of the chamber acknowledge the necessity for such a circumstance, we are really talking about asking the court to engage in legal fiction by assuming what a testator who did not have testamentary capacity would have intended had they had testamentary capacity. If we all reflect on our own lives and wonder what, if we were in that circumstance, a court would look at in trying to deem what our intentions would have been — and I am not suggesting that anybody in this house has ever not had testamentary capacity! — it is clear that it would be a difficult task. In looking at my own life I would find it difficult to understand what a court could take into account as absolute evidence of what my precise intention would be as far as my estate is concerned.

Going back to the normal circumstance where a court is able to call upon witnesses to a will, the requirement for witnesses to be there at the time a will is made would certainly mean they would have some level of knowledge of what the testator's intention was at that time, even though the true witnessing of a will is more to do with the witnessing of the signature or the execution of the will rather than its contents. Looking at that circumstance and trying to identify what you would call as evidence apart from those witnesses, it is clear that we are casting upon the court a very challenging task.

While we obviously do not oppose this bill, we acknowledge that it goes forward with an enormous number of challenges for the court and that clearly the court needs to take that into account when it is considering the evidence in trying to establish the

intention of a testator whom the act identifies as having had no testamentary intention that could be recognised by the court at any time. I commend the bill to the house.

Ms D'AMBROSIO (Mill Park) — I am pleased to be able to lend my support to the Wills Amendment Bill 2007. Unlike some other speakers, I have a lot of faith that the amendment will certainly make life easier in terms of the matters that are occasionally brought before the Supreme Court concerning requests or applications for the making of statutory wills. I appreciate that some concern has been expressed by other members of the house about how a court will be able to determine what a reasonable person would make of the intentions of an individual had they had testamentary capacity.

One thing that is important to remember is that the amendment before us actually has the support of the court. It has the support of the Probate Users Committee, which is chaired by Justice Harper of the Supreme Court and is made up of the registrar and deputy registrar of probates and representatives from the Law Institute of Victoria, the Victorian Bar Council, trustee companies and non-legal probate service providers. The amendment as it is structured has the support of the people who are confronted, albeit occasionally, with the very question that we are trying to address today.

I am pleased that this government has seen fit to make what is in the end a fairly small amendment to the act but one that is significant for a handful of families who may be affected by the Court of Appeal decision of 2004. That decision cast some doubt on the provisions of the Wills Act with respect to applications for statutory wills to be made or brought on behalf of people who have never had testamentary capacity. Those individuals would include people with severe intellectual disabilities and others who have perhaps acquired some form of brain injury at a very young age. They are never in a position to produce any form of evidence or express a desire for what might be included in a will, as would occur had they had testamentary capacity or continued to have it later on in life, which is the normal time when wills are made.

I am very confident that the bill has the necessary support for us to move forward in the area and present a greater opportunity for dealing with the occasional dilemmas that confront the courts on these questions. The consequences of not addressing the problem are important for us to reflect on. An example is where a person who may never have had testamentary capacity dies without having made a will. There are problems when certain situations surround the life of that person and there would be difficulty or some unfairness in simply following the rules of intestacy in the distribution of that person's assets.

An example would be the case of a child who may have acquired a brain injury through a motor vehicle accident at a very young age and who may have had one parent who had abandoned them and had not been seen until many years later. The child may have been cared for in a very loving family situation for all the time of their incapacity. Sometimes it may be unjust, without the ability of a court to consider what may have been reasonable had that person ever had testamentary capacity, for an application not to go ahead. There could certainly be instances where unfair outcomes may result from the inability of the Supreme Court to consider an application for the making of a statutory will.

That in itself is very important. The consequences of not dealing with those matters that occasionally present to the Supreme Court could be that a situation could arise which causes great hardship to a family that remains after a person who has been in their care is deceased. It can often result in a lot of trauma and emotional upheaval — particularly, for example, if the deceased person had an asset of a home that needs to be distributed upon their death according to the strict application of intestacy rules. Those are peculiar circumstances; they do not fit most instances. However, because they do exist from time to time, if the government can assist the Supreme Court to consider the specific circumstances of each case on the question of what is reasonable, that has to be a good thing.

I am pretty clear in my mind that this bill does not pose any threat or onerous complexities on the court in determining an application for the making of a statutory will. As I said earlier, this clause has the support of those who are administering applications for statutory wills.

Let us consider this in that context. In some circumstances this will alleviate the difficulties that befall some families. I know of at least one family which, because of the circumstances facing it, is quite anxious to know what is going to happen to the family home. The loved one whom the family has been caring for since that person was a very young child had a car accident that caused lasting brain damage. What will happen to them? What will happen to the family home when the parent who abandoned them many years before suddenly reappears on the scene? These are real matters that affect real people and their ability to move forward with certainty.

Through this bill we are trying to provide a measure of certainty for families so they feel reassured, while always leaving the decision, or assessment, to the Supreme Court to determine as to whether a person who has never had testamentary capacity would reasonably have wanted their statutory will to be determined in the way the court is being requested to determine it. That is a good thing, and I am very happy to add my voice to this. I hope that the bill has the full support of this house and that we do not delay too long its passage through this house and the other place.

Mr DELAHUNTY (Lowan) — I am proud to speak on the Wills Amendment Bill on behalf of the Lowan electorate. As we know, the bill amends section 26 of the Wills Act 1997 to make further provision for the matters of which the Supreme Court must be satisfied before granting leave to someone to apply for an order authorising a statutory will to be made or revoked. Like the Leader of The Nationals, I will be not opposing this legislation. A lot of the members who have spoken on this have been lawyers. As country members and members of The Nationals we are pretty good bush lawyers.

An honourable member — Nothing wrong with bush lawyers.

Mr DELAHUNTY — No. I want to touch a little on some of the things that impact on country communities. As we know, there are a lot of family farms in country communities, and a lot of those farmers are asset rich but cash poor. Because of the value of property there is a lot of money involved when a family farm transfers to another person, and it becomes a real problem if the will is not appropriately done. When I worked in the Office of Rural Affairs under the Department of Natural Resources and Environment many years ago I dealt with a lot of problems where family wills did not really meet the requirements of the modern-day environment. Years ago the sons would be issued with the farm and the daughters would get a bit of money. The way we operate these days is a lot different.

Family wills, particularly those dealing with family farms, created many problems. In those days the majority of farmers had four or five children, and having many children and spouses created many problems. It put big splinters between a lot of the families concerned.

Ms Beattie — Where there's a will, there's a relative.

Mr DELAHUNTY — Never a truer word was said. In most cases the lawyers were the big winners. These days we have mediators, and they help in some instances, but usually there are many people involved and there are many challenges. This type of legislation will help in that process.

Clause 3 amends section 26 of the act to provide, according to the clause notes in the bill:

> … that, before granting leave to someone to apply under section 21 of the … act … for an order authorising a will to be made or revoked on behalf of a person who does not have testamentary capacity …

A number of members have mentioned that provision this afternoon. It is amazing that at such short notice, some members have been so well prepared for this very important bill. They must have known what was going on — perhaps they are always prepared! The reason why so many people are prepared, I think, is that it impacts on all of us.

Mr Burgess — Are you saying we have not got testamentary capacity?

Mr DELAHUNTY — I am not sure about that. I am sure we have all got testamentary capacity in this place at the moment. I will be listening to the debate tonight to see if members all agree that they have got testamentary capacity, otherwise they should be declaring a pecuniary interest in relation to this bill, I would have thought — or a conflict of interest might be a better way to put it.

This issue is a difficult one for the Supreme Court, the lawyers and everyone, because, as other members have said, whether it be children or people involved in accidents, under this legislation the court must be satisfied that the proposed will or revocation reflects what the intentions of the person on whose behalf the will is to be made or revoked would most likely be.

Unless you are in the person's mind it is often very difficult to be able to judge what he or she means. It is important when people write their wills — and this is where good lawyers can make a difference — to get the intention written into the preamble of a will. It is important for all of us to make sure that we encourage people to update their wills. Things change as time goes on, situations change, and family situations change, particularly on family farms, and so we need to update wills. I know a lot of people in country Victoria who do not have wills, which is unfortunate.

I know of others who perhaps may be going overseas, who will go to the newsagent and pick up a pro forma will. I am not sure how good those are. Some members

in this place are lawyers; they may be able to inform me about how good those forms are. I have never been involved with that type of thing, but I know people have used them before they go overseas when they think they have to get their wills written quickly. It might be a quick way to do it, it might be cheap, but it may be only as good as you get because you usually only get what you pay for.

It is important that people make their wills because enormous problems are created for families and the courts if there is no will in relation to someone's property; whether it be houses, farms or even shares that have to be distributed following the passing of a person. When I worked in the Office of Rural Affairs we did a lot of work trying to encourage people to make a will.

An honourable member — I remember that!

