

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL**

**FIFTY-SIXTH PARLIAMENT**

**FIRST SESSION**

**Tuesday, 7 August 2007**

**(Extract from book 11)**

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**Privileges Committee** — Ms Darveniza, Mr D. Davis, Mr Drum, Mr Jennings, Ms Mikakos, Ms Pennicuik and Mr Rich-Phillips.

**Select Committee on Gaming Licensing** — Mr Barber, Mr Drum, Mr Guy, Mr Kavanagh, Mr Pakula, Mr Rich-Phillips and Mr Viney.

**Select Committee on Public Land Development** — Mr D. Davis, Mr Hall, Mr Kavanagh, Mr O'Donohue, Ms Pennicuik, Mr Tee and Mr Viney.

**Standing Orders Committee** — The President, Mr Dalla-Riva, Mr P. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

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

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

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

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

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

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

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

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

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

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

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*Parliamentary Services* — Secretary: Dr S. O'Kane

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**FIFTY-SIXTH PARLIAMENT — FIRST SESSION**

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Mr DAMIAN DRUM

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## Tuesday, 7 August 2007

The PRESIDENT (Hon. R. F. Smith) took the chair at 2.03 p.m. and read the prayer.

### BUSINESS OF THE HOUSE

#### Filming of proceedings

The PRESIDENT — Order! I wish to advise all members that I have approved the videotaping of question time today by a production team associated with Channel 31. The filming today is a trial project with the long-term aim of it becoming a regular occurrence.

### CONDOLENCES

#### Hon. Walter Jona, AM

Mr LENDERS (Treasurer) — I move:

That this house expresses its sincere sorrow at the death, on 22 July 2007, of the Honourable Walter Jona, AM, and places on record its acknowledgement of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Assembly for the electoral district of Hawthorn from 1964 to 1985, as Minister of Immigration and Ethnic Affairs from 1976 to 1979 and as Minister of Community Welfare Services from 1979 to 1982.

Walter Jona died last month after a long fight with cancer. He held the seat of Hawthorn for the Liberal Party for 21 years, and he was well respected on both sides of politics. He is best known as the man responsible for introducing Victoria's compulsory seatbelt laws in the 1970s, and he is rightly credited with saving thousands of lives because of that.

His chance to distinguish himself came in 1967 when the Bolte government responded to the appalling road toll by creating the all-party Road Safety Committee with Walter Jona as the chairman. After an exhaustive 11-month inquiry, the committee recommended the fitting and compulsory wearing of seatbelts in all motor vehicles in Victoria. Even though the then Premier, Sir Henry Bolte, and his deputy, Sir Arthur Rylah, were strongly against this, Walter Jona deployed considerable political skills to get a reversal of the then policy and, in a tripartisan manner, reform the rules in Victoria. As a consequence in 1970 Victoria became the first jurisdiction in the world to enforce the wearing of seatbelts. All other states and territories followed by the end of 1971.

In 1973 Walter Jona went on to become cabinet secretary. Three years later he became Victoria's first Minister of Immigration and Ethnic Affairs and was also made Assistant Minister of Health. He was an enthusiastic multiculturalist who helped promote cultural diversity, and Victoria was the first place to give the concept statutory recognition. He became Minister of Community Welfare Services after the 1979 election.

Walter Jona was an active member of the Jewish community, a prominent philanthropist and served on many community organisations. He chaired the Gandel Charitable Trust, and in that capacity I had the opportunity to meet him on a number of occasions. He was a very honourable man. He also chaired the Asthma Foundation of Victoria, he was a life governor of the then Association for the Blind, a director of the Victoria State Opera and a former chairman of the board of advisers for the Royal Society for the Prevention of Cruelty to Animals. A Hawthorn Football Club member for 75 years, he also chaired the Victorian Cricket Association task force on the future of cricket in Victoria. He was made a member of the Order of Australia in 1986.

In his published autobiography *People, Parliament and Politics*, Walter reflected on some of his many experiences and observations during an exciting period in Victorian politics from the early 1960s to the mid-1980s. On behalf of the government, I express sincere condolences to his wife, Alwynne, and his family. Walter Jona was 81 years of age when he died. He lived a rich and fulfilling life, and he will be sorely missed.

Mr P. DAVIS (Eastern Victoria) — I join with the Leader of the Government in this condolence motion for Walter Jona. I had the privilege of knowing Walter Jona. He was a man of great integrity and someone who has a special place amongst Liberal Party members. For a man whose life centred on his family and his neighbourhood in Hawthorn, Walter Jona's influence spread far across the horizon, and it is an example to us all. Walter's book *People, Parliament and Politics*, which was published in September last year, gives us an insight into the contrasts in his life. Writing of his love of football and Hawthorn, and the two were inseparable — that is, the Hawthorn Football Club — Walter quotes a former Hawthorn club president as saying:

If you embrace Hawthorn, Hawthorn will embrace you.

He was born in the family home in Glenferrie Road and at the time of his passing late last month, successive

generations of the Jona family had lived in Hawthorn for more than 80 years. His father Jacob, a doctor, and one-time president of the Hawthorn Football Club, took out a junior club membership for Walter in 1932 when he was aged six. It just goes to show if you get them when they are young, you have got them for life. This created a connection that spanned three-quarters of a century.

Walter also set out to follow in his father's professional footsteps as a doctor, but as a local newspaper noted on his retirement from Parliament in 1985:

It's ironic that Walter Jona set out in life to be a doctor, failed second year medicine but ended up indirectly being responsible for saving many lives!

This is where we should begin to look at the broader horizon of Walter Jona's life. He was the driving force behind the introduction in 1970 of legislation to make the wearing of seatbelts compulsory in motor vehicles in Victoria — the first jurisdiction in the world to take this step — and now seatbelts are commonplace worldwide as a primary measure towards safer roads. Seatbelts were legislated after a high-profile campaign in the then *Sun* newspaper. I well remember the Declare War on 1034 campaign, when road accidents were claiming more than 1000 lives per year. As chairman of a select committee on road safety, Walter headed the inquiry that advocated the compulsory wearing of seatbelts in its report to Parliament.

He was also a pioneer in the area of social policy as the first ethnic affairs minister in an Australian jurisdiction — at a time when the cultural mix in our society was not nearly so broad as it is today, nor nearly so well accepted. He made a significant contribution to fostering a new direction in ethnic affairs that recognised cultural diversity as a positive contribution to the cohesiveness of the Victorian community. Later, as Minister for Community Welfare Services he implemented a policy of deinstitutionalising child and youth care services. While he held that portfolio from 1979 to 1982 the number of children housed in institutions declined from 65 per cent to 37 per cent through the establishment of foster care and family groups.

In his long political career Walter was the archetype of an effective local member. Even during his service in the ministry, Walter's commitment to his local community was undiminished. Throughout a record 21 years as member for Hawthorn he maintained a listed telephone number at his home. That approach goes a long way to explaining his political achievement of being a very long-serving member in a seat which had many boundary changes.

At the time he was first elected in 1964 the Hawthorn electorate covered only the western half of the suburb of Hawthorn as it exists today and extended into Burnley and Richmond. In the 21 years before he won the seat it had been held by five different members representing six different parties or independent interests. Walter scraped in at his first attempt on third preferences — which would seem today an unusual situation. Thereafter, his attention to the needs of his community secured Hawthorn as what was regarded as a safe Liberal seat.

It is interesting to reflect on the influences that led Walter on the path to politics and had a bearing on his early years as a member of Parliament. Walter began attending political meetings with his father while he was aged in single figures, and he joined the fledgling Liberal Party after attending Robert Menzies's campaign opening for the 1946 election at Canterbury Memorial Hall. At the time of his election the seat of Hawthorn fell within the federal seats of Kooyong in the east and Yarra in the west, which positioned Walter — geographically at least — between the two towering figures of Robert Menzies and Jim Cairns.

Walter's mission in life embraced four fundamental streams — his family and local community, politics, philanthropy, and the predominant winter and summer sports of football and cricket respectively. His philanthropic interests saw him serve in prominent positions with a large number of charitable and humanitarian organisations working within Australia and internationally. These included the then Association for the Blind, the Queen Elizabeth Centre Foundation, the Royal Melbourne Hospital Neuroscience Foundation, the Gandel Charitable Trust and the Montefiore Homes for the Aged.

For his humanitarian work in politics and for these organisations Walter received the Queen Elizabeth jubilee medal in 1977 and the Order of Australia award in 1986. He was also awarded an honorary doctorate in 1996. The citation describes it as being 'In recognition of contribution to community relations and humanitarian services at the international level and his lifelong dedication to the public domain in Australia'.

His loyalty to the Hawthorn Football Club led to him being made its patron, and his advocacy on behalf of football fans in the era when the Victorian Football League was our major league inspired him to form the VFL Combined Supporters Association in the 1980s, as the league was going through a time of enormous uncertainty. He shared the concern of fans that the VFL was headed for disaster. There was even contemplation of a national league that would lead to the

establishment of a competition above the normal Saturday VFL home and away games! However, he recognised the need for change, and in 1981 he put the proposal to a full Liberal Party meeting that the VFL should be permitted to trial Sunday games. The proposal was rejected by two votes.

Summertime saw Walter's attention turn to cricket. Aside from being an enthusiast of the game, he served 17 years as a commissioner for the code of behaviour for first-class cricket matches played in Victoria. While he was in that position, Dean Jones was the first player to appear before him on a disciplinary charge.

Here we pay respect to a remarkable man who left his mark in spheres from his immediate community to the canvases of Victorian, Australian and international life. He held firmly to the philosophy of the Liberal Party and the principles of federalism. He was, in summary, the member for Hawthorn from 1964 until 1985, Minister of Immigration and Ethnic Affairs from 1976 to 1979, Minister of Community Welfare Services from 1979 to 1982, Assistant Minister of Health from 1976 to 1979, Parliamentary Secretary to Cabinet from 1973 to 1976, chairman of the Road Safety Committee from 1967 to 1973, Liberal Party parliamentary spokesman on community welfare services from April to November in 1982 and parliamentary spokesman on education from 1982 to 1985.

In conclusion our tribute extends to his wife, Alwynne, who stood with Walter and worked with him throughout his public career. I take this opportunity on behalf of the opposition to express our condolences to her and the family.

**Mr HALL** (Eastern Victoria) — I wish to associate members of The Nationals with this condolence motion and express our sorrow on the death of Walter Jona on 22 July of this year. I did not have the pleasure of meeting Walter Jona, but upon reading much about his career I wish I had had that opportunity. Reading all about him was certainly enriching. Walter Jona's record was one of the most impressive lists of services and achievements that I think I have ever read. It included service with the Royal Australian Air Force and 21 years of parliamentary service as the member for Hawthorn between 1964 and 1985; as others have suggested, that is a record length of service for that particular lower house seat. Between 1967 and 1973 he was also the chairman of the Road Safety Committee, a committee which still exists today; and I think there would be few parliamentary committees that have had 40 years of continuous service to the Parliament of Victoria. Walter Jona was the first chairman of that committee, and it was the work of that inaugural

committee that saw Victoria being the first jurisdiction in the world to implement a policy of the compulsory wearing of seatbelts.

Walter Jona was also a minister of the Crown. Another first for Walter was that he was Australia's first Minister of Immigration and Ethnic Affairs, between 1976 and 1979. He was also the Minister of Community Welfare Services between 1979 and 1982. It has also been mentioned that Walter Jona received an Order of Australia award in 1986. He published a book, *People, Parliament and Politics*, just last year, which I have not read but am certainly tempted to read now. He served with countless community, charitable, arts, health and sporting organisations — all in a voluntary capacity. And the list goes on.

There have been many words written and spoken in honour of the life of Walter Jona. Some of those included 'a person of integrity and commitment' and 'wise, committed, tolerant, fair — in the fullest sense a most worthy citizen'. In Walter Jona's own words he was 'a parliamentarian not a politician', and I guess in that sense he endeared himself to many on both sides of politics. Walter Jona will always be remembered with the highest level of respect by all sides of politics. The sincere condolences of The Nationals are extended to his wife, Alwynne, and to the extended family and friends of Walter Jona.

**Mr THORNLEY** (Southern Metropolitan) — I join with the leaders of this Parliament and other members to pay my respects to Walter Jona and to offer my condolences to his wife, Alwynne. It is an honour to speak on this condolence motion. I did not have the privilege of knowing Mr Jona, but I believe he achieved what I guess all of us in this place aspire to — lasting reforms that improve people's lives. So it is appropriate that his contribution is indeed remembered in some form by our generation, people who are undoubtedly beneficiaries of his efforts. I knew a little of Walter over the years, as people who follow these things do, but mainly because of his pioneering leadership in road safety and his many lasting contributions to the Jewish community.

On his passing I, like many others, became more closely acquainted with his record of public service. Indeed Walter was the epitome of someone who sought a career in public service. He was in his own words 'a parliamentarian, not a politician', and his devotion to a wide range of community leadership roles after his parliamentary service is testimony to that commitment. As we have heard, Walter was first elected to the Parliament in 1964 as the member for Hawthorn. He held that seat until his retirement in 1985 and was its

longest serving representative. However, his parliamentary record of service was short compared with his 75 years as a dedicated member of his beloved Hawthorn Football Club.

As one of the representatives of the region that covers his old electorate, or most of it — I believe in the initial stages at least it also included parts of Richmond south and Burnley — I wish to place on the record the great appreciation of his constituents and the people of that area for his service over many years. Similarly, as one of the representatives of the region that includes most of Melbourne's Jewish community, I place on the record, as have many distinguished speakers at his recent state funeral at Temple Beth Israel and elsewhere, the pride of so many members of the Jewish community in and their thanks for his leadership and service.

Walter's grandparents left Russia in the late 19th century to escape anti-Semitic persecution, and members of his family rapidly made a contribution to their chosen place of settlement. His father, Jacob, was a local GP in the Hawthorn area, and his mother, Lily Wittner, was involved in a range of community activities.

Walter was clearly — as many of us are, I guess — a political junkie. I read with amusement of his trips on the tram after school, when he travelled in to watch parliamentary debates. I wish that that level of civic engagement existed still. He was also actively involved in the Jewish community before his time in Parliament as well as afterwards, including in his role as honorary secretary of the Jewish Board of Deputies Public Relations Committee. Walter was the first Jewish cabinet minister in Victoria in 30 years when he was appointed in 1976 as the first Minister of Immigration and Ethnic Affairs. His pioneering role in that portfolio and indeed his pioneering role in road safety are testimony to a man who was thinking about the future of his society and looking to contribute in a range of new and different ways.

As the Leader of the Government did, I pay tribute in particular to his role in road safety. It is easy for us to look back and think that this was a battle easily won given the obvious merits of the case, the benefits of which we now enjoy. Australia has gone from having the highest road toll per capita in the world to having the lowest. But somebody had to lead that charge, and in the difficult life that we all lead Walter Jona was that person. As the Leader of the Government suggested, he did so using a fair amount of political wile, which was necessary to gradually build public support and to overcome resistance from pressure groups and others who wanted to oppose it.

Whilst he is most remembered for his contribution towards the introduction of compulsory seatbelts as the first of a number of major steps towards road safety reform, I think that underestimates his contribution, because it was that change and the resultant immediate reduction in the road toll that enabled public support and public sympathy for the continuing efforts to reduce the road toll which then followed. As the pioneer of that effort Walter Jona created a public expectation of new measures and a public willingness to consider them, which made it all that much easier for others campaigning for things like compulsory and random breath tests and the now very well-known advertising campaigns to also play their part in the continued reduction in the road toll.

As I mentioned, Walter Jona did not cease his service to his community when he ceased his long and dedicated service in Parliament. On the contrary, he continued serving in such an enormous number of roles that it takes a full page simply to list them, as many have already attested to. But one of the most important was his lifelong dedication to learning and education, which extended from his commitment to Swinburne University throughout his entire time as the member for Hawthorn, from his inaugural speech onwards, to his lasting and very important role as a member of the board of governors at Tel Aviv University, which honoured his contribution with an honorary doctorate. He contributed as a trustee to the Montefiore Homes for the Aged and as chairman of the Victorian Union of Progressive Judaism from 1987 to 1994.

Walter made very many other contributions in his long and distinguished life of public service, and it is a privilege for me on behalf of his former constituents and his many friends in the Jewish community to pay tribute to him and as part of this Parliament to offer our condolences to his wife, Alwynne, and to his many friends and family, who will mourn his passing.

**Mrs COOTE** (Southern Metropolitan) — It is with sadness that I rise to speak on the condolence motion for Walter Jona.

Fred Morgan, who is a rabbi at the Alma Road synagogue where Walter's very moving state funeral was held a couple of weeks ago, said that it was no accident that Walter Jona's biography was entitled *People, Parliament and Politics*. Fred then went on to say how important people, family and especially Alwynne, Walter's wife, were to Walter Jona. I had the honour of knowing Walter. He was a wonderful man and a rare thing: he was a politician of integrity.

It was at the launch of that very autobiography *People, Parliament and Politics* when it became visually evident how these elements of Walter Jona's life met in a confluence. People from all walks of life attended the launch; there were prominent people from all political parties. As a long-serving successful minister in a Liberal government, it would be easy to jump to the conclusion that he had made many political foes; but not Walter. At the book launch there were many people and political friends from the Liberal Party and the Labor Party. Walter Jona was highly respected — not an easy feat in the cut and thrust of politics in which he operated.

Walter's book has been a reference for everyone in politics. When he was writing his book I had many long discussions with him in a coffee shop in Hawksburn. He wanted to make quite certain that his account was accurate and open, and that it would be a transparent record of what had happened during his time in politics. As members who have read his book would know, I think he certainly achieved those aims.

As has been said today, he was particularly noted for his work regarding seatbelt regulation in this state. I think that will be a record that will take a very long time for anyone to surpass. Others have mentioned his long and detailed experiences as a minister, as the member for Hawthorn and of some of his achievements. But whilst he was the member for Hawthorn, as my honourable colleague Philip Davis said, Walter initially operated from home and then went on to have a listed telephone number for the entirety of his political career.

Every year he used to doorknock his entire electoral seat. He knew people personally, and, as he explained to me, he would go into someone's house and would always give them a calendar or something they could put on their fridge. When he went back a year later, it would be sitting there as a memento of his visit the year before. He personally knew and dealt with so many people in his electorate, which made him such an effective politician.

The first time I came across Walter Jona was when I saw a bridge with a sign on it that said 'Jail Jonah'. I used to think, 'Who is this Jona?'. Nevertheless I took this issue up with him later, and he said yes, it was extremely funny, and that it was about a stance he had taken on a particular issue. But he said, 'You know what? They spelt my name incorrectly'. He was most affronted by that. That sign was there for a very long time.

At Walter's funeral Rabbi Fred Morgan went on to say that Walter had been involved not only in politics but that he had been associated with over 58 different organisations and charitable trusts. The rabbi said that Walter had been not only a member of these committees but that he had in fact been a patron, a chairman, a president and that he had been actively involved in all of the activities associated with those committees.

I came across Walter when he was on the then Queen Elizabeth Mothers and Babies Foundation. He raised significant funds which provided the basis for what has now become the Queen Elizabeth Centre in Noble Park. That centre has gone from strength to strength; it is one of the world's best organisations in providing help and assistance for mothers and fathers of small children. Walter, aside from things such as the Hawthorn Football Club, was actively involved in the things that really help people at the coalface. He was extremely involved in the work of that foundation.

Walter was ill for many years. From when he was first diagnosed with cancer, he and Alwynne travelled extensively overseas. Those of us who were lucky enough to know him shared some of the excitement of that overseas travel and some of the experiences they had had together.

Alwynne was a very important component of his life, and I would like to read what Walter himself wrote about her in his book *People, Parliament and Politics*:

Finally, this book would not have been possible — let alone commenced — without the encouragement, support and positive assistance of my wife. Alwynne has been a true partner in all aspects of my life. Her busy life in Hawthorn as the wife of the local MP and the role she played during my ministerial days represented the highest level of community and public service. She was exceedingly patient and tolerant throughout my public life, while at the same time managing to pursue her own interests and maintain her own community involvement. She proved to be a rare person indeed.

On behalf of all of us who knew Walter, I would like to thank Alwynne for sharing him with the state and with the Liberal Party. Thank you, Alwynne.

**Mr PAKULA** (Western Metropolitan) — I also rise to place my condolences for Walter Jona on the record. I personally had very little contact with Walter Jona, other than meeting him at a few functions, and I certainly have no affinity with his football club. The fact is that today I am one of only two Jewish members of Parliament who are active in Victoria, and Walter Jona was something of a trailblazer.

As members know, the Jewish community in Melbourne is relatively small, fairly tight-knit and takes great pride in the achievements of prominent Jewish community members. That pride was particularly evident amongst my grandparents' generation — the same generation of which Walter Jona was a member. As a young child I remember hearing stories of prominent Jewish community figures who had made a contribution in Australia — in a military sense, Sir John Monash; in a legal sense, Sir Isaac Isaacs; and in politics, such figures as Barry Cohen, Peter Baume and Walter Jona.

As a child I grew up under the Hamer government, and I remember it as a government that seemed to go on and on. I do not have a great recollection of many of the figures in the Hamer government, but I certainly recall such people as Lindsay Thompson, Jim Ramsay, Bill Borthwick and, of course, Walter Jona. I remember Walter Jona very well because he was constantly referred to in my household by my grandparents, particularly because, like my mother's family, Walter Jona's family were Russian Jewish immigrants.

I remember his time as chair of the Road Safety Committee. I do not have a recollection of the Declare War on 1034 campaign — I think I might have been a little young for that — but I remember very well Draw the Line at 899, which was a campaign that took place a couple of years after that. My recollection is that he was still involved at the time that campaign was in place.

I want to make particular reference to Walter Jona's work for and in the Montefiore homes. I spent an inordinate amount of time at the Montefiore homes when I was a child because it was the final abode of both my grandmothers, my great-grandmother and one of my grandfathers. For people who are not familiar with it, it is an institution on St Kilda Road that provides an incredible standard of care and wonderful facilities for the residents. It takes a compassionate and egalitarian approach to access to the centre for members of the Jewish community, regardless of their income.

I remember well that Walter Jona's contribution and commitment, not just to the centre but also to its ethos, was immense and highly regarded at the time. I remember him being particularly honoured by the centre, both with plaques and the expression of the sentiments of the residents and staff at the time.

In his contribution today the Leader of the Opposition made reference to the four pillars of Walter Jona's philosophy: family, politics, football, and philanthropy. I would say that the first three are easy for many

members of this house. It is easy to be committed to your family, to your football club and to politics, but in my mind to dedicate yourself to philanthropy post politics is the sign of a towering community figure and a person of substantial character.

I am sure that if each of us could look back at the end of our life, we would be proud if our own contribution measured up to Walter Jona's. I also add my condolence and my best wishes to his wife, Alwynne, his family and his friends.

**Mr D. DAVIS** (Southern Metropolitan) — I am very much honoured to make a contribution to this condolence motion today, and do so as somebody who knew the Honourable Walter Jona, AM, well and over a number of years.

Many in this Parliament associated with Walter at the very many community groups that he was involved with, both within the Jewish community and also broadly across our community. As members have said today, he was a parliamentarian first, and he did that with great generosity, great modesty and great skill. He was a man committed to public service and public service first. I agree with Mr Pakula about those four pillars. The most difficult one is the commitment to philanthropy or broader community service if so defined, and I think that is where Walter's exemplary character came through. The comments at the funeral made by both rabbis and others were testimony to his generosity, to the knowledge he had of the community and to his long-held principle on community service.

He was a trailblazer, as members have said today, not just with the seatbelt legislation — and I do not want to go over the detail of that again because it has been well put on the record today; that is a contribution the people of Victoria will long treasure — but he also led the community in the position he held in the immigration and ethnic affairs portfolio. Those important portfolio areas were a step taken by the then Bolte and Hamer governments through that period, and much of what Walter stood for in terms of tolerance and respect for the broad community is something from which we could learn very much today and take to heart on a lot of levels.

