PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 17 July 2007

(Extract from book 10)

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By authority of the Victorian Government Printer

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Lim, Mr Muy Hong	Clayton	ALP	Wynne, Mr Richard William	Richmond	ALP

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TUESDAY, 17 JULY 2007

Tuesday, 17 July 2007

The SPEAKER (Hon. Jenny Lindell) took the chair at 2.05 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Ford Australia: Geelong plant

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. What specific actions has the Premier taken to secure the future of the Ford engine plant at Geelong and the hundreds of jobs of Ford workers employed at the plant?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. Obviously anything we can do to secure the employment basis for Ford Geelong and Ford Broadmeadows we will do. We have been working with the company and working with the federal government, which is a joint partner in the $1.7 billion long-term investment in the next-generation Falcon and in the other developments at Ford, including, of course, the research and development centre — the design centre — which for the first time will be a part of Ford. We already have the technical centre at Toyota and the design centre at GM (General Motors), and that gives us a great capacity to do 24-hour design around the world, with Victoria as part of that in the future. So we certainly are working with the company. We would like to see, of course, every person who is employed currently employed in the future.

Just as important is the long-term security of Ford itself. I believe the assurances that Tom Gorman has given and the assurances that the parent company has given to both the federal government and the state government are solid and reliable assurances that Ford has a long-term future in Australia, a long-term future in Geelong and a long-term future in Broadmeadows. The key question currently — —

Mr Baillieu — On a point of order, Speaker, this was a question about the specific actions the Premier has taken, and I invite you to ask him to address the question.

The SPEAKER — Order! I believe the Premier is being relevant to the question.

Mr BRACKS — I believe the work we are doing to ensure that there is a long-term future for Ford will be productive. That is work that we have done — that the Treasurer has done, that the industry minister has done and that I have done. The work that the federal industry minister has done in cooperation with us will ensure that Ford has a secure and safe future.

That does not mean, of course, that Ford will not make operational decisions in the future about demand and supply. We have a long-term aim, on which we agree with the federal government and on which we are in discussion with Ford, to look not only at the domestic market for Ford production but also at exports. One of the biggest exporters in Victoria is in fact Toyota Australia, and GM is also exporting to the Middle East in particular and to some parts of the US. We would like to see Ford expanding its market from the domestic market also.

We will continue to provide the support and assistance that we have given to the whole of the car industry and that we are giving Ford as well — material aid, material support and financial support — which is part of the agreement we have with the federal government and Ford Australia. We will continue to work to support the car industry in this state.

Questions interrupted.

DISTINGUISHED VISITOR

The SPEAKER — Order! Before calling the member for Gembrook, I acknowledge in the gallery today the former member for Knox.

Questions resumed.

Floods: Gippsland

Ms LOBATO (Gembrook) — My question is to the Premier. Could the Premier advise the house of the impact of the recent floods in Gippsland and what action the government has taken to assist the Gippsland community to recover?

Mr BRACKS (Premier) — I thank the member for Gembrook for her question. As members of this house know, in the last few weeks parts of Gippsland have experienced their worst flooding in more than 30 years. When you think that that is on top of not only drought but also the bushfires which raged through about 40 per cent of the municipalities in that region, it has been a significant blow and has had a significant impact on the income levels, tourism capacity and the householders in that area.

Worst hit were Licola, Newry, Maffra, Raymond Island, Paynesville, Lakes Entrance and Loch Sport. For the Gippsland community, as I mentioned, it was another devastating blow on top of drought and

bushfires. More than 200 houses, 100 businesses and 1500 farms have been affected, 28 arterial roads were closed at some stage and at least 4 bridges have been significantly damaged.

In response to the severe floods that occurred in Gippsland the government appointed a task force headed up by the Minister for Regional and Rural Development, who is also the Treasurer. That task force responded immediately with material aid and support. More recently, when the whole of cabinet was in the Wellington and East Gippsland shires, the government announced a $60 million package, half of which was designated for road and bridge recovery and new works which will be undertaken as part of the recovery effort.

A sum of $20 million will also be applied to the catchment management authorities and the Department of Sustainability and Environment to undertake clean-up works. We have indicated that the catchment management authorities might require more assistance and money later in the year as they fully assess some of the longer term damage that has occurred as well. We have indicated that the government is also prepared to respond to that.

More than $3 million has been provided for local government infrastructure, including the Newry hall and other areas. Community initiatives include the coordination of volunteers, financial counselling and the clean-out of septic tanks, which is required because of the flooding activity. Low-interest loans at a concessional rate for flood-affected farmers, businesses and not-for-profit organisations have been approved for those seeking them. A $500 000 tourism package is planned to encourage tourists back into the region, on top of that which has already been undertaken following the bushfires that have also gone through the region. We also have a new flood warning system for the Macalister, Thomson and other rivers in the area.

During recent visits to Gippsland we also heard stories relating to insurance companies, the assessment of claims and the potential payout of those claims. I am pleased to report to the house that insurers such as the Royal Automobile Club of Victoria (RACV), Wesfarmers and the Australian Pensioners Insurance Agency have already said that their intention is to treat claims as storm rather than flood damage. I congratulate those insurance companies on that designation.

The RACV has said it will cover all claims of members whose cars or homes were damaged as a result of the recent storms in Gippsland. The government expects all insurance companies with policy-holders in Gippsland to follow the approach of the RACV and other insurance companies. I also note the comments from the Insurance Council of Australia that ‘no claims had been refused and the majority of claims had been paid’.

The government has also set up as part of the package a $100 000 trust fund, which is being administered by local councils, to assist residents and local businesses with any legal costs associated with their claims as well, if that is required. I congratulate the insurance industry — the majority of it — for its fast action. I urge those who have not yet taken up the opportunity to process claims as quickly as possible to do so as a matter of urgency.

I once again thank the emergency services, which have responded so well at a time when the communities of Gippsland needed it. The State Emergency Service received more than 3000 calls for assistance and deployed more than 300 volunteers and staff for about 1800 tasks. Local government — the two councils and other councils adjoining them — did a magnificent job. We are very pleased to say we worked effectively and well in cooperation with them. I would also like to thank the Country Fire Authority and staff from the Department of Human Services, the Department of Primary Industries, the Department of Infrastructure, the Department of Sustainability and Environment and Parks Victoria for their work.

It is also our role to ensure we learn from each disaster and each activity. The emergency services commissioner, Bruce Esplin, is charged with the responsibility of examining the response following bushfires or floods. In this case he will be preparing an examination review of what occurred in Gippsland. He has already undertaken some of that work, and we eagerly await the outcome.

I thank all the emergency services and councils involved. The government certainly sees it as one of the highest priorities that we help Gippsland recover from the third blow in relation to the floods that recently occurred.

Water: food bowl modernisation project

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to claims by various ministers that the food bowl modernisation project has the support of the Goulburn Valley community. I also refer to public rallies in Shepparton and Kerang, where hundreds of people voted unanimously against the project because of the plan to pipe water to Melbourne. I further refer to a WIN Television poll which recorded that 97 per cent of people were against the pipeline; to

the petition bearing more than 14 000 signatures opposing the project which is to be tabled in this place; and finally to the media release from the Victorian Farmers Federation of 28 June:

> The VFF and its members — —

Mr Batchelor — On a point of order, Speaker, previous rulings have indicated that questions should be about asking questions, not providing superfluous information. The Leader of The Nationals — —

Honourable members interjecting.

The SPEAKER — Order! Points of order will be heard in silence.

Mr Batchelor — The Leader of The Nationals has been going on for some time now and has yet to even attempt to ask a question. I ask you to bring him to the point or to rule his statement out of order.

Mr RYAN — On the point of order, Speaker, I am entitled to preface my question with appropriate factual bases. That is what I am doing, and I am about to conclude that process and then ask the question. I do believe therefore that what I am doing is in order.

The SPEAKER — Order! I do not uphold the point of order, but the Leader of The Nationals should be cognisant of the fact that if he gives information prior to his question, that information can be used by the Premier in his answer to the question.

Mr RYAN — I am always pleased to have the Premier use factual information. I quote:

> The VFF and its members do not support water being moved from northern Victoria to southern Victoria.

Will the government now listen to the concerns of country Victorians and abandon the north–south pipeline, which will strip wealth out of the Goulburn Valley and further degrade an already stressed system?

Mr BRACKS (Premier) — I thank the Leader of The Nationals for his question. I think he read out a press release that was rushed over to Parliament to the head of The Nationals from a farmers federation meeting. He was breathless when he came over.

I have a subsequent press release from the Victorian Farmers Federation which is actually dated 5 July 2007, which is a subsequent date to that which the Leader of The Nationals read. It says:

> VFF president Simon Ramsay said, given the commitments from the Premier, the VFF welcomes the $1 billion infrastructure upgrade project announced by the state government and the VFF's representation on the project's steering committee.

Honourable members interjecting.

Mr BRACKS — You have to do better with The Nationals people in the VFF. You have to do better — there is a contest, you know!

I also refer to the vote of irrigators, which was a secret ballot democratically held — the only secret ballot which has been held on this matter — and the vote was two to one in favour of the government's proposal. I believe there is very significant support for the proposal.

I should add in response to the Leader of The Nationals that the proposal is funded with $900 million, which is outside the region of the $1 billion involved, and $600 million of that is coming from the taxpayers of Victoria and $300 million is coming from Melbourne water users. A portion of that, therefore, is coming back to Melbourne, a portion is going to irrigators and a portion is going to the environment.

It is good for economic development, it is good for the region and it is good for Victoria. This is water we do not have, and it will be supplied for regional development in Victoria. This is a very good project. I can understand — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Leader of The Nationals to desist, and the member for Benalla should not interject in that way.

Mr BRACKS — I can understand why The Nationals want to play politics with that, but I understand that rationally and deep down there is enormous support for this, including within The Nationals.

Floods: Gippsland

Mr PERERA (Cranbourne) — My question is to the Minister for Water, Environment and Climate Change. Can the minister advise the house of flood recovery programs that the Department of Sustainability and Environment and the local catchment management authorities will be undertaking to assist the East Gippsland community recover from the recent Gippsland floods?

Dr Napthine interjected.

The SPEAKER — Order! The member for South-West Coast!

Mr THWAITES (Minister for Water, Environment and Climate Change) — I thank the member for Cranbourne for his question. As the Premier indicated, the floods in East Gippsland at the end of June this year were among the most serious that have ever been experienced. I would also like to add to those of the Premier my congratulations to the State Emergency Service and the other agencies that were involved.

Now, importantly, the Bracks government will work in partnership with the local community to help the region recover. An important part of that will involve the Department of Sustainability and Environment and the catchment management authorities (CMAs) working on restoring land that has been damaged by the floods.

As the Premier indicated, $60 million of government commitment will go towards flood recovery. Of those funds, some $10 million will be committed to the Department of Sustainability and Environment to assist with the urgent recovery and clean-up works. This includes things like repairing and reinstating roads and local tracks, fixing bridges and cleaning the drainage systems. This is important because it will mean small communities will get access to areas that might otherwise have been denied to them, and importantly, will help tourism get back on its feet after the floods.

The other key area is the catchment management authorities. As a result of the floods we now have fallen trees and debris blocking — —

Mr Lupton interjected.

Mr THWAITES — And the fires were another major factor in the whole flood situation. Fallen trees and debris are blocking creeks and streams, which has the potential to cause great damage. Urgent works will be conducted by the CMAs as soon as they are able to get access to these areas. They are already starting on these works, including removing the debris, some of the dead stock and sediment jams. The East Gippsland and West Gippsland CMAs are working with my department to get access as quickly as possible and to start expending that $10 million as part of that $60 million package on those works.

There will be further potential problems because the catchment is now so wet that more significant rains could cause further flooding. Work is under way to clear that debris as soon as possible, and work is being carried out with the Bureau of Meteorology to provide flood warnings and the like so that the community can be fully informed if there are further rains. There is also the risk of erosion, and we will need to do major works on river bank stabilisation, and that is being conducted as well.

In conclusion, the government does acknowledge that the community has had an extremely tough time there, and that is why a significant amount has been committed to it. We are committed as a government to working in close partnership with the community in restoring East Gippsland.

Water: Victorian plan

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the fact that an environment effects statement is required for the approval of a boat ramp at Bastian Point in Gippsland, and I ask: will the Premier guarantee that the proposed desalination plant in Gippsland and the north–south pipeline, which will take water from the stressed Murray-Goulburn system, will both be subject to a full, open and independent environment effects statement?

Mr BRACKS (Premier) — I thank the opposition leader for his question. I reiterate that the government will await advice of the Minister for Planning on whether an environment effects statement will be required for those projects.

Floods: Gippsland

Mr DONNELLAN (Narre Warren North) — My question is to the Minister for Police and Emergency Services. Can the minister inform the house of recent efforts by emergency service agencies in responding to the floods in Gippsland?

Mr CAMERON (Minister for Police and Emergency Services) — I thank the member for Narre Warren North for his question and his interest in the emergency service agencies across our great state.

There has been an enormous amount of rain in Gippsland — between 200 and 300 millimetres — and as a consequence of that all of the seven major rivers that run into the Gippsland Lakes were in flood, some at extreme flood levels. That is different to what happened in the area in the 1990s, when all seven rivers were not in flood. In addition the flood was exacerbated as a result of the fires experienced over summer, because some areas of the catchment were burnt and, as a consequence, the run-off was quicker and there was a lack of plants that would otherwise have taken up some water, which also contributed to the floods.

When you look at Gippsland you can see that it has been through a very dry period with the drought, and last year it was extremely dry; it has also been through

fires, which of course were exacerbated by that dry period; and now it has been through floods. It has gone through a great deal. It is certainly not unusual to have a very wet year following an extremely dry year like we saw last year.

The emergency response to the floods was led by the Victorian State Emergency Service, strongly supported by other emergency service and support agencies. The emergency service volunteers, particularly those from the SES, are to be commended, and I am sure honourable members commend them. The SES received over 3000 calls for assistance resulting in 1800 tasks. Some of those tasks involved dealing with storm damage, sandbagging and mapping work, and as a result of that work, preparing and alerting people, including doorknocking in those areas where floods were expected to come about.

There were over 20 agencies and organisations directly involved, including over 300 volunteers and staff from the SES, 450 staff and volunteers from the Country Fire Authority, staff from the Department of Sustainability and Environment and the Department of Primary Industries, as well as staff from the Australian Red Cross, the Bureau of Meteorology and the federal government. Acting Superintendent Jill Wood took command of the police in the area, who also did a tremendous job in terms of assisting emergency services, particularly around organising road closures and alerting people to the many issues that the area faced.

We also saw the transition from response to recovery go extremely well. That is something that the emergency service agencies and the other agencies, including the local councils, worked particularly hard on so that the response could start as soon as possible. The Premier has outlined a good deal of that response, which has been swift as a result of the government's task force chaired by the Treasurer. The emergency services commissioner will review this emergency, as he does with all emergencies, and yesterday he was visiting the Gippsland area.

Communities across the state that are in flood areas need to appreciate that they could also have a large deluge this year — nobody should be surprised about that — and as a consequence they should prepare themselves and be thinking through the issues which they may face if they are confronted with floods later in the year.

I am sure all members of this house join together in saying say thank you to the tremendous emergency services volunteers and agencies that have dealt with the Gippsland floods.

Floods: Gippsland

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the extraordinary damage done by the Gippsland floods and to the Premier's and ministers' earlier answers, and I ask: will the Premier confirm that the East Gippsland Catchment Management Authority and the West Gippsland Catchment Management Authority have in fact already estimated the cost of repairing the damage to river assets alone at a combined figure of over $60 million and that the $10 million allocated to date for such clean-up works by catchment management authorities, not the $20 million that the Premier mentioned in his answer, will need to be very significantly increased?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. When I released the details on the flood recovery package with the Treasurer and Minister for Regional and Rural Development I indicated that the payment that we had of $60 million for the catchment management authorities would be the payment of moneys required to date but that there would need to be an adjustment — there would need to be more money — later in the year. Those extra resources will be provided once we have a final assessment made.

We do not have a final assessment at this stage, but certainly the government recognises and acknowledges, in answer to the opposition leader's question, that there will need to be more resources applied. We do not have a final figure on that matter yet, but once we have that final figure, we will be able to make a judgement on that.

Floods: Gippsland

Ms GRALEY (Narre Warren South) — My question is to the Minister for Roads and Ports. Can the minister update the house on the government's response to the substantial road infrastructure damage as a result of the recent Gippsland floods?

Mr PALLAS (Minister for Roads and Ports) — I thank the member for Narre Warren South for her question. We know that roads and bridges play a vital part in connecting our communities, perhaps nowhere more so than in the great expanses of Gippsland. Of course the people of Gippsland have been dealt a rough hand of recent times by this country of droughts and flooding rains. As a result of the floods we have seen over 80 arterial roads damaged or affected by debris,

and we also know that there has been a significant impact on local residents, businesses and of course farmers. One bridge has been completely washed away, and we have also seen as many as 12 bridges adversely affected as a consequence of flood damage. The loss of this sort of infrastructure can affect not only people's connections but also their sense of confidence in the future. That is why it is critically important that as a government we make efforts immediately to address the community's concerns, and that is exactly what this government is going about doing.

A massive recovery effort is currently under way, and I would like to advise the house of this effort. High priority has been given to access and to providing connections to those communities that are immediately isolated. I am pleased to report to the house that access was restored to Licola on 14 July, when a temporary Bailey bridge was installed. Initial repairs have also been made to the Stoney Creek Bridge, which is now functioning. Also access across the former Cheynes Bridge is expected to be restored in coming weeks. It is a considerable engineering task — I stood at the mouth of the river, and the chasm that has been created is about 100 metres wide — and the work that is being done by the local community is quite inspiring.

There is of course more than $60 million in the flood recovery package that the Premier has outlined, and I am pleased to say that, in terms of the $30 million of the flood recovery package that has been directed to roads and bridges, that work is under way and happening as we speak. Road repairs are already under way, and they will not stop until the work has been completed. We are restoring access through temporary bridges and through building permanent replacement bridges. We are rebuilding roads that have been washed away and repairing damaged roads. We are replacing fences and signage and removing debris.

I want to acknowledge the tireless efforts of the over 100 members of VicRoads staff who have been working quite enormously in order to get this work done, and also those many contractors in the local community who have made a contribution as well. This is vitally important work and it does not go unnoticed by the locals who spoke glowingly of the efforts of VicRoads. I would like also to add my thanks to those workers for their tireless efforts on behalf of the people of Gippsland.

Finally, I want to indicate my appreciation to the shires of Wellington and East Gippsland who have made quite considerable efforts in being able to identify and prioritise the infrastructure spend that they see as being critically important and working cooperatively with the government to make sure that the restoration work goes on unimpeded by issues of responsibility, other than that we all recognise our responsibility to the people of Gippsland.

Timber industry: government strategy

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Agriculture. I refer to an article in the *Bairnsdale Advertiser* of Friday, 13 July, where VicForests regional manager, Barry Vaughan, is reported as saying that the organisation's prime responsibility is to maximise profit from state forests. I further refer to the decision to force East Gippsland commercial firewood harvesters to participate in an auction system to obtain logs rather than the previous licensing system which was terminated by the government on 30 June. How does the government justify this miserable policy that will force more than 20 firewood collectors out of business and increase the cost of firewood to people who have no alternative heating source?

Honourable members interjecting.

The SPEAKER — Order! I ask the Leader of The Nationals to repeat the question because I was unable to hear it.

Mr RYAN — Certainly, Speaker. My question is to Minister for Agriculture. I refer to — —

Ms Kosky interjected.

The SPEAKER — Order! The Minister for Public Transport! I have asked the Leader of The Nationals to repeat the question because I could not hear him. I ask members of the government and the opposition to remain silent so that I can hear the question.

Mr RYAN — My question is to the Minister for Agriculture. I refer to an article in the *Bairnsdale Advertiser* of Friday, 13 July, where VicForests' regional manager, Barry Vaughan, is reported as saying that the organisation's prime responsibility is to maximise profit from state forests. I further refer to the decision to force East Gippsland commercial firewood harvesters to participate in an auction system to obtain logs rather than the previous licensing system which was terminated by the government on 30 June.

How does the government justify this miserable policy that will force more than 20 firewood collectors out of business and increase the cost of firewood to people who have no alternative heating source in the middle of winter, and who comprise some of the most vulnerable members of our community?

Mr HELPER (Minister for Agriculture) — If I were cruel to this house, I would ask the Leader of The Nationals if he could repeat his question, but I will not do that. The provision of firewood to our communities is an important issue, particularly in regional areas where a greater number of people rely on firewood as their source of heating rather than electricity and gas and other means.

As the Leader of The Nationals identified, the firewood that is auctioned through VicForests to commercial cutters has indeed been put through an auction system. We need to keep in context the proportion of the firewood that is supplied through VicForests and is estimated to be consumed in East Gippsland. My understanding is that roughly 90 000 tonnes of firewood is consumed in East Gippsland and 2000 tonnes of that is supplied through VicForests, so we are talking about a relatively small proportion of wood that is being supplied in that way.

During the previous auction VicForests had a minimum lot size of 250 tonnes for commercial firewood cutters to bid on. I think it is arguable that that limit is — —

Mr Baillieu — On a point of order, Speaker, the minister is clearly reading his answer from a document — indeed, even the Deputy Premier is reading the document at the same time. I ask him to table the document.

The SPEAKER — Order! Is the minister reading from a document?

Mr HELPER — I am referring to notes.

The SPEAKER — Order! The minister is referring to notes.

Honourable members interjecting.

Mr HELPER — There is a rule against that?

The SPEAKER — Order! The minister, to continue.

Mr HELPER — The Leader of the Opposition was not able to recognise this as an important issue to regional communities. I understand that the average size lot that commercial firewood cutters would probably seek to purchase at an auction is 100 to 150 tonnes and that, as I said, the minimum limit during the previous auction was 250 tonnes.

There are a number of different ways of arriving at how one brings those two amounts closer together. One is to reduce the size of the lots that are offered through VicForests. Another would be to encourage commercial firewood cutters to aggregate their purchase of licences, which would be another reasonable way of going about it. I am certainly keen to work with commercial firewood cutters as well as VicForests to come up with a reasonable solution so that the mismatch between the lot size sought by firewood cutters and the lot size offered by VicForests is actually brought much closer together.

The other issue is that of price. My understanding is that the price arrived at at the previous auctions actually exceeded the reserve price. In other words, the market and the price that firewood cutters were prepared to offer for the firewood resource is actually in excess of that which was the reserve price set by VicForests.

Mr Ryan interjected.

Mr HELPER — I do not know which bit of the market the Leader of The Nationals does not quite understand, but when somebody who is seeking firewood is actually paying more than the reserve price that a seller is offering at an auction, that suggests to me that the reserve price that is being asked by VicForests does not exceed the capacity to pay or the price set by those who are seeking the firewood.

I look forward to continuing to work with VicForests and firewood cutters to come to a conclusion on what the lot sizes will be or whether there is some alternate arrangement by which we can bring the amounts that are sought by firewood cutters and the amounts offered by VicForests closer together. I look forward to VicForests playing a constructive part — albeit a very small part — in the supply of firewood to Gippsland.

Floods: Gippsland

Dr HARKNESS (Frankston) — My question is to the Minister for Regional and Rural Development. Can the minister outline to the house how the flood recovery package will support and rebuild Gippsland communities?

Mr BRUMBY (Minister for Regional and Rural Development) — I thank the member for Frankston for his question. As the Premier remarked earlier today, the government has responded swiftly to provide assistance to the affected residents of East Gippsland and to provide a basis for strong, ongoing economic recovery. As the house has heard today, more than 100 businesses, 200 houses and 1500 farms have been affected by the floods. Of course these are many of the same areas that have been affected by bushfires and by the drought over the last year, so this is a community in

need, and the government has responded swiftly to address those needs.

I visited East Gippsland with the Premier on Friday, 29 June, where we were briefed on what were the early days of the flood and the inundation which was occurring. The Premier announced the task force on Sunday, 1 July. There were many ministers who visited over the following week, including the Premier, again, the Minister for Tourism, the Minister for Local Government, the Minister for Roads and Ports, the Minister for Consumer Affairs and the Minister for Agriculture. Of course the following week the full cabinet met for two days in East Gippsland, where we had meetings in Bairnsdale, Lakes Entrance and Sale, and we visited smaller towns right throughout the region.

The package that was announced was very substantial — $60 million-plus — and included $30 million for roads and bridges and $20 million for the clean-up works. As the Premier said today, for the Department of Sustainability and Environment — —

The SPEAKER — Order! I advise those members of the opposition who are engrossed in conversation that I am finding it difficult to hear the minister, and I ask them to leave the chamber if they wish to continue their conversations in that loud manner.

Mr BRUMBY — There is more than $3 million for new local infrastructure as well as concessional loans and $1 million to assist farmers. If you put all of this in a larger context and think back over the last year, if you put together the bushfire package that was announced earlier this year of $138 million, the drought package, which is now in excess of $160 million, and the $60 million package for this, you realise it is a very substantial contribution indeed which is being made to regional Victoria. I also joined the federal Minister for Agriculture, Fisheries and Forestry, Peter McGauran, in Licola to announce with him, on behalf of the Premier and the Prime Minister, a joint package of $7 million of further assistance for the region.

The government has been getting on with the job, but not everybody agrees with that sentiment. Unfortunately I have to advise the house that the member for Swan Hill, the Deputy Leader of The Nationals, is reported in the *Bairnsdale Advertiser* of 9 July as saying:

> It is ridiculous for the Bracks cabinet to visit Gippsland …

I understand there was a WIN Television poll that tested that proposition, but I would not want to embarrass the Deputy Leader of The Nationals with the results of that poll, except to say that there was overwhelming support for the government's visit to East Gippsland.

There was also overwhelming support from some other elements of the Victorian community. A gentleman called Mr Peter Hall, who I understand is an MLC for Eastern Victoria Region, said in an article entitled 'Flood brings out the best':

> If you don't see the damage firsthand and you don't take the time to talk to people who have been directly affected, you often get the wrong impression about the extent of the damage.

Mr Hall was kind enough to be present when the Premier and I visited, and he was very grateful for the visit of cabinet ministers and the government generally.

The community wanted swift and decisive action, and the government certainly delivered on that. I have to agree in that regard with The Nationals no. 1 member in this state, Peter McGauran. When the federal agriculture minister, the no. 1 member of The Nationals in this state, visited Licola with me to jointly announce the commonwealth and state effort, he was asked by the press how the response had been delivered. I quote The Nationals no. 1 member in Victoria, Peter McGauran:

> The response has been remarkably speedy and efficient to date, but we can't take our eye off the ball.

I agree with that. The response has been remarkably speedy and efficient to date, thanks to the decisive action of the Victorian government and, I might say, also working in partnership with the federal government and The Nationals no. 1 member in Victoria, Peter McGauran. Some people did take their eye off the ball. The member for Gippsland South — the Leader of The Nationals — certainly took his eye off the ball, and unfortunately he was bowled out for a duck.

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

RULINGS BY THE CHAIR

Planning: ministerial intervention statement 2006–07

The SPEAKER — Order! Before calling for notices of motion, I would like to advise the house that a point of order was raised with me in the previous sitting week by the member for South-West Coast in relation to a planning matter statement that was made to the Parliament.

I have a letter signed by the Minister for Planning in the other place, the Honourable Justin Madden, which states:

> Correction to the ministerial interventions in planning matters statement to Parliament
>
> An administrative error was made in the address of the subject land at Rossdell Court, Portland, provided in the attachment to the statement to Parliament on ministerial intervention in planning matters for the period of May 2006 to April 2007. This was tabled by leave in Parliament on 5 June 2007.
>
> The address should read 35 Rossdell Court, Portland (not 55 Rossdell Court, Portland), as specified in the publicly available document *Ministerial Powers of Intervention in Planning and Heritage Matters, Reasons for Decision to Exercise Power of Intervention*, Victorian Civil and Administrative Tribunal Application for Review P3175/2005.
>
> Ministerial use of the powers of intervention and written reasons for each decision are publicly available, including an explanation of how the circumstances of the matter met the requirements of the guidelines and the legislative criteria for that action. The reasons for decision are available on the Department of Sustainability and Environment's website www.dse.vic.gov.au.

NOTICES OF MOTION

Notices of motion given.

Dr SYKES having given notice of motion:

The SPEAKER — Order! The notice of motion is out of order.

Further notices of motion given.

PARLIAMENTARY SALARIES AND SUPERANNUATION AMENDMENT BILL

Introduction and first reading

Mr BRACKS (Premier) introduced a bill for an act to amend the Parliamentary Salaries and Superannuation Act 1968 and for other purposes.

Read first time.

ROYAL CHILDREN'S HOSPITAL (LAND) BILL

Introduction and first reading

Mr THWAITES (Minister for Water, Environment and Climate Change) introduced a bill for an act to provide for the revocation of part of the reservation of Royal Park to provide for a new site for the construction of a new Royal Children's Hospital, to provide for the re-reservation of that and other land, to provide for leasing and licensing arrangements over certain land and for other purposes.

Read first time.

LEGAL PROFESSION AMENDMENT (EDUCATION) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill for an act to amend the Legal Profession Act 2004 with respect to the educational and other requirements for admission to the legal profession and for other purposes.

Read first time.

GENE TECHNOLOGY AMENDMENT BILL

Introduction and first reading

Ms PIKE (Minister for Health) — I move:

> That I have leave to bring in a bill for an act to amend the Gene Technology Act 2001 and for other purposes.

Mrs SHARDEY (Caulfield) — I ask the minister to give more detail on this bill.

Ms PIKE (Minister for Health) — These amendments bring Victoria's legislation into line with commonwealth legislation as is required under the intergovernmental agreement.

Motion agreed to.

Read first time.

JUSTICE AND ROAD LEGISLATION AMENDMENT (LAW ENFORCEMENT) BILL

Introduction and first reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

> That I have leave to bring in a bill for an act to amend the Magistrates' Court Act 1989, the Police Regulation Act 1958, the Road Safety Act 1986 and the Sex Offenders Registration Act 2004 and for other purposes.

Mr McINTOSH (Kew) — I seek from the minister a brief explanation of the bill.

Mr CAMERON (Minister for Police and Emergency Services) — The bill will introduce a new offence relating to the evading of police, which is a traffic offence at the moment. The existing provisions are inadequate. In addition there will be some new laws and strengthening of laws in relation to police information handling, the way mug shots are released and also some tightening up of the Sex Offenders Registration Act.

Motion agreed to.

Read first time.