Mr DELAHUNTY — The member probably does remember! We tried to encourage people to think ahead and to make a will. I know of one case where a friend of mine married a young lady from Melbourne. His father transferred the farm to him as he was the only son. Not long after he completed the transfer the son had a car accident and died. That young fellow did not have a will, but the farm would have then passed to his spouse, whom he had just married. But she did not really want to be a farmer's wife. Her husband was no longer alive and she wanted to go back to Melbourne. Thankfully, through goodwill and cooperation between all the parties, the farm was transferred back to the father of the son who had died.

We know of other instances where that has not happened, mainly because people did not have a will or did not have a document in which they had passed on what their intentions were. I am sure the member for Swan Hill and other members would know of many instances where wills have split families up the middle. That is a tragic situation and causes a lot of bitterness within families and communities.

It is becoming a bit like that in relation to some of the things the government is doing about water and wind farms, which are causing some — —

Mr Ingram interjected.

Mr DELAHUNTY — I would be interested to hear what the member for Gippsland East has to say on this. I am not sure if he has got any wind farms in his area, but in my electorate they are causing divisions between adjoining land-holders. Their presence is causing major divisions in the same way as wills can if they are not done correctly. Whether you do or do not want wind farms, the reality is they cause major divisions between a lot of people who live side by side.

Another issue is that the beneficiaries, powers of attorney and other types of things have to be taken into account. We know there are requirements to have a power of attorney. Importantly, my family has just been through that with the passing of my mother; thankfully, we had everything in place. Another thing that causes major concern is making sure assets are properly registered and are with the lawyer who has possession of the will.

Ms Beattie interjected.

Mr DELAHUNTY — That is right. You have to have all those things in place. The member for Yuroke has given me a few lines to run on here. All those assets have to be documented, and in some cases I know assets are not documented. In some cases there might be a small piece of land that has been forgotten about, but when wills are being worked out, that land has created major problems. All land has to be valued for the making of a will, and if it is the case that land has not been properly allocated, it does not matter whether the land is worth $1000 or $1 billion, it must be appropriately distributed to the beneficiaries according to the will.

To go back to clause 3 which amends section 26(b), the Scrutiny of Acts and Regulations Committee report says:

> Before granting leave to apply for an order under section 21, the court must be satisfied that the proposed will or revocation accurately reflects the likely intentions of the person, if he or she had testamentary capacity.

That is a big job for the Supreme Court. It puts it in a very difficult position. We hope that with the passing of this legislation we can assist families that are going through the distribution of property or assets according to a will that reflects the intention of a person. With those few words, I indicate that I will not be opposing this legislation.

Debate adjourned on motion of Ms RICHARDSON (Northcote).

Debate adjourned until later this day.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Gaming: Ferntree Gully electorate

Mr WAKELING (Ferntree Gully) — I raise a matter of great concern with the Minister for Gaming. The action I seek is for the minister to reassure the residents in the Ferntree Gully electorate that no further poker machines will be allocated within the city of Knox.

At the previous state election the Liberal Party listened to the concerns of the Victorian community and sought to reduce the number of poker machines by 5500. By contrast, this out-of-touch government sought to retain the current number of machines in the Victorian community. The Bracks government has identified caps for certain regions throughout Victoria. As a consequence, 543 gaming machines will be redistributed from six municipalities which have been deemed to have an oversupply of machines in their communities. Furthermore, another 13 municipalities are currently deemed to be frozen as they have reached their quota of poker machines. Consequently, those 543 machines will not be confined to storage in a warehouse but will be redirected to poker machine venues throughout the remaining municipalities in Victoria.

Under the government's poker machine allocation policy it is deemed that 10 poker machines can be allocated per 1000 adult residents. Presently there are 861 poker machines and 114 922 adults in the city of Knox. This equates to an average of 7.49 poker machines per 1000 adults. Accordingly the Knox community can receive an additional 2.51 machines per 1000 adults or an additional 288 gaming machines.

I have raised this issue locally and the response from a government spokesperson was that no new machines will be located in the Knox municipality without the support of the local community. Whilst in principle this sounds fair, the truth paints a very different story. Applications for additional poker machines in both Romsey and Ringwood, as the member for Warrandyte would be clearly aware, were opposed by the local communities. Despite that, both applications were overturned by the Victorian Civil and Administrative Tribunal. Therefore, despite the reassurances of the government, these words proved hollow for the residents of Romsey and Ringwood, who saw their views disregarded by VCAT when it signed off on the government's policy to reallocate gaming machines. The question must be asked: if every municipality eligible to receive additional machines rejects any application, would the government be forced to relocate these 543 gaming machines against the wishes of those communities?

Victorian communities have no faith in the decisions of VCAT to effectively take their wishes and concerns into account, as is evident in both the Romsey and Ringwood situations. The Knox community expects the minister to allay their concerns that an additional 288 machines will be dumped in their community. I call upon the Minister for Gaming to act for the residents of the Knox community and publicly declare that no additional gaming machines will be reallocated to the city of Knox.

Moreland Hall: playgroup program

Ms RICHARDSON (Northcote) — I wish to bring a matter to the attention of the Minister for Mental Health. The matter concerns an intensive playgroup program pilot which is run by Moreland Hall for parents and carers who are affected by drugs and alcohol. The action I seek is for the minister to renew funding for this important program.

Moreland Hall is a not-for-profit treatment service for those suffering from an addiction to drugs and alcohol. In 2006–07 the Bracks Labor government funded Moreland Hall more than $3 million to provide alcohol and drug treatment services for people who want to get their lives back on track. I was pleased to see that this week Labor announced a $14 million boost to mental health and drug and alcohol services across Victoria, and in fact Moreland Hall was the beneficiary of $220 000 of this $14 million boost.

I was fortunate to visit the hall on Monday during Drug Action Week. The importance of Moreland Hall to my electorate is that about 35 per cent of its clients come from the city of Darebin, so it is a key treatment facility — and in fact the Panch Health Service sends its clients to Moreland Hall for treatment. Members know that Moreland Hall has had a reputation as a leading service provider for more than 35 years. In fact for the second year running Moreland Hall has been nominated for an excellence award at the 2007 National Drug and Alcohol Awards. That award recognises excellence in treatment services and of course Moreland Hall is a worthy contender for it.

The sorts of measures and innovative programs that Moreland Hall has explored are well known. It has certainly got a very good program when it comes to the

intensive playgroup program. We all know that parents are often forgotten when we deal with treatment services for drugs and alcohol-addicted people. They are not dealt with properly because there are no child-care facilities. In fact many sufferers believe that being involved in any sort of program will lead to some sort of notification to child protection authorities, so they do not actually get involved.

This intensive playgroup program actually seeks to resolve that by offering parents and children an opportunity to meet and discuss their problems. It links them with a wide variety of other services as well, and we know that if we do this, we can actually provide the best possible treatment. I therefore call on the minister to take action to ensure that this important program is continued into the future, and I look forward to hearing of that development.

Drivers: licence testing

Mr RYAN (Leader of The Nationals) — I wish to raise an issue for the attention of the Minister for Roads and Ports. The essence of this issue is to seek the assistance of the minister in the conduct of a review with regard to the way in which VicRoads operates the system whereby learner drivers are able to sit tests and ultimately undertake the necessary process to enable them to obtain a full licence, particularly in a country Victorian context.

I do so in light of an article published in the 22 May edition of the *Leongatha Star*, one of the eminent journals which circulates in the electorate I have the honour to represent in this place. The article is written by Matt Dunn, who is one of the staff members at what is known as the *Star*. In the course of the article, which, for good or for bad, is titled 'Licence to kill', Mr Dunn highlights a problem which has arisen concerning the operation of the driver licence testing system.

The problem is of two parts. The first is that, as it turns out, the local VicRoads office at Leongatha is now hosting something of the order of 89 per cent of licence tests for Melbourne-based residents. It would seem, on the basis of the material to hand, that that high proportion of testing is done on behalf of people who reside outside the immediacy of the Leongatha office of VicRoads and for whom this basic service is not so readily available. That is surely at odds with what is behind the basic notion of establishing the VicRoads office in Leongatha. Surely it must be said that one of the driving purposes in having the office there is to enable the provision of services to the people not only of Leongatha but the immediate regional surrounds.

The second aspect of this is perhaps even more troubling. The records indicate that many of those who come from Melbourne for the purposes of undertaking the tests are in fact foreign folk who have come to Australia and who are driving on an international licence. Of even more concern is the fact that, having often failed the learners test at Leongatha, those same people get back in their cars and drive back to Melbourne on the basis of their international licences. That would seem to be something which is not in the interests of all Victorians.

As the house will know, The Nationals are presently heavily involved in a campaign which is termed 'If you fix country roads, you save country lives'. But the reality is we need a mechanism to better accommodate this issue, and I ask the minister to investigate things.