Walter led by example. He would never have lectured people, he always led by example. Walter was a person whose own life was the model for many others. I certainly have to say that as a young MP — and prior to that, as a person active in political life on a number of levels — I learned from Walter, and I was very grateful for comments he made and advice he gave to me from time to time.

Walter's military service is something that should also be referred to today because he was committed to his country in that ultimate way: he was prepared to make significant sacrifices.

Walter's relationship with Alwynne has also been referred to today, and it is important to place on record that she was a lifelong partner of his in a way that is quite unique. Alwynne is a person of great decency and intelligence and was a fine companion. Alwynne worked with Walter in so much of the work that he did, and his contribution to the broad community — to Hawthorn, to communities around the state and also to the Jewish community — will be remembered for many years to come.

I was very proud to have attended his book launch. I am not sure of the exact date but it was relatively recently that his book *People, Parliament and Politics* was released, and I commend that book to members and to the community, because it lays out the best of politics in many respects. Walter's personality and decency comes through. Mrs Coote made a comment about his attention to detail and his determination at ensuring the veracity of what he said; the accuracy of what he said would be uppermost. That also comes through in not only his life but also in his writing in that book.

Walter had a long period in Parliament representing Hawthorn, from 1964 to 1985, and that is a very significant length of parliamentary service. He contributed right through that time and beyond. His period as a minister was a very important one, and I have referred to that already. Again I place on the record my sorrow at his passing and extend my best wishes to Alwynne.

**Mr SCHEFFER** (Eastern Victoria) — I also rise with considerable sadness to contribute to this condolence motion for Walter Jona. Like most Victorians I have been aware of Walter Jona and the contribution he has made as a member of Parliament and also as a public figure throughout most of my life, but I had the privilege of getting to know Walter Jona personally during my term as a member for Monash Province during the last Parliament. Walter attended most of the many community events in the Jewish community, and, as everybody knows, he was deeply loved and respected for the great contribution he made to the development and wellbeing of the general community as well as to the Jewish community in particular.

My rather surprising election to represent Monash Province as, unusually, a Labor member, meant that it took me some time to be accepted in the blue-ribbon

lower house seats of Malvern and Caulfield. But from the outset Walter was one of those people who made a point of welcoming me very warmly to my new role. He always, without fail, took the opportunity to come and talk to me at functions, to give me a wave across the room or in some way indicate that I was accepted and that my contribution to the event and to the community of which he was part was valued, and I respected him for and in turn took some reassurance from his kindness. He was always interested in what I was doing in the community, he was always interested to know what was happening in the Parliament, and he was especially, particularly in the early periods of the last term, very interested in the reforms that were being made to the upper house and how I thought they might work out. We also spent considerable time discussing the investigations that he was making into the history of his own family, which was of great interest to him. Indeed it is an absorbing and fascinating history of a family.

In summary, Walter Jona was a very great and very kind man. I offer my condolences to Alwynne, his wife, and to his family and his many friends and colleagues. He will be very deeply missed.

**Mrs KRONBERG** (Eastern Metropolitan) — I regard the opportunity to speak on this condolence motion as an honour. The date of 22 July 2007 saw the passing of a great Victorian, the Honourable Walter Jona, AM, PhD. The many people who knew him, worked with him, admired him and respected him are greatly saddened. Walter Jona served this state with great distinction and in many ways was a man ahead of his time. He was the member for Hawthorn from 1964 until 1985, which according to his own words was 'The only seat I wanted to represent'. He was Parliamentary Secretary to Cabinet from 1973 to 1976, Assistant Minister of Health from 1976 to 1979, running parallel with his full ministry portfolio as the first Minister of Immigration and Ethnic Affairs from 1976 to 1979, and Minister of Community Welfare Services from 1979 to 1982.

I speak not as a parliamentary colleague but as someone who, after years of admiring Walter Jona from afar, got to know him well through our involvement in the Jewish community. To me Walter Jona was a touchstone — a great listener, a wise counsellor and a real gentleman, and someone who was unstinting with his time and his interest. His humanity and genuine interest in people and the human condition was palpable. People were charmed by him and he displayed no arrogance or vanity. In today's vernacular one would describe him as a quiet achiever but one

whose vision and resolve brought us far-reaching changes that have benefited us all.

Whilst the chair of the all-party parliamentary Road Safety Committee it was his quiet determination and his masterminding of a report that led to Victoria enacting the world's first compulsory seatbelt laws. This initiative has saved and will continue to save countless thousands of lives. This is one of Walter Jona's legacies.

A wise and tolerant man, Walter Jona set benchmarks for us all as he charted a new course in ethnic affairs. He was the first Australian to hold such a portfolio. The title of his autobiography *People, Parliament and Politics* resonates for many, as it shows us just what he saw as important and what emphasis he placed on public life — that is, putting people first.

Walter Jona's service to this nation started in World War II when he joined the Royal Australian Air Force. As an example of the humility of the man, I will quote from his autobiography; members will be able to pick up the tone:

My subsequent wartime and air force career were not renowned for any contributions on my part to the victorious end of hostilities on 15 August 1945. However, although there was nothing I did that shortened the war by even 1 second, my relatively brief service life had a profound impact on my own personal development and attitudes.

The refreshingly open and honest communication style of Walter Jona is there for us all to see.

His fascination with politics started back in his school days at Scotch College from where, after school, he would ride the tram into state Parliament just to hear the debates. A committed Liberal, Walter's loyalty to our great party rose as a direct result of hearing Robert Menzies speak at a public meeting. Walter heard the message that inspires us as Liberals — namely, 'The rights of individuals and the obligations of the state'. Walter Jona's membership of the Liberal Party spanned the 60 years from 1947 until his passing.

Walter's devotion to his family, its history and its standing in the community here in early Melbourne is reflected in a quote in his autobiography from a congratulatory letter Sir Robert Menzies sent Walter following his preselection:

I feel the nature of your family association with the electorate will be sufficient for the electorate to know and respect your own character and ideals.

Walter's loving marriage to his gracious wife, Alwynne, is a model for us all, and now it is to her that

I offer my deepest condolences on the passing of her husband.

Walter had to be tough, too, especially during his term as community welfare services minister, with responsibility for running prisons. His legacy also includes the establishment of the Jika Jika high-security division of Pentridge Prison, which meant that no prisoners escaped during his time managing that portfolio.

Walter was a highly respected and active member of the Jewish community and served on many community organisations. They are too numerous to list, but representative examples are the Gandel Charitable Trust and the Asthma Foundation of Victoria. Walter's role as a philanthropist was recognised when he was appointed life governor of the then Association for the Blind.

When setting out his record of life as the Minister of Immigration and Ethnic Affairs, Walter chose a piece from the Mishnah writings, which are the 63 tractates in which Rabbi Judah set down the oral law 1800 years ago:

Why did creation begin with a single human being? To teach you that to destroy a single human soul is equivalent to destroying an entire world; and that to sustain a single human soul is equivalent to sustaining an entire world. And a single human being was created to keep peace among human beings that no-one might say to another: My lineage is greater than yours!

A man of grace and deep faith, Walter Jona will be remembered as a good man, a really decent man, and a man who quietly set the standards and, without doubt, left this world a better place for his having been amidst us for all of those remarkable and inspirational 81 years.

In his closing chapter of *People, Parliament and Politics* Walter opens with a summation of his sentiments as a servant of the people. He quotes Alex Noble thus:

If I have been of service, if I have glimpsed more of the nature and essence of ultimate good, if I am inspired to reach wider horizons of thought and action, if I am at peace with myself, it has been a successful day.

**Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.**

**The PRESIDENT** — Order! The proceedings will now be suspended as a mark of respect. I will resume the chair in 1 hour.

**Sitting suspended 2.52 p.m. until 3.56 p.m.**

## MINISTRY

**Mr LENDERS** (Treasurer) — I formally advise the house that the Premier, Mr Steve Bracks, has resigned his commission and the Governor has commissioned Mr John Brumby as the new Premier of Victoria.

I would also like to formally advise the house of the ministerial responsibilities in this chamber. I remain Leader of the Government and will also have the portfolio of Treasurer. I will represent in this chamber the ministers from the Assembly in the Department of Treasury and Finance, the Department of Premier and Cabinet and the Department of Education and Early Childhood Development.

The deputy leader, Mr Jennings, is now the Minister for Environment and Climate Change and Minister for Innovation. He will represent in this chamber Assembly ministers from the Department of Sustainability and Environment and the Department of Human Services.

Mr Theophanous is the Minister for Industry and Trade, Minister for Information and Communication Technology and Minister for Major Projects. He will represent in this chamber Assembly ministers from the Department of Innovation, Industry and Regional Development, the Department of Infrastructure and the Department of Primary Industries.

Mr Madden remains the Minister for Planning with an augmented portfolio, and will represent in this chamber Assembly ministers from the Department of Planning and Community Development and the Department of Justice.

Ms Darveniza is the Parliamentary Secretary for Regional and Rural Development. Ms Mikakos is the Parliamentary Secretary for Planning. Mr Thornley is the Parliamentary Secretary Assisting the Premier on the National Reform Agenda and Innovation. Mr Pakula is the Parliamentary Secretary for Roads and Ports. Mr Tee is the Parliamentary Secretary for Justice. Ms Pulford is the Parliamentary Secretary for Industrial Relations.

Mr Viney remains the Government Whip but will assist me with the day-to-day management of government business in this chamber.

## ROYAL ASSENT

**Message read advising royal assent to:**

**Accident Towing Services Act  
Building Amendment (Plumbing) Act  
Crimes Amendment (DNA Database) Act  
State Taxation Acts Amendment Act.**

## OUTWORKERS AND CONTRACTORS LEGISLATION AMENDMENT BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of  
Hon. T. C. THEOPHANOUS (Minister for Industry  
and Trade).**

## GAMBLING REGULATION AMENDMENT BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Hon. J. M. MADDEN  
(Minister for Planning).**

## QUESTIONS WITHOUT NOTICE

### Public sector: debt

**Mr P. DAVIS** (Eastern Victoria) — I direct a question without notice to the Treasurer. I congratulate him on his new appointment and look forward to more informative responses from him in this role than he gave in his previous portfolios. I refer to the projected rise in general government net debt as a percentage of gross state product. Will the Treasurer inform the house of the government's upper limit for this debt measure?

**Mr LENDERS** (Treasurer) — I am delighted to rise and take the first question in the Brumby government from the Leader of the Opposition on Treasury matters, and I hope his interest in Treasury matters is stronger than his interest in education. I look forward to every question on this portfolio. Philip Davis asked a question about debt levels in this state. I take great pride as a member of the Brumby government in the fact that we will keep our budget in the black, because that is an underpinning of Labor governments in this state of Victoria — a budget in the black.

It is interesting to talk of debt levels in this place. Let us just have a look at projected debt. This government — the Brumby government, in the footsteps of the Bracks government — is the most open, transparent and accountable government in the history of this great state. As part of that we have in our 2007–08 budget put into the forward estimates what we expect the debt levels of government in this state to be. Anybody who is a student of budgets and who has looked at this state will find that, at the end of the forward estimates in four years time, we are projecting debt to be the equivalent of 2.9 per cent of gross state product. When we came into government it was 3.1 per cent. Four years earlier, in the time of the Kennett government, it was 15 per cent, and in the days of Sir Henry Bolte, that stalwart of fiscal rectitude, the debt of the budget in this state compared to gross state product was 50 per cent!

In the Bolte years we had 50 per cent debt, during the Kennett years we had 15 per cent down to 3 per cent, and at the end of this forward estimates period we are projecting 2.9 per cent. This government believes in budgets in the black. A Labor government in this state will manage the economy so we can have budgets in the black delivering services to all Victorians and target infrastructure growth. That is what a Labor budget is about, and that is what we need to make Victoria an even better place to live, to work and to raise a family.

*Honourable members interjecting.*

**The PRESIDENT** — Order! I want to remind members of the chamber that today we have the cameras, so they might like to factor that in when they decide to go on a rampage or interject in the way that they have done today. If members cannot factor it in, then I will.

*Supplementary question*

**Mr P. DAVIS** (Eastern Victoria) — I direct a supplementary question to the Treasurer. Is it a fact that the government has no upper limit at which it will cap the growth in general government net debt?

**Mr LENDERS** (Treasurer) — In a Victorian Labor government we have a man called the Auditor-General who oversees our budget, who signs off on the budget figures when they are presented to the Victorian Parliament. This is the first time in the history of this state that a government has had the courage to ask the Auditor-General to sign off on the budget figures as the budget is presented.

We have forward estimates that show that by the end of the forward estimates period net general government sector debt in the state of Victoria will be 2.9 per cent

of gross state product compared with 3.1 per cent when we came into government, 15 per cent at the midpoint of the Kennett years and 50 per cent in the midpoint of the Bolte years.

The Leader of the Opposition says, ‘Do we have a debt cap?’. We have in the forward estimates for the world to see, signed off by the Auditor-General —

**Mr P. Davis** interjected.

**Mr LENDERS** — I enjoy the Leader of the Opposition’s interjections. He is a man who says Parliament should be a place of debate and exchange, yet he expects a minister to be reading from briefing notes. Maybe that is how the opposition works and maybe the Liberal Party administrative committee has agreed on briefing notes for him now, but from this side of the chamber, we will answer questions. We are open, transparent and accountable, because that is what it will take to make Victoria an even better place to live, work and raise a family.

**Government: financial management**

**Ms BROAD** (Northern Victoria) — My question is to the Leader of the Government, John Lenders. I take this opportunity to congratulate him on his new responsibilities as Treasurer of Victoria. I ask the Treasurer to outline to the house what Labor stands for and his key priorities in his role as Treasurer of the great state of Victoria as part of the new Brumby government.

**Mr LENDERS** (Treasurer) — I thank Ms Broad for her very kind question, and I will be delighted to outline to the house those issues and what my priorities are in a new Brumby government.

Firstly, let us not forget that Victoria is in a strong and stable financial position thanks to seven years of good stewardship under the previous two treasurers. The fundamental principle of this government has been financial responsibility, which is the building block of everything we do on this side of the house. The budget is in the black and will remain in the black.

I served as parliamentary secretary to both Treasurer Bracks and Treasurer Brumby, and I was Victoria’s longest serving finance minister. I have had the privilege of actually watching budgets being developed and of watching two extraordinary treasurers in place.

**Mrs Peulich** — And the shortest serving education minister.

**Mr LENDERS** — I take up Mrs Peulich's interjection. I was education minister for eight months and oversaw \$7 billion of expenditure in schools and the largest capital improvement projects in the history of this state.

What is most important to us on this side of the house as a Labor government is to have an economy that provides jobs, because jobs in the end are the absolute underpinning for human dignity and a strong economy to give our young people opportunities.

**Mr P. Davis** — What are you doing about government debt?

**Mr LENDERS** — The Leader of the Opposition might not think jobs are important, but I suggest he actually go out into communities across this great state of Victoria if he thinks jobs are not important, because I would say to him: jobs, jobs, jobs are the absolute underpinning we want within a sound framework of a strong, strong budget. I have inherited a strong and stable economy as Treasurer. We are outperforming all other non-resource states. This is a building block, and I am determined that our budget will stay in the black.

A good budget will be one in the black, but it will also be one that actually targets service delivery. It is interesting that Steve Bracks, as Premier, has been described as someone who brought the heart back to government, because service delivery with a sound financial base is a critical ingredient of this Labor government. Also, we will provide targeted infrastructure delivery, because again, infrastructure delivery is of critical importance in delivering services in this state and for the future of our economy.

We have a new Premier, and I am delighted to serve with Premier Brumby. What the Premier has articulated is seven areas of priorities for us as a government to focus on as our agenda drives forward to make Victoria that better place to live, work and raise a family.

**Mrs Peulich** — What happened to early childhood development?

**Mr LENDERS** — Again, Mrs Peulich clearly has not briefed herself, because Premier Brumby's no. 1 priority is education skills and lifelong learning. As part of the organisational restructure of government, the former Department of Education now becomes the Department of Education and Early Childhood Development — a no. 1 priority.

Secondly, we are accelerating public transport improvements and improving urban development and planning, particularly in the outer suburbs. My

colleague Mr Madden, as Minister for Planning, has a big job there. The Premier has outlined health, particularly preventable chronic disease and cancer, as a priority within the government for where we are moving. We are also strengthening the delivery of major projects, which are all important in Victoria. The Premier has outlined that delivering services for our farmers is one of the important areas for him, as is open and accountable government. I urge anybody who has not seen the transcript of the Premier's speech this morning to read it, because this Labor government remains committed to open and transparent government.

In response to Ms Broad's question, in essence the Brumby government will govern for all Victoria, from Mildura to Mallacoota and from Wodonga to Warrnambool. We will govern for all Victorians to make this great state an even better place to live, work and raise a family.

**Mr Atkinson** interjected.

**The PRESIDENT** — Order! If Mr Atkinson has a question, he should stand up and ask it. If he has not, he should keep quiet.

### **Brambuk Aboriginal Cultural Centre: management**

**Mrs COOTE** (Southern Metropolitan) — My question is for the Minister for Environment and Climate Change. I would like to congratulate him on his new portfolio, but I hope he will continue to advocate for people in the disability sector within this state and in particular be vocal at the cabinet table.

I refer to the minister's previous answer regarding the Brambuk Aboriginal Cultural Centre, when in his then capacity as Minister for Aboriginal Affairs he said responsibility sat with the minister for environment. Given that by his own admission he is now responsible for Brambuk, I ask: can the minister confirm that Geoff Clark used \$30 000 of the \$780 000 paid to Brambuk by Parks Victoria for the administration of the information centre to cover his personal legal fees?

**Mr JENNINGS** (Minister for Environment and Climate Change) — In sequence I thank the member for her question, her congratulations and her seeking from me a commitment that I will continue to support those in our community who live with disabilities and those who support them. She can have my assurances — in fact I will give them both publicly and privately — that that commitment is a longstanding one, as indeed is my longstanding commitment to the

wellbeing of Aboriginal people. In fact I look forward to working very collaboratively with Aboriginal communities now and into the future.

I am very comfortable with the member reminding me of my substantive answer to the question she asked me in my previous role as Minister for Aboriginal Affairs. I confirm that it was the responsibility of the Minister for Water, Environment and Climate Change and it is now the responsibility of the Minister for Environment and Climate Change — the position I have inherited — to deal with matters of financial control and the compliance of the Brambuk Aboriginal Cultural Centre with the service agreement obligations it has entered into with Parks Victoria.

I can assure the member that I have sought additional information as well as the accounting and auditing requirements of Brambuk since I inherited the portfolio in the last couple of days. In fact I have specifically asked the secretary of my department to ascertain the governance mechanisms as they relate to the accounting practices of Brambuk. I am expecting the results of those inquiries shortly. I clearly indicate to the chamber that the first year of the service agreement concludes at the end of August. I anticipate that by the end of August I will be very clear about the accounting practices that have occurred within Brambuk.

*Supplementary question*

**Mrs COOTE** (Southern Metropolitan) — I thank the minister very much indeed. I look forward with great interest to that. Could the minister please explain to me when he expects to have this inquiry into the mismanagement and bad practices at Brambuk completed?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I have not actually confirmed any allegation in the course of my answer, so the premise of the supplementary question is not correct in terms of my either confirming or denying any matter that has been put to me in the chamber or in the public domain. I stand by my answer that I have asked the department to make sure that the accounting practices and audit trail are completed. I have been advised they will be completed by the end of August. I will subsequently be in a position to report that to the Parliament and the community.

**Planning: community development**

**Ms DARVENIZA** (Northern Victoria) — My question is to the Minister for Planning, the Honourable Justin Madden. Following the announcement of

Premier Brumby's priorities, in particular in relation to the linking of planning with the development of stronger communities, I ask the minister to outline to the house what action has been taken by the Brumby government to support planning for communities across Victoria.

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Ms Darveniza's interest in these particular matters because I know she has a great commitment to communities at all levels, given her outstanding work in her own electorate on many of these community-based matters.

It is great to hear that new Premier Brumby is so excited about urban development, particularly celebrating and building upon the outstanding work of the previous Premier, Premier Bracks, that has made and will continue to make Victoria a better place to live. That includes Premier Brumby's recent announcement in which he promised to create communities rather than subdivisions. As members of the chamber would appreciate, based on those announcements the Brumby government will link planning with the development of stronger communities, putting residents front and centre and making our new and existing suburbs, towns and regions even better places to live.

As part of this strong community focus the Premier has established a new Department of Planning and Community Development. I am delighted and particularly excited about the prospect of being coordinating minister of the new department, which will focus on building strong local communities right across Victoria on all fronts. The Department of Planning and Community Development has been created to build strong, active, inclusive communities and to deliver improvements in urban development, particularly in the outer suburbs and regional areas, where we are expecting strong population growth.

It is also worth appreciating that what we are doing with this department is combining a number of areas that were in the Department for Victorian Communities and the planning portfolio areas in the one department. When you contrast this — —

**Mr Vogels** interjected.

**Hon. J. M. MADDEN** — Thank you very much, Mr Vogels, for the prompt. In relation to your policies — —

**Mr Vogels** — They were good policies!

**Hon. J. M. MADDEN** — Thank you for the prompt again concerning the Liberal Party's position on

community development around Victorian communities. What was its position going into the last election? It said, 'We will no longer have a Department for Victorian Communities!' Those are its words. It would have got rid of the Department for Victorian Communities with no commitment to any of those portfolio responsibilities and with no commitment to where they would be located in government.

Not only are we building stronger communities but we are locating planning so that we can do the strategic work to ensure we build better and stronger communities. The new department will join up our planning mechanisms and our community strengthening initiatives to ensure that we build strong communities, not just planning subdivisions — and we will be putting the needs of the community front and centre.

Our knowledge and expertise in relation to land use and planning for economic infrastructure will be joined with our knowledge and expertise about social infrastructure, which no doubt is lacking in any policy area of the opposition. The importance of building strong local networks is critical to making Victoria a better place to live, work and raise a family. The Brumby government recognises the importance of social cohesion and social capital, and we will continue to build those connections and build strong communities that are well planned, well-designed and feature outstanding physical infrastructure.

The Department of Planning and Community Development will draw upon the work already done through Melbourne 2030. That plan, which is coming to fruition, is in contrast to the opposition's lack of plans. Melbourne 2030 recognises the importance of increasing the supply of well-located, affordable housing, planning for a more equitable distribution of social infrastructure, improving the coordination and timing of services and infrastructure into new areas, and in particular developing a strong cultural environment.

If we couple that with the great work that has been done over the past five years in the Department for Victorian Communities we will be in a much stronger position to tackle the challenge of growth — the growth that the opposition says no to. We are a government that is committed to growth, planning for growth and providing for growth. The opposition has no plans at all when it comes to growth. We will maintain livability, build stronger communities and remain as dedicated, as always to making Victoria a better place to live, work and raise a family.

### Public sector: debt

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is to the Treasurer. I too congratulate him on his elevation to the Treasury portfolio. I refer to the annual upward revision of general government net debt estimates in the budget, which has occurred every year for the last five years. Will the Treasurer commit to containing general government net debt within the projections in this year's budget or will those estimates be revised upward as well?

**Mr LENDERS** (Treasurer) — The federal Treasurer, Peter Costello, could learn from Victoria about open and transparent budgeting. We actually operate on generally accepted accounting principles, we nail our figures to the mast, we go forward with four-year projections under Australian accounting standards and now the international financial reporting standards. We are unafraid to put our figures up on the mast for people to look at and compare. Mr Rich-Phillips may pretend he does not understand budget papers, but he does. He knows that we have, in the forward estimates, predicted that our net debt, as a part of gross state product, will be 2.9 per cent.