GRAIN HANDLING AND STORAGE AMENDMENT BILL

Introduction and first reading

Mr HELPER (Minister for Agriculture) — I move:

That I have leave to bring in a bill for an act to amend the Grain Handling and Storage Act 1995 and for other purposes.

Mr WALSH (Swan Hill) — I ask the minister for a brief explanation of the bill.

Mr HELPER (Minister for Agriculture) — Do I have to be brief? I am happy to give — —

The SPEAKER — Order!

Mr HELPER — The legislation is about putting in place light-handed regulation for grain handling at the ports of Portland and Geelong and extending that regulation to the port of Melbourne.

Motion agreed to.

Read first time.

PETITIONS

Following petitions presented to house:

Euthanasia: legislative reform

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house that Victorians do not have the right to choose to die with dignity when suffering a terminal or incurable illness with profound suffering. Independent research shows that the vast majority of Victorians believe this right should exist.

The petitioners therefore request that the Legislative Assembly of Victoria enact in a timely manner appropriate legislation to create and protect this right, including appropriate safeguards.

By Mr THWAITES (Albert Park) (7323 signatures)

Sandringham: beach renourishment

To the Legislative Assembly of Victoria:

The petition of the residents of Sandringham, the City of Bayside and Victoria draws to the attention of the government the serious erosion of the Royal Avenue/Southey Street, Sandringham, beaches and abutting beaches to the immediate north caused by a recently constructed rock groyne as part of the Royal Avenue beach remedial works project.

Prayer

The petitioners therefore request that the government in conjunction with the City of Bayside adopt the following proposals to ensure the maintenance of the natural beauty of the beachscape both now and as our legacy to future Australians and:

(a) immediately halt work on the renourishment project, remove the recently constructed Southey Street beach stone groyne and review the role of the old Royal Avenue beach stone groyne to prevent further rapid erosion;

(b) consider and implement a more effective, less costly and more aesthetically pleasing method of renourishment (as used for other parts of the Australian coastline) such as geo-bags, wooden groynes, sand and other options; and

(c) ensure the projection of the bayside beaches as a whole rather than an ad hoc 'beach by beach' approach, which is causing a negative environmental, financial and aesthetic outcome.

By Mr THOMPSON (Sandringham) (179 signatures)

Tabled.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 9

Mr CARLI (Brunswick) presented *Alert Digest* No. 9 of 2007 on:

Energy Legislation Amendment Bill
Infertility Treatment Amendment Bill
Planning and Environment Amendment Bill
Summary Offences Amendment (Upskirting) Bill
Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill

together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Interpretation of Legislation Act 1984 — Notice under s. 32(3)(a)(iii) in relation to Statutory Rule 1

Melbourne City Link Act 1995:

City Link and Extension Projects Integration and Facilitation Agreement Fifteenth Amending Deed

City Link and Extension Projects Integration and Facilitation Agreement Sixteenth Amending Deed

Exhibition Street Extension Eleventh Amending Deed

M1 Corridor Redevelopment Deed Amending Deed

Melbourne City Link Twenty-Fourth Amending Deed

Melbourne City Link Twenty-Fifth Amending Deed

Murray-Darling Basin Commission — Report 2005–06

Parliamentary Committees Act 2003 — Government response to the Environment and Natural Resources Committee's Inquiry into the Production and/or Use of Biofuels in Victoria

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

Ballarat — C116

Bass Coast — C70

Bayside — C61

Cardinia — C94

East Gippsland — C53, C54

Greater Bendigo — C12, C100

Greater Geelong — C54, C130, C151

Hepburn — C41

Hume — C95

Kingston — C52

Melbourne — C96

Moorabool — C42

Mount Alexander — C40

Strathbogie — C25

Warrnambool — C56

West Wimmera — C11, C12

Whitehorse — C60

Yarra — C82

Prevention of Cruelty to Animals Act 1986:

Code of Practice for the Private Keeping of Dogs (2007)

Code of Practice for the Private Keeping of Cats (2007)

Statutory Rules under the following Acts:

City of Melbourne Act 2001 — SR 64

Country Fire Authority Act 1958 — SR 67

Disability Act 2006 — SR 60

Docklands Act 1991 — SR 65

Drugs, Poisons and Controlled Substances Act 1981 — SR 63

Education and Training Reform Act 2006 — SR 61

Environment Protection Act 1970 — SRs 76, 77

Equipment (Public Safety) Act 1994 — SR 53

Health Professions Registration Act 2005 — SR 62

Magistrates' Court Act 1989 — SRs 56, 57

Occupational Health and Safety Act 2004 — SR 54

Road Safety Act 1986 — SRs 71, 72, 73, 74

Subordinate Legislation Act 1994 — SR 55

Transfer of Land Act 1958 — SR 66

Transport Act 1983 — SRs 68, 69, 70

Valuation of Land Act 1960 — SR 78

Victorian Civil and Administrative Tribunal Act 1998 — SR 58

Water Act 1989 — SR 75

Working with Children Act 2005 — SR 59

Subordinate Legislation Act 1994:

Ministers' exception certificates in relation to Statutory Rules 51, 52, 56, 57, 66, 67

Ministers' exemption certificates in relation to Statutory Rules 62, 64, 65, 70, 71, 72, 73, 74, 76

Minister's infringements offence consultation certificate in relation to Statutory Rule 70.

The following proclamations fixing operative dates were tabled by the Clerk in accordance with an order of the house dated 19 December 2006:

City of Melbourne and Docklands Acts (Governance) Act 2006 — Whole Act — 1 July 2007 (*Gazette G26*, 28 June 2007)

Education and Training Reform Act 2006 — Remaining provisions — 1 July 2007 (*Gazette G26*, 28 June 2007)

Environment Protection (Amendment) Act 2006 — Section 54 — 1 July 2007 (*Gazette G26*, 28 June 2007)

Water (Resource Management) Act 2005 — Section 69 — 1 July 2007 (*Gazette G26*, 28 June 2007).

ROYAL ASSENT

Message read advising royal assent on 26 June to:

Appropriation (2007/2008) Bill *(Presented to the Governor by the Speaker)*
Courts Legislation Amendment (Judicial Education and Other Matters) Bill
Health Professions Registration Amendment Bill
Payroll Tax Bill
Professional Standards Amendment Bill
Statute Law Revision Bill
Water Acts Amendment (Enforcement and Other Matters) Bill.

BUSINESS OF THE HOUSE

Program

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

> That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 19 July 2007:
>
> Accident Compensation Amendment Bill
>
> Energy Legislation (Amendment) Bill
>
> Gambling Regulation Amendment Bill
>
> Outworkers and Contractors Legislation Amendment Bill
>
> Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill
>
> Wills Amendment Bill.

In putting forward this government business program for this parliamentary sitting week I identify the government's intention to deal with six pieces of legislation. Given the nature of the legislation proposed to be dealt with this week, it is expected that this is an achievable target for the house. It should provide adequate speaking opportunities for members from both sides of the chamber.

It is the government's intention to sit the traditional hours. We should be going on the adjournment at 10 o'clock on Tuesday and Wednesday nights and — for the edification of The Nationals — at 4 o'clock on Thursday. However, if The Nationals want to sit later, we will be happy, as always, to accommodate them. We made that accommodation in the last sitting week because many government members and ministers had meetings extending into the night. As we were here working we were only too pleased to think that The Nationals wanted to continue sitting in the Parliament alongside the government as it worked late into the parliamentary evening! We thank The Nationals for making a very generous offer to sit with us during that extended period.

I have not yet checked to see what members of the government will be doing on Thursday after 4 o'clock, but on the assumption that things proceed as normal during this parliamentary sitting week, I expect that we will be going onto the adjournment at 4 o'clock on Thursday — but you cannot always be sure.

Mr McINTOSH (Kew) — Certainly the opposition does not oppose the government business program. It agrees with the Leader of the House that there will probably be ample time during this week to debate those six bills. Indeed those bills do not cause the opposition — with a couple of notable exceptions — much concern at all. There will be a number of speakers on several of those bills, but as I said, I do not believe there will be any difficulty completing those bills by the end of the sitting week.

I also want to mention that I am very grateful to the government for, in better than usual form, notifying my office of the six proposed bills on the business program early last Thursday afternoon. I certainly appreciate that the government seems to be finally getting its act together in relation to notification of the bills that will be coming before this house in the following week. Certainly it is a matter of some concern that notice occurs only on the Thursday before a sitting week, notwithstanding that there are only a limited number of bills on the government business program — certainly the bills of which notice has been given today — although I expect that list to pan out.

The difficulty for an opposition is always manifest in the way its members have to go about preparing for the following sitting week, undertaking consultations and preparing a bills report that goes to both shadow cabinet and ultimately the party room. I would certainly like to see the government get its act together and organise its business program well and truly in advance of a sitting week. It should not be that difficult. After all it is largely government bills that come before this house and occupy this house's time. Accordingly I would expect a government that was on the ball to be able to identify those bills very early on and to give all parties an opportunity to make the necessary preparations.

In relation to the government business program, I note that the Senate Elections Amendment Bill has been second read and is capable of being debated. It has been sitting on the notice paper since early this year. Obviously this Parliament has to provide its agreement

to enable the Senate elections, which, of course, will take place in the foreseeable future when the federal election takes place, so I would have thought that would be a matter of a critical nature that had to be got out of the way. I understand that the government's position is that it does not like doing it, but it is certainly a necessary part of our federation to bring in legislation that enables federal elections to continue. Accordingly I would hope to see that on the government business program for the next sitting week.

I also want to mention the alacrity with which the Leader of the House talked about the division that took place in relation to the government business program at the end of the last sitting week. I was not present, but I have certainly been brought up to speed on the matter. Certainly it was something that The Nationals were at liberty to do because we had run out of business. That is something that the opposition parties had identified very early on, because there was little or no controversy about the bills that came before the Parliament on that occasion. Both The Nationals Whip and I said in our contributions that we were likely to be finishing early because of a lack of business, and I understand that we finished early not only on Thursday night but on Wednesday night as well. Of course, once the government business program is exhausted, it is open to any party to then continue debates during the normal sitting hours of the house.

As I said, one would expect the government to at least ensure its government business program fills out the week. Certainly to my mind these six bills will occupy the house for the full week, so all those members who wish to speak will be able to do so. Accordingly we do not oppose the government business program.

Mr RYAN (Leader of The Nationals) — I rise to thank the Leader of the House for his generous acknowledgement of the contribution The Nationals make to the debating program that unfolds in the course of parliamentary business. As was reflected in the events of the last sitting evening in this place, our concern is always to ensure that the normal sitting hours, which have been outlined again today by the Leader of the House, are adhered to when there are important issues to be debated. Through the events that unfolded on that Thursday we achieved a situation where the house was able to continue to engage in debate up to and, as it turned out, subsequent to 4 o'clock on that day, which is beyond the normal sitting hours.

As the house had run out of business, it was our intention to simply continue debate on the all-important question of water and its management in Victoria through until 4 o'clock that day. As it turned out, the government thought it would exact some sort of retribution by continuing the sitting, and as a result we were able to commence the debate on the Wills Amendment Bill, which continues to be before the house today.

The Leader of the House has flagged that we may extend the sitting this Thursday, subject to what the government decides at the time. I now indicate to the Leader of the House that if that is the government's wish, we will certainly do it. We are only too happy to continue past the normal sitting hours, if that is what the government intends should be the case — just as we did on that Thursday night, when the government took the sitting of the house past the normal business hour of 4 o'clock and we continued to participate in debate.

Had the government so desired, we would have stayed all night, the next day and the day after that to enable the debate to continue. As matters transpired the government chose to adjourn the debate and the house eventually concluded its sitting, so that was that insofar as that day was concerned. We as a party are always prepared to engage in constructive debate which assists in properly examining and developing relevant arguments pertaining to any aspect of legislation which is before the house.

That is what we did on the Thursday of the last sitting week, and that is what we will continue to do during the course of this week. The government ultimately determines the sitting hours of this place. If it desires to go past what the minister has today again affirmed — as I did last sitting day — are the normal sitting hours, concluding on a Thursday at 4.00 p.m., then in such event The Nationals will be very pleased to continue with the debate on whatever the particular topic of discussion may happen to be on that day.

Insofar as the specifics of this week's business program are concerned, I will of course defer to The Nationals Whip to deal with the matters that have been raised by the manager of government business.

Mr WYNNE (Minister for Housing) — I rise to support the government's business program and to note the contribution by the Leader of The Nationals and his party's apparent new-found vigour in continuing to debate the government's business program past 4 o'clock on the last Thursday afternoon we sat. Of course the government willingly joined that debate and continued for approximately another 90 minutes to debate some important bills, including, as the Leader of The Nationals indicated, the Wills Amendment Bill, which we kicked off on that last sitting day.

Today the Leader of the House has outlined six bills that are available for us to debate, commencing with the Wills Amendment Bill, which is a very important bill because it goes to the question of a person's capacity to make a will. I listened to debate on that bill the last time we sat, and it enjoys bipartisan support. The Outworkers and Contractors Legislation Amendment Bill is one that is near and dear to the hearts of those on this side of politics. It further adds to a raft of supports that have been provided to outworkers over a period of time. The Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill is indeed also a very important piece of legislation.

This is a good sweep of legislation — six bills that are all significant and all of importance to the Parliament. The program that the Leader of the House has outlined is a good and comprehensive program that will certainly be accommodated over the three sitting days of this week.

Mr DELAHUNTY (Lowan) — As the Leader of The Nationals has said, we do not have real concerns about the proposed business program. Last Thursday the government informed me that there would be six bills debated this week. We have looked through those bills, and, as the Minister for Housing said, they are all very important bills, but I do not believe they are too controversial. I do not think there will be long debates on all of them. We believe there will be adequate time to deal with the bills, even if the government wants to bring on a ministerial statement during the week, which it could do, to talk about water, water infrastructure — or maybe the lack of water infrastructure.

It surprises The Nationals, though, I must say, that item 10 on the business program — the Water Amendment (Critical Water Infrastructure Projects) Bill 2006 — is not on the debating program this week. This bill was amended in the Legislative Council, and, given the critical need for water infrastructure right across rural and regional Victoria, we are surprised that that one is not on the program for debate this week.

The other issue we have relates to climate change. We all hear a lot about climate change, which has been going on since Adam was a boy or since evolution began. We are informed that there will be longer dry periods and also larger rainfall periods — in other words, thunderstorms like those that happened in Gippsland — so we believe that water infrastructure is a critical need for us in country Victoria. As the Minister for Housing says — and I congratulate him on recognising the fact — The Nationals do speak on behalf of rural and regional Victoria with vigour. He used the word 'vigour', and I congratulate him — —

Mr Wynne — 'New-found'!

Mr DELAHUNTY — It is not new found, it is continuous vigour. We punch above our weight on many occasions. For the information of the other members of the house, in the last sitting week we went to the Leader of the House, referred to his book of knowledge and worked out how to get that important bit of debate into the Parliament. Unfortunately the government used its numbers to constrain that debate. But we also have another book of knowledge from former minister Tom Roper; I am informed it is worth reading, too.

I thank the government for providing the information on the government business program to us last Thursday. We do not see there being anything too controversial in it. We believe it provides an adequate time frame to get these six bills through, and with that I declare that The Nationals will be supporting the motion on the government business program.

Mr LANGDON (Ivanhoe) — I rise to support the Leader of the House and the orders of the day listing the first six bills. I note that both the Liberal opposition and The Nationals commended the government for getting their advice in on Thursday. I note also that the Minister for Local Government pointed out that the superannuation and, in particular, the outworkers bills are very important to government members. For example, I expect that debate on the outworkers bill will take quite some time. I am aware that the Liberal opposition and The Nationals do not often like speaking on those sorts of bills — they will probably hide in embarrassment — but government members will no doubt speak at great length and there will be a great deal of debate on that bill.

I look forward to listening to all the government members speak on that bill. Often their speeches are curtailed to accommodate The Nationals and the Liberal opposition. This week they will not be curtailed, and they will be able to speak for as long as they want to on all the bills. The Liberal opposition and The Nationals can share the government's views on all the bills. We have quite a few members who like to speak on bills and who look forward to this week's debate particularly on the outworkers bill. I think that will be a very interesting debate, as will debate on all the other bills.

Motion agreed to.

MEMBERS STATEMENTS

Cemeteries: trust review

Mrs SHARDEY (Caulfield) — I again raise the issue of the review of Victoria's cemetery trusts by the State Services Authority. After complaints by trusts that they had too little time to respond to the interim report, the SSA was forced to extend the closing date by two weeks. I was advised that despite this extension of time, the final report would still be completed by 30 June — just some two weeks after the close of submissions. In raising this scenario I questioned the degree to which these submissions would really be taken into account. Trusts are rightly concerned that their grave concerns about some of the interim report recommendations which would see them lose control of their funding and their accumulated funds will be ignored in the final report.

Now that the Minister for Health has had this final report on cemetery trusts since 30 June and has already flagged that she is opposed to recommendations regarding trusts losing control of their funds, it is of paramount importance that she make the report public as soon as possible. Further, the minister should quickly clarify if any Victorian cemetery trusts will lose control of their finances as a result of her restructure of the sector. A failure to do this would create a financial hiatus which I believe would be irresponsible on her part.

Penny Handley

Mr WYNNE (Minister for Housing) — I rise to pay tribute to the life of Penny Handley, my personal assistant, former staffer at ALP head office and a person well known through the Labor Party and trade union movement, who died on the weekend, aged 29. A colleague reminded me today of what a great role she played in the ebb and flow, tensions and excitement of the last state election campaign.

Penny was first diagnosed with cancer in January this year. Subsequent surgery and follow-up treatment at the Alfred hospital left us all hopeful that the cancer had been arrested. In her usual up-beat and optimistic style she assured me that she would beat this — and what a fight she put up. In partnership with the Alfred hospital and her family she faced the battle with determination and dignity — a battle that was brought to a close on the weekend.

I will always remember the day some weeks ago when she came to tell me that she was unable to continue work. She apologised to me, saying she had let me down. No, Penny, you never let me down, nor my staff. We will always carry with us a picture of a young, vibrant, caring and committed woman whose life was cut down too early. I extend my deepest condolences to the Handley family at this sad time.

Floods: Gippsland

Mr RYAN (Leader of The Nationals) — I, together with all other members of the house, pay due regard to the emergency services agencies in their various forms and the many volunteers who have assisted in the work done following the Gippsland floods, but there is much more to be done.

The Macalister Valley has been absolutely decimated, and the government needs to undertake many works, including elevating the South Gippsland Highway to above the existing flood levels to ensure that, in times to come, that highway does not flood again. Many areas throughout the length and breadth of Gippsland need attention, because of the order of 200 houses and probably 50 to 80 businesses were inundated. The impact on tourism has been enormous.

It is therefore important that on an ongoing basis a managed program to assist the recovery of the region is available. The government has announced funding of $60 million, but that will not be enough. We need to make sure that that money is new money, not related to old programs. I assure the government the impact of the floods has been vast and has been felt right across the region and in a wide array of forms. I also emphasise that these events follow a period of protracted drought which has struck the area over many years and also follow the fires that occurred in the latter part of last year and the early part of 2007. I urge the government therefore to be vigilant about the needs of Gippslanders at this difficult time.

Pece Naumovski

Mr BATCHELOR (Minister for Victorian Communities) — I rise to congratulate a young resident of my electorate of Thomastown, Pece Naumovski, who outscored several hundred competitors to win gold at the karate Go-Kan-Ryu world cup in Birmingham last month. Pece is just 10 years old and is already a world karate champion.

The community of Thomastown pulled together to make it possible for Pece to compete in Birmingham, with local businesses, schools and the Whittlesea council donating money to help cover the costs of travel and accommodation. I know Pece and his family are very grateful for this help and the

community is in turn very proud of this young man. Pece Naumovski has trained exceptionally hard to get where he is today. He is known by his school teachers and his peers as a very dedicated student and dedicated athlete. I am told he is currently training for his black belt in karate — an amazing feat for a boy so young!

I would like to wish Pece all the best for his future endeavours and will track his success with great interest. I would also like to acknowledge the generosity of the Thomastown community in supporting Pece and his family and for encouraging Pece in every step he has taken. Pece's victory is a great result not just for the community of Thomastown but for Australia, and we all congratulate him.

Water: desalination plant

Mr K. SMITH (Bass) — You could hear the sighs of relief coming from the Treasury bunkers when the rain started to fall over Victoria. They coincided with the gasps of disbelief from the people along the coastline, from Kilcunda to Inverloch, when they were told of the proposed $3.1 billion desalination plant that is going to grace the pristine coastline near Wonthaggi — that is, if the Socialist government gets its way. And all this without any consultation with the locals until the day of the announcement!

The Premier and his minister should be aware that the propaganda they have been espousing is like water running off a duck's back. The people do not believe them. The locals are not impressed with the millions being spent on the Premier flying around in his little red helicopter — red being the appropriate colour — and his costly TV ads on how he is going to save the world with the biggest desalination plant in the world. Do not get me wrong, Speaker, I support the concept of a desalination plant — but not along this magnificent coastline.

The people ask, 'What about recycling? What about water tanks? What about a third pipe system in new estates? What about new dams? What about stormwater harvesting?'. I ask: what about a little bit of common sense? Public briefing sessions at the end of this month are too little, and they are too late. What about a full environment effects statement on the project? So many questions, so few answers!

Shanae Rossiter

Ms LOBATO (Gembrook) — Just over one month ago, an 11-year-old grade 6 student was walking to school when she was involved in a tragic incident. On a cold, foggy morning, Shanae Rossiter was hit by a bus while crossing the intersection of Manuka Road and High Street in Berwick. She was trapped underneath the bus for around 30 minutes before being freed. She suffered severe injuries, and as a result had to have one of her legs amputated below the knee. For Shanae's mother, Tracy Rossiter, it meant dealing with a trauma that could never have been anticipated, and a total upheaval of their lives as helping Shanae recover her health became their no. 1 priority.

Fortunately Shanae, Tracy and their family have received tremendous support from the community, including from Shanae's own school community at Berwick Primary School. Tracy reported that the school had been awesome and it had helped lift Shanae's spirits as she was being cared for at the Royal Children's Hospital. A trust fund has also been established to help Shanae on the road to recovery and to look after her needs.

What has been most remarkable, however, is the determination and bravery of this young girl to not only deal with the loss of her leg but to set her sights on playing netball again and resuming a full and active life. She has been inducted as an honorary member of the Gippsland Storm and is looking forward to returning to the courts herself once a prosthetic leg has been fitted. Her attitude has inspired those around her as she faces each new day and each new challenge with optimism and hope.

Courts: security

Mr CLARK (Box Hill) — Last month the Auditor-General exposed serious weaknesses in the security systems provided by the government for magistrates courts across Victoria. Forty-one courts do not have security cameras and 43 do not have access even to electronic hand wands for security checks. This is despite the fact there have been 584 reported security incidents in magistrates courts over the past two years, and 1382 weapons have been seized in the only two courts that have full weapons checks.

It has now been reported that at the Warrnambool court, which is one of only five courts in regional Victoria that have security cameras, the cameras do not even record what takes place, they simply link back to a screen that is not permanently monitored. Thus if a shooting or stabbing or other event takes place, there is no film or other recording available to find out exactly what happened or to identify, catch and prosecute the perpetrator.

Events of recent times show an increasing level of violent incidents on our streets and in other public

places, as well as the growing threat of internationally organised terrorism. The Attorney-General cannot afford to be complacent or dismissive of these risks. These risks are real, and we know only too well that they can have tragic consequences. Whatever might have been reasonable in less violent times, those who use our magistrates courts today are entitled at minimum to the protection of a security camera system that actually records what is going on. Such camera systems are standard in numerous shopping malls, railway stations and other public places.

It beggars belief that they are not standard in our magistrates courts. To date all the government has done is commission yet another study to look into court security. This problem does not need more studies and delays, it needs immediate action.

Heidelberg Theatre Company: *Grapes of Wrath*

Mr LANGDON (Ivanhoe) — I pay tribute to the Heidelberg Theatre Company and its brilliant production of the Tony Award and Pulitzer Prize winning *Grapes of Wrath.* I was indeed very fortunate to attend the opening night of the production on 4 July. The production was directed by Chris Baldock — I believe this is his 40th production as director and his third at the Heidelberg Theatre Company.

I also pay tribute to the cast: Nigel Leslie, Juliet Hayday, Barry Lockett, Bob Crawford, Bruce Akers, Eleanor Wilson, David Orlando, Eleanor Danek, Oliver Danek, Fred Barker, Sandy Green, Sebastian Bertolli, Vlady T., Paul Karafillis, Kate Ballard, Judite Smits, Tony Costa, Dario Dalla Costa, Steven Kennedy, Luke Lennox, Ben Starick, Peter Tedford and Itzel Rosas. I pay tribute to them for their brilliant performance in the show.

I pay tribute also to all those in the Heidelberg Theatre Company who sponsored and supported the production. The number of cars in front of the theatre during each show was testament to its success. It was very well done on everyone's part. Well done!

Water: north–south pipeline

Mr WALSH (Swan Hill) — I would like to express the outrage of northern Victorians at the waste of a valuable resource — the wastewater that is being pumped out to sea each year from Melbourne and Geelong. There are 370 000 megalitres of water pumped out to sea from Gunnamatta, Werribee and Black Rock. Damian Drum, a member in another place, and I visited both Gunnamatta and Werribee in the last two weeks to view first hand this absolute waste of water.

At Gunnamatta, 45 megalitres per day of class C water is going out into the ocean every day. What a waste! This 370 000 megalitres of water going out to sea every year should be viewed not as wastewater but as a wasted resource that is potential new water for Melbourne. It is nearly five times the amount of water the Bracks government is planning to pump from Shepparton to Melbourne. Treating at least some of this water to class A and using it to replace potable water on parks, gardens, sporting grounds and for industry would mean there would be no need for a pipeline from Shepparton to Melbourne.

The Premier promised not to take water from northern Victoria to Melbourne, but this is another election promise that has now been broken. It ranks up there with the breaking of the promise for no tolls on the Scoresby freeway. The Premier is now gloating that with a pipeline to Melbourne, after 2011 we will have excess water beyond our consumption needs. People in northern Victoria are saying to Mr Bracks, 'Put a plug in it. Don't let our future be flushed down the toilets of Melbourne'.

Frank Cox

Mr SCOTT (Preston) — In a recent media report one of my local constituents, Mr Frank Cox, thanked the Red Cross for its service and help to prisoners of war with a very large personal donation. His action in thanking the Red Cross is typical of Mr Cox's good and generous nature. However, in my view the people of Victoria owe Frank Cox a deep debt of gratitude.

Mr Cox's personal service to the community includes active service in the Australian armed forces in North Africa and Greece during World War II, an astounding 33 years as a Coburg councillor including three as mayor, and service on the Melbourne and Metropolitan Board of Works for a lengthy 25 years. Frank Cox has also been a tireless campaigner for the rights of totally and permanently incapacitated servicemen. Mr Cox has also been working hard for aged residents of Latrobe Retirement Village. Victoria is a better place for having members of the community like Frank Cox.

Motorcycles: learner scheme

Mr MULDER (Polwarth) — The house is well aware that nothing happens quickly with the Minister for Roads and Ports, but the minister's decision to delay the introduction of the learner and probationary

motorcycle scheme into Victoria has the motorcycle fraternity completely baffled.

Given the minister has acknowledged that the current regulations do not reflect the performance abilities and safety mechanisms of today's motorcycles, one would have thought the minister would have moved swiftly to bring Victoria into line with South Australia, Tasmania and New South Wales. The learner approved motorcycle scheme (LAMS) will give learner and novice riders access to more appropriate motorcycles and restrict them from riding high-risk, souped-up 260 cc bikes. LAMS will provide access to a wider selection of bikes that will cater for riders' size and weight as well as safety features such as anti-lock and combined braking systems. The minister does not have to reinvent the wheel on this issue. Information and assistance can be sought from authorities in other states to hasten the implementation of LAMS in Victoria.

The minister and his government continually spruik their credentials on road safety, yet here we have a recognised system that has the potential to save lives, and it is up and running in other states. To delay its implementation is totally unacceptable. Motorcycle riders who were hit with Labor's unfair $50 levy have every right to claim that they are paying more, getting less and going slower than other states when it comes to motorcycle safety in Victoria.

Albert Jones

Ms MUNT (Mordialloc) — Today in this place I would like to pay tribute to the life of Albert Evan Jones, or Bert, who was born on 18 August 1920 and who passed away on 18 June 2007. I attended Bert's funeral on 26 June, along with a very large gathering of mourners from local RSLs, as Bert had served his country in the Second World War from 1941 to 1945 with the 29th/46th battalion in New Guinea, as well as family, friends, colleagues from his working years, including his 30 years at the *Herald Sun*, and community members. Bert's life, his gentleness and commitment to his family were movingly explained by his grandchildren and children.

My condolences to his wife June, daughter Maureen Bell, son Ken Jones, and their families. I personally have lost a lovely friend, and I will miss his smile, the twinkle in his eye and his support during many election campaigns. Farewell, friend.

Alison Carlson

Ms MUNT — I would also like to take the opportunity today in this place to congratulate Alison Carlson on her recognition for services to education and the community, particularly services to the University of the Third Age (U3A) by the awarding of the Order of Australia medal. Ms Carlson was recommended by Kingston U3A where she has been, and continues to be, a wonderful contributor both to Kingston U3A and our wider community. I thank Alison for all her work, and may she wear her medal with great pride and dignity.

Wantirna: health facility

Mrs VICTORIA (Bayswater) — Some stages of the new Wantirna health facility are due to open shortly. In 2005 a community advisory group was established to gather regional views and provide a communication link for this project between the local community and the Department of Health; my predecessor was actually its chair.

On 21 February I wrote to the Minister for Health, asking that I be included on the community advisory group. After five months I am still waiting on her response. I believe my constituents have a right to representation and that it is in their best interests that I am informed as to what is going on in our neighbourhood.

But this is not an isolated incident. It reminds me of the time I was uninvited from a meeting with VicRoads in regard to the pedestrian crossing outside the Waldreas retirement village. VicRoads phoned my office to set up a time for a community meeting, then rang me back to uninvite me, due, according to them, to directives from the relevant minister's office. Eventually, after plenty of negative media about the government and VicRoads, a meeting did take place, but I am still waiting on an outcome of their investigation, which was due last month.

Last time I checked, the people of Bayswater elected me to be their voice on all state matters. This Labor government lacks respect for Victorians and their rights to be consulted and informed, no matter which political party their local member belongs to. I ask the minister to have the common courtesy to reply to my request, to include me in the community advisory group and to inform me when stage 1 of the health facility is to open.