Kingston Charitable Trust: launch

Ms MUNT (Mordialloc) — The issue I raise is for the attention and action of the Minister for Local Government. I ask the minister to investigate the practicality of promoting in other Victorian municipalities the model currently adopted by both the Melbourne City Council and more recently the Kingston City Council of a broad-based community-supported charitable trust.

Last Friday evening the member for Carrum, who is also the Speaker in this place, and I attended the launch of the Kingston Charitable Trust. The trust enjoys broad community and government support and also the support of local business. The event was held at the Castellos Long Beach Hotel in Chelsea. The venue, the food, the wine and the entertainment were most generously donated by Mr Sam and Mrs Nellie Castello and their family, as a fundraiser for the new Kingston Charitable Trust.

Considerable funds were raised on the evening through the Castellos generosity and community spirit and from a most successful auction of many goods that were donated by local business to benefit the Kingston Charitable Trust. The trust moneys will be put to very good use in our local community by Kingston council and by the trust itself.

The member for Carrum and I most wholeheartedly support this community model which highlights just how successful community cooperation and spirit can be. We congratulate Kingston council, the mayor and councillors and their staff, Sam and Nellie Castello and their family, and also the business and community leaders who supported the night and the launch of the

trust. We believe this model could be as beneficial to other communities as we know it will be to ours.

Rail: Drouin station

Mr BLACKWOOD (Narracan) — I wish to raise an issue for the attention of the Minister for Public Transport. I call on the minister to take action and deliver a previous government's promise to reconstruct the Drouin railway station car park, which was promised under the Park, Ride and Relax funding program announced in February 2006.

Prior to the 2006 election, the Bracks government spruiked about its Moving Forward plan for provincial Victoria and its Meeting our Transport Challenges plan. However, in the electorate of Narracan there is no moving forward, there is no meeting the challenges, there is no following through on promises and there is certainly no action. What there is in Narracan is the familiar tale of a Labor government that has the propensity to make many a promise and not deliver.

I have raised it before and I will raise it again. There are simply not enough car parking spaces at the Drouin railway station. The former Minister for Transport acknowledged this and allocated funding to extend the car park, but still nothing has happened. Since the February 2006 announcement V/Line has significantly increased its services. It is thought that already the 180 car parking spaces will not be enough to handle commuters' cars. The commitment was made over 15 months ago by the Bracks Labor government to develop a 180-space car park for users of the Drouin railway station.

The requirement for a newly constructed 180-space car park may have been correct at the time. Research was done prior to the announcement in February last year, yet the demand for car parking seems to be even greater, and by the time the car park is constructed it will be way too small and unable to cope with demand. The population of Drouin and Warragul is increasing at the rate of 4 per cent a year, with the population of Drouin predicted to double by 2015. In real terms the number of car parking spaces that will be required will be closer to 400. Members of the Bracks government continually pat themselves on the back regarding the increasing use of public transport, but they have no regard or understanding of the impacts on rural communities whose infrastructure has been ignored.

I call on the Minister for Public Transport to take action and deliver the Bracks government commitment to the rail commuters of Drouin and construct the car park.

Peninsula Community Legal Centre: funding

Mr PERERA (Cranbourne) — I raise a matter tonight for the attention of the Minister for Consumer Affairs. I would like the minister to take action to continue funding the Peninsula Community Legal Centre to ensure that residents of the Mornington Peninsula and surrounds, particularly those in my electorate of Cranbourne, have access to the important services the centre provides to consumers. The Peninsula Community Legal Centre has been providing free legal services for nearly 30 years. I am proud to state that the centre's mission is to empower and support disadvantaged community members of the catchment area to use the law and legal system to protect and advance their rights and broaden their awareness of their rights and responsibilities.

The Peninsula Community Legal Centre was actually set up in the electorate of Cranbourne — in Frankston North in 1977. It has grown over the past 30 years into one of the largest community legal centres in Victoria, boasting two branches located in the electorate of Cranbourne — at Cranbourne and at Frankston North — and also with a branch in Bentleigh, with the centre's head office being located in Frankston. The Peninsula Community Legal Centre is well known for providing vital services, including free legal services, initial legal advice and information on most legal matters and ongoing casework assistance, including court representation.

Other services include a family law program, a consumer and tenancy advocacy program, an intervention order support program and child support services to carer and liable parents. Other projects include advice for caravan park and young renters, community legal education, outreach services for areas such as Chelsea, Hastings, Mornington, Rosebud, Hampton Park, Beaconsfield, Pakenham and Monash University's Caulfield and peninsula campuses; and basic wills and powers of attorney for people on low incomes.

I take my hat off to the chief executive officer, Mrs Helen Constas, who has been with the legal centre for over 20 years. Through her energy and enthusiasm and passion for social justice she has played a key role in managing the centre's success. The legal centre delivers many consumer affairs projects in the local community, including workshops for young renters and Victorian Civil and Administrative Tribunal civil claim workshops. In recognition of the important work of the legal centre I ask the Minister for Consumer Affairs to take action to continue to fund the Peninsula Community Legal Centre so it can continue to provide

programs for consumers in my electorate and the peninsula region.

Water: Benambra electorate

Mr TILLEY (Benambra) — I raise a matter for the attention of the Minister for Water, Environment and Climate Change. The action I seek is for the minister to investigate and provide funding for the connection of town water to all towns in the electorate of Benambra. Today I heard the minister claim that he was able to create water. It was a god-like statement, but nevertheless I would love to see him create some water for country Victoria.

The main need is to address the issue of the equity of funding from the Drought Relief for Country Sports program and funding for the installation of water tanks by connection to reticulated water supply for all towns in the electorate of Benambra before transferring the wealth from country Victoria to metropolitan Melbourne. The towns in the electorate of Benambra that do not have reticulated water include Dederang, Mitta Mitta, Eskdale, Bethanga and Mudgegonga, and they do not even have town sewerage. Neither do the towns of Cudgewa or Walwa, and they also experience difficulties.

These townspeople and all primary producers who are not on reticulated water are ineligible to access state funding for watering their sportsgrounds and, more importantly, for any grants assisting with tanks for domestic use. The funding guidelines limit funding to the groups from places which are on stage 3 or 4 water restrictions. If you live in a town where there is no reticulated water, you can never be on restrictions — you simply run out of water.

The Dederang Recreation Reserve Committee was recently refused any state funding to maintain its essential sporting surfaces at the reserve through the Drought Relief for Country Sports program. The reason given was that it was not on stage 4 restrictions — so no water, no stage 4 restriction, bad luck! Dederang is a small, isolated rural community heavily impacted by the continuing drought. Do not think that because a couple of weeks ago we had a couple of drops of rain the drought is over. It is far from over. Unlike Melbourne residents, most people in my electorate are due to go on stage 4 restrictions next week — that is next week, not next month, and not in August like Melbourne.

This is absolutely blatant discrimination by the Bracks government. It helps those who already have water to their taps: they turn their taps on, and they have water. People in the country are dependent on nature for providing their water. It is a basic human right which is neglected by the Bracks government. These are people who are struggling to cope with the crippling drought and who receive no help whatsoever from this greedy government.

I ask the minister to drop the discriminatory favouritism towards metropolitan Melbourne — the government claims to govern for all Victorians — and treat all Victorians equally and with equity. The Premier's water package is a furphy, and I am not talking about the water cart. I am talking about the spin, the rumours and the untruths.

Racing: oncourse information

Mr ROBINSON (Mitcham) — I want to raise an issue this evening for the attention of the Minister for Racing. It relates to the provision — —

Dr Napthine interjected.

Mr ROBINSON — I know the member for South-West Coast will be vitally interested in this. He shares an all-too-rare passion for thoroughbreds.

My adjournment issue relates to the provision of accurate information to oncourse punters, who are bit of a dying breed in this day and age. I am seeking the minister's investigation of current practices relating to the provision of information to oncourse punters with a view to having amendments to these practices undertaken if it is found to be necessary.

This matter was brought to my attention at a country race meeting a little while ago. The circumstances were that a jockey was stood down. I think it was after the first race. The jockey had suffered a fall the day before and had been injured, but he believed he could ride on the day in question. He found after the first race that in fact he could not ride, and he was, as it is said, indisposed. He was asked to leave the track and seek medical attention. That much is part and parcel of racing life. It happens from time to time, and in those circumstances it is necessary for the pre-arranged rides for that jockey to be altered and for other jockeys to be found to substitute for that rider. It was announced on radio, and I understand punters who had been listening to the coverage of the meeting at home or at TABs would have had access to that information, and the substitute jockey advice was provided to them.

However, on the course, the information provided by TV screens and the internal communications system at the track continued to list the rider who was indisposed as having rides throughout the meeting. In that situation

anyone at the course would have found that they were at a disadvantage compared to people off the course. It is only a small point, but it is significant, since we are trying to do all we can to encourage people to go to the track and do their punting at the track. It is a great experience, and members who have not done that regularly ought to do it. They ought to go out and experience country racing — it is a great day.