**Mr Guy** — Halfway back to Kirner.

**Mr LENDERS** — We also know, Mr Guy, through you, President, that we inherited from the Kennett government a figure of 3.1 per cent. Halfway through the Kennett government it was 15.5 per cent and at the halfway point of the Bolte government it was 50 per cent, or 17 times the debt the Brumby government is forecasting for three years time. What I can say to Mr Rich-Phillips is that we as a government are transparent. We report. I draw Mr Rich-Phillips back to the *Australian Financial Review* of 15 January 2003, which said that this government is too transparent, that we publish too many accounting figures, that we have too much information out there.

We are serious about having a genuine economic argument. We are serious about making our figures transparent so that the Victorian community can make an informed judgement about its government. We believe we have got the balance right. We are not afraid of the Auditor-General. We are not afraid of the Public Accounts and Estimates Committee interviewing every minister from the Premier down. This is happening, and we are pleased with it. Sound financial management and a budget in the black are important underpinnings in making Victoria an even better place to live, to work and to raise a family.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the Treasurer for his answer. He said the budget projects 2.9 per cent general government net debt in four years time. Given that every other estimate in every other budget paper for the last four years has been revised upwards, why should we rely on this year's budget papers any more than last year's?

**Mr LENDERS** (Treasurer) — Mr Rich-Phillips tries — he is very trying. What I say to Mr Rich-Phillips is to give this government the benefit of the doubt. If this government has ever been accused of anything, it is of being too financially conservative, of having too much fiscal rectitude. The *Australian Financial Review* said we reported too much. It is fascinating that Mr Rich-Phillips questions our budget figures, because he knows that if there is anything at fault with our budget figures it is that we are too conservative in what we predict. Often the accusation about us is that the surpluses are bigger than we forecast they would be.

It is quite fascinating to talk of financial figures. I was reading the *Age* this morning and its response to the wacky political attack from a desperate, sinking Prime Minister who is blaming everything on the state Labor governments.

**Mr Guy** — You mean the one that has got no debt?

**Mr LENDERS** — I will be delighted one day to take up Mr Guy on his comment of no debt for the federal government. His eyes will be opened wide when he hears what I have to say. But in relation to the Prime Minister's talk of a \$70 billion debt, taking up Mr Guy's interjection: one, his figure from Victoria was actually out by 20 per cent, because he looks at debt but he does not look at the investments in Victoria that offset that, so he does not look at it properly; and two, members should not just listen to me, a Treasurer in a state Labor government, but should look at what appeared today in the *Age*, which was a litany of comments. The governor of the Reserve Bank of Australia, Mr Glenn Stevens, contradicted the federal government over the role of infrastructure in creating debt.

If we want to pay any attention to Mr Howard's figures, we should consider what Stephen Keen, associate professor of economics at the University of Western Sydney, is reported today as having said about the federal government's view. The nice thing he said was that its blaming the states is like dropping a pebble in

the ocean and saying it caused a tsunami. That is the nice thing. I will translate English into Latin so as not to offend the house. His general proposition about what the Prime Minister said was 'It's total, total taurus excretum'. Excuse the Latin. 'It's total, total taurus excretum' is how the associate professor of economics at the University of Western Sydney described what the Prime Minister had to say about economics in his blame game with the states. If you work out what total, total taurus excretum is, you will know what the economists in this country think about what the federal government says on economics. It is trying to blame the states.

I will conclude on this point: if the federal government has any anxiety and is trying to play a blame game with the cost of housing affordability in this state, it should remember that it promised that interest rates would stay stable. There have been four rises already under the Howard government since the last election and most forecasters are predicting a fifth tomorrow. For the average family in Victoria with an average mortgage the Howard government's four interest rate rises have added \$65 000 to the cost of their home — \$65 000! If anyone wants to talk to me about economic statistics, I will back the associate professor from the University of Western Sydney and his view of the federal government, but I will be polite and leave it in Latin. The federal government has no credibility. Victorians want governments which operate budgets in the black, which deliver on important services and which deliver on infrastructure, because that is what is necessary to make this great state an even better place to live, to work and to raise a family.

**The PRESIDENT** — Order! For the benefit of the house, the Treasurer might like to translate the Latin into English to allow me to decide whether it is appropriate or not, because right now I am not sure.

**Mr LENDERS** — It is a by-product of a male of the bovine species after it has digested a lot of grass.

**The PRESIDENT** — Order! That is not too inappropriate.

**Minister for Industry and Trade: portfolio responsibilities**

**Mr EIDEH** (Western Metropolitan) — My question is to the Minister for Industry and Trade. Given the minister's responsibility in the areas of trade, information and communication, and technology, can he outline to the house what the Brumby government's priorities are and how these fit into his existing responsibilities?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I thank the member for his question. As somebody who has been involved in business himself, I am sure he understands the importance of the industry and trade portfolio.

I am pleased to be taking on the newly created portfolio area of trade as well as the portfolio of information and communication technology, in addition to my continuing responsibilities as minister for industry and Minister for Major Projects. This combination of portfolios demonstrates that the Brumby government has as a priority and is serious about economic development through increased trade for Victoria.

Moreover, I think that what has been recognised by the Brumby government and by the Premier is the important role of information and communications technology and the ICT industry in the development of our economy. I should say that the ICT industry is an industry which is focused in many respects on small businesses throughout Victoria. I am very pleased, therefore, to be able to have a continuing role in assisting those small businesses when it comes to the ICT issues that they face.

For some people this may come as a surprise, but the ICT sector employs a massive 83 900 Victorians and attracts around \$23.1 billion in annual revenue, with exports now totalling in excess of \$1 billion. Its future is bright; it is increasing in its size and focus. It is also attracting the more than 22 000 students who are enrolled in ICT courses in Victoria. Victoria now has the highest number of science, mathematics and IT students in Australia. The sector is without doubt strongest in Victoria — indeed, Victoria accounts for 34 per cent of Australia's ICT workforce.

This is an important sector, and I might say it is a sector which obviously impacts on the rest of the economy. I am very pleased that the Premier has decided to give me a continuing role as coordinating minister in the Brumby government. Within that role it is important for us to address all the issues associated with skills development, exports, innovation, regional development, small business and tourism. The Department of Innovation, Industry and Regional Development has a huge role in making sure that we get significant and continuing economic growth in this state.

I am very pleased to be able to say also that as the Minister for Information and Communication Technology I will be looking very closely at the broadband issue, because I think this is an equity issue for all Victorians. It is certainly an issue for regional

Victorians. The federal government is rushing to try to implement its own broadband model before the federal election in order to not allow the federal opposition's broadband model to be put in place. This is just a desperate attempt to put in place something which will give \$1 billion to a private consortium to deliver ICT services into regional Australia. We are very much supportive of broadband, but whether that is the best model is something we think perhaps the Australian people might want to have a say in.

The rush to try to get the arrangements in place prior to the federal election is not something that should be undertaken and we do not think it is going to be able to be achieved anyway. The whole point of this, though, is that if we and our economy are going to remain competitive in this area, we need to have next generation high-speed broadband available not just in Melbourne but right throughout Victoria. It is a high priority if we are going to have ongoing economic growth of the sort that we have had.

As for the trade sector, I must say that I am very pleased to be part of a government which has been successful in increasing the amount of export and trade for Victoria. Indeed the recent Australian Bureau of Statistics figures, released last week, confirm that Victoria is outpacing the rest of the nation when it comes to exports, with a 4.5 per cent increase in the value of exported goods compared to this time last year.

Might I say that this area of selling Victoria is something that I would really urge the opposition to try to get on board with. We have a responsibility to try to sell Victoria. It really is unhelpful for David Davis to continually want to talk up Sydney over Melbourne. He has put out two press releases — in fact it is the same press release and he decided to put it out again — talking about how Victoria is losing out.

**Hon. J. M. Madden** — On his website?

**Hon. T. C. THEOPHANOUS** — No, not on his website; he has not got one yet. In fact he said it is 'loosing' out — he could not even spell 'losing'; that is how good his press releases are — to Sydney. He has put out two press releases on the question that a greater proportion of the head offices of European Union-related companies were going to Sydney rather than Melbourne. What he does not want to add to the story is that in fact over 40 per cent of EU company activity by revenue is actually occurring in Victoria. What a sell-out to Sydney it is to go out and bag Victoria, to sell down Victoria with not one press release but with two which say 'Melbourne is losing out to Sydney', and to put this out there without being

prepared to take into account the fact that Victoria is leading the nation on exports.

I look forward in my role as Minister for Industry and Trade to continuing the export drive for Victoria and to building on the economic activity and economic growth that this state has enjoyed over other states.

**Schools: capital works**

**Mr P. DAVIS** (Eastern Victoria) — I direct a question without notice to the Treasurer. Unlike the Treasurer, I remain committed to education, given that he is the shortest-tenured education minister in living memory. I refer the Treasurer to the \$555 million in capital allocated in this year’s budget to the government’s \$1.9 billion Victorian schools plan. Given that there is nearly a \$1.4 billion shortfall in capital in the forward estimates for the Victorian schools plan, will the Treasurer commit the balance from the remaining \$1.6 billion of unallocated capital to the school rebuilding project?

**Mr LENDERS** (Treasurer) — For the record and to assist the Leader of the Opposition, there have been 56 Victorian ministers for education. I am the 43rd longest serving one, and the new minister in the other house, Bronwyn Pike, actually beats Sir Arthur Rylah, who had one day in the job.

*Honourable members interjecting.*

**Mr LENDERS** — Mrs Peulich says I am sensitive. I had eight of the most enjoyable months of my life in a great portfolio, in education, because it is the government’s no. 1 priority. I am delighted it is still Mr Davis’s no. 1 priority.

I should actually take this question on notice for the Minister for Education but I will answer it for Mr Davis. I will say to Mr Davis that Victoria has 1594 government schools, and the \$515 million for capital works that we have invested in these schools is the largest capital spend since the Second World War. It is symptomatic of the Bracks government’s, and now the Brumby government’s, absolute commitment to building on essential infrastructure in this state.

The Leader of the Opposition is concerned about how this is going to be funded. I suggest he actually look through the forward estimates in the budget papers where he will come across the concept of unallocated capital, which means there is capacity in the out years for these things. Mr Davis may wish to have an answer now on unallocated capital in the forward estimates years.

However, I say to Mr Davis that if we as a government were to presume to prescribe every bit of the budget for the next four years, he would be outraged on constitutional grounds at the audacity of a Parliament in an annual appropriation bill seeking to bind its successors for the next four years. What we actually have is the forward estimates which are an indication in the interests of transparency as to where the government is going and an assurance for the Auditor-General and the Victorian community that its promises are something that can be met.

Surprise, surprise! No-one other than the opposition seems to be concerned about this. We have an Auditor-General who signs off on the budget statements to say that they are actually what they say they are. We have the ratings agencies, Standard and Poor’s and Moody’s Investors Service, which look at these figures and reports and give us a AAA credit rating.

I will be vigilant as Treasurer because fiscal rectitude is something the Premier expects of me in this portfolio. I can assure Mr Davis that this government will keep budgets in the black. It will honour its election commitments, which include \$1.9 billion for the Victorian schools plan, of which \$555 million, which is more than a quarter for those whose maths is working as mine is, has been delivered in the first year. We will deliver. We will deliver on our promised infrastructure, and we will deliver on our promised services. For the record, regarding Labor financial statements, every single one of our recurrent promises from the 2006 election was delivered in the May budget and more than half our capital commitments for the four years were delivered in the first budget alone.

The Brumby government will deliver on its election commitments. We will keep our budget in the black. We welcome the scrutiny of the Public Accounts and Estimates Committee, the Auditor-General, the ratings agencies and the Victorian community. We will deliver — budget in the black, services delivered, infrastructure delivered — because that is the underpinning of what makes Victoria an even better place to live, work and raise a family.

*Supplementary question*

**Mr P. DAVIS** (Eastern Victoria) — Given that the unfunded sum of \$1.4 billion for the Victorian schools plan will absorb most of the unallocated capital available in the state budget, is it not true that because the Treasurer has no cap on borrowings to fund the remaining commitments made during the 2006 election campaign and commitments made in the context of the

2007 budget the state will have to significantly further increase state debt?

**Mr LENDERS** (Treasurer) — The Leader of the Opposition is persistent. The federal Treasurer, Peter Costello, obviously sent out a press release to all eight state and territory shadow treasurers last week saying that they should all blame tomorrow's expected interest rate rise on the state and territory governments and raise the debt bogey.

I ask anybody who is not satisfied by Standard and Poor's, not satisfied by Moody's Investors Service, not satisfied by the Auditor-General and not satisfied by the Public Accounts and Estimates Committee to go back to my answer to the first question from Mr Davis and to the historical facts as they are reported. At the end of the forward estimates year we are estimating a general government sector debt of 2.9 per cent. When we came into office it was 3.1 per cent, at the midpoint of the Kennett years it was 15.5 per cent and at the midpoint of the Bolte years it was 50 per cent.

I say to the Leader of the Opposition: judge us by our deeds — we will stand by those — but do not just parrot the phrases that Mr Costello puts forward as the federal government tries to blame the interest rate rise that it obviously expects tomorrow on the states and have people forget the four interest rate rises since the last federal election. I repeat my earlier statistic: the four interest rate rises to date have added \$65 000 to an average home loan for a person in Sale in Mr Davis's electorate or in any other part of Victoria. The average Victorian with an average home will have \$65 000 added to their home loan as a consequence of those four interest rate rises.

That is what debt is about, and that is what is affecting families. It is about time the opposition looked at taking the burden off ordinary Victorians and assisting them so that the state can be an even better place to live, work and raise a family.

**Minister for Environment and Climate Change:  
portfolio responsibilities**

**Mr ELASMAR** (Northern Metropolitan) — My question is to the Minister for Environment and Climate Change, who is also the Minister for Innovation. I congratulate the minister on his new portfolios as well. Can the minister outline for the house how the Brumby government is getting on with the job of making Victoria a sustainable and innovative state?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I thank Mr Elasmarr for his

question and for providing me with the opportunity to outline my part of the agenda of the incoming Brumby government. It is to make sure that we live up to our obligations to the community and the environment, that we embark upon sustainable practices, that we enrich and enhance our natural environment — the biodiversity that inhabits the state — and that we make our contribution as national and international players in relation to very pressing environmental questions such as climate change and in relation to how we, as a global community, respond to these issues in a very decisive, clear and determined fashion to make sure that our globe is enhanced rather than put at risk by unsafe and unsustainable practices.

I am very fortunate that the incoming Premier offered me portfolio responsibilities that he and the outgoing Deputy Premier had undertaken in the previous Bracks government. In fact I am humbled by the opportunity I have to play a constructive role in making sure these agendas are pursued to ensure that our environment is safe and that we address climate change. We need to adopt innovative practices in the way we organise our community and our economy and make sure that our efforts are sustainable in the years to come.

As the minister responsible for the environment I am charged with the responsibility of looking after Victoria's precious lands, its catchments and its coasts, and to make sure that we protect the biodiversity we have inherited. We need to ensure that that enriched biodiversity is not lost for future generations. There are many statutory opportunities available for me to undertake that. Commitments that were made as recently as the last budget of the then Bracks government are now being delivered by the Brumby government, as are all our election commitments, which is the hallmark of the way this administration will undertake its responsibilities. We will try to strategically invest in making sure our lands are protected.

I can tell that the Liberal Party is unswervingly determined to support this agenda, as its members are completely abdicating the only interest in the chamber to the Greens. In fact it has been the hallmark of the Liberal Party of recent times that its members are deserting the Victorian political field. They are not prepared to countenance standing for seats in certain elections. One can see from their body language and their actions that in this area they are clearly and completely devoid of any interest in the field. I expect the only questions that may arise in the chamber in relation to this will be the divisions between the Greens political party and The Nationals. It may be one of those rare occasions when they are not able to keep the

alliance that they have been able to maintain pretty rigorously for some time. In fact the opportunity that I am going to provide them with might result in a slightly different political environment within this chamber.

I look forward to somebody rising up from the opposition benches, because there seems to be complete disinterest in this field, complete disinterest in the environment, complete disinterest in sustainable development and certainly no approach to innovation from those on the other side. We in Victoria have a good track record. I have been very fortunate to inherit a number of policy settings and commitments of the Bracks government in relation to sustainability.

**Mrs Coote** interjected.

**Mr JENNINGS** — Hello, someone's awake, President! I am very pleased to see that I have raised some alarm in the chamber today. My predecessor and Sustainability Victoria have undertaken substantial work in sustainability. In fact in the last year significant inroads have been made in terms of greenhouse gas abatement. I am advised that Sustainability Victoria has delivered on 1 million tonnes of greenhouse gas abatement during the course of the last year. That equates to 2.7 billion megajoules of energy savings that it has facilitated through a variety of programs, which include the minimum energy performance program, the green power initiatives and the 5-star initiative, where we have seen 100 000 dwellings in the state of Victoria take up that 5-star energy rating.

We are not resting on our laurels. We are trying to drive an agenda to enhance renewable energy generation in Victoria. In the last year alone 1.1 million megajoules of renewable energy generation came on stream and was supported by the government. We recognise that in terms of the waste stream there are significant obligations that we have to undertake as a community to reduce waste. It is quite extraordinary to see that 650 000 tonnes of material was recycled during the last year, which led to a net reduction of 10 000 tonnes of waste, thanks to the initiatives undertaken by Sustainability Victoria. Those initiatives augment the approach of the government, whether it be through initiatives such as Melbourne 2030, public transport and livability initiatives, or whether it be through the greenhouse gas and renewable energy strategies.

This government recognises the need to build a coherent and consistent framework of intervention in the space of sustainability. It is my intention to build on that work and to take it further. I see my responsibility for innovation as the opportunity for me to achieve that outcome. Innovation is a portfolio that has seen

significant investment in terms of technological advancement in the state of Victoria.

**Mr Vogels** — Six minutes!

**Mr JENNINGS** — These are issues that warrant some examination by the state of Victoria, even though those on the opposition benches may not be terribly interested. But this is a community that is interested and this is a government that is interested in terms of both the state role and the national role that we can play.

In terms of driving innovation, my intention as the incoming Minister for Innovation and also addressing climate change, is to make sure that we drive innovation in climate change technologies and sustainable approaches — something that will drive The Nationals crazy apparently. Mr Drum will not be a fellow traveller, but there may be some other people who sit behind him who might be. With a bit of luck we will be able to unite this community to be innovative, to be creative and to dig deep in the ways of potential technological development to make sure that we are a sustainable Victoria. The Brumby government has an absolutely unswerving commitment to achieving that, and I will be very happy to play my role in the government to achieve those outcomes.

### **Disability services: Shannon Park**

**Mr KAVANAGH** (Western Victoria) — My question is for the Minister for Community Services in the other house and relates to Shannon Park, a facility for the disabled in Greater Geelong run by Scope, formerly known as the Spastic Society of Victoria. In previous decades Shannon Park was an outstanding leader in its field. Because of long-term policies, however, to integrate the disabled into the community Shannon Park has been in relative decline. The multiply severely disabled are not in a position to benefit from community integration.

Today around 28 multiply severely disabled people receive specialised care and therapies at Shannon Park. Scope has announced plans to sell much of the Shannon Park site. Although Scope has undertaken to retain services at Shannon Park its reassurances are less than iron clad and not entirely reassuring to the people at Shannon Park or their parents. The parents of the patients at Shannon Park are gravely concerned about the future of Shannon Park, including the hydrotherapy pool, which Shannon Park offers, the sensory garden and continuing lifestyle options program. What assurances can the minister give to Shannon Park's multiply severely disabled patients and their parents

that Shannon Park's specialised facilities and services will continue at Shannon Park into the future?

**The PRESIDENT** — Order! I assume Mr Kavanagh is addressing his question to the Minister for Environment and Climate Change representing the minister in the other place?

**Mr KAVANAGH** — That is right.

**Mr JENNINGS** (Minister for Environment and Climate Change) — President, in accordance with your intervention, the best assurance that I can give Mr Kavanagh and his constituents and the members of his community who are concerned about this matter is that I will raise this matter with the appropriate minister in the other place. I anticipate that she will be respectful and responsive to the issues that Mr Kavanagh has raised. As to the relationship between her as the Minister for Community Services and the provider, Mr Kavanagh recognised in his question that the provider is an independent provider of services, and that may place limits on what the degree of intervention may be. I think the minister will be extremely sympathetic to the outcomes that Mr Kavanagh seeks to obtain for his constituents and members of the community, and I am certain that the minister would be determined to play whatever role she can to achieve those outcomes.

### **Footscray: transit cities program**

**Mr PAKULA** (Western Metropolitan) — My question is to the Minister for Planning. Earlier in question time the minister spoke about the newly established Department of Planning and Community Development and in particular the Brumby government's focus on linking planning with development of stronger communities. In light of this new focus I ask the minister to update the house of progress of the Brumby government's commitment to improve and revitalise central Footscray.

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Mr Pakula's question, because I know that as a member for Western Metropolitan Region he has a specific interest in the activities taking place around the Footscray activity centre. I also know that he has not only a particular interest but also a desire to see fantastic results delivered on these projects in the Footscray area. The 2007–08 state budget will deliver over \$70 million towards urban improvement and revitalisation projects in key centres such as Footscray. This will build on the \$219 million that is being directed to the transit cities initiative from the 2006–07 state budget. This reflects the Brumby government's

commitment to working to revitalise key and strategic centres in partnership with local governments and communities to create more vital, attractive, sustainable and safe activity centres and towns.

As part of the 2007–08 budget, \$52.1 million has been allocated to the renewal of central Footscray. In recognition of Footscray's metropolitan importance and the major transit cities revitalisation initiatives funded by the Brumby government, I am pleased to announce that the project area surrounding the station precinct in Footscray was confirmed today. The works to be undertaken within the project area include a modern pedestrian bridge at the station, with work anticipated to commence next year; an upgrade of main streets; facilitation of development around the station; and a new one-stop planning shop for the marketing and development of central Footscray. This will be in addition to the \$2 million stage 1 works that are currently underway to improve the Barkly–Hopkins streets intersection, which is to be completed later this year, and the \$2.2 million upgrade to revitalise the busy Nicholson Street mall and redevelop and complete Maddern Square.

There is no doubt that Footscray is an important transit-orientated location. Several metropolitan rail lines and, importantly, three regional fast rail services pass through the station. It is close to Melbourne's central business district and is the gateway to the city's west. It is of strategic significance. Footscray's renewal is of priority importance. As has no doubt been mentioned, I will become the responsible authority for all planning decisions in the project area — namely, the station precinct. The Brumby government is working in close partnership with Maribyrnong City Council to fast-track the program of urban development in the town centre to proactively provide planning and community development in a way that will build stronger and fairer communities.

To put it simply, we have provided \$52.1 million through the transit cities program to accelerate Footscray's development, because we believe it can be one of the most important hubs for transport, jobs and housing for Victorians. Once it has been completed the transit-orientated hub will provide the community with better, safer and well-connected transport, services and facilities; less traffic congestion, noise and pollution, with more people using public transport, walking and cycling; more local retail stores, so most shopping can be done locally and can be encouraged to be done locally; more jobs; more housing options, many right near the local city and transport centres; and a better range of recreational facilities and activities, bringing local residents together. It will provide a great sense of

place and community, and it quite simply will make Footscray, as well as Victoria, a better place to live, work and raise a family.

address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

**By Ms LOVELL (Northern Victoria)**  
**(150 signatures)**

**Laid on table.**

**QUESTIONS ON NOTICE**

**Answers**

**Mr LENDERS** (Treasurer) — I have answers to the following questions on notice: 34, 142, 248, 306, 313, 323–7, 329, 330–5, 338, 340, 341, 346, 349, 350, 355, 364, 373, 374, 378, 387, 393, 397, 398, 401–4, 405, 407–15, 418, 428, 429, 432–4, 437–9, 442, 444–7, 454–6, 468, 476, 477, 479, 480, 483–90, 493, 503, 504, 506–8, 515, 553–9.