Islamic Council of Victoria

Mr LANGUILLER (Derrimut) — I wish to commend the Islamic Council of Victoria. The council's vision is to build a better community for all Australians for the empowerment of Muslims in Victoria and to fulfil this role by advocating on behalf of Muslims, empowering and encouraging the Muslim

community to continue to be actively, responsibly and positively integrated into mainstream Australian society, by providing special services to improve the welfare of disadvantaged groups in the Muslim community and by facilitating cooperation, unity and possible working relationships with the Muslim community and between the Muslim community and the broader community.

The executive committee is responsible for the governance of the council. In consultation with the council's constituent members and external bodies, such as the Victorian Board of Imams, it determines the broad policies and direction of the council. The committee is made up of six members who are elected every two years. The present committee, which was elected on 9 December 2006, has as its members Ramzi Elsayed, Asad Ansari, Malcolm Thomas, Sherene Hassan, Heba Ibrahim and Waleed Aly. I take the opportunity to commend Sheik Fehmi Naji, who was of course the well-respected and distinguished imam member of the Preston mosque and who has now taken on a new role. I remain confident that his role in Australia will remain a very positive and constructive one between the Muslim community and the broader community in Australia.

Water: nursery industry

Mrs FYFFE (Evelyn) — Drought and water restrictions continue to cripple the Yarra Ranges horticultural industries. New Gippsland Seeds and Bulbs has been operating for over 45 years. It has always been a well-run business serving not just the local community but also the wider Australian community of gardeners. When I first purchased from them over 30 years ago, they were leaders with an innovative range of products, reliability and service, and this has continued to be the case.

Three years ago the company employed seven full-time staff and was posting out 30 000 catalogues a year. Now it is down to one part-time employee. Mr de Vaus has had to take an off-farm job and the catalogue is on the internet to save on postage and printing. New Gippsland Seeds and Bulbs is not alone. There are many such small nursery and garden businesses in strife. Some have already closed. New Gippsland Seeds and Bulbs is in dire straits. More than 11 000 people are employed in the nursery industry in Victoria, and more than 1400 jobs have already been lost in the industry. Jobs are being lost every day.

I call on the Minister for Water, Environment and Climate Change — if he can spare time away from skiing, visits to Wilsons Promontory and overseas holidays — to urgently meet with the industry and work out how to find a way to have special exemptions from water restrictions so that these businesses and families can survive. I also call on the member for Monbulk to use his position as a minister in this government to ensure that the industry gets the urgent help it needs to survive — or is he happy for businesses in his electorate to be facing the decision to cut their losses now, close their doors and walk away with little prospect of ever being able to return to the industry?

NAIDOC Week: Bentleigh West Primary School

Mr HUDSON (Bentleigh) — On Monday I had the pleasure of celebrating NAIDOC Week with students from Bentleigh West Primary School. NAIDOC celebrations are held around Australia in the first full week in July to celebrate the history, culture and achievements of Aboriginal and Torres Strait Islander people.

The celebrations commenced with a welcome to country and a smoking ceremony run by the school captains, Ben Green and Amelia Wardley, in the new gathering place garden developed by the school community. Brian Powell, a Wathaurong man, gave a traditional welcome to country, and Murrundindi from the Wurundjeri people conducted a smoking ceremony. For the purpose, Murrundindi lit a large fungus found in the forest around Healesville, the growth of which signifies that we will have a wet winter.

I presented an Aboriginal flag to the school and explained that Moorabbin is derived from the Aboriginal word 'moorooboon', which mainly means 'resting place'. Murrundindi talked to the students about the meaning and importance of the Aboriginal flag. Throughout the day Murrundindi and Brian Powell ran sessions with the students on Aboriginal history and culture. It was clear that the students had a great interest in our indigenous people. They asked a lot of intelligent questions and were keen to learn as much as they could. The students will no doubt conclude the week with a far better understanding of Aboriginal culture and of the impact that white settlement and dispossession have had on Aboriginal people than we ever did in our days at school.

Congratulations to Bentleigh West Primary School for organising these NAIDOC Week celebrations. It is through such events that the cause of reconciliation with our indigenous people can be advanced.

Longwood Football/Netball Club: strategic plan

Dr SYKES (Benalla) — A couple of weeks ago I attended a meeting at the Longwood community centre to help develop a strategic plan for the Longwood Football/Netball Club. Longwood is a small community of a few hundred people just off the Hume Freeway between Seymour and Euroa. It has an exceptional community centre and recreation reserve, which is a credit to the longstanding community spirit and get-things-done approach of the locals. This spirit is well and truly evident when we work together to identify significant issues for the club, including things that are good about the club and where they could be improved.

I sat with four young netballers — Kaitlyn Carracher, Steph Lancaster, Skye Williams and Becky Pratt. The things which the girls most appreciate about the club include the happy environment, the mateship, the focus on community, the support of individuals such as Shorty and JJ, the sponsors, the volunteers, the community support and the general feeling of being safe in a family atmosphere. Some of the concerns raised included problems with transport to games, especially for juniors; the difficulty of attracting young players; and the need for social events which appeal to people of all ages. I was extremely impressed by the whole planning process, the obvious community spirit and the mature, constructive and appreciative attitude of the young netballers and footballers.

Well done, people of Longwood! You are a glowing example of a vibrant small town committed to a safe, enjoyable and rewarding future for the whole community.

NAIDOC Week: Henry Cooper Cup

Mrs MADDIGAN (Essendon) — Last Saturday week I had the pleasure of attending the annual football grudge match between the western suburbs police and an indigenous team to mark the start of the NAIDOC celebrations in our area. This match has been played each year for the last four years. The Victoria Police team was organised by Paul Madden from the well-known Madden family in Essendon, and the indigenous team was organised by Colleen Marion from the Western Suburbs Indigenous Gathering Place in Footscray. The match was held at the Maribyrnong Park Football Club, the best football club in the region. Coincidentally Kevin Murray and I are the no. 1 supporters.

The winner of the match gets the Henry Cooper Cup. As many members in this place would know, Henry Cooper was an Aboriginal who was very active in working for the vote for Aboriginals, which was gained only 40 years ago this year. Once again I have to admit that the police won — they have won the last four years — this time defeating the indigenous team 74 points to 37. I congratulate Maribyrnong Park Football Club for its support of this match and for the very good humour in which the match between the western suburbs police and the indigenous team was played. This is the sort of match that I think is excellent for people in getting to know each other and being able to build a solid and united front, all being Victorians and all working together.

Housing: affordability

Mr WELLS (Scoresby) — This statement condemns the Bracks Labor government for placing the great Australian dream — home ownership — almost beyond the reach of Victorians through an excessive reliance on record levels of property taxes, state fees and charges and compliance costs in purchasing existing or new homes. Stamp duty on property has skyrocketed by 190 per cent, from $1 billion in 1999 to a forecast $2.9 billion in this year's state budget, while land tax has risen 102 per cent to $765 million. Victorians are still paying the highest level of stamp duty in Australia.

Stamp duty on an existing owner-occupied, median-priced Melbourne home of $380 000 is $15 810 — 198 per cent, or $10 510, more than a similarly priced home in Queensland and 26 per cent, or $3220, more than a home in New South Wales. The state government's revenue take on new housing is far higher than that. A recent report by the Property Council of Australia revealed that in 2005 the average state government revenue take on a new home unit in Victoria was around $45 000, including stamp duty, land tax and goods and services tax — which goes back to the states — and almost $55 000 on a new house and land package. The total taxes, state fees and charges and compliance costs imposed on new homes in Victoria have escalated significantly since 2005. Today the total amount of charges on a typical house and land package costing $435 000 is close to $80 000.

NAIDOC Week: western suburbs ball

Mr SEITZ (Keilor) — Last Saturday night I had the privilege of being the guest speaker at the Western Suburbs NAIDOC Ball, which was organised by the NAIDOC Week committee and its chair, Colleen Marion, who is also the executive officer of the

Western Suburbs Indigenous Gathering Place committee, which operates from Highpoint West. This terrific night was sponsored by the Brimbank City Council. I am very pleased to put on the public record that this excellent activity is supported by the City of Brimbank and its councillors, who were present at this very important 50-year celebration of the Aboriginal and Torres Strait Islander community, recognising it and recognising the steps in the right direction that we have achieved.

In particular, there were representatives from a number of western suburbs councils. The mayor of Melton, Cr Justin Mammarella, was there, as was Cr Margaret Giudice from the Brimbank council. Cr Michael Clarke represented the Maribyrnong council, and there were representatives from the Moonee Valley and Melbourne city councils. The work that is done by the Western Suburbs Indigenous Gathering Place committee in promoting the rights and needs of indigenous people in the western suburbs is fantastic. I met, mixed with and had the pleasure of talking with some of the young people. I encourage them to take up political activities. I am sure that one day soon we will have a representative from that group.

The ACTING SPEAKER (Mr K. Smith) — Order! The member for Burwood has 1 minute and 25 seconds.

Hilda Justice

Mr STENSHOLT (Burwood) — I congratulate Hilda Justice, who turned 100 earlier this month. Hilda lives at Victory Boulevard, the wonderful seniors public housing in Ashburton built by the Bracks government. Prior to that she had lived in Ashwood from 1953. Hilda is an absolutely exceptional person who has lived a very full life. She is originally from South Melbourne, and she can tell you great stories from the 1920s and 1930s about what happened in that area. Of course she is a passionate Swans supporter, and on her birthday Paul Roos rang her up and to say 'Happy birthday', and all the Sydney Swans team sent her a big poster, signed 'Happy birthday to Hilda'. If you go to Hilda's house in Victory Boulevard you will see Swans players in all the pictures. She has almost a century of memorabilia from the South Melbourne and Swans football clubs.

Sadly Hilda was recently diagnosed with cancer and was told she would not see her 100th birthday, but she defied the odds in true Hilda style. She is currently receiving treatment at the Peter MacCallum Cancer Centre and is doing marvellously. Forty-eight people attended her birthday: no-one refused the invitation. The letters she received from VIPs were all special, but she said that the letter from the Premier was so special because it was the most personalised of any that she received. She has been a great Labor person and is a great person. Congratulations to Hilda on her 100th.

The ACTING SPEAKER (Mr K. Smith) — Order! Yes, congratulations Hilda! The time for members statements has expired.

WILLS AMENDMENT BILL

Second reading

Debate resumed from 21 June; motion of Mr HULLS (Attorney-General).

Ms RICHARDSON (Northcote) — I welcome this opportunity to speak in support of the Wills Amendment Bill. This is an important bill that is supported by all members of the house as well as by the Law Institute of Victoria. This amendment to the act was also recommended by the Probate Users Committee which is chaired by Justice Harper of the Supreme Court. The purpose of the bill is to provide those who have never had testamentary capacity better access to the court's capacity to grant leave where an application for a statutory will is made on the behalf of those people.

The making of a will is an important act for any individual. I would like to take this opportunity to urge all Victorians to take the important step of completing a will. There have been far too many people who have not taken this important step and who have not exercised this important right. We have all heard and read about the many tragic stories where people have sadly passed intestate and damaging legal action has followed, which has had far-reaching consequences for the families involved. This morning in my electorate office I had a discussion with some of my co-workers about the importance of wills. I think that is going to encourage one of my electorate officers to get one completed. I hope that discussion about this bill actually encourages others to take this important step.

To make a will a person must have testamentary capacity, but unfortunately not everybody has this. I refer the house to a constituent of mine who suffered from a severe brain injury as a young child. Now as a 30-year-old young man he is sadly unable to compose and determine his will. In cases such as this, an application to the court is made for a statutory will. Currently the court must make a decision about the person's intentions, and in this case it is many years after the injury actually occurred. In a case like the one

I have just outlined, the person's intentions are often too difficult for the court to determine, and therefore leave for a statutory will is not granted.

When a statutory will is not granted assets will revert to the next of kin, as happens in other intestate circumstances. Unfortunately there are cases where the next of kin is perhaps not the best or the fairest person to be considered as a recipient of the assets of an individual who has passed away. There may be a case where a child who has been profoundly injured in a car accident gains financial compensation for their injuries, the mother and father of the child separate after the injury and a house is bought with the proceeds of the compensation. If the mother remarries in these circumstances and the stepfather cares for that child, the stepfather can in no way be considered a beneficiary of the child's assets if the child passes away. The child's biological father is considered the next of kin along with the mother even though, in this circumstance, no care has been provided by him.

This circumstance is obviously unfair, and the legislation seeks to address circumstances such as this. In doing so, this bill provides an important change to the law. I therefore commend the bill to the house.

Mr McINTOSH (Kew) — I have listened to the contribution of the member for Northcote, and I agree almost entirely which what she said. Certainly in relation to the way our law operates, those people who either choose not to make a will or for whatever reason do not make one cause a great deal of difficulty, not only for their families and otherwise, but for many other people. It is a very complex process to go through to recover a deceased person's assets through intestacy laws. As the member for Northcote has correctly identified, everybody would be well advised to carry out the undertaking of making a simple will that gives all their assets to their mum, their wife or otherwise. That is certainly very good advice.

The sentiments of this bill are agreed to by the opposition. We do not oppose the bill. The shadow Attorney-General has made a long and excellent contribution on this matter. However, there is one matter I want to touch upon relating to the applications currently before the courts which may be affected by this legislation. This legislation has some retrospectivity. We need to pause for a moment, explore this aspect and understand just exactly what we are doing, notwithstanding the fact that everybody is in furious agreement that the existing law has led to difficulties, particularly in the case of a child that has been born with an intellectual disability who is unable to articulate or accurately reflect their intentions in any manifest way. That is a substantial hurdle to overcome.

I agree with the purpose of this bill, which is to lower that bar perhaps to a more reasonable test of the intention of a testator who lacks the capacity to make a will. But if you can divine the likely outcome, then it certainly lowers the bar. That is something to be supported, because it enables the court to either make the will or revoke that will during the life of the person if they lack that capacity.

My concerns arise because clause 4 of the bill, which amends section 52 of the Wills Act, applies a change to the law by lowering the high jump bar, if you like, in relation to the evidentiary proof necessary for obtaining leave. As you would understand, Acting Speaker, before a person makes an application to the court on behalf of another person who lacks the necessary testamentary capacity, they must actually obtain leave from the Supreme Court to make the application.

Certainly in practical terms most of the applications that are made to the court are made by a person; there is no opposition from any other family member, and by the time the application is granted the rest just forms into a natural process. The application for leave itself is usually the most substantive part of this type of application. But it is not always the case that these applications for leave are done ex parte; they can be done inter partes.

What does concern me about this bill is the retrospectivity — that is, applying it to applications which are currently before the court but which have not been determined by the commencement of this legislation. Presumably this legislation will come into operation the day after it is given royal assent, and one would expect that to occur in the near future given the support by most people in this house, the support of the Law Institute of Victoria and also, as the member for Northcote has identified, the support of Justice Harper. His support is certainly not an insignificant factor. Having dealt with Justice Harper when he was a member of the bar and chairman of the bar council, on which I had the honour of serving when he was chairman, it is my view that his opinion weighs strongly.

But what does give me some cause for concern is the retrospectivity which relates to those applications currently before the court that have not yet been determined. I raise that because it is changing the goalposts mid-game, if you like. Litigants and even applicants for leave will go through a considerable amount of expense in preparing their material; or

alternatively on the rare occasion when it is inter partes the other side will be going through a considerable amount of expense preparing material to resist the application. Litigants should be entitled to expect that those goalposts will not change. Indeed, as we have seen on other occasions when this type of change is made, those cases currently before the court are usually excluded from a change like that.

While I understand and accept the motives of the government and think it is a beneficial change, I would like some explanation as to why it has to apply to existing applications before the court and perhaps some indication as to the number of applications that may currently be before the Supreme Court that may be affected by this change. It may well be that no applications before the court will be affected, and so be it, but it just seems to me that members of this house should be aware of that before they actually determine a firm position on this bill. Having said that, I say it is important that any form of retrospectivity in our legislation is closely examined and scrutinised because it can have dire consequences.

As you would be aware, Acting Speaker, a few years ago we passed legislation in this house that extinguished a cause of action. This bill will not extinguish the cause of action; it just changes the necessary evidentiary proof to establish that claim. I cannot say it has not occurred before, because it has. I also note that that application to extinguish a cause of action was against a fisherman in Gippsland who had brought an administrative proceeding in the Supreme Court against the then Minister for Agriculture, now the Minister for Police and Emergency Services, claiming that the cancellation of his fishing licence had been a miscarriage because he had not adhered to the proper process set out in the Fisheries Act. Like any citizen, it was his right to challenge the actions of the executive wing of government, and indeed it was his right to have that tested in the court. But that option was removed from him, because the legislation I speak of extinguished his right.

I have also seen specific legislation where a change has been made which specifically exempts those applications that are currently before the court. Certainly I have seen that in relation to changes made to domestic violence law and also applications made in relation to land tax, for example, where those cases then before the court can be determined in accordance with the law at the time of the issue of those proceedings, rather than as set out in a new act of Parliament.

Retrospectivity is something that I raised recently in this house over the change in the law in relation to the sex offender Mr Fletcher and the extended supervision orders, notwithstanding the fact that everyone in this house understood the importance of making that change. Mr Fletcher had made a challenge on a technicality about his incarceration under the extended supervision provisions of the relevant legislation, and of course he was successful, but because of the continuing danger he posed to the community we all agreed with that change in the law. Certainly the motive itself was strong enough to support the bill, but it was a matter of some note.

I again just make the point that while the purpose of this bill is something worthwhile and certainly a number of people including the Law Institute of Victoria and Justice Harper have supported this change, there is this element of retrospectivity that relates to applications currently before the courts. It moves the goalposts in relation to those applications, and I think it is a step that needs to be pointed out in this house. I certainly ask the Attorney-General if he would identify the number of applications this may affect. As I said, it may well be zero in those matters, but particularly in regard to applications that are inter partes, I think it is a matter of profound concern.

Ms BEATTIE (Yuroke) — It is a privilege to speak on the Wills Amendment Bill 2007. This is a very important bill. Members will recall the dramatic fashion in which the bill was debated in the house during the last sitting week. They will recall the Leader of The Nationals asking for extra time so he could make a more fulsome contribution to the debate. But there were so many people wanting to speak on the bill that that was not able to be granted to the Leader of The Nationals. However, I am sure other speakers have possibly covered what the Leader of The Nationals wanted to say in regard to the Wills Amendment Bill 2007.

It is often said, in a somewhat jocular fashion, 'Where there's a will there's a relative'. However, that is making light of a very serious subject. It is ironic that one of the most important documents you will ever prepare in your life is about what happens when you pass from this mortal coil. I would take this opportunity to urge everybody who is of age and everybody whose personal circumstances have changed to make a will — I am digressing a little bit from the bill, but I know members will indulge me — because it will certainly make it easier on those remaining if your intentions are made very clear in a document that you leave behind on your death.

But this bill is not really about those who are able to make a will themselves and make all their intentions

known. The bill amends section 26 of the Wills Act to make further provision for matters about which the court must be satisfied before granting leave to apply for an order authorising a statutory will to be made or revoked on behalf of an person who does not have testamentary capacity. I am sure there are many examples we can talk about, but one example that has been quoted is that of a child who is hit by a car or has any other sort of accident — maybe a horseriding or cycling accident — and that child, or even an adult, may be left intellectually and physically disabled.

In such situations the parents may have divorced and the child may have no further contact with one of the parents. The child may receive quite a large sum of money to be used by one of the parents on the child's behalf. That money may be used to buy a house that caters for the disabled child, allowing them to live a comfortable life, and enable the carer to facilitate the child's living at home. Later on, if that parent dies, the other parent, who may not have had any contact at all with the child over the years, may be deemed the next of kin, even though the child may have had loving carers who have looked after the child day in, day out, but who would be entitled to nothing. Thus you can see that this bill is very important. If that child were to predecease the parent, the law as it stands at the moment would mean that the child's estate would be split equally between the parents. As I said, one of the parents may have had nothing to do with the child.

A lot of consultation on this bill has taken place. The member for Kew talked about the probate users committee, which is chaired by Justice Harper of the Supreme Court. Unlike the member for Kew, I do not know Justice Harper, but I am sure he does a fine job of chairing that committee. That committee is composed of the registrar and deputy registrar of probates and representatives from the Law Institute of Victoria, the Victorian bar, a trustees company and a non-legal probate service provider. Of course this amendment is also supported by legal advice from the Victorian Government Solicitor's Office. There was consultation with many groups, as you would expect with a bill of this kind. Consultation on the draft bill was undertaken with the probate users committee, as I mentioned, the law institute, the Victorian bar, State Trustees Ltd, the Office of the Public Advocate and the Trustee Corporations Association of Australia.

All these stakeholders indicated their very strong support for the proposal. Indeed it is so important that the Law Institute of Victoria asked that the amendment be implemented as soon as possible. As I said before, we saw the dramatic way in which this bill was brought into the Parliament, and members can see the legislation's importance also in the law institute's request that the amendment be implemented as soon as possible.

I am pleased to note that the Charter of Human Rights and Responsibilities comes into play in this bill, as you would expect when you are talking about examples such as the one I gave. The bill makes it clear that the court will be able to consider an application for a statutory will on behalf of someone who has lost testamentary capacity or someone who has never had that capacity. If the person has never had that capacity the court must be satisfied that the proposed will reflects what the intentions of the person might reasonably be expected to be if they had testamentary capacity.

As I said, this is an important bill, and it is one of those bills that makes good sense. It is supported by both sides of the house. It has been through wide-ranging consultation and is supported by all the stakeholders. I hope we are able to do what the Law Institute of Victoria requested us to do and implement this amendment as soon as possible. In conclusion, I commend the bill to the house.

Mrs POWELL (Shepparton) — I am pleased to speak on the Wills Amendment Bill 2007 and to say The Nationals will not be opposing the bill. As other speakers have said, this is a small bill, but it constitutes a very important amendment to the Wills Act 1997. The main purpose of the bill is reflected in clause 3, which will amend section 26(b) of the act.

The new section provides that before granting leave to someone to apply under section 21 of the Wills Act 1997 for an order authorising a will to be made or revoked on behalf of a person who does not have testamentary capacity, 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 be likely to be or what the intentions of the person might reasonably be expected to be if he or she had testamentary capacity. I think it is very important to understand that that is the main intent and purpose of this bill.

The amendment could be used on behalf of a person who has had testamentary capacity but who has tragically lost it — and that could be due to an accident or to illness. I know there are a number of people in nursing homes at the moment who have acquired brain injury, and they could be young people who had testamentary capacity before their accidents but who now do not have it and need support and protection as well as somebody to help them make a will so that

when they pass away their needs and rights are supported and honoured.

When the Leader of The Nationals spoke on this bill on 21 June he raised a number of issues, examples and concerns that he would have liked to speak further about. I note that he asked leave for extra time in which to speak and that it was refused. Even though he did not oppose the legislation, he put a number of his concerns on the record.

Some of these are concerns a number of people have raised during this debate. One of them relates to people who may be incapacitated in another way, such as through elder abuse. We have seen evidence documented in the papers and so forth of people being coerced into either including or excluding something or someone from a will — whether they have been intimidated or, worse still, threatened with violence and injury. A lot of that is hidden, and we do not know the extent of it, but it is a concern to many members that people making a will may be under some sort of duress. The Leader of The Nationals raised that issue.

We have also seen in media reports cases of people in nursing homes whose carers have become the beneficiary of their wills because of the care they have given them. I know a lot of family members have been very angry about that, because carers are obviously close to people who have been admitted into nursing homes. Family members may live further away and may not be able to visit or give some of the care that the elderly person thinks is appropriate towards the end of their life, whereas a carer who sees or cares for that person daily becomes more like an extended family member. We need to ensure that there is some protection for family members. We also need to ensure that there is protection for the person in the nursing home to make sure they are not coerced or intimidated into putting something or someone into a will when they do not want to.

Wills are important documents. We need to make sure that a person's last wishes are respected, honoured and carried out. It makes it more difficult when a person has a disability or low mental capacity. There needs to be protection to make sure those people's rights are also respected when they pass away and their assets are being disposed of, either among family members or to others to whom they wish their assets to go.

A lot of thought goes into preparing a will. Many of us in this place have children and have to take into account, when preparing a will, such things as who would be the guardian of our children in the sad event of us passing away while our children are young. We put a lot of thought into making sure that the will cannot be contested and that it would stand up to legal rigour. I know there are fights between family members. Unfortunately that is what happens when a person dies without a will or when somebody was promised an article, item or piece of jewellery but it was not put into the will that they should receive the item or it has gone to someone else. Sometimes family members can be in dispute for years, which is really sad, because when family members pass away those remaining should come together without having disputes over who should get what.

In country areas it is also quite difficult when things like family farms are involved. Often in cases of family breakdown there are disputes over who should take over, or who should take part of the family farm. Those matters arise when property settlements are being prepared. People may find they have an ownership of a farm which has to be sold up so that another person can gain the benefit of the farm. Succession planning with businesses and farms and what happens to those properties really is one of the biggest issues in country Victoria.

The other issue is that disputes about wills can take many months, or in some cases many years, to resolve. A dispute can be a huge cost to families, whether it concerns the will of a person with a testamentary capacity or not. It is always important to ensure that a will can stand up to dispute in a court of law. There are also problems when a family member is estranged from the family, has no input into the will and is left out of discussions. It is always open to that person to contest the will later. I understand that when the court receives an application under section 26 of the Wills Act, it needs to be satisfied that the will reflects the intention of the person who is the subject of the application.

In his contribution to the debate on this bill the Leader of The Nationals asked what sort of evidence, and from whom, will be accepted by the courts when they receive an application. I think it is important to spell out what sort of evidence will be accepted and to ensure that everybody who needs to be involved in providing the evidence is made aware that they will be going before the court. That needs to be looked into to ensure that everyone who should have input into the will is able to do so. This bill makes important amendments. I hope the bill protects the rights of the people it claims to, and that the last will and testament of everyone who has testamentary capacity does indeed reflect their wishes.

Mr LANGDON (Ivanhoe) — It is with great pleasure that I rise to make my contribution to the Wills Amendment Bill 2007. As has been mentioned, the bill

has been held over for several weeks, debate starting late on the Thursday of the previous parliamentary sitting week, when it was rather spontaneously brought on for debate. I noticed that both the lead speaker for the opposition and the lead speaker for The Nationals had very limited notations, purely because it was brought on so unexpectedly.

The bill amends the Wills Act 1997. Since 1997 the act has provided for a statutory will-making scheme. The scheme allows the Supreme Court to authorise the making of a will on behalf of a person who does not have a testamentary capacity while that person is still alive. The scheme also allows the court to revoke such a will. The scheme is intended to benefit someone who once had capacity to make a will and who has lost that capacity as well as to benefit someone who has never had that capacity.

Actually those matters are quite important to my family. During the recent school holidays I attended the funeral of June Osbourne, someone whom I did not know that well but who was my father-in-law's cousin. June and her brother John, who have both recently gone to God, were born with severe mental disabilities. Their mother, Nellie Osbourne, had her children in the 1940s when their conditions were not diagnosed. Today those medical conditions would not have been allowed to occur. However, she had two children whom she dearly loved. I know she loved them very, very much and supported them, but that case is an example of how this legislation will assist.

She, knowing she had two children with intellectual disabilities, basically put the money into trust. Certainly the trust was well managed by, I believe, my father-in-law. He was at the funeral as well, as were many other family members, but my aunt-in-law could have left her entire estate to two children who did not have the capacity to make a will. As I said earlier to the house, she left money in trust, but she could have done otherwise. This bill will certainly assist in this regard because she left considerable funds. She had a place in Port Melbourne, which in today's terms would be worth an absolute fortune, but she passed away quite a few years ago. I had the pleasure of meeting her only once or twice.

Another thing that brings this close to home is my brother-in-law, Greg Chappell, who unfortunately has an acquired brain injury that he received through an operation that did not go as well as we had hoped. He has one beautiful daughter, who now lives with me and my family. Basically we have been raising her since the age of 10. When my niece was approximately two, my brother-in-law had an illness — I will explain it in that way — which needed an operation. Unfortunately it did not go quite as planned, and he now lives in a nursing home — not an aged nursing home, as we fixed up that aspect, but certainly he is not capable of making a will on his own.

He was lucky in one sense: most 20-year-olds do not think about making a will, as often they do not have large amounts of funds, investment properties or whatever. But he could have had all those things. He lived and enjoyed life like most 20-year-olds. He had a lovely partner and a beautiful daughter, Jody. As I said, things went severely wrong during his medical procedure, and for quite a few years he could barely speak or do anything.

My wife and father-in-law are trustees or guardians for him. In due course it might be decided that a will could be made for him although I do not know what assets he has. As I said earlier, I do not think his assets would now be enormous but he could acquire some through, for example, winning Tattslotto; he certainly enjoys playing it. He could win some money on the races or what-have-you, which would certainly be his to keep, and then somewhere along the line we would need to have him make a will. This is the sort of circumstance that the bill would certainly cover and would assist people.

These are not easy matters. There are many people in our society who are not capable of making a will. As I said earlier, I recently attended the funeral of my father-in-law's cousin. I will depart briefly from the bill to say that the carers at the home she was in came out in force to the funeral, and it was clear that she was dearly loved. Somewhere along the line she might have wanted to leave some money to them; that did not happen, but it could have. This very important bill will certainly assist in such circumstances.

The bill provides for a will to be made on behalf of a person who has never had a testamentary capacity. That provision would be applicable in the example of my father-in-law's cousins but would not apply to my brother-in-law who at one stage had that capacity. We may need to clarify their intentions, in which case we could go to the Supreme Court. This bill is important to my family, and it is important legislation for most people, particularly in this day and age.

I am a member of the parliamentary Road Safety Committee. Its experience is that, yes, we have the road toll, but on numerous occasions we find that that is only the tip of the iceberg for many people. Unfortunately brain injury is one of the most compelling effects of road accidents. A broken leg may be shattered, but it

will mend after a long time and a lot of rehab, but most victims never recover from brain injuries.

A car accident can impact on people of any age, perhaps while they are driving home tonight or any other night. That is why it is important that people who deal with wills and estates that may involve a certain degree of wealth make sure they make their wills. The member for Yuroke used the opportunity of this debate to say that everybody should make an effort to make their will. To be perfectly honest, I might be one of many members of this place who have not updated their wills. We should think seriously about making sure our wills are made and are up to date, so that if something should happen in the future which leads to court proceedings, at least our intentions will have been recorded somewhere.