I hope the minister can investigate the procedures in place for the provision of information oncourse and ensure that the information that is necessary for punters continues to be provided in a timely fashion.

Water: Benalla electorate

Dr SYKES (Benalla) — My issue is security of water supply for country communities, and I ask the Minister for Water, Environment and Climate Change to ensure that there is a substantial, appropriate and urgent increase in the security of supply for country communities and irrigators.

The drought has exposed inadequate security of water supplies in many country areas. In the north-east of Victoria the most severely affected communities include Bright, Mansfield, Wangaratta, Violet Town, Euroa and Benalla. The lack of security of water supply has a major impact on the quality of life for residents and a major impact on the tourism that is the lifeblood of many communities, especially Bright and Mansfield.

There is obviously a long-term impact on the future prosperity of those communities if the water supply security is not there. For example, Bright, which relies on daily flows in the Ovens River, has a population of about 2500, but that swells to 20 000 with tourists. It is grossly unsatisfactory for Bright to have to rely on the Ovens flowing. When it stopped flowing this year there were problems, as there have been problems when fire has affected the quality of water. North East Water is currently exploring several options. I visited Bright last week and inspected Stoney Creek, an option preferred by some of the locals for an off-stream storage. I ask the minister to fast-track the investigation that is being undertaken into options there — or ensure that it is fast-tracked — with a minimum of interference.

Similarly, Wangaratta nearly ran dry this year. A couple of bores are in place as a temporary solution, but we need to look at a long-term solution. The consultant's report for the Rural City of Wangaratta recommended the expansion of Lake Buffalo and/or Lake William Hovell to provide security of supply for Wangaratta, for the other communities there and for the benefit of irrigators, industry and the environment.

The other water source that is near and dear to my heart is Lake Mokoan. It is important to maintain the current level of security of supply for irrigators in the Broken Valley who depend on Lake Mokoan for their water. Just to refresh the memories of members, in order to make water savings, the government proposed that Lake Mokoan be fully decommissioned. Irrigators feared reduced security of supply, a collapse of irrigated agriculture in the Broken Valley and the sending down the river of our wealth. Irrigators have put in an amazing amount of time to come up with an alternative proposal which delivers comparable water savings at a comparable cost but with much greater security of water supply and, importantly, strong community support. My specific request for the minister on this one is to fully consider the irrigators' proposal and to invite the irrigators along to present their final proposal directly to him.

We also have issues with Mansfield, which has a current water supply that is the equivalent of a large duck pond. Works are in progress there to come up with a larger alternative. I again ask the minister to ensure that is fast tracked. Equally Violet Town and Euroa have problems with their water supply, with one option being to pipe from the Goulburn River — that is, of course, assuming there is any water left in the river after the Melbourne water has been taken out of it.

Gaming: problem gambling

Ms MORAND (Mount Waverley) — I want to raise an issue with the Minister for Gaming, who is at the table — and an excellent minister he is proving to be. The issue I raise for action relates to funding for problem gambling services across the state, including in the city of Monash. My electorate of Mount Waverley is in the city of Monash, and indeed the electorates of the minister and the member for Mulgrave are also within the city of Monash.

Gambling is a legitimate form of entertainment that is enjoyed recreationally by many people across the state, whether at gaming venues or at the racetrack — as was earlier described so passionately by the member for Mitcham, as he has done often in this house. However, with some people gambling becomes a real problem, not only for themselves but for their families. It has a huge impact on their day-to-day lives, their working lives and so on. It is important that we as a government have in place appropriate services to assist and support these people. The action I seek is for the minister to ensure that adequate funding is provided to agencies supporting gamblers across Victoria.

I am pleased to note that in my electorate of Mount Waverley gamblers help services fall under the auspices of Eastern Access Community Health. EACH operates Gamblers Help Eastern in the city of Monash from two locations — from MonashLink, which the Deputy Speaker would know very well, and also from Wavecare in Glen Waverley.

The city of Monash loses more through electronic gaming machines than any other local government area in Victoria. This is partly because it is a large municipality, with more than 160 000 residents. It also has the second highest number of pokies in the state, in 16 different venues. Unfortunately the venues are disproportionately in the suburbs of least advantage demographically, such as Mulgrave, Clayton, Ashwood and Oakleigh. I congratulate the Monash City Council for establishing in 2000 the Monash Responsible Gaming Task Force, which has a broad range of representatives from the community and industry. Last year I attended a meeting of the task force, and over the past few years I have had a lot of discussions with Cr Joy Banerji, who has a particular interest in problem gambling.

As members would be aware, the Bracks government takes the issue of problem gambling very seriously. Since coming into office in 1999 we have allocated additional funding for services such as those provided by EACH, as well as introduced a raft of regulatory reforms to address problem gambling that I have been very pleased to support during my four years in Parliament. However, a lot more can be done, and I am pleased to note that the government has invested a record level of funding to the tune of $132 million over five years to tackle problem gambling. I ask the Minister for Gaming to ensure that there is sufficient funding to support agencies that provide help to problem gamblers in Monash and across Victoria.

Responses

Mr ANDREWS (Minister for Gaming) — The member for Ferntree Gully raised an important matter about densities of electronic gaming machines in his local community and the process that is in place through the Gambling Regulation Act and the planning provisions that operate in Victoria in relation to approving increases in the number of electronic gaming machines at venues or, indeed, introducing electronic gaming machines into venues.

As the member would no doubt be aware, as part of the government's record-breaking — indeed Australia's most comprehensive — investment in taking action on problem gambling, launched in October last year, we committed to conducting a review into those matters that the Victorian Commission for Gaming Regulation must take into account when determining whether to approve the introduction of gaming machines into a venue or to expand the number of machines in a given venue.

A week or so ago I released a discussion paper on a review of those matters that the VCGR must look to in striking the right balance in making a decision, and that is out there in the community right now. I do not have the note in front of me, but I understand that submissions close on 1 August and I anticipate that many submissions will be made as part of that important review. That is delivering in full on the government's commitment to review those matters. We made that commitment in October of last year, and we are pleased to do that.

The member invited me to comment on a number of matters that have been the subject of decisions by councils, the VCGR and VCAT (Victorian Civil and Administrative Tribunal). One of those is before the Supreme Court, so it would not be appropriate to comment on that. The discussion paper does make reference to issues related not necessarily directly to those decisions but certainly to some of the concerns that are out there amongst members of the Victorian community and perhaps in the member for Ferntree Gully's own local area about striking the right balance.

It is important to note that, just as we are reviewing the matters that the VCGR must look at when making the appropriate decisions, which therefore will flow on to VCAT, given that appeals are heard in place of the VCGR if the matters are taken beyond the VCGR, in October last year the then Minister for Planning, Minister Hulls, made changes through the planning provisions to expand the role that councils have in terms of a say on these very important matters. As I said, we also have under way that review of the matters that the VCGR must look at. After much lobbying from councils and others, some years ago we also gave to parties interested in these important issues a right of appeal to VCAT. There is a well-established process, but there was an acknowledgement by the government in October last year that there is a need to look at some of these issues, and that is why the discussion paper is out there.

I hope that gives the member some comfort in terms of a process that is ongoing. No doubt he will make a detailed and well-informed submission to that very important process, and I will welcome that. I would say that we are always happy to respond when important and genuine questions are asked. The member did seem

to invite me to respond to some more political commentary in the matter that he raised. He would be interested to know that when the Kennett government was elected in 1992 — obviously by then electronic gaming machines had been already introduced by the previous government and we are not seeking to revise history on that matter — in the city of Knox, which is in his local community, there were no electronic gaming machines.

I am advised that, at the end of 1999 after those seven dark years of Liberal Party government in this state — admittedly the member was not representing that area at that point, and he was probably in school like I was — there were 902 electronic gaming machines in the city of Knox. I am advised, at short notice admittedly, that as of 30 June last year, there are 861 machines. I am always happy to respond to genuine concerns about process and outcomes and to members of this place who advocate on behalf of their communities. In relation to ranting and political hyperbole, it is important to point out that each of us has some history on these matters. Given the apparent interest that the member for Ferntree Gully has in problem gambling, he will be interested in my response to the following important matter.

The member for Mount Waverley raised a matter about the support we can provide to those in her local community — it is my local community as well, and it is also important to acknowledge that you, Deputy Speaker, represent a part of the city of Monash — who have a gambling problem. As I mentioned during my response to the member for Ferntree Gully, in October last year this government released Australia's most comprehensive response to problem gambling. It is a fully funded five-year plan, a $132.3 million plan, to give those in our community who have a gambling problem the support, the assistance, the ongoing treatment, the policy framework and the regulatory framework they need to build a better future for themselves and for their families. A part of our record spending over the coming five years, which will build on our record investment in the first seven years of our government, when we invested almost $90 million in problem gambling programs and other services, is a substantial boost to gamblers self-treatment services. A couple of weeks ago I was pleased to announce a very substantial boost for these services for 2007–08.