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE**

***Alert Digest No. 10***

**Mr EIDEH (Western Metropolitan) presented *Alert Digest No. 10 of 2007, including appendices.***

**Laid on table.**

**Ordered to be printed.**

**PETITIONS**

**Following petitions presented to house:**

**Review 2006**

**Schools: Notting Hill sites**

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the effect to the Notting Hill community of the loss of open space once the former Monash primary and Monash secondary sites are sold for development, having been declared surplus to requirement by the education department.

Your petitioners therefore request that the state government recognises this loss and makes a contribution to the local community of a parcel of land large enough to allow a sports oval/playing field by way of compensation.

**Mr EIDEH (Western Metropolitan) presented annual review, including appendices.**

**Laid on table.**

**Ordered to be printed.**

**Regulation review 2006**

**Mr EIDEH (Western Metropolitan) presented regulation review, including appendices.**

**Laid on table.**

**Ordered to be printed.**

**By Mr RICH-PHILLIPS (South Eastern Metropolitan)**  
**(662 signatures)**

**Laid on table.**

**PAPERS**

**Water: north–south pipeline**

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council of Victoria the proposal to develop a pipeline which would take water from the Goulburn River and pump it to Melbourne.

The petitioners are opposed to this project on the basis that it will effectively transfer the region's wealth to Melbourne; have a negative impact on the local environment; and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray–Darling Basin should remain in the basin.

Your petitioners therefore request that the state government abandons their proposal to pipe water from the Goulburn River to Melbourne and call on the state government to

**Laid on table by Clerk:**

Crown Land (Reserves) Act 1978 —

Minister's orders of 27 June 2007 and 17 July 2007 giving approval to the granting of leases at Howard Glover Reserve (two papers).

Minister's orders of 17 July 2007 and 18 July 2007 giving approval to the granting of leases at Kardinia Park Reserve (three papers).

Minister's order of 17 July 2007 giving approval to the granting of a lease at Kardinia Park Memorial Swimming Pool Reserve.

Minister's order of 19 July 2007 giving approval to the granting of a lease at Sandringham Beach Park.

Minister's order of 19 July 2007 giving approval to the granting of a lease at Seaford Foreshore Reserve.

Interpretation of Legislation Act 1984 — Notices pursuant to section 32(3)(a)(iii) in relation to Statutory Rule Nos. 46, 53, 54, 76 and 77.

Melbourne Cricket Ground Trust — Report for the year ended 31 March 2007.

Northern Melbourne Institute of TAFE — Report, 2006 (*in lieu of that tabled on 1 May 2007*).

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

Cardinia Planning Scheme — Amendments C110 and C112.

Casey Planning Scheme — Amendment C101.

Colac Otway Planning Scheme — Amendment C56.

Greater Geelong Planning Scheme — Amendment C96.

Horsham Planning Scheme — Amendment C32.

Kingston Planning Scheme — Amendments C68 and C92.

Loddon Planning Scheme — Amendment C20.

Murrindindi Planning Scheme — Amendment C12.

Port Phillip Planning Scheme — Amendment C66.

Towong Planning Scheme — Amendment C22.

Wellington Planning Scheme — Amendment C42.

Whitehorse Planning Scheme — Amendment C57 Part 2.

Special Investigations Monitor's Office — Report for the period ended 30 June 2007, pursuant to section 30Q of the Surveillance Devices Act 1999.

Statutory Rules under the following Acts of Parliament:

Agricultural and Veterinary Chemicals (Control of Use) Act 1992 — Nos. 82 and 83.

Building Act 1993 — No. 85.

Drugs, Poisons and Controlled Substances Act 1981 — No. 84.

Estate Agents Act 1980 — No. 79.

Heritage Act 1995 — No. 80.

Magistrates' Court Act 1989 — No. 86.

Terrorism (Community Protection) Act 2003 — No. 81.

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rule Nos. 55 and 86.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 61.

Proclamation of the Governor in Council fixing an operative date in respect of the following Act:

Drugs, Poisons and Controlled Substances (Amendment) Act 2006 — sections 9(2), 12 and 15 — 1 August 2007 (*Gazette No G30, 26 July 2007*).

## BUSINESS OF THE HOUSE

### General business

**Mr P. DAVIS** (Eastern Victoria) — I desire to move, by leave:

That general business on Wednesday, 8 August 2007 be taken in the following order:

- (1) order of the day no. 4, resumption of the debate on the motion for the second reading of the Summary Offences Amendment (Body Piercing) Bill 2007;
- (2) notice of motion no. 31 standing in the name of Mr Gordon Rich-Phillips in relation to the Legislative Assembly's message refusing consent for certain members of the Assembly to appear before the Legislative Council Select Committee on Gaming Licensing to be taken cognately with order of the day no. 5, consideration of the Assembly's message in relation to the same matter; and
- (3) notice of motion no. 24 standing in my name in relation to amending sessional orders relating to the business of the Council.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Police: lost property

**Mrs COOTE** (Southern Metropolitan) — A concerned constituent told me a most alarming story last week. Her daughter, who had lost her wallet in an inner Melbourne suburb, was rung by the police and given the name of the person who had handed the wallet in to the police. She rang the honest citizen to thank him and was astonished by the comments he made. It seems he took the wallet to the nearest police station only to be told, 'No, you must take this to the police station 5 kilometres away. We do not receive stolen goods here'. The honest citizen took the wallet to the neighbouring police station, which duly rang my constituent's daughter.

I would like to find out from the police minister when he gets a moment to reply to my question why the police do not accept stolen goods, and if they do not, what do they do? This is a ridiculous situation. It makes a mockery of policing in Victoria and discourages our

community from doing the right thing. I would like to know why the minister cannot fund his police to make certain that these sorts of circumstances do not happen again. This is at the coalface of policing. It is about an issue that encourages people to be honest and do the right thing, but it is such an old-fashioned notion that this minister does not seem to be able to comprehend it. He needs to properly fund the police.

### **Trams: service standards**

**Mr BARBER** (Northern Metropolitan) — I want to add some more remarks to my continuing theme on the no. 55 tram, which just happens to be my local tram, which serves a considerable catchment area in between two rather poorly serviced rail lines. The problems of overcrowding are absolutely well documented in the particular case I raised previously, but recently I had occasion to head home on that tram early in the afternoon and observe the conditions under which schoolkids are travelling.

On that particular day the tram was absolutely overloaded. Passengers were unable to move inside it due to the number of people on the tram — mainly schoolchildren, given the time of day — by the time it had reached Royal Park. However, we then started to encounter children from Brunswick high school, who were left standing on the side of the road in the rain because the tram, even at 3.30 p.m., was completely overloaded.

While the minister is looking to address the problems of morning and afternoon peak overloading on that tram service, could she also please examine the issue of schoolchildren facing exactly the same problems as everyone else does, particularly later in the day? They are at risk of being left behind, sometimes in the rain, and there could also be a problem with accidents occurring due to passenger overcrowding.

### **Hon. Steve Bracks and Hon. John Thwaites**

**Ms MIKAKOS** (Northern Metropolitan) — I rise to pay tribute to the former Premier, Steve Bracks, and the former Deputy Premier, John Thwaites. Whilst the Labor caucus, the Labor Party and the vast majority of Victorians will miss them from this Parliament, they leave this place with a record of enormous achievement personally and for our state. Former Premier Steve Bracks leaves an unprecedented record of restoring public services whilst maintaining a responsible and strong budgetary position. Steve Bracks's decency has often been commented upon and is something I wholeheartedly endorse. I wish Steve, Terry and their children all the very best for the future.

John Thwaites also leaves a significant legacy, in particular his important work in addressing disadvantage through the government social policy statement *A Fairer Victoria* and in securing our water resources. I wish John, Melanie and their son, Jack, all the very best for the future.

I also congratulate John Brumby on his election as Premier and the Attorney-General in the other place, Rob Hulls, on his election as Deputy Premier. I also congratulate John Lenders on his appointment as Victoria's first ever Treasurer to sit in the Legislative Council.

Victoria has been left in safe and experienced hands, and I wish them every success for the future.

### **National Homeless Persons Week**

**Ms LOVELL** (Northern Victoria) — 1 August to 7 August is National Homeless Persons Week. It provides us all with an opportunity to reflect on the lives of the over 20 000 Victorians who have been identified as homeless. It is sought with National Homeless Persons Week to change the common perception that a homeless person is an alcoholic, middle-aged or elderly man who is sleeping rough on the street. In fact 57 per cent of homeless Victorians are aged 34 or under, with around 26 per cent aged between 12 and 18 years of age. They have often been the victims of violence and extreme financial hardship.

The vast majority of homeless Victorians are living temporarily on the floors and couches of families and friends or are in short-term accommodation at emergency hostels and shelters. About 14 per cent of Victoria's homeless are sleeping rough. It is important for every one of us as members of Parliament to have a better understanding of homeless people and the causes of homelessness in order for us to develop more effective programs to address this serious issue.

I encourage each and every member of this chamber to take the opportunity during National Homeless Persons Week to learn more about this very important issue, and I urge the state government to invest in programs to assist the over 20 000 Victorians who are identified as being homeless.

### **Horsham College: Schools Tree Day**

**Ms PULFORD** (Western Victoria) — Last Friday, 27 July, I joined the students from the McKenzie Creek campus of Horsham College at Green Lake, a dried-up lake 10 minutes outside Horsham, to help plant and protect around 500 trees for Schools Tree Day, which is part of the National Tree Day program.

Held on Sunday, 29 July, and now in its 12th year, National Tree Day involves hundreds of thousands of Australians getting their hands dirty planting more than 1.5 million native trees and shrubs in an attempt to assist our precious environment. Schools Tree Day is a special day for around a quarter of a million schoolchildren of all ages to learn how important the environment is to us, and it gives them a practical opportunity to engage and do something about it.

The children from the McKenzie Creek campus whom I joined are in years 6 to 9 and have all been identified as likely to benefit from the McKenzie Creek campus program to improve their numeracy, literacy and other skills before being integrated back into the mainstream Horsham College community. I am pleased to report we all worked together and had a great time. It was a pleasure to meet and talk to the campus coordinator, Malcolm Solomano, as well as John Harris from Parks Victoria, who was helping us out.

I trust that events like this encourage young people to think about the impact they have on this planet. Young people may be the future, but it will not be much of a future unless we get the environmental balance right, and programs like this are a fabulous way of showing the next generation how to do that in a very practical way.

### **Coptic Orthodox Church, Donvale**

**Mrs KRONBERG** (Eastern Metropolitan) — On Saturday, 28 July, I attended the Day of Thanksgiving conducted by the Coptic Orthodox Church, Melbourne diocese. His Grace, Bishop Suriel, Bishop of Melbourne and Affiliated Regions, marked the Coptic congregation's achievement in raising the final payment for the new diocese of the Melbourne headquarters in Park Road, Donvale. The previous owners of this site were the Carmelite Fathers.

This day was the culmination of many years of spirited community involvement and fundraising on behalf of the Coptic congregation here in Australia. With the property now being secured, the Coptic Church will be able to better cater for the needs of many families, and it will also house the Coptic Theological College. My memories of the day are filled with images of joy on the faces of the congregation's members. There were hundreds and hundreds of charming, warm and hospitable people all rejoicing and displaying their devotion during a moving and dignified ceremony steeped in ancient ritual and beautiful songs of praise.

Here in Australia we are richer for having a community of such civic-minded families, many of whom now

rejoice in the religious freedom here. The teachings of the Coptics date back to St Mark, who wrote the oldest of the four gospels, the gospel according to St Mark, and who arrived in Egypt in 55AD. This makes the Coptic Church, which describes itself as a deeply spiritual and conservative church, one of the oldest churches in the world, spanning 20 centuries.

### **Lismore: township revitalisation project**

**Ms TIERNEY** (Western Victoria) — I rise to mention another example of the small towns development fund in recent times. On Monday, 25 June, I was in Lismore to announce on behalf of Mr John Brumby, the then Treasurer and Minister for Regional and Rural Development in the other place, and now of course the Premier of this great state, a grant of \$90 000 for the Lismore township revitalisation project. The Lismore announcement is the 325th project financed under this fund.

Lismore is a popular stop for motorists travelling along the Hamilton Highway. On public holidays and long weekends local service groups coordinate holiday coffee break and rest facilities on the median strip in the town centre. The project includes improved parking, accessible pathway links to commercial and recreational areas, upgraded public access and public conveniences on the median strip.

People in the Lismore community were ecstatic with the announcement, and they indicated that it will not only provide a pleasant living and commercial environment for the community but it will also enhance local pride and the town's reputation as an appealing rest stop. I congratulate the Lismore community and the Corangamite shire for their \$90 000 contribution to the project. This is another example of the state government and local councils cooperating to create improvements in rural and regional Victoria. I am looking forward to returning to Lismore to see the completed works and the happy faces and to taste the wonderful coffee, which I did as late as last night on my return from Sheepvention.

### **Fishing: Fisheries Victoria forum**

**Mr VOGELS** (Western Victoria) — Over the past few weeks I have received a number of complaints from fishing clubs around Victoria that have been ignored and not invited to attend the upcoming forum on 4 September 2007 to review the future representation of Victoria's recreational fishers. It appears that Fisheries Victoria has cherry-picked its desired representation at this forum, with the majority

of clubs, especially those from country Victoria, being snubbed.

Victoria's present recreational fishers have a voice through VRFish, an independent peak body established in 1995. VRFish has a democratically elected board, voted in by its members, the fishing fraternity. It appears ominous that Fisheries Victoria plans to restructure VRFish without listening to the views of many recreational fishers and the clubs they belong to. It has been put to me that Fisheries Victoria is seeking to put in place a more compliant organisation, with board members appointed by the minister, rather than the present model of popularly elected members. Recreational fishing is estimated to involve over 550 000 Victorians who purchase 235 000 fishing licences and create economic activities estimated to generate over \$400 million per annum in this state.

I call on the minister to instruct Fisheries Victoria to invite all key stakeholders to participate in this review of the industry, especially those deliberately bypassed. These include the Albert Park, Ballarat, Far West, Geelong and District, Gippsland, Goulburn Valley and Howqua angling clubs, the Metropolitan Anglers Association, the Australian Anglers Association Victoria, the Mid-Northern Association of Angling Clubs, the Midland and North Central Angling Association, the South Gippsland Angling Clubs Association, the South Western District Association of Angling Clubs, the North Eastern association and the Wimmera Anglers Association, and the Boating Industry Association of Victoria, the Council of Victorian Fly Fishing Clubs, the Game Fishing Association of Victoria, the Professional Fishing Instructors and Guides Association —

**The PRESIDENT** — Order! The member's time has expired.

### **Federal government: interest rates**

**Mr TEE** (Eastern Metropolitan) — I was not surprised to read recently about the levels of mortgage stress in Melbourne, but what was surprising was that even some of the so-called wealthier eastern suburbs have been crippled by 11 years of the Howard government. New research has shown that more than one in four households in the eastern suburbs of my electorate are suffering from mortgage stress, and this already grim financial picture for families in my electorate is deteriorating rapidly. Across the Knox, Maroondah, Whitehorse and Manningham municipalities the number of families suffering mortgage stress rose by a whopping 24.5 percent in just five years. This means that more than 7600 families in

my electorate have been crippled by Howard government economic mismanagement.

We all know the causes: eight interest rate increases since 2003 and another likely tomorrow, and a government that has used WorkChoices to take money out of the budgets of families. Mr Howard's response to families pleading for relief has been to tell these families that they have never been better off. In order to survive, many families in my electorate desperately need a radical change in approach. They need a new federal government that understands the needs of families and has the energy to respond to the financial pressures that families face.

### **Rail: Pakenham line**

**Mr O'DONOHUE** (Eastern Victoria) — Under the Bracks government's, and now the Brumby government's, *Melbourne 2030* planning document it is anticipated that another 50 000 people will be living in the south-eastern growth corridor, the area that stretches from Berwick, Beaconsfield, Officer and the Cardinia Road precinct through to Pakenham. Sadly public transport facilities and services in this growth corridor are an absolute disgrace. Trains on the Pakenham line have one of the worst records in punctuality and overcrowding of all the metropolitan railway lines. Pakenham trains are constantly late and do not provide adequate services for the growing communities of the area. In particular the state of the Officer railway station is an absolute disgrace. With the recent cold weather and rain, the car park has turned into a muddy bog making it virtually impossible after rain to access the station without getting muddy and dirty. The state and condition of the Officer railway station makes a lie of the government's supposed investment in public transport.

I call on the new Premier, the Minister for Public Transport in the other place and the member for Gembrook in the other place to take immediate action to upgrade the station, including the sealing and line marking of the station car park, to improve the after-hours lighting, to make it user friendly, to encourage people to leave their cars and to catch public transport. To do otherwise will simply result in the increase of new residents of the area using our already clogged road network. The people of the growth corridor are getting less, paying more and going slower.

### **Hon. Steve Bracks and Hon. John Thwaites**

**Mr PAKULA** (Western Metropolitan) — I rise to add my voice to those praising the enormous contribution of Steve Bracks, the former Premier, and

John Thwaites, the former Deputy Premier. I first met both men in the late 1980s, but then I got to know them when they became opposition frontbenchers in the early 1990s. I got to know John Thwaites as my friend and local member and Steve Bracks as the opposition industrial relations spokesman when I was a union official.

Like many, my view of Steve Bracks was that he was too nice for politics. When he became Leader of the Opposition I feared that Jeff Kennett would chew him up and spit him out. I was right and wrong. Steve Bracks is a genuinely nice man, but his demeanour hides a steel will and a formidable confidence in his own political judgement. It was judgement that time and again proved to be uncannily good. It allowed him to forge an unparalleled relationship with his colleagues and with the Victorian people, and he has earned his retirement.

### **Liberal Party: leadership**

**Mr PAKULA** — In the time I have left, I will turn to the appalling fumbles of the Liberal Party in the last week. The churlish comments of Ted Baillieu, the Leader of the Opposition in the other place, on the day of the former Premier's resignation and his failure to congratulate John Brumby, the Premier, proved that money cannot buy class. By refusing to run a candidate in the Albert Park by-election the Liberal state executive has destroyed Ted Baillieu's leadership. He having been so comprehensively undermined by his own organisation, it is now only a matter of time before the party room, that nest of vipers, finishes the job.

### **Assyrian Chaldean Syriac community: rally**

**Mr GUY** (Northern Metropolitan) — I rise to place on record the concerns of Australia's Assyrian Chaldean Syriac community and the very real fears they have for many members of their immediate and extended families and for their Christian community as a whole in Iraq and the Middle East. This is an issue that has been previously referred to in this place by Mr Finn.

On 22 July the community held a large rally to express their outrage at the murder of a Chaldean Catholic priest in Mosul in northern Iraq. The rally also heard terrible stories about the lives of the Christian population in the region, including forced conversions, persecution, intimidation and basic acts of terror against a peaceful community. I attended the rally along with Senator Rod Kemp, the federal Minister for the Arts and Sport, and we gave a commitment not to abandon

this community and not to forget the struggles that so many are going through.

Unfortunately the United Nations is missing in action on this issue. Typically the UN has talked, met and talked again from the safety of Geneva but has done nothing. It is a blessing that the Australian government has just announced that the intake of displaced Iraqis will increase in this next financial year. Many of those who are misplaced are Assyrian Chaldeans. To the members of this proud and patriotic community I say that we will not forget the struggles that so many of their countrymen and countrywomen are going through. The persecution and murder of Christians in northern Iraq will not go unnoticed, and the community's efforts, as proud Australians who seek to help their families overseas, are part of a struggle which must continue and which my colleagues and I will do everything we can to support.

### **Hon. Steve Bracks and Hon. John Thwaites**

**Mr ELASMAR** (Northern Metropolitan) — I rise today to speak about a momentous occasion in the history of Victorian politics. Our former Premier, the Honourable Steve Bracks, took the decision to resign his position of Premier of Victoria two weeks ago. It was a shock to many of us as we have become used to his leadership and friendship.

In my view he was the most popular Premier in Victorian political history. His leadership, honesty and capacity saw many great achievements for the people of our great state. I wish him well in whatever endeavour he chooses in the future. I wish him great joy as he will be now able to spend more time with his loving family.

A new era has dawned now under the leadership of new Premier John Brumby. It is a new leadership that is fully supported by every single member of the government benches. I, together with my parliamentary colleagues, have every confidence in John Brumby and his determination to make Victoria an even better place to be. I congratulate our new Premier. In the words of former Liberal Premier of Victoria Jeff Kennett, John Brumby is the ablest politician on the government benches. He knows that, and we know that. Good luck, Premier.

### **Talya Matthews**

**Mr THORNLEY** (Southern Metropolitan) — In the first semester of the 2007 university year, as a newly elected member of this Parliament, I was fortunate to host an intern through the Victorian parliamentary internship program for the first time. It is a terrific

program. It helps bring fresh ideas and analysis into government, and it gives young people, students, an opportunity to gain real policy experience and to contribute to their community.

Our parliamentary intern, Talya Matthews, conducted research over a six-month period into the important topic of anaphylaxis management. Talya is a bright and capable student, and her final report reflected this. The final product was comprehensive and explored Victorian policy and programs, and provided an analysis compared with other Australian states and territories. Talya's personal interest in the area was coupled with the government's 2006 election policy platform, which will provide significant policy changes around anaphylaxis management. Talya's research reveals that Victoria is a comparative leader in the area of anaphylaxis management, being only the second state in the world to create anaphylaxis legislation.

Her report contained 23 recommendations, including suggestions around the supply of Epipens to all first aid kits in children's services, including schools. Her report also made suggestions for the rollout of such a program to other states through the Council of Australian Governments.

Talya's hard work was rewarded recently when she became the recipient of the President's Prize, awarded to the most outstanding Victorian parliamentary internship report. I offer her my congratulations and thanks for the hard work she put in. I also thank Jess Mison-Smith and the rest of the team in my office for assisting her in the project.

### **Premier: accomplishments**

**Mr EIDEH** (Western Metropolitan) — It is with great pride that I congratulate John Brumby as the new Premier of Victoria. Mr Brumby proved to be an exceptional Treasurer during the term of the Bracks Labor government and worked tirelessly to ensure that the economy was managed in a responsible manner whilst also ensuring that the people of Victoria received much-needed services. His success as Treasurer obtained a strong recognition by internationally respected ratings agencies as well as considerable economic growth and development.

The Brumby Labor government has considerable talent. I cannot think of a better person to lead our state at this time than the member for Broadmeadows, Premier John Brumby. Indeed the new government will continue and extend the quality policies and programs already in place on behalf of all Victorians. Premier Brumby will build on the solid positive legacy of the

former member for Williamstown and Premier, Steve Bracks.

### **Treasurer: accomplishments**

**Mr EIDEH** — I am also very pleased with the choice of John Lenders as Victoria's new Treasurer. It is an honour not only for him but also for this house. The new Treasurer has proven his many great skills and competencies as a former finance minister. In his time as education minister he showed his ability to perform at a high level. Premier Brumby has asked him to undertake responsibility as the Treasurer of Victoria, and he will bring his many skills, qualities and abilities to the position. I congratulate the government, the new Premier and the new Treasurer.

## **MAGISTRATES' COURT AND CORONERS ACTS AMENDMENT BILL**

### *Second reading*

### **Debate resumed from 19 July; motion of Hon. J. M. MADDEN (Minister for Planning).**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I say at the outset that the Liberal Party will support the Magistrates' Court and Coroners Act Amendment Bill 2007. It is not a bill that will require a great deal of debate from this side. The provisions of the bill are relatively straightforward and technical in nature. The bill expands the definition of 'magistrate' to include acting magistrates. This will clarify the use of acting magistrates throughout the Magistrates Court. It will allow them to be used in the Drug Court division of the Magistrates Court. The Drug Court is an exercise that has been pioneered in Dandenong in my electorate. By all accounts it seems to have been quite a successful program over the last four years or so that it has been in place. It seems to be working fairly effectively at the Dandenong Magistrates Court. This provision will clarify that acting magistrates are able to participate as magistrates in the Drug Court division of the Magistrates Court.