I commend the bill to the house and I ask the house to take note of the examples I have given about my family. Making a will is a serious matter. Everyone has treated this bill with the utmost importance. I again commend it to the house and support its passage through this place.

I note that earlier the Leader of The Nationals wanted a bit more debating time. Unfortunately due to the workings of the house the government could not accommodate him at the time. I am sure the contribution that he made several weeks ago, which I have not had an opportunity to read, and that of the Liberal Party's lead speaker, complimented the bill, because I understand it is not opposed by the Liberal Party or The Nationals; nor, I am sure, will the Independent member oppose it. I wish the bill a speedy passage.

Mr HODGETT (Kilsyth) — I rise to enter the debate on the Wills Amendment Bill 2007. As many of the speakers have said, this is a small but important bill. I understand that the purpose of the bill is to allow the Supreme Court to authorise the making or revocation of a will on behalf of a person who does not have the legal capacity to make a will themselves where 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 did have that capacity.

I have not disagreed with much of the debate today. The member for Ivanhoe gave a number of examples in support of this bill which I do not disagree with, but I have a number of issues and areas of concern that I will mention. The first is that the government says the main aim of the bill is to extend the existing laws so they can apply to people who have never had the legal capacity to make a will — for example, people who were born with a serious disability. It begs the question of how one establishes the likely intentions with any degree of precision or accuracy. For example, as members have stated in their contributions, it might be impossible to know what the intentions of someone who has incurred a severe brain injury at a young age might be.

Similarly the bill also reduces the level of confidence the court needs to have in the extent to which the will reflects what the person's intentions might have been. How does one have confidence in what a person's intentions might have been? As has been stated today, we all know the effect of a person's not being able to make a statutory will — that is, the person's estate will be distributed according to the rules of intestacy, which essentially means it will go to their living next of kin in accordance with a fixed legal formula. In the second-reading speech the Attorney-General pointed out cases where the distribution of estates under the intestacy rules would be unfair or inappropriate, and the member for Northcote gave a good example of that. Consider, for example, the situation of a child who has been abandoned by her parents or a family where one parent has not had contact with or care of the child since early childhood.

The amendments give greater scope for wills to be made for people who do not have the capacity to make wills themselves. As I have stated, this will reduce the number of cases to which the intestacy rules would apply, and that is a good thing. However, it will also increase the risk of and scope for abuse by people who deliberately or through unconscious bias misrepresent what the person concerned might have wanted. There is a need to provide protection against the abuse and exploitation of people with severe intellectual disabilities. Numerous examples have been stated. It does not happen across the board, but there have been examples involving carers and others who care for people who are not necessarily family members. We have to protect people with severe intellectual disabilities against the sort of abuse or exploitation that could occur.

The bill, both in its drafting and in practice, presents risks that in my view have not been properly addressed by the government. Therefore if it is not properly supervised and scrutinised by the court, the bill may create the risk of family or friends diverting a person's assets to themselves as well as the risk of an increased number of disputes among family members and friends that end up in court. Having said all that, the intended purpose of the bill is sound. If the bill works properly, I am sure it will be welcomed by those families and carers of people with disabilities and will enable their

property to be distributed appropriately, having regard to their current situation. As such I do not oppose the bill and wish it well in its passage through the house.

Ms MUNT (Mordialloc) — I am very pleased to rise to speak in support of the Wills Amendment Bill 2007. This bill has two parts to it. It has a part relating to wills, but there is also a focus on testamentary capacity.

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 — that is, the person must have testamentary capacity. This particular bill is being put into effect to cover persons who do not have testamentary capacity. There is the act of making a will for those who have testamentary capacity and the act of making a will for those who do not have testamentary capacity. In the case of persons who do not have the testamentary capacity to put in place their own wills, this bill will make it easier for the Supreme Court to authorise wills on their behalf.

The amendment to the Wills Act 1997 that we are debating will clarify the basis on which the court can consider a will proposed on a person's behalf. The court will be able to authorise a statutory will that reflects what the intentions of the person might reasonably be expected to be if they had the capacity to make their own will. Under this legislation that is what the court must consider when putting that will in place. This amendment is being made to enhance the rights and dignity of people with intellectual disabilities or of those who have suffered a brain injury of some sort at a young age or later in their lives and have never been able to express their final wishes.

The authorisation of a statutory will enables a person's estate to be distributed appropriately according to their current situation. Without such a will the person's possessions and assets may under state laws be distributed in ways which are not appropriate to the family, the circumstances or the person themselves. Hopefully this amendment will bring peace of mind to the families and loved ones of people who lack testamentary capacity. I know of a couple of instances that serve as examples for this piece of legislation.

When I was growing up in Highett a family living next door to me had a disabled daughter, Meryl. She had been disabled from birth and had a reduced mental capacity. The family consisted of a mother and two daughters — Meryl, who had reduced capacity, and her sister, who did not. Her family put in place an elaborate means of caring for Meryl after they were no longer able to care for her or had passed away. All the mechanisms that were put in place were based on what was thought to be the certain knowledge that the mother would pass away before her and that Meryl would have a reduced life span, and it was expected that the eldest sister would care for Meryl until the end of Meryl's life.

In fact the mother and the elder sister passed away, and Meryl was left as the sole inheritor of the family's fortunes. But no-one had guardianship of Meryl, and she did not have the testamentary capacity to put in place her own will or work out how she would be cared for her in her later years. In light of this case I think it would be comforting for families to know that, when there is no wider family, a backup exists when things do not go according to plan. A court would have been able to reasonably expect what the family's or Meryl's wishes might have been in these unfortunate circumstances.

I will not the mention her name, but I had in my office the week before last a lady who has cared for her severely disabled son, who was a resident of Kew Cottages, all her life. She cared for him on her own or while he was in care. She has been doing that now for 80 or so years. This lady is now very ill herself, and she is putting in place a range of structures and frameworks to care for her son after she has gone. As a mother she has fought for her son, she has cared for him and she has loved him, and once again a piece of legislation like this that focuses on those with disabilities will surely bring her peace of mind.

It is pleasing to me to see that this piece of legislation, which will help people with disabilities and their families and loved ones, has broad support from both sides of the Parliament. It is hard in times of grief for families to come to grips with wills, with rules and regulations and with putting things in place when caring for people, so, as I said, it is good to have this support. It makes good common sense to me that in the end it is the Supreme Court that can make these decisions. I have also had other contact with relatives of people with disabilities who have trust funds that I think are cared for by the Supreme Court. They like that security and that peace of mind, and they think that the court does a very good job in putting these things in place.

I would just like to speak for a moment about wills in general. Last year in my electorate I held a seminar on wills and also on powers of attorney. I thought a few people would turn up. I actually put on morning tea for around 30 people and sent out invitations to a lot of the groups in my electorate, particularly the multicultural groups who might not know the intricacies of wills and of powers of attorney, both of which are very important

things to put in place. In fact I had an extra 70 people come to listen to this seminar on wills and powers of attorney. I was desperately short of morning tea, having under-catered severely.

It showed me not only the lack of knowledge about wills and powers of attorney but also how interested many people and many groups are in this particular area. That is understandable, because if you are a member of any family — a multicultural family or a family of someone with a disability — you have worked hard your whole life to care for them or to put together your house or your money in the bank, and you really want to see it go where you want it to go. You want to see your wishes carried out, and that is why it is so important to have these things in place.

As I said, where there is a lack of testamentary capacity this legislation will help give that peace of mind. It will provide that backstop. Wills and powers of attorney are a very important part of our law to put our wishes in place for our children and for the next generations, so I would support this legislation and commend it to the house.

Mr CRISP (Mildura) — I rise to support the bill. I think that much of what needs to be said has been said, so I am going to make only a few brief comments. Certainly the intention of the bill is to allow the Supreme Court to make a will for those who ought not or cannot make one. However, how we look after our most vulnerable is an important measure in our community, and this is certainly a test of our skills and compassion as law-makers.

Most of us know the importance of a will, and we certainly sort out our affairs before we die. However, the capacity that the Supreme Court has to do this on someone's behalf so that that person does not die intestate certainly saves a lot of work and a lot of pain later on. As we all know, what happens to people's assets can have a very important effect on everybody concerned. The bill acknowledges that circumstances change in life. Unfortunately, tragedy does occur, and life does go on. Those who do not have testamentary capacity are no different to everyone else. Things change, and this bill certainly allows those changes to be taken into account.

I note that judges do not have to exercise their power alone. The advice of the public advocate and others is vitally important to the Supreme Court, as there are others involved who may not be party to the court or who may be unknown to the court. With all of that, I wish the bill a speedy passage into law.

Mr SEITZ (Keilor) — I rise to support the Wills Amendment Bill 2007. Wills, powers of attorney and also arrangements for funerals are things that are sometimes very hard to talk about in a family, because they go right to the inner thinking of the members of that family, depending on what their cultural background may be. That is an issue that we have before us. Prepaid funeral arrangements now seem to be well accepted in this country by most communities that come from different cultures.

I think the funeral industry has done a good job in advertising, promoting and selling the concept that those arrangements should not be left to one's loved ones when they are grieving. It is a very positive step forward to plan for one's own funeral and to select what type of burial one will have and what ceremonies will be conducted, even to the point of deciding what songs one wants to have played and who will participate. We have come a long way in that regard, and, as I said, I commend the funeral industry because it has been very competitive in seeking to ensure that the funds are there to pay for funerals so they can provide the best service.

When it comes to the giving of a power of attorney, people seem to be scared of it. We hear horror stories about people who give power of attorney to a member of the family and who then, at the end, find out they have lost their power, their property or their assets. That only occurs when the people giving the power of attorney are not familiar with the law and do not understand it. It is the same with the making of wills. Most people assume that a will can have an effect while they are alive. I have always had the problem of explaining to people that when they make a will, it will come into effect after they are dead and not whilst they are alive. People say to me, 'But I made a will, and my son is going to get this, this and that', but I explain to them that nothing will happen until they pass away.

The making of a will itself — just talking about it and writing it up — can be difficult to get people to accept. I have gone around to a number of senior citizens groups to talk about the issue, because the making of wills is very taboo in certain cultures in the Mediterranean area in particular. They have a different system there, and if somebody dies, their property usually goes to the eldest son of the family. Even if the wife or mother is left alive, the property still goes to the eldest son. They simply go down to the council municipal offices, the property is registered and the assets are signed over to the eldest son. If the other family members and siblings, in particular those who are overseas, do not kick up a fuss, that is what

happens, and the one who is left back home inherits the lot.

It is important that people make wills, because they need to learn what the system here is and what it means. People who say they are going to give their property to their children or their wife and are worried it will be taken off them while they are alive need to know that that just does not happen. With those sorts of misunderstandings in the community, we still have a job ahead of us.

The legislation before us today will amend section 26 of the Wills Act and basically provide for people who have some disability and are not able to make a will for themselves. A lot of people do not think that such a thing can happen to them later on in life. The legislation applies not just to people who are disabled from birth but also to people who are disabled later on in life when they have a stroke, when they get severe brain damage, when they have a car accident or when they suffer any other sort of accident or trauma that affects their ability to make a will, and that is important.

I have a number of those examples, and I will relate a couple to the house. One was of a child who was incapacitated from birth and was unable to make a will or even a decision. The father was the guardian. The family got the pension and other benefits. The father in particular looked after the child, who he favoured out of his children. He made sure that money that came into the house was invested for the daughter, so he bought a house in her name. His idea was that if he passed away before his incapacitated child, she would have a roof over her head; that it would be easier for his family to find somebody to care for the daughter if she had somewhere to live.

Sure enough, as time went on the property was paid for and was being rented out because the daughter stayed at home with her parents, who were caring for her. Later the father passed away, and six months later the daughter passed away, but no will had been made. Then the three siblings and the mother were left to sort out the legal maze — the siblings had a right to their sister's assets because she had nobody else, while the mother also had a right to her daughter's assets — but how would that situation be handled and unravelled? That circumstance actually put more stress and strain on the family than the grieving process they should have been going through.

Needless to say, the matter was handled by lawyers. The family spent quite a bit of money on lawyers and legal fees over the passage of time that such processes take. Had this legislation been in place they could have applied to the Supreme Court and a will could have been made, because, as it turned out, the siblings were not greedy, they were not after more than a fair share; the estate was to go entirely to the mother because she was left without her husband as a provider and her daughter had died. Everything worked out fine in the end, but it took quite a bit of time to talk people through the processes, through what a will means and what it is.

Another case I would like to relate to the house is that of a woman who had a stroke but who had made no will. As a result of the stroke she lost her mental capacity and was placed in a nursing home. Her son had to go to the public trustees and then to the Victorian Civil and Administrative Tribunal (VCAT) to have it decide whether he would look after her affairs and what would happen to the property in the end. She became a public patient, and her son was allowed to stay in the house according to her original wishes because he had been staying there. The law said that is okay, and the process goes on. But a will needs to be made to say where the property will finish up when she passes away. This legislation will have that effect. In that instance it is important that the public trustees be able to administer that woman's affairs. My electorate office was involved in helping and educating certain people on the processes and decisions of VCAT.

Having said that, I strongly support this bill because there are numerous cases like the examples I have just given, but I do not expect similar circumstances will apply to them. Those situations may not happen to us, to people we know or to anybody in our families but they can and may happen to somebody we know in the community. So it is important that we demystify and clarify this part of the legislation, and that a Supreme Court judge is able to make a will for a person according to which direction they think it should go, which way the person themselves would have made a will had they been able to do so, and decide where the assets should be distributed. That becomes important to the wellbeing of a family and having everything kept together rather than a family having arguments and feuds forever and a day afterwards. A court decision on a written will should make those things a lot easier and simpler, and of course will save on expenses.

As the legislation passes it should be publicised and people encouraged to write things down and to have their wills, including powers of attorney, prepared for them; the giving of a power of attorney is an important part of the process prior to the making of a will. If somebody is in a coma, they need somebody to make decisions on their behalf; instead of having to go to court on that issue, a power of attorney enables them to rely on somebody they know and trust. The will comes

into effect, as I point out again, only as an indication of how they wish things to take place.

The will is not only about the distribution of funds. It also relates to the funeral process and to those who might benefit from the estate in other ways such as a proper distribution of assets by the family according to the will. Family members do not want to have strangers coming into their homes when they are grieving. They do not want other people or the public trustee coming in and asking, 'What are the assets of this particular person?'. Even if a woman lived with her parents, they could ask, 'Was that her bed? Was that her TV? Was that her car? Was that her radio?'. All of those things can take place without a will.

Mr INGRAM (Gippsland East) — It is a pleasure to speak on the Wills Amendment Bill 2007. Like other members in this place, I support the provisions within this bill. It is a fairly brief bill and really only covers a small but important amendment to a section of the Wills Act of 1997.

I have done a fair bit of work on the issue of wills in my time as a member of Parliament. It is a fairly traumatic thing for many people to get involved in. Like most members of this place, we have encouraged all members of our community to have wills to remove some of the difficulty that occurs when they or members of their family pass away. For those people who do not have testamentary capacity, it is important that we have some way of ensuring that their assets will be distributed in a manner that they would desire. But I would argue that this legislation is probably a missed opportunity.

There is an issue that has been at the forefront of my mind for a number of years — that is, the increase in challenges to legal wills. I think most members of this place would agree that when someone makes a will and leaves their assets in a manner that they or anyone else chooses, they being of sound mind and wanting to ensure that their assets are distributed to all of their offspring for whom they have a responsibility, that legal will should be protected and honoured. The problem is that there are opportunities within the current Wills Act that allow increased challenges, and too often legal wills that are, if you like, the wishes of an individual are challenged through the courts. That is because we have opened up the ability within the Wills Act for challenges to come from a wider variety of individuals and for them to be further removed from direct descendants and spouses.

I have raised this issue in this place on a number of occasions. In 2004 we attempted to get some changes to tighten up that section of the Wills Act to address those concerns. There was an article in the *Age* on 19 January 2004 in relation to this. It refers to Kathy Wilson, a senior associate and specialist in wills and estates at the law firm of Aitken Walker Strachan:

> Ms Wilson acknowledged that there has been a big rise in claims against wills, but that 'the judges in Victoria had been able to stop the floodgates from opening'.

This issue was raised as a result of representations from some of my constituents, but when I raised this publicly the amount of correspondence that I received was quite amazing. I will go through some of those issues. Basically they are that under the Wills Act most of the legal fees are issued against the estate, so there is really no risk, or very limited risk, for anyone financially to challenge a legal will. What we have seen in most cases where there is money involved in an estate is the comment 'Never stand between a relative and money'. Basically what is occurring is that when money is involved and sometimes there is a lot of spite within families or broader relationships, people are taking challenges out of spite, knowing that it is more than likely that the costs associated with the legal challenge will be taken out of the estate. Therefore the people who probably should be receiving the dividends from the estate are finding it is all being chewed up in legal fees through the courts.

There have been cases where an ex-spouse of one of the descendants has challenged a legal will and those cases have spent years in the court system. The direct descendants finally won the claim, but 50 per cent of the estate was chewed up in legal fees. That might be only one example, but I think most people in this place would believe that a properly formed legal will should be protected. At that time I was criticised a bit because it was believed that I was trying to stop people in same-sex relationships challenging the will.

My comment, very seriously, is that if someone is in a genuine relationship — whether that be a same sex or de facto relationship — they should legitimately receive some of the allocation of a will, and they probably should have that right to challenge. But what we have seen is people who have very little relationship — sometimes they are carers and sometimes they are people who move in in a predatory arrangement to challenge — tie up the court and the estate for years afterwards and chew up enormous amounts of money. This is something we really should address in this place because too often we have seen this breakdown in the will system. When I raised this publicly there was enormous community support because people have been basically held to ransom.

I think many members of this place would know that nowadays one of the biggest issues around a will is going through that estate planning beforehand to make sure that everyone believes they are getting a fair share, particularly when there is money involved. That is the problem. If someone makes the decision that they would like their assets to be distributed in a particular way, that should be honoured, and I think too often that has been broken down. I think this legislation has missed the opportunity. I would like to think the government would consider further provisions to protect legal wills and to stop the continual watering down as a result of challenges to wills, through the common-law system, of the decisions of individuals about where their assets should be distributed. I commend the bill to the house.

Mr LIM (Clayton) — This is a small but very important bill. I have listened to previous speakers, particularly the member for Keilor, when he made reference to the multicultural community having problems with making wills. I think that is an understatement if you are looking at the Asian community.

There has been recent publicity about a Hong Kong woman, probably the richest woman in Asia, who left behind billions of dollars to her carer. This woman had inherited money from her husband, who had been kidnapped and was subject to a ransom demand some years earlier. There was a huge legal fight between herself and her father-in-law over the distribution of wealth left behind by the missing man. It was a big news story. The fight went on for years and years before it was settled in her favour.

Going back to the long tradition in the Asian culture, I point out that it is very disrespectful to raise any question about wills. It shows that you are greedy and lack humility and respect for your parents if ask questions about a will or an inheritance. Sometimes these issues are not resolved harmoniously in any way, and I have friends who have been through all this. Even in Melbourne some siblings take each other to court. In particular the Asian community has a long way to go to catch up with this, and there is a need for education. This bill goes a long way towards strengthening the rights of people who do not have the capacity to make a will themselves. The legislation speaks volumes about this government's caring enormously for the rights of people with disabilities in making wills.

This bill will amend the Wills Act 1997 to clarify the basis on which the Supreme Court may consider an application for a statutory will to be made on behalf of a person who has never had testamentary capacity. The bill will achieve this by making it clear that the Supreme Court is able to consider an application for a statutory will on behalf of someone who has lost testamentary capacity or has never had testamentary capacity.

The important effect of this bill is that it clarifies that a person who has never had testamentary capacity may have a statutory will made on their behalf. Previously it was necessary for a person to have had testamentary capacity and to have lost it in order for a statutory will to be made on their behalf. It was necessary that the individual had once understood the act of making a will but had lost that understanding or capacity. Such individuals could obviously include those with Alzheimer's disease or other forms of dementia associated with ageing and those with acquired brain injuries through work or vehicle-related accidents.

How does this include people such as those with intellectual disabilities? By definition intellectual disability occurs at birth or in the first couple of years of life; therefore such an individual is considered never to have had testamentary capacity. The bill before us extends the provision for the making of a statutory will to those who have never had testamentary capacity. This includes not only those with intellectual disabilities but also persons with acquired brain injuries that occur in childhood.

In the case of a person who has never had testamentary capacity, this means that a court must be satisfied that the proposed will reflects what the intention of the person might reasonably have been expected to be if the person had had testamentary capacity. Without this provision the person's estate would have been distributed according to a statutory formula, which is rather unfortunate for many families, because it may not have been their intent or wish. The bill demonstrates that the Bracks Labor government is treating with respect and dignity those in our community who have a disability. That is a very important feature of this government. It has always been the case, and it distinguishes us from those on the other side of the chamber.

The provision for the making of a statutory will does not permit a judge to decide how a person's estate is to be distributed. Rather it allows someone to apply on a person's behalf to a court to have a statutory will made which reflects how the individual might reasonably want their estate to be distributed. For people with disabilities, ageing people and their families, this is a decent and responsible situation which I support wholeheartedly. I wish the bill a speedy passage.

Mr CRUTCHFIELD (South Barwon) — It is with great pleasure that I rise to speak on the Wills Amendment Bill 2007. As everyone has mentioned, the objective of the bill is to amend the Wills Act 1997 to clarify the basis on which the Supreme Court can consider applications for statutory wills to be made on behalf of persons who have never had the capacity to do so. The bill may be small, but it has wide-ranging and positive implications for the most vulnerable people in our community.

It is about enhancing the rights and the dignity of the most vulnerable people and gives them the respect they deserve. Just as importantly it gives peace of mind to their families and careers. I note that a number of members have given examples of situations they have encountered. The member for Ivanhoe articulated a personal experience, and I note that a number of other members have experience of people raising inheritance-related issues in their electorate offices — and I am no different to the majority of members in this place. If new members have not experienced the examples we have espoused today, they will very soon.

An issue was brought to my attention relating to a person I will call Julie, who was severely disabled from birth. Her elderly parents came to my office. They were lovely people, and they were beside themselves in trying to decide what they should do if they passed away before Julie died. They talked about what would happen to her. There were a number of other issues which are not pertinent to this debate, but in essence they talked about the changes to the Wills Act giving them significant comfort. I am sure they put their personal circumstances in order. This legislation will give people in similar circumstances some degree of hope that governments of all persuasions are there to improve the lives of the most vulnerable.

In general, everyone should have a will. I did not have one for about five or six years. My circumstances changed, and someone would have been very pleased if I had passed away. I took a considerable period of time to change my will, and many other people out there do not change their wills when circumstances change in their lives. It is not just about what happens when you pass away. People need to make a will, but it is also important to change it when different circumstances apply. A statutory will, which is what we are talking about in this debate, is made on behalf of someone who does not have testamentary capacity — that is, they do not understand the nature or effect of what they are doing.

Since 1997 the Wills Act has provided for a statutory will-making scheme. In some situations people may have made a valid will and subsequently lost testamentary capacity. In other cases they may never have had testamentary capacity and may never have made a will. What has been the problem? Currently the Wills Act provides that, before granting leave, the court must be satisfied that the proposed will accurately reflects the likely intentions of the person on whose behalf the will is to be made as if he or she had the ability to make a will.

It is very difficult to do, and as a result of the 2004 Court of Appeal decision it is arguable that the current provisions make it much too difficult for an application for a statutory will to be made on behalf of someone who has never had testamentary capacity. This is because the testamentary intentions of that person cannot be established with the degree of precision and accuracy that is currently required by the court. It is very difficult, for example, to know the wishes of someone who is either born with a severe intellectual disability or has acquired one through an unfortunate accident. The effect of not being able to make a statutory will is that a person's estate will be distributed according to the rules of intestacy and to a fixed formula. In some of those cases it may be innately unfair to a carer or to a parent.

How will a court make a decision? The types of matters that the Supreme Court can consider in determining a person's intention could reasonably be expected to include: the evidence available of the circumstances of any person for whom provision might reasonably be expected to be made under that will, any persons who might be able to claim on the will, the likelihood of an application being made under the family maintenance provisions of the Administration and Probate Act 1958, and any gift for a charitable or other purpose that the person might reasonably be expected to give or make.

The benefits of the bill are that it clarifies the intention that the statutory will-making scheme benefits persons who have never had testamentary capacity, and it will improve access to justice by allowing appropriate cases to be considered by the Supreme Court as part of the statutory will-making scheme. More broadly, as many members have said, it enhances the rights and dignities of people with disabilities, our most vulnerable in society, and it enables the court to distribute property appropriately by having regard to their current circumstances.

The amendment to section 26(b) of the Wills Act was recommended by the Probate Users Committee, which is chaired by Justice Harper of the Supreme Court and is composed of the registrar, the deputy registrar of probates, representatives from the Law Institute of

Victoria, the Victorian Bar Association, trustee companies and non-legal probate services. They were consulted extensively regarding the development of the bill at the draft stage, and they all indicated strong support. The one addition, which a member has mentioned, is that the Law Institute has asked the government to implement this legislation as soon as possible. All members here hope that is the case.

Finally I note that the member for Gippsland East and the member for Kilsyth have said that while they support the bill, it could go further in some areas. I note that the Standing Committee of Attorneys-General is currently sponsoring a project to develop uniform accession laws right across Australia. That project has been taken on by the Queensland Law Reform Commission to review some areas — I am sure that some of those areas are the ones that the member for East Gippsland particularly talked about — where there has been, in some people's eyes, a proliferation of will challenges.

Whether that is true or not, I cannot dispute the dissertation of the member for East Gippsland yet because I am not privy to all the facts. But I will take it as read that there is that and other areas that the Queensland Law Reform Commission are reviewing. My understanding is that in a short period of time, the commission will hand down a final report on its recommendations. I anticipate that while this is a small change, there may be some further discussion and consultation about what other amendments to the Wills Act 1997 are needed. I commend the bill to the house.

Mr ROBINSON (Mitcham) — It is with pleasure that I have the opportunity to contribute to this elongated debate on the Wills Amendment Bill. The circumstances that have permitted this debate to be extended into a second sitting week are rather unusual. Be that as it may, I think the opportunity for all members to participate in a protracted debate on legislation which deals with wills is welcomed. In my capacity as cabinet secretary I have been pleased this year that we have been able to provide a steady flow of legislation through the government business program of this place. I think this has been a productive ingredient in allowing members of this place to contribute to debates more readily than would otherwise be the case.

The measures proposed by the Wills Amendment Bill are very much rooted in common sense; they have broad support. We have heard other members speak about the genesis of the reforms that are proposed. I welcome measures that will assist the Supreme Court, in this case, to make wills in circumstances where a person does not have a testamentary capacity. That is, as I have said, very much a common-sense reform.

As much as we are enabling the Supreme Court to do this, and as much as that enhanced role of the Supreme Court will deliver a broader community benefit, I and a number of members who have spoken earlier do not believe that we should allow that advancement to shroud a key problem — namely, the large number of people in Victoria today who do not have wills and who seem to be remarkably unaware of the complexities which can rise in the event of their passing or of a loved one's passing when a will is not evident.

I have heard estimates that 50 per cent of the adult population in this state does not have a will — that is a cause for concern. There is no doubt that the large number of people without wills fuels a very substantial legal workload. I would not like to speculate on what turnover is created in legal circles as a result of the absence of wills. It is, I am sure, sufficient for the degree of legal specialisation which, as it currently exists, will be sustained for many years to come. We could lessen the legal costs that that activity generates if we can encourage more Victorians to make wills. There is an obvious public advantage in doing that. I acknowledge that encouraging more people to make wills and to keep their wills current will not stop legal disputes in all cases.

It certainly will not happen. Relationships break down and people are and always will be at liberty to contest a will if they believe its provisions are unfair or were made under undue pressure. Like a lot of members, I have dealt with constituents' cases involving disputes over wills and it is not a pleasant thing to get involved in. It is certainly not pleasant or productive for a member of Parliament to be involved in, even less so for a family member. They are situations in which often the best advice that can be given to a constituent is that the member is simply not able to assist. This is a legal matter, and in the great tradition of disputes over wills they are very much a zero-sum game: someone's win in a contest over a will is directly at the expense of another party, and it is very difficult to offer constructive support to people in those situations.

I am strongly of the view that anything we can do to make people think more about creating a legal will while they have a capacity to do so is a good thing. I think all members would agree with that. I am sure that if we could increase the number of people making wills and maintaining valid wills we would see a lessening of disputation. Certainly, as the member for Gippsland East pointed out in his contribution, we would help prevent valuable estate funds being chewed up in legal

expenses. We ought to think about that, because over time what is happening is that Victorians are accumulating more assets. It is certainly the case now and is far more so the case today than it was 30 years ago that people do generate very large entitlements in superannuation. It is not uncommon now for people to own more than one property, to invest more often in the share market and to build assets far more so and far out of proportion to what they did one or two generations ago.

The push towards encouraging people to take out wills is something that the Attorney-General and his department might consider further as a consequence of this bill. I hope the Attorney-General might be open to working with his department in at least commissioning some work on the cost-benefit comparison of an information program to encourage people to make a valid will, bearing in mind that the costs that are borne by the community when we have large legal disputation are both financial and emotional, and we ought not underestimate the emotional cost. I was just thinking about this in the course of the contributions that have been made this afternoon. I might encourage the Attorney-General to consider whether there are agencies within his portfolio that might be equipped to be involved ultimately in some sort of information program.

It occurred to me that one of the agencies that effectively talks to the same audience as what we are dealing with here — that is, people over 18 who ought to be making wills — is the Victorian Electoral Commission (VEC), because it certainly deals very regularly with people over 18 who participate in our voting, and under our mandated system it has a responsibility to be in contact with adult Victorians who are on the roll. That would cover effectively the same target audience that we are talking about here. I accept that having the VEC as an example of an agency being involved in a program that might encourage people to think about taking out a valid will is a departure from the VEC's formal role, but I put it to the house that there is a broader public good here that needs to be considered. Anything we can do that encourages people to at least think about the value of making and maintaining a will delivers very substantial financial and emotional benefits to the broader Victorian community.

Like a few members before me, Acting Speaker, I have digressed somewhat from the core purpose of this bill. But as I said, it has been a very productive debate, where a number of members have been able to make contributions based on their practical experience in the legal field and as members of Parliament dealing with people who have had issues associated with disputes over wills. Nevertheless I think this has been a very valuable debate. I am very happy to support the bill, and I trust the Attorney-General and his department might give some thought to the benefits of a broader, longer term information program.