Eastern Access Community Health is in the eastern region, and it is an organisation I have had something to do with in a previous role. It does a fine job in a broad sense, but also in relation to the coordination and provision of gamblers help services in the city of Monash and in the eastern region more broadly. I can inform the member for Mount Waverley that in 2007–08 that organisation will receive a 9.5 per cent increase in its funding compared to the current financial year. That will take the organisation's funding to $1 290 490 — that is effectively $1.3 million. That is important and is more than the average increase to other services across the state. It is a recognition of the issues we need to deal with. It is also a recognition of this government's fundamental commitment to giving those 17 gamblers help services right across the state the funding and resources they need to enable them to see and treat more clients and provide better care.

At the end of the day when debating this issue it is easy to talk about problem gambling. What is a good deal more difficult, and a good deal more important, is to give our dedicated professionals the resources they need to, as I said, see and treat more clients and deliver better outcomes to provide the problem gamblers in our community with a pathway out of their addiction. That is what this government has done in record terms. Looking at the history of these matters is very important.

Mr Kotsiras interjected.

Mr ANDREWS — The member for Bulleen asks about results. There are more problem gamblers in counselling today than at any point in Victoria's history. That is a fact.

Honourable members interjecting.

Mr ANDREWS — The results! I put it to those opposite that, for Victorians who have a problem, having the confidence to come forward and get the care they need is a very important result. It is proof positive that our community education campaign, our social marketing campaign and the record investment we have put into those 17 gamblers help services and all their partners are working to give more people the support they need — and it is not just those who are problem gamblers, it is also their families and their loved ones. These are important services, but you cannot deliver care and give people a pathway out of their addictive behaviour without funding the agencies appropriately.

It is important to look at history regarding these matters. We are fast approaching a situation where we will invest more to tackle problem gambling in a single year than the previous government spent across all its seven years. That is proof positive of this government's fundamental commitment to taking action to address problem gambling in our community.

There is a substantial investment for Eastern Access Community Health and its partner organisations in the

local community of the member for Mount Waverley, which is also my local community — and indeed yours, Deputy Speaker. This is an important demonstration of the government's commitment to supporting those in our community who have a gambling problem. I thank the member for Mount Waverley for her interest in these matters and her advocacy on behalf of those who are disadvantaged and vulnerable in her local community.

The member for Cranbourne raised an important matter, seeking support for the Peninsula Community Legal Service. The legal service does a great job in his local community and right throughout the Mornington Peninsula. It provides support, assistance and advice to many people in that part of the south-east. Over time it has consistently delivered programs, funded by the Victorian government, to a very high standard.

The member for Cranbourne is a good friend of the legal service, and has made representations to me on a number of different issues to support the important work that the chief executive officer, Helen Constas, and her team do to help the many vulnerable disadvantaged and the broader community in that area. I am pleased to inform the member for Cranbourne that I have recently approved an extension of funding for a number of important projects at the centre — a continuation of the Young Renters program and a program of Victorian Civil and Administrative Tribunal civil claims workshops to educate consumers about how to avail themselves of their rights at VCAT and how to understand that system — and I have also approved new funding for a virtual tenancy tour and VCAT tenancy workshops. That funding will be for three years.

There was some funding that was to lapse at the end of this financial year, but we have not only provided increased funding, funding in new areas and continued funding but also given that agency the certainty it needs to plan for the future and deliver against those programs' key performance indicators with a three-year funding agreement.

The member for Cranbourne is a very hardworking member and someone who is committed to addressing disadvantage in his local area. He is committed to standing up for the organisations that do such a great job, but they need the government's support. That is why, through Consumer Affairs Victoria, we are very pleased to build on the positive work that the Peninsula Community Legal Service has done over time by providing this additional funding and the three-year funding agreement. I am sure that will be great news to the legal service. I thank the member for Cranbourne for raising this matter, for his ongoing interest in issues of consumer rights and for his advocacy on behalf of consumers in his local community.

The member for Northcote raised a matter for the Minister for Mental Health.

The Leader of The Nationals raised a matter for the Minister for Roads and Ports.

The member for Mordialloc raised a matter for the Minister for Local Government.

The member for Narracan raised a matter for the Minister for Public Transport.

The member for Benambra raised a matter for the Minister for Water, Environment and Climate Change.

The member for Mitcham raised a matter for the Minister for Racing.

The member for Benalla raised a matter for the Minister for Water, Environment and Climate Change.

I will refer each of those matters to the appropriate ministers for their attention and action.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 6.09 p.m. until Tuesday, 17 July.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Assembly.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Tuesday, 19 June 2007

Roads and ports: country road toll

59. **Mr WELLER** to ask the Minister for Roads and Ports with reference to the Government response to the Road Safety Committee's Report on the Inquiry in to the Country Road Toll —

(1) Has VicRoads undertaken a review of minimum road standards for Category C roads as the Government undertook to do in its response to Recommendation 20; if so —

(a) what was the outcome of this review;

(b) will the Government be providing additional funding for Category C roads in the 2007–08 Budget.

(2) What are the Government's plans for additional rest areas on rural roads that have been developed in response to Recommendation 41.

(3) Has the Road Safety Executive Group published an audited statement on Government road safety expenditure in accordance with the commitment given in the Government response; if not, when will this occur.

(4) Has VicRoads recently undertaken a review of the clear zone guidelines; if so, what was the outcome.

(5) Have the clear zone guidelines been amended to increase the minimum clear zone distance as recommended by Recommendation 24 of the report; if not, what was the rationale behind this decision.

(6) What was the outcome of the VicRoads investigation into wire rope safety barriers along the centre of undivided roads as recommended by Recommendation 28 of the report.

(7) Has the Government developed a Code of Practice for roadside safety zones as recommended by Recommendation 23 of the report; if so, is the code based on the principle that the safety of road users should have precedence over the conservation of native vegetation on road reserves as recommended by the Committee.

ANSWER:

As at the date the question was raised, the answer is :

1. (a) Yes. When developing projects, the standards for widening of 'C' Class roads have been revised to provide for widening the seal width and the provision of shoulders based on traffic volumes and the existing seal width of the road.

(b) Yes. As part of the Government's commitment of $597 million TAC funding for the Safer Road Infrastructure Program, $12.5 million will be allocated to provide edge lining on suitable sections of the 'C' road network, commencing in 2007/08. VicRoads is currently working to identify and develop further road safety projects across rural Victoria, including 'C' roads, as part of the initial investment under the $597 million Safer Road Infrastructure Program. In addition, five 'C' roads are being improved under the Drought Package, at a total cost of $15.5 million. This work will commence in the current financial year and continue in the 2007/08 financial year.

2. A number of rest area projects with a total cost of approximately $16 million have recently been completed or are under development in rural areas.

   In addition to these projects, a commercial service centre has recently been established off the Melbourne bound carriageway of the Western Freeway at Ballan.

3. An audited statement on Government road safety expenditure will be published following the close of the 2006/07 financial year.

4. Yes. As a result of the review, changes to Victoria's clear zone guidelines have been made with the minimum clear zone for high volume, high-speed roads being increased from nine metres to up to 20 metres. The minimum clear zone varies depending on the traffic volume.

5. Yes, as indicated in response to Question 4.

6. VicRoads' investigation into wire rope safety barriers along the centre of undivided highways has indicated that while such a treatment could be expected to be effective in reducing head-on crashes at the locations where they were installed, the benefit cost ratio (BCR) of these types of projects is unlikely to be above one. A project with a BCR of less than one would not normally obtain funding ahead of other projects. Typically, VicRoads' road safety program is delivering projects with a minimum BCR of at least three. Nevertheless, VicRoads will continue to look for opportunities to trial the centring of road wire rope barriers.

7. VicRoads and the Department of Sustainability and Environment are working on the development of a Code of Practice for Roadside Vegetation Removal. This is being pursued in conjunction with the review of native vegetation permit requirements. The development of a Code will be subject to extensive consultation. In accordance with the Government's response to the Committee's Report, the Code will seek to ensure that there is a greater degree of consistency in the assessment of potential impacts to ensure that road safety benefits are achieved and that road authorities are not unduly encumbered by permit requirements in achieving this.

Roads and ports: Victoria–King streets, Doncaster

68. **Ms WOOLDRIDGE** to ask the Minister for Road and Ports with reference to the installation of traffic lights at the intersection of Victoria and King Streets, Doncaster, promised in the 2006 Budget —

(1) When will the traffic lights be installed.

(2) What is the expected cost of the traffic lights and associated works.

ANSWER:

As at the date the question was raised, the answer is :

(1) It is expected that the installation of the traffic signals will be completed during the 2007/08 financial year.

(2) The estimated cost of the project is $600,000.

Roads and ports: Maroondah Highway, Coldstream

90. **Mrs FYFFE** to ask the Minister for Roads and Ports with reference to the section of the Maroondah Highway in Coldstream near Boundary Road —

(1) What is the maintenance regime for this section of the Highway as per VicRoads' road management plan for this road.