A further provision will clarify that any magistrate can make a referral to the Drug Court division of the Magistrates Court. Again, this is about simplifying the use of the Drug Court. I understand that currently only magistrates who are assigned to the Drug Court division are able to make those referrals. Following the passage of this legislation any magistrate, including an acting magistrate, will be able to make a referral to the Drug Court, which hopefully will smooth its operation and increase its efficiency. Obviously that is something

we are all keen to encourage. We would like to see a more efficient handling of matters before the courts at all levels in this state, and anything that can be done to improve the administrative process for handling matters through the courts is to be welcomed.

It is in a similar vein that a further change introduced by the bill allows the Chief Magistrate to delegate to judicial registrars the adjourning of matters before a Magistrates Court prior to them reaching a mention stage in the court. Again, it is a sensible move that will free up the court's time for the hearing of more substantive matters, and it is something that we welcome.

A further amendment will expand the list of officers who are able to receive witness statements that will be presented to the Magistrates Court. I understand the reason for doing this is that many of the organisations that will now be included in the Magistrates' Court Act as bodies that can receive witness statements, whether they be cross-jurisdictional bodies or various agencies in Victoria, are currently involved in prosecutions that go before the Magistrates Court. It is appropriate that they be able to receive witness statements themselves and that those statements be able to be tendered to the court without a need to refer them to third parties. It will smooth the passage of and improve the efficiency with which these criminal matters are handled through the Magistrates Court.

The agencies to which that capacity to receive witness statements will be expanded are all listed in the act. They are all reputable agencies of either the state or commonwealth jurisdictions. Accordingly we have no concern with any of the bodies listed in the act being granted the capacity to receive witness statements that can be presented in committal hearings before the Magistrates Court.

Many of the amendments in this bill are unrelated but add to the smooth running of the Magistrates Court. One is an extension of the Family Violence Court intervention project, which allows for the subject of an intervention order to be required to undertake counselling relevant to the matter for which the intervention order was sought. That was put as a sunset provision in the Magistrates' Court Act and was due to expire on 30 October this year; this bill will simply extend that for a further two years. It is my understanding that, like the Drug Court, that has been a fairly successful alternative mechanism for the court to handle family violence matters. Accordingly, it is appropriate that that be extended for the further two years that is sought under the bill.

A final provision in the bill relates to an amendment to the Coroners Act rather than to the Magistrates' Court Act. It picks up what I understand are current provisions of the Coroners Regulations relating to the capacity of the coroner to grant access to coroners files. It is my understanding that the Coroners Act is subject to review and that this provision has been carried forward from sunset regulations. As such, it is an existing rather than a new provision in the package of acts and regulations that governs the Coroners Court.

I understand that Ms Pennicuik from the Greens will raise some concerns about this provision. The Liberal Party, having had discussions with her, will leave it to Ms Pennicuik to present arguments about her concerns.

We would support the inclusion in the act of this provision, which would be a retention of the existing provisions under the regulations. I note the concerns expressed by Ms Pennicuik about the release of personal information and the particular case where personal information relating to a case that had been looked at by the Coroners Court was released.

From discussions with the Parliamentary Secretary for Justice I understand that since that particular case occurred, the processes of the Coroners Court have been modified and that there are now practices in place in the Coroners Court to ensure that the release of information such as that released in that earlier case — which resulted in a person being identified — is no longer able to happen. On the basis of that assurance from the government it is the Liberal Party's view that clause 9 should be included in the bill, and therefore we would not support an amendment that clause 9 be deleted.

In conclusion, the bill contains a number of sensible provisions that will smooth the operations of the Magistrates' Court. They will allow magistrates or judicial officers to devote more time to determining matters before the court rather than being engaged in purely process matters. As such, the Liberal Party believes they are a welcome amendment to the Magistrates' Court Act and will support the bill.

**Mr HALL** (Eastern Victoria) — Like the opposition, The Nationals came to the decision that we too would be supporting this piece of legislation in Parliament this afternoon. However, as Mr Rich-Phillips indicated, the Greens have raised one issue which its members will talk about in their contribution, and we are prepared to listen to the arguments about that. I will make further comments about that particular matter in a few moments.

This bill, the Magistrates' Court and Coroners Acts Amendment Bill 2007, amends three acts. It makes some amendments to the Magistrates' Court Act, it also amends the Magistrates' Court (Family Violence) Act and finally it amends the Coroners Act. The amendments to each of these acts are machinery in nature. There are no issues of great change in principles in respect of these; they are of a machinery nature and essentially will lead to some efficiencies in the Victorian justice system. It was on that basis, after consideration of each of the amendments, that we came to the decision that we would not oppose any particular aspect of this bill. I will briefly mention the amendments.

First of all clause 3 makes some amendments to the Magistrates' Court Act concerning the Victorian Drug Court. The Drug Court division was established within the Magistrates Court in 2002. These amendments will allow acting magistrates to be assigned to this division. Consequent upon the first amendment the definition of 'magistrate' has also been amended to clarify the use of the expressions 'acting magistrate' and 'judicial registrar' in various provisions. The ability for the Drug Court division of the Magistrates Court to operate more efficiently is welcomed, and if that requires the appointment of acting magistrates to that division, we welcome that.

Secondly, some of the amendments contained in clause 4 will enable all magistrates at the Dandenong Magistrates Court to refer appropriate cases to its Drug Court division, irrelevant of whether the magistrate is an assigned Drug Court magistrate or not. Essentially when you have got the same person involved, it makes sense to us to give those powers to that person so they can operate as a magistrate in a Drug Court division.

Clause 5 gives registrars of the Magistrates Court the power to adjourn criminal proceedings and where appropriate extend bail on the mention date and subsequent dates. Again, this is a time-saving efficiency measure within the justice system, and we welcome it. Clause 6 will enable nine additional commonwealth and state agencies to witness statements that can be tendered in committal proceedings. The agencies are listed on page 3 of the minister's second-reading speech, and I do not propose to name all of them again, but for reasons of efficiency we are prepared to support that particular amendment.

The amendment to the Magistrates' Court (Family Violence) Act 2004 enables an extension of the sunset date for the availability of counselling orders to 30 October 2009. Currently the expiry date on that provision is 30 October 2007, and the advice given to

The Nationals from the government is that the extension of the sunset date will enable the ongoing review of the success or otherwise of the counselling orders to be evaluated. It seems to us to be sensible to allow such a review to take place in a timely fashion; consequently we are prepared to support that extension of the provision.

Finally, clause 9 of the bill amends the Coroners Act and essentially enables public access to records and files in certain situations. My understanding is, as described by Mr Rich-Phillips, that this access is now being enacted, rather than it being achieved by regulation. I am not exactly sure what differences in process are going to evolve because of the change from what was essentially permitted by way of regulation to what will now be permitted by way of the act of Parliament itself. Despite the Leader of The Nationals in the other place, who is The Nationals spokesperson on the Attorney-General's portfolio, consulting with the Law Institute of Victoria and the Victorian Bar Council on this bill, to my knowledge at least no issues have been raised by either of those organisations directly with him or with us as a party.

However, I have been directed to the website of the Law Institute of Victoria, which has published a letter to the Attorney-General that expresses some concerns about the provisions in clause 9. As I said at the outset, I am prepared to listen to the argument on that, consider it between now and the time the committee will sit and then make a final decision.

The decision of The Nationals was to not oppose the bill. That is our position as it stands at the moment. I look to the opportunity to participate further during the committee stage of this bill.

**Ms PENNICUIK** (Southern Metropolitan) — I have spent some time researching this bill and talking to a range of people about it. The provisions applying to the Magistrates Court seem to be sensible amendments to assist the operation of the court, and the Greens are supportive of those. However, we have concerns about clause 9 in part 3 of the bill which, proposes to insert a new section 51 into the Coroners Act 1985.

Having read the relevant section of the parliamentary Law Reform Committee's 2006 report on the Coroners Act, and having consulted with interested parties such as the health services commissioner, the Federation of Community Legal Centres and the Law Institute of Victoria, my question is: why is new section 51 being proposed when the equivalent provision has been deliberately removed from the coroners regulations? I understand that advice to the government was that

regulation 24 as it stood was beyond the powers of a regulation and so needed to be turned into the provision of an act rather than a regulation. The issue is that in the parliamentary Law Reform Committee's report there was a recommendation that that regulation and its provisions be actually repealed along with section 45 of the act. My question is: why is this being proposed to be inserted into the act when it was found by the Law Reform Committee to be inadequate?

In my discussions with interested parties I have discovered that there is strong opposition to this clause. Mr Hall referred to the letter from the Law Institute of Victoria which was written to the Attorney-General after the law institute had met with people from the Department of Justice. In that letter it says it strongly opposes the insertion into the Coroners Act of new section 51 proposed in clause 9 of the bill and in fact asked the Attorney-General to amend the bill by deleting clause 9 and the proposed new section 51 in the Coroners Act before it is further considered in the Legislative Council. I am proposing to move an amendment in my name which deletes clause 9 from the bill.

**Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan) pursuant to standing orders.**

**Ms PENNICUIK** — The parliamentary Law Reform Committee found that:

In contrast to the principles contained in the IPA and HRA, there are no comparable guidelines or principles in the act which regulate the way that coroners disseminate personal or health information contained in the coronial file or the hospital medical file which is in the possession of the coroners office.

The committee went on to say:

The act provides little guidance on managing access to records, leaving disclosure of medical and other records to the discretion of the coroner. In contrast to the principles contained in the IPA and HRA, there are no comparable guidelines or principles in the act which regulate the way coroners disseminate personal or health information contained in the coronial file or the hospital medical file which is in the possession of the coroners office. The act provides little guidance on managing access to records, leaving disclosure of medical and other records to the discretion of the coroner.

It also said:

The committee is concerned that the section 45 of the act and the regulation 24 give a coroner broad, unregulated powers to release personal and health information in his or her possession. Further, the release of such information is not currently prevented by either the IPA or the HRA. Both acts are subject to the judicial/quasi-judicial exemptions contained

in sections 10 and 14 respectively ... the level of privacy currently afforded by the legislation is simply inadequate.

In the inquiry the health services commissioner pointed out that that issue actually needs clarification as to whether, because of his quasi-judicial function, the coroner is subject to those acts. In recommendation 116 the committee said:

That section 10 of the Information Privacy Act 2000 and section 14 of the Health Records Act 2001 be amended so as to clarify the application of the exemptions in those sections to such coronial functions that relate to the conduct of inquests and inquiries under the Coroners Act 1985.

The parliamentary Law Reform Committee was highly critical of regulation 24. Its recommendation 117 states:

That section 45 of the Coroners Act and regulation 24 of the Coroners Regulations 1996 be repealed and that principles be inserted into the act which regulate the kind of information a coroner may release and to whom s/he may release it, both before and after the completion of an investigation, modelled on the principles contained in part 3, division 4, of the Coroners Act 2003 (Qld.)

However, under this bill section 45 remains in the act. Section 45 states that a coroner may make available any statements that the coroner intends to consider to any person with a sufficient interest. The government, having removed regulation 24 from the regulations, is now, with clause 9 of the bill, inserting it unchanged — that is, without the recommended privacy protections — into the Coroners Act.

In speaking to a range of people about this bill, right up until I walked back into the chamber tonight, I have heard contradictory views about the effect of inserting section 51 into the Coroners Act. One view is that there is no need for section 51: that if nothing were done, the act were left as it is and section 51 were not inserted into the act until the full review had been completed — and I understand there is a full review of the act going on into next year, which will take into account all of the full recommendations of the parliamentary Law Reform Committee's inquiry into that act — then nothing would be lost. The Coroner could still report on deaths and make statements and recommendations about those deaths in the public interest but would not have absolute discretion to release sensitive or private health or other information. I have a great deal of sympathy for this view.

Another view is that without this clause the coroner is not able to exercise his or her discretion not to release sensitive or private health or other information but somehow would be compelled to release any information requested by an interested person. I am not so sure about this from looking at the act. I ask the

minister to perhaps address this question later, as to where in the act that provision exists or where in actual common law it exists.

It seems clear that under other sections of the Coroners Act — for example, section 19(2) — a coroner may comment on any matter connected with a death, including public health or safety, or the administration of justice, and under section 36(2) a coroner may comment on any matter connected with fire, including public health or safety or administration of justice.

I did consult the coroner in researching this bill, and he stated that he is putting procedures in place to ensure that private information that does not relate to the function of the coroner under the act is kept separate — for example, medical files and so on. A chief executive officer (CEO) has been appointed to oversee this and other matters relating to the functions of the office of the coroner. These are welcome measures but do not in and of themselves prevent the release of such information to a person.

I am advised that the Supreme Court and other courts are covered by rules such that personal medical files are not available to the public. I believe the coroners office should also be governed by such principles in rules, and in making legislation of this type we must ensure that we strike the right balance between the public interest in access to information and the public interest in maintaining an individual's right to privacy.

This is a serious question for families and individuals who give their information, particularly health information but also other personal and sensitive information, on the understanding that that information remains confidential and does not become public, particularly during a time of trauma and distress, which they may well be going through. In the meantime we should err on the side of caution in favour of protection of privacy over public access, at least on an interim basis.

The department and the government have said to me that there is going to be a full review and that they will fix this problem. They are aware it is a problem, but they will fix it in a year's time or whenever the review is completed and the new act is presented to the Parliament as a bill. However, one could say that the risk of harm to a person from a breach of privacy is greater than the risk of harm from a restriction on public access while the act is under review.

As I said, the coroner still has the power to report on deaths to the Attorney-General and to make recommendations on matters such as public health or

safety. During an inquest the coroner still has the power to make statements that are considered to be available to an interested person under section 45 of the present act, which the parliamentary Law Reform Committee recommended be repealed. There are other sections under the act — this was also outlined in the explanatory memorandum — where the coroner can release any amount of information regarding public health and safety. Therefore I do not see that the public interest is being thwarted here, but I do see people's personal, health or other sensitive information being left open to inappropriate disclosure with this provision.

Under new section 51 to be inserted into the Coroners Act the disclosure of information will be subject to only two provisions. One is section 30E which protects privacy in limited circumstances. Section 30E says:

Any information provided to a coroner about a child or person other than the deceased child in the course of an investigation into a reviewable death must be excluded from the public record of that investigation except in the circumstances of an inquest in relation to the deceased child.

Section 58(1) says:

A coroner must order that no report of an inquest or of any part of the proceedings or of any evidence given at an inquest be published if the coroner reasonably believes that it would —

- (a) be likely to prejudice the fair trial of a person; or
- (b) be contrary to the public interest.

Those provisions are not enough to protect the personal, health or other private, sensitive information of individuals that may be held by the coroners office. It is incumbent upon us when we are making laws — even if we are making laws on an interim basis or even if we are saying we are making a law that is only going to last a year or 18 months until a full review is done and a new law is made — not to make a law that exposes people's private and personal information to being released to any person. Another court cannot do that, a hospital cannot do that, a doctor cannot do that, but because we have this gap in the Coroners Act, a coroner has the power to do that. That is why I am foreshadowing this amendment to remove clause 9 from the Magistrates' Court and Coroners Act Amendment Bill 2007.

**Ms MIKAKOS** (Northern Metropolitan) — I am really pleased to be able to speak in support of the Magistrates' Court and Coroners Act Amendment Bill. I should say at the outset that this will probably be the last justice bill on which I will be the lead speaker for the government. I am very pleased to say that I am handing over the reins to a very capable colleague in

Brian Tee, who took over as the Parliamentary Secretary for Justice as of Friday of last week. I am very much looking forward to the new challenges posed by the role of Parliamentary Secretary for Planning and working with the Honourable Justin Madden in the new Department of Planning and Community Development. I will get to the bill shortly.

I want to take this opportunity to put on the record my sincere thanks to all the staff and departmental officers of the Department of Justice for their tremendous support over the last four and a half years whilst I have been undertaking my role as Parliamentary Secretary for Justice. It has been an absolute privilege to work with a number of ministers whose portfolios come within the Department of Justice, and in particular with Rob Hulls, the Attorney-General in the other place, who I think is absolutely the best Attorney-General this state has had. In the police portfolio I worked with three ministers, beginning with André Haermeyer, then Tim Holding and most recently Bob Cameron, all of whom are members in the other place. In the consumer affairs portfolio I worked first with Marsha Thomson, the member for Footscray in the other place, then with John Lenders and most recently with Daniel Andrews, now the Minister for Health in the other place. In the gaming portfolio I worked first with John Pandazopoulos, the member for Dandenong in the other place, and most recently with Daniel Andrews.

It has been tremendous to have been able to work with so many individuals in their ministerial capacities and to work with their staff as well in the broader objective of making our justice system as efficient and as modern as possible. I think that is what this bill is about — modernising our justice system and making sure that our justice system is as accessible and as simple as possible to service Victorians in their capacity as consumers of the legal system.

I am particularly pleased that this bill relates to significant achievements of the Attorney-General: the establishment of the Drug Court, the establishment the Neighbourhood Justice Centre and the establishment the family violence division of the Magistrates Court. These are all very significant achievements of this state Labor government and are really about our government's alternative approach to doing things — that is, to tackle the causes of crime as a way of reducing crime rates in this state, which is proving effective.

We have had a reduction in crime of over 20 per cent since 1999 when the Labor Party came to office, and we have had significant improvements to police resources. I point out in particular, for the benefit of the

Deputy Leader of the Opposition who had a bit to say about police resources earlier, that we have had a very significant increase both in police numbers and in police resources in general since we have been in government. We have also been looking at modernising our courts and ensuring that they have the appropriate technology to operate effectively. There have been a whole range of achievements which I will not go into now because I am sure my colleagues will not thank me as time moves on.

In particular this bill is about enabling various divisions of the Magistrates Court to operate more effectively. The Magistrates Court is of course the court that is at the coalface, and it deals with the vast majority of civil and criminal proceedings in our justice system, so it is important that it is able to operate as efficiently as possible.

The bill enables acting magistrates to be assigned to deal with a range of matters in the Drug Court. The Drug Court has already been commented upon. It is an innovative approach to try to tackle an issue that is a very significant contributor to our crime rates. All members, I am sure, are aware that drug and alcohol issues lead to a significant level of crime including burglaries, armed robberies, assaults and a range of other very serious crimes, and it is important that we have an opportunity to try to rehabilitate offenders.

That is what the Drug Court, which is currently in operation only at the Dandenong Magistrates Court, seeks to achieve. The bill enables the chief magistrate to have the flexibility to assign the most qualified and appropriate persons to the various divisions of the Magistrates Court, including the Drug Court, the Family Violence Court division and neighbourhood justice division, by tapping into the pool of acting magistrates. The expansion of the word 'magistrate' in the legislation will of course apply also in a range of other areas.

The bill also makes changes to enable the chief magistrate to assign duties to judicial registrars so they can deal with the adjournment of various matters. This is again about expediting the progress of proceedings through the Magistrates Court, ensuring that magistrates are able to utilise their time effectively in dealing with contested matters.

The bill also makes a number of changes to and expands the list of persons who may witness statements to be tendered in criminal proceedings. I will not go through the expanded list of people who will be able to provide written statements to the court in committal proceedings. This again is designed to reduce delays in

the justice system and the inconvenience to individuals of being required to attend court in a range of instances, and it should help to make the court operate more efficiently and effectively.

The bill also makes a change to the Magistrates' Court (Family Violence) Act. I touch upon this because it is another example of the innovative approach that the Labor Party in office has taken to tackling causes of crime. The government has put a significant amount of additional resources into tackling the broad issue of family violence. As part of that it has also looked at giving the police additional powers to respond to this issue. I will not go over the number of bills that have come before this house in the past.

One part of the government's multipronged strategy has been the establishment of a pilot Family Violence Court in the Magistrates Court at Heidelberg and Ballarat. That trial is seeking to impose on the perpetrators of family violence orders to attend what are colloquially known as behaviour change programs — that is, trying to change the attitudes of perpetrators — and as much as possible keep family units intact, which is not of course always possible. The court can also impose intervention orders. The court seeks to make a lasting change to the attitudes of perpetrators of family violence and so far the results are showing tremendous success.

Recently, with a number of my caucus colleagues, I had the opportunity of visiting the Heidelberg Magistrates Court. I am very grateful that Magistrate Cathy Lamble; the senior registrar, Jeff Dolling; and some of the other staff gave some of their time to explain to us how the court operates. I was really pleased that we had the opportunity to see the court in action and to talk to some of the police who act as informants. I should point out that, according to one of the police officers I spoke to, 50 per cent of interventions are initiated by police. That is also reflective of the tremendous leadership that Chief Commissioner Christine Nixon has taken on this issue since she has been in that position — to treat family violence as a crime and in a very serious way.

The bill seeks to provide for the continuation of the counselling orders for a further two years by substituting the current repeal date of 30 October 2007 with a new date of 30 October 2009. This will enable a full evaluation of the family violence court intervention project to take place to enable the government to make an informed decision about the future of counselling orders in the family violence court division. I wish the staff of the two courts every success. The results that they have seen to date are very promising.

I come now to the final legislative change contained in the bill, which relates to the Coroners Act, and in particular to the proposed amendment that has been circulated by Ms Pennicuik. The bill is seeking to insert a provision in the Coroners Act that is based on the access to records regulation that was formerly contained in the 1996 regulations. As members are aware, regulations sunset after 10 years. The coroners regulations recently sunsetted, and new regulations have been put in place.

The Victorian parliamentary Law Reform Committee tabled its final report into the Coroners Act late last year. This very significant report contains a total of 138 recommendations. The government is currently reviewing those recommendations with a view to undertaking a significant rewrite of the Coroners Act. In the meantime, whilst that rewrite is being conducted, there is a need for the coroner still to have clear guidelines and protocols about access to files, and that is what clause 9 seeks to do.

Essentially it seeks to maintain the status quo in relation to access to coronial files. That is not to say the procedures might not be changed in the future once the rewrite has been completed. I should point out that as part of that rewrite process the government will be undertaking extensive consultation with the community and with relevant stakeholders.

The proposed provision ensures that there is absolute certainty for the coroner about access to coroners files and records. In the absence of proposed section 51, in clause 9, the law would in fact be silent and create uncertainty for the coroner on matters other than statements. I should point out that section 45 of the Coroners Act enables the coroner to make available any statements that the coroner considers to be a person with a sufficient interest. These might be an interested party statement or a witness statement.

However, if we relied solely on section 45 and did not proceed to pass clause 9, there would be ambiguity about a coroner's ability to provide access to other things that might be in the coronial file such as photographs, police statements or a range of other types of information. That is why it is important we proceed with this clause, and that is why the government will oppose Ms Pennicuik's amendment. The amendment would leave the law ambiguous in relation to access to coronial files and records. I fully understand the concerns Ms Pennicuik has raised. I certainly agree that coronial files are very sensitive in nature. On a personal level I have assisted a number of families who have had tragedies in their lives and have had to deal with the

coroner. I fully appreciate the sensitivities required to be exercised in these circumstances.

It is important to note that the proposed provision requires the consideration of the coroner for each application made for access before the completion of an investigation or inquest and its practical application by the State Coroner's Office after the completion of an investigation or inquest. The coroner will have to take into consideration the unique circumstances of every case, to balance up the things Ms Pennicuik was talking about — to look at privacy considerations, to have regard to issues like open justice, to have regard to whether a person might be prosecuted and their right to a fair hearing prejudiced in some way. All of these issues will need to be considered, and I am sure they will weigh very heavily on the coroner's mind before a decision is made.