Ms GREEN (Yan Yean) — It is with great pleasure that, along with other members who have made contributions today, I join the debate on the Wills Amendment Bill 2007. I speak in support of this bill. I echo the comments made by the member for Mitcham, in that I think it is something that a lot of people in the community just do not want to think about. I suppose it is something that none of us want to think about; we do not want to think about when we are going to fall off the mortal coil. But it is a very important thing for every member of the community, out of respect for their families really, to ensure that they have a valid will. It falls to the Parliament to actually legislate to have some guidance for people in doing that.

As has been detailed by other speakers, the overall objective of this bill is to amend the Wills Act of 1997 and to clarify the basis on which the Supreme Court may consider applications for a statutory will to be made on behalf of a person who has never had testamentary capacity. This bill in particular amends section 26(b) of the Wills Act to make further provision of matters of which the court must be satisfied before granting leave to apply for an order authorising a statutory will to be made or revoked on behalf of a person who does not have testamentary capacity.

The bill provides that 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 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 amendments to the Wills Act come forward following a 2004 Court of Appeal decision. It is arguable that the current provisions of the Wills Act make it too difficult for an application for a statutory will to be brought on behalf of somebody who has never had testamentary capacity. Those who have not had testamentary capacity could include those born with an intellectual disability or those who have sustained an acquired brain injury sometime in childhood.

The effect of not having a statutory will means the person's estate will be distributed according to the rules of intestacy, and this could actually provide some injustice because that formula would mean that all of the deceased person's possessions would be distributed amongst their kin, consistent with a fixed legal formula.

This could be unjust where one parent had taken particular responsibility for the care of the deceased person, whereas the other parent had abandoned care of that person early in their life. That would certainly not be fair, and that is why these amendments are necessary.

At the weekend I was having a discussion with my sister-in-law, who is a critical-care nurse. It is a very stressful position, looking after people in intensive care following pretty tragic accidents sometimes or long-term illness, but she said one of the most awful things that she witnesses is families having arguments across the bed of the very ill person about what might be done with that person's assets once they passed away. I think it is really important that the Parliament takes responsibility and has an effective legal regime for wills.

This bill is one of many that have been presented since 1999 by this very progressive Attorney-General. He has presented progressive and forward-looking legislation, which is consistent with the way this government operates — that is, by trying to make it simpler for people to understand the law, to exercise their rights and to have adequate protection. I support the remarks made by other members, particularly the members for Mitcham and South Barwon. It is good to see so many members supporting this bill, which I commend to the house.

Mr BROOKS (Bundoora) — I have listened with interest to the debate today, and I know a number of members have mentioned personal experiences either as a member of Parliament or with family and friends in relation to wills. I have never been involved in the preparation of a will for myself or my family or in the execution of will, so I feel somewhat underqualified to speak on this bill in that regard. However, I have read through the bill and the material about it.

I note that currently the Wills Act 1997 provides for the Supreme Court to have the authority to make a will on behalf of someone who does not have the testamentary capacity to do so. I also note that the court has the ability to revoke such a will. A 2004 Court of Appeal decision has thrown in some doubt, I would suggest, about the difficulty of an application being made or brought to revoke or make such a will. The sort of situation being envisaged is where a person who has had an intellectual disability for some time may have been cared for by someone who was not a close family member. Under normal circumstances and current law that carer would not be expected to be a beneficiary of that person's estate. This legislation enables the Supreme Court to more reasonably consider those issues when approving a will.

The objective of this bill is to clarify those reasons upon which the Supreme Court can consider applications for a statutory will to be made on behalf of a person who has not had testamentary capacity. The bill does that by setting out some guidelines or some matters for the court to consider as evidence in determining what that person's intentions could reasonably have been expected to have included — things such as the circumstances of any person for whom provision might reasonably be expected to be made under the will; any persons who might be able to claim on intestacy; and the likelihood of an application being made under family maintenance provisions of the Administration and Probate Act 1958.

I note that this bill was recommended by the probate users committee, which is chaired by Justice Harper and composed of the registrar and deputy registrar of probates, representatives of the Law Institute of Victoria, the Victorian Bar, trustee companies and non-legal probate-service providers. There has been consultation with the probate users committee, the Law Institute of Victoria, the Victorian Bar, State Trustees Ltd, the Office of the Public Advocate, and the Trustee Corporations Association of Australia; the bill has been carefully considered. It does not appear to be contentious, there has been wide consultation over it, and I am happy to support its passage.

Mr HULLS (Attorney-General) — I thank all members not only for their contributions to the debate on this very important piece of law reform but also for their support. As members would know, we on this side of the house are committed to the rights and also the independence of people with disabilities. This piece of legislation certainly makes a very important contribution in that regard. It will enhance the rights and dignities of people with intellectual disabilities or who have suffered from brain injury from a young age and who have never been able to express their final wishes.

The bill will clarify the basis on which the court can consider a will proposed on behalf of a Victorian with a disability who lacks the intellectual capacity to make a will. As is set out in the legislation, the court will be able to authorise a statutory will that reflects what the intentions of the person might reasonably be if they had the capacity to make a will. This is an empowering provision for people with a disability that affects their decision-making capacity. I certainly think — and members of the government and I am sure all members of the house are of this view — that this is a very

important amendment. It reflects the Bracks government's commitment to all Victorians, including people with a disability.

In conclusion I thank in particular the honourable member for Mill Park, who some time ago brought this matter to my attention and made it clear that she had constituents who had grave concerns in relation to the current legislation. I know that on behalf of her constituents she will welcome this amendment to and clarification of the wills legislation in this state. I thank all those who have contributed, and I wish this bill a very speedy passage.

Motion agreed to.

Read second time.

Third reading

Read third time.

ACCIDENT COMPENSATION AMENDMENT BILL

Second reading

Debate resumed from 23 May; motion of Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission).

Mr CLARK (Box Hill) — The Accident Compensation Amendment Bill 2007 is a bill to amend the Accident Compensation Act 1985 and in particular to amend those provisions of the Accident Compensation Act that were inserted in 2005. The second-reading speech by the Minister for Finance, WorkCover and the Transport Accident Commission is characterised by typical Bracks government doublespeak about why the bill before the house is needed.

The minister told us that the legislation introduced in 2005 was sound and effective in protecting the interests of Victorian workers and employers, and the finances of the Victorian WorkCover scheme. But he also told us that it had become apparent that there were a number of issues in the 2005 provisions which, if not addressed, could result in an increase in non-compliance with existing requirements and, as a consequence, potentially lead to significant unfunded claim liabilities for the WorkCover scheme. So while on the one hand this was terrific legislation that the government brought in in 2005, on the other hand it discovered a few problems with it that it is now trying to fix up.

The government says there are three main purposes of the bill, which were most clearly stated in the statement of compatibility under the Charter of Human Rights and Responsibilities Act. The first is to ensure the Victorian WorkCover Authority (VWA) can enforce compliance with all obligations by scheme swappers. I interpose that that is a reference to those businesses that choose to move from the WorkCover scheme to the commonwealth Comcare scheme. Secondly, it is to remove any uncertainty about provisions relating to financial or bank guarantees. Thirdly, it is to remove a discretion that existing self-insurers have in relation to tail claims and mandate that they hand back the management of such claims to the Victorian WorkCover Authority before exiting to Comcare.

Those are the objectives that are set out in the statement of compatibility. There is in fact a degree of inaccuracy in the description of the third of those points in that the provision about the self-insurers handing back tail claims does not just apply to those who are exiting to Comcare. It applies to any self-insurer that ceases to be a self-insurer.

The bill has given rise to considerable angst amongst self-insurers. The Self-Insurers Association of Victoria issued a media release on 31 May 2007 entitled 'Bracks workers compo move is misleading and assaults business'. The association said that the government was trying to rush this legislation through Parliament, that it had been introduced with limited, if any, consultation, and that the aim of the bill was to make sure that the Victorian WorkCover Authority could force companies to pay lump sums in advance to cover injured workers forced to stay with the VWA. The association said:

> One large employer estimates it is likely to have to pay VWA many millions of dollars in excess of the value of the claims to cover benefits to fewer than 80 injured workers. And it injects uncertainty for those remaining in the scheme.
>
> In this way VWA will score a financial windfall any time the company seeks to put its compensation on a national footing. There is no independent umpire on the amount of money to pay. The calculation is made behind closed doors.
>
> This is simply a move to block major companies from moving to a national scheme. It is entirely out of step with the policy of the Bracks government, among others, to set a national framework for business.

In a similar vein Unilever Australia wrote to the Premier in a letter dated 13 June 2007. The letter states:

> We urge you to engage in a full round of consultation with all interested parties including ourselves so that you are fully aware of the adverse consequences of this bill for companies such as Unilever.

Later on it states:

> Unilever's principal concern is that this bill has unintended consequences. We believe that a restructuring of our operations (and these restructurings are a feature of a competitive environment) may cause Unilever to lose control of the management of our claims without leaving the Victorian self-insurance system. Recent representations from the VWA on this aspect seemingly acknowledged this issue. They advised us that they would exercise a discretion not to comply with the strict terms of the bill, despite the fact that no such discretion has been allowed for in the bill. The fact that such comments are being made is an indication that this bill has been rushed through to the house without sufficient consultation and rigour. It creates a major uncertainty for businesses such as Unilever.

Unilever's letter raises concerns not only about the policy objectives of the bill but also about its potential unintended effects. There is a suggestion that the VWA recognises that there are problems with the bill that it intends to circumvent by exercising a discretion that may not be made available to it under the act, all of which is most concerning.

Clearly the legitimate objective of the state government and of this Parliament is to have legislation which on the one hand ensures that if an employer, be it a self-insurer or an employer that has insured under the WorkCover scheme, moves to Comcare, there is a smooth transition that protects the position of workers and protects the integrity of the Victorian scheme but which on the other hand is not punitive. It should not, by putting up unjustifiable obstructions or roadblocks or by imposing penalties on employers, seek to interfere with the right that they have to choose to move to Comcare.

If that were done it would create a substantial amount of uncertainty in the minds of Victorian-based businesses and indeed Australia-wide businesses with a presence in Victoria. It would send a very clear signal that Victoria was not a good place in which to do business — certainly not a good place in which to base one's operations — and that would be counterproductive to the Victorian economy, to employment and to prosperity.

The bill needs to be assessed with that criterion in mind. A reading of the second-reading speech, the statement of compatibility and the bill itself raises a lot of questions for which it is difficult to find answers — questions about the government's intention and about how the bill will operate in practice. While the bill is intended to deal with the situation of employers transferring from the VWA to Comcare, in particular to deal with self-insurers, as I referred to earlier, a large part of the bill's amendments in fact relate to all self-insurers, not just to self-insurers who are exiting to Comcare.

Some provisions in the bill about payments to the VWA are not even referred to in the second-reading speech. The minister said in the second-reading speech that the bill refines the Accident Compensation Act to ensure the Victorian WorkCover Authority can enforce compliance with all obligations by employers swapping from the Victorian scheme to the Comcare scheme, to remove any uncertainty about provisions relating to the necessary financial guarantees that must be provided by those companies and to remove a discretion that existing self-insurers have in relation to tail claims and mandate that they hand back the management of such claims to the VWA should they self-insure with Comcare.

There is nothing in there about payments being made to the VWA upon an employer choosing to migrate to Comcare or indeed choosing to cease to be a self-insurer for some other reason. Yet clearly that is a big concern of the self-insurers, and it is something that appears to flow from the reading of the bill — that a payment has to be made upon an employer ceasing to be a self-insurer.

There is then the second question as to what the amount of that required payment is specified to be under the bill. Is it an actuarial assessment of the present value of the tail claims of the self-insurer — that is, the value of the outstanding claims in respect of accidents that may have occurred during the time the employer was a self-insurer? Is it that, on the one hand; or on the other hand, is it an amount equal to the amount of financial guarantee that an ongoing self-insurer is required to maintain?

That is specified in section 146 of the act as being 1.5 times the actuarial value of the claims or $3 million, whichever is the greater. Clearly if it is the one and a half times or $3 million, whichever is the greater, as the amount that an exiting employer is required to pay on going to Comcare, or indeed on ceasing to be a self-insurer for any other reason, then that is a very significant penalty, because it is far greater than the actual amount of the claims that that employer is liable for — the actuarial value of the liabilities that that employer has already accrued while it has been a self-insurer.

We need answers to those crucial questions, but those answers are not clear from the bill. What is clear, as I said earlier, is that the act as it will be amended by the bill will require payments to be made when employers cease to be self-insurers. The key section to look at is section 151, which is amended in several respects by the bill.

The first amendment will remove the right of a body corporate that ceases to be a self-insurer to elect whether or not to retain the tail claims. Instead the bill substitutes a provision that states if a body corporate ceases to be a self-insurer after the amendments commence, then the authority assumes the liabilities in respect of the assessed liability within the meaning of section 146 of the act. Then, under section 151(1)(a), if the authority assumes the liability of a body corporate under subsection (1), the body corporate must hand over all the relevant paperwork to the authority.

Then new subsection (2) being inserted by the bill states that in addition to that, if a body corporate has made an election to retain its tail liabilities before the commencement of the amendments, the authority has the right to publish a notice in the *Government Gazette* to declare that that body corporate has ceased to be liable for the assessed liability to pay compensation, and upon publication of the notice the authority assumes the liability referred to in subsection (1). In other words, in respect of a self-insuring employer that has already exited, once these amendments come into effect the VWA will be able to take over those claims with no choice on the part of the employer.

That was referred to in an article that appeared in the *Australian Financial Review*, which states:

> The new legislation will apply retrospectively to companies which have already joined the Comcare scheme as a self-insurer, such as the National Australia Bank, and have elected to continue to manage claims.

Once the VWA takes over liability for the tail from the employer, then existing section 151(3) states that the liability is to be assessed by an actuary appointed by the authority, and subsection (4) states that the amount of the liability assessed or determined under subsection (3) is a debt due to the authority by the body corporate and is payable by the body corporate within 28 days after the date of the assessment. Notwithstanding the absence of reference in the second-reading speech or the statement of compatibility to the obligation to make a payment, it seems pretty clear that an exiting employer is obliged to make a payment of the amount of liability assessed or determined to the authority at the time that they exit. As I have said previously, that applies not just to an employer going to Comcare but to any employer ceasing to be a self-insurer.

The next question is: given they have to make a payment, what is the amount of that payment? If one traces back through the provisions, one sees the amount that is due to the authority under section 151(4) is the amount of the liability assessed or determined under section 151(3). Under subsection (3) the amount to be assessed is to be assessed by an actuary and is to be an assessment of the liability referred to in subsection (1) not just for an employer going to Comcare but for any employer ceasing to be a self-insurer.

Then when one goes back to subsection (1) one sees that the reference is that:

> … the Authority assumes the liability in respect of the assessed liability within the meaning of section 146, being the liability that the body corporate would have had if the body corporate had continued to be a self-insurer in respect of injuries or death incurred or suffered by workers employed by the body corporate or its subsidiaries and which entitled a worker or a worker's dependants to compensation (whether under this Act, at common-law or otherwise) and whether or not a claim for compensation has been made.

We have both a reference to section 146 and then a big block of words that seems to be a gloss on that reference to section 146. When you go back to section 146 of the act as it stands you see in subsection (5) it says that a reference to the assessed liability is a reference to the amount assessed in accordance with the guidelines approved by the authority at various intervals, being one and a half times the sum of the actuarial value of the current, non-current and contingent liabilities of the body corporate, or $3 million, whichever is the greater.

The question that needs to be answered after all that — I am sure the parliamentary secretary has been hanging on my every word on that score and will respond shortly — is: is the amount of the liability to be paid simply the value of the claims as they exist at the time the employer exits, or is it one and a half times that amount or $3 million, whichever is the greater. That, of course, is a crucial question for the reasons I indicated earlier.

There is further confusion in the bill, because, on top of these provisions that refer to self-insurers generally, there is another set of provisions in part VIA of the act, with the heading 'Non-WorkCover employers', which deals, as the heading suggests, solely with non-WorkCover employers — namely, those who have moved to Comcare. That has another set of provisions about the assessment of tail claims liabilities and the obligations to pay the amount of those liabilities and other provisions relating to financial guarantees. What I think needs to be made clear is how these two apparently parallel sets of provisions are intended to apply, because clearly it is hopelessly confusing if employers are being left in the dark over the fundamental issue of what their liability is to be.

We are left as a house with this dilemma: is it the government's Machiavellian intention to impose this

liability on exiting employers, hoping that it can sneak it through under everybody's guard by not referring to it in the second-reading speech and just springing this penalty liability on employers; is it an error in the drafting such that, as often proves to be the case, the government has just got the legislation wrong; or is it simply that the legislation is convoluted and poorly drafted, even though it will operate as intended? This house is entitled to an explanation from government speakers on this bill as to what exactly the legislation is intended to achieve and whether or not the legislation as drafted will achieve it.

I conclude by making reference to the Charter of Human Rights and Responsibilities Act 2006, which, as I have made clear on many previous occasions, is seen to be sorely wanting when it is put to the test. This is yet another situation in which that is the case, because the statement of compatibility that was provided to the house says that 'The bill does not raise any human rights issues'. But section 20 of the Charter of Human Rights and Responsibilities Act 2006 states that 'A person must not be deprived of his or her property other than in accordance with law'.

It may well be that the bill before us literally does not infringe that provision because it can impose a penalty which is one and a half times the amount of a company's liability or $3 million, whichever is the greater, and because it imposes that penalty, by definition that penalty is being imposed in accordance with the law. I should say, before government members leap in to make the point, that although that amount has to be paid up front, over time there will be a reconciliation between the amount that is paid up front and the total amount of the liabilities as claims are actually resolved and determined. Nonetheless the company will be out of pocket for that amount for a considerable period of time.

If that is what the bill is doing, then it is a penalty that deprives a company and its shareholders of their property, but the charter is also shown to be wanting in that there is no protection for this apparently arbitrary and unjustified imposition on corporations. Indeed I suppose there is the further issue as to the applicability of the charter to persons, given that persons are defined to mean human beings, which presumably excludes corporations. So as far as the charter is concerned you can deprive a group of persons collectively of their property or subject them to other detriments because they are regarded as legal persons and therefore do not attract the protection of the charter.

Overall members of the opposition do not oppose this legislation, because we believe and certainly trust that we will have explanations from the government that will resolve the concerns we have raised and demonstrate that this bill is in fact one that safeguards rather than punishes. But it is very unsatisfactory that the bill before us has so many questions raised about it, and I am looking forward eagerly to the responses of government members to the concerns I have raised.

Mr RYAN (Leader of The Nationals) — Just before I deal with the bill before the house I want to make the observation that the current financial status of the WorkCover scheme and the many elements which go to make it up are a testament to the wonderful work that was undertaken in the life of the former government by Roger Hallam, who was then the minister responsible for this particularly contentious area. It was he who had the courage of his convictions to bring about a lot of the structural changes to the organisation as we now know it and to the legislation which underpins it.

Not all those changes were necessarily introduced smoothly. I might also say that I was one of those who commented in a number of forums at the time on the virtues and otherwise of the changes, and that was particularly so in relation to issues of common law and the entitlements surrounding the claims that historically have been made in that area. Whatever one might say about some aspects of the changes that were made, when you look now at the financial position of the authority there is no doubt that it is a testament to the enormous commitment by Roger Hallam to making sure that a lot of what was wrong with the way in which the legislation was given effect to and the scheme itself was generally administered was addressed and that the authority was brought into an era appropriate to contemporary requirements, in both an operational and an accounting sense.

Roger Hallam, as the responsible minister, inherited an entity which had very substantial liabilities. Through his work the changes that were made ultimately set the authority on a road the results of which have been inherited by the present government and which have led to the relatively healthy status of the organisation from a financial as well as an operational point of view. I make those observations as a matter of fairness to a man who was very much committed to the task that was given him at the time the former coalition government came to office in 1992.

The bill before the house deals with three principal issues, and they are as set out in the second-reading speech and as summarised relatively accurately in the overview of the bill in the statement of compatibility made under the Charter of Human Rights and Responsibilities. I pause to say that the statements of

compatibility that are attached to second-reading speeches more often than not tend to be better reference points for what the bills purport to contain than the second-reading speeches themselves. I suppose that is reflective of the fact that we have ended up with an outcome through the introduction of the Charter of Human Rights and Responsibilities Act which was not necessarily contemplated by the government at the time the charter became the law.

What the government now finds, of course, is that it often struggles not to offend against the provisions of the legislation which it has battled to introduce. Sometimes we see the somewhat ironic position where the statement of compatibility is longer than the second-reading speech to which it refers. Be that as it may, the three principal features of this legislation are set out in the overview of the bill. They are in turn contained in clauses 3, 4 and 5 of the legislation itself. Before turning to them specifically, I make the further observation that there is no more threatening environment for business to operate in than a situation where uncertainty prevails. You cannot help but wonder about the extent to which uncertainty is going to be created in the minds of business as a result of the passage of this legislation.

I have listened with interest to the matters raised by the member for Box Hill. I think the points he has put to the government for clarification are valid, and I also will be interested to hear what the government has to say. I must say I also am uncertain about the interpretation of some aspects of the legislation. That may of course arise from the fact that I have not sufficiently married this bill before the house with the principal act in order to track one against the other. Nevertheless there are uncertainties that I think arise here that the government is now being afforded the opportunity to confirm.

I make the other point that it is again unfortunate that legislation which has the far-reaching consequences that this does has not been the subject of an appropriate degree of consultation with those who will be affected by it. You cannot do these things on a whim without talking to the businesses which at the end of the day have to pay the bills. It is necessary of course to strike the balance between the obligations of those companies under Victorian legislation — the compensation legislation itself — and the fact that they are going to move out of the Victorian scheme and into another scheme, whether it be Comcare or whatever.

You have all of that on one hand, and on the other hand there is the issue of always ensuring that businesses in Victoria operate in an environment of certainty and that we in this place do everything we conceivably can to enable them to function in a manner which permits them to do what they need to do to succeed in the increasingly competitive environment in which they operate not only domestically but particularly from a global perspective. I grant it is often a difficult balance to strike, but that is why it is so necessary, if you are going to introduce legislation which potentially will have a significant impact on the operation of business, to have an extensive consultation process so that those involved can be afforded the opportunity to make a contribution which will ensure that you get the best outcomes.

It is disturbing to hear the concerns expressed by the self-insurers association, not so much about the specific issues it has raised, because that invariably happens with legislation — that is part and parcel of the coming and going of its introduction — but about the lack of consultation, particularly with a sector of our commercial community which ought properly have a big say in the way this form of legislation is shaped.

The first area that is dealt with in the bill is tail claims. Interestingly there is no definition in the act, not that I can find, anyway, of what constitutes a tail claim. I stand to be corrected, but in my examination of the principal act I could not find one. Then again, as I look at page 526, which I am quickly doing now — it is amazing what you can do when you are on your feet — there is reference to the topic of tail claims. It is important to put it in context, because otherwise, for those members perhaps not so familiar with the concept of the bill we would be debating something in a vacuum. So to avoid my having to offer my definition of it, I refer members to page 526 of the principal act, which sets out tail claims as meaning:

> … claims whether made before, on or after the exit date —
>
> (a) in respect of injuries or deaths incurred or suffered by workers employed by the non-WorkCover employer while the non-WorkCover employer was —
>
> (i) insured under a WorkCover insurance policy; or
>
> (ii) a self-insurer; or
>
> (iii) a subsidiary of a self-insurer; and
>
> (b) which entitle a worker or the dependants of a worker to compensation whether under this Act, at common law or otherwise;

The net effect of this is that these are claims that are ongoing where there are not only liabilities outstanding now but liabilities which could well be outstanding into

the future. Under clause 3 the bill purports to do two things. In the first instance it says that if in future a self-insurer should leave the scheme operated by the authority, then the authority will assume the obligations which would otherwise fall to that body corporate or organisation. Secondly, it says that for those who have already left the scheme, there will be a power vested in the authority to enable it to serve a notice which can be published in the *Government Gazette* to assume those liabilities. What we do not know — and this was raised by the member for Box Hill — is the precise manner in which those liabilities are to be calculated, and I think that is an issue that needs to be clarified.

The other issue which I would like to see clarified, and which I believe might be appropriate on the face of it, is whether the amount which is contemplated to be paid, however it might be calculated, is to be paid by way of a cash contribution from the body corporate or is simply to be the subject of a guarantee which is lodged with the authority. I am not clear on that point.

Clause 4 deals with the provision of guarantees, which is a mechanical issue. It talks about the notices that can be served, about the calculation of the extent of the obligations and guarantees which have to be lodged and about the way in which those guarantees can be enforced. Again the issue here is the manner in which the obligations themselves are calculated and the capacity of an employer to have a say on what figures are to be involved. Are they to be calculated at the whim of the authority, without the capacity to challenge them in any realistic fashion?

The third element of this bill appears in clause 5. It deals with the penalties that are applied for failure to comply with part VIA. Those penalties are severe in the extreme: 120 penalty units being about $12 000 and a further 60 penalty units per day, which amounts to more than $6000 per day. These are very significant penalties, and in the context of amounts involved, I think we are owed the sorts of explanations which the member for Box Hill requested.

I raise a further issue, too, which might well be appropriate or applicable on the face of the principal act — that is, what happens if the body corporate goes into liquidation? What is the capacity of the authority to pursue the rights and entitlements which are accorded under the act, and particularly under this bill, in the event that the body corporate goes into liquidation?

They are the essence of the matters that the bill contains and are the essence of the matters The Nationals ask the government to clarify. We do not oppose the bill on the face of it, because, as a matter of general principle, it is a fair thing that employers should have an ongoing obligation to meet their responsibilities. It is a fair thing that the scheme established in Victoria is protected, and it is a fair thing that employees who are injured, or their dependants who are dependent upon the benefits offered under the act, are also given the justice which is due to them, but we need some clarification of the points raised here this evening.

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

Mr DONNELLAN (Narre Warren North) — It is an honour today to speak on the Accident Compensation Amendment Bill 2007. Various queries were raised earlier on by the member for Box Hill in relation to section 146 and the assessment of outstanding claims and so forth. One query was whether the amount assessed was 1.5 times the assessed value of the claim or $3 million. From my understanding the existing act indicates that it is the higher of the two and that it would have to be in the form of a bank guarantee. Further — —

An honourable member interjected.

Mr DONNELLAN — That is in the existing act, from what I understand. Further, there were queries in relation to what would happen to the workers and so forth if a body corporate went into liquidation.

Again, the Victorian WorkCover Authority would access the existing bank guarantees, if they were there. If not, it would also take action as a creditor and try and seek moneys through those administrative processes. I think that broadly answers some of the questions which were raised earlier tonight. However, I think this bill pretty much is seeking to reinforce and give proper effect to the legislative provisions which were introduced in 2005.

When the bill was introduced the Victorian government was obviously trying to protect workers, employers and the WorkCover scheme from the potential adverse impacts of larger companies moving to self-insure under the Comcare scheme. The government sought to ensure that the financial burden of managing tail claims of those large employers exiting the WorkCover scheme did not fall on those employers, especially those small businesses left behind, which would have made it very difficult and potentially could increase the premium rates for WorkCover.

These amendments try to ensure that the people who have moved into the Comcare scheme to self-insure do not drop the ball on assisting their workers to turn to safe, suitable and durable employment in the longer term. When we introduced the original bill in 2005 we

increased the benefits in the following ways: we increased the level of weekly benefits for injured workers who returned to work initially part time from 60 per cent to 75 per cent of their pre-injury salary; we provided quicker access to impairment benefits for seriously injured workers, which is very important for those persons who are seriously injured; we introduced support for injured workers up to an additional six months of benefits beyond the present 104 weeks; we provided an 18 per cent increase in death benefits to affected families; and we improved counselling services and used a case-management approach with WorkCover. From discussions that I have had with actuaries and so forth, it is partly the management of these claims along with strong returns that has actually continued to improve the performance of WorkCover over that period of time.

Further, at the time we also introduced a $10 million return-to-work fund to support partnership programs involving employer and union groups to focus on the return-to-work opportunities for injured workers. I think it was vital to introduce that in 2005. Of the various people who have been injured who come into my office, 99 per cent of the time these people genuinely feel a sense of loss and a lack of purpose in their lives. They really do want to get back to work. Perhaps some of them do not, but 99 per cent of people do not want to sit still. You can literally see the depression on their faces when they come through the doors. These people really do want to do something. They want to get back to work in any form and feel purpose in their lives, and these new bits and pieces we have introduced have greatly assisted those people.

Further, the 2005 legislation introduced up to 13 weeks in weekly benefits for workers aged 65 or older who required time off work because of medical treatment related to an earlier injury. As I mentioned earlier, the purpose of this bill is to give effect to the legislation of 2005 — that is, to ensure that the WorkCover authority can enforce compliance with all obligations by employers who swap from the Victorian to the federal scheme and removes uncertainty from any of those provisions relating to the necessary financial arrangements that must be provided by those companies. They remove a discretion that existing self-insurers have in relation to tail claims and mandate that they hand back the management of such claims to the WorkCover authority should they self-insure with Comcare.

At the time when the 2000 provisions were introduced the Victorian WorkCover Authority's enforcement provisions did not extend to penalising those large employers who swapped schemes in situations where they had failed to meet their legislative requirements. Similarly, the 2005 provisions required those employers exiting the Victorian scheme to provide financial guarantees with an authorised deposit-taking institution in respect of insolvency and claims deterioration, and the circumstances in which that guarantee could be recovered. This bill today ensures that we can actually enforce those issues and that to a large degree business gains certainty over what is expected under the Accident Compensation Act.

Today I had a look at a document called the Heads of Workers Compensation Authorities *Comparisons of Workers Compensation Arrangements*. The 30 June 2005 report on Victorian and commonwealth schemes shows that the Victorian scheme has a funding ratio which looks at the coverage of liabilities through assets of 111 per cent.

When you compare that to the Comcare scheme, which does not relate to the self-insured but specifically to the white-collar workforce — which is largely what the commonwealth has — it has a lower funding ratio and a lower coverage. But most interestingly, if you look at WorkCover over the last four years, we have reduced the premiums rate by 10 per cent every year.

The premium rate charged by the Victorian government in 2005–06 was 1.458 per cent, which is 1.46 per cent rounded off. The commonwealth one, Comcare, was 1.67 per cent and 3.07 for Seacare. That is also based on the fact that if you look at the federal occupational health and safety act, the powers are somewhat diluted in comparison to the Occupational Health and Safety Act in Victoria, which I believe is regarded as the best in Australia; it was identified by the Productivity Commission and by the Institute of Public Affairs as the best in Australia.