(2) Has this section of the Highway been audited; if so —

   (a) when was this section of the Highway last audited;

   (b) what works did the last audit of this section of the Highway identify.

(3) Have any complaints been received by VicRoads regarding this section of the Highway; if so —

(a) how many individual complaints have been received;

(b) over what period of time were the complaints received;

(c) what was the response to each complaint.

ANSWER:

As at the date the question was raised, the answer is :

(1) Under VicRoads' routine maintenance program, this section of the Maroondah Highway is inspected weekly, with maintenance carried out as required.

(2a) The section of the highway near Boundary Road was last inspected on 13 March 2007 to confirm that the water blasting completed on 6 March 2007 had been effective. It was found that the treatment had been effective in improving skid resistance at this site and across the majority of the local area.

(2b) The 13 March 2007 pavement inspection report recommended that:

– Line marking be reinstated (this was completed in April 2007),
– Funding for resurfacing be sought (surface treatments are programmed in the 2007/08 summer),
– Monitoring be carried out (VicRoads will continue to monitor the condition of the highway, including the section around Boundary Road, to determine the need for any further improvements), and
– Further water blasting be undertaken if required. (This will be done as needed).

In response to feedback from the community and VicRoads' previous investigations into the condition of the highway since 2002, a variety of works have been undertaken on the Highway:

– A 'slippery when wet' sign was installed near Stringybark Creek in 2004. Additional signs were installed between the creek and just north of St Huberts Road in 2005,
– Sections of the highway between Tarrawarra Road and Maddens Lane were resealed in three stages in 2004/05, 2005/06 and 2006/07,
– Audio-tactile centre-line marking was installed along the 15 kilometres of highway between Coldstream and Healesville in September 2006 to address a history of head-on crashes,
– In late 2006, an area of road surface (approximately 100 metres long) within the inbound lane north of Stringybark Creek was reconstructed and resurfaced, and
– Water blasting, completed 6 March 2007 to improve the skid resistance of the surface of a 1.4 km section from east of Stringybark Creek to east of Boundary Road.

(3a) VicRoads has records of nine enquiries about the condition of the Maroondah Highway in Coldstream, all of them relating to the section just north of Stringybark Creek. An additional query was received on 22 December 2005 in relation to the resealing of a section near Hyde Park Road.

(3b) The earliest enquiry was recorded on 26 July 2005.

(3c) In response to these enquiries, VicRoads installed signs advising motorists of the slippery surface in the vicinity of Stringybark Creek and undertook investigations into the condition of the road. Four people enquired about the highway since 25 July 2006 and were advised that water blasting had been scheduled to address the issues raised.

Roads and ports: Maroondah Highway, Coldstream

91. **Mrs FYFFE** to ask the Minister for Roads and Ports with reference to the section of the Maroondah Highway, Coldstream from Ingram Road to the Yarra River —

(1) What is the maintenance regime for this section of the Highway as per VicRoads' road management plan for this road.

(2) Has this section of the Highway been audited; if so —

(a) when was this section of the Highway last audited;

(b) what works did the last audit of this section of the Highway identify.

(3) Have any complaints been received by VicRoads regarding this section of the Highway; if so —

(a) how many individual complaints have been received;

(b) over what period of time were the complaints received;

(c) what was the response to each complaint.

ANSWER:

As at the date the question was raised, the answer is :

(1) Under VicRoads' routine maintenance program, this section of the Maroondah Highway is inspected weekly, with maintenance carried out as required.

(2a) The length of Highway from Ingrams Road to the Yarra River was last inspected on 13 March 2007.

(2b) The 13 March 2007 pavement inspection report recommended that:

- Line marking be reinstated (this was completed in April 2007);
- Funding for resurfacing be sought (surface treatments are programmed in the 2007/08 summer);
- Monitoring be carried out (VicRoads will continue to monitor the condition of the highway, including the section around Boundary Road, to determine the need for any further improvements); and
- Further water blasting be undertaken if required. (This will be done as needed.)

In response to feedback from the community and VicRoads' previous investigations into the condition of the highway since 2002, a variety of works have been undertaken on the highway:

- A 'slippery when wet' sign was installed in 2004, near Stringybark Creek, and additional signs were installed between the creek and just north of St Huberts Road in 2005,
- Sections of the highway between Tarrawarra Road and Maddens Lane were resealed in three stages in 2004/05, 2005/06 and 2006/07,
- Audio tactile centre-line marking was installed along the 15 kilometres of the highway between Coldstream and Healesville in September 2006 to address a history of head-on crashes,
- In late 2006, an area of road surface (approximately 100 metres long) within the inbound lane north of Stringybark Creek was reconstructed and resurfaced, and
- Water blasting, completed by 6 March 2007 to improve the skid resistance of a 1.4 km length from east of Stringybark Creek to east of Boundary Road.

(3a) VicRoads has records of nine enquiries about the condition of the Maroondah Highway in Coldstream, all of them relating to the section just north of Stringybark Creek. An additional query was received on 22 December 2005 in relation to the resealing of a section near Hyde Park Road.

(3b) The earliest enquiry was recorded on 26 July 2005.

(3c) In response to these enquiries, VicRoads installed signs advising motorists of the slippery surface in the vicinity of Stringybark Creek, and undertook investigations into the condition of the road. Four people enquired about the highway since 25 July 2006 and were advised that water blasting had been scheduled to address the issues raised.

Energy and resources: Doncaster electorate Crown land

92(a). **Ms WOOLDRIDGE** to ask the Minister for Energy and Resources with reference to Crown-owned land in the electorate of Doncaster relating to the Minister's portfolio —

(1) What is the description of and, where available, the address of all such land.

(2) Does the Government intend to sell any of this land or acquire any new land in the electorate.

ANSWER:

As at the date the question was raised, the answer is:

There is no Crown land held within the Doncaster electorate that relates to the portfolio of the Minister for Energy and Resources. There is no intention to acquire any such land.

Health: Doncaster electorate Crown land

92(b). **Ms WOOLDRIDGE** to ask the Minister for Health with reference to Crown-owned land in the electorate of Doncaster relating to the Minister's portfolio —

(1) What is the description of and, where available, the address of all such land.

(2) Does the Government intend to sell any of this land or acquire any new land in the electorate.

ANSWER:

I am informed that:

The Department of Human Services does not control any Crown-owned land in the electorate of Doncaster relating to its portfolio and there are no plans to acquire any Crown-owned land in the electorate.

Community services: Doncaster electorate Crown land

92(c). **Ms WOOLDRIDGE** to ask the Minister for Health for the Minister for Community Services with reference to Crown-owned land in the electorate of Doncaster relating to the Minister's portfolio —

(1) What is the description of and, where available, the address of all such land.

(2) Does the Government intend to sell any of this land or acquire any new land in the electorate.

ANSWER:

I am informed that:

The Department of Human Services does not control any Crown-owned land in the electorate of Doncaster relating to its portfolio and there are no plans to acquire any Crown-owned land in the electorate.

Housing: Doncaster electorate Crown land

92(d). **Ms WOOLDRIDGE** to ask the Minister for Housing with reference to Crown-owned land in the electorate of Doncaster relating to the Minister's portfolio —

(1) What is the description of and, where available, the address of all such land.

(2) Does the Government intend to sell any of this land or acquire any new land in the electorate.

ANSWER:

I am informed that:

The Office of Housing does not control any Crown-owned land in the electorate of Doncaster relating to its portfolio and there are no plans to acquire any Crown-owned land in the electorate.

Sports, recreation and youth affairs: Doncaster electorate Crown land

92(j). **Ms WOOLDRIDGE** to ask the Minister for Sport, Recreation and Youth Affairs with reference to Crown-owned land in the electorate of Doncaster relating to the Minister's portfolio —

(1) What is the description of and, where available, the address of all such land.

(2) Does the Government intend to sell any of this land or acquire any new land in the electorate.

ANSWER:

I am informed as follows:

Under the portfolio of Sport, Recreation and Youth Affairs I do not have responsibility for the management of Crown land or the sale and acquisition of land.

The Minister for Planning is responsible for the management of Crown land.

Water, environment and climate change: Doncaster electorate Crown land

92(l). **Ms WOOLDRIDGE** to ask the Minister for Water, Environment and Climate Change with reference to Crown-owned land in the electorate of Doncaster relating to the Minister's portfolio —

(1) What is the description of and, where available, the address of all such land.

(2) Does the Government intend to sell any of this land or acquire any new land in the electorate.

ANSWER:

I am informed that:

A schedule of all Crown land parcels and the associated details of each in the electorate of Doncaster has been prepared, along with a corresponding map indicating the location of each parcel.