I understand that a particular case in recent history may be weighing on Ms Pennicuik's mind in relation to this issue. I certainly share her concerns about this case — and I do not want to go into the details of it today. I assure her that matters of access and record management are taken very seriously. In fact new policies have been put in place since October 2006, in particular to ensure that the privacy principles in the Health Records Act are adhered to. I understand that the State Coroner's Office has in fact introduced new policies that specify that the coroner receives medical records for the purpose of the coroners investigation, that these are not to be released to other members of the community, that health records are stored separately from all other records and in sealed envelopes and that when access is sought families are advised of the interested parties that are requesting information.

A full-time records and information manager was appointed earlier this year. The role involves reviewing all file management processes to develop policies and procedures and establish appropriate safeguards and criteria for the release of information. It is important to say that these changes have been put in place. Whilst we are seeking to maintain the status quo more broadly in relation to access to records in anticipation of the rewrite that will occur shortly, it is important to note in relation to health records in particular that special procedures have recently been put into place.

I point out in concluding that the Law Reform Committee took a very considered approach to the whole issue of the Coroners Act and made 138 recommendations. In recommendation 117 the bipartisan committee recommended that regulation 24 of the Coroners Regulations 1996 be repealed and that its principles be enshrined in the primary act. That is

what we are seeking to do here. We are taking out something that was in delegated legislation and enshrining it in the principal act to ensure that there is no ambiguity about how records can be accessed in the future.

It is for that reason and the reasons I have outlined to the house that we will be opposing Ms Pennicuik's amendment. However, I understand what is driving her concern. I understand the sensitivity that is involved in relation to coronial records and the reasons why she has expressed her concerns here today, but we believe on balance it is important that as a Parliament we give the coroner absolutely clear guidance as to how he should be providing access to these records in the future. I commend the bill to the house. I thank the opposition for opposing the amendment.

**Sitting suspended 6.26 p.m. until 8.02 p.m.**

**Mr DALLA-RIVA** (Eastern Metropolitan) — I too am pleased to make a contribution on the Magistrates' Court and Coroners Acts Amendment Bill. In so doing I indicate that the Liberal Party is supporting the legislation. I also note that the previous speaker, Ms Mikakos, spent about 5 or 6 minutes making platitudes about everyone she worked with in her former role as a parliamentary secretary. I wish Ms Mikakos all the best in her next endeavours as Parliamentary Secretary for Planning, and I am sure she will perform that role with the same commitment with which she performed the role of parliamentary secretary in the justice portfolio.

Though this bill has four parts, I intend to go through the two main parts — part 2, being proposed amendments to the Magistrates' Court Act 1989; and part 3, being proposed amendments to the Coroners Act 1985.

**The DEPUTY PRESIDENT** — Order! I warned Minister Madden in the last sittings that this chamber is not a thoroughfare. I do not know what has to be said to impress upon him that if he comes into the chamber, he is coming here to be part of its business. If he wants to pass through it, he should use a different thoroughfare as a courtesy both to the Chair and the chamber.

**Hon. J. M. Madden** — On a point of order, Deputy President, I do not know whether you noticed that as I moved into the chamber I was having a conversation with my colleagues. I am leaving the chamber to re-enter the chamber. Without going into detail, the conversation was in relation to my coming back into the chamber, so it would have been impossible to have that conversation without entering the chamber.

**The DEPUTY PRESIDENT** — Order! I do not want to have a debate with Mr Madden as to whether or not he had a conversation, but I did not observe a conversation. I observed Mr Madden walk through the chamber. He nodded to me to try and ingratiate himself with me. He had no such conversation. Mr Madden should show greater respect for the Chair and the chamber.

**Mr DALLA-RIVA** — As I indicated, my contribution will be in two parts. The Magistrates' Court Act's amendments are fairly straightforward, as previous speakers have said, and I will briefly go through them. They concern acting magistrates and judicial registrars, as is set out in clause 3 in part 2. Clause 4 refers to the adjournment of proceedings to the Drug Court division, and the power of registrars to adjourn criminal proceedings and other associated matters are set out in clauses 5 to 8. These are fairly straightforward amendments, which I think all parties and members will agree with.

The issue I wish to proceed to in more detail concerns part 3, in particular clause 9. There has been much discussion of the final report of the Victorian Parliament's Law Reform Committee inquiry into the Coroners Act 1985. For the record, and for the benefit of other members, I was on that committee and was quite involved with its other members in the consideration, development and final presentation of that report, a copy of which I have with me in the chamber tonight. It comprises quite an extensive examination of the Coroners Act.

I will refer to some background in terms of where the legislation we are debating tonight emanates from. The then committee chair, Rob Hudson, the member for Bentleigh in the other place, said in his foreword to the report:

The report has made a large number of recommendations for reform which build upon the basic structure of the 1985 act to bring it up to date with advances and improvements in other jurisdictions. The report proposes a significantly increased medical input at the front end of the coronial process, and more medical, including psychiatric, expertise available throughout the investigation process.

We received a significant amount of evidence in both written form and at public and private hearings in order to understand the complexities of the Coroners Act and the issues that confronted the state coroner, coroners from metropolitan Melbourne and coroners from rural and regional Victoria, and also evidence was taken from other coronial bodies throughout Australia and the world. It was an extensive report, as is illustrated by the

explanatory memorandum for the legislation now before the chamber.

The point that has been raised this afternoon by the Greens party in terms of omitting clause 9 as proposed by the amendments circulated by Ms Pennicuik go to the issue that was brought up earlier by Ms Mikakos from the Labor side of the house. Ostensibly it related to the provisions as outlined in recommendation 117, and, as Ms Mikakos indicated, there are over 138 recommendations. What I have discovered from my involvement with parliamentary committees is that it is a slow process, to say the least, from the conclusion of a report to legislative reform, but it does happen. I understand that there will be further amendments to the Coroners Act and the recommendations that were put forward by the committee will be taken into account and considered by both houses. In particular recommendation 117, which has been discussed previously by other members, states:

That section 45 of the Coroners Act 1985 and regulation 24 of the Coroners Regulations 1996 be repealed and that principles be inserted into the act which regulate the kind of information a coroner may release and to whom s/he may release it, both before and after the completion of an investigation, modelled on the principles contained in part 3, division 4, of the Coroners Act 2003 (Queensland).

On page 551 of the committee's report it talks about part 3, division 4, of the Queensland legislation, which it is important to understand:

A coroner must not give a person access to an investigation document to the extent that the document —

...

- (b) contains information that is likely to —
  - (i) prevent a person from receiving a fair trial ...

It goes on to talk about the fairness to the individual and talks about prejudice et cetera. I would like to add, as part of that, that section 58(1) of the Coroners Act states:

Restriction on publication of reports

- (1) A coroner must order that no report of an inquest or of any part of the proceedings or of any evidence given at inquest be published if the coroner reasonably believes that it would —
  - (a) be likely to prejudice the fair trial ...

Can I put it particularly to Ms Pennicuik, the member who wishes to move the amendment, that subsection (1) of new section 51, 'General access to records and files', which is inserted by clause 9 of the bill, begins with the words 'Subject to sections 30E and

58(1)'. As I said, section 58(1) of the Coroners Act is direct related to a similar provision in the Queensland Coroners Act 2003, which concerns a person receiving a fair trial. It says in the Victorian act that the coroner must order that no report of an inquest et cetera be released. The Queensland act says the coroner 'must not' release information. So in the amendment proposed by this bill, which the Greens oppose, there is a very clear requirement that the coroner must not release reports in certain circumstances, exactly as suggested in recommendation 117, which has been outlined. It may not use the same words, but it goes to the same issue. It is trying to model the legislation on principles similar to those that apply in the Queensland act.

I refer to section 30E of the Coroners Act in relation to the other element of proposed new section 51 to be inserted by clause 9. As it says in the principal act, that relates to:

Information about a child or person other than the deceased child.

Any information provided to a coroner about a child or person other than the deceased child in the course of an investigation into a reviewable death —

and there are details about what a reviewable death is in the report; it is quite extensive in its explanation of what a reviewable death is —

must be excluded from the public record of that investigation ...

So as to the circumstances that were raised by members earlier, in particular the issue whereby Senator McGauran had access to a woman's hospital records, the amendment in the bill implicitly makes it very clear that those records must not be released. It is very clear that sections 30E and 58(1) of the principal act mean that before the completion of an investigation or inquest into a fire or death et cetera the coroner must exclude certain information from the public record or from being made available to any person or class of person as the coroner directs.

Whilst I understand the concerns that the Greens have raised, if you analyse the proposed legislation, it principally excludes the issues that are of concern to the Greens. I refer to the report again because we did examine this particular issue. On page 554 it says:

The broad powers of the coroner to release information under regulation 24 —

which is the issue concerning the senator acquiring certain details —

the lack of appropriate privacy principles in the act —

and I gather that is a reference to the principal act —

and the exemptions to the IPA and HRA outlined above, together explain how the state coroner permitted Senator McGauran to access the woman's hospital medical records.

It then goes on to state:

Associate Professor Ranson commented that in part the problems lay in the absence of clear guidance in the legislation with respect to whether the deaths of unborn children are reportable ...

It goes on further on page 555 to state:

During the public hearings Ms Elizabeth Kennedy, corporate counsel for the Royal Women's Hospital, drew the committee's attention to the fact that the regulations are drafted more broadly than the act in relation to the release of information. She observed that the act gives the coroner a very limited ability to release information, whereas the regulations allow a coroner a very wide discretion.

It is important for Ms Pennicuik to understand this, because if she is about to move this amendment in committee, it is going to look very silly. I will just read it again:

... the act gives a coroner a very limited ability to release information, whereas the regulations allow a coroner a very wide discretion.

The amending legislation clarifies the situation by inserting in the principal act the discretion previously provided by regulation. Therefore the issues Ms Pennicuik has included in her amendment are flawed, because the principal act will be amended by this legislation, which makes it very clear that the coroner has clear restrictions on the release of information in very clearly defined circumstances. Can I say as a person who was a member of the committee that prepared this very detailed report that I support the legislation the government has brought before the chamber. I would like to see more amendments come through. As I said, they will in due course. On the whole the proposed amendment is flawed in the sense that there has been a failure to understand the process and how it came about. The fact is that the amending legislation before the chamber is very clear. The issues raised by Ms Pennicuik are wrong in the way they are presented.

**Ms TIERNEY** (Western Victoria) — I rise to speak in support of the Magistrates' Court and Coroners Acts Amendment Bill 2007. As we have heard from previous speakers, the bill makes six separate but interrelated amendments to the Magistrates' Court Act 1989 and also the Coroners Act. I do not wish to cover

all six proposed amendments, but I will make a series of points that I think need to be reinforced in respect of the importance of what this proposal will mean, not just in terms of the Magistrates Court but also in terms of our general approach to the judicial system and its benefits to the community in its widest aspects.

Firstly it clarifies the roles within the Magistrates Court quite clearly. At present the Chief Magistrate is unable to appoint acting magistrates to the Drug Court division even though there may be certain acting magistrates who are particularly well suited to handling a number of matters dealt with by that division of the court. The way it operates at the moment is quite restrictive and does not provide the sort of flexibility that is required, particularly in those sorts of situations.

The bill is also an attempt to make the court system much more efficient. For example, we will have the added flexibility in terms of case management in that registrars will be given adjournment powers. That will be in respect of consent matters and not contested matters. It will allow magistrates to concentrate on more controversial and contested matters that require an understanding of points of law that may lead to further legal proceedings. That in itself is a significant change, and it should not be taken lightly. Once this time is freed up magistrates will be able to delve into other areas, and one would assume they will have significantly more time for preparation and the other things that are required for the advancement of these cases. The bill will also allow for a more timely process by providing for additional officers who will be authorised to witness statements in committal hearings. We all know that there has been significant pressure in the system for some time, and this will open up that bottleneck so that we will have a much more streamlined judicial system.

A major change is the expansion of the role of acting magistrates. The bill will enable the Chief Magistrate to assign acting magistrates to the specialist divisions of the court, including the Drug Court division, but we also will have people allocated to the Family Violence Court and the neighbourhood justice division. At the moment we have a situation where if a magistrate in the Drug Court or the neighbourhood justice division becomes ill or is on leave or if there is another event that causes them to be unavailable, an acting magistrate cannot be appointed to do that work. This will free up not just one area but a whole range of the areas we are talking about this evening.

In the area of family violence, as we have heard from previous speakers, a pilot program has been running for the last couple of years. A sunset clause requires that

pilot to finish on 30 October 2007. Following talks with a number of stakeholders, it is understood it is appropriate to extend that to 30 October 2009. That will enable a more thorough examination of the intricacies that are involved in intervention orders. When the legislation comes back before us we will have an opportunity to look at much more detailed information and give in-depth consideration to the decision-making process in this very important area, which unfortunately continues to be problematic, not just for the judiciary but also for the wider community.

In conclusion the amendments in the bill provide us with a much more modern approach to the judicial system. The bill provides us with a much more flexible working approach, and importantly, it does this whilst maintaining the appropriate levels of responsibility within the tiers of the judiciary. That also needs to be underlined. Too often when we talk about flexibility in the workplace it is a matter of grabbing skills and tasks that belong to one sector and throwing them up or down onto others, whereas this bill appropriately allocates responsibility and skills to certain levels of the judiciary. As a result, we have six fairly simple amendments that will provide direct as well as indirect benefits to the community in general. Therefore I strongly commend this bill.

**Mr ELASMAR** (Northern Metropolitan) — I also rise to speak in support of the Magistrates' Court and Coroners Acts Amendment Bill 2007.

The absolute necessity to amend this legislation is obvious. The Chief Magistrate of Victoria, the excellent Ian Gray, must have the tools to make improvements and provide all Victorians with a swift and professional justice system.

The fact that magistrates are reported in our daily newspapers as being too stressed to carry out their duties and as being absent from work for extended periods indicates a level of work pressure that is totally unacceptable in society today. The community has an expectation that criminal cases will be dealt with expeditiously to provide much-needed closure for the families who are victims of crime and of course the victims themselves.

While the new arrangements under the bill provide for the clarification of the appointment of acting magistrates, this in no way implies that acting magistrates are in any way less independent in a judicial sense to make decisions based on the proper application of the law. They should and will have the same protections and immunities as a Supreme Court justice in the performance of their duties under the act.

The Chief Magistrate should have the capacity to extend the powers of the registrars of the court by facilitating the adjournment of criminal proceedings that are already in the 'for mention' system. The aims of these amendments are to clarify and hasten the process of the delivery of justice in our state. Members of the community ought to have access to coronial files following the death of a family member.

The functions and powers of a coroner are in no way limited or affected by the proposed amendments in the bill. The changes will allow members of the public access to documents that previously they could only access through the direction or discretion of the coroner. This provision allows automatic access unless otherwise directed by the coroner. This is an improvement to the current system so that an individual or a family affected by a death will be able to see for themselves evidence in writing of their loved one's demise.

I now wish to speak about the family guidance and counselling order provisions as they relate to domestic violence within the community. As the law stands, the family violence counselling program has not yet been fully evaluated. The proposal in the bill continues the counselling order provisions for a further two year period beyond the current repeal date of 30 October 2007.

The counselling orders at this point in time are the only immediate remedy, other than a custodial sentence, available for use against perpetrators of family violence. They also give hope to victims of domestic violence who are trying to keep their families together. There is an old saying that is just as relevant today as the day it was first coined — that is, 'Justice delayed is justice denied'. I commend this bill to the house.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1**

**The DEPUTY PRESIDENT** — Order! In regard to clause 1, Ms PennicuiK will move her amendment 1, which is, as I understand, a test for her amendments 2 to 8 which all relate to Ms PennicuiK's proposal to delete the Coroners Act from the scope of this amending bill. Therefore Ms PennicuiK may foreshadow her related proposed amendments as part of the discussion of her amendment 1.

**Ms PENNICUIK** (Southern Metropolitan) — I move:

1. Clause 1, page 2, line 13, omit "2009;" and insert "2009."

As I foreshadowed in the second-reading debate, I have moved this amendment because if the wording of proposed new section 51, which is the same wording as the repealed regulation 24 of the Coroners Regulations, is inserted into the Coroners Act, it will not provide protection for individuals against the release of their personal information or other sensitive information.

I would like to return to discuss the parliamentary Law Reform Committee inquiry. An issue was raised during the second-reading debate by Ms Mikakos and Mr Dalla-Riva about recommendation 117. Ms Mikakos said that section 45 of the Coroners Act and regulation 24 of the Coroners Regulations should be repealed and that those principles should be reinserted into the act.

The recommendation does not say that. It says:

that principles be inserted into the act which regulate the kind of information —

not the same principles; different principles —

a coroner may release and to whom s/he may release it, both before and after the completion of an investigation, modelled on the principles contained in part 3, division 4, of the Coroners Act 2003 (Qld).

Mr Dalla-Riva went on at length about the Queensland Coroners Act provisions, and he talked about similar provisions in the Victorian Coroners Act — sections 30E and 58(1), which I did outline in my contribution to the debate that I understood very well. They relate to releasing information about children other than deceased children and information which may prejudice a fair trial, but he left out the important provisions of the Queensland act, contained in section 52(1)(d) of that act, which prevent the coroner from releasing documents that contain information about a living or dead person's personal affairs, including, for example, information about the person's health, unless the information is relevant to a matter mentioned in section 45(2) of the Queensland act, or contains information that was obtained from a person under a requirement in another act that compelled the person to give that information. It provides more protection against the release of personal health and other sensitive or private information.

The parliamentary Law Reform Committee was saying there is not enough protection against the release of private information under the act. By inserting this

provision, which is the inadequate provision of the old act and the old regulations, we are still in the same situation in which we do not have that protection. My point is that if we are going to make a law — even one that is foreshadowed to be interim law — we should make the best possible law that we can, and we have. We have the parliamentary Law Reform Committee's recommendations to guide us; we do not even have to make it up.

If we are going to go to the trouble of inserting amendments to the Coroners Act in this bill — a bill which has two unrelated things, being the Magistrates Court's amendments, which we support, and the Coroners Act amendments, which we do not support for the reasons I have outlined — then we should make the best possible law. It has been very clearly set out in the parliamentary Law Reform Committee's report and by the Law Institute of Victoria, references to which I referred earlier, and by the Health Services Commissioner in the parliamentary Law Reform Committee's inquiry. She is quoted in the report and has made public statements about the matter. She and other legal bodies all say that this is inadequate, which is why I am moving to have it removed from the bill.

**Hon. J. M. MADDEN** (Minister for Planning) — I certainly recognise the issues that Ms Pennicuik has raised. The point is whether we believe that what we are doing is sufficient in the interim until there is a major rewrite of the Coroners Act, which will take place. That will require extensive consultation to ensure that the rewrite of the Coroners Act is done sufficiently and comprehensively. I recognise the issues that Ms Pennicuik has raised in relation to this matter. The point of difference here is that we believe this is sufficient in the interim. Ms Pennicuik has put her case that it does not go far enough in the interim.

The matters that Ms Pennicuik has raised are of concern for all of us in terms of the privacy of an individual's health or given that there have been cases where that information has been released either inadvertently or because there was no policy in that area. I understand and am informed that since that point in time where there was a significant issue in relation to the release of information, that was probably used by some in a political manner.

Without going into the detail of the rights or wrongs of that — no doubt we could potentially agree that some information was used inappropriately — I understand that the State Coroner's Office has taken the matters of access and records management very seriously and has implemented new policies since October 2006. They

are respectful of the privacy principles in the Health Records Act 1998.

I am also advised that action taken by the State Coroner's Office includes implementing new policies that specify that the coroner receives medical records for the purpose of the coroners investigation, not for release to other members of the community. I am also informed that health records are stored separately to all other records and in sealed envelopes. I am also informed that, where access is sought, families are advised of the interested parties that are requesting the information. I am also advised that a full-time records and information manager was appointed in early 2007. That role is currently reviewing all file management processes, developing policies and procedures and establishing safeguards and criteria for release of information.

I acknowledge what Ms Pennicuik is seeking tonight in her amendments, but the government will not be supporting them. However, I would like to put on record that a significant amount of work is being undertaken by the State Coroner's Office in relation to these matters to ensure that the policy and practices are in place and to make sure that there is no inadvertent release of information, as may well have been the case in the past. There is a fine balance in relation to the need for personal privacy and open justice principles to be maintained. With the impending rewrite of the Coroners Act 1986 I understand that these matters will be taken into consideration and given significant priority so that all parties can be consulted in relation to the best and most appropriate mechanisms within any potential legislation going into the future.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — The Liberal Party supports the retention of clause 9 in the bill and does so on the basis of supporting the status quo with respect to the operation of the Coroners Court. In speaking to her amendment Ms Pennicuik has been fairly persuasive in relation to the matters she has raised. I think when the opportunity presents itself, the house should consider fixing these issues at the time legislation is being considered, not simply to deal with them at a later date.

However, in the case of the Coroners Act, given that a rewrite is about to commence, it is our view that, rather than making a singular change to the act at this point, it is a matter that should be properly dealt with in the full rewrite. It is something that we would expect the government to address in the context of that rewrite, which we assume is not far off. Accordingly we will not be supporting Ms Pennicuik's amendment.

**Ms PENNICUIK** (Southern Metropolitan) — I thank Mr Rich-Phillips for his words and remarks regarding the issues I am trying to raise here. During the debate I think it was Ms Mikakos who said that this provision will provide clarity in the area and provide clarity to the coroner as to what information should and should not be released. I ask the minister how this clause does that, given what I said before and given the recommendations and findings of the parliamentary Law Reform Committee.

**Hon. J. M. MADDEN** (Minister for Planning) — I am happy to attempt to give the committee as much clarity as I can in this circumstance, but forgive me for labouring over some of the notes I have. I hope they help to the extent of any way I can. The explanatory memorandum to the bill states, in part:

Clause 9 provides for general access to coroners' records and files by inserting new section 51 in the Coroners Act 1985. This amendment is necessary as a result of the remaking of the Coroners Regulations 1996 and an impending legislative review of the Coroners Act 1985 following the release of a detailed report by the Victorian Parliamentary Law Reform Committee on the Coroners Act 1985 in late 2006.

On 5 May 2007 the Coroners Regulations 2007 commenced operation. These regulations replaced the previous Coroners Regulations 1996 that had already been the subject of an extension of operation for a maximum 12 month period. The 1996 regulations were revoked on 5 May 2007 and would have otherwise sunsetted on 6 May 2007.

The 1996 regulations included regulation 24 regarding access to records. That regulation had provided that —

before the completion of an investigation or inquest into a death or an investigation or inquest into a fire, a coroners file or any part of it must be made available to such people or a class of people as the coroner directs (regulation 24(1)); and ...

I will go on for a little bit longer, but I will try not to go on for too long. The explanatory memorandum further states:

Regulation 24 of the 1996 regulations was not included in the 2007 regulations due to it being decided to transfer the provision to the Coroners Act 1985. The bill inserts new section 51 in the Coroners Act 1985 which continues the previous access to records scheme that had been established by the 1996 regulations.

New section 51(1) provides that before the completion of an investigation or inquest into a death or an investigation or inquest into a fire, a coroner may direct that the coroner's file, or any part of that file, is to be made available to any person or class of person as the coroner directs.

I think my previous comments in relation to clarifying policy and procedure would assist in the operation of that. The explanatory memorandum further states:

New section 51(2) provides that after the completion of an investigation or inquest into a death or an investigation or inquest into a fire the coroner's record and the coroner's file relating to that investigation or inquest is to be open to public access unless the coroner otherwise orders.