Recently an article by Ken Phillips in the *Australian Financial Review* highlighted what a magnificent scheme Victoria has for occupational health and safety. It is interesting to note that realistically when you look at the various schemes around Australia — not necessarily those for the self-insured but just the general schemes that federal and state governments run — you find that Victoria has the best scheme of the whole lot, which, as I said before, was identified by the Productivity Commission and the Institute of Public Affairs. Not only are the returns from WorkCover improving greatly but the management of the claims makes a lot of difference. WorkCover is an OHS scheme which assists in that regard.

Today we are trying to provide certainty, but we are also trying to ensure we give workers a degree of

dignity so that they can return to work. As I alluded to earlier, the level of depression you see on the faces of people as they walk through the door is such — I know this sounds terrible — that you can virtually say that person has suffered a workplace injury because they are finding it very difficult to get on with life. I commend the bill to the house.

Mr WELLS (Scoresby) — I rise to join the debate on the Accident Compensation Amendment Bill 2007. This bill makes a number of changes with respect to self-insurers and non-WorkCover employers. It removes the entitlement of an employer who ceases to be a self-insurer to retain the assessed liability that is 1.5 times the actual liability arising during the period of the self-insurance. It automatically transfers this to the Victorian WorkCover Authority, requiring an employer to pay to the VWA either $3 million or 1.5 times the actual liability, whichever is the greater.

This allows the VWA by notice in the *Government Gazette* to revoke an election by a former self-insurer who predates this bill to retain the assessed liability. It clarifies that section 172 guarantees for non-WorkCover employers in respect of tail liabilities that they must be maintained for six years. It allows the VWA to issue evidentiary certificates as to proof of loss in the event of proceedings to recover under a guarantee and creates a criminal offence of failing to comply with part VIA of the non-WorkCover employer provisions. The penalty is 120 penalty units or 60 penalty units per day for a continuing offence.

Section 164 of the Accident Compensation Act 1985 has a definition of 'tail claims'. It says:

> 'tail claims' means claims whether made before, on or after the exit date —
>
> (a) in respect of injuries or deaths incurred or suffered by workers employed by the non-WorkCover employer while the non-WorkCover employer was —
>
> (i) insured under a WorkCover insurance policy; or
>
> (ii) a self-insurer; or
>
> (iii) a subsidiary of a self-insurer; and
>
> (b) which entitle a worker or the dependants of a worker to compensation whether under this Act, at common law or otherwise;
>
> 'tail claims liabilities' means the sum of the actuarial value of the current, non-current and contingent liabilities immediately before the exit date in respect of tail claims under this Act of the non-WorkCover employer while the non-WorkCover employer was —
>
> (a) insured under a WorkCover insurance policy; or
>
> (b) a self-insurer; or
>
> (c) a subsidiary of a self-insurer.

The idea of this bill is clearly to protect the WorkCover scheme from leakages of self-insurers to the commonwealth Comcare workers accident compensation scheme. The Liberal Party is a party of choice, but we understand it is important for the VWA to be fully funded and that should mean lower premiums for employers.

The main objective of the bill is to redefine the Accident Compensation Act and, as I mentioned before, to ensure that the WorkCover authority can enforce compliance with all obligations by employers swapping from the Victorian scheme to Comcare.

The member for Box Hill raised some concerns. Clause 3 of the bill is headed:

> Amendment of section 151 — Provisions to apply where body corporate ceases to be self-insurer

We are of the understanding that if an employer ceases to be a self-insurer and returns to the WorkCover system, then they are still compelled to pay $3 million or 1.5 times the liability. This does not quite make sense, because if an employer is self-insured and they return to WorkCover, then you would think they would be paying for the costs or the liabilities as they occur during that period. If the injured worker has created a liability by their injury and a self-insurer is returning to the WorkCover scheme, then the self-insurer would pay the medical bills and work with the VWA to ensure that the liability and interests of the injured worker are met, but to pay the money upfront does not make sense to us. I wonder whether members who speak after me on this bill can address that matter.

The other point raised by the member for Box Hill is about the liabilities of self-insurers to be guaranteed. The bit of the bill that we need clarification on is new section 151(1). The member for Narre Warren North clarified part of it, but we were already aware of that. The bit that we find confusing and need clarification on to ensure that it is not a drafting error is in new section 151(1):

> … the Authority assumes the liability in respect of the assessed liability within the meaning of section 146 …

If at that point there were a full stop, we would assume that it would be $3 million or 1.5 times the liability. However, it then goes on to say:

> … being the liability that the body corporate would have had if the body corporate had continued to be a self-insurer in respect of injuries or deaths incurred or suffered by workers

> employed by the body corporate or its subsidiaries and which entitled a worker or a worker's dependants to compensation … and whether or not a claim for compensation has been made.

We need some clarification in regard to that new section.

In relation to the same new section, we also need to know if the guarantee that is referred to in section 146 is the same as the liability that is quoted in new section 151(1). We also need to know, where it says 'the Authority assumes the liability', if that is the same as the 'assessed liability'. Are 'assumed liability' and 'assessed liability' exactly the same issue? And, as I mentioned earlier, section 146 talks about the guarantee that needs to be put up. Is that the same as the liability, and is it the same as the assessed liability within the meaning of section 146 as set out in new section 151(1)? The member for Box Hill made a number of very good points, and when we read through it there appears to be a contradiction in new section 151(1). We would like that particular point clarified.

The other point we would also like to have clarified is the provision in the bill which talks about a 28-day payment. We need clarification that that is the same as a guarantee. A guarantee to me is money that is put aside in case it is needed to cover the cost of a liability at some point in the future, whereas, from my reading of the act and this bill, if you are making payment within 28 days, that is not the same as a guarantee. There are a number of points that we would like clarified.

In 2005 the legislation was changed so that employers exiting the WorkCover system were held liable for the tail claims so as not to disadvantage the employers remaining with WorkCover. We understand that that is a fair point. The amendments allow the VWA to enforce compliance on scheme swappers — that is, those people who are going from self-insurance to Comcare or the VWA. All self-insurers who end self-insurance must transfer claims to the VWA, but we still want to have the point clarified. If you are a self-insurer and transfer all of your business to the VWA, why then would you need to pay 1.5 times the liability or $3 million, whichever is the greater? We would like clarification on those points, and we cannot wait for the next Labor speaker to get up and explain them.

Mr BROOKS (Bundoora) — In speaking on this bill it is important to consider the context of workers compensation in Victoria and in particular the deliberate undermining of the Victorian WorkCover scheme by the federal government's Comcare workers compensation system. I believe Comcare is a very shoddy attempt to white-ant the very successful Victorian WorkCover scheme. Comcare was established with the promise to employers of being a one-stop shop. It initially offered a very low premium rate of just under 0.1 per cent back in 2001.

Since then what has occurred has been the seduction of mainly large employers to the federal scheme out of the Victorian WorkCover system which, has obviously placed financial challenges in front of the Victorian WorkCover scheme. Under the guise of providing employers with greater choice it has the effect of potentially denying Victorian workers the full range of benefits and protections that currently exist, not to mention potentially placing greater financial burdens on Victorian employers who stay within the Victorian system.

It is worth comparing the federal Comcare scheme with the Victorian WorkCover scheme. Workplace safety investigators are an important part of a very robust and well-resourced workplace safety regime in Victoria. In Victoria, on the one hand, we have 230 workplace safety inspectors working with employers and employees to make workplaces safer and to ensure that the cost of injuries in the workplace is reduced in terms of both the human cost and the economic cost. Comcare, on the other hand, has a target for the whole of Australia of 50 inspectors by the middle of this year. You can contrast the 230 inspectors for workplaces in Victoria with only 50 across Australia. It is worth noting that WorkCover inspectors conduct more workplace inspections in Victoria every couple of days than the Comcare inspectorate will carry out in a whole year across Australia.

In terms of benefits for workers, Comcare would pay around $180 000 to a worker who has suffered a serious injury. Under the Victorian WorkCover scheme, a worker under the same conditions would effectively be eligible for up to $370 000 — more than twice as much. The Victorian government has increased benefits to injured workers. For example, workers can receive payments for up to 130 weeks, up from 104, and weekly payments for injured workers who return to work part time are now at 75 per cent of pre-injury earnings compared to 60 per cent in the past.

I note that the average Comcare premiums, which as I mentioned before started in 2001 at about 0.98 per cent, have risen by about 80 per cent, and in 2006 they stood at 1.77 per cent of payroll compared to 1.46 per cent under the Victorian WorkCover scheme. I take this opportunity to remind the house that Victoria has had

four successive 10 per cent reductions in WorkCover premiums and that they are now lower than the premiums under the shoddy federal scheme. There are a lot of different reasons for that. I suggest the sound financial management of the Victorian WorkCover scheme is one of the reasons; and good claims management processes and the differing nature of the workforces under each of the schemes are two more reasons.

The other issue I would like to raise is that Comcare presents a red-tape nightmare — to borrow a phrase from the WorkCover minister — for employers. It has been created by the establishment of two different sets of workplace safety laws affecting employers in Victoria. An employer who has moved to the Comcare system will have to respond to the commonwealth's workplace safety laws as well as the Victorian laws, because every employee who enters a workplace that is covered by the Victorian system will continue to be covered by the Victorian system, despite the fact that that employer might be under the Comcare system.

As I said, employers were promised a one-stop shop with Comcare, which now appears to be just another Howard pipedream. The Howard government seems to have had an ideological rush of blood to the head and established this con job called Comcare. In the process I suspect some employers have been misled. Nevertheless 16 000 Victorian employees are now covered by the commonwealth's inferior legislation.

The focus of the bill we are debating is threefold: firstly, to give the Victorian WorkCover Authority the tools to enforce obligations upon employers who jump to the inferior federal scheme; secondly, to clarify the requirements for the provision of bank guarantees to cover an employer's obligation if they choose to jump to the federal scheme; and thirdly, to make sure that any self-insurer jumping to the inferior scheme returns management of the tail or ongoing claims to the Victorian WorkCover Authority.

These are very worthwhile changes that help to strengthen the Victorian WorkCover scheme. It is worth noting that while much of the debate on these issues focuses on finance, workplace injury can have a profound effect on workers, their families, their friends and their workmates. Only about a week ago a 35-year-old window cleaner was killed when he fell about 12 metres doing his job in the city. Last month, unfortunately, a man was pulled into a lathe in a factory at Alphington and passed away. A man died at Terang loading a bulldozer onto a truck. A man in a Heyfield sawmill lost his hand in an accident. There was a structural collapse of a building in Gisborne, where a building worker ended up with internal injuries — and the list goes on.

Workers are entitled to high-quality workers compensation and to a system that works to prevent injury and illness and provide genuine assistance to those who are injured and the families of those who tragically are killed in industrial accidents. Comcare is an insult to Victorian workers and speaks volumes for the Howard government's regard for working families. The bill before us is a good bill, and I commend it to the house.

Mr WAKELING (Ferntree Gully) — It gives me great pleasure to rise to speak on the Accident Compensation Amendment Bill 2007. I listened with interest to the contributions from those opposite. They shed crocodile tears when they were besmirching the federal system, because they are members of the same government that has been quite happy to see Victorian employees work under a federal industrial relations system which was established for unincorporated businesses as a consequence of the 1996 referral of state industrial relations powers to the commonwealth. This government has done nothing to remove that referral, so I listened with interest to the concerns raised by those opposite, who despite those concerns have done little to rectify that situation.

The bill deals with issues pertaining to self-insurers. I am of the understanding that 29 businesses operating in this state are self-insurers. As has been said by the member for Scoresby, the bill removes the entitlement of an employer that ceases to be self-insured to retain the assessed liability, which is 1.5 times the actual liability arising during the period of self-insurance, and automatically transfers this to the Victorian WorkCover Authority, requiring the employer to pay an equal amount to the VWA, with a minimum payment of $3 million. It allows the VWA, by notice in the *Government Gazette*, to revoke an election by a former self-insurer that predates this bill to retain the assessed liability. It clarifies that section 172 guarantees by non-WorkCover employers in respect of tail claims liabilities must be maintained for six years. It allows the VWA to issue evidentiary certificates as proof of loss in the event of proceedings to recover under a guarantee. It also creates the criminal offence of failing to comply with part VIA covering non-WorkCover employer provisions, with 120 penalty units or 60 penalty units per day for any continuing offence.

The intention of this legislation, which has already been mentioned by those who have spoken before me, is to try to prevent self-insurers moving to the Comcare system. As has been put by others, people on our side

of politics encourage freedom of choice, but we understand the reasoning behind the government's actions. As the member for Box Hill has already said, it is interesting that here we have another piece of legislation affecting industry and the operation of employers in this state, yet this government has done little to consult those who are affected. Previously during this current sitting of Parliament we have seen the government introduce legislation that affects Victorian businesses without any consultation with industry.

I comment also on the point made by the Leader of The Nationals, that this government inherited a workers compensation system that was in great shape as a consequence of the work of the previous government and the former minister, Roger Hallam. One can go back to 1992 and the unfunded liabilities of the workers compensation scheme then in the hands of the failed Cain and Kirner governments. One also remembers the way in which the Kennett government turned around workers compensation in this state. It should be noted what this government has inherited.

It is also interesting that this bill fixes the mess that was left in the 2005 act, as is pointed out in the minister's second-reading speech:

> However, it has become apparent in recent times that there are a number of issues in the 2005 provisions which, if not addressed, could result in increasing non-compliance with existing requirements and, as a consequence, potentially lead to significant unfunded claims liabilities for the WorkCover scheme.

Obviously this government could not get it right in 2005 and is hoping to fix the mess in 2007. It has also been pointed out that the tail claims which have been dealt with in regard to self-insurers who are leaving the self-insurance system will not just apply to those businesses that are moving to Comcare but will also apply to those businesses that choose to return to the VWA. An interesting point also is that the three dot points in the second-reading speech which outline the purpose of the bill do not actually refer to the fact that there is going to be a financial burden placed on those self-insurers.

As the member for Box Hill has pointed out, one of the main provisions of this bill is the cost impost on self-insurers, which was not referred to in the second-reading speech. It is interesting that that information was not put in the second-reading speech; one can only hope that those on the other side will clarify for the house why that is the case.

Something important that has been pointed out by many members on this side, as the member for Scoresby has just indicated, is that this bill raises more questions than it provides answers to. One question regarding the self-insurers who move back to the workers compensation system is: will they still be liable for the 1.5 times contribution or the $3 million, given that they are not moving into Comcare but into the control of the Victorian workers compensation scheme? It has also been pointed out that with respect to new section 151(1), where there is reference to 'assessed liability' and 'assumes the liability', clarity is needed to explain how liability is to be assessed for the purpose. It is unclear to the house, and I think it would be fair to say that as yet nobody has been able to clarify how that will work.

As has also been pointed out by the member for Scoresby, concerns have been raised about the definition of 'liability' in section 146 of the principal act and how it will apply with respect to new section 151 as part of this amendment.

As has been said, this bill is intended to try to fix some problems that the government could not fix back in 2005. Again this government has failed to consult with business and industry. All the amendment has done is raise more questions than it answers. I will be listening with interest to the clarification that the member for Yuroke — —

Ms Beattie — Good. You will learn something.

Mr WAKELING — I will be looking forward to her contribution, because I am sure she will be able to clarify for the house the definitions relating to all the issues we have just raised.

Ms Beattie — I will.

Mr WAKELING — And she will! We will be pleased and listening with bated breath for that.

With that, Acting Speaker, the Liberal Party will not be opposing the bill. However, as has been pointed out, there are certain areas of this bill that require clarification. I will be listening with interest to hear how my good friend the member for Yuroke will explain to the house how this bill will actually apply.

Mr CAMERON (Minister for Police and Emergency Services) — You would really have to say, after listening to the member for Ferntree Gully, 'What a total lot of tripe!'. Let us get the facts straight. We have had the ranting and raving, but in the end, for all the Liberal Party's bravado and its anti-worker chest thumping, when it comes to the crunch, what is the last line? It says, 'Actually we do not oppose this bill'. How weak is that? Why did the member not just get up and

say, 'The Bracks government is on the money with this bill.'? I can tell you, Acting Speaker, that the Bracks government is on the money when it comes to this bill.

In talking about money and the workers compensation scheme in this state, let us put the history of this and the total mishmash of the scheme this government inherited in perspective. What we had was a scheme of losses from insurance operations, from memory, of $178 million a year under the former Kennett government. The scheme was totally out of control and only propped up because fortunately there were years when the foreign equity markets were trading well. That helped disguise the incompetence of the Kennett government and the massive losses that required the Bracks government to fix up the scheme.

If you look at the whole history of the scheme, you see that it never had a profit from insurance operations until the Bracks Labor government was elected. What was the premium rate at the end of the Kennett area? It was 1.9 per cent, or something like that. What is it now under the Bracks government? It is 1.4 per cent. It is much lower, yet the scheme makes a profit from insurance operations. That is the history of the scheme that we inherited. Despite the premiums going down the actual scheme is better for workers, with improvements in the statutory benefits and improvements in the bringing back of common law for serious injuries.

Honourable members interjecting.

Mr CAMERON — Here we go with the opposition saying, 'You did not do this' or 'You did not do that'. Yes we did, and the opposition buckled at the knees and voted for it in the first term of this government. This is the context in which we need to discuss the matter. This legislation is pretty much about, as some honourable members have said, putting hurdles in place or putting a regime in place in relation to people going from the Victorian scheme to the Comcare scheme. In particular, for self-insurers with long tail claims, it is about making sure they hand them back to the Victorian WorkCover Authority so that they are appropriately administered and the self-insurers have to finance them.

Mr Clark interjected.

Mr CAMERON — The honourable member for Box Hill said something about cash or guarantees. He thinks this is a bank. What he knows about cash or guarantees is that when it comes to this bank, to the Victorian WorkCover Authority, it is a solid institution with lower premiums and better benefits and an institution that is making a profit from insurance operations. That is why the board of the VWA should be able to put forward these propositions, because it has appropriately run the scheme. That is why the government supports the authority and why the government is doing these things.

We do not want to go back to the old days of having a totally appalling scheme where you strip away the benefits from workers and where you have to increase premiums for employers and allow a total blow-out when it comes to losses from insurance operations. That sort of incompetence is a thing of the past. That is why the Bracks government totally believes that this scheme should be run for the benefit of employers and workers.

Mr HODGETT (Kilsyth) — What a hard act to follow.

Ms Beattie interjected.

Mr HODGETT — We are very excited about *The Simpsons Movie* coming out in the next few weeks!

It is with pleasure that I rise to speak briefly on the Accident Compensation Amendment Bill 2007. In sticking to the bill I point out that, as stated by a number of speakers this evening, the minister in his second-reading speech said:

> The legislation introduced in 2005 was sound and effective in protecting the interests of Victorian workers and employers, and the finances of the Victorian WorkCover scheme.

He then said:

> … it has become apparent in recent times that there were a number of issues in the 2005 provisions which, if not addressed, could result in increasing non-compliance with existing requirements and, as a consequence, potentially lead to significant unfunded claims liabilities for the WorkCover scheme.

The minister is right. I do not oppose the bill, but that does not mean we cannot do better. If you look at the bill and what the government does, you see that it is an assault on business. It is being rushed through, and there has been limited consultation. Just because I am not opposing the bill, it does not mean the government could not do better in introducing legislation to this house. Here is an example from 2005 of a minister saying we have sound legislation, but we are this evening debating a bill that makes amendments to the Accident Compensation Act 1985.

To this end the bill before the house refines the Accident Compensation Act 1985 in the three ways that have been mentioned and are referred to in the minister's second-reading speech. Firstly, it ensures that the Victorian WorkCover Authority can enforce

compliance with all obligations by employers swapping from the Victorian scheme to the Comcare scheme. Secondly, it removes any uncertainty about provisions relating to the necessary financial guarantees that must be provided by those companies. Thirdly, as the minister stated, it removes a discretion that existing self-insurers have in relation to tail claims and mandates that they hand back the management of such claims to the Victorian WorkCover Authority should they self-insure with Comcare.

The member for Ferntree Gully made the very good point that the bill raises more questions than it answers. The crucial question we are all asking tonight is: exactly what amount is to be paid? As the member for Box Hill asked, will the actual amount be the whole of the claims to be paid, or will it be 1.5 times the actual or $3 million, whichever is the greater? Why have there been two different figures plucked out? Why can we not consult with business to get a sensible way forward on the amount that should be put up? As I have said, I am not opposing the bill, but I just hope that the government can get it sorted out so that we are not back here time after time after time debating further bills to amend the Accident Compensation Act.

Ms BEATTIE (Yuroke) — It gives me pleasure to speak on the Accident Compensation Amendment Bill 2007. I have to say that Victoria has a very proud history in workers compensation. Indeed ours is the first and foremost scheme in Australia. I know the member for Ferntree Gully was looking forward to my speaking, and I want to say three little words to him: 'Kennett's black hole'. He will remember very well Kennett's back hole.

With this bill this government wants to protect Victorian workers from the impact of an expanded Comcare scheme, where we see large private sector employers leaving the state-based compensation schemes and swapping over to be their own self-insurers. That happens with many big companies I could name, but I am not going to. We know it is part of the commonwealth's reform strategy. It wants to take over industrial relations: we have seen its WorkChoices legislation, which the whole country hates.

Why has the commonwealth government not yet got the message? People do not want WorkChoices. We will see how much people like WorkChoices at the next federal election. We have seen it in the polls, but now the federal Liberal party wants to go and mess with our accident compensation scheme. Why does it want to mess with it? Simply because it cannot stand working men and women. I do not know the cause of that. This is the next onslaught on workers rights.

We have a scheme that is the most efficient in the country. With every budget we have seen WorkCover premiums dropping. Except for those big companies that have been encouraged by the commonwealth government to swap schemes, employers actually like our state-based system. We will protect Victorian workers: we will not back away from this. Early in 2005 the government amended the Accident Compensation Act to ensure that scheme swappers were held liable for any increasing costs of the claims made by their workers before they exited the scheme. We call those tail claims. The changes were designed to protect the Victorian employers remaining in the scheme from shouldering any further financial burdens. As we all know, now the Victorian scheme is a closed scheme.

Just to remind members on the other side I will go back to the package talked about in 2005. What we saw in that package was an increase in the level of weekly benefits for injured workers returning to work initially part time from 60 per cent to 75 per cent of their pre-injury salary. That is what it is all about. We want to see workers return to work. We do not want them on a scheme. We want them to have a good return-to-work scheme. Seriously injured workers need quick access to impairment benefits. We support injured workers with up to six months of additional benefits beyond the then limit of 104 weeks, or two years. There was also an 18 per cent increase in death benefits to affected families, but we hope these benefits are never paid out.

We want to see workers return to work, and we want a good return-to-work scheme. We have improved the counselling services and case-management approach, with WorkCover helping families to deal with the Coroners Court and other agencies should any tragedies occur. As I said, there was the $10 million return-to-work fund to support partnership programs involving employer and union groups to focus on return-to-work opportunities for injured workers. Again, that is what it is all about — getting people to return to work, not having Comcare take over. There were also up to 13 weeks of weekly benefits for workers aged 65 and older who require time off for medical treatment.

I was pleased to follow on this side of the house one of the previous ministers for WorkCover who grabbed WorkCover from Kennett's black hole, dragging it up by the bootstraps and turning it into a scheme that is now self-supporting and gets people back to work. It is a good scheme. These are good amendments to the legislation. We will protect Victorian workers. We do not want Victorian workers to go on to the Comcare scheme. We want them to stay in the Victorian

WorkCover scheme, and we will support those workers who are in that scheme. I commend the bill to the house.

Mr SEITZ (Keilor) — I rise to support the Accident Compensation Amendment Bill 2007. This bill is important to protect the workers of Victoria and also to protect the Victorian workers compensation legislation and the budgetary system we need to face in this case.

Clause 1 of the bill sets out its purpose, which is to improve the efficiency of the provisions relating to self-insurers and non-WorkCover employers. Clause 2 provides for the act to come into operation on the day after it receives royal assent. The amendments in the bill have become necessary because of the expansion of Comcare and in particular because some multinational employers have opted out of the Victorian WorkCover scheme and joined Comcare. That does not allow the Victorian workers compensation board to enforce payments and commitments, particularly the back guarantees that are required for residual payments to Victorian workers.

If we did not have this legislation and we allowed this to continue as it is now operating, and if people continued to opt out to Comcare, the Victorian WorkCover scheme would be responsible for all the leftover liability and would have to pay people injured while they were under the Victorian scheme. This is what has brought about this bill. Naturally one might say, 'It might affect small business people'. In fact small business people are not the ones who are opting out; it is the big companies who are opting out to see whether they can make a saving in that position. Big companies, being as they are, can afford the legal teams and get the legal advice to take on the Victorian WorkCover Authority (VWA) on the interpretation of the law and whether they are required to make payments and bank guarantees to their workers for the injuries incurred under the Victorian scheme before they opted out. That is the real crux of the matter.

It is very important that this house understands and supports this legislation, because it will ensure that we have good legislation to protect Victorians. As has already been demonstrated in some cases, the big companies would have simply said, 'We are saving enough money by going over to Comcare, and we will not be forced to provide a bank guarantee for this because it is too difficult'. The big companies will not be affected if they choose to opt out of the Victorian WorkCover scheme and move to Comcare if they cannot afford to get the bank guarantees required to safeguard the scheme for the future.

The key proposals in the bill include amendments to the act to ensure that the VWA can enforce scheme swappers to comply with their obligations and to remove uncertainty about the provisions relating to the bank guarantee requirements. The money part is really important, because swapping only takes place because they want to save money by getting out of the Victorian scheme, and therefore out of the obligations and commitments they owe to the workers of this state. The Bracks government has always been left to stand up for the working families in Victoria and right across Australia when possible.

An important step is being taken with this legislation. It may seem to be a minor piece of legislation, but it was brought on by necessity because big companies were trying to save a buck at the expense of workers. It is the aim of the Victorian WorkCover scheme to encourage and help people get back to work, rehabilitate them and help re-educate them for other jobs. That all puts responsibility on the WorkCover scheme, and it takes money. Those companies are trying to opt out of this scheme without leaving behind any bank guarantees that can be used to assist the people who were injured while they were under the Victorian scheme.

They are not fulfilling their obligations to the workers from a moral or principled position. They simply look at it and say, 'The law lets us do that, so that is what we will do'. We know that the big corporate companies do not have a conscience, nor do they have moral status. Very few of them have any sort of commitment to the people they employ if they are not beneficial or productive and can earn money for the company. That is the real reason. Some of them consider protecting their corporate name and public image at times, but, as we have experienced in the past, when it comes to saving a dollar in the corporate world, the individual worker is only a number and does not count.

It is not much different to what we hear happens in other countries. The bean counters have to produce a profit at the end of the year, particularly given the modern schemes we have going, where you get a contract for three years or five years and they say, 'These are the points you are going to develop for the company: you must improve the profit margin for the company, you should look at what it will mean to restructure, and you should consider where we can save money' — and swapping over from the Victorian WorkCover Authority to Comcare is one way of doing that. Another way is through reducing staff. It is always about saving wages and being able to make extra profit for the company at the end of the financial year.

What we are debating here this evening is very important. The bill makes it mandatory for self-insurers exiting the Victorian scheme to return the management of tail claims to the Victorian WorkCover Authority before their exit. That is what I have been trying to explain. It has to be mandatory, and we have to do it by legislation, because they discovered a loophole and were able to thumb their noses at the Victorian WorkCover Authority, which has no legal grounds of enforcement in the civil courts on this issue. Civil litigation would create more expense for individuals. Therefore it is up to the Parliament and the government to ensure that individuals do not suffer because of this loophole and that with this legislation they are not disadvantaged and have the protection of the government behind them for the future.

Companies will clearly know that, if they choose to opt out of the Victorian WorkCover Authority scheme and transfer to Comcare as self-insurers, they have an obligation to their workers and to the WorkCover authority. That is what was intended in the original legislation before somebody discovered a loophole to bypass their legal and moral obligations to the community. I am concerned that if more big companies move out of the Victorian scheme, it will naturally be weakened; the fewer contributors you have to a fund, the smaller it becomes and the more difficult it is to finance and run. The Victorian WorkCover Authority has done really well, particularly because of the amendments introduced by the Bracks government to safeguard cover for people.

I well remember before we introduced WorkCover in Victoria the agony and misery of people who had to be either on sickness or some other benefit such as family support before they could establish their claim, go to court and get settlement. It was an agonising situation, and the families that lived through those years without WorkCover could tell stories of what life was like when you got injured in Victoria before the Cain government introduced WorkCover. We should not let it go backwards, with self-insurers moving to Comcare and trying to avoid the responsibility they have to workers.

I would imagine that 20 years after the legislation was put in place the directors of corporate companies would have some sense of moral obligation to assist their workers, particularly their injured workers, and to ensure that funds are available for their rehabilitation or, if not rehabilitation, support until they are eligible for the old-age pension. What we need to consider is not argy-bargy on political points but the people, the innocent victims, who get hurt at work. Most people I have spoken to in my lifetime have said they prefer to work hard than get the dole or get paid — —

The ACTING SPEAKER (Ms Munt) — Order! The member's time has expired.

Mr CARLI (Brunswick) — It is with great pleasure that I rise in support of the Accident Compensation Amendment Bill, and it is with great pleasure that I follow the member for Keilor, because he was here in the 1980s when the Cain Labor government passed the initial WorkCover legislation. It was important Labor legislation — legislation to protect the worker. That, along with 1980s occupational health and safety legislation, clearly marked itself as Labor legislation designed to protect the lives of working families.

We know what happened in the Kennett era. I remember 2000 when the Kennett government removed common-law rights for injured workers. I remember the marches on the streets. I remember the demonstrations. I remember the protests in this house about the anti-injured worker legislation of the Kennett government. It is a great pleasure to be part of the Bracks government, which has reformed WorkCover, which has brought back common-law rights and benefits to injured workers and which has strengthened the occupational health and safety legislation to ensure that we lower the number of injuries in the workplace. We have successfully done that.

We have turned what was a disastrous WorkCover system and a disastrous situation for injured workers and worker safety in the workplace into the much better system we have today. But we have threats to the system, and one of them is the potential for some self-insurers to move to the commonwealth workers compensation scheme, Comcare, potentially leaving behind certain obligations to long-term injured workers — the so-called tail. The principal aim of this amending bill is to protect the WorkCover scheme and to ensure that the long-term injured workers who are part of the tail that belongs to these self-insurers do not lose their benefits because the self-insurers decide to move to the Comcare scheme.