[*Map supplied in format unsuitable for incorporation in* Hansard*. Map can be viewed in electronic form under 'Questions on notice' at http://www.parliament.vic.gov.au/downloadhansard/assembly.htm*]

The responsibility for Crown land (under the *Crown Land (Reserves) Act* 1978 and the *Land Act* 1958) in the main rests with the Minister for Planning. The responsibility for the sale of Crown land rests with the Minister for Finance.

RESERVE No	PURPOSE	TYPE OF MANAGEMENT	MANAGER	AREA Ha
1204199	PUBLIC PARK – YARRAN DHERAN	RESERVE (COFM – COUNCIL)	WHITEHORSE CITY COUNCIL	0.291
1204681	PUBLIC RECREATION	RESERVE (COFM – COUNCIL)	MANNINGHAM CITY COUNCIL	2.019
1204745	PUBLIC PARK	RESERVE (COFM – COUNCIL)	MANNINGHAM CITY COUNCIL	0.733
1204872	PUBLIC BUILDINGS – DONCASTER EAST POLICE STATION	RESERVE (IMPLIED MGT – POLICE)	DEPARTMENT OF JUSTICE	0.229
2015002	PUBLIC PURPOSES (PROJECT)	RESERVE (COFM – OTHER)	SOUTHERN AND EASTERN INTEGRATED TRANSPORT AUTHORITY (SEITA)	3.496

PARCEL NO	SPI	RELATED RESERVE	COMMENTS	Area Ha
P360014	5A~10A\PP2264	1204745	PUBLIC PARK RESERVE	0.733
P360004	C1~6\PP2264	1204872	CROWN LAND	0.077
P360005	C2~6\PP2264	1204877	PUBLIC BUILDING RESERVE	0.152
P374245	2011\PP3337	2015002	MITCHAM–FRANKSTON FREEWAY	8.023
P360011	15B3\PP2264	1204681	PUBLIC PARK RESERVE	2.019
P244170	17A4\PP3753		STREAMSIDE RESERVE	1.131
P374261	2013\PP3337	2015002	MITCHAM–FRANKSTON FREEWAY	9.745
P374260	2012\PP3337	2015002	MITCHAM–FRANKSTON FREEWAY	9.030
P372302	2008\PP3337		STREAMSIDE RESERVE	0.406
P372303	2009\PP3337		STREAMSIDE RESERVE	0.351
P374263	2015\PP3337	2015002	MITCHAM–FRANKSTON FREEWAY	2.513
P374315	2019\PP3753	2015002	MITCHAM–FRANKSTON FREEWAY	0.983
P360848	127D\PP3337	204199	PUBLIC PARK RESERVE	0.339
P372299	2006\PP3337		STREAMSIDE RESERVE	0.014

Public transport: W-class trams

100. **Mr MULDER** to ask the Minister for Public Transport how many of each of SW5, SW6, W6 and W7 class trams, based at each of the Glen Huntly and Southbank depots, were in a serviceable condition on 27 March 2007 for —

(1) The City Circle service.

(2) Revenue services such as routes 30 and 78/79.

ANSWER:

As at the date the question was raised, the answer is:

The following W-Class trams were in a serviceable condition at Glen Huntly and Southbank depots for use on tram Routes 30 and 78/79 and the City Circle service on 27 March 2007.

Southbank Depot				
	City Circle	**No.**	**Route 30**	**No.**
	SW5	1		
	SW6	5	SW6	2
	W6	1	W6	3
	W7	1	W7	3
		8		**8**
Glenhuntly Depot				
	Route 78/79	**am**	**pm**	
	SW5	0	0	
	SW6	5	9	
	W6	2	2	
	W7	3	3	
		10	**14**	

Water, environment and climate change: Dandenong Ranges National Park

109. **Mr WAKELING** to ask the Minister for Water, Environment and Climate Change with reference to the section of the Dandenong Ranges National Park which abuts the electorate of Ferntree Gully —

(1) When was the last occasion that this section of National Park was burnt in a controlled environment, such as a fuel reduction burn.

(2) Taking into consideration the topography and flora of this area, how often should this area be subject to a controlled burn in order to reduce the amount of available fuel.

(3) When will be the next occasion that this section of National Park will be subject to a controlled burn.

ANSWER:

– For the purposes of answering this question, my Department has interpreted the portion of the Dandenong Ranges National Park abutting the electorate of Ferntree Gully as that area south of the Mountain Highway and west of the Mount Dandenong Tourist Road (approximately 650 hectares).

(1) Since the 1997 wildfire which burnt 340 hectares of this area, 24 fuel reduction burns have been conducted covering 160 hectares.

(2) The frequency with which this area is fuel reduced is determined by the fuel management strategies defined in the East Port Phillip Fire Protection Plan (Nov 2003). This plan assigns fuel management zones based on the strategic importance of different areas, the appropriateness of burning to manage fuels, and the natural and developed values on or adjacent to the area. There are currently five zones: Zone 1 Asset protection, Zone 2 Strategic fuel reduced corridors, Zone 3 Broadacre fuel reduced mosaic, Zone 4 Specific flora and fauna management and Zone 5 Exclusion of prescribed burning. Each zone has triggers based on overall fuel hazard that determines when fuel reduction should be undertaken.

In this area approximately 11% is Zone 1, 70% is Zone 3 and 19% Zone 5.

Overall fuel hazard is monitored and used in conjunction with community and stakeholder input to determine when an area is next programmed for burning.

(3) This area will be looked at again during the annual Fire Operations Planning process, and the community will be consulted formally in September. It is anticipated that at least 25 hectares will be programmed for burning over the next three years.

Water, environment and climate change: Lysterfield Park

110. **Mr WAKELING** to ask the Minister for Water, Environment and Climate Change with reference to the Lysterfield State Park —

(1) When was the last occasion that this State Park was burnt in a controlled environment, such as a fuel reduction burn.

(2) Taking into consideration the topography and flora of this area, how often should this area be subject to a controlled burn in order to reduce the amount of available fuel.

(3) When will be the next occasion that this State Park will be subject to a controlled burn.

ANSWER:

– For the purposes of answering this question, my Department has assumed the area in question is Lysterfield Park (approximately 1430 ha).

(1) In the last ten years, seven burns have been conducted covering approximately 80 hectares. In 2003,110 hectares was burnt in a wildfire.

(2) The frequency with which this area is fuel reduced is determined by the fuel management strategies defined in the East Port Phillip Fire Protection Plan (Nov 2003). This plan assigns fuel management zones based on the strategic importance of different areas, the appropriateness of burning to manage fuels, and the natural and developed values on or adjacent to the area. There are currently five zones: Zone 1 Asset protection, Zone 2 Strategic fuel reduced corridors, Zone 3 Broadacre fuel reduced mosaic, Zone 4 Specific flora and fauna management and Zone 5 Exclusion of prescribed burning. Each zone has triggers based on overall fuel hazard that determines when fuel reduction should be undertaken.

In this area approximately 1% is Zone 1, 5% is Zone 2, 83% is Zone 3 and 11% Zone 5.

Overall fuel hazard is monitored and used in conjunction with community and stakeholder input to determine when an area is next programmed for burning.

(3) This area will be looked at again during the annual Fire Operations Planning process, and the community will be consulted formally in September. It is anticipated that at least 30 hectares will be programmed for burning over the next three years.

Water, environment and climate change: Churchill National Park

111. **Mr WAKELING** to ask the Minister for Water, Environment and Climate Change with reference to the Churchill State Park —

(1) When was the last occasion that this National Park was burnt in a controlled environment, such as a fuel reduction burn.

(2) Taking into consideration the topography and flora of this area, how often should this area be subject to a controlled burn in order to reduce the amount of available fuel.

(3) When will be the next occasion that this National Park will be subject to a controlled burn.

ANSWER:

– For the purposes of answering this question, my Department has assumed the area in question is the Churchill National Park (approximately 290 hectares).

(1) This area has not been fuel reduced or burnt by wildfire in the last ten years.

(2) The frequency with which this area is fuel reduced is determined by the fuel management strategies defined in the East Port Phillip Fire Protection Plan (Nov 2003). This plan assigns fuel management zones based on the strategic importance of different areas, the appropriateness of burning to manage fuels, and the natural and developed values on or adjacent to the area. There are currently five zones: Zone 1 Asset protection, Zone 2 Strategic fuel reduced corridors, Zone 3 Broadacre fuel reduced mosaic, Zone 4 Specific flora and fauna management and Zone 5 Exclusion of prescribed burning. Each zone has triggers based on overall fuel hazard that determines when fuel reduction should be undertaken.

The entire Churchill National Park has been classified as Zone 3.

Overall fuel hazard is monitored and used in conjunction with community and stakeholder input to determine when an area is next programmed for burning.

(3) This area will be looked at again during the annual Fire Operations Planning process, and the community will be consulted formally in September. However, given the nature of the vegetation (low fuel loading) and assets within and surrounding the park; it is unlikely that significant areas will be programmed for burning in the next three years.