I think that is really the point here — that there are now procedures to make sure that there is a fair degree of clarity in terms of policy at an operational level, rather than needing it to be expressed in any legislation at this point in time to make sure that those matters are considered accordingly. The explanatory memorandum further states:

Both section 51(1) and (2) are subject to section 30E and section 58(1) of the Coroners Act 1985. Section 30E excludes information about a child or other person from the public record in certain circumstances. Section 58(1) provides for a restriction on the publication of a report of an inquest, any part of the proceedings or any evidence given at an inquest where the coroner reasonably believes the publication would be likely to prejudice the fair trial of a person or be contrary to the public interest.

I advise Ms Pennicuik that of particular note here is the phrase 'contrary to the public interest'. They are the sorts of issues that no doubt are important. I can actually read from my notes in more detail, but I think rather than trawl through legal definitions it is worth acknowledging that what is critical here is that rather than try to rewrite the Coroners Act at this point in time there has been emphasis given to the regulations and also to the procedural matters and the policy at a procedural level for the operation of the coroner to make sure that greater consideration is given to the release of any information, particularly private information in relation to a person's medical records, than has previously been the case and which arose as matters in recent years that have caused some controversy.

There is that acknowledgement, there is acknowledgement by the coroners office, there is acknowledgement here tonight and there are procedures being implemented as we speak. Rather than our trying to rewrite the act now, as I mentioned before, that will be undertaken. So rather than trying to reinvent the legislation at this point in time or trying to find something that causes more problems, let us work through the issues as we rewrite the new legislation. Let us try to address clarity on those matters at that point in time rather than trying to, in a sense, provide a band-aid solution.

At the end of the day it is really very much a procedural matter, and having policy for those procedural matters within a coroners office is more likely to bring the sort of outcome that we want, rather than a release inadvertently of private information that might cause

distress to individuals related to any particular issue that is being investigated by the coroner.

**Ms PENNICUIK** (Southern Metropolitan) — Mr Rich-Phillips mentioned that we should not be making singular amendments, but we are making a singular amendment here. The minister has referred to policies that are in place in a coroners office regarding protection of private information and separation of medical files et cetera, and I acknowledge that, and that is a welcome development. But I do not think that a policy can necessarily protect under certain circumstances, where it is not in the legislation.

My question is: with the inclusion of new section 51, which is basically repeating the inadequate regulation 24 of the previous regulations, will the coroner be able to refuse to release information without challenge?

**Hon. J. M. MADDEN** (Minister for Planning) — I am advised that that will be at the discretion of the coroner, has been at the discretion of the coroner and again, I think that suitable arrangements in relation to policies in relation to privacy and procedural matters will assist in clarifying the extent of what is appropriate discretion and what is not in the case of the coroner releasing any information.

**Ms PENNICUIK** (Southern Metropolitan) — I think more specifically, I am saying, in the absence of any legislated protections against the release of personal and medical information, and given there is only the coroner's discretion, is that discretion not open to challenge?

**Hon. J. M. MADDEN** (Minister for Planning) — I acknowledge Ms Pennicuik's question. It may or may not be open to challenge, which is not to say that any challenge will or will not be successful. I cannot pre-empt the determination of a court in relation to a challenge for access to information or a challenge in reverse. If the coroner determined that he might want to release the information, I cannot say that decision would or would not be challenged by someone wanting to protect that information. If I were to speculate on that, I would be speculating on the role of the courts. I am not able to do that tonight.

Again, we believe this is sufficient at this point in time. The procedural and policy matters are clarified at the coroners level. I suspect, without trying to cast a shadow on anybody in the coroners office, that if people had given greater consideration at the time to the implication of the release of some of the information which caused an incident some years ago and which

gained significant media attention and notoriety, they might think about whether or not their discretion was used appropriately.

The issue is more the fact that codifying this provision in the legislation will not necessarily guarantee the release or lack thereof of information if you do not have the procedure in place within the coroners office and if you do not have policy in relation to it. That is being addressed. We are not trying to rewrite the coroners legislation yet, but it will be done. We believe that is sufficient at this point in time. I cannot say whether a decision that information was to be released or not released would or would not be challenged. It is for someone else to say whether they think that would be a good call or not in terms of investment of effort, time and money, and it would be up to the courts to make a decision as to whether that was a reasonable or unreasonable call. We would be speculating, and there is no point in me trying to forecast that.

**Ms PENNICUIK** (Southern Metropolitan) — I take that as the minister saying he is not able to guarantee that private information — personal medical and sensitive information — will be protected. I will say that it is on small things like this that great damage can be done. That is why I am raising this issue. It might seem like a small administrative or procedural matter, but great damage can be done. I do not necessarily want to allude all the time to that particular incident. It is more a matter of whether we are making a good law here to prevent people from being unduly and unnecessarily hurt when we could be making a better law. Mr Rich-Phillips made the point that we should not be making a singular amendment, but we are making a singular amendment, and I am saying it is inadequate and it is not a good amendment.

I have only one more question. One of two things raised with me by the department and members of the government was that if this clause were not put in, the functions of the coroner would be constrained. I cannot see that the functions would be constrained. From looking at other provisions in the act it appears that the coroner can still release information, reports, recommendations and statements. The other point raised with me was that this would mean people other than the coroner could release information. Again, I do not see anywhere in the act that it gives anybody else the power to release information. Could the minister comment on those two issues?

**Hon. J. M. MADDEN** (Minister for Planning) — I acknowledge Ms Pennicuik's issue that it is on small details that great damage can be done. However, it is worth acknowledging that the coroner has the

unenviable position of sometimes having to make the call on whether the release of information will do justice to his role in making sure that deaths or injury do not occur; and I suspect from time to time that the role of the coroner will be to release information that may make people uncomfortable. In many ways the role of coroner, by virtue of his or her position, is to release information for the greater good of the community.

No doubt from time to time that will make people uncomfortable. It might make governments, individuals, companies or family members uncomfortable, but if the outcome for the coroner — and it is at the discretion of the coroner — is to release information so that death or injury does not occur in the future, then really that is part of the coroner's job over and above determining what the circumstances may or may not be in relation to a particular matter that is being investigated. So no doubt the coroner will make appropriate comment and determine what is an appropriate level of information to be released. That may upset people from time to time because of the impact it may have on a few or many. The role of the coroner is an onerous one, and in many ways the coroner needs that discretion so that their role is not hampered.

**Ms PENNICUIK** (Southern Metropolitan) — I understand the role of the coroner in terms of deaths. I used to work in the area of occupational health and safety, and I read a lot of coroners reports and recommendations of how to improve safety in the workplace. I understand how important it is to make recommendations to enhance the public's health and safety, and I understand that sometimes information about what caused a death would need to be released and related to those recommendations, but that is different from releasing personal, private and sensitive information, which need not be released. The last question I asked the minister, which maybe he missed because I went on a bit long, was: how would the functions of the coroner be constrained in terms of the public interest, in terms of public health and safety, by the non-inclusion of this clause?

**Hon. J. M. MADDEN** (Minister for Planning) — I do acknowledge, appreciate and recognise Ms Pennicuik's concerns. Without going into great detail, I have seen coroners reports as well. In one's role as a minister, from time to time one has to read coroners reports, and from time to time an incident that may cause injury or death or a combination of incidents may be linked to the health history of an individual involved. From time to time — and I do not want to go into any specific cases — when one reads a report there

may be information or doubt that has to be considered and reported on, and the activities of an individual, either through cause or effect, may not occur just because of a singular instance at a point in time but rather from a pattern of behaviour by individuals, and sometimes they are related to health issues.

It is not for me to determine whether the release of such information would or would not be a good thing, but it may have an impact on the report and it may be necessary for that information to be part of the report. Again, it is important to make the point that the coroner needs to have the discretion to determine that in such circumstances, and no doubt the policy procedures in relation to the matters I have raised and incidents that have occurred previously, which we have referred to not specifically but obtusely, will make the coroners office ever more mindful that there is information which it is appropriate to release and information which it is inappropriate to release. I suspect the coroner would need discretion to determine what was and what was not appropriate, and no doubt information that would be released would be appropriate in view of the findings or implications of a report the coroner would release in the future.

**The DEPUTY PRESIDENT** — Order! If there are no further contributions on clause 1, I propose to put the amendment moved by Ms Pennicuik, amendment 1, which is a test of amendments 2 to 8.

#### Committee divided on amendment:

*Ayes, 3*

Barber, Mr (*Teller*)  
Hartland, Ms (*Teller*)  
Pennicuik, Ms

*Noes, 37*

Atkinson, Mr  
Broad, Ms  
Coote, Mrs  
Dalla-Riva, Mr  
Darveniza, Ms  
Davis, Mr D.  
Davis, Mr P.  
Drum, Mr  
Eideh, Mr  
Elasmar, Mr  
Finn, Mr  
Guy, Mr  
Hall, Mr  
Jennings, Mr  
Kavanagh, Mr  
Koch, Mr  
Kronberg, Mrs  
Leane, Mr  
Lenders, Mr  
Lovell, Ms (*Teller*)  
Madden, Mr  
Mikakos, Ms  
O'Donohue, Mr  
Pakula, Mr  
Petrovich, Mrs  
Peulich, Mrs  
Pulford, Ms  
Rich-Phillips, Mr  
Scheffer, Mr  
Smith, Mr  
Somyurek, Mr  
Tee, Mr  
Theophanous, Mr (*Teller*)  
Thornley, Mr  
Tierney, Ms  
Viney, Mr  
Vogels, Mr

**Amendment negatived.**

**Clause agreed to; clauses 2 to 10 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Hon. J. M. MADDEN** (Minister for Planning) — I move:

That the bill be now read a third time.

In doing so, I wish to thank the respective members for their contributions.

**Motion agreed to.**

**Read third time.**

**WILLS AMENDMENT BILL**

*Second reading*

**Debate resumed from 19 July; motion of Hon. J. M. MADDEN (Minister for Planning).**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I am pleased to say that the Liberal Party will not oppose the Wills Amendment Bill. The bill makes an important amendment to the provisions that apply when a person does not have the capacity to make a will for themselves. In considering this bill the Liberal Party has had regard to what the government is attempting to achieve in providing a broadened scope for a person who does not have the capacity to make a will and balancing that against the potential for such a provision to be abused.

There is currently a provision in the Wills Act that allows people who do not have the legal capacity to make their own will to have a will made on their behalf, or to have an existing will revoked if that is deemed necessary, by application to the Supreme Court. This is an entirely appropriate provision. If a person dies without a will — that is, intestate — their estate is distributed according to a statutory formula. The mere fact that a person lacks the capacity to make a will — through birth disablement or a disablement later in life — should not mean that their estate must be divided up according to the rules for intestate deaths.

It is entirely appropriate that there be a provision in the Wills Act that allows this situation to be dealt with. The current provision allows the court to grant leave for an applicant to prepare a will or revoke a will in circumstances where it accurately reflects what the

intentions of the person would likely be. The bill before the house expands the provision in section 26(b) of the Wills Act to read:

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

This is a clear expansion of the grounds upon which a person can seek leave to have a will prepared for a person who lacks testamentary capacity. It also reduces the threshold that must be demonstrated for leave to be granted. The current requirement uses the term 'accurately reflects', whereas the new insertion in the Wills Act merely requires that the will or revocation 'reflects' the intentions of the person. So there is a reduction in the threshold of the test that will apply to this provision.

There is also an expansion beyond merely reflecting the intentions of the person to reflecting what they might reasonably be expected to be. That allows a person who seeks leave of the Supreme Court for a proposed will to make a case to the court as to what the person who is the subject of the will might reasonably be expected to intend. This new provision has a much broader scope. It allows far more interpretation by the Supreme Court and by a person applying to the Supreme Court in making a judgement as to what the intention of the person might be rather than as to what the intentions of the person were known to be.

While it is a subtle difference, it is an important one, because it will allow someone preparing a will to make a claim as to what the intentions of a person who no longer has, or who has never had, testamentary capacity would reasonably be expected to be, without necessarily knowing what their intentions are. It is for this reason that the Liberal Party has decided to not oppose rather than to support the bill.

We are concerned that while the fact that this provision gives a broader opportunity for people without testamentary capacity, and particularly those born without that capacity, to have a will prepared for them is welcome, the broadening of this provision also gives rise to the prospect of abuse by persons applying on their behalf. The scope is now wider and the test threshold is reduced through the removal of the term 'accurately reflects' and the lowering of the test to merely 'reflects' and the broadening of the scope of the provision from reflecting the intentions of the person to reflecting what the intentions might reasonably be expected to be.

We recognise that this provision gives an increased ability for people who lack testamentary capacity to have wills prepared for them, particularly in cases where they have been born, and lived their whole lives, without testamentary capacity, so it is impossible to know what their intentions would have been. The bill will enable a will to be prepared on their behalf, rather than having them die intestate with their estate divided up according to the rules for intestate estates. From that point of view the Liberal Party welcomes the legislation.

However, in not opposing rather than supporting the bill we place on the record our concerns that the broader provisions that will be introduced through this bill allow scope for parties to act with less than the best intentions. When leave of the Supreme Court is sought for a will to be prepared, this is something that the court will need to be cognisant of in granting applications under this broadened provision, because obviously it would be better for a person to have their estate distributed under the rules for intestate estates than to have it divided up according to a will that did not reflect what their intentions reasonably would have been.

We recognise that it is a balancing issue. It is an issue that the Supreme Court is going to have to address or be cognisant of in managing this new provision, but, on balance, we recognise that it provides new scope for people who lack the testamentary capacity to prepare their own wills.

The Liberal Party does not oppose the bill and looks forward to this provision allowing those people with diminished capacity to have their affairs dealt with in a manner they would regard as appropriate.

**Mr HALL** (Eastern Victoria) — I can report to the house tonight that The Nationals have taken a decision to support this bill and, although it is a small bill of only five clauses, the important clause is clause 3, which is an amendment to section 26 of the Wills Act. The particular provisions relating to this are of some personal interest to me, so I have gone back and had a good read of some of the provisions in the Wills Act, particularly sections 21 and 26.

However, before I comment on matters related to the content of the bill, I want to say that the effect of the amendment in clause 3 of the bill essentially broadens the basis of consideration while ensuring that the provisions apply to both categories of person under consideration — namely, those who once had, but no longer have, testamentary capacity, together with those who have never had such capacity in the first place to make a statutory will.

This particular concept of testamentary capacity is one that interests me, because when I read through the Wills Act I saw no definition or indeed no process by which testamentary capacity is determined. I suppose that is left up to the judgement of a judge in a court, but I have had a number of issues raised with me by constituents, and I have had some personal experience as well, where wills have been changed, altered or resubmitted by persons who I do not think fully understood the implications of their wills, and therefore it became a serious matter for both that person and for that person's family.

The circumstances which I relate to the house come to me by way of constituents who have raised with me the fact that a will was presented by a person who was classified by the federal government as eligible to enter a dementia facility and yet, with the presentation of a will before a legal practitioner in this state, a new will was accepted. When I made some inquiry as to why and on what basis a new will was accepted by a person who was to be admitted to a dementia facility in the state of Victoria, I found out that there was no requirement for any legal practitioner, for example, to sign off that that person understood the implications of that will, and the legal practitioner in this particular case just accepted the will as presented to that person on the basis that that person could understand the implications of the will.

I found that quite surprising. I wrote to the Attorney-General about that matter at that time, and although I cannot remember the exact response I got, I think there was some acknowledgement that this was an area that needed addressing. So when this particular amendment bill came before the Parliament the first issue I looked into was whether it addressed the particular circumstance I have just described. It does not, although it does go to the issue about somebody having testamentary capacity as to whether a statutory will can be decided upon by the courts.

The issue that I raise in respect to commenting about this bill is not in opposition to it so much as to a better explanation of who decides testamentary capacity and why there is not a need for the medical profession to be involved in some way in verifying that testamentary capacity exists or does not exist, because the knowledge that I have at this stage suggests that it is purely a judgement by a legal practitioner or by the judge of a court as to whether or not somebody has testamentary capacity. To avoid wills being established where the implications of that will are not fully understood by the person purported to be making that will is a serious issue that needs to be addressed.

I raise that issue in the hope that I may get a response, either in the minister's reply in this debate or perhaps beyond the debate, but it is something on which I would like a response from the government. Overall the amendments to section 26 of the Wills Act are fair and reasonable and, as I indicated at the start, The Nationals would be happy to support them.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens will be supporting this bill. We believe that all people with a disability, including those with an intellectual disability, have the right to independent self-determination and choice in their lives. This bill enhances the rights and dignity of people with disabilities by providing those who have lost testamentary capacity, or who have never had it, with better access to the capacity of the court to grant leave where an application for the making of a will is made on their behalf.

Currently it is 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. This includes those with Alzheimer's or other forms of dementia associated with ageing or those with acquired brain injuries. The Wills Act provides that, before granting leave, the court must be satisfied that the proposed will 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 the will.

It will be difficult for the court to establish such an individual's intentions if they have never had testamentary capacity. This is true of all people with intellectual disabilities, as intellectual disability by definition occurs at birth or in the first few years of life. This means that they will not be able to make a statutory will and their estate will be distributed in accordance with the rules of intestacy — that is, to the next of kin. Clearly there are some cases where this may be inappropriate — for example, where a child has been abandoned by his or her parents.

This bill facilitates the ability of the court to grant leave according to the circumstances of a person who has never had testamentary capacity. The key amendment is the addition to section 26(b) of the Wills Act, which outlines the matter of which the court must be satisfied before the court can grant leave 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 had testamentary capacity.

The act already provides a list of circumstances which the court may require the applicant for a statutory will

to provide to support their application, including any evidence available about the wishes of the person, 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 any gift for a charitable or other purpose that the person might reasonably be expected to give or make.

I note that the Standing Committee of Attorneys-General is proposing a project to develop uniform accession laws across Australia, and we will be supporting this bill.

**Mr TEE** (Eastern Metropolitan) — I, too, am joining the chorus of people pleased to support this bill. While the bill is short in length, the issues it deals with are very sensitive and very important to those affected by it.

This bill allows the Supreme Court to authorise the making of a will for a person who does not have the capacity to make a will. Currently, it is difficult for an application for a will to be made on behalf of someone who has never had a testamentary capacity. Presently where a person dies without the capacity to make a will, the Supreme Court cannot determine the intentions of the person with the degree of precision required by the court.

This means that when a person without testamentary capacity dies, their estate is distributed to their living next of kin according to a statutory formula. While in the overwhelming majority of cases this is appropriate, the bill deals with situations where distribution to the next of kin could have unintended and indeed unacceptable consequences.

I will give a hypothetical example of the type of situation that this bill seeks to address. A child could have an accident, becoming severely disabled, and that child's parents could subsequently divorce, leaving the child with no further contact with one parent — say, the father. The child could then receive compensation for the accident, which could be used to buy a house in which the child would live with her mother and a stepfather, who together would be the primary carers. That child would not have a capacity to make a will of her own. If the child died, her estate would be split equally between the mother and the father, the father having taken no part in the child's life. If the child's mother predeceased the child, then the child's entire estate would go to the father, who would not have been involved in her care.

In circumstances such as those I have just outlined, this bill will give the Supreme Court a discretion. I know

that Mr Rich-Phillips expressed concern in his contribution about the capacity for abuse of this provision; that concern meant his party would not be opposing nor supporting the bill. However, I think that concern is misplaced. There are a number of safeguards in place. The implementation of the provision is overseen by a Supreme Court judge, the decision of the Supreme Court judge has to be made on reasonable grounds, and that decision is reviewable by the Court of Appeal. So a number of safeguards are in place which will ensure that the provision is not open to abuse.

The court will be given the power to consider what could reasonably be expected to be the deceased person's intentions. When considering the person's intentions the court will be able to take into account matters such as the circumstances of any person for whom provision might reasonably have been expected to be made under the will and any gift for charitable or other purposes that the person might reasonably be expected to have given.

The bill recognises that the current statutory distribution of the estate of a person who is incapable of making a will may not be suitable in all cases. There is no one-size solution. Providing for a severely disabled person is difficult enough, and sometimes, when that person dies, it is appropriate for a court to take into account all of the circumstances of the life of that person when deciding how their assets should be distributed.

The bill was the product of a recommendation of the probate users committee, which is chaired by Justice Harper of the Supreme Court. I commend the bill to the house.

**Mrs COOTE** (Southern Metropolitan) — My colleague Gordon Rich-Phillips outlined the Liberal Party's view on this bill very eloquently and indicated that the Liberal Party would not oppose it. I would also like to put on record my thanks to the member for Box Hill in another place, Mr Clark, who did considerable research on this bill and also gave it a very good account of it — I might add, at very short notice — in the other place.

That brings me to a point about this bill that does not relate to its details. In bringing in this bill government members said how important it was and uttered all the rhetoric about people with disabilities; however, if they really felt those things deep down, why did they bring the bill on as such a surprise to Mr Clark and others in the other place, and why did they not do more consulting with the sector itself?

As shadow Minister for Community Services, I deal with the disability sector on a daily basis. I have said in this place before that the former Minister for Community Services, Gavin Jennings, had a good relationship with the sector. However, members of the sector were not even consulted about this bill and in fact got quite a surprise when I circulated it to them. I am surprised that they were not consulted more closely about it. Some of their concerns could have been raised when this bill was being put together. I am concerned about that.

Mr Rich-Phillips has outlined some of the concerns of the Liberal Party, but just to reiterate: we are not opposing the bill. The bill clarifies the Wills Act 1997, which could be said to discriminate against people with a disability. It is important to understand issues of disability. We are talking largely about people who have acquired brain damage through an accident — sadly these people are often young men who have been in car or swimming accidents. The acquired brain injury damages their quality of life — they had been cognitively capable before that time but became unable to think independently and to have what is called testamentary capacity.

Degenerative diseases are also relevant here, and it is important to understand about them, as they impact on a person's intellectual ability. People with degenerative diseases may have been able to think clearly and cognitively for most of their lives and then because of a degenerative disease may no longer be able to do that. This bill deals specifically with those circumstances.

There are a number of areas in this bill that could have been clarified a little better. It is important to get on the record that someone having an intellectual disability — whether it is one they acquired or one they were born with — does not necessarily mean they are poor. They may have a lot of assets and may be well catered for, and it is important that a law should wrap around these people the sort of support they need. My concern here is with, for example, a scenario where someone is able to live independently and they are put into a house with some other people who have a similar disability. I have come across a number of instances where families have raised the capital to put a number of young people in a house together, and they own that house.

The contentious issue about that is the ongoing recurrent expenditure to keep these people in such a house — in the vicinity of \$80 000 per year. The Bracks government would not support that, but now that we have a different regime perhaps it will support the recurrent funding to enable these people to stay in

the houses that their families have managed to purchase and to help raise the capital to purchase such homes.

Many of these people, although they can live independently, are not able to think with the sort of clarity that we would expect when you are thinking about making a will. They can be quite vulnerable, and this can cause problems of unscrupulous people taking advantage of them. The bill will go some way to addressing this issue, but it is important to understand that the bill will reduce the level of confidence needed by a court as to the extent to which the proposed will reflects what the person's intentions might have been. The amendments give greater scope for having wills made for people who do not have the capacity to make wills for themselves, as I have said.

The bill has some other difficulties — and not just for people with an intellectual disability who are young. If we have a look at people who are perhaps getting dementia as they get older, it is important to understand that they too will be impacted by this bill. My area of concern is vulnerable people being approached and exploited. I have spoken in this chamber on many occasions about abuse of the elderly. This is one of the issues that should be remembered when people are making a will. I think it is very important that the courts continue to have some scrutiny of what is being done. I have mentioned this case before but I will expand on it in this instance.

There was a family in rural Victoria. There were four boys who were all married. One of the wives was looking after the mother, who was able to live in her own home. She had a number of assets and was able to live independently. The other children and their families were living elsewhere. The mother was actually attacked and beaten by her daughter-in-law because the daughter-in-law disagreed with the mother, who would not sign over money to her. This caused enormous problems for the families.