It is very interesting that Comcare should allow state-based self-insuring companies to self-insure under its commonwealth scheme rather than under the state workers compensation scheme. In fact if you think back to 1988, when Comcare was established, you find that it was primarily set up to ensure the safety and rehabilitation of and compensation for injured public servants. It was not an attempt to create an alternative scheme to the state and territory schemes, and it was not an attempt to undermine those schemes.

What has happened in recent years? First of all, only since 1992 has it been possible for certain private sector

employers to apply to the federal workplace relations minister for a licence to move to the Comcare scheme. It was only in 2004, under the current Howard government, that the first such licence was granted by the then Minister for Employment and Workplace Relations. It was granted to a big company — Optus — supposedly so it could cut its costs but potentially so it could take away the rights of injured workers. Since then a number of licences have been granted to big employers — Linfox, John Holland and the National Australia Bank — that have all moved to swap their self-insured schemes to Comcare.

That was challenged in the High Court — in fact it was challenged by the Victorian Attorney-General — and a decision was made basically to allow the Optus licence to stand. That has now created the opportunity for self-insurers to move across to Comcare, and that in turn has created a few problems for the state-based scheme. The concern is that in the swap-over by the self-insured to Comcare a number of workers who are part of the tail — the long-term claims — will be left behind and the Victorian WorkCover Authority will have to pick up the pieces and manage their claims. The changes proposed by this bill are very much designed to protect Victorian employers in the current scheme from carrying the cost of those employers who move across to the Comcare scheme. If we do not do that, it will leave open an opportunity for non-compliance by employers, and the Victorian WorkCover Authority will be left with unfunded claim liabilities.

The key proposals in this bill are to amend the Accident Compensation Act to ensure that the WorkCover authority can enforce compliance with all obligations by scheme swappers, to remove any uncertainty about provisions relating to bank guarantee requirements and to clearly mandate that all self-insurers exiting the Victorian scheme must return the management of tail claims to the Victorian WorkCover Authority before swapping over to Comcare. These changes are intended to take effect immediately following the passage of the bill through Parliament so that we have compliance by exiting employers.

What we have at the moment is a Victorian WorkCover Authority that is in a very strong financial situation. It is a situation which, as I explained earlier, has been very much improved by the strengthening of occupational health and safety laws, the improvement in workplace safety and the establishment of a better managed scheme which, as we know, has allowed cuts to be made in recent budgets in terms of the cost of insuring. We have a very strong scheme, and it is important that we have compliance from employers who scheme swap.

When the original provisions were introduced the Victorian WorkCover Authority's enforcement powers did not go as far as penalising employers who scheme-swapped. Any employer that decided to become a self-insurer under the Comcare scheme could leave the scheme and refuse to meet its entire obligations. The main thrust of this legislation is to ensure that they meet all their obligations. This bill ensures that the Victorian WorkCover Authority has the ability to penalise employers who fail to meet their obligations, therefore ensuring the efficiency of the current protections and ensuring protection for all other employers in this state.

This bill also clarifies and enforces the obligations of employers who scheme-swap to have a bank guarantee. The current act does not prevent self-insurers who scheme-swap to Comcare from retaining management of their tail claims. This does not allow the Victorian WorkCover Authority to compel employers to prudently manage the claims once they swap to Comcare. Obviously this legislation will ensure that they have that obligation and have an incentive to ensure they meet their obligations as they leave the Victorian scheme.

This is important legislation. The movement to Comcare has clearly been a move by the federal government to undermine WorkCover and WorkCover schemes right throughout the states and territories. It is one of the smaller issues, but it is still an issue for this year's federal election. It is very important for a Labor government to protect the claims of injured workers and their families in Victoria. This legislation is very much about ensuring those workers are protected, but it also protects the entire WorkCover scheme.

As other speakers have noted, there have been a lot of complaints by members of the Liberal opposition, but ultimately they do not oppose the bill. That is not surprising because the bill is ultimately taking away a possible loophole for large companies that could move across and become self-insurers under Comcare and lose the obligations they currently have to long-term injured workers. They know it would be outrageous if that were to happen. It is important that this bill passes through the house as soon as possible and ensures that large companies — and it essentially involves large companies — meet their obligations and do not use scheme-swapping as an opportunity to get rid of the tail claims of long-term injured workers or not meet the full obligations of WorkCover, as is required in Victoria. This is very good legislation, and I wish it a swift passage.

Mr SCOTT (Preston) — I, too, rise to support this bill. It is a great pleasure to support it because issues around workplace safety and workers compensation lie at the heart of what it means to be a Labor member of Parliament. The member for Keilor in his own inimitable style touched upon the fact that it was the Cain Labor government which introduced WorkCover into Victoria, and it was a very significant piece of legislation that really changed the landscape for working people in Victoria. It provided greater certainty and greater security to the lives of many thousands of Victorians. This legislation builds upon the best of that tradition of the labour movement.

While we are debating the bill I would like to touch upon the fact that workplace safety and the responsibility of society to those who work and those who are injured lies at the heart of not just the Cain Labor government but really the rise of the labour movement. I was lucky enough in a different guise to have studied parliamentary debates in the British Parliament in the 19th century, and some very colourful language was used to describe some of the workplace conditions and workplace injuries that used to befall ordinary working people.

We should never forget the disgraceful conditions that existed for working people prior to the election of Labor members of Parliament and the ability of Labor governments to influence legislation. That is a very significant part not only of Australian history but of the history of the broader international labour movement to which I am lucky enough, and I know other members of this house are lucky enough, to belong.

I would also like to acknowledge the contributions of some of the earlier speakers. I think the member for Bundoora and others touched on the limitations of the Comcare scheme and how it really cannot compare to what is really Australia's best scheme in the Victorian WorkCover scheme. Others, such as the member for Yuroke, reminded us of the dreadful state in which the Kennett government left the workers compensation scheme and of the wonderful record that the current government has. If you look at the record of this government during the last four budgets, there have been significant cuts to WorkCover premiums, yet at the same time the scheme remains fully funded and provides decent coverage for Victorian workers.

I think that is something which this government can be proud of and which is one of its great achievements, because it serves two functions. Firstly, it helps look after Victorian workers who are injured, and secondly, the government has been able to reduce the burden of business taxation in reducing WorkCover premiums, and thus encouraging economic growth in Victoria, encouraging job opportunities and encouraging the betterment of our society through economic opportunity. That is a very significant achievement of this government and one that makes me duly proud to be lucky enough to have joined it, and this is at the heart of what it means to be part of a Labor government.

The government takes these issues seriously, and I think this legislation takes these issues seriously. Sadly I do not think the same can be said for the current federal government, which pursues a process of destroying workers' rights. I would join with earlier speakers in saying that the Comcare scheme cannot compare with our scheme in Victoria, and it is unfortunate that some large businesses are choosing to shift their coverage to the Comcare scheme away from the Victorian scheme. That shift creates important issues, and this legislation deals with those important issues, which earlier speakers have touched on. I will briefly return to those issues.

This bill seeks to improve compliance by scheme swappers — they being, of course, those who swap from the Victorian scheme to the Comcare scheme — by improving the provision of enforcement powers to the Victorian WorkCover Authority in relation to scheme swappers who refuse to meet their obligations when leaving the WorkCover scheme. It also improves regulation around bank guarantees by removing uncertainty about the provisions relating to the necessary financial guarantees by scheme swappers to cover the costs of outstanding claim liabilities in the event their business becomes insolvent. As has been touched upon by many speakers, it improves the management of tail claims, closing a loophole whereby self-insurers leave the WorkCover authority.

I would say again that this is a central debate to what it means to be a Victorian member of Parliament — that we take seriously the rights of workers and that we regard it as one of our central functions to ensure that under the scheme they are covered and importantly that the scheme maintains its financial viability. The shift to Comcare creates threats to the scheme's viability ultimately in effect by cost shifting, and this bill seeks to lessen those risks.

I would note, though, on a positive note that you know you are winning when your enemies accept some of your logical presumptions, and I noticed in the debate that although its support was half-hearted the opposition is supporting this bill. Even the member for Box Hill and the Leader of The Nationals in their contributions to the debate today accepted that it is a

legitimate objective of Parliament to ensure the protection of workers and the financial viability of the scheme. I doubt that would have been the case 100 years ago, but thankfully due to the influence of the labour movement and those who have argued for workers' rights over the years, even the conservatives within our political system now accept those fundamental principles, and ultimately politics is about who controls intellectual debates and the presumptions that underlie those debates.

Now the labour movement, thankfully, has moved the debate onto a playing field where those simple principles are accepted by all the major players. Unfortunately the conservatives cannot be relied upon to manage or implement the scheme in such a way that is fair to workers. Luckily the people of Victoria have a Labor government that is continually focused on protecting workers and their rights. Where I raised previously the dark satanic mills of the 19th century, I think it is worth touching upon the actual conditions that used to exist prior to the rise of the labour movement and the protection of individual workers.

Dr Sykes interjected.

Mr SCOTT — I note that one of our Nationals friends is discussing the role of chimney sweeps and the desirability of their return to our society. I take it that the member for Benalla is in jest, because no-one would want to return to the sort of work conditions that existed in the past. As an example, within textile mills in the Georgian period in places like Manchester, children as young as six worked as what were referred to as 'mill scavengers'. Such unfortunate children's work duty required them to brush and sweep cotton that fell away under the wheel of what was then state-of-the-art industrial equipment called weaving mules.

The work day for six-year-olds was 12 hours per day. The payment was in food and kind, and shelter, so they were not paid labourers. People in those days were forced to work purely to survive. The children were frequently beaten to keep them at work during the long day. Of course prior to the development of modern safety and industrial legislation many of these children were killed and others were maimed. The life expectancy of such children was very low.

This point may not seem very relevant to this legislation, but I believe it is at its heart. There is a long tradition, which this legislation draws upon, where we have been building slowly towards a more civilised society. It is the civilisation of capitalism that lies at the heart of the labour movement and at the heart of the function of our party. I am pleased to be part of a government which regards such a journey as part of its core objectives. I note that the member for Benalla's chimney sweep comments could well have come from the 19th-century, but I take it from his smile that they were in jest.

As I said previously, through the long struggle of many parliamentarians and, more importantly, many ordinary working people through their trade unions and lobbying in the community, we have reached a point where Victoria has effective workers compensation legislation. It is on a sound financial footing; the premiums have been reduced, which has allowed business to increase, employment to increase and the general prosperity of the community to increase. This is a proud record of which the Bracks Labor government should be proud and which I am pleased to be part of. I commend the bill to the house.

Mr NARDELLA (Melton) — I rise to support the Accident Compensation Amendment Bill 2007. I remember the debates that occurred within the community and the trade union movement as well through the VTHC (Victorian Trades Hall Council). I remember the debates and the briefings that we got in 1984 and 1985 when I was a delegate to Trades Hall for the metal workers union.

During that process there was a lengthy discussion about how we should protect injured workers, how we could maintain their living standards, how we could look after their families and how we should make sure the scheme was viable. I remember the paper by Barney Cooney, who later became a senator. Further to that, there was the work done by a former member of this house, the Honourable Ian Baker, who subsequently became a minister in the Kirner Labor government. He produced the legislation that was adopted under the WorkCare system when we had control of the upper house for two weeks. It was in that sense that this amendment now before the house was created.

The legislation at that time was not only about protecting workers but also about making the scheme viable for employers. In the metal industry, in which I was employed, and the metal construction industry the premium for the old workers compensation system — this comes to the heart of what this bill is about — was around 40 to 50 per cent of salary. That was destroying jobs. Not only was it destroying the viability of many Victorian companies, it was not providing the protection that was needed for injured workers and their families.

In 1985, when we had control of the upper house, the WorkCare Bill was adopted by both houses of Parliament and put into law. We then had the change of government in 1992, and I was part of the 26 or 27-hour debate that occurred in the Legislative Council over the introduction of the WorkCover legislation. It was not WorkCare, because it was not about caring for injured workers or their families; it was about covering injured workers, not about caring at all. Honourable members may wish, for some bedtime reading, to go back and have a look at some of those debates, especially if they are insomniacs — the debates are just absolutely thrilling. But essentially the scheme was not about protecting workers.

There was debate after debate on the amendments that were put before both houses of the Parliament. There was an amendment a year to the WorkCover legislation, which culminated in the abysmal changes made in 1998 by the Honourable Roger Hallam, when he was the minister responsible for WorkCover. The final nail in the coffin for WorkCover under the Liberals was when they took away common-law rights for injured workers. As honourable members would understand, that has been returned to the WorkCover system under our government.

The legislation before the house is about dealing with the appalling situation that the commonwealth government is foisting upon the economy here in Victoria, and further to that foisting upon the injured workers here in Victoria under the Comcare system. The Comcare system is an appalling piece of legislation covering companies that leave the WorkCover system here in Victoria, and it is a system where the compensation, rather than the benefits, for injured workers is much less. The premiums for large companies that move into the Comcare system are lower than those under the WorkCover system, primarily because injured workers lose out.

With the encouragement of the Howard Liberal-National coalition government in its race to the bottom through Australian workplace agreements and the rest of the changes to the industrial relations system that mean there is no protection for workers, those Victorian employers are changing to the commonwealth system. Those companies are moving out of the WorkCover system and jumping into the Comcare system, leaving behind debts and responsibilities for others to pick up. That is the law of the jungle. That is the system Howard and his cronies believe in. That is the system they have implemented under Comcare. What the legislation before the house seeks to do is make them responsible for their liabilities and make them responsible for the injuries that occur in their workplaces.

Those employers leave the Comcare system and do not want to be responsible for what they leave. That is absolutely and totally unfair. The long-tail claims that honourable members have talked about in this debate are real. It means the responsibilities and obligations of Victorian companies that leave the WorkCover system to go to the Comcare system are left to the remaining employers within the WorkCover system. Obviously that is unfair. It puts pressure on the premiums. As honourable members would know, over the last three years the Bracks Labor government has consistently reduced the premiums by 10 per cent every year.

We now have the second lowest premiums of any workers compensation state system in Australia. The only lower system is that of Queensland with much lower premiums and much lower benefits to injured workers. Even further below that is the Comcare system that just provides abysmal coverage for injured workers. Those claims liabilities are what this legislation makes sure is paid to the WorkCover system. Clause 4 provides guarantees of payments by those companies that go out of the WorkCover system. The legislation before the house also means that there are penalties for companies that do not comply with the requirements of the WorkCover system.

This legislation attempts to deal with the mess that is the Comcare system. It attempts to deal with the mess that is the Howard Liberal-Nationals coalition and its race to the bottom of the dirt heap in which it is placing injured workers and their families. The bill deals with the unfair nature of the Comcare system where companies are not guaranteeing their responsibilities and their liabilities under the WorkCover system, and it also attempts to maintain the financial viability of the WorkCover scheme.

I appreciate the contribution made by the honourable member for Preston about the history of this scheme and the history of workers compensation schemes. Honourable members may understand that many of the workers compensation schemes were built during the First World War, essentially out of Germany because of the armaments factories and the activity at the time. We have come a long way, but the Comcare system, like Australian workplace agreements and the new industrial relations system, is a disaster, and this bill deals with that disaster.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I want to start by thanking all honourable members who have

contributed to this important debate on the Accident Compensation Amendment Bill 2007. As honourable members would be aware, the legislation that the house is debating this evening builds on the reforms that were introduced in 2005 which sought to protect the Victorian WorkCover scheme from the developments that have been occurring over quite a few years now in relation to the Comcare scheme, where some employers within Victoria and employers with an employment footprint covering several states who are constitutionally and legally able to have been seeking to transfer their arrangements into Comcare so they are instead responsive to the commonwealth scheme.

The Victorian government has a number of concerns in relation to this, and it has articulated those concerns now on a number of occasions. The legislation that was introduced in 2005 and the further amendments that the house is considering this evening seek to protect the Victorian scheme and also seek to protect injured workers to ensure that their ability to access benefits is not in any way infringed by the transfer of employers into the commonwealth scheme.

We have concerns about the transfer to the commonwealth scheme for a number of reasons. One is that it does — or it did up until 2005 — raise ambiguities and uncertainties around the long-tail claims that employers potentially left behind. We also have concerns because we want to ensure that Victorian workers are protected by an accident compensation regime and a set of occupational health and safety laws that are consistent, predictable and well known. Our concern with the transfer by some Victorian employers into the commonwealth Comcare scheme is that that certainty and clarity which existed is being dissipated. We see it in a range of different areas.

Firstly, we see concerns around long-tail claims because we want to make sure that employers that are transferring into the commonwealth scheme are cognisant of their liabilities and that the Victorian government, the Victorian WorkCover Authority, is in a position to protect the compensation entitlements of those employees and to legally enforce the entitlement of those potentially injured workers to access appropriate compensation. We see that as very important.

We also have concerns around the transfer to Comcare on a number of other grounds. We are concerned because we believe that the commonwealth scheme was originally established essentially for white-collar workers and for what essentially were commonwealth employees and the employees of commonwealth instrumentalities. We are now seeing a transfer of employers whose employment coverage and whose area of activities covers a broader range of areas than was originally anticipated to be covered through the original establishment of Comcare. We find that quite concerning.

We are also concerned because those employers who are transferring to the commonwealth scheme have been promised a one-stop shop by Comcare. They have been promised that in transferring to the commonwealth scheme they will be respondent to only one set of occupational health and safety laws and one set of accident compensation arrangements. As a state government we have always said we do not believe that is true and that those employers who have workers coming onto their work sites who are either subcontractors or employees of other companies will in fact be respondent to a multiplicity of occupational health and safety laws — that is, the occupational health and safety laws of the commonwealth scheme and also the relevant occupational health and safety laws of the respective state. We are very concerned that, in a sense, employers who have made or who are contemplating making this transfer have been sold a pup.

Comcare has essentially now conceded this through correspondence to the Victorian government — and I presume to other states now — where it has acknowledged that there will be a range of occupational health and safety laws in these workplaces and that it is now incumbent on us to work through with the commonwealth the ramifications and implications of this. We are disappointed because we have said for sometime that this is what would occur, and it is now coming to pass.

Employers who have made the transfer to date have included Optus, K. & S. Freighters, Chubb security, Linfox, the National Australia Bank, and there are other large employers who are contemplating making the change. From those employers I have named we now have 16 000 Victorian workers who are covered by the Comcare scheme. We believe when you look at the nature of the industries they are involved in and at the sorts of work they undertake, you can see it is quite likely there will be a range of employees coming onto their sites and responding to different laws. We think that is regrettable and disappointing and not in the interests of creating simpler, clearer workplaces where the obligations of workers and employers are clearly stated.

In the debate this evening members of the opposition and The Nationals have raised a number of concerns. Probably the best way of articulating those concerns is

to explore some of them at the consideration-in-detail stage. I would hope that in the discussion that occurs members do not confuse the bank guarantees that are required and the financial payments that are required. They are different elements of the legislative scheme and they apply to different employers in different situations, depending on whether they are a self-insurer within the Victorian scheme or whether they are a premium payer within the Victorian scheme or an employer that is seeking or has transferred to the federal scheme.

We hope that people have clarity around that issue, because that is very important in understanding the changes that are taking place. The changes in this legislation are appropriate. We think that in clarifying the management of long-tail claims it is very important that those arrangements are clearly enunciated so that the Victorian WorkCover Authority and employers are clear about who is responsible for what in different circumstances.

We think it is important that the arrangements we put in place be enforceable. One of the key elements of this legislation is to make it absolutely clear that not only are we taking these actions but also that they are enforceable; otherwise, employers can be put in a situation where compliance is voluntary. An employee who complies can be put at a competitive disadvantage with another employer who refuses to comply or who endeavours to frustrate the WorkCover authority's action in seeking compliance, so we think that enforceability is important, and in that context of enforceability the issue of penalties inevitably arises, and that is articulated in this legislation as well. We think that clarifying those arrangements around the guarantees and the payments that need to be made in order to meet an employer's obligation are important, and they are welcome elements of these legislative amendments.

In passing I also would like to thank all members who have contributed to this debate: the member for Box Hill, the Leader of The Nationals, the members for Narre Warren North, Scoresby, Bundoora and Ferntree Gully, the Minister for Police and Emergency Services and the members for Kilsyth, Yuroke, Keilor, Brunswick, Preston and Melton. I appreciate that, whilst this is an important scheme that is well understood by members, some of the technical amendments that are contained in the provisions we are discussing tonight can be relatively complex, so I understand why members would have questions and would seek clarification in relation to those things.

The final point that I would make is simply to say that we are very fortunate in Victoria that we have a well-run WorkCover scheme. It is the best-run state scheme in Australia. It is the state scheme that is in a strong financial position and which pays fair and reasonable benefits to injured workers, that has reduced premiums paid by employers successively by 10 per cent average premium reductions in each of the last four years, which is an encouraging reflection on the strength and viability of the scheme.

The scheme has had well-managed claims in recent years, which have reduced the scheme's financial liabilities, but at the same time the scheme has seen a significant reduction in workplace injuries and deaths — and that is the ultimate and final test of the success of any accident compensation scheme. The questions to ask are: is the scheme well run? Are fair and reasonable benefits being paid to injured workers? Are we taking action which reduces the injury and death rate over time? Through those actions we can ensure that all Victorians can operate in a safe and healthy workplace environment. That is certainly the public policy framework that the state government has sought to put in place.

This bill is worthy and appropriate legislation. It reinforces the strong scheme we have in Victoria and clarifies the obligations and responsibilities of employers who seek to transfer to the commonwealth system and insure with Comcare. I wish the bill a speedy passage.

Motion agreed to.

Read second time.

Consideration in detail

Clause 1

Mr CLARK (Box Hill) — In speaking to the purposes clause of the bill, I thank the minister for his willingness to address issues in the consideration-in-detail stage. I also contrast his measured remarks in closing the second-reading debate with some of the hysterical remarks from various members on the government backbench. In particular I refute on the record the false assertion of the member for Melton that self-insurers are seeking to avoid their obligations and that this bill is about imposing on self-insurers an obligation to meet their run-off or tail claims liabilities.

The legislation as it stands imposes a liability on them to meet these tail responsibilities as they cease to be self-insurers either by moving to Comcare or otherwise.

The changes incorporated in the bill require them to meet those liabilities in cash up front by virtue of an actuarial assessment rather than meeting them over a period of time as these claims emerge.

I will give an overview of the concerns to which we would appreciate the minister's response in order to put matters on the record. The first is the issue of whether or not an employer that ceases to be a self-insurer must pay an actuarial assessment in cash or by way of guarantee. We understand, and I am sure the minister will confirm it on record, that this is to be a payment in cash. The minister suggested that people need to avoid confusing cash and guarantees. First of all I think the confusion comes about because there is no explicit disclosure in the second-reading speech, the explanatory memorandum or the statement of compatibility that mandating a handing back of tail claims to the Victorian WorkCover Authority involves a cash payment; and secondly, in terms of the drafting of the legislation, the provisions are quite convoluted.

That leads to the second issue on which we seek clarification, which is whether or not the amount that has to be paid in cash upon an employer ceasing to be a self-insurer is an amount equal to the actuarial assessed present value of the tail or an amount referred to in section 146 as the assessed liability. The reason for that concern is that, as I said in the second-reading debate, when you trace from section 151(4) of the act back through sections 151(3) and 151(1), you end up at a reference to section 146. The bill refers to the authority assuming the liability in respect of the assessed liability, and the moot point is whether that means the assessed liability itself or just the actuarial value. I believe the answer is, from what the minister has indicated, that it is only the actual amount, not the 1.5 times or $3 million, whichever is the greater. Again, his confirmation of that would be appreciated.

The third area on which we seek some explanation is how it is that we have the parallel provisions in the act. One set in part V governs all cessation of being a self-insurer by a body corporate — in other words, whether it goes to Comcare or whether it goes back to being a premium-paying employer. Then in part VIA we have a separate set of sections which deal with non-WorkCover employers and which in many respects seem to have provisions that run parallel to those that govern self-insurers when they cease to be self-insurers. Some clarification from the minister as to how those two sets of provisions interact would also be appreciated.

Mr RYAN (Leader of The Nationals) — I am conscious of the time, so I will not be protracted in my commentary. Suffice it to say that we also are very interested in a number of the matters that have been raised by the member for Box Hill. We have a couple of other things for consideration as well, particularly around the question of tail claims and the calculation of liabilities.

Those queries essentially are: firstly, whether it is intended to be a cash payment or by guarantee; secondly, whether there is an established formula which is available at large for the basis upon which the calculations are made; thirdly, whether the employer actually has the opportunity to participate in any way, shape or form in the process of those calculations; and fourthly, whether there is any semblance of a mechanism of appeal in some way or other to allow the employer's concerns to be aired. As a further aspect of the same point, if there is an established formula, is there a provision for a discounted cash value allowance for a present payment, if you like, for a long-term liability? Does the formula take into account that that payment is being made up front in effect and that in normal commercial terms there should be some allowance made? If so, what is the nature of that allowance as part of this formula?

I will conclude with what is no doubt one of those obvious issues, but in these circumstances no questions are regarded as ignorant — says me in my own defence. But after all this legislative initiative, what happens if the body corporate is dissolved?

Mr WELLS (Scoresby) — My question is about section 151 of the act. The assumption that seems to be being put forward by government backbenchers is that when an employer ceases to become self-insured they go onto Comcare. But I put to the minister that if an employer ceases to be self-insuring and then goes into the Victorian WorkCover Authority and becomes a premium-paying customer, why would they still need to pay 1.5 times the liability or $3 million?

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — There are several questions and I will deal with them. Firstly, I will deal with the matter raised by the member for Scoresby. He has basically asked that if you are a self-insurer, in which case you have a bank guarantee in place which is calculated in accordance with section 146, why is it that if you then went to Comcare or returned to the Victorian WorkCover scheme that you would be required to pay 1.5 times the liability? I say this to the member for Scoresby that that is actually not the case. You would be required to make a payment that is calculated in accordance with section 151(3) which is about the assessment by the actuary.

The reason why you are required to do that is that you are required to make a payment to reflect those liabilities which you have accrued over your time as a self-insurer and for which you have not essentially paid a premium. So you would then become a premium payer which would deal with your future liabilities, but you would be required to make a payment which reflects not the bank guarantee calculation, as stated in section 146, which is how the member for Scoresby has described it, but in fact make a financial payment as described by section 151(3)(a). Does this clarify the question of the member for Scoresby?

Mr Wells — Yes.

Mr HOLDING — The member for Box Hill and the Leader of The Nationals asked about the threshold question, the first question, which is: what is the form of the payment in relation to section 151(3)(a)? It is essentially in the form of a cash payment. I presume that payment would be made by cheque actually. I hope it would be! The circumstances under which that payment takes place are described in section 151(3) and in subsequent subsections. They essentially describe the way in which the assessment is made. There is an actuary appointed by the authority. Then there is a description of the timetable under which employers need to pay, the capacity for them to essentially negotiate or get an agreement from the authority to take a longer period of time, if that were the case, and then what happens in the event that employers fail to make a payment. That again is described in section 151(5) and following.

In a sense that goes to what I understood to be one of the questions asked by the Leader of The Nationals, which is: what happens if the body corporate is dissolved? Is the Leader of The Nationals asking what would happen if it were dissolved in the context of there being a bank guarantee? That is exactly why there is a bank guarantee in place — to provide protection for those injured workers who would need to access compensation which the company is no longer in a position to provide out of the normal business of the company. The bank guarantee is the device which provides that protection, and that is one of the reasons why the guarantee is there — it is used to protect against insolvency or the company ceasing to trade in the way it perhaps previously had.

The member for Scoresby asked a second question about the issue of section 151(3)(a). Can the member for Box Hill please remind me of the question?

Mr Clark interjected.

Mr HOLDING — The cash payment is the amount assessed by the actuary. The bank guarantee is separate — the 1.5 times the assessed actuarial value or the $3 million, whichever is the greater, is the formula that is used to calculate the bank guarantee in accordance with section 146. This is potentially a different amount: it is the actual amount as assessed by an actuary. That is the reason for the different formulae, if you like, or the different sections which seek to identify what the liability is. What was the third question?

Mr Clark interjected.

Mr HOLDING — My understanding there is that it confuses two different sets of employer obligations. One set is a set for self-insurers in accordance with the Victorian WorkCover scheme, and the second is a set of employers who find themselves in a completely different situation essentially. I do not think the interaction between the two sections is terribly relevant.

Mr Clark interjected.

Mr HOLDING — I must say I do not understand the question. I apologise; I am happy to take that question on notice.

The remaining questions are the questions asked by the Leader of The Nationals, which, from my notes, ask basically if there is a formula and where someone can go presumably to identify what it is. What say, if any, does the employer have in it?

The act is very clear that the actuarial assessment is done by an actuary appointed by the authority; it is not done by negotiation between the parties or with the say of the employer. The act is deliberately designed to assert the authority's right to select a suitably qualified actuary, one who acts to identify the actuarial liability of the employer. Then there was the question of whether there is a discount. If members would bear with me for 30 seconds, I will answer those questions.

I thank the house for its patience. I am assured there is a formula. There is no right of review captured in the legislation but there is a formula, and we can provide members with further information about that if they are so interested. There is no right of review. It does not contemplate, I think what I understood the Leader of The Nationals to be getting at, which is — —

Business interrupted pursuant to standing orders.

Mr Ryan — On a point of order, Deputy Speaker, we on this side of the house are very happy to continue on the basis of concluding the consideration-in-detail

stage and passage of the bill and then finishing, just for the sake of the extra 2 or 3 minutes if that is all it is going to take.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I was going to give the Leader of The Nationals an undertaking to provide him with information about the formula. There is not really any more information that I can provide the house, other than to say that the process, as I understood to be contemplated by the Leader of The Nationals — —

The DEPUTY SPEAKER — Order! The minister needs to deal with it as a point of order or he will need to move for the extension of the sitting for a couple of minutes.

Mr HOLDING — No.

The DEPUTY SPEAKER — Order! The minister has finished.

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Floods: East Gippsland

Mr WELLS (Scoresby) — I have a matter of concern that I would like addressed by the Premier. The action I would like the Premier to take is to ensure that payment of the money announced for East Gippsland — and at this stage it seems to be around $62 million — is made promptly and efficiently, within proper guidelines, to ensure that East Gippsland can get back on its feet quickly and with the full assistance of the government.