Public transport: taxidriver licences

115. **Mr MULDER** to ask the Minister for Public Transport —

(1) How many taxidrivers were licensed in Victoria as at 30 April 2007.

(2) How many taxidrivers had demerit points on the Victorian Taxi and Tow Truck Directorate's demerit points register in each category ranging from zero to 12 as at 30 April 2007.

ANSWER:

As at the date the question was raised, the answer is:

(1) There was a total of 50,719 holders of a driver certificate as at 30 April 2007.

Of these:

– 20,407 drivers were endorsed to drive a metropolitan taxi or a metropolitan hire car; and
– 30,312 driver certificates permit the holder to drive a commercial passenger vehicle, including a non-metropolitan taxi, a commercial bus or private bus operating within the meaning of the Public Transport Competition Act 1995.

(2) The Victorian Taxi Directorate does not maintain a demerit point register for taxi drivers. VicRoads administers the demerit point register and Mr Mulder should refer his question regarding demerit points to the Minister for Roads and Ports.

Public transport: V/Line call centre

122. **Mr MULDER** to ask the Minister for Public Transport with reference to V/Line's 6.00 a.m. to 10.00 p.m. telephone enquiry call centre line 13 61 96 —

(1) How many calls in total were made to the call centre in —

(a) March 2007;

(b) April 2007.

(2) What was the median waiting time for callers to the call centre in —

(a) March 2007;

(b) April 2007.

ANSWER:

As at the date the question was raised, the answer is:

(1) The total number of calls made to the call centre was:

(a) March 2007 — 73,530

(b) April 2007 — 75,897

(2) The median waiting time for callers to the call centre was:

(a) March 2007 — 48 seconds

(b) April 2007 — 32 seconds

Housing: women's refuges/ halfway houses

138. **Mr THOMPSON** *(Sandringham*) to ask the Minister for Housing with reference to the acquisition of properties for the purpose of being used as 'women's refuges' or 'half way houses' —

(1) How many properties are there in the southern metropolitan region as at 1 May 2007.

(2) How many properties are currently occupied for the intended purpose.

(3) What is the approximate dollar cost of staffing and maintenance of the houses.

ANSWER:

Four organisations receive funding in the Southern Metropolitan Region to provide a crisis response for women and children experiencing family violence. These agencies operate three women's refuges and eight interim accommodation properties.

All the properties are currently occupied for this purpose.

The total recurrent funding for these programs in the Southern Metropolitan Region is $1,497,822 per annum. Maintenance is carried out when required and covered from the overall budget for community housing.

Skills, education services and employment: ministerial communications training

145(m). **Mr THOMPSON** *(Sandringham)* to ask the Minister for Skills, Education Services and Employment with reference to media presentation training, communications training or public presentation training provided to the Minister in 2006–07 —

(1) What training has the Minister received.

(2) What was the name of the tenderer, training organisation or entity providing the training.

(3) What was the cost of the training.

(4) How many training sessions were held.

ANSWER:

I am informed that:

As neither the financial year for 2006/2007 nor the full calendar years for 2006 and 2007 have as yet transpired, then complete and accurate information relating to your question cannot be provided.

Women's affairs: ministerial communications training

145(p). **Mr THOMPSON** *(Sandringham)* to ask the Minister for Women's Affairs with reference to media presentation training, communications training or public presentation training provided to the Minister in 2006–07 —

(1) What training has the Minister received.

(2) What was the name of the tenderer, training organisation or entity providing the training.

(3) What was the cost of the training.

(4) How many training sessions were held.

ANSWER:

I am informed that:

As neither the financial year for 2006/2007 nor the calendar years for 2006 and 2007 have as yet transpired, then complete and accurate information relating to your question cannot be provided.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Assembly.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Thursday, 21 June 2007

Skills, education services and employment: workforce participation strategy

70. **Mr DIXON** to ask the Minister for Skills, Education Services and Employment — when will the Minister implement the Workforce Participation Strategy for Victoria.

ANSWER:

I anticipate releasing the Strategy later in 2007.

Public transport: V/Line service replacement/augmentation

107. **Mr MULDER** to ask the Minister for Public Transport — how much did V/Line expend between 1 January 2006 and 31 March 2007 on taxis to fully or partially replace or augment scheduled rail and coach services.

ANSWER:

As at the date the question was raised, the answer is:

V/Line has spent approximately $107,000 between 1 January 2006 and 31 March 2007 on taxis to fully or partially replace or augment scheduled rail and coach services.

Education: Sandringham electorate school upgrades

125. **Mr THOMPSON** *(Sandringham)* to ask the Minister for Skills, Education Services and Employment for the Minister for Education with reference to the Labor Party commitment at the last State election to commit an extra $1.9 billion in its next term, in addition to the $448 million committed in 2006–07, to deliver $2.3 billion for education capital over five years — when will upgrades commence at —

(1) Beaumaris North Primary School.
(2) Black Rock Primary School.
(3) Sandringham East Primary School.
(4) Beaumaris Campus of Sandringham College.
(5) Holloway Road Campus of Sandringham College.
(6) Highett Campus of Sandringham College.

ANSWER:

As at the date the question was raised, the answer is:

The Bracks Government has committed a massive $1.9 billion over this term, which will see about 500 schools being built or modernised to meet the challenges of the future and invest in the services that matter to their families.

The 2007–08 State Budget delivers on more than a quarter of this commitment with 131 Victorian schools receiving capital funding to commence building.

Decisions relating to funding and commencement of the remainder of the commitment will be in future budgets.

Education: Moorooduc Primary School upgrade

128. **Mr BURGESS** to ask the Minister for Skills, Education Services and Employment for the Minister for Education with reference to the Labor Party promise at the last state election to commit an extra $1.9 million on top of its existing 2006–07 commitment of $448 million, a total commitment of $2.3 billion for education capital over the next five years — when will the upgrade of Moorooduc Primary School commence.

ANSWER:

As at the date the question was raised, the answer is:

The Bracks Government has committed a massive $1.9 billion over this term, which will see about 500 schools being built or modernised to meet the challenges of the future and invest in the services that matter to their families.

The 2007–08 State Budget delivers on more than a quarter of this commitment with 131 Victorian schools receiving capital funding to commence building.

Decisions relating to funding and commencement of the remainder of the commitment will be in future budgets.

Aged care: ministerial communications training

145(a). **Mr THOMPSON** *(Sandringham)* to ask the Minister for Aged Care with reference to media presentation training, communications training or public presentation training provided to the Minister in 2006–07 —

(1) What training has the Minister received.

(2) What was the name of the tenderer, training organisation or entity providing the training.

(3) What was the cost of the training.

(4) How many training sessions were held.

ANSWER:

I am informed that:

As neither the financial year for 2006/ 2007 nor the full calendar years for 2006 and 2007 have as yet transpired, then complete and accurate information relating to your question cannot be provided.

Sports, recreation and youth affairs: ministerial communications training

145(n). **Mr THOMPSON** *(Sandringham)* to ask the Minister for Sport, Recreation and Youth Affairs with reference to media presentation training, communications training or public presentation training provided to the Minister in 2006–07 —

(1) What training has the Minister received.

(2) What was the name of the tenderer, training organisation or entity providing the training.

(3) What was the cost of the training.

(4) How many training sessions were held.

ANSWER:

I am informed that:

As neither the financial year for 2006/2007 nor the calendar years for 2006 and 2007 have as yet transpired, then complete and accurate information relating to your question cannot be provided.

Premier: adviser appointment

155. **Mr THOMPSON** *(Sandringham)* to ask the Premier with reference to the appointment of Lisa Mahood as an adviser to the Premier —

(1) In which newspaper was the job advertised.

(2) How many applications for the job were received.

(3) What is the public service grade level at which the appointment was made.

(4) What were terms of the job description that was prepared prior to the job being advertised.

(5) What is the correlation between the selection criteria and the skill set of the appointee.

ANSWER:

I am informed that:

The engagement of staff for deployment in the office of a Minister of the Crown is governed by the Public Administration Act 2004. Further information about the appointment of staff within the office of a Minister of the Crown can be found in the aforementioned act.

Education: Doncaster Secondary College upgrade

178. **Ms WOOLDRIDGE** to ask the Minister for Skills, Education Services and Employment for the Minister for Education with reference to the Government's 2006 election commitment to upgrade Doncaster Secondary College — why was the College not funded in the 2007–08 state budget and when will the Government provide the funds the College requires to bring its facilities up to date.

ANSWER:

As at the date the question was raised, the answer is:

The Bracks Government has committed a massive $1.9 billion over this term, which will see about 500 schools being built or modernised to meet the challenges of the future and invest in the services that matter to their families.

The 2007–08 State Budget delivers on more than a quarter of this commitment with 131 Victorian schools receiving capital funding to commence building.

Decisions relating to funding and commencement of the remainder of the commitment will be in future budgets.

MEMBERS INDEX