The mother was no longer able to live independently; she had to live in supported accommodation or residential care, and in fact was severely disabled because of being beaten by her daughter-in-law over that money issue. The police said at the time that had she been killed, they could have done something about it but because the family would not lay a charge — she was attacked by a family member — there was nothing they could do. If this person had signed a will over and been exploited by her daughter-in-law, there would have been all sorts of financial ramifications for that family.

It is important that we understand what may happen in our community. Awful as it is to confront some of these issues, they are there. This bill goes some way to addressing these issues. I think it could have gone further. I am concerned that people with an intellectual disability, including those who were born with an intellectual disability, need to have proper supervision into the future. I hope should some of these issues come to the fore and be reported the government will go back and have a closer look at this bill and perhaps bring in amendments that may be stronger and look after these issues into the future. But as I said before, the Liberal Party is not going to oppose this bill.

**Ms TIERNEY** (Western Victoria) — I rise to speak in support of this bill. What I have found since being elected is that I have been provided with an opportunity to meet with a whole range of people from diverse backgrounds who confront a number of issues in their daily lives. The area of people with differing abilities is one I have taken a particular interest in.

Whilst many of us in this chamber, regardless of what political party we belong to, have very strong principles in relation to social justice, the fact remains that we have differing levels of understanding of particular issues within the realm of social justice. Indeed many of us, if we do not have people in our own families who are experiencing or have had situations that are different from the majority, are poorer for it in many respects. I have found this to be the case in respect of people with differing abilities. I believe the education parliamentarians receive as a result of being out in the wider community is of enormous benefit, particularly when we are confronted with making decisions and speaking on these types of bills, which some of us, prior to entering this chamber, would not have had too much exposure to.

I had the privilege last week of attending the launch of Bar None, which is a campaign that the government and community members of varying abilities are heavily involved in. It was the launch in Geelong of a campaign that is all about the inclusion of all types of people regardless of ability. I can tell the house that the people who spoke at that launch instilled in me great humility and much optimism in respect of there being that degree of advocacy on behalf of people with different abilities to take us forward. I support this bill.

It is probably one of those areas that many people in the community have not thought all that much about. As I said, unless it affected someone in your own family or your extended family, you probably would not think about it. It is nonsensical that there are members of our community who have not been able to construct a will

that will determine their intention in relation to their accumulated assets and other things. It goes to the very core of our being able to look after each other as a community, not just in respect of a person who has a disability but also those people in the community who are looking after that person. It provides a safety net for them and an understanding of the consequences and the parameters within which they go about their lives.

There is a case in point that I will draw upon. It involves a child who was hit by a car and as a result was left profoundly intellectually and physically disabled. Her parents divorced when she was still a child, and she then had no contact with her father. She received an award of compensation for the car accident, but that money was in part used to buy the house in which she lives with her mother and stepfather. Her mother and stepfather are her primary caregivers and maintain and improve the family home. She does not have the capacity to make her own will. If she were to predecease her mother, the laws of intestacy would mean that her estate would be split equally between her mother and father, and if her mother predeceased her, the full entitlement would go to her father even though she has not seen him and he has not been involved in her care.

In lots of ways it is not just about the individual. It is about making sure that the people who are around and who are caring for the person are treated as proper family members in all respects, because, as in this circumstance, they have been involved with the child and have gone beyond all reasonable levels in the so-called normal world to ensure that the child has at least some quality of life.

This bill needs to be vigorously supported. It enhances the rights and dignity of people with disabilities by enabling their property to be distributed appropriately having regard to their current situation. I commend the bill.

**Motion agreed to.**

**Read second time.**

*Third reading*

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — By leave, I move:

That the bill be now read a third time.

In so doing I thank members for their contributions to the debate. I also thank the various parties for their support of this important piece of legislation.

**Motion agreed to.**

**Read third time.**

## ADJOURNMENT

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I move:

That the house do now adjourn

### **Crime: Chapel Street, Prahran**

**Mrs COOTE** (Southern Metropolitan) — My adjournment issue tonight is for the Minister for Police and Emergency Services in the other place. It relates to the Chapel Street, Prahran, precinct. Chapel Street, Prahran, is one of Melbourne's most sought after tourist and shopping precincts. It is a beacon for international, interstate and Victorian visitors. The Prahran Market is world renowned and is both a viable local market and a tourist destination.

I have spoken in this place before about abuse that takes place in this area. I have spoken about the hoons in their hotted-up cars and the anger they engender among the shop traders and people trying to enjoy a Sunday night in Chapel Street. I have also spoken about the disgrace of having graffiti along Chapel Street and at the Windsor railway station — the same station, I might add, where a homeless Victorian was found dead last year. He had been there for a long time and had died beneath the bridge. It was a disgrace. It is a shameful indictment of Victoria's welfare system.

I have also spoken in this place previously about the increase in crime against the person, particularly the alarming increase in the incidence of rape in Prahran. Tonight I want to paint a picture of what it is like for the local residents, especially those who live adjacent to the all-day, all-night clubs in Chapel Street and Commercial Road. People from across Melbourne converge on these areas at weekends. They remain there all weekend, spilling out into the streets, many under the influence of drugs and alcohol.

With the increase in the number of people who are using the drug ice, there are people who are extremely aggressive. In fact a local policeman said to me recently that if some of these people on these drugs approach you and want your watch or wallet or keys, you should give them what they want. They do not mean to kill you, but that is what they tend to do. They tend to pull out a knife, and you are knifed before you can think about it because they are so aggressive. It is a shameful

indictment that that admission was made by a local policeman.

The residents are very tolerant of the tourists, shoppers and visitors to Chapel Street, but they are becoming increasingly anxious and concerned about the violence and disorderly conduct on the streets. They are so concerned that they are mounting a campaign to bring this untenable situation to the notice of local authorities and local police. They want additional police surveillance, and they want the nightclubs to be closed at 2.00 a.m. There are several international precedents for this. These residents could be my neighbours or the neighbours of other members. They are rational and reasonable people who are not usually driven to such extreme action. I ask the minister as a matter of urgency to increase the police surveillance in the Chapel Street precinct and order that the nightclubs be closed at 2.00 a.m.

### **Aboriginals: Bangerang Cultural Centre**

**Mr DRUM** (Northern Victoria) — My adjournment matter is for the Minister for Aboriginal Affairs in the other chamber. It has do with the Bangerang Cultural Centre and the elders who are representing the Bangerang group in the Goulburn Valley region. The Bangerang Cultural Centre is the custodian of the cooperative centre, which is located at the old International Village site, now better known as Parkside.

This cultural centre was built in the late 1970s as a result of a deputation led by the then Leader of the Country Party, Mr Peter Ross-Edwards, who was also the member for Shepparton, and the then Premier of Victoria. They were able to generate \$170 000 in funding. The Australia Council and the Aboriginal and Torres Strait Islander Arts Board also provided a further \$140 000 to get to the stage where we now have an amazing centre. The various dioramas give the visitors to the cultural centre a very clear insight into how the respective tribes of the region came to be and how the Bangerang links to the modern day are so strong.

Recently passed Victorian legislation clearly outlines the process the Bangerang group has to go through before it can become a registered Aboriginal party. At the moment the Bangerang centre is working through the necessary process. It recently received a letter from the Victorian Aboriginal Heritage Council confirming that it is now in line for a mediation meeting. Its application has been called a competing registered Aboriginal party application. Quite clearly it does not want to be competing with anybody to become a

registered Aboriginal party; it simply wants be registered in its own right.

I call on the minister to make immediate contact with the Bangerang group and its elders to clearly explain the pathway forward for the Bangerang to be a registered Aboriginal party so that it is not confused or encumbered by any thought or talk about the fact that it will be competing against any other group.

### **Rail: Sydenham line**

**Ms HARTLAND** (Western Metropolitan) — My adjournment matter tonight is for the Minister for Public Transport in the other place, Ms Kosky. On 31 July a constituent contacted me regarding the 11.02 a.m. train from Sunshine. It was a three-carriage set and it was so full that by the time it arrived at Footscray station passengers were not able to get on the train. The same problem occurred at the North Melbourne station, so obviously these problems occur not just during peak times. My request to the minister is that not only should the Sydenham line service be upgraded but that consideration should be given to using six-carriage sets during non-peak times so that people using the service can do so with some confidence that they will be able to get onto the train and continue their journey.

### **Schools: Get Going School Sports program**

**Mr THORNLEY** (Southern Metropolitan) — My matter is for the Minister for Education in the other place. I will give some background to the matter. On 24 July I was fortunate to attend Koonung Secondary College for the launch of the Get Going School Sports program, which is an exciting new venture of the Get Going Sport Foundation. Get Going is a not-for-profit organisation that has joined forces with the two divisions of School Sport Victoria, the Victorian Primary School Sports Association and the Victorian Secondary Schools Sports Association, to raise the profile of school sports by improving the coverage of and access to school sport across the state.

The Get Going program has been established to encourage all children to participate in sporting activities by making it an enjoyable and rewarding experience regardless of skill levels and socioeconomic situations. It is bringing corporate funding and support to school sports, but not at the cost of allowing inappropriate corporate partnerships or advertising. The current supporters include the *Herald Sun* newspaper, SportingPulse, Skins, a sport clothing company, Bunnings Warehouse and DDB Australia. Former Hawthorn Football Club premiership player and

all-Australian representative Russell Morris has put together a high-profile team to lead the Get Going program, including Ross Oakley as the chairman, Todd Woodbridge, Andrew Gaze, Sue Stanley and Eloise Southby-Halbish.

The Get Going School Sports program will help School Sport Victoria develop professionally run sports programs with the important objectives of increasing sports participation among school-age students and, by extension, tackling increasing rates of childhood obesity. Results, highlights, stories and ladders will all be accessible to participating schools through a website portal, allowing each school to promote its performances. Additionally the *Herald Sun* has committed to publishing a weekly column devoted to outstanding achievements. I am confident that greater community engagement and corporate support can foster higher levels of effective participation and help provide a pathway for students to develop many of the important physical and interpersonal skills that sport can play such an important role in developing.

There may be a terrific opportunity to further enhance the work we have been doing through the national reform agenda, particularly by tackling type 2 diabetes, and with programs such as Go for Your Life. My request to the new Minister for Education is for her to investigate opportunities for the Get Going School Sports program, to work closely with government and to access any appropriate government support.

### **Water: goldfields super-pipe**

**Ms LOVELL** (Northern Victoria) — My adjournment matter is for the Minister for Environment and Climate Change regarding the construction of the Colbinabbin to Eppalock pipeline and the Eppalock to Ballarat pipeline. On 26 July, together with my colleagues Donna Petrovich and Peter Kavanagh, I had the opportunity to meet with a group of land-holders whose land has been acquired for easements to allow for the construction of these pipelines. At the outset I will say that all the land-holders have accepted the fact that the pipeline is going ahead and that it will pass through their properties. But they are concerned about the way the pipeline is being laid, particularly about the restoration or, I should say, the lack of restoration of the soil on their property.

Mrs Petrovich, Mr Kavanagh and I met with the land-holders on the property of Mr Michael Brown at Axedale. The devastation we witnessed was appalling. The scar of the pipeline running through Mr Brown's property was enormous and several metres wider than land-holders had originally been told it would be.

However, the main concern was the way the topsoil, the subsoil and other layers of clay and rock had not been removed in any sort of orderly manner that would allow for the adequate restoration of productive farmland. In fact there was only one large pile of rock, clay and subsoil all mixed together and piled beside the trench. When I asked the land-holders what had happened to the topsoil they said, 'They put that over there in a separate pile, but that is now being pounded into the ground by the graders and diggers that are constructing the pipeline'.

I also spoke to another land-holder, Mr Graeme Weeks, at Colbinabbin, who described to me how his land had been affected by the construction of the pipeline. The clay and the subsoil had all been mixed together and there was not enough topsoil recovered to adequately cover up the trench that had been created. The pipeline passed through four paddocks on Mr Weeks's property and in at least two of them the area had been totally destroyed. The land-holders are amazed that the Department of Sustainability and Environment has been missing in action and is not doing its job to ensure that valuable and productive farmland is adequately restored.

The action I seek from the minister is for him to immediately take action to ensure that more care is taken in the removal of soil on properties during the construction of the pipeline and that soil is restored properly to allow for a productive use of that land.

### **Public Accounts and Estimates Committee: estimates inquiries**

**Mr BARBER** (Northern Metropolitan) — My adjournment matter is for the attention of the Premier. I would like to start by complimenting him on the announcement he made today on the proposal for the broadcasting of Parliament. It was a policy the Greens took to the last election, and we are very happy to see that being implemented.

I have another suggestion for him in the same vein — that is, the vein of increasing openness and transparency of the government. The Public Accounts and Estimates Committee has had hearings about the estimates part of its job — that is, looking at the budget and looking forward. I would like to suggest to the Premier that he support, by asking his ministers and senior public servants to support, a further process of hearings whereby the public accounts part of PAEC's job would occur later in the year, which would allow members to have some scrutiny of the published annual reports of departments after they are released in October.

### WorkChoices: contractor payments

**Ms PULFORD** (Western Victoria) — My adjournment matter is for the attention of the Deputy Premier and Minister for Industrial Relations in the other place. In today's *Age* it is alleged that an actor, who portrays a concerned father in federal government propaganda advertisements that have been featuring at massive cost to the taxpayer all over the television and newspapers around Victoria and around the country, ran a painting business that ripped off a young man by the name of Erin Gebert.

Mr Gebert and his father claim that the actor, Damien Richardson, did not pay him his full entitlement, and that when he was paid he was paid in cash and did not contribute to his superannuation. Mr Richardson claims that Mr Gebert was a subcontractor, not an employee, and that Mr Gebert never invoiced him. He also claims that Mr Gebert's work was unsatisfactory and that clients often did not pay the company as a result.

However, Mr Richardson saw fit not only to keep this young man employed for around a year, but also recommended him to his brother, which are hardly the actions of someone who is not happy with their employee's performance. Also, Mr Gebert's father claims that he has a form in his possession that shows the young employee was going to begin an apprenticeship with Mr Richardson, something which is not possible unless a worker is an employee, not a subcontractor. If this is true, what a disgrace it is! The federal government is spending \$80 million of taxpayers funds to try and sell the merits of WorkChoices, but I am not sure that \$80 million is going to be enough to convince people that WorkChoices is possibly in their best interests. There is no amount of money that can make WorkChoices a fair or a decent thing.

**Mr Thornley** interjected.

**Ms PULFORD** — Some \$80 million, Mr Thornley! Mr Richardson appears in the ad wearing his beanie and sitting next to a young and vulnerable worker. The ads have Mr Richardson saying, 'I am being told employers can rip off young kids', and there is a bright yellow post-it note saying, 'No they can't'. It seems that if this federal government is anything to go by, the post-it note ought to say 'Yes they can'. While Mr Gebert did not even have an Australian workplace agreement (AWA), it was revealed last month that typical Victorian workers are earning 23 per cent less on AWAs than their counterparts on collective agreements — a disgraceful result from a disgraceful

piece of legislation that is impacting people every day in Victorian workplaces.

My request is that the Minister for Industrial Relations ask the Office of the Workplace Rights Advocate to fully and thoroughly investigate the case of Erin Gebert.

### West Gate Bridge: traffic congestion

**Mr FINN** (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Ports in the other place. The action that I request from the minister is to improve the western gateway to Melbourne, namely the West Gate Freeway and in particular the West Gate Bridge. Safety concerns about the West Gate Bridge have been raised with me for the last couple of years by a number of people, some of whom believe that they have knowledge which leads them to have perhaps greater concerns than others. After the recent bridge tragedy in the United States over the Mississippi River I think those concerns have increased considerably.

The West Gate Bridge is now carrying a considerably greater traffic load than it was designed to carry at the beginning, and of course safety is of paramount importance to motorists and must be guaranteed. I believe these concerns must be allayed, and I ask the minister to implement a plan to improve the traffic flow across that bridge, even if that means — and it probably will mean — another Yarra crossing. Clearly this will be an expensive exercise, but I believe that is not just necessary for the safety of motorists coming in from the west of Melbourne and indeed from Geelong but is also necessary to ease the traffic gridlock that motorists face on a daily basis.

Over the last few years we have seen a huge growth in the population of the west, whereby, for example, the city of Wyndham is one of the fastest-growing municipalities in Australia. Subdivisions are popping up there almost by the week, and many thousands of people have gone to live in and enjoy the wonders of the west and are obviously caught up in these traffic problems. I think it is extremely important that the burden on the freeway and on the bridge be eased as a matter of urgency.

I ask the minister to immediately implement a plan to give motorists in the west of Melbourne and those using the freeway and bridge a fair go and, more important than that, to ensure their safety. I ask the minister to do that as a matter of priority, because I believe the people of Melbourne's west deserve just that.

### **Drought: government assistance**

**Ms DARVENIZA** (Northern Victoria) — I raise a matter for the attention of the Minister for Agriculture in another place. The matter concerns the physical and mental health and wellbeing of farmers and their families, particularly those farmers and families who have been affected by the extended drought that we have been experiencing here in Victoria.

The Western District Health Service developed a program that looked specifically at what sort of impact on health and wellbeing the drought was having on farming families. Not surprisingly, the program found that coping with stress and depression were some of the main areas. This is particularly so for most families, who found it more difficult to admit that they were suffering from depression or anxiety and found it difficult to access the sorts of services and support that they needed.

It is true to say that the stress, both physical and emotional, is still being felt by all members of families who have been impacted by the drought. It does not matter whether you are a teenager, parents or a school-aged child, the sorts of anxiety that the impact of the drought has had on these families has been immense. The program identified coping with stress and depression as issues. Other issues identified included farm safety, cardiovascular disease, cancer and diabetes as well as specific health issues for women and men.

Specifically I want to ask the minister to ensure that the program which was successfully developed and trialled in the Western District is available to all areas that have been affected by the drought, particularly those in northern Victoria. Although there has been some water along the river, people in that area have been very dramatically affected by the drought. If this trial is rolled out it will directly target those families who have been impacted by the drought and ensure that they have better health outcomes and a better quality of life.

### **Phillip Island: Summerlands estate**

**Mr O'DONOHUE** (Eastern Victoria) — My matter is for the Minister for Environment and Climate Change. One of the backbones of our economic system and indeed the Australian way of life is the principle that one's home is one's castle — that is, that free title gives one the ability to enjoy security of tenure and to the quiet enjoyment of one's property. Sadly the owners and residents of the Summerlands estate on Phillip Island have been denied this security of tenure and right to quiet enjoyment.

In 1985 the then Minister for Conservation, Forests and Lands, Joan Kirner, commenced what was to be a 15-year process of buying back the entire Summerlands estate for the purpose of protecting the Phillip Island penguins and the tourism industry associated with it. The Summerlands buyback has not been completed thus far. The buyback has been undertaken outside the normal compulsory acquisition process which has meant that the government purchasing the land has had a competitive advantage against the owners of land at Summerlands as the owners have not had the protection that the compulsory acquisition process affords them.

What would appear to have happened in this time is that the government has slowly bought back, on a piecemeal basis, land as it has become available, often on very good terms for the government when owners have been forced to realise capital. A consequence of the piecemeal nature of the scheme and the limited resources given to it has seen landowners at Summerlands not able to plan for the future. Moreover, public infrastructure like road access and services has not been maintained in the knowledge that eventually remaining residents will be bought out. There are still approximately 30 owners at Summerlands, and at the current budget allocation of \$1 million per year, the buyback and buyout could take another 30 years or more to complete.

The action I request, therefore, is for the minister to first of all meet with the remaining owners at Summerlands to hear and listen to their concerns; and secondly, to either abandon the buyback of the remaining land at Summerlands and allow those people who own land there to enjoy their properties, including the ability to sell the land for a fair market price on the private market, or if the government is determined to complete the buyback, that it complete it as soon as possible at a fair market price. To do otherwise would be to deny these people the right to fair compensation for their land. This has gone on for 22 years, which is an excessive period of time.

### **VicRoads: Hamilton office**

**Mr KOCH** (Western Victoria) — My matter is for the attention of the Minister for Roads and Ports in the other place and concerns the possible relocation of transport safety services officers from Hamilton's VicRoads office to Warrnambool. Transport safety services officers based in Hamilton have provided an excellent service for many years to heavy vehicle drivers by helping them comply with heavy vehicle regulations. Their role includes checking that vehicles are within prescribed limits for weight and size,

ensuring vehicles are roadworthy and that log book entries are compliant.

They also provide a pilot service for overdimensional loads and give advice on safety issues particularly relating to heavy vehicles. Until recently, their role also extended to providing industry liaison, education, accreditation and management of overdimensional load movements.

The regional knowledge and expertise of the Hamilton officers far outweighs any perceived benefit in relocating these positions to Warrnambool. Hamilton's more central location is within an hour of all areas patrolled to the north, the west and the south; and within similar times as Warrnambool, in areas to the east. Being on the coast, coverage from Warrnambool is limited by comparison and costs more in delivering the same level of services as from the Hamilton office.

Downgrading of local VicRoads offices will disadvantage country Victorians. Already those seeking permits for overdimensional loads must now obtain approval through Melbourne and be prepared for possible lengthy delays in obtaining the required permits. With the outsourcing of other functions like articulated and motorcycle learner's permits and licences, many country residents travel long distances and incur additional costs in obtaining these permits and licences.

Along with this inconvenience the government is now endorsing a possible further downgrade of the Hamilton office. This clearly contradicts a pre-election commitment to maintain existing services at country centres. I am concerned that a recent vacant position in Hamilton was advertised for the Warrnambool office. While transferring positions to a centralised point in a larger regional city may seem efficient, in practice it has not always proven to be the case. A reduction of services could well result in less compliance of the road safety regulations, leading to reduced road safety on our country roads.

My concern extends to officers working overtime on fee-for-service jobs, who are discouraged from undertaking routine heavy vehicle inspections outside normal working hours. This may necessitate officers turning a blind eye to offences they witness while travelling outside their normal working hours. The action I seek from the minister is for him to ensure transport safety services positions are maintained in Hamilton and that the Hamilton VicRoads office is not downgraded further.

## Responses

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — There were a number of queries made to various ministers. Mrs Coote raised a matter for the Minister for Police and Emergency Services in the other place in relation to Chapel Street shops and police surveillance for those shops. I will pass that concern on to the minister.

Damian Drum raised a matter for the Minister for Aboriginal Affairs in the other place in relation to the Bangerang Cultural Centre. I will pass his query on to the minister.

Ms Hartland raised a matter for the Minister for Public Transport in the other place in relation to train services. I will pass that query on for response.

Mr Thornley raised a matter for the Minister for Education in the other place about the Get Going Sports Foundation, its programs and opportunities. I will pass that on to the minister.

Wendy Lovell raised a matter for the Minister for Environment and Climate Change in relation to a pipeline construction issue. I will pass that on to the minister.

Mr Barber raised a matter for the Premier in relation to accountability and additional hearings in the Public Accounts and Estimates Committee. I will pass that request on to the Premier.

Ms Pulford raised a matter for the Minister for Industrial Relations in the other place in relation to the use of the industrial relations laws and a request for the Office of the Workplace Rights Advocate to investigate a particular issue. I will pass that on.

Mr Finn raised a matter for the Minister for Roads and Ports in the other place in relation to the West Gate Bridge and improving traffic flows potentially through another crossing. I will pass that request on to the Minister for Roads and Ports.

Ms Darveniza raised a matter for the Minister for Agriculture in the other place in relation to the mental and physical health of farmers, particularly during the drought period. I will pass her concerns on to the minister.

Mr O'Donohue raised a matter for the Minister for Environment and Climate Change in relation to the Summerlands estate buyback issues. I will pass his concerns on to the minister.

Mr Koch raised for the Minister for Roads and Ports in the other place an issue in relation to access to permits and licences in country centres. I will pass his concerns on to the minister for a direct response.

**The PRESIDENT** — Order! The house now stands adjourned.

**House adjourned 10.18 p.m.**