There are two areas that I would like to target: firstly and obviously, the farmers; and secondly, the tourist operators. Lindenow is an area on the Melbourne side of Bairnsdale that grows an enormous amount of vegetables. Vegco, which is situated in Bairnsdale, employs a significant number of people from the Bairnsdale area. It receives 100 per cent of its carrots, 100 per cent of its cabbage and 90 per cent of its baby leaf lettuce from Lindenow. My understanding is that it will not be possible to grow any of these products until at least November. It is important that Lindenow farmers receive funding as quickly as possible. In summer Vegco produces about 704 000 units per week. Just prior to the flood Vegco was producing 425 000 units and now after the floods it seems to be around about 250 000 units per week, so there is a significant reduction. Lindenow is crucial to the economic prosperity of East Gippsland.

The other area of course is funding for the tourist operators. About one-third of the economy is based on tourism. I note that in a press release the government has announced a $545 000 tourism package. But when you break it down the amount of money that has been put aside to attract people into East Gippsland is a paltry amount. When you look at the cancellations for the June–July school holidays and the slow bookings leading up to the September school holidays, you will see that East Gippsland needs a significant financial boost. The amount of money that has been allocated so far from the Bracks government will not be enough. In fact, there is only $20 000 for a short-term 'Open for business' campaign. That will not be enough to attract people from Melbourne into East Gippsland.

My request, and the action I ask the Premier to take, is that he make sure the money that has been promised to East Gippsland flows quickly and efficiently.

Geelong ring-road: funding

Mr CRUTCHFIELD (South Barwon) — I wish to bring a matter to the attention of the Minister for Roads and Ports. I seek the minister's action to ensure available avenues are taken to secure funding for stage 4 works of the Geelong ring-road.

For the benefit of those who may not be aware, stage 4 of the ring-road is comprised of three sections. In addition to our original committed stages 1, 2 and 3, stage 4A extends from the Geelong ring-road to Anglesea Road. Stage 4B is the connection from Anglesea Road to Princes Highway West, somewhere near Drayton Road just to the east of the Pettavel Winery and Restaurant. Geelong is the second largest Victorian regional centre, with some 190 000 to 200 000 people, and over the next 25 years it is anticipated to grow by some 90 000 people. This will certainly place increasing freight and commuter demands on the Geelong ring-road.

Funding for stages 1, 2 and 3 has been committed by both the state and federal governments. I understand there is some confusion regarding the federal government's commitment to stage 3, and hopefully that will be rectified in the next 48 hours. My understanding is that the federal member for Corangamite has endorsed the funding for stage 3, but there is some confusion over whether that will occur. We are keen to get out tenders for stage 3. In respect of

stage 4A, which is the link from the ring-road to Anglesea Road, we have committed some $62.5 million of the $125 million, and we are waiting for the federal government to match that $62.5 million.

Mr Mulder interjected.

Mr CRUTCHFIELD — I note the member for Polwarth's jocularity. It is of note that Princes Highway East has received considerable funding — in fact, for duplication all the way through to Traralgon, with a commitment for it to go through to Sale. The only difference between Princes Highway East and Princes Highway West is that we have the member for Corangamite, Stewart McArthur. If the federal government made a similar commitment for the duplication of Princes Highway West, we would have duplication well past the member for Polwarth's home town of Colac, which is something that the mayor of Colac acknowledges. That is something of which the member for Polwarth and other Liberal members may need to be cognisant.

The federal member for Corangamite is indeed reluctant to fund not only stage 4 of the ring-road but also the Colac duplication, both of which are federal government responsibilities. I urge the Minister for Roads and Ports, who is at the table, to put pressure on the federal government to match those funds.

Murray Valley Highway, Rutherglen: upgrade

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Roads and Ports, who is in the house — and it is great to see him here. I bring to his attention that recently the policy of The Nationals has been to fix country roads and save country lives. The minister would be very much aware of the disproportionate number of accidents and people being killed in country Victoria in the past seven years in comparison with the figures for urban areas. Since 2000 there has been a reduction in the total number of road deaths, but during this same period there has been an increase in the average number of deaths on country roads.

The Nationals have highlighted to the house a number of areas of major concern. I bring to the attention of the minister the particular intersection of the Murray Valley Highway and Three Chain Road, about 4 kilometres west of Rutherglen. Over an extended period this has been the location of a number of accidents, including accidents involving deaths. I pressed the previous Minister for Transport to institute an investigation into the road network around the Rutherglen area following the opening of the Federation Bridge over the Murray River between Wahgunyah and Corowa and the development of the major centre just south of Wodonga, which has an extensive development for the Woolworths chain, with a large number of trucks coming through the area.

This increased the problems around the Rutherglen area so much that the former minister decided that there would be an investigation into the road network around the Rutherglen area. We have had an interim report, but the final report by VicRoads has not been provided to us. In addition people in the Rutherglen area have become concerned about the trucks travelling through the main street. There has also been an investigation by the Shire of Indigo. A local committee has been formed and its members have looked at the roads in light of the undertakings by VicRoads.

To date we do not have any conclusive information, particularly on this major intersection of the Murray Valley Highway and Three Chain Road. Given the increased number of trucks using the Murray Valley Highway and the main street of Rutherglen, we need to have a bypass, which has been suggested as part of the investigation into the road network.

I also remind the minister that he visited north-eastern Victoria and my electorate of Murray Valley. In looking at the Murray Valley Highway and in particular the area of Yarrawonga, we can see the bridges around there which come under the minister's portfolio of roads and ports. The bridge over Lake Mulwala between Yarrawonga and Mulwala is another one which needs immediate attention from the minister in terms of repair and replacement.

Calder Freeway: funding

Ms DUNCAN (Macedon) — The request for the action I seek this evening is addressed to the Minister for Roads and Ports. I ask the minister to continue his efforts to secure Victoria's fair share of federal government road funding, specifically for the Calder Freeway just north of Keilor.

The need for improvements to the Calder Freeway is something that I have great concerns about, as do my constituents, and it is an issue that I have raised regularly in this place and directly with the minister. Over a year ago in an adjournment debate I raised concerns about the need for improvements to the interchanges on the Calder Freeway just north of Keilor, and I have also written to the federal member for McEwen, who, as I do, has many constituents who are impacted on by this section of the road.

The state government is willing to fund these improvements to allow construction to commence immediately if the federal government matches its funding. The inaction of the Howard government confirms what the Victorian Minister for Roads and Ports, Minister Pallas, has been stating all year. Again, the minister has included these important local concerns among his comments on the 30 projects proposed in *National Transport Links — Growing Victoria's Economy*, which is Victoria's road funding request submitted to the commonwealth government's five-year AusLink 2 program.

That Victoria is getting ripped off over road funding is known to all. We are not getting our fair share from Mr Howard and his colleagues in the federal government. As members would be aware, major highways and freeways in Victoria are part of the AusLink national network. This state government has applied to the federal government seeking a contribution of approximately $25 million to enable construction of interchanges at Sunshine Avenue, Kings Road, and Calder Park Drive. Currently these intersections are at grade, and with increasing volumes of traffic on the Calder they are increasingly dangerous and creating bottlenecks.

As long ago as 2004–05 the state government made it clear that it would bring forward funding to finance its share of fixing these key intersections. In an unprecedented move the government has made a commitment to invest 25 per cent of a major infrastructure package, estimated to total $11.5 billion, if the federal government gives Victoria a fair share. It is obvious that we are still waiting for the federal government to match the state government's commitment. We have had this issue raised by a member for Western Metropolitan Region in another place. Instead of giving credit to the government and its commitment to funding, he supports the federal government's position and condemns this government, which has put its money on the table.

The Bracks government stands ready, willing and able to fund its share of this important road work. We know we provide 25 per cent of petrol excise, yet we get back only 16 per cent in road funding.

Mordialloc Creek Bridge: reconstruction

Mr MULDER (Polwarth) — The matter I wish to raise is for the Minister for Roads and Ports. I seek the minister's intervention in the rebuilding project involving the Mordialloc Creek Bridge. I visited the local area on 10 July with an upper house member for South Eastern Metropolitan Region, Inga Peulich. We met with traders, members of the public and people who travel along that road on a day-to-day basis and who use the approach to the bridge. Residents, travellers and traders want this entire project reviewed, and they want it reviewed immediately.

I am calling on the minister to intervene with VicRoads to put in place a more realistic time frame for the completion of this road. In question time today the minister spoke of how the people of Gippsland were singing the praises of VicRoads, but I can assure the minister that this is not the case in Mordialloc. The people running businesses down there are at their wits end over this project. The bridge work cut traffic to one lane each way on 18 June, and the project is not expected to be completed until August next year.

That is an absolutely unrealistic time frame. I would be concerned that by this time many of the small business operators in that shopping strip at Mordialloc would be sent to the wall because of the impact this project is having on their businesses. Some shopkeepers talked about a decline in trade of something like 30 per cent. There has been a complete lack of consultation by VicRoads and a lack of any interest at all by Labor members. The members for Mordialloc, Carrum and Frankston have shown no interest at all in responding to calls for help and assistance with this project. The real fear that the traders have is that once people change their shopping patterns and move away from the Mordialloc shopping strip they will not come back. If people over a period of 12 months find other places to go to do business, they will stay with those businesses even once this particular project is completed.

I also heard of talk today of construction of a Bailey bridge at Gippsland. We would ask that a Bailey bridge be constructed at Mordialloc to help with the flow of traffic along that particular route or, as has been suggested by the traders and other people in the area, so that at peak times both lanes are open to peak traffic while traffic coming in the opposite direction could be rerouted around the site. There are a host of different options that could be implemented to assist people.

I think the government has totally and completely misunderstood the impact of this project on Mordialloc traders. What the minister along with the Labor members for Mordialloc, Carrum and Frankston must understand is that small businesses have fixed costs such as rent, power, rates and loan repayments. They simply cannot absorb a downturn of a 30 per cent in business trade and expect to put up with that over 12 months. I call on the minister to intervene, and intervene immediately, in this project.

Broadmeadows Road Deviation, Westmeadows: upgrade

Ms BEATTIE (Yuroke) — I wish to raise a matter for the urgent attention of the Minister for Roads and Ports. The matter I seek him to take action on concerns what is known locally as the Broadmeadows Road Deviation between Mickleham Road and Ripplebrook Drive. The action I seek from the minister is to provide funding to ensure the road is safe for all road users. Tragically, some 12 months ago a young woman was killed along this road.

I want to inform members of the road conditions in this area. This government has spent a lot of money on roads around this particular area. We have duplicated Mickleham Road in three stages right up to Somerton Road at a cost of over $20 million, and people have applauded that. VicRoads built the Craigieburn bypass, so those north–south linkages are in excellent condition, but the east–west linkages are older roads and they are feeling the impact of the massive growth that has taken place in that area of Hume.

As members know, Hume is a growth area and there is increased traffic, not only in the growth area but also in the older areas, which has an impact on those roads. It is vital that we have those east–west linkages, particularly from the airport to the manufacturing industries that dot the Hume Highway. People still need to get to those places. Geographically there is quite a hill there and the road is single lane each way with quite narrow shoulders. There is some parkland and a small bridge, but the road needs an urgent upgrade.

As I said, a young woman was killed there last year, and as well as being fantastic for motorists, it would provide her family with some comfort to see the route conditions improve generally around that area. Traffic does have an impact on that area, and I urge the minister to consider the matter.

Police: service areas

Mr McINTOSH (Kew) — I raise a matter for the attention on the Minister for Police and Emergency Services. The matter I wish to raise is the new Victoria Police people allocation model, which is simply called PAM. PAM will lead to the reduction of police in some police service areas (PSAs). The action I seek from the minister is for him to ensure that the level of funding for all front-line police is not cut in all police service areas such as Banyule, Monash, Manningham, Whitehorse and Boroondara and many others.

The PAM states that it provides a mechanism for Victoria Police to equitably distribute human resources at PSA level — in other words, the PAM is used to distribute and redistribute staff amongst the 56 PSAs. Apparently the PAM fails to place any weight on actual crime. While it takes into account a number of other matters such as retail employees, liquor licences and black spot intersections, it does not actually place any weight on crime. As a result of PAM the city of Banyule, for example, will lose four front-line police, yet drug crime in that area has risen by 30 per cent over the last two years.

The city of Manningham will lose two front-line police, yet drug crime in that area rose a massive 35 per cent last year. The city of Monash will lose a front-line police officer, yet crime against the person rose 17 per cent last year. The city of Whitehorse will lose two front-line police, yet crimes against the person rose 28 per cent last year. Finally, the city of Boroondara will lose six front-line police, when assaults and robbery both increased 16 per cent last year and total crimes against the person rose a massive 12 per cent over the last two years.

As I said, the issue of the police allocation model is flawed because it takes into account a number of matters including major events, black spot intersections, liquor licences, retail employees, and people aged between 15 and 30, which may be very relevant for determining crime trends but do not place any weight on actual crime levels in police service areas. I think it is reprehensible that this government should preside over a regime that would see front-line police being removed from these areas in the name of better policing. Accordingly I ask the minister to provide the necessary funding to ensure that these police are not lost to these areas or to others that are losing police.

Western Highway, Melton: upgrade

Mr NARDELLA (Melton) — I raise a matter for the attention of the Minister for Roads and Ports. The action I seek is for the minister to ensure there is a proper investment in the Western Highway realignment between Melton and Bacchus Marsh through Anthony's Cutting, and for him to convey to the federal government the anger of my local residents about this project not being funded by the commonwealth. Every day 28 000 vehicles use this stretch of road. It services the Western District, supporting the livestock industry, grain production and a range of manufacturing and service activities. Ballarat is the largest regional centre it services, but it also stretches all the way over to the west, servicing both Adelaide and Perth.

There are speed restrictions and safety problems on this stretch of road because of the barriers that were put in the middle of the road when Neil O'Keefe was the federal member for Burke during the time of the Hawke and Keating governments. That is how far back this has gone. There are steep grades and tight curves, and with the high traffic volumes there is a high traffic crash rate. There is a 90-kilometre-an-hour speed limit on this stretch of highway, and there are delays to both interstate and regional traffic. The realignment will eliminate speed restrictions, produce greater efficiency and create economic benefits through the decrease in travel times.

Mr Jasper interjected.

Mr NARDELLA — It is a national highway, for the dill across the chamber.

The DEPUTY SPEAKER — Order! The member for Melton!

Mr NARDELLA — It is the responsibility of the commonwealth government. He has been in here long enough to understand what the responsibilities are — —

The DEPUTY SPEAKER — Order! The member for Melton should direct his comments through the Chair, and the member for Murray Valley should cease interjecting.

Mr NARDELLA — There are other benefits concerning safety in this road being upgraded and the realignment being put in place. Both the amenity and the environment would also be protected because those social costs and accident costs would be vastly reduced. The commonwealth should fund this project under AusLink, because it is its responsibility to fund this road. It means there will be greater freight efficiency and significant benefits to regional industry — something The Nationals do not care about — and there is certainly strong community and stakeholder support for this to occur.

There is also the matter of the important safety outcomes this would create. It is supported by the federal member for Ballarat, Catherine King, MHR, and the federal member for Lalor, Julia Gillard, MHR, whose electorates cover this area. With regard to road funding, Victorians pay 25 per cent in petrol taxes but receive only 16 per cent back. AusLink and the commonwealth government should fund this stretch of road.

Trams: Boroondara access stops

Mr CLARK (Box Hill) — I raise with the Minister for Public Transport the Tram 109 in Boroondara project. I ask the minister to agree to my bringing a deputation of residents, traders and council representatives to meet with VicRoads officers to be briefed on the design options for the project and to discuss their views on the future steps for that project.

The Tram 109 in Boroondara project has its origin in the Kennett government's extension of the tramline to Box Hill, which, when it was taken over by the Bracks government, resulted in some tram stops known as kerb access stops being inflicted on the Mont Albert suburb within the city of Whitehorse. When it came to route 109 in Boroondara, the Bracks government claimed it would do better and set up a process to try to achieve that.

In October 2003 the government trumpeted in a media release 'Tram route 109 through Boroondara set to become a world leader'. It then went through what was supposed to be a five-stage process of consultation, including the issuing of various documents, the putting forward of two design options — including the kerb access stops and an alternative model, involving centre road access tram stops, which was fleshed out by the City of Boroondara — and a further round of consultation with the community. A consultation committee was also established under the chairmanship of the Honourable Mark Birrell and included representatives of the City of Boroondara, disability groups, residents, traders, the Royal Automobile Club of Victoria and Yarra Trams. That consultation committee did a great deal of detailed work on the project. It became quite clear that the net result, as far as members of the community were concerned, was that if anything was to be done with the tram stops in Boroondara they wanted centre tram stops and would not have a bar of kerb access tram stops, which were the government's initial option.

This process concluded, or at least came to a halt, in October 2005 without proceeding to stage 5, which was supposed to involve VicRoads recommending preferred options for government consideration. Since November 2005 I have been seeking a briefing from the government. On 2 November I sent a letter to Minister Batchelor, the then Minister for Transport. I wrote numerous follow-up letters, which were unanswered. I then received a letter from his chief of staff saying I could not be briefed by VicRoads and asking me to supply questions in writing, which I did — but I received no answer. I wrote a further letter to the new Minister for Public Transport on 18 December 2006,

again seeking a briefing, but I did not even receive an acknowledgement. I sent sundry follow-up letters in February and May, but there were still no answers. The ministers have been treating members of the community with contempt. I ask for some action so that they at least know what is going on.

Trentham Football Netball Club: facilities

Mr HOWARD (Ballarat East) — I raise a matter with the Minister for Sport, Recreation and Youth Affairs. I ask the minister to take action in support of a request for funding from the Trentham Football Netball Club to help it construct a female changing room and toilet.

With the support of the Hepburn shire it has applied for funding through the country football and netball program, which is a fantastic program established in a partnership between this government and the Australian Football League. Initially each party agreed to contribute $2 million to the program, starting it off with $4 million, but the state government has since added a further $6 million, making it a $10 million program. This has already proved to be of great benefit to many football and netball clubs in my electorate, such as the East Point Football Netball Club, the Gordon Football Club and the Kyneton Football and Netball Club — —

Honourable members interjecting.

Mr HOWARD — I hear from The Nationals and other members across the house that many other country football and netball clubs have benefited.

A big part of the funding has gone into the clubs building netball facilities jointly with their football facilities so that women and men can come together for sporting activities. But often the clubs have found that the facilities for women have been pretty ordinary. The clubs have needed to provide proper netball courts and also proper change room facilities so that women do not have to go across to the pretty dilapidated men's facilities or some other makeshift change sheds. I have been very pleased to see that happen at Kyneton and at other places around my electorate that have received funding to build some proper facilities.

This particular program has been very well received across my electorate, as I indicated, as has other recreation support funding for clubs across my electorate, from Newland to Hepburn Springs, Napoleon, Ballan, Meredith, Creswick and Buninyong. They have all gained improved recreation facilities through support from this government, but I ask this minister to look favourably upon the application for funding from the Trentham Football and Netball Club. The Trentham community has already received funding to put in a new bowling green, which it is appreciative of, but this money would be greatly appreciated. I trust the minister will look upon it favourably.

Responses

Mr PALLAS (Minister for Roads and Ports) — The member for South Barwon raised an issue in regard to ensuring all available avenues are taken to secure stage 4 funding for the Geelong ring-road.

The member for Melton raised an issue seeking a proper investment in the Western Highway realignment at Melton and Bacchus Marsh.

The member for Macedon raised a matter seeking to ensure that improvements take place at the Calder Highway interchanges.

These three matters are broadly described as priority issues in our National Transport Links — Growing Victoria's Economy strategy, which is the state government's approach to the federal government in respect of the future of federal road corridor funding in the state of Victoria.

I can indicate that the federal government has identified $22.3 billion as the appropriate figure on which to base its so-called AusLink 2 negotiations with the states. The three areas that have been identified are critical, but they fall within a range of items, some 30 of which the state of Victoria sees as being equally meritorious. If all of these items were to be applied at their maximum funding, it could come to a figure as high as $11.5 billion.

I might indicate that at the time the state produced its position in respect of this we did something that I do not believe any other state — —

Mr Jasper interjected.

Mr PALLAS — I notice the member for Murray Valley is interested to know how much the state of Victoria would be prepared to contribute. It is prepared to contribute 25 per cent of the total contribution package of any federal government. To be clear about that, no other state starts a process of negotiation with the federal government on this basis. Why is it that we are doing this? The way this state has been dealt with in respect of federal road funding has meant that we have suffered abysmally. This state contributes 25 per cent of gross domestic product to the nation's economy, we provide 25 per cent of national fuel excise and we provide 25 per cent of the national freight burden of the

nation. Yet, despite the fact that this state is the freight and logistics hub of the nation, we continue to be short changed. This is not an issue that has occurred momentarily or as a consequence of one particular administration.

I want to be clear about this: this is an endemic problem that has disadvantaged Victoria and held back the Victorian economy for far too long. Historically in this Parliament both sides of this house have recognised that proposition — that is, both sides of this house have been prepared to stand up and say, 'We believe Victorians deserve a fair go. We believe they deserve 25 per cent'. Why is it that Victoria deserves it? Because we have done well despite the underfunding that has effectively occurred.

To give you an example, Deputy Speaker, on 9 March this year the *Bairnsdale Advertiser*, a wonderful paper of note, identified Victoria as essentially a hot spot in terms of property development and explained why as follows:

> While other states are grappling with infrastructure and transport problems, Victoria is busy building new roads, revitalising suburban areas and facilitating major new infrastructure and industrial projects.

Despite the encumbrances this state has been able to effectively grow through wise investment. Priorities have been raised by members, including the Western Highway realignment at Anthony's Cutting and the enormous volume of traffic that goes along what would be best described as perilous and dangerous road alignments, and the Geelong ring-road, stage 4. The member for South Barwon, whom I have indicated in the past has been a heroic advocate for appropriate funding for this road, continues his heroic advocacy, and I hope his efforts are not in vain.

I am gravely concerned, as is the member for South Barwon, about the fact that the state of Victoria has still not received confirmed funding for stage 3 of this project, let alone moving on to stages 4A, B and C of the project, which are contained in the National Transport Links — Growing Victoria's Economy strategy. The federal government has signed a contract to provide this money and has essentially stated publicly, through the federal member for Corangamite, that funding will be provided. This government supports it. We support it because we recognise that Geelong, as our second largest metropolitan area, deserves recognition for that. The road should in fact be a ring-road and not a bypass. Geelong should be recognised in its own right as a destination of merit.

The issue of access to and appropriate movements through the Calder Highway, which were raised by the member for Macedon, only further demonstrate the level of investment that is necessary from these funding arrangements. To give you a clear understanding, Deputy Speaker, a partnership needs to be struck with the commonwealth government under these arrangements. We should get a fair share of AusLink funding. Victorians have lost about $1.27 billion in terms of a fair-share allocation under AusLink stage 1 funding. That translates to about $361 per licence-holder in the state of Victoria over the life of AusLink 1, but more importantly it translates to about nine additional regional road projects valued at $1.27 billion or about $1.16 billion of economic benefit to the state of Victoria. If this state had the opportunity to upgrade the Western Ring Road, for example, it would generate about $4.3 billion in economic benefits for the state.

AusLink should live up to its basic creed, which is about direct investment in our transport and freight network, not pork-barrelling in election years and not in effect transferring $2.3 billion of those funds to the state of Queensland for a road — the Goodna bypass — that apparently nobody seems to want. The federal government is prepared to provide the entire funding for that road, but it is not prepared to provide one thirty-fifth of the funding for the Anglesea overpass in terms of the Geelong ring-road. The question we have to ask is why, given that the traffic volumes projected from about 2015 on both roads are about the same.

Finally, in respect of the AusLink issues that were raised by members I want to rely on the comments made by Mr Geoff Craige, the Minister for Roads and Ports in the former government, who described Victoria's annual allocation in 1997 of 16 per cent of commonwealth funds as highway robbery. He was of course supported in his cause at that time by the state opposition. He noted that:

> … federal funding to the states should be in line with their levels of economic and social activities because these activities determine the size of the transport task.

In addition he said:

> … Transport efficiency is an important catalyst for Australia's economic growth and regional and social development.
>
> Victoria's arterial road system carries over 25 per cent of the nation's travel, supporting major intrastate, interstate and international trade in primary produce, manufactures and services.

Mr Crutchfield — Who said that?

Mr PALLAS — Geoff Craige, the Minister for Roads and Ports in 1997. He went on to say — and I reinforce that in the current environment this is equally true today:

> It is essential that the federal road funding to Victoria be lifted to a level commensurate with the national economic significance of Victoria's roads. The consequent improvements to transport efficiency will reap substantial benefit for all Victorians and all Australians.

It is about the nation's economic efficiency and about the freight and logistics hub of this nation being able to do the task that the nation has effectively allocated to it through its appropriate positioning and the demonstrated benefits of the road networks that are currently in place. There is so much more that we could achieve if we could actually enter into a genuine partnership.

As I said, the state of Victoria stands prepared to put real money on the table in the negotiations with the federal government in an effort to ensure that these projects — all 30 of which are profoundly beneficial to the state's economic wellbeing — can be given the attention and the credit they deserve from the federal government in upcoming negotiations.

I now move to an issue raised by the member for Yuroke concerning the Broadmeadows Road Deviation between Mickleham Road and Ripplebrook Drive. I wish to advise the member that VicRoads has developed a number or proposals to improve safety along this stretch of road. These include the construction of sealed shoulders; replacement of rigid lighting poles with frangible poles; installation of safety barriers at a number of locations, including adjacent to parklands; and installation of a red arrow signal at the intersection with North Circular Road to control right-turning traffic at this location. I am pleased to advise the member that funding of $980 000 has been committed to these improvements under the safer road infrastructure program and the state black spot program over the next two financial years.

The Bracks government is proud of its investment in roads. Since coming to office we have invested $4.8 billion on our roads. In 2006 Victoria recorded the second lowest death toll on its roads since comprehensive records began, and Victoria has recorded its four lowest road tolls over the last four years running. Our road toll deaths are 6.6 per 100 000 compared to 8.3 per 100 000 for the rest of the country. But we will not rest on our laurels, as there is so much more to do, and that is why we continue to invest in road infrastructure and education to ensure the safe passage of all road users.

The member for Murray Valley raised an issue concerning the Murray Valley Highway and Three Chain Road. In respect of that matter I can indicate to the member that I will make appropriate inquiries with VicRoads around the priority of that particular road, but I wish to stress the point that as a government we are committed to making sure that prioritisation of all projects is dealt with on a statewide basis. I do, however, draw to the member's attention the fact that whilst he made an observation about spending on roads and country roads, this government has contributed $2.1 billion on rural road projects ranging from major infrastructure to regular road maintenance.

We have made contributions to 897 black spot projects right across the state, and over $280 million has been invested on roads in country Victoria. Since 2000 we have invested an average of $253 million per year on country roads. Might I say that this financial year we will be investing $301 million. That is well above the average and continues the trend of this government's commitment to making sure that country Victoria is adequately provided for through an effective road system.

Insofar as road safety issues are concerned, this government takes its responsibilities very seriously. Since coming to office and since the introduction of the Arrive Alive strategy in 2002, we have seen the road toll across Victoria reduced by 18 per cent. It is true to say that we have saved an estimated 467 lives right across the state of Victoria. The determination of how many lives have actually been saved is worked out by looking at the average loss over 1999, 2000 and 2001. That average is compared to what has actually occurred over the years during the life of that arrangement.

The same principle applies in respect of country roads. However, it is true to say that for country roads the reduction in the road toll in terms of the number of lives saved has not been as appreciable as the statewide average. Overall we have seen 46 lives saved in regional Victoria, using the basic methodology that I have described to the member. We have had the four lowest road tolls over the years, and of course those road safety projects, almost 900 of which we have put in place in country Victoria, and the increase in spending of 280 per cent on road safety have had a dramatic effect statewide.

The responsibility to continue that task is a shared burden, not only for the government but also for road users. I acknowledge the contribution made by the member for Murray Valley and the intent with which it was provided, and that is that these are serious issues. I will have the matter he raised with me looked at, but I

wish to reinforce the basic proposition that statewide priorities need to be looked at.

The bridge over Lake Mulwala is another issue. I was pleased to be hosted by the member for Murray Valley when I was in his area just recently and to walk with him over the Mulwala bridge. I can indicate that the government remains committed to the time frame of 2020 in respect of the bridge and putting in place a replacement. As the member for Murray Valley is aware, when I visited Yarrawonga to meet with members of the Moira Shire Council and him I indicated that the Bracks government has a commitment to replacing the bridge by 2020. VicRoads will manage it in its current form, and it will maintain the bridge and ensure its structural integrity.

Mr Jasper interjected.

Mr PALLAS — These are reasons why the member for Murray Valley should stick around to see that this last bridge is completed.

I have instructed VicRoads to liaise with the Roads and Traffic Authority in New South Wales to explore the options that are available for the removal of the bridge and to determine time frames going forward to give certainty to the council and the community.

The member for Polwarth raised an issue concerning the Mordialloc Creek Bridge. I want to place on record my appreciation of the members for Carrum and Mordialloc, who have been tireless advocates on this issue.

Mr Mulder — I have not seen them out there.

Mr PALLAS — I can assure the member for Polwarth that I certainly saw them when I went out there on a Friday morning three weeks ago and looked at the nature of the problem. They are very much aware of the issue.

To put it into context, this is an $8.2 million project which will widen the road by providing four clearly dedicated and standard-size lanes. This will assist in reducing congestion in the area and improve safety for all motorists. A number of measures have been put in place already to deal with the issue, and I think it would be remiss of me not to acknowledge that there is a level of inconvenience to the community that in its current form is not acceptable.

The actions that have been put in place are that signs have been installed on the approaches; traffic management measures have been put in place; alternative routes have been suggested; and surrounding roads have been given extra green time to help keep traffic flowing. VicRoads are monitoring by the hour and looking at the queues and how they are being managed, and I can indicate that the government will continue to look at mechanisms by which the time frame for the management of this project can be accelerated, and other options that can minimise the disruptive effect to the community.

The member for Scoresby raised a matter for the Premier concerning the Gippsland flood recovery package, seeking that funding promised under that package flow quickly, and I will refer that matter.

The member for Kew raised a matter for the Minister for Police and Emergency Services concerning the police allocation model, seeking an assurance that all front-line police in front-line areas are not cut and that adequate funding is assured, and I will refer the matter accordingly.

The member for Box Hill raised a matter for the Minister for Public Transport concerning tram 109 in Boroondara, and I will refer that matter accordingly.

The member for Ballarat East raised a matter for the Minister for Sport, Recreation and Youth Affairs concerning Trentham netball club change room facilities, and I will refer that matter accordingly.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 10.52 p.m